

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

\$26,715,000

County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011A (Federally Taxable)

And

\$985,000

County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note,  
Series 2011B (Federally Taxable)

December 14, 2011

LIST OF CLOSING DOCUMENTS

NUMBER

I. BASIC DOCUMENTS

“License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 between the Authority and the following “*Series 2011 Local Units*” and acknowledged and accepted by the Company ..... 1

- (i) Fredon Township,
- (ii) Town of Newton, (collectively, the “*Municipal Series 2011 Local Units*”); and
- (iii) Byram Township Board of Education,
- (iv) Frankford Township Board of Education,
- (v) Franklin Borough Board of Education,
- (vi) Green Township Board of Education,
- (vii) Hardyston Township Board of Education,
- (viii) High Point Regional Board of Education,
- (ix) Kittatinny Regional Board of Education;
- (x) Newton Board of Education (collectively, the “*Board of Education Series 2011 Local Units*”); and
- (xi) County of Sussex, New Jersey (the “*County*”)
- (xii) Sussex County Vocational School Board of Education;
- (xiii) Sussex County Community College (the “*County Series 2011 Local Unit*” and together with the Municipal Series 2011 Local Units and the Board of Education Series 2011 Local Units, the “*Series 2011 Local Units*”).

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“Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 by and between the Authority, as lessor, and SunLight General Sussex Solar, LLC (the “*Company*”), as lessee ..... 2

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- a. Local Finance Board Notice 2008-20 dated December 3, 2008, *Contracting for Renewable Energy Services*;
- b. Board of Public Utilities Protocol dated February 20, 2009, *Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*; and

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- c. Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements.*

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- b. "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted September 28, 2011; and
- c. Estoppel Notice published September 30, 2011 pursuant to N.J.S.A. 40:37A-62.

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- a. Bond Purchase Agreement.
- b. By-laws of the Authority.

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- b. Local Finance Board Application dated July 19, 2011;
- c. Authority Resolution regarding Findings of Local Finance Board dated as of October 19, 2011; and
- d. Letter Transmitting Findings to Local Finance Board dated December 7, 2011.

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- b. “RESOLUTION APPROVING A QUALIFIED LIST OF UNDERWRITERS FOR AUTHORITY SECURITIES TRANSACTION IN ACCORDANCE WITH THE AUTHORITY’S UNDERWRITER SELECTION POLICY AND A FAIR AND OPEN PROCESS” adopted April 19, 2011;
- c. “RESOLUTION PROVIDING CONSENT OF SUSSEX COUNTY TO SOLAR DEVELOPER AND UNDERWRITER AWARDS OF MORRIS COUNTY IMPROVEMENT AUTHORITY’S 2011 RENEWABLE ENERGY PROGRAM UNDERTAKEN ON BHEALF OF SUSSEX COUNTY” adopted October 26, 2011;
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- e. Original Report of Consulting Energy Engineer dated October 24, 2011;
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- b. Section 56 Resolution adopted October 26, 2011;

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- (vii) Hardyston Township Board of Education,
- (viii) High Point Regional Board of Education,
- (ix) Kittatinny Regional Board of Education,
- (x) Newton Board of Education, and
  
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**LICENSE AND ACCESS AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**Fredon Township, as Licensor**

**And**

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee**

**Dated as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS “**LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “*Fredon Township Local Unit License Agreement*”), dated as of December 1, 2011, is made by and among Fredon Township (the “*Licensor*”), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the “*County*”), State of New Jersey (“*State*”) and the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “*Authority*” or the “*Licensee*”), duly created by resolution of the Board of Chosen Freeholders (“*Board of Freeholders*”) of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”) and other applicable law.

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the “*County*”) desires to undertake the development and implementation of a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

**WHEREAS**, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "*Series 2011A Bonds*") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "*Series 2011A Bonds*"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*", and together with the Series 2011A Bonds, "*Series 2011 Bonds*"), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County

College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments

shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a

minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011

Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure

Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “County Documents”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and (ii) the execution and delivery of a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County “*Sale Documents*”);

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the “*Sussex County Board of Freeholders*”) and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the “*Program Documents*”), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE,** for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agrees as follows:

**ARTICLE I**  
**DEFINITIONS**

**Section 1.1. Definitions.**

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**Fredon Township Local Unit License Agreement**  
**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**  
**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**

**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this Fredon Township Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

**Account**  
**Additional Bonds**  
**Administrative Expense Account**  
**Administrative Fund**  
**Aged Account**  
**Bond**  
**Capitalized Interest Account**  
**Code**  
**Company Development Fees and Expenses**  
**Completion Conditions**  
**Completion Project**  
**Consulting Energy Engineer**  
**Consulting Energy Engineering Services**  
**Cost**

**Costs of Issuance Account**  
**County Security Fund**  
**County Security Fund Requirement**  
**Debt Service Fund**  
**Funds**  
**General Fund**  
**Gross Substitute Power Purchase Price**  
**Interest Account**  
**Investment Securities**  
**Net Substitute Power Purchase Price**  
**Outstanding**  
**Paying Agent**  
**Principal Account**  
**Principal Office**  
**Project Fund**  
**Rating Agency**  
**Renewable Energy Program Interested Party**  
**Restoration Security Fund**  
**Restoration Security Fund Requirement**  
**Revenue Account**  
**Revenue Fund**  
**Revenues**  
**Series**  
**Series 2011B Bonds**  
**Sinking Fund Installments**  
**Supplemental Resolution**  
**Tax Certificate**  
**Tax-exempt Bonds**  
**Trustee**  
**Trust Estate**

(c) The following defined terms shall, for all purposes of this Fredon Township Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

**Fredon Township Capital Improvement Projects**  
**Fredon Township Licensee**  
**Fredon Township Licensees**  
**Fredon Township Local Unit Facilities**  
**Fredon Township Local Unit License**  
**Fredon Township Project Activities**  
**Fredon Township Projects**  
**Fredon Township Renewable Energy Projects**

(ii) Section 3.8:

**Revised Fredon Township Renewable Energy Projects**

(iii) Section 5.2(a)(i)

**Gross Substitute Power Purchase Price  
Net Substitute Power Purchase Price**

(iv) Section 6.1(a)

**Authority Event of Default**

(v) Section 6.1(b)

**Licensor Event of Default**

(vi) Section 7.1(c)

**Term**

(d) The following defined terms shall, for all purposes of this Fredon Township Local Unit License Agreement, have the following meanings:

“**Fredon Township Acceptance Certificates**” shall mean individually or collectively, as the case may be, the Fredon Township CIP Acceptance Certificate and the Fredon Township REP Acceptance Certificate, each in the form attached as **Exhibit E** to the Fredon Township Local Unit License Agreement and Exhibit B to the Company Lease Agreement.

“**Fredon Township CIP Acceptance Certificate**” shall mean the certificate applicable to the Fredon Township Capital Improvement Projects in the form attached as **Exhibit E-2** to the Fredon Township Local Unit License Agreement and Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, Licensor’s acceptance of all of the Fredon Township Capital Improvement Projects, all as set forth in Section 4.3 of the Fredon Township Local Unit License Agreement and Section 510(d)(ii) of the Company Lease Agreement. As there are no Fredon Township Capital Improvement Projects for the Licensor, this definition shall have no effect in this Fredon Township Local Unit License Agreement. The Parties acknowledge and agree that no Fredon Township Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

“**Fredon Township Construction Manager**” shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by

either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

**“Fredon Township Draw Papers”** shall mean the requisitions, and attachments thereto, applicable to either the (i) Fredon Township Renewable Energy Projects or (ii) Fredon Township Capital Improvement Projects, in either case in the form attached as **Exhibit D** to the Fredon Township Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the Fredon Township Renewable Energy Projects or the Fredon Township Capital Improvement Projects, all as set forth in Section 4.1 of the Fredon Township Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

**“Fredon Township Interconnection Agreement”** shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed Fredon Township Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

**“Fredon Township REP Acceptance Certificate”** shall mean the certificate applicable to the Fredon Township Renewable Energy Projects in the form attached as **Exhibit E-1** to the Fredon Township Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company’s acceptance of all of the Fredon Township Renewable Energy Projects, all as set forth in Section 4.2 of the Fredon Township Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

**“Authorized Officer”** or **“Authorized Representative”** shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the Mayor, Deputy Mayor, and the Clerk or such other person designated as an Authorized Officer in the Fredon Township Local Unit License Agreement or any other person or persons who shall be authorized to act on

behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Event of Default”** shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### Section 2.1. Representations and Warranties of the Licensor.

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this Fredon Township Local Unit License Agreement (and any documents contemplated hereby, including without limitation the Fredon Township Draw Papers, the Fredon Township Acceptance Certificates, and any Fredon Township Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the Fredon Township Local Unit Facilities. Licensor holds good, record and marketable title to each of the Fredon Township Local Unit Facilities and the land underlying the Fredon Township Local Unit Facilities. There are no mortgages or other liens against the Fredon Township Local Unit Facilities or the land except as set forth on Exhibit G.

#### Section 2.2. Representations and Warranties of the Licensee.

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this Fredon Township Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company thereunder, this Fredon

Township Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i) N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

#### **Section 2.4. Covenants of the Licensor.**

(a) Upon the delivery of the Fredon Township CIP Acceptance Certificate with respect to the Fredon Township Capital Improvement Projects, if any, the Licensor shall own such Fredon Township Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the Fredon Township Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the Fredon Township Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the Fredon Township Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this **Fredon Township** Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

#### **Section 2.5. Covenants of the Licensee.**

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the Fredon Township Renewable Energy Projects on, or as applicable, in the Fredon Township Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the Fredon Township Capital Improvement Projects on or as applicable, in the Fredon Township Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the Fredon Township Renewable Energy Projects on or as applicable, in or about the Fredon Township Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such Fredon Township Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the Fredon Township Capital Improvement Projects on or as applicable, in or about the Fredon Township Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that that such Fredon Township Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### **Section 2.6. Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any Fredon Township Capital Improvement Projects under the Program Documents and any references herein to Fredon Township Capital Improvement Projects, Fredon Township Capital Improvement Project Fund, Fredon Township CIP Acceptance Certificates or any other term defined by reference to Fredon Township Capital Improvement Projects (without limiting the application of any such term to the extent not related to Fredon Township Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the County Reserve upon issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

## ARTICLE III

### LICENSE

#### Section 3.1. License.

(a) For the Term of this Fredon Township Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this Fredon Township Local Unit License Agreement (each, an "**Fredon Township Licensee**", and collectively, the "**Fredon Township Licensees**"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on **Exhibit A** hereto (the "**Fredon Township Local Unit Facilities**"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other Fredon Township Licensee access to the Fredon Township Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this Fredon Township Local Unit License Agreement, a license (the "**Fredon Township Local Unit License**") allowing each Fredon Township Licensee to enter the Fredon Township Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on **Exhibit B** hereto (the "**Fredon Township Renewable Energy Projects**"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on **Exhibit C** hereto (the "**Fredon Township Capital Improvement Projects**", and together with the Fredon Township Renewable Energy Projects, the "**Fredon Township Projects**") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "**Fredon Township Project Activities**"), all at the sole cost and expense of the Authority or any other Fredon Township Licensee, but not the Licensor[, unless expressly set forth elsewhere herein]. As there are no Fredon Township Capital Improvement Projects for the Licensor, this definition shall have no effect in this Fredon Township Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site (solely the site and not including the solar improvements) at or in each of its Fredon Township Local Unit Facilities.

(b) For all purposes of this Fredon Township Local Unit License Agreement, the Fredon Township Local Unit License shall be deemed to include a preliminary license granted by the Licensor to the Authority and shall include, as Fredon Township Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to

constitute permissive Fredon Township Activities, which preliminary Fredon Township Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

(c) The Fredon Township Licensees shall have access to the Fredon Township Local Unit Facilities to conduct Fredon Township Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the Fredon Township Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the Fredon Township Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the Fredon Township Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the Fredon Township Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the Fredon Township Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the Fredon Township Local Unit Facilities.

(d) No other activities beyond the scope of the Fredon Township Project Activities shall be undertaken on the Fredon Township Local Unit Facilities by the Authority or any other Fredon Township Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensor shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensor is obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensor shall use commercially reasonable efforts to avoid interfering

with the Company's performance of its obligations under this Fredon Township Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

**Section 3.2. Fredon Township Licensees.** The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this Fredon Township Local Unit License Agreement, the Fredon Township License shall permit the Fredon Township Licensees to enter upon the Fredon Township Local Unit Facilities to conduct the Fredon Township Project Activities, at which time any such Fredon Township Licensees shall automatically, without any further action, be bound by the provisions of this Fredon Township Local Unit License Agreement during the Term hereof. The Licensee must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and subcontractors who will be present at the site, and the Licensee acknowledges that the same will be used for purposes of checking all identities against the Megans law registry.

**Section 3.3. Observation.** In connection with all Fredon Township Project Activities, the Authority and/or any other Fredon Township Licensee shall afford the Licensor and/or its representatives, the opportunity to observe all Fredon Township Project Activities; provided, however, that such observation activities shall not interfere with any Fredon Township Project Activities or delay construction of the Projects; and provided, further, that the Licensor hereby releases and agrees to indemnify, defend and hold harmless the Authority and each other Fredon Township Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensor's, or its representatives' or consultant's entry or activities on the Fredon Township Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all Fredon Township Licensees, to promptly provide the Licensor with copies of any final written reports prepared, compiled or generated as part of the Fredon Township Project Activities, if any [list of reports can be added here]. Further, the Licensor shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the Fredon Township Local Unit License, to inspect the Fredon Township Local Unit Facilities and/or the Fredon Township Renewable Energy Projects during the Term of this Fredon Township Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the Fredon Township Local Unit License under this Fredon Township Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other Fredon Township Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the Fredon Township Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing Fredon Township Project Activities on the

Fredon Township Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, as may be modified by the Program Documents, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority and the Licensor is given at least thirty (30) days prior written notice of such cancellation or modification. Notwithstanding anything else contained herein or in the Power Purchase Agreement, to the extent the insurance is in accordance with Acord 25 (2010/05) should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

### **Section 3.7. Revocation.**

(a) The parties expressly acknowledge that the Fredon Township Local Unit License cannot be revoked (including deemed revocation situations where the Fredon Township Local Unit Facilities are unavailable to allow the Company to perform Fredon Township Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the Fredon Township Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its Fredon Township Local Unit License for the Fredon Township Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the Fredon Township Renewable Energy Projects, with as similar physical conditions to the existing Fredon Township Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute Fredon Township Renewable Energy Project on the Fredon Township Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this Fredon Township Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the Fredon Township Renewable Energy Projects located on, or as applicable in, the Fredon Township Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the Fredon Township Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new Fredon Township Local Unit Facilities for all purposes of this Fredon Township Local Unit License Agreement and the other Program Documents, and similarly, the new Fredon Township Renewable Energy Projects on, or as applicable in, such new Fredon Township Local Unit Facilities shall be deemed the new Fredon Township Renewable Energy Projects for all purposes of this Fredon Township Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the Fredon Township Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this Fredon Township Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Fredon Township Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (I) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (II) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the Fredon Township Renewable Energy Projects been operating at the Fredon Township Local Unit Facilities for the remainder of such

then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (III) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the Fredon Township Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the Fredon Township Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the Fredon Township Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any Fredon Township Local Unit Facility as a result of which such Fredon Township Local Unit Facility is unavailable to allow the Company to perform its Fredon Township Project Activities shall be deemed to be a revocation of the Fredon Township Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

**Section 3.8. Material Change to Fredon Township Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.**

To the extent the Licensor requests a material change to the Fredon Township Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the Fredon Township Renewable Energy Projects (the "**Revised Fredon Township Renewable Energy Projects**"), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised Fredon Township Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the Fredon Township Renewable Energy Projects set forth on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

**Section 3.9. Abandonment.**

If any Fredon Township Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this Fredon Township Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such Fredon Township Renewable Energy Project, be deemed terminated and discharged.

## ARTICLE IV

### Fredon Township DRAW PAPERS; Fredon Township ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE

#### Section 4.1. Fredon Township Draw Papers.

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the Fredon Township Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the Fredon Township Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the Fredon Township Renewable Energy Projects and the Fredon Township Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the Fredon Township Renewable Energy Projects or the Fredon Township Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the Fredon Township Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and **Exhibit D** hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the Fredon Township Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the Fredon Township Capital Improvement Projects. The Licensor shall promptly review the Fredon Township Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the Fredon Township Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such Fredon Township Draw Papers where indicated, and promptly forward the original of such Fredon Township Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Fredon Township Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any Fredon Township Draw Papers, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Fredon Township Construction Manager; provided, however, that any

such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Fredon Township Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body (so long as same does not violate state statutes and regulations), in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver any Fredon Township Draw Papers or (ii) delegate any such action to the Fredon Township Construction Manager.

(e) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Fredon Township Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any Fredon Township Draw Papers to the Fredon Township Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Fredon Township Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Fredon Township Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any Fredon Township Draw Papers or (ii) delegate any such action to the Fredon Township Construction Manager.

**Section 4.2. Fredon Township REP Acceptance Certificate Relating to the Fredon Township Renewable Energy Projects.**

(a) When the Company has determined that all of the Fredon Township Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the Fredon Township Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Fredon Township REP Acceptance Certificate applicable to such Fredon Township Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and **Exhibit E-1** hereto.

(b) The Licensor shall promptly review the form Fredon Township REP Acceptance Certificate applicable to the Fredon Township Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Fredon Township REP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Fredon Township REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Fredon Township REP Acceptance Certificate where indicated,

and promptly forward the original of such Fredon Township REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Fredon Township Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Fredon Township REP Acceptance Certificate to the Fredon Township Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Fredon Township Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. The Fredon Township Construction Manager shall use all reasonable efforts to ensure that copies of all Draw Papers and the REP Acceptance Certificate are forwarded to the Licensor in a reasonably timely manner. By the Licensor's authorization, execution and delivery of this Fredon Township Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Fredon Township REP Acceptance Certificate or (ii) delegate any such action to the Fredon Township Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Fredon Township Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Fredon Township REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Fredon Township Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Fredon Township Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Fredon Township REP Acceptance Certificate or (ii) delegate any such action to the Fredon Township Construction Manager.

#### **Section 4.3. Fredon Township CIP Acceptance Certificate Relating to the Fredon Township Capital Improvement Projects.**

(a) When the Company has determined that all of the Fredon Township Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Fredon Township CIP Acceptance Certificate applicable to such Fredon Township Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and **Exhibit E-2** hereto.

(b) The Licensor shall promptly review the form Fredon Township CIP Acceptance Certificate applicable to the Fredon Township Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Fredon Township CIP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Fredon Township CIP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Fredon Township CIP Acceptance Certificate where indicated, and promptly forward the original of such Fredon Township CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Fredon Township Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Fredon Township CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Fredon Township Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Fredon Township Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Fredon Township CIP Acceptance Certificate or (ii) delegate any such action to the Fredon Township Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Fredon Township Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Fredon Township CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Fredon Township Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Fredon Township Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Fredon Township CIP Acceptance Certificate or (ii) delegate any such action to the Fredon Township Construction Manager.

#### **Section 4.4. Costs of Issuance.**

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the

Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of **Exhibit F** hereto.

## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material affect on the Licensor, it being expressly understood that any such amendment having no material affect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the Fredon Township Renewable Energy Projects and restoration of the Fredon Township Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this Fredon Township Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the applicable Series 2011

Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power from the Company thereunder from the Fredon Township Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(i) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (c), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the Fredon Township Renewable Energy Projects located on, or as applicable, in the Fredon Township Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the Fredon Township Renewable Energy Projects installed on or, as applicable, in the Fredon Township Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the Fredon Township Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall take into account all the facts and circumstances of the marketplace for such Fredon Township Renewable Energy Projects at such time, including without limitation, its

continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; *provided, however*, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other Fredon Township Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time (as reasonably determined by the Authority), the Fredon Township Renewable Energy Projects from the Fredon Township Local Unit Facilities at the sole cost and expense and effort of the Company or any such other Fredon Township Licensees, and (ii) restore, within a reasonable period of time, the Fredon Township Local Unit Facilities, as improved by the Fredon Township Capital Improvement Projects, to the condition prior to the installation of the Fredon Township Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the Fredon Township Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

#### **Section 5.2. Substitute Power Purchase Price.**

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, this Fredon Township Local Unit License Agreement shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its Fredon Township Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the Fredon Township Renewable Energy Projects located on, or as applicable, in the Fredon Township Local Unit Facilities from the Authority, as owner of the Fredon Township Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "**Gross Substitute Power Purchase Price**"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "**Net Substitute Power Purchase Price**") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the Fredon Township Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the

Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the Fredon Township Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the Fredon Township Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI

### EVENT OF DEFAULT

#### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this Fredon Township Local Unit License Agreement:

(i) the Authority or any other Fredon Township Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other Fredon Township Licensee to be performed or observed under this Fredon Township Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other Fredon Township Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this Fredon Township Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(c) that are within the Licensor's control) the Fredon Township Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Licensor to be performed or observed under this Fredon Township Local

Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

## **Section 6.2. Remedies.**

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this Fredon Township Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Fredon Township Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by

statute to enforce the specific performance rights of the Authority under this Fredon Township Local Unit License Agreement.

**Section 6.3. Remedies Generally.**

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this Fredon Township Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this Fredon Township Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the Fredon Township Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such Fredon Township Projects until cured, including without limitation the requirement that the Company complete all Projects, including the Fredon Township Projects, by December 14, 2012, all in accordance with the terms of the Program Documents.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.1 Term.

(a) This Fredon Township Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This Fredon Township Local Unit License Agreement and the Fredon Township Local Unit License granted herein shall terminate against the Authority, after which date all Fredon Township Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the Fredon Township Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the Fredon Township Renewable Energy Projects shall have been removed from the Fredon Township Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the Fredon Township Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the Fredon Township Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 thereof, and [either the Licensor or the Licensee desires to terminate this Fredon Township Local Unit License Agreement, which termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the

Licensee agree in writing to terminate this Fredon Township Local Unit License Agreement].

(c) The “**Term**” of this Fredon Township Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this Fredon Township Local Unit License Agreement, none of the Licensor, the Authority, nor any other Fredon Township Licensees shall have any further rights, duties or obligations with respect to the Fredon Township Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this Fredon Township Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the Fredon Township Licensees to gain access under the Fredon Township Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority’s rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Fredon Township Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

- (a) Licensor: Fredon Township  
With a copy to: [ Licensor’s Counsel]
- (b) Authority: The Morris County Improvement Authority

P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.Morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com

(c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)

(d) Company: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email : principals@sunlightgeneral.com

With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: [jduffy@nixonpeabody.com](mailto:jduffy@nixonpeabody.com)

(e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Vorhees, NJ 08043  
Email: [jvogel@birdsall.com](mailto:jvogel@birdsall.com)

With a copy to: Joseph Santaiti  
Gabel Associates  
417 Denison St.  
Highland Park, NJ 08904  
Email: [joseph.santaiti@gabelassociates.com](mailto:joseph.santaiti@gabelassociates.com)

**Section 7.4. Successors and Assigns.** This Fredon Township Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This Fredon Township Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This Fredon Township Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other Fredon Township Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This Fredon Township Local Unit License Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this Fredon Township Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this Fredon Township Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this Fredon Township Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This Fredon Township Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This Fredon Township Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this Fredon Township Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this Fredon Township Local Unit License Agreement and (b) its performance of the actions contemplated by this Fredon Township Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this License Agreement, (i) expressly and irrevocably agrees not to claim or assert, and

expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**[ The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow ]**

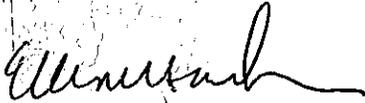
**IN WITNESS WHEREOF**, the parties hereto have each caused this Fredon Township Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By:   
**John Bonanni, Chairman**

**ATTEST:**

By:   
**Ellen M. Sandman, Secretary**

[SEAL]

**FREDON TOWNSHIP, as Licensor**

By: \_\_\_\_\_

**Joanne Charner, Municipal Clerk**

**ATTEST:**

By: \_\_\_\_\_

**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

IN WITNESS WHEREOF, the parties hereto have each caused this Fredon Township Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By: \_\_\_\_\_  
**John Bonanni, Chairman**

**ATTEST:**

By: \_\_\_\_\_  
**Ellen M. Sandman, Secretary**

[SEAL]

**FREDON TOWNSHIP, as Licensor**

By: Joanne Charner  
**Joanne Charner, Municipal Clerk**



**ATTEST:**

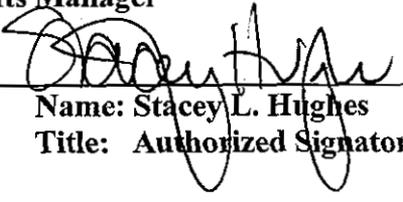
By: Jo J Schutte  
**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

The terms and conditions of this Fredon Township Local Unit License Agreement are hereby **ACKNOWLEDGED** and **ACCEPTED** by the following acknowledgment party, this 14<sup>th</sup> day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

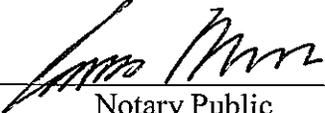
By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory





STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
\_\_\_\_\_  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6233849  
Qualified in New York County  
Commission Expires January 03, 2015

**EXHIBIT A**

**Morris County Improvement Authority**

not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

*Fredon Township (<http://www.twp.fredon.nj.us/>)*

- (A) Civic Center (Roof 61 kW)  
436 Route 94  
Fredon, NJ*

## **EXHIBIT B**

### **[Attach Description of Fredon Township Renewable Energy Projects]**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

**EXHIBIT C**

**[Attach Description of Fredon Township Capital Improvement Projects]**

**None**

**EXHIBIT D**

**[Attach Fredon Township Draw Papers]**

Requisition No. \_\_\_\_

\_\_\_\_\_, \_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Fredon Township Renewable Energy Projects**") [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**Fredon Township Capital Improvement Projects**")]] being developed for [\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]; and

(b) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Fredon Township Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Fredon Township Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor:  
\_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Fredon Township Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Fredon Township Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor:  
\_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with Section [1(a)] [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw

Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**The terms of this Requisition are hereby  
ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this \_\_\_\_ day of \_\_\_\_,  
20\_\_.**

**[LICENSOR]**

**[By: CONSTRUCTION MANAGER]**

**By: \_\_\_\_\_  
Name:  
Title:**

**The form (only) of this Requisition is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_\_ day of \_\_\_\_, 20\_\_.**

**[By: CONSTRUCTION MANAGER]**

**By: \_\_\_\_\_  
Name:  
Title:**

**EXHIBIT E**

**FORMS OF Fredon Township ACCEPTANCE CERTIFICATES**

See Attached:

Form E-1, Form of Fredon Township REP Acceptance Certificate

Form E-2, Form of Fredon Township CIP Acceptance Certificate

**EXHIBIT E-1**

**[Attach Fredon Township REP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") between The Morris County Improvement Authority, as lessor (the "**Authority**"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Fredon Township Renewable Energy Projects**") being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the Fredon Township Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Fredon Township Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Fredon Township Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof].

3. The Fredon Township Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the Fredon Township Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the Fredon Township Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the Fredon Township Renewable Energy Projects.

5. *[Choose one, as applicable]*

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Fredon Township Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

---

The terms of this Fredon Township REP  
Acceptance Certificate are hereby  
ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this \_\_\_ day of \_\_\_,  
20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Fredon Township REP  
Acceptance Certificate is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_ day of \_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title::

**EXHIBIT E-2**

**[Attach Fredon Township CIP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the “**Fredon Township Capital Improvement Projects**”) being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the Fredon Township Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Fredon Township Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Fredon Township Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof].

3. By obtaining the Licensor’s execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor’s acceptance of (a) the Fredon Township Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which Fredon Township Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor’s acceptance of the Fredon Township Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. *[Choose one, as applicable]*

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Fredon Township Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_  
**Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

\_\_\_\_\_

The terms of this Fredon Township CIP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Fredon Township CIP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT F**

**CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR**

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "**Series 2011 Bonds**")

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Fredon Township Local Unit License Agreement**") by and between The Morris County Improvement Authority (the "**Authority**") and [ ] (the "**Licensor**"), and (ii) Section 5.03(3)(a) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Fredon Township Local Unit License Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

[ \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to  
\_\_\_\_\_ for \_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

[LICENSOR]

By: \_\_\_\_\_  
Authorized Officer

The form (only) of this Certificate is hereby  
ACKNOWLEDGED by the MORRIS COUNTY  
IMPROVEMENT AUTHORITY this \_\_\_\_ day  
of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**

**[None]**

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**LICENSE AND ACCESS AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**Town of Newton, as Licensor**

**And**

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee**

**Dated as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS “**LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “*Town of Newton Local Unit License Agreement*”), dated as of December 1, 2011, is made by and among Town of Newton (the “*Licensor*”), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the “*County*”), State of New Jersey (“*State*”) and the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “*Authority*” or the “*Licensee*”), duly created by resolution of the Board of Chosen Freeholders (“*Board of Freeholders*”) of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”) and other applicable law.

---

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the “*County*”) desires to undertake the development and implementation of a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

**WHEREAS**, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "*Series 2011A Bonds*") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "*Series 2011A Bonds*"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*", and together with the Series 2011A Bonds, "*Series 2011 Bonds*"), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*);

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
  
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County

College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments

shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a

minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011

Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure

Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “County Documents”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and (ii) the execution and delivery of a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County “*Sale Documents*”);

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the “*Sussex County Board of Freeholders*”) and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the “*Program Documents*”), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agrees as follows:

## ARTICLE I

### DEFINITIONS

#### Section 1.1. Definitions.

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**Town of Newton Local Unit License Agreement**  
**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**  
**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**

**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this Town of Newton Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

**Account**  
**Additional Bonds**  
**Administrative Expense Account**  
**Administrative Fund**  
**Aged Account**  
**Bond**  
**Capitalized Interest Account**  
**Code**  
**Company Development Fees and Expenses**  
**Completion Conditions**  
**Completion Project**  
**Consulting Energy Engineer**  
**Consulting Energy Engineering Services**  
**Cost**

**Costs of Issuance Account**  
**County Security Fund**  
**County Security Fund Requirement**  
**Debt Service Fund**  
**Funds**  
**General Fund**  
**Gross Substitute Power Purchase Price**  
**Interest Account**  
**Investment Securities**  
**Net Substitute Power Purchase Price**  
**Outstanding**  
**Paying Agent**  
**Principal Account**  
**Principal Office**  
**Project Fund**  
**Rating Agency**  
**Renewable Energy Program Interested Party**  
**Restoration Security Fund**  
**Restoration Security Fund Requirement**  
**Revenue Account**  
**Revenue Fund**  
**Revenues**  
**Series**  
**Series 2011B Bonds**  
**Sinking Fund Installments**  
**Supplemental Resolution**  
**Tax Certificate**  
**Tax-exempt Bonds**  
**Trustee**  
**Trust Estate**

(c) The following defined terms shall, for all purposes of this Town of Newton Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

**Town of Newton Capital Improvement Projects**  
**Town of Newton Licensee**  
**Town of Newton Licensees**  
**Town of Newton Local Unit Facilities**  
**Town of Newton Local Unit License**  
**Town of Newton Project Activities**  
**Town of Newton Projects**  
**Town of Newton Renewable Energy Projects**

(ii) Section 3.8:

**Revised Town of Newton Renewable Energy Projects**

(iii) Section 5.2(a)(i)

**Gross Substitute Power Purchase Price  
Net Substitute Power Purchase Price**

(iv) Section 6.1(a)

**Authority Event of Default**

(v) Section 6.1(b)

**Licensor Event of Default**

(vi) Section 7.1(c)

**Term**

(d) The following defined terms shall, for all purposes of this Town of Newton Local Unit License Agreement, have the following meanings:

“**Town of Newton Acceptance Certificates**” shall mean individually or collectively, as the case may be, the Town of Newton CIP Acceptance Certificate and the Town of Newton REP Acceptance Certificate, each in the form attached as **Exhibit E** to the Town of Newton Local Unit License Agreement and Exhibit B to the Company Lease Agreement.

“**Town of Newton CIP Acceptance Certificate**” shall mean the certificate applicable to the Town of Newton Capital Improvement Projects in the form attached as **Exhibit E-2** to the Town of Newton Local Unit License Agreement and Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, Licensor’s acceptance of all of the Town of Newton Capital Improvement Projects, all as set forth in Section 4.3 of the Town of Newton Local Unit License Agreement and Section 510(d)(ii) of the Company Lease Agreement. As there are no Town of Newton Capital Improvement Projects for the Licensor, this definition shall have no effect in this Town of Newton Local Unit License Agreement. The Parties acknowledge and agree that no Town of Newton Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

“**Town of Newton Construction Manager**” shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or the Licensor, that shall be responsible for the oversight of the

implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

**“Town of Newton Draw Papers”** shall mean the requisitions, and attachments thereto, applicable to either the (i) Town of Newton Renewable Energy Projects or (ii) Town of Newton Capital Improvement Projects, in either case in the form attached as **Exhibit D** to the Town of Newton Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the Town of Newton Renewable Energy Projects or the Town of Newton Capital Improvement Projects, all as set forth in Section 4.1 of the Town of Newton Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

**“Town of Newton Interconnection Agreement”** shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed Town of Newton Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

**“Town of Newton REP Acceptance Certificate”** shall mean the certificate applicable to the Town of Newton Renewable Energy Projects in the form attached as **Exhibit E-1** to the Town of Newton Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company’s acceptance of all of the Town of Newton Renewable Energy Projects, all as set forth in Section 4.2 of the Town of Newton Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

**“Authorized Officer”** or **“Authorized Representative”** shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the The Mayor, the Minicipal Clerk, and the Town Manager or such other person designated as an Authorized Officer in the Town of Newton Local Unit License Agreement or any other person or persons who shall be authorized to act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee:

any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Event of Default”** shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### Section 2.1. Representations and Warranties of the Licensor.

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this Town of Newton Local Unit License Agreement (and any documents contemplated hereby, including without limitation the Town of Newton Draw Papers, the Town of Newton Acceptance Certificates, and any Town of Newton Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the Town of Newton Local Unit Facilities. Licensor holds good, record and marketable title to each of the Town of Newton Local Unit Facilities and the land underlying the Town of Newton Local Unit Facilities. There are no mortgages or other liens against the Town of Newton Local Unit Facilities or the land except as set forth on Exhibit G.

#### Section 2.2. Representations and Warranties of the Licensee.

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this Town of Newton Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company thereunder, this Town of

Newton Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i) N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

**Section 2.4. Covenants of the Licensor.**

(a) Upon the delivery of the Town of Newton CIP Acceptance Certificate with respect to the Town of Newton Capital Improvement Projects, if any, the Licensor shall own such Town of Newton Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the Town of Newton Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the Town of Newton Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the Town of Newton Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this **Town of Newton** Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

**Section 2.5. Covenants of the Licensee.**

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the Town of Newton Renewable Energy Projects on, or as applicable, in the Town of Newton Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the Town of Newton Capital Improvement Projects on or as applicable, in the Town of Newton Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the Town of Newton Renewable Energy Projects on or as applicable, in or about the Town of Newton Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such Town of Newton Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the Town of Newton Capital Improvement Projects on or as applicable, in or about the Town of Newton Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that that such Town of Newton Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### **Section 2.6. Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any Town of Newton Capital Improvement Projects under the Program Documents and any references herein to Town of Newton Capital Improvement Projects, Town of Newton Capital Improvement Project Fund, Town of Newton CIP Acceptance Certificates or any other term defined by reference to Town of Newton Capital Improvement Projects (without limiting the application of any such term to the extent not related to Town of Newton Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the County Reserve upon issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

## ARTICLE III

### LICENSE

#### Section 3.1. License.

(a) For the Term of this Town of Newton Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this Town of Newton Local Unit License Agreement (each, an "**Town of Newton Licensee**", and collectively, the "**Town of Newton Licensees**"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on **Exhibit A** hereto (the "**Town of Newton Local Unit Facilities**"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other Town of Newton Licensee access to the Town of Newton Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this Town of Newton Local Unit License Agreement, a license (the "**Town of Newton Local Unit License**") allowing each Town of Newton Licensee to enter the Town of Newton Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on **Exhibit B** hereto (the "**Town of Newton Renewable Energy Projects**"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on **Exhibit C** hereto (the "**Town of Newton Capital Improvement Projects**", and together with the Town of Newton Renewable Energy Projects, the "**Town of Newton Projects**") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "**Town of Newton Project Activities**"), all at the sole cost and expense of the Authority or any other Town of Newton Licensee, but not the Licensor[, unless expressly set forth elsewhere herein]. As there are no Town of Newton Capital Improvement Projects for the Licensor, this definition shall have no effect in this Town of Newton Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site (solely the site and not including the solar improvements) at or in each of its Town of Newton Local Unit Facilities.

(b) For all purposes of this Town of Newton Local Unit License Agreement, the Town of Newton Local Unit License shall be deemed to include a preliminary license granted by the Licensor to the Authority and shall include, as Town of Newton Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to

constitute permissive Town of Newton Activities, which preliminary Town of Newton Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

(c) The Town of Newton Licensees shall have access to the Town of Newton Local Unit Facilities to conduct Town of Newton Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the Town of Newton Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the Town of Newton Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the Town of Newton Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the Town of Newton Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the Town of Newton Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the Town of Newton Local Unit Facilities.

(d) No other activities beyond the scope of the Town of Newton Project Activities shall be undertaken on the Town of Newton Local Unit Facilities by the Authority or any other Town of Newton Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensor shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensor is obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensor shall use commercially reasonable efforts to avoid interfering

with the Company's performance of its obligations under this Town of Newton Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

**Section 3.2. Town of Newton Licensees.** The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this Town of Newton Local Unit License Agreement, the Town of Newton License shall permit the Town of Newton Licensees to enter upon the Town of Newton Local Unit Facilities to conduct the Town of Newton Project Activities, at which time any such Town of Newton Licensees shall automatically, without any further action, be bound by the provisions of this Town of Newton Local Unit License Agreement during the Term hereof. The Licensee must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and subcontractors who will be present at the site, and the Licensee acknowledges that the same will be used for purposes of checking all identities against the Megans law registry.

**Section 3.3. Observation.** In connection with all Town of Newton Project Activities, the Authority and/or any other Town of Newton Licensee shall afford the Licensor and/or its representatives, the opportunity to observe all Town of Newton Project Activities; provided, however, that such observation activities shall not interfere with any Town of Newton Project Activities or delay construction of the Projects; and provided, further, that the Licensor hereby releases and agrees to indemnify, defend and hold harmless the Authority and each other Town of Newton Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensor's, or its representatives' or consultant's entry or activities on the Town of Newton Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all Town of Newton Licensees, to promptly provide the Licensor with copies of any final written reports prepared, compiled or generated as part of the Town of Newton Project Activities, if any [list of reports can be added here]. Further, the Licensor shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the Town of Newton Local Unit License, to inspect the Town of Newton Local Unit Facilities and/or the Town of Newton Renewable Energy Projects during the Term of this Town of Newton Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the Town of Newton Local Unit License under this Town of Newton Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other Town of Newton Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the Town of Newton Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing Town of Newton Project Activities on the Town

of Newton Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, as may be modified by the Program Documents, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority and the Licensor is given at least thirty (30) days prior written notice of such cancellation or modification. Notwithstanding anything else contained herein or in the Power Purchase Agreement, to the extent the insurance is in accordance with Acord 25 (2010/05) should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

### **Section 3.7. Revocation.**

(a) The parties expressly acknowledge that the Town of Newton Local Unit License cannot be revoked (including deemed revocation situations where the Town of Newton Local Unit Facilities are unavailable to allow the Company to perform Town of Newton Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the Town of Newton Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its Town of Newton Local Unit License for the Town of Newton Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the Town of Newton Renewable Energy Projects, with as similar physical conditions to the existing Town of Newton Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute Town of Newton Renewable Energy Project on the Town of Newton Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this Town of Newton Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the Town of Newton Renewable Energy Projects located on, or as applicable in, the Town of Newton Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the Town of Newton Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new Town of Newton Local Unit Facilities for all purposes of this Town of Newton Local Unit License Agreement and the other Program Documents, and similarly, the new Town of Newton Renewable Energy Projects on, or as applicable in, such new Town of Newton Local Unit Facilities shall be deemed the new Town of Newton Renewable Energy Projects for all purposes of this Town of Newton Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the Town of Newton Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this Town of Newton Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Town of Newton Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (I) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (II) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the Town of Newton Renewable Energy Projects been operating at the Town of Newton Local Unit Facilities for the remainder of such

then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (III) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the Town of Newton Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the Town of Newton Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the Town of Newton Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any Town of Newton Local Unit Facility as a result of which such Town of Newton Local Unit Facility is unavailable to allow the Company to perform its Town of Newton Project Activities shall be deemed to be a revocation of the Town of Newton Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

### **Section 3.8. Material Change to Town of Newton Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.**

To the extent the Licensor requests a material change to the Town of Newton Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the Town of Newton Renewable Energy Projects (the "**Revised Town of Newton Renewable Energy Projects**"), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised Town of Newton Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the Town of Newton Renewable Energy Projects set forth on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

**Section 3.9. Abandonment.**

If any Town of Newton Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this Town of Newton Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such Town of Newton Renewable Energy Project, be deemed terminated and discharged.

## ARTICLE IV

### Town of Newton DRAW PAPERS; Town of Newton ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE

#### Section 4.1. Town of Newton Draw Papers.

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the Town of Newton Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the Town of Newton Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the Town of Newton Renewable Energy Projects and the Town of Newton Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the Town of Newton Renewable Energy Projects or the Town of Newton Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the Town of Newton Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and **Exhibit D** hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the Town of Newton Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the Town of Newton Capital Improvement Projects. The Licensor shall promptly review the Town of Newton Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the Town of Newton Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such Town of Newton Draw Papers where indicated, and promptly forward the original of such Town of Newton Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Town of Newton Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any Town of Newton Draw Papers, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Town of Newton Construction Manager; provided, however, that any such

delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Town of Newton Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body (so long as same does not violate state statutes and regulations), in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver any Town of Newton Draw Papers or (ii) delegate any such action to the Town of Newton Construction Manager.

(e) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Town of Newton Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any Town of Newton Draw Papers to the Town of Newton Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Town of Newton Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Town of Newton Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any Town of Newton Draw Papers or (ii) delegate any such action to the Town of Newton Construction Manager.

#### **Section 4.2. Town of Newton REP Acceptance Certificate Relating to the Town of Newton Renewable Energy Projects.**

(a) When the Company has determined that all of the Town of Newton Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the Town of Newton Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Town of Newton REP Acceptance Certificate applicable to such Town of Newton Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and **Exhibit E-1** hereto.

(b) The Licensor shall promptly review the form Town of Newton REP Acceptance Certificate applicable to the Town of Newton Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Town of Newton REP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Town of Newton REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Town of Newton REP Acceptance Certificate where indicated, and promptly forward the original of such Town of Newton REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Town of Newton Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Town of Newton REP Acceptance Certificate to the Town of Newton Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Town of Newton Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. The Town of Newton Construction Manager shall use all reasonable efforts to ensure that copies of all Draw Papers and the REP Acceptance Certificate are forwarded to the Licensor in a reasonably timely manner. By the Licensor's authorization, execution and delivery of this Town of Newton Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Town of Newton REP Acceptance Certificate or (ii) delegate any such action to the Town of Newton Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Town of Newton Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Town of Newton REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Town of Newton Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Town of Newton Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Town of Newton REP Acceptance Certificate or (ii) delegate any such action to the Town of Newton Construction Manager.

**Section 4.3. Town of Newton CIP Acceptance Certificate Relating to the Town of Newton Capital Improvement Projects.**

(a) When the Company has determined that all of the Town of Newton Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Town of Newton CIP Acceptance Certificate applicable to such Town of Newton Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and **Exhibit E-2** hereto.

(b) The Licensor shall promptly review the form Town of Newton CIP Acceptance Certificate applicable to the Town of Newton Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The

Licensors shall promptly contact the Company to clarify or otherwise change the Town of Newton CIP Acceptance Certificate to a form acceptable to Licensors. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Town of Newton CIP Acceptance Certificate from the Company in a form acceptable to the Licensors, the Licensors shall execute the acknowledgment form to such Town of Newton CIP Acceptance Certificate where indicated, and promptly forward the original of such Town of Newton CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensors may delegate to the Town of Newton Construction Manager the Licensors' rights to review, acknowledge, accept, execute and deliver the Town of Newton CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Licensors' filing of a Certificate of an Authorized Officer of the Licensors to such effect with the Trustee, with copies to the Authority, the Company, and the Town of Newton Construction Manager; provided, however, that any such delegation shall not absolve the Licensors from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensors' authorization, execution and delivery of this Town of Newton Local Unit License Agreement, the Licensors shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensors either to (i) review, acknowledge, accept, execute and deliver the Town of Newton CIP Acceptance Certificate or (ii) delegate any such action to the Town of Newton Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Town of Newton Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Town of Newton CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensors, and the Town of Newton Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Town of Newton Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Town of Newton CIP Acceptance Certificate or (ii) delegate any such action to the Town of Newton Construction Manager.

#### **Section 4.4. Costs of Issuance.**

The Authority shall make available to the Licensors the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensors, as relayed by the Licensors to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensors shall submit to the Authority and the Trustee a duly authorized, executed

and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of **Exhibit F** hereto.

## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material affect on the Licensor, it being expressly understood that any such amendment having no material affect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the Town of Newton Renewable Energy Projects and restoration of the Town of Newton Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this Town of Newton Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the applicable Series 2011

Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power from the Company thereunder from the Town of Newton Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(i) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (c), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the Town of Newton Renewable Energy Projects located on, or as applicable, in the Town of Newton Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the Town of Newton Renewable Energy Projects installed on or, as applicable, in the Town of Newton Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the Town of Newton Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall take into account all the facts and circumstances of the marketplace for such Town of Newton Renewable Energy Projects at such time, including without limitation, its

continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; *provided, however*, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other Town of Newton Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time (as reasonably determined by the Authority), the Town of Newton Renewable Energy Projects from the Town of Newton Local Unit Facilities at the sole cost and expense and effort of the Company or any such other Town of Newton Licensees, and (ii) restore, within a reasonable period of time, the Town of Newton Local Unit Facilities, as improved by the Town of Newton Capital Improvement Projects, to the condition prior to the installation of the Town of Newton Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the Town of Newton Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

## **Section 5.2. Substitute Power Purchase Price.**

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, this Town of Newton Local Unit License Agreement shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its Town of Newton Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the Town of Newton Renewable Energy Projects located on, or as applicable, in the Town of Newton Local Unit Facilities from the Authority, as owner of the Town of Newton Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "**Gross Substitute Power Purchase Price**"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "**Net Substitute Power Purchase Price**") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the Town of Newton Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the

Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the Town of Newton Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the Town of Newton Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI

### EVENT OF DEFAULT

#### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this Town of Newton Local Unit License Agreement:

(i) the Authority or any other Town of Newton Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other Town of Newton Licensee to be performed or observed under this Town of Newton Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other Town of Newton Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this Town of Newton Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(c) that are within the Licensor's control) the Town of Newton Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Licensor to be performed or observed under this Town of Newton Local

Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

## **Section 6.2. Remedies.**

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this Town of Newton Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Town of Newton Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by

statute to enforce the specific performance rights of the Authority under this Town of Newton Local Unit License Agreement.

**Section 6.3. Remedies Generally.**

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this Town of Newton Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this Town of Newton Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the Town of Newton Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such Town of Newton Projects until cured, including without limitation the requirement that the Company complete all Projects, including the Town of Newton Projects, by December 14, 2012, all in accordance with the terms of the Program Documents.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.1 Term.

(a) This Town of Newton Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This Town of Newton Local Unit License Agreement and the Town of Newton Local Unit License granted herein shall terminate against the Authority, after which date all Town of Newton Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the Town of Newton Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the Town of Newton Renewable Energy Projects shall have been removed from the Town of Newton Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the Town of Newton Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the Town of Newton Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 thereof, and [either the Licensor or the Licensee desires to terminate this Town of Newton Local Unit License Agreement, which termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the

Licensee agree in writing to terminate this Town of Newton Local Unit License Agreement].

(c) The "Term" of this Town of Newton Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this Town of Newton Local Unit License Agreement, none of the Licensor, the Authority, nor any other Town of Newton Licensees shall have any further rights, duties or obligations with respect to the Town of Newton Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this Town of Newton Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the Town of Newton Licensees to gain access under the Town of Newton Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority's rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Town of Newton Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

- (a) Licensor: Town of Newton  
With a copy to: [ Licensor's Counsel]
- (b) Authority: The Morris County Improvement Authority

P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.Morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com

(c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)

(d) Company: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email : principals@sunlightgeneral.com

With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: [jduffy@nixonpeabody.com](mailto:jduffy@nixonpeabody.com)

(e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Vorhees, NJ 08043  
Email: [jvogel@birdsall.com](mailto:jvogel@birdsall.com)

With a copy to: Joseph Santaiti  
Gabel Associates  
417 Denison St.  
Highland Park, NJ 08904  
Email: [joseph.santaiti@gabelassociates.com](mailto:joseph.santaiti@gabelassociates.com)

**Section 7.4. Successors and Assigns.** This Town of Newton Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This Town of Newton Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This Town of Newton Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other Town of Newton Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This Town of Newton Local Unit License Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this Town of Newton Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this Town of Newton Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this Town of Newton Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This Town of Newton Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This Town of Newton Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this Town of Newton Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this Town of Newton Local Unit License Agreement and (b) its performance of the actions contemplated by this Town of Newton Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this License Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and

irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**[ The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow ]**

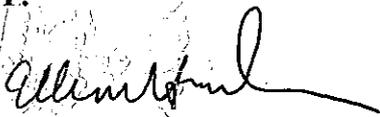
IN WITNESS WHEREOF, the parties hereto have each caused this Town of Newton Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By:   
**John Bonanni, Chairman**

ATTEST:

By:   
**Ellen M. Sandman, Secretary**

[SEAL]

**TOWN OF NEWTON, as Licensor**

By: \_\_\_\_\_  
**Thomas S. Russo, Town Manager**

ATTEST:

By: \_\_\_\_\_  
**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

IN WITNESS WHEREOF, the parties hereto have each caused this Town of Newton Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By: \_\_\_\_\_  
**John Bonanni, Chairman**

**ATTEST:**

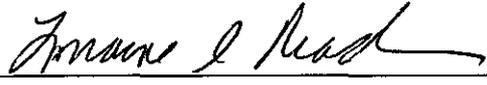
By: \_\_\_\_\_  
**Ellen M. Sandman, Secretary**

[SEAL]

**TOWN OF NEWTON, as Licensor**

By:   
\_\_\_\_\_  
**Thomas S. Russo, Jr., Town Manager**

**ATTEST:**

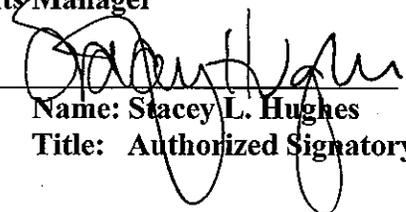
By:   
\_\_\_\_\_  
**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

The terms and conditions of this Town of Newton Local Unit License Agreement are hereby **ACKNOWLEDGED** and **ACCEPTED** by the following acknowledgment party, this 14<sup>th</sup> day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC**  
**Its Manager**

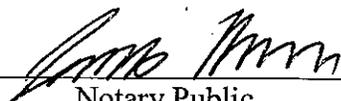
By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory





STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
\_\_\_\_\_  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6233849  
Qualified in New York County  
My Commission Expires January 03 2012

**EXHIBIT A**

**Morris County Improvement Authority**

not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

*Town of Newton (<http://www.newtontownhall.com/>)*

- (A) *DPW Complex (Roof 73 kW)*  
*39 Trinity Street*  
*Newton, NJ*
  
- (B) *Wastewater Treatment Plant (Ground Mount 109 kW)*  
*Townsend Street*  
*Newton, NJ*

## **EXHIBIT B**

### **[Attach Description of Town of Newton Renewable Energy Projects]**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

**EXHIBIT C**

**[Attach Description of Town of Newton Capital Improvement Projects]**

**None**

**EXHIBIT D**

**[Attach Town of Newton Draw Papers]**

Requisition No. \_\_\_\_\_

\_\_\_\_\_, \_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Town of Newton Renewable Energy Projects**")]  
[Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**Town of Newton Capital Improvement Projects**")]  
being developed for [\_\_\_\_\_] as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]; and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Town of Newton Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Town of Newton Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor:  
\_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Town of Newton Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Town of Newton Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor:  
\_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with Section [1(a)] [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw

Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**The terms of this Requisition are hereby  
ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this \_\_\_\_ day of \_\_\_\_,  
20\_\_.**

**[LICENSOR]**

**[By: CONSTRUCTION MANAGER]**

**By: \_\_\_\_\_  
Name:  
Title:**

**The form (only) of this Requisition is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_\_ day of \_\_\_\_, 20\_\_.**

**[By: CONSTRUCTION MANAGER]**

**By: \_\_\_\_\_  
Name:  
Title:**

**EXHIBIT E**

**FORMS OF Town of Newton ACCEPTANCE CERTIFICATES**

See Attached:

Form E-1, Form of Town of Newton REP Acceptance Certificate

Form E-2, Form of Town of Newton CIP Acceptance Certificate

**EXHIBIT E-1**

**[Attach Town of Newton REP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "Town of Newton Renewable Energy Projects") being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the Town of Newton Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Town of Newton Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Town of Newton Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof].

3. The Town of Newton Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the Town of Newton Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the Town of Newton Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the Town of Newton Renewable Energy Projects.

5. *[Choose one, as applicable]*

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Town of Newton Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_

**Name: Stacey Hughes**

**Title: Authorized Signatory**

**ATTEST:**

---

The terms of this Town of Newton REP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Town of Newton REP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:.

**EXHIBIT E-2**

**[Attach Town of Newton CIP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the "**Company**"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") between The Morris County Improvement Authority, as lessor (the "**Authority**"), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**Town of Newton Capital Improvement Projects**") being developed for [\_\_\_\_\_] as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the Town of Newton Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Town of Newton Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Town of Newton Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof].

3. By obtaining the Licensor's execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor's acceptance of (a) the Town of Newton Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which Town of Newton Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor's acceptance of the Town of Newton Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. *[Choose one, as applicable]*

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Town of Newton Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

\_\_\_\_\_

The terms of this Town of Newton CIP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Town of Newton CIP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT F**

**CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR**

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "**Series 2011 Bonds**")

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Town of Newton Local Unit License Agreement**") by and between The Morris County Improvement Authority (the "**Authority**") and [ ] (the "**Licensor**"), and (ii) Section 5.03(3)(a) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Town of Newton Local Unit License Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

[ \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to  
\_\_\_\_\_ for \_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

[LICENSOR]

By: \_\_\_\_\_  
Authorized Officer

The form (only) of this Certificate is hereby  
ACKNOWLEDGED by the MORRIS COUNTY  
IMPROVEMENT AUTHORITY this \_\_\_\_ day  
of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**

**[None]**

---

**LICENSE AND ACCESS AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**Byram Township Board of Education, as Licensor**

**And**

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee**

**Dated as of December 1, 2011**

---

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS “**LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “*Byram Township Board of Education Local Unit License Agreement*”), dated as of December 1, 2011, is made by and among Byram Township Board of Education (the “*Licensor*”), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the “*County*”), State of New Jersey (“*State*”) and the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “*Authority*” or the “*Licensee*”), duly created by resolution of the Board of Chosen Freeholders (“*Board of Freeholders*”) of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”) and other applicable law.

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the “*County*”) desires to undertake the development and implementation of a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

**WHEREAS**, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township Board of Education School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "*Series 2011A Bonds*") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "*Series 2011A Bonds*"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*", and together with the Series 2011A Bonds, "*Series 2011 Bonds*"), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*);

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units). under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series

2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of

Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the

Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented

from time to time in accordance with its terms, the "*County Security Agreement*") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and

the funding of the County Reserve described above (i) reduce the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County*

*Continuing Disclosure Agreement*” and together with the Company Continuing Disclosure Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “County Documents”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and (ii) the execution and delivery of a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County “*Sale Documents*”);

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the “*Sussex County Board of Freeholders*”) and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the “*Program Documents*”), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE,** for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agrees as follows:

## ARTICLE I

### DEFINITIONS

#### Section 1.1. Definitions.

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**Byram Township Board of Education Local Unit License Agreement**  
**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**  
**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**

**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this Byram Township Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

**Account**  
**Additional Bonds**  
**Administrative Expense Account**  
**Administrative Fund**  
**Aged Account**  
**Bond**  
**Capitalized Interest Account**  
**Code**  
**Company Development Fees and Expenses**  
**Completion Conditions**  
**Completion Project**  
**Consulting Energy Engineer**  
**Consulting Energy Engineering Services**  
**Cost**

**Costs of Issuance Account**  
**County Security Fund**  
**County Security Fund Requirement**  
**Debt Service Fund**  
**Funds**  
**General Fund**  
**Gross Substitute Power Purchase Price**  
**Interest Account**  
**Investment Securities**  
**Net Substitute Power Purchase Price**  
**Outstanding**  
**Paying Agent**  
**Principal Account**  
**Principal Office**  
**Project Fund**  
**Rating Agency**  
**Renewable Energy Program Interested Party**  
**Restoration Security Fund**  
**Restoration Security Fund Requirement**  
**Revenue Account**  
**Revenue Fund**  
**Revenues**  
**Series**  
**Series 2011B Bonds**  
**Sinking Fund Installments**  
**Supplemental Resolution**  
**Tax Certificate**  
**Tax-exempt Bonds**  
**Trustee**  
**Trust Estate**

(c) The following defined terms shall, for all purposes of this Byram Township Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

**Byram Township Board of Education Capital Improvement**  
**Projects**  
**Byram Township Board of Education Licensee**  
**Byram Township Board of Education Licensees**  
**Byram Township Board of Education Local Unit Facilities**  
**Byram Township Board of Education Local Unit License**  
**Byram Township Board of Education Project Activities**  
**Byram Township Board of Education Projects**

**Projects** **Byram Township Board of Education Renewable Energy**

(ii) Section 3.8:

**Energy Projects** **Revised Byram Township Board of Education Renewable**

(iii) Section 5.2(a)(i)

**Gross Substitute Power Purchase Price**  
**Net Substitute Power Purchase Price**

(iv) Section 6.1(a)

**Authority Event of Default**

(v) Section 6.1(b)

**Licensor Event of Default**

(vi) Section 7.1(c)

**Term**

(d) The following defined terms shall, for all purposes of this Byram Township Board of Education Local Unit License Agreement, have the following meanings:

“**Byram Township Board of Education Acceptance Certificates**” shall mean individually or collectively, as the case may be, the Byram Township Board of Education CIP Acceptance Certificate and the Byram Township Board of Education REP Acceptance Certificate, each in the form attached as **Exhibit E** to the Byram Township Board of Education Local Unit License Agreement and Exhibit B to the Company Lease Agreement.

“**Byram Township Board of Education CIP Acceptance Certificate**” shall mean the certificate applicable to the Byram Township Board of Education Capital Improvement Projects in the form attached as **Exhibit E-2** to the Byram Township Board of Education Local Unit License Agreement and Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, Licensor’s acceptance of all of the Byram Township Board of Education Capital Improvement Projects, all as set forth in Section 4.3 of the Byram Township Board of Education Local Unit License Agreement and Section 510(d)(ii) of the Company Lease Agreement. As there are no Byram Township Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Byram Township Board of Education Local Unit License Agreement. The Parties acknowledge and agree that no Byram Township

Board of Education Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

**“Byram Township Board of Education Construction Manager”** shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

**“Byram Township Board of Education Draw Papers”** shall mean the requisitions, and attachments thereto, applicable to either the (i) Byram Township Board of Education Renewable Energy Projects or (ii) Byram Township Board of Education Capital Improvement Projects, in either case in the form attached as **Exhibit D** to the Byram Township Board of Education Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the Byram Township Board of Education Renewable Energy Projects or the Byram Township Board of Education Capital Improvement Projects, all as set forth in Section 4.1 of the Byram Township Board of Education Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

**“Byram Township Board of Education Interconnection Agreement”** shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed Byram Township Board of Education Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

**“Byram Township Board of Education REP Acceptance Certificate”** shall mean the certificate applicable to the Byram Township Board of Education Renewable Energy Projects in the form attached as **Exhibit E-1** to the Byram Township Board of Education Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company’s acceptance of all of the Byram Township Board of Education Renewable Energy Projects, all as set forth in Section 4.2 of the Byram Township Board of Education Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

**“Authorized Officer”** or **“Authorized Representative”** shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the School Business Administrator or such other person designated as an Authorized Officer in the Byram Township Board of Education Local Unit License Agreement or any other person or persons who shall be authorized to act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Event of Default”** shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### Section 2.1. Representations and Warranties of the Licensor.

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this Byram Township Board of Education Local Unit License Agreement (and any documents contemplated hereby, including without limitation the Byram Township Board of Education Draw Papers, the Byram Township Board of Education Acceptance Certificates, and any Byram Township Board of Education Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the Byram Township Board of Education Local Unit Facilities. Licensor holds good, record and marketable title to each of the Byram Township Board of Education Local Unit Facilities and the land underlying the Byram Township Board of Education Local Unit Facilities. There are no mortgages or other liens against the Byram Township Board of Education Local Unit Facilities or the land except as set forth on Exhibit G.

#### Section 2.2. Representations and Warranties of the Licensee.

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this Byram Township Board of Education Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company thereunder, this Byram Township Board of Education Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i) N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

#### **Section 2.4. Covenants of the Licensor.**

(a) Upon the delivery of the Byram Township Board of Education CIP Acceptance Certificate with respect to the Byram Township Board of Education Capital Improvement Projects, if any, the Licensor shall own such Byram Township Board of Education Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the Byram Township Board of Education Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the Byram Township Board of Education Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the Byram Township Board of Education Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this **Byram Township Board of Education** Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

#### **Section 2.5. Covenants of the Licensee.**

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the Byram Township Board of Education Renewable Energy Projects on, or as applicable, in the Byram Township Board of Education Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital

Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the Byram Township Board of Education Capital Improvement Projects on or as applicable, in the Byram Township Board of Education Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the Byram Township Board of Education Renewable Energy Projects on or as applicable, in or about the Byram Township Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such Byram Township Board of Education Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the Byram Township Board of Education Capital Improvement Projects on or as applicable, in or about the Byram Township Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that that such Byram Township Board of Education Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### **Section 2.6. Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any Byram Township Board of Education Capital Improvement Projects under the Program Documents and any references herein to Byram Township Board of Education Capital Improvement Projects, Byram Township Board of Education Capital Improvement Project Fund, Byram Township Board of Education CIP Acceptance Certificates or any other term defined by reference to Byram Township Board of Education Capital Improvement Projects (without limiting the application of any such term to the extent not related to Byram Township Board of Education Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the

County Reserve upon issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

## ARTICLE III

### LICENSE

#### Section 3.1. License.

(a) For the Term of this Byram Township Board of Education Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this Byram Township Board of Education Local Unit License Agreement (each, an "**Byram Township Board of Education Licensee**", and collectively, the "**Byram Township Board of Education Licensees**"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on **Exhibit A** hereto (the "**Byram Township Board of Education Local Unit Facilities**"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other Byram Township Board of Education Licensee access to the Byram Township Board of Education Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this Byram Township Board of Education Local Unit License Agreement, a license (the "**Byram Township Board of Education Local Unit License**") allowing each Byram Township Board of Education Licensee to enter the Byram Township Board of Education Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on **Exhibit B** hereto (the "**Byram Township Board of Education Renewable Energy Projects**"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on **Exhibit C** hereto (the "**Byram Township Board of Education Capital Improvement Projects**"), and together with the Byram Township Board of Education Renewable Energy Projects, the "**Byram Township Board of Education Projects**") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "**Byram Township Board of Education Project Activities**"), all at the sole cost and expense of the Authority or any other Byram Township Board of Education Licensee, but not the Licensor[, unless expressly set forth elsewhere herein]. As there are no Byram Township Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Byram Township Board of Education Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site (solely the site and not including the solar improvements) at or in each of its Byram Township Board of Education Local Unit Facilities.

(b) For all purposes of this Byram Township Board of Education Local Unit License Agreement, the Byram Township Board of Education Local Unit License shall be deemed to include a preliminary license granted by the Licensor to the Authority and shall

include, as Byram Township Board of Education Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to constitute permissive Byram Township Board of Education Activities, which preliminary Byram Township Board of Education Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

(c) The Byram Township Board of Education Licensees shall have access to the Byram Township Board of Education Local Unit Facilities to conduct Byram Township Board of Education Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the Byram Township Board of Education Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the Byram Township Board of Education Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the Byram Township Board of Education Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the Byram Township Board of Education Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the Byram Township Board of Education Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the Byram Township Board of Education Local Unit Facilities.

(d) No other activities beyond the scope of the Byram Township Board of Education Project Activities shall be undertaken on the Byram Township Board of Education Local Unit Facilities by the Authority or any other Byram Township Board of Education Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensors shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensors is obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensors shall use commercially reasonable efforts to avoid interfering with the Company's performance of its obligations under this Byram Township Board of Education Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

**Section 3.2. Byram Township Board of Education Licensees.** The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this Byram Township Board of Education Local Unit License Agreement, the Byram Township Board of Education License shall permit the Byram Township Board of Education Licensees to enter upon the Byram Township Board of Education Local Unit Facilities to conduct the Byram Township Board of Education Project Activities, at which time any such Byram Township Board of Education Licensees shall automatically, without any further action, be bound by the provisions of this Byram Township Board of Education Local Unit License Agreement during the Term hereof. The Licensee must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and subcontractors who will be present at the site, and the Licensee acknowledges that the same will be used for purposes of checking all identities against the Megans law registry.

**Section 3.3. Observation.** In connection with all Byram Township Board of Education Project Activities, the Authority and/or any other Byram Township Board of Education Licensee shall afford the Licensors and/or its representatives, the opportunity to observe all Byram Township Board of Education Project Activities; provided, however, that such observation activities shall not interfere with any Byram Township Board of Education Project Activities or delay construction of the Projects; and provided, further, that the Licensors hereby releases and agrees to indemnify, defend and hold harmless the Authority and each other Byram Township Board of Education Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensors', or its representatives' or consultant's entry or activities on the Byram Township Board of Education Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all Byram Township Board of Education Licensees, to promptly provide the Licensors with copies of any final written reports prepared, compiled or generated as part of the Byram Township Board of Education Project Activities, if any [list of reports can be added here]. Further, the Licensors shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the Byram Township Board of Education Local Unit License, to inspect the Byram Township Board of Education Local Unit Facilities and/or the Byram Township Board of Education Renewable Energy Projects during the Term of this Byram Township Board of Education Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the Byram Township Board of Education Local Unit License under this Byram Township Board of Education Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other Byram Township Board of Education Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the Byram Township Board of Education Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing Byram Township Board of Education Project Activities on the Byram Township Board of Education Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, as may be modified by the Program Documents, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority and the Licensor is given at least thirty (30) days prior written notice of such cancellation or modification. Notwithstanding anything else contained herein or in the Power Purchase Agreement, to the extent the insurance is in accordance with Acord 25 (2010/05) should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**Section 3.7. Revocation.**

(a) The parties expressly acknowledge that the Byram Township Board of Education Local Unit License cannot be revoked (including deemed revocation situations where the Byram Township Board of Education Local Unit Facilities are unavailable to allow the Company to perform Byram Township Board of Education Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the Byram Township Board of Education Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its Byram Township Board of Education Local Unit License for the Byram Township Board of Education Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the Byram Township Board of Education Renewable Energy Projects, with as similar physical conditions to the existing Byram Township Board of Education Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute Byram Township Board of Education Renewable Energy Project on the Byram Township Board of Education Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this Byram Township Board of Education Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the Byram Township Board of Education Renewable Energy Projects located on, or as applicable in, the Byram Township Board of Education Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the Byram Township Board of Education Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new Byram Township Board of Education Local Unit Facilities for all purposes of this Byram Township Board of Education Local Unit License Agreement and the other Program Documents, and similarly, the new Byram Township Board of Education Renewable Energy Projects on, or as applicable in, such new Byram Township Board of Education Local Unit Facilities shall be deemed the new Byram Township Board of Education Renewable Energy Projects for all purposes of this Byram Township Board of Education Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the Byram Township Board of Education Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this Byram Township Board of Education Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to

secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Byram Township Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (I) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (II) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the Byram Township Board of Education Renewable Energy Projects been operating at the Byram Township Board of Education Local Unit Facilities for the remainder of such then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (III) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the Byram Township Board of Education Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the Byram Township Board of Education Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the Byram Township Board of Education Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any Byram Township Board of Education Local Unit Facility as a result of which such Byram Township Board of Education Local Unit Facility is unavailable to allow the Company to perform its Byram Township Board

of Education Project Activities shall be deemed to be a revocation of the Byram Township Board of Education Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

**Section 3.8. Material Change to Byram Township Board of Education Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.**

To the extent the Licensor requests a material change to the Byram Township Board of Education Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the Byram Township Board of Education Renewable Energy Projects (the “**Revised Byram Township Board of Education Renewable Energy Projects**”), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised Byram Township Board of Education Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the Byram Township Board of Education Renewable Energy Projects set forth on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

**Section 3.9. Abandonment.**

If any Byram Township Board of Education Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this Byram Township Board of Education Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such Byram Township Board of Education Renewable Energy Project, be deemed terminated and discharged.

## ARTICLE IV

### **Byram Township Board of Education DRAW PAPERS; Byram Township Board of Education ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE**

#### **Section 4.1. Byram Township Board of Education Draw Papers.**

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the Byram Township Board of Education Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the Byram Township Board of Education Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the Byram Township Board of Education Renewable Energy Projects and the Byram Township Board of Education Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the Byram Township Board of Education Renewable Energy Projects or the Byram Township Board of Education Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the Byram Township Board of Education Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and **Exhibit D** hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the Byram Township Board of Education Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the Byram Township Board of Education Capital Improvement Projects. The Licensor shall promptly review the Byram Township Board of Education Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the Byram Township Board of Education Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such Byram Township Board of Education Draw Papers where indicated, and promptly forward the original of such Byram Township Board of Education Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Byram Township Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any Byram Township Board of Education Draw Papers, which delegation shall be conclusively evidenced by the

Licensors' filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Byram Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Byram Township Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body (so long as same does not violate state statutes and regulations), in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver any Byram Township Board of Education Draw Papers or (ii) delegate any such action to the Byram Township Board of Education Construction Manager.

(e) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Byram Township Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any Byram Township Board of Education Draw Papers to the Byram Township Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Byram Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Byram Township Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any Byram Township Board of Education Draw Papers or (ii) delegate any such action to the Byram Township Board of Education Construction Manager.

**Section 4.2. Byram Township Board of Education REP Acceptance Certificate Relating to the Byram Township Board of Education Renewable Energy Projects.**

(a) When the Company has determined that all of the Byram Township Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the Byram Township Board of Education Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Byram Township Board of Education REP Acceptance Certificate applicable to such Byram Township Board of Education Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and **Exhibit E-1** hereto.

(b) The Licensor shall promptly review the form Byram Township Board of Education REP Acceptance Certificate applicable to the Byram Township Board of Education Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Byram Township Board of Education REP Acceptance

Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Byram Township Board of Education REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Byram Township Board of Education REP Acceptance Certificate where indicated, and promptly forward the original of such Byram Township Board of Education REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Byram Township Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Byram Township Board of Education REP Acceptance Certificate to the Byram Township Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Byram Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. The Byram Township Board of Education Construction Manager shall use all reasonable efforts to ensure that copies of all Draw Papers and the REP Acceptance Certificate are forwarded to the Licensor in a reasonably timely manner. By the Licensor's authorization, execution and delivery of this Byram Township Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Byram Township Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Byram Township Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Byram Township Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Byram Township Board of Education REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Byram Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Byram Township Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Byram Township Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Byram Township Board of Education Construction Manager.

**Section 4.3. Byram Township Board of Education CIP Acceptance Certificate Relating to the Byram Township Board of Education Capital Improvement Projects.**

(a) When the Company has determined that all of the Byram Township Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Byram Township Board of Education CIP Acceptance Certificate applicable to such Byram Township Board of Education Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and **Exhibit E-2** hereto.

(b) The Licensor shall promptly review the form Byram Township Board of Education CIP Acceptance Certificate applicable to the Byram Township Board of Education Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Byram Township Board of Education CIP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Byram Township Board of Education CIP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Byram Township Board of Education CIP Acceptance Certificate where indicated, and promptly forward the original of such Byram Township Board of Education CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Byram Township Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Byram Township Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Byram Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Byram Township Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Byram Township Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Byram Township Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Byram Township Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Byram Township Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Byram Township Board of Education Construction Manager; provided, however, that any such

delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Byram Township Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Byram Township Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Byram Township Board of Education Construction Manager.

**Section 4.4. Costs of Issuance.**

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of **Exhibit F** hereto.

## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material affect on the Licensor, it being expressly understood that any such amendment having no material affect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the Byram Township Board of Education Renewable Energy Projects and restoration of the Byram Township Board of Education Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this Byram Township Board of Education Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the applicable Series

2011 Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power from the Company thereunder from the Byram Township Board of Education Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(i) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (c), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the Byram Township Board of Education Renewable Energy Projects located on, or as applicable, in the Byram Township Board of Education Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the Byram Township Board of Education Renewable Energy Projects installed on or, as applicable, in the Byram Township Board of Education Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the Byram Township Board of Education Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall take into account all

the facts and circumstances of the marketplace for such Byram Township Board of Education Renewable Energy Projects at such time, including without limitation, its continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; *provided, however*, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other Byram Township Board of Education Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time (as reasonably determined by the Authority), the Byram Township Board of Education Renewable Energy Projects from the Byram Township Board of Education Local Unit Facilities at the sole cost and expense and effort of the Company or any such other Byram Township Board of Education Licensees, and (ii) restore, within a reasonable period of time, the Byram Township Board of Education Local Unit Facilities, as improved by the Byram Township Board of Education Capital Improvement Projects, to the condition prior to the installation of the Byram Township Board of Education Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the Byram Township Board of Education Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

#### **Section 5.2. Substitute Power Purchase Price.**

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, this Byram Township Board of Education Local Unit License Agreement

shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its Byram Township Board of Education Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the Byram Township Board of Education Renewable Energy Projects located on, or as applicable, in the Byram Township Board of Education Local Unit Facilities from the Authority, as owner of the Byram Township Board of Education Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "**Gross Substitute Power Purchase Price**"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "**Net Substitute Power Purchase Price**") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the Byram Township Board of Education Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a

portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the Byram Township Board of Education Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the Byram Township Board of Education Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI

### EVENT OF DEFAULT

#### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this Byram Township Board of Education Local Unit License Agreement:

(i) the Authority or any other Byram Township Board of Education Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other Byram Township Board of Education Licensee to be performed or observed under this Byram Township Board of Education Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other Byram Township Board of Education Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this Byram Township Board of Education Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(c) that are within the Licensor's control) the Byram Township Board of Education Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part

of the Licensor to be performed or observed under this Byram Township Board of Education Local Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

## **Section 6.2. Remedies.**

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this Byram Township Board of Education Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Byram Township Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by

statute to enforce the specific performance rights of the Authority under this Byram Township Board of Education Local Unit License Agreement.

**Section 6.3. Remedies Generally.**

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this Byram Township Board of Education Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this Byram Township Board of Education Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the Byram Township Board of Education Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such Byram Township Board of Education Projects until cured, including without limitation the requirement that the Company complete all Projects, including the Byram Township Board of Education Projects, by December 14, 2012, all in accordance with the terms of the Program Documents.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.1 Term.

(a) This Byram Township Board of Education Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This Byram Township Board of Education Local Unit License Agreement and the Byram Township Board of Education Local Unit License granted herein shall terminate against the Authority, after which date all Byram Township Board of Education Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the Byram Township Board of Education Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the Byram Township Board of Education Renewable Energy Projects shall have been removed from the Byram Township Board of Education Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the Byram Township Board of Education Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the Byram Township Board of Education Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 thereof, and [either the Licensor or the Licensee desires to terminate

this Byram Township Board of Education Local Unit License Agreement, which termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the Licensee agree in writing to terminate this Byram Township Board of Education Local Unit License Agreement].

(c) The “**Term**” of this Byram Township Board of Education Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this Byram Township Board of Education Local Unit License Agreement, none of the Licensor, the Authority, nor any other Byram Township Board of Education Licensees shall have any further rights, duties or obligations with respect to the Byram Township Board of Education Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this Byram Township Board of Education Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the Byram Township Board of Education Licensees to gain access under the Byram Township Board of Education Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority’s rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Byram Township Board of Education Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) Licensor: Byram Township Board of Education

- With a copy to: [ Licensor's Counsel]
- (b) Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.Morris.nj.us
- With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com
- (c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960
- With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)
- (d) Company: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email : principals@sunlightgeneral.com
- With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: [jduffy@nixonpeabody.com](mailto:jduffy@nixonpeabody.com)
- (e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Vorhees, NJ 08043  
Email: [jvogel@birdsall.com](mailto:jvogel@birdsall.com)
- With a copy to: Joseph Santaiti  
Gabel Associates

417 Denison St.  
Highland Park, NJ 08904  
Email: joseph.santaiti@gabelassociates.com

**Section 7.4. Successors and Assigns.** This Byram Township Board of Education Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This Byram Township Board of Education Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This Byram Township Board of Education Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other Byram Township Board of Education Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This Byram Township Board of Education Local Unit License Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this Byram Township Board of Education Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this Byram Township Board of Education Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this Byram Township Board of Education Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This Byram Township Board of Education Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This Byram Township Board of Education Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this Byram Township Board of Education Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this Byram Township Board of Education Local Unit License Agreement and (b) its performance of the actions contemplated by this Byram Township Board of Education Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties

or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this License Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**[ The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow ]**

IN WITNESS WHEREOF, the parties hereto have each caused this Byram Township Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

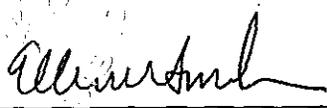
THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee

By: \_\_\_\_\_

  
John Bonanni, Chairman

ATTEST:

By: \_\_\_\_\_

  
Ellen M. Sandman, Secretary

[SEAL]

BYRAM TOWNSHIP BOARD OF  
EDUCATION, as Licensor

By: \_\_\_\_\_

Theresa Linskey,  
Business Administrator/Board Secretary

ATTEST:

By: \_\_\_\_\_

Authorized Representative

Acknowledgment and Acceptance Page to Follow

IN WITNESS WHEREOF, the parties hereto have each caused this Byram Township Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee

By: \_\_\_\_\_  
John Bonanni, Chairman

ATTEST:

By: \_\_\_\_\_  
Ellen M. Sandman, Secretary

[SEAL]

BYRAM TOWNSHIP BOARD OF  
EDUCATION, as Licensor

By: Theresa Linskey  
Theresa Linskey,  
Business Administrator/Board Secretary

ATTEST:

By: Barbara A. Troy  
Authorized Representative

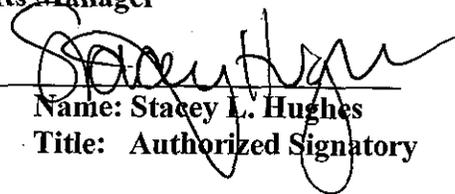


Acknowledgment and Acceptance Page to Follow

The terms and conditions of this Byram Township Board of Education Local Unit License Agreement are hereby **ACKNOWLEDGED** and **ACCEPTED** by the following acknowledgment party, this 14<sup>th</sup> day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

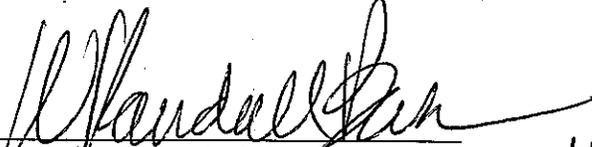
By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

STATE OF NEW JERSEY )

) ss.:

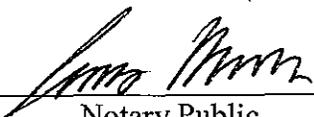
COUNTY OF MORRIS)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared John Bonanni, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

  
Notary Public  
*Randall K. Herring*  
Attorney at Law State of New Jersey

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
\_\_\_\_\_  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6233849  
Qualified in New York County  
My Commission Expires January 03, 2015

**EXHIBIT A**

**Morris County Improvement Authority**  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

*Byram Township School District (<http://www.byramschools.org/>)*

- (A) *Byram Lakes Elementary School (Roof 38 kW,  
Parking Canopy 455 kW)*  
*11 Mansfield Drive  
Stanhope, NJ*

## **EXHIBIT B**

### **[Attach Description of Byram Township Board of Education Renewable Energy Projects]**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

**EXHIBIT C**

**[Attach Description of Byram Township Board of Education Capital Improvement  
Projects]**

**None**

**EXHIBIT D**

**[Attach Byram Township Board of Education Draw Papers]**

Requisition No. \_\_\_\_\_

\_\_\_\_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Byram Township Board of Education Renewable Energy Projects**")] [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**Byram Township Board of Education Capital Improvement Projects**")] being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensors**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$ \_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]; and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Byram Township Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Byram Township Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Byram Township Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Byram Township Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with Section [1(a)] [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw

Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory

The terms of this Requisition are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT E**

**FORMS OF Byram Township Board of Education ACCEPTANCE CERTIFICATES**

See Attached:

Form E-1, Form of Byram Township Board of Education REP Acceptance Certificate  
Form E-2, Form of Byram Township Board of Education CIP Acceptance Certificate

## EXHIBIT E-1

### [Attach Byram Township Board of Education REP Acceptance Certificate]

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") between The Morris County Improvement Authority, as lessor (the "**Authority**"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Byram Township Board of Education Renewable Energy Projects**") being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensors**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the Byram Township Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Byram Township Board of Education Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Byram Township Board of Education Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof].

3. The Byram Township Board of Education Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensors with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensors, all as set forth in the Program Documents. This Section 3, together with the Licensors' acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensors' acceptance of the Byram Township Board of Education Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the Byram Township Board of Education Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the Byram Township Board of Education Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Byram Township Board of Education Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

---

The terms of this Byram Township Board of Education REP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Byram Township Board of Education REP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title::

## EXHIBIT E-2

### [Attach Byram Township Board of Education CIP Acceptance Certificate]

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "Byram Township Board of Education Capital Improvement Projects") being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the Byram Township Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Byram Township Board of Education Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Byram Township Board of Education Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof].

3. By obtaining the Licensor's execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor's acceptance of (a) the Byram Township Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which Byram Township Board of Education Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor's acceptance of the Byram Township Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. [Choose one, as applicable]

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Byram Township Board of Education Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

\_\_\_\_\_

The terms of this Byram Township Board of Education CIP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Byram Township Board of Education CIP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT F

CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Byram Township Board of Education Local Unit License Agreement") by and between The Morris County Improvement Authority (the "Authority") and [ ] (the "Licensor"), and (ii) Section 5.03(3)(a) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Byram Township Board of Education Local Unit License Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

[ \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to  
\_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

[LICENSOR]

By: \_\_\_\_\_  
Authorized Officer

The form (only) of this Certificate is hereby  
ACKNOWLEDGED by the MORRIS COUNTY  
IMPROVEMENT AUTHORITY this \_\_\_\_ day  
of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**

**[None]**

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**LICENSE AND ACCESS AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**Frankford Township Board of Education, as Licensor**

**And**

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee**

**Dated as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS “**LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “*Frankford Township Board of Education Local Unit License Agreement*”), dated as of December 1, 2011, is made by and among Frankford Township Board of Education (the “*Licensor*”), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the “*County*”), State of New Jersey (“*State*”) and the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “*Authority*” or the “*Licensee*”), duly created by resolution of the Board of Chosen Freeholders (“*Board of Freeholders*”) of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”) and other applicable law.

---

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the “*County*”) desires to undertake the development and implementation of a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

**WHEREAS**, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "*Series 2011A Bonds*") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "*Series 2011A Bonds*"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*", and together with the Series 2011A Bonds, "*Series 2011 Bonds*"), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*);

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County

College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments

shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a

minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the *In-Kind Equity Contribution*, together with the *Cash Equity Contribution* shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011

Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure

Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “*County Documents*”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and (ii) the execution and delivery of a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County “*Sale Documents*”);

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the “*Sussex County Board of Freeholders*”) and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the “*Program Documents*”), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agrees as follows:

**ARTICLE I**  
**DEFINITIONS**

**Section 1.1. Definitions.**

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**Frankford Township Board of Education Local Unit License Agreement**  
**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**  
**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**

**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this Frankford Township Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

**Account**  
**Additional Bonds**  
**Administrative Expense Account**  
**Administrative Fund**  
**Aged Account**  
**Bond**  
**Capitalized Interest Account**  
**Code**  
**Company Development Fees and Expenses**  
**Completion Conditions**  
**Completion Project**  
**Consulting Energy Engineer**  
**Consulting Energy Engineering Services**  
**Cost**

**Costs of Issuance Account**  
**County Security Fund**  
**County Security Fund Requirement**  
**Debt Service Fund**  
**Funds**  
**General Fund**  
**Gross Substitute Power Purchase Price**  
**Interest Account**  
**Investment Securities**  
**Net Substitute Power Purchase Price**  
**Outstanding**  
**Paying Agent**  
**Principal Account**  
**Principal Office**  
**Project Fund**  
**Rating Agency**  
**Renewable Energy Program Interested Party**  
**Restoration Security Fund**  
**Restoration Security Fund Requirement**  
**Revenue Account**  
**Revenue Fund**  
**Revenues**  
**Series**  
**Series 2011B Bonds**  
**Sinking Fund Installments**  
**Supplemental Resolution**  
**Tax Certificate**  
**Tax-exempt Bonds**  
**Trustee**  
**Trust Estate**

(c) The following defined terms shall, for all purposes of this Frankford Township Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

**Frankford Township Board of Education Capital  
 Improvement Projects**  
**Frankford Township Board of Education Licensee**  
**Frankford Township Board of Education Licensees**  
**Frankford Township Board of Education Local Unit Facilities**  
**Frankford Township Board of Education Local Unit License**  
**Frankford Township Board of Education Project Activities**  
**Frankford Township Board of Education Projects**

**Projects** **Frankford Township Board of Education Renewable Energy**

- (ii) Section 3.8:

**Energy Projects** **Revised Frankford Township Board of Education Renewable**

- (iii) Section 5.2(a)(i)

**Gross Substitute Power Purchase Price**  
**Net Substitute Power Purchase Price**

- (iv) Section 6.1(a)

**Authority Event of Default**

- (v) Section 6.1(b)

**Licensor Event of Default**

- (vi) Section 7.1(c)

**Term**

(d) The following defined terms shall, for all purposes of this Frankford Township Board of Education Local Unit License Agreement, have the following meanings:

**“Frankford Township Board of Education Acceptance Certificates”** shall mean individually or collectively, as the case may be, the Frankford Township Board of Education CIP Acceptance Certificate and the Frankford Township Board of Education REP Acceptance Certificate, each in the form attached as **Exhibit E** to the Frankford Township Board of Education Local Unit License Agreement and Exhibit B to the Company Lease Agreement.

**“Frankford Township Board of Education CIP Acceptance Certificate”** shall mean the certificate applicable to the Frankford Township Board of Education Capital Improvement Projects in the form attached as **Exhibit E-2** to the Frankford Township Board of Education Local Unit License Agreement and Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, Licensor’s acceptance of all of the Frankford Township Board of Education Capital Improvement Projects, all as set forth in Section 4.3 of the Frankford Township Board of Education Local Unit License Agreement and Section 510(d)(ii) of the Company Lease Agreement. As there are no Frankford Township Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Frankford Township Board of Education Local Unit License Agreement. The Parties acknowledge and

agree that no Frankford Township Board of Education Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

**“Frankford Township Board of Education Construction Manager”** shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

**“Frankford Township Board of Education Draw Papers”** shall mean the requisitions, and attachments thereto, applicable to either the (i) Frankford Township Board of Education Renewable Energy Projects or (ii) Frankford Township Board of Education Capital Improvement Projects, in either case in the form attached as **Exhibit D** to the Frankford Township Board of Education Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the Frankford Township Board of Education Renewable Energy Projects or the Frankford Township Board of Education Capital Improvement Projects, all as set forth in Section 4.1 of the Frankford Township Board of Education Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

**“Frankford Township Board of Education Interconnection Agreement”** shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed Frankford Township Board of Education Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

**“Frankford Township Board of Education REP Acceptance Certificate”** shall mean the certificate applicable to the Frankford Township Board of Education Renewable Energy Projects in the form attached as **Exhibit E-1** to the Frankford Township Board of Education Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company’s acceptance of all of the Frankford Township Board of Education Renewable Energy Projects, all as set forth in Section 4.2 of the Frankford Township Board of Education Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

**“Authorized Officer”** or **“Authorized Representative”** shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the Board President and School Business Administrator or such other person designated as an Authorized Officer in the Frankford Township Board of Education Local Unit License Agreement or any other person or persons who shall be authorized to act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Event of Default”** shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### Section 2.1. Representations and Warranties of the Licensor.

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this Frankford Township Board of Education Local Unit License Agreement (and any documents contemplated hereby, including without limitation the Frankford Township Board of Education Draw Papers, the Frankford Township Board of Education Acceptance Certificates, and any Frankford Township Board of Education Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the Frankford Township Board of Education Local Unit Facilities. Licensor holds good, record and marketable title to each of the Frankford Township Board of Education Local Unit Facilities and the land underlying the Frankford Township Board of Education Local Unit Facilities. There are no mortgages or other liens against the Frankford Township Board of Education Local Unit Facilities or the land except as set forth on Exhibit G.

#### Section 2.2. Representations and Warranties of the Licensee.

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this Frankford Township Board of Education Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company thereunder, this Frankford Township Board of Education Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i) N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

#### **Section 2.4. Covenants of the Licensor.**

(a) Upon the delivery of the Frankford Township Board of Education CIP Acceptance Certificate with respect to the Frankford Township Board of Education Capital Improvement Projects, if any, the Licensor shall own such Frankford Township Board of Education Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the Frankford Township Board of Education Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the Frankford Township Board of Education Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the Frankford Township Board of Education Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this **Frankford Township Board of Education** Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

#### **Section 2.5. Covenants of the Licensee.**

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the Frankford Township Board of Education Renewable Energy Projects on, or as applicable, in the Frankford Township Board of Education Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital

Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the Frankford Township Board of Education Capital Improvement Projects on or as applicable, in the Frankford Township Board of Education Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the Frankford Township Board of Education Renewable Energy Projects on or as applicable, in or about the Frankford Township Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such Frankford Township Board of Education Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the Frankford Township Board of Education Capital Improvement Projects on or as applicable, in or about the Frankford Township Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that that such Frankford Township Board of Education Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### **Section 2.6. Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any Frankford Township Board of Education Capital Improvement Projects under the Program Documents and any references herein to Frankford Township Board of Education Capital Improvement Projects, Frankford Township Board of Education Capital Improvement Project Fund, Frankford Township Board of Education CIP Acceptance Certificates or any other term defined by reference to Frankford Township Board of Education Capital Improvement Projects (without limiting the application of any such term to the extent not related to Frankford Township Board of Education Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding

of the County Reserve upon issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

## ARTICLE III

### LICENSE

#### Section 3.1. License.

(a) For the Term of this Frankford Township Board of Education Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this Frankford Township Board of Education Local Unit License Agreement (each, an "**Frankford Township Board of Education Licensee**", and collectively, the "**Frankford Township Board of Education Licensees**"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on **Exhibit A** hereto (the "**Frankford Township Board of Education Local Unit Facilities**"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other Frankford Township Board of Education Licensee access to the Frankford Township Board of Education Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this Frankford Township Board of Education Local Unit License Agreement, a license (the "**Frankford Township Board of Education Local Unit License**") allowing each Frankford Township Board of Education Licensee to enter the Frankford Township Board of Education Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on **Exhibit B** hereto (the "**Frankford Township Board of Education Renewable Energy Projects**"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on **Exhibit C** hereto (the "**Frankford Township Board of Education Capital Improvement Projects**"), and together with the Frankford Township Board of Education Renewable Energy Projects, the "**Frankford Township Board of Education Projects**") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "**Frankford Township Board of Education Project Activities**"), all at the sole cost and expense of the Authority or any other Frankford Township Board of Education Licensee, but not the Licensor[, unless expressly set forth elsewhere herein]. As there are no Frankford Township Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Frankford Township Board of Education Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site (solely the site and not including the solar improvements) at or in each of its Frankford Township Board of Education Local Unit Facilities.

(b) For all purposes of this Frankford Township Board of Education Local Unit License Agreement, the Frankford Township Board of Education Local Unit License shall

be deemed to include a preliminary license granted by the Licensor to the Authority and shall include, as Frankford Township Board of Education Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to constitute permissive Frankford Township Board of Education Activities, which preliminary Frankford Township Board of Education Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

(c) The Frankford Township Board of Education Licensees shall have access to the Frankford Township Board of Education Local Unit Facilities to conduct Frankford Township Board of Education Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the Frankford Township Board of Education Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the Frankford Township Board of Education Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the Frankford Township Board of Education Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the Frankford Township Board of Education Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the Frankford Township Board of Education Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the Frankford Township Board of Education Local Unit Facilities.

(d) No other activities beyond the scope of the Frankford Township Board of Education Project Activities shall be undertaken on the Frankford Township Board of Education Local Unit Facilities by the Authority or any other Frankford Township Board of Education Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensors shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensors is obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensors shall use commercially reasonable efforts to avoid interfering with the Company's performance of its obligations under this Frankford Township Board of Education Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

**Section 3.2. Frankford Township Board of Education Licensees.** The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this Frankford Township Board of Education Local Unit License Agreement, the Frankford Township Board of Education License shall permit the Frankford Township Board of Education Licensees to enter upon the Frankford Township Board of Education Local Unit Facilities to conduct the Frankford Township Board of Education Project Activities, at which time any such Frankford Township Board of Education Licensees shall automatically, without any further action, be bound by the provisions of this Frankford Township Board of Education Local Unit License Agreement during the Term hereof. The Licensee must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and subcontractors who will be present at the site, and the Licensee acknowledges that the same will be used for purposes of checking all identities against the Megans law registry.

**Section 3.3. Observation.** In connection with all Frankford Township Board of Education Project Activities, the Authority and/or any other Frankford Township Board of Education Licensee shall afford the Licensors and/or its representatives, the opportunity to observe all Frankford Township Board of Education Project Activities; provided, however, that such observation activities shall not interfere with any Frankford Township Board of Education Project Activities or delay construction of the Projects; and provided, further, that the Licensors hereby releases and agrees to indemnify, defend and hold harmless the Authority and each other Frankford Township Board of Education Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensors's, or its representatives' or consultant's entry or activities on the Frankford Township Board of Education Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all Frankford Township Board of Education Licensees, to promptly provide the Licensors with copies of any final written reports prepared, compiled or generated as part of the Frankford Township Board of Education Project Activities, if any [list of reports can be added here]. Further, the Licensors shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the Frankford Township Board of Education Local Unit License, to inspect the Frankford Township Board of Education Local Unit Facilities and/or the Frankford Township Board of Education Renewable Energy Projects during the Term of this Frankford Township Board of Education Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the Frankford Township Board of Education Local Unit License under this Frankford Township Board of Education Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other Frankford Township Board of Education Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the Frankford Township Board of Education Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing Frankford Township Board of Education Project Activities on the Frankford Township Board of Education Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, as may be modified by the Program Documents, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority and the Licensor is given at least thirty (30) days prior written notice of such cancellation or modification. Notwithstanding anything else contained herein or in the Power Purchase Agreement, to the extent the insurance is in accordance with Acord 25 (2010/05) should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**Section 3.7. Revocation.**

(a) The parties expressly acknowledge that the Frankford Township Board of Education Local Unit License cannot be revoked (including deemed revocation situations where the Frankford Township Board of Education Local Unit Facilities are unavailable to allow the Company to perform Frankford Township Board of Education Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the Frankford Township Board of Education Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its Frankford Township Board of Education Local Unit License for the Frankford Township Board of Education Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the Frankford Township Board of Education Renewable Energy Projects, with as similar physical conditions to the existing Frankford Township Board of Education Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute Frankford Township Board of Education Renewable Energy Project on the Frankford Township Board of Education Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this Frankford Township Board of Education Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the Frankford Township Board of Education Renewable Energy Projects located on, or as applicable in, the Frankford Township Board of Education Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the Frankford Township Board of Education Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new Frankford Township Board of Education Local Unit Facilities for all purposes of this Frankford Township Board of Education Local Unit License Agreement and the other Program Documents, and similarly, the new Frankford Township Board of Education Renewable Energy Projects on, or as applicable in, such new Frankford Township Board of Education Local Unit Facilities shall be deemed the new Frankford Township Board of Education Renewable Energy Projects for all purposes of this Frankford Township Board of Education Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the Frankford Township Board of Education Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this Frankford Township Board of Education Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Frankford Township Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (I) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (II) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the Frankford Township Board of Education Renewable Energy Projects been operating at the Frankford Township Board of Education Local Unit Facilities for the remainder of such then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (III) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the Frankford Township Board of Education Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the Frankford Township Board of Education Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the Frankford Township Board of Education Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any Frankford Township Board of Education Local Unit Facility as a result of which such Frankford Township Board of Education Local Unit Facility is unavailable to allow the Company to perform its Frankford Township Board of Education Project Activities shall be deemed to be a revocation of the Frankford Township Board of Education Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

**Section 3.8. Material Change to Frankford Township Board of Education Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.**

To the extent the Licensor requests a material change to the Frankford Township Board of Education Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the Frankford Township Board of Education Renewable Energy Projects (the "**Revised Frankford Township Board of Education Renewable Energy Projects**"), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised Frankford Township Board of Education Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the Frankford Township Board of Education Renewable Energy Projects set forth on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

**Section 3.9. Abandonment.**

If any Frankford Township Board of Education Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this Frankford Township Board of Education Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such Frankford Township Board of Education Renewable Energy Project, be deemed terminated and discharged.

## ARTICLE IV

### **Frankford Township Board of Education DRAW PAPERS; Frankford Township Board of Education ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE**

#### **Section 4.1. Frankford Township Board of Education Draw Papers.**

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the Frankford Township Board of Education Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the Frankford Township Board of Education Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the Frankford Township Board of Education Renewable Energy Projects and the Frankford Township Board of Education Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the Frankford Township Board of Education Renewable Energy Projects or the Frankford Township Board of Education Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the Frankford Township Board of Education Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and **Exhibit D** hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the Frankford Township Board of Education Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the Frankford Township Board of Education Capital Improvement Projects. The Licensor shall promptly review the Frankford Township Board of Education Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the Frankford Township Board of Education Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such Frankford Township Board of Education Draw Papers where indicated, and promptly forward the original of such Frankford Township Board of Education Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Frankford Township Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any Frankford Township

Board of Education Draw Papers, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Frankford Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Frankford Township Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body (so long as same does not violate state statutes and regulations), in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver any Frankford Township Board of Education Draw Papers or (ii) delegate any such action to the Frankford Township Board of Education Construction Manager.

(e) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Frankford Township Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any Frankford Township Board of Education Draw Papers to the Frankford Township Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Frankford Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Frankford Township Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any Frankford Township Board of Education Draw Papers or (ii) delegate any such action to the Frankford Township Board of Education Construction Manager.

**Section 4.2. Frankford Township Board of Education REP Acceptance Certificate Relating to the Frankford Township Board of Education Renewable Energy Projects.**

(a) When the Company has determined that all of the Frankford Township Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the Frankford Township Board of Education Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Frankford Township Board of Education REP Acceptance Certificate applicable to such Frankford Township Board of Education Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and **Exhibit E-1** hereto.

(b) The Licensor shall promptly review the form Frankford Township Board of Education REP Acceptance Certificate applicable to the Frankford Township Board of Education Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company

to clarify or otherwise change the Frankford Township Board of Education REP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Frankford Township Board of Education REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Frankford Township Board of Education REP Acceptance Certificate where indicated, and promptly forward the original of such Frankford Township Board of Education REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Frankford Township Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Frankford Township Board of Education REP Acceptance Certificate to the Frankford Township Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Frankford Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. The Frankford Township Board of Education Construction Manager shall use all reasonable efforts to ensure that copies of all Draw Papers and the REP Acceptance Certificate are forwarded to the Licensor in a reasonably timely manner. By the Licensor's authorization, execution and delivery of this Frankford Township Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Frankford Township Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Frankford Township Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Frankford Township Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Frankford Township Board of Education REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Frankford Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Frankford Township Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Frankford Township Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Frankford Township Board of Education Construction Manager.

**Section 4.3. Frankford Township Board of Education CIP Acceptance Certificate Relating to the Frankford Township Board of Education Capital Improvement Projects.**

(a) When the Company has determined that all of the Frankford Township Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Frankford Township Board of Education CIP Acceptance Certificate applicable to such Frankford Township Board of Education Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and **Exhibit E-2** hereto.

(b) The Licensor shall promptly review the form Frankford Township Board of Education CIP Acceptance Certificate applicable to the Frankford Township Board of Education Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Frankford Township Board of Education CIP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Frankford Township Board of Education CIP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Frankford Township Board of Education CIP Acceptance Certificate where indicated, and promptly forward the original of such Frankford Township Board of Education CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Frankford Township Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Frankford Township Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Frankford Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Frankford Township Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Frankford Township Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Frankford Township Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Frankford Township Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Frankford Township Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the

Frankford Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Frankford Township Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Frankford Township Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Frankford Township Board of Education Construction Manager.

**Section 4.4. Costs of Issuance.**

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of **Exhibit F** hereto.

## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material affect on the Licensor, it being expressly understood that any such amendment having no material affect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the Frankford Township Board of Education Renewable Energy Projects and restoration of the Frankford Township Board of Education Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this Frankford Township Board of Education Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the

applicable Series 2011 Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power from the Company thereunder from the Frankford Township Board of Education Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(i) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (c), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the Frankford Township Board of Education Renewable Energy Projects located on, or as applicable, in the Frankford Township Board of Education Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the Frankford Township Board of Education Renewable Energy Projects installed on or, as applicable, in the Frankford Township Board of Education Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the Frankford Township Board of Education Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall

take into account all the facts and circumstances of the marketplace for such Frankford Township Board of Education Renewable Energy Projects at such time, including without limitation, its continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; *provided, however*, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other Frankford Township Board of Education Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time (as reasonably determined by the Authority), the Frankford Township Board of Education Renewable Energy Projects from the Frankford Township Board of Education Local Unit Facilities at the sole cost and expense and effort of the Company or any such other Frankford Township Board of Education Licensees, and (ii) restore, within a reasonable period of time, the Frankford Township Board of Education Local Unit Facilities, as improved by the Frankford Township Board of Education Capital Improvement Projects, to the condition prior to the installation of the Frankford Township Board of Education Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the Frankford Township Board of Education Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

#### **Section 5.2. Substitute Power Purchase Price.**

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power

Purchase Agreement, this Frankford Township Board of Education Local Unit License Agreement shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its Frankford Township Board of Education Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the Frankford Township Board of Education Renewable Energy Projects located on, or as applicable, in the Frankford Township Board of Education Local Unit Facilities from the Authority, as owner of the Frankford Township Board of Education Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "**Gross Substitute Power Purchase Price**"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "**Net Substitute Power Purchase Price**") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the Frankford Township Board of Education Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase

Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the Frankford Township Board of Education Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the Frankford Township Board of Education Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI

### EVENT OF DEFAULT

#### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this Frankford Township Board of Education Local Unit License Agreement:

(i) the Authority or any other Frankford Township Board of Education Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other Frankford Township Board of Education Licensee to be performed or observed under this Frankford Township Board of Education Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other Frankford Township Board of Education Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this Frankford Township Board of Education Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(c) that are within the Licensor's control) the Frankford Township Board of Education Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part

of the Licensor to be performed or observed under this Frankford Township Board of Education Local Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

## **Section 6.2. Remedies.**

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this Frankford Township Board of Education Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Frankford Township Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by

statute to enforce the specific performance rights of the Authority under this Frankford Township Board of Education Local Unit License Agreement.

**Section 6.3. Remedies Generally.**

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this Frankford Township Board of Education Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this Frankford Township Board of Education Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the Frankford Township Board of Education Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such Frankford Township Board of Education Projects until cured, including without limitation the requirement that the Company complete all Projects, including the Frankford Township Board of Education Projects, by December 14, 2012, all in accordance with the terms of the Program Documents.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.1 Term.

(a) This Frankford Township Board of Education Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This Frankford Township Board of Education Local Unit License Agreement and the Frankford Township Board of Education Local Unit License granted herein shall terminate against the Authority, after which date all Frankford Township Board of Education Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the Frankford Township Board of Education Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the Frankford Township Board of Education Renewable Energy Projects shall have been removed from the Frankford Township Board of Education Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the Frankford Township Board of Education Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the Frankford Township Board of Education Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 thereof, and [either the Licensor or the Licensee desires to terminate

this Frankford Township Board of Education Local Unit License Agreement, which termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the Licensee agree in writing to terminate this Frankford Township Board of Education Local Unit License Agreement].

(c) The “**Term**” of this Frankford Township Board of Education Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this Frankford Township Board of Education Local Unit License Agreement, none of the Licensor, the Authority, nor any other Frankford Township Board of Education Licensees shall have any further rights, duties or obligations with respect to the Frankford Township Board of Education Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this Frankford Township Board of Education Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the Frankford Township Board of Education Licensees to gain access under the Frankford Township Board of Education Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority’s rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Frankford Township Board of Education Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) Licensor: Frankford Township Board of Education

- With a copy to: [ Licensor's Counsel]
- (b) Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.Morris.nj.us
- With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com
- (c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960
- With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)
- (d) Company: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email : principals@sunlightgeneral.com
- With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: [jduffy@nixonpeabody.com](mailto:jduffy@nixonpeabody.com)
- (e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Vorhees, NJ 08043  
Email: [jvogel@birdsall.com](mailto:jvogel@birdsall.com)
- With a copy to: Joseph Santaiti  
Gabel Associates

417 Denison St.  
Highland Park, NJ 08904  
Email: joseph.santaiti@gabelassociates.com

**Section 7.4. Successors and Assigns.** This Frankford Township Board of Education Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This Frankford Township Board of Education Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This Frankford Township Board of Education Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other Frankford Township Board of Education Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This Frankford Township Board of Education Local Unit License Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this Frankford Township Board of Education Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this Frankford Township Board of Education Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this Frankford Township Board of Education Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This Frankford Township Board of Education Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This Frankford Township Board of Education Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this Frankford Township Board of Education Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this Frankford Township Board of Education Local Unit License Agreement and (b) its performance of the actions contemplated by this Frankford Township Board of Education Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties

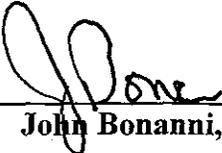
or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this License Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**[ The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow ]**

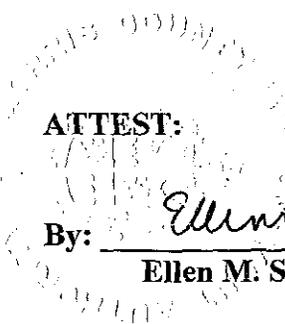
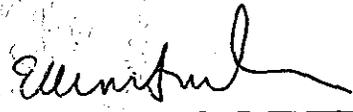
IN WITNESS WHEREOF, the parties hereto have each caused this Frankford Township Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By:   
**John Bonanni, Chairman**

ATTEST:

  
By:   
**Ellen M. Sandman, Secretary**

[SEAL]

**FRANKFORD TOWNSHIP BOARD OF  
EDUCATION, as Licensor**

By: \_\_\_\_\_  
**Craig Worts  
Board President**

By: \_\_\_\_\_  
**Christopher M. Lessard  
Business Administrator**

ATTEST:

By: \_\_\_\_\_  
**Christopher M. Lessard  
Secretary of the Board of Education**

Acknowledgment and Acceptance Page to Follow

IN WITNESS WHEREOF, the parties hereto have each caused this Frankford Township Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By: \_\_\_\_\_  
**John Bonanni, Chairman**

ATTEST:

By: \_\_\_\_\_  
**Ellen M. Sandman, Secretary**

[SEAL]

**FRANKFORD TOWNSHIP BOARD OF  
EDUCATION, as Licensor**

By: \_\_\_\_\_  
**Craig Worts  
Board President**

By: \_\_\_\_\_  
**Christopher M. Lessard  
Business Administrator**

ATTEST:

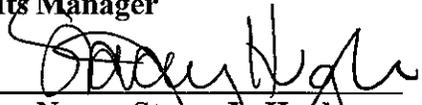
By: \_\_\_\_\_  
**Christopher M. Lessard  
Secretary of the Board of Education**

Acknowledgment and Acceptance Page to Follow

The terms and conditions of this Frankford Township Board of Education Local Unit License Agreement are hereby **ACKNOWLEDGED** and **ACCEPTED** by the following acknowledgment party, this 14<sup>th</sup> day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC**  
Its Manager

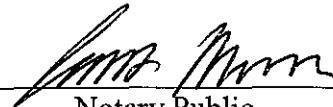
By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory





STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
\_\_\_\_\_  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6233849  
Qualified In New York County  
My Commission Expires January 03, 2014

**EXHIBIT A**

**Morris County Improvement Authority**  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

*Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*

- (A) Frankford Township School (Ground Mount 362 kW)*  
*2 Pines Road*  
*Branchville, NJ*

## **EXHIBIT B**

### **[Attach Description of Frankford Township Board of Education Renewable Energy Projects]**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

**EXHIBIT C**

**[Attach Description of Frankford Township Board of Education Capital Improvement  
Projects]**

**None**

**EXHIBIT D**

**[Attach Frankford Township Board of Education Draw Papers]**

Requisition No. \_\_\_\_\_

\_\_\_\_\_, \_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Frankford Township Board of Education Renewable Energy Projects**") [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**Frankford Township Board of Education Capital Improvement Projects**")]] being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]; and

(b) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Frankford Township Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Frankford Township Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Frankford Township Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Frankford Township Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with Section [1(a)] [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw

Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory

The terms of this Requisition are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT E**

**FORMS OF Frankford Township Board of Education ACCEPTANCE CERTIFICATES**

See Attached:

Form E-1, Form of Frankford Township Board of Education REP Acceptance Certificate  
Form E-2, Form of Frankford Township Board of Education CIP Acceptance Certificate

**EXHIBIT E-1**

**[Attach Frankford Township Board of Education REP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") between The Morris County Improvement Authority, as lessor (the "**Authority**"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Frankford Township Board of Education Renewable Energy Projects**") being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the Frankford Township Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Frankford Township Board of Education Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Frankford Township Board of Education Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof].

3. The Frankford Township Board of Education Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the Frankford Township Board of Education Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the Frankford Township Board of Education Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the Frankford Township Board of Education Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Frankford Township Board of Education Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_

**Name: Stacey Hughes**

**Title: Authorized Signatory**

**ATTEST:**

---

The terms of this Frankford Township Board of Education REP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Frankford Township Board of Education REP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title::

**EXHIBIT E-2**

**[Attach Frankford Township Board of Education CIP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the “**Frankford Township Board of Education Capital Improvement Projects**”) being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the Frankford Township Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Frankford Township Board of Education Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Frankford Township Board of Education Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof].

3. By obtaining the Licensor’s execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor’s acceptance of (a) the Frankford Township Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which Frankford Township Board of Education Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor’s acceptance of the Frankford Township Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. *[Choose one, as applicable]*

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Frankford Township Board of Education Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

\_\_\_\_\_

The terms of this Frankford Township Board of Education CIP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_

Name:

Title:

The form (only) of this Frankford Township Board of Education CIP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_

Name:

Title:

**EXHIBIT F**

**CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR**

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "**Series 2011 Bonds**")

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Frankford Township Board of Education Local Unit License Agreement**") by and between The Morris County Improvement Authority (the "**Authority**") and [ ] (the "**Licensor**"), and (ii) Section 5.03(3)(a) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Frankford Township Board of Education Local Unit License Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

[ \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to  
for \_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

[LICENSOR]

By: \_\_\_\_\_  
Authorized Officer

The form (only) of this Certificate is hereby  
ACKNOWLEDGED by the MORRIS COUNTY  
IMPROVEMENT AUTHORITY this \_\_\_\_ day  
of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**

**[None]**

---

**LICENSE AND ACCESS AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**Franklin Borough Board of Education, as Licensor**

**And**

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee**

**Dated as of December 1, 2011**

---

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS “**LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “*Franklin Borough Board of Education Local Unit License Agreement*”), dated as of December 1, 2011, is made by and among Franklin Borough Board of Education (the “*Licensor*”), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the “*County*”), State of New Jersey (“*State*”) and the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “*Authority*” or the “*Licensee*”), duly created by resolution of the Board of Chosen Freeholders (“*Board of Freeholders*”) of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”) and other applicable law.

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the “*County*”) desires to undertake the development and implementation of a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

**WHEREAS**, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "*Series 2011A Bonds*") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "*Series 2011A Bonds*"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*", and together with the Series 2011A Bonds, "*Series 2011 Bonds*"), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County

College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments

shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a

minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011

Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure

Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “County Documents”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and (ii) the execution and delivery of a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County “*Sale Documents*”);

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the “Sussex County Board of Freeholders”) and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the “*Program Documents*”), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agrees as follows:

**ARTICLE I**  
**DEFINITIONS**

**Section 1.1. Definitions.**

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**Franklin Borough Board of Education Local Unit License Agreement**  
**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**  
**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**

**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this Franklin Borough Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

**Account**  
**Additional Bonds**  
**Administrative Expense Account**  
**Administrative Fund**  
**Aged Account**  
**Bond**  
**Capitalized Interest Account**  
**Code**  
**Company Development Fees and Expenses**  
**Completion Conditions**  
**Completion Project**  
**Consulting Energy Engineer**  
**Consulting Energy Engineering Services**  
**Cost**

**Costs of Issuance Account**  
**County Security Fund**  
**County Security Fund Requirement**  
**Debt Service Fund**  
**Funds**  
**General Fund**  
**Gross Substitute Power Purchase Price**  
**Interest Account**  
**Investment Securities**  
**Net Substitute Power Purchase Price**  
**Outstanding**  
**Paying Agent**  
**Principal Account**  
**Principal Office**  
**Project Fund**  
**Rating Agency**  
**Renewable Energy Program Interested Party**  
**Restoration Security Fund**  
**Restoration Security Fund Requirement**  
**Révenue Account**  
**Revenue Fund**  
**Revenues**  
**Series**  
**Series 2011B Bonds**  
**Sinking Fund Installments**  
**Supplemental Resolution**  
**Tax Certificate**  
**Tax-exempt Bonds**  
**Trustee**  
**Trust Estate**

(c) The following defined terms shall, for all purposes of this Franklin Borough Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

**Franklin Borough Board of Education Capital Improvement**

**Projects**

**Franklin Borough Board of Education Licensee**  
**Franklin Borough Board of Education Licensees**  
**Franklin Borough Board of Education Local Unit Facilities**  
**Franklin Borough Board of Education Local Unit License**  
**Franklin Borough Board of Education Project Activities**  
**Franklin Borough Board of Education Projects**

**Projects** **Franklin Borough Board of Education Renewable Energy**

(ii) Section 3.8:

**Energy Projects** **Revised Franklin Borough Board of Education Renewable**

(iii) Section 5.2(a)(i)

**Gross Substitute Power Purchase Price**  
**Net Substitute Power Purchase Price**

(iv) Section 6.1(a)

**Authority Event of Default**

(v) Section 6.1(b)

**Licensor Event of Default**

(vi) Section 7.1(c)

**Term**

(d) The following defined terms shall, for all purposes of this Franklin Borough Board of Education Local Unit License Agreement, have the following meanings:

“**Franklin Borough Board of Education Acceptance Certificates**” shall mean individually or collectively, as the case may be, the Franklin Borough Board of Education CIP Acceptance Certificate and the Franklin Borough Board of Education REP Acceptance Certificate, each in the form attached as **Exhibit E** to the Franklin Borough Board of Education Local Unit License Agreement and Exhibit B to the Company Lease Agreement.

“**Franklin Borough Board of Education CIP Acceptance Certificate**” shall mean the certificate applicable to the Franklin Borough Board of Education Capital Improvement Projects in the form attached as **Exhibit E-2** to the Franklin Borough Board of Education Local Unit License Agreement and Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, Licensor’s acceptance of all of the Franklin Borough Board of Education Capital Improvement Projects, all as set forth in Section 4.3 of the Franklin Borough Board of Education Local Unit License Agreement and Section 510(d)(ii) of the Company Lease Agreement. As there are no Franklin Borough Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Franklin Borough Board of Education Local Unit License Agreement. The Parties acknowledge and agree that no Franklin Borough

Board of Education Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

**“Franklin Borough Board of Education Construction Manager”** shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

**“Franklin Borough Board of Education Draw Papers”** shall mean the requisitions, and attachments thereto, applicable to either the (i) Franklin Borough Board of Education Renewable Energy Projects or (ii) Franklin Borough Board of Education Capital Improvement Projects, in either case in the form attached as **Exhibit D** to the Franklin Borough Board of Education Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the Franklin Borough Board of Education Renewable Energy Projects or the Franklin Borough Board of Education Capital Improvement Projects, all as set forth in Section 4.1 of the Franklin Borough Board of Education Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

**“Franklin Borough Board of Education Interconnection Agreement”** shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed Franklin Borough Board of Education Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

**“Franklin Borough Board of Education REP Acceptance Certificate”** shall mean the certificate applicable to the Franklin Borough Board of Education Renewable Energy Projects in the form attached as **Exhibit E-1** to the Franklin Borough Board of Education Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company’s acceptance of all of the Franklin Borough Board of Education Renewable Energy Projects, all as set forth in Section 4.2 of the Franklin Borough Board of Education Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

**“Authorized Officer”** or **“Authorized Representative”** shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the Board President and Business Administrator or such other person designated as an Authorized Officer in the Franklin Borough Board of Education Local Unit License Agreement or any other person or persons who shall be authorized to act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Event of Default”** shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### **Section 2.1. Representations and Warranties of the Licensor.**

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this Franklin Borough Board of Education Local Unit License Agreement (and any documents contemplated hereby, including without limitation the Franklin Borough Board of Education Draw Papers, the Franklin Borough Board of Education Acceptance Certificates, and any Franklin Borough Board of Education Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the Franklin Borough Board of Education Local Unit Facilities. Licensor holds good, record and marketable title to each of the Franklin Borough Board of Education Local Unit Facilities and the land underlying the Franklin Borough Board of Education Local Unit Facilities. There are no mortgages or other liens against the Franklin Borough Board of Education Local Unit Facilities or the land except as set forth on Exhibit G.

#### **Section 2.2. Representations and Warranties of the Licensee.**

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this Franklin Borough Board of Education Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### **Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.**

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company thereunder, this Franklin Borough Board of Education Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i) N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

#### **Section 2.4. Covenants of the Licensor.**

(a) Upon the delivery of the Franklin Borough Board of Education CIP Acceptance Certificate with respect to the Franklin Borough Board of Education Capital Improvement Projects, if any, the Licensor shall own such Franklin Borough Board of Education Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the Franklin Borough Board of Education Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the Franklin Borough Board of Education Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the Franklin Borough Board of Education Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this **Franklin Borough Board of Education** Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

#### **Section 2.5. Covenants of the Licensee.**

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the Franklin Borough Board of Education Renewable Energy Projects on, or as applicable, in the Franklin Borough Board of Education Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital

Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the Franklin Borough Board of Education Capital Improvement Projects on or as applicable, in the Franklin Borough Board of Education Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the Franklin Borough Board of Education Renewable Energy Projects on or as applicable, in or about the Franklin Borough Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such Franklin Borough Board of Education Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the Franklin Borough Board of Education Capital Improvement Projects on or as applicable, in or about the Franklin Borough Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that that such Franklin Borough Board of Education Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### **Section 2.6. Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any Franklin Borough Board of Education Capital Improvement Projects under the Program Documents and any references herein to Franklin Borough Board of Education Capital Improvement Projects, Franklin Borough Board of Education Capital Improvement Project Fund, Franklin Borough Board of Education CIP Acceptance Certificates or any other term defined by reference to Franklin Borough Board of Education Capital Improvement Projects (without limiting the application of any such term to the extent not related to Franklin Borough Board of Education Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the

County Reserve upon issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

## ARTICLE III

### LICENSE

#### Section 3.1. License.

(a) For the Term of this Franklin Borough Board of Education Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this Franklin Borough Board of Education Local Unit License Agreement (each, an "**Franklin Borough Board of Education Licensee**", and collectively, the "**Franklin Borough Board of Education Licensees**"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on **Exhibit A** hereto (the "**Franklin Borough Board of Education Local Unit Facilities**"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other Franklin Borough Board of Education Licensee access to the Franklin Borough Board of Education Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this Franklin Borough Board of Education Local Unit License Agreement, a license (the "**Franklin Borough Board of Education Local Unit License**") allowing each Franklin Borough Board of Education Licensee to enter the Franklin Borough Board of Education Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on **Exhibit B** hereto (the "**Franklin Borough Board of Education Renewable Energy Projects**"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on **Exhibit C** hereto (the "**Franklin Borough Board of Education Capital Improvement Projects**"), and together with the Franklin Borough Board of Education Renewable Energy Projects, the "**Franklin Borough Board of Education Projects**") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "**Franklin Borough Board of Education Project Activities**"), all at the sole cost and expense of the Authority or any other Franklin Borough Board of Education Licensee, but not the Licensor[, unless expressly set forth elsewhere herein]. As there are no Franklin Borough Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Franklin Borough Board of Education Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site (solely the site and not including the solar improvements) at or in each of its Franklin Borough Board of Education Local Unit Facilities.

(b) For all purposes of this Franklin Borough Board of Education Local Unit License Agreement, the Franklin Borough Board of Education Local Unit License shall be deemed to include a preliminary license granted by the Licensor to the Authority and shall

include, as Franklin Borough Board of Education Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to constitute permissive Franklin Borough Board of Education Activities, which preliminary Franklin Borough Board of Education Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

(c) The Franklin Borough Board of Education Licensees shall have access to the Franklin Borough Board of Education Local Unit Facilities to conduct Franklin Borough Board of Education Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the Franklin Borough Board of Education Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the Franklin Borough Board of Education Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the Franklin Borough Board of Education Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the Franklin Borough Board of Education Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the Franklin Borough Board of Education Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the Franklin Borough Board of Education Local Unit Facilities.

(d) No other activities beyond the scope of the Franklin Borough Board of Education Project Activities shall be undertaken on the Franklin Borough Board of Education Local Unit Facilities by the Authority or any other Franklin Borough Board of Education Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensor shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensor is obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensor shall use commercially reasonable efforts to avoid interfering with the Company's performance of its obligations under this Franklin Borough Board of Education Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

**Section 3.2. Franklin Borough Board of Education Licensees.** The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this Franklin Borough Board of Education Local Unit License Agreement, the Franklin Borough Board of Education License shall permit the Franklin Borough Board of Education Licensees to enter upon the Franklin Borough Board of Education Local Unit Facilities to conduct the Franklin Borough Board of Education Project Activities, at which time any such Franklin Borough Board of Education Licensees shall automatically, without any further action, be bound by the provisions of this Franklin Borough Board of Education Local Unit License Agreement during the Term hereof. The Licensee must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and subcontractors who will be present at the site, and the Licensee acknowledges that the same will be used for purposes of checking all identities against the Megans law registry.

**Section 3.3. Observation.** In connection with all Franklin Borough Board of Education Project Activities, the Authority and/or any other Franklin Borough Board of Education Licensee shall afford the Licensor and/or its representatives, the opportunity to observe all Franklin Borough Board of Education Project Activities; provided, however, that such observation activities shall not interfere with any Franklin Borough Board of Education Project Activities or delay construction of the Projects; and provided, further, that the Licensor hereby releases and agrees to indemnify, defend and hold harmless the Authority and each other Franklin Borough Board of Education Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensor's, or its representatives' or consultant's entry or activities on the Franklin Borough Board of Education Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all Franklin Borough Board of Education Licensees, to promptly provide the Licensor with copies of any final written reports prepared, compiled or generated as part of the Franklin Borough Board of Education Project Activities, if any [list of reports can be added here]. Further, the Licensor shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the Franklin Borough Board of Education Local Unit License, to inspect the Franklin Borough Board of Education Local Unit Facilities and/or the Franklin Borough Board of Education Renewable Energy Projects during the Term of this Franklin Borough Board of Education Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the Franklin Borough Board of Education Local Unit License under this Franklin Borough Board of Education Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other Franklin Borough Board of Education Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the Franklin Borough Board of Education Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing Franklin Borough Board of Education Project Activities on the Franklin Borough Board of Education Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, as may be modified by the Program Documents, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority and the Licensor is given at least thirty (30) days prior written notice of such cancellation or modification. Notwithstanding anything else contained herein or in the Power Purchase Agreement, to the extent the insurance is in accordance with Acord 25 (2010/05) should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**Section 3.7. Revocation.**

(a) The parties expressly acknowledge that the Franklin Borough Board of Education Local Unit License cannot be revoked (including deemed revocation situations where the Franklin Borough Board of Education Local Unit Facilities are unavailable to allow the Company to perform Franklin Borough Board of Education Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the Franklin Borough Board of Education Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its Franklin Borough Board of Education Local Unit License for the Franklin Borough Board of Education Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the Franklin Borough Board of Education Renewable Energy Projects, with as similar physical conditions to the existing Franklin Borough Board of Education Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute Franklin Borough Board of Education Renewable Energy Project on the Franklin Borough Board of Education Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this Franklin Borough Board of Education Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the Franklin Borough Board of Education Renewable Energy Projects located on, or as applicable in, the Franklin Borough Board of Education Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the Franklin Borough Board of Education Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new Franklin Borough Board of Education Local Unit Facilities for all purposes of this Franklin Borough Board of Education Local Unit License Agreement and the other Program Documents, and similarly, the new Franklin Borough Board of Education Renewable Energy Projects on, or as applicable in, such new Franklin Borough Board of Education Local Unit Facilities shall be deemed the new Franklin Borough Board of Education Renewable Energy Projects for all purposes of this Franklin Borough Board of Education Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the Franklin Borough Board of Education Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this Franklin Borough Board of Education Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to

secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Franklin Borough Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (I) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (II) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the Franklin Borough Board of Education Renewable Energy Projects been operating at the Franklin Borough Board of Education Local Unit Facilities for the remainder of such then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (III) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the Franklin Borough Board of Education Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the Franklin Borough Board of Education Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the Franklin Borough Board of Education Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any Franklin Borough Board of Education Local Unit Facility as a result of which such Franklin Borough Board of Education Local Unit Facility is unavailable to allow the Company to perform its Franklin Borough Board

of Education Project Activities shall be deemed to be a revocation of the Franklin Borough Board of Education Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

**Section 3.8. Material Change to Franklin Borough Board of Education Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.**

To the extent the Licensor requests a material change to the Franklin Borough Board of Education Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the Franklin Borough Board of Education Renewable Energy Projects (the “**Revised Franklin Borough Board of Education Renewable Energy Projects**”), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised Franklin Borough Board of Education Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the Franklin Borough Board of Education Renewable Energy Projects set forth on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

**Section 3.9. Abandonment.**

If any Franklin Borough Board of Education Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this Franklin Borough Board of Education Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such Franklin Borough Board of Education Renewable Energy Project, be deemed terminated and discharged.

## ARTICLE IV

### **Franklin Borough Board of Education DRAW PAPERS; Franklin Borough Board of Education ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE**

#### **Section 4.1. Franklin Borough Board of Education Draw Papers.**

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the Franklin Borough Board of Education Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the Franklin Borough Board of Education Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the Franklin Borough Board of Education Renewable Energy Projects and the Franklin Borough Board of Education Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the Franklin Borough Board of Education Renewable Energy Projects or the Franklin Borough Board of Education Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the Franklin Borough Board of Education Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and **Exhibit D** hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the Franklin Borough Board of Education Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the Franklin Borough Board of Education Capital Improvement Projects. The Licensor shall promptly review the Franklin Borough Board of Education Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the Franklin Borough Board of Education Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such Franklin Borough Board of Education Draw Papers where indicated, and promptly forward the original of such Franklin Borough Board of Education Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Franklin Borough Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any Franklin Borough

Board of Education Draw Papers, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Franklin Borough Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Franklin Borough Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body (so long as same does not violate state statutes and regulations), in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver any Franklin Borough Board of Education Draw Papers or (ii) delegate any such action to the Franklin Borough Board of Education Construction Manager.

(e) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Franklin Borough Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any Franklin Borough Board of Education Draw Papers to the Franklin Borough Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Franklin Borough Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Franklin Borough Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any Franklin Borough Board of Education Draw Papers or (ii) delegate any such action to the Franklin Borough Board of Education Construction Manager.

**Section 4.2. Franklin Borough Board of Education REP Acceptance Certificate Relating to the Franklin Borough Board of Education Renewable Energy Projects.**

(a) When the Company has determined that all of the Franklin Borough Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the Franklin Borough Board of Education Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Franklin Borough Board of Education REP Acceptance Certificate applicable to such Franklin Borough Board of Education Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and **Exhibit E-1** hereto.

(b) The Licensor shall promptly review the form Franklin Borough Board of Education REP Acceptance Certificate applicable to the Franklin Borough Board of Education Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company

to clarify or otherwise change the Franklin Borough Board of Education REP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Franklin Borough Board of Education REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Franklin Borough Board of Education REP Acceptance Certificate where indicated, and promptly forward the original of such Franklin Borough Board of Education REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Franklin Borough Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Franklin Borough Board of Education REP Acceptance Certificate to the Franklin Borough Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Franklin Borough Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. The Franklin Borough Board of Education Construction Manager shall use all reasonable efforts to ensure that copies of all Draw Papers and the REP Acceptance Certificate are forwarded to the Licensor in a reasonably timely manner. By the Licensor's authorization, execution and delivery of this Franklin Borough Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Franklin Borough Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Franklin Borough Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Franklin Borough Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Franklin Borough Board of Education REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Franklin Borough Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Franklin Borough Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Franklin Borough Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Franklin Borough Board of Education Construction Manager.

**Section 4.3. Franklin Borough Board of Education CIP Acceptance Certificate Relating to the Franklin Borough Board of Education Capital Improvement Projects.**

(a) When the Company has determined that all of the Franklin Borough Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Franklin Borough Board of Education CIP Acceptance Certificate applicable to such Franklin Borough Board of Education Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and **Exhibit E-2** hereto.

(b) The Licensor shall promptly review the form Franklin Borough Board of Education CIP Acceptance Certificate applicable to the Franklin Borough Board of Education Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Franklin Borough Board of Education CIP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Franklin Borough Board of Education CIP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Franklin Borough Board of Education CIP Acceptance Certificate where indicated, and promptly forward the original of such Franklin Borough Board of Education CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Franklin Borough Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Franklin Borough Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Franklin Borough Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Franklin Borough Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Franklin Borough Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Franklin Borough Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Franklin Borough Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Franklin Borough Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Franklin Borough Board of Education Construction Manager; provided, however, that any such

delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Franklin Borough Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Franklin Borough Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Franklin Borough Board of Education Construction Manager.

**Section 4.4. Costs of Issuance.**

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of **Exhibit F** hereto.

## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material affect on the Licensor, it being expressly understood that any such amendment having no material affect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the Franklin Borough Board of Education Renewable Energy Projects and restoration of the Franklin Borough Board of Education Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this Franklin Borough Board of Education Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the applicable Series

2011 Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power from the Company thereunder from the Franklin Borough Board of Education Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(i) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (c), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the Franklin Borough Board of Education Renewable Energy Projects located on, or as applicable, in the Franklin Borough Board of Education Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the Franklin Borough Board of Education Renewable Energy Projects installed on or, as applicable, in the Franklin Borough Board of Education Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the Franklin Borough Board of Education Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall take into account all

the facts and circumstances of the marketplace for such Franklin Borough Board of Education Renewable Energy Projects at such time, including without limitation, its continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; *provided, however*, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other Franklin Borough Board of Education Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time (as reasonably determined by the Authority), the Franklin Borough Board of Education Renewable Energy Projects from the Franklin Borough Board of Education Local Unit Facilities at the sole cost and expense and effort of the Company or any such other Franklin Borough Board of Education Licensees, and (ii) restore, within a reasonable period of time, the Franklin Borough Board of Education Local Unit Facilities, as improved by the Franklin Borough Board of Education Capital Improvement Projects, to the condition prior to the installation of the Franklin Borough Board of Education Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the Franklin Borough Board of Education Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

#### **Section 5.2. Substitute Power Purchase Price.**

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, this Franklin Borough Board of Education Local Unit License Agreement

shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its Franklin Borough Board of Education Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the Franklin Borough Board of Education Renewable Energy Projects located on, or as applicable, in the Franklin Borough Board of Education Local Unit Facilities from the Authority, as owner of the Franklin Borough Board of Education Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "**Gross Substitute Power Purchase Price**"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "**Net Substitute Power Purchase Price**") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the Franklin Borough Board of Education Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a

portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the Franklin Borough Board of Education Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the Franklin Borough Board of Education Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI

### EVENT OF DEFAULT

#### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this Franklin Borough Board of Education Local Unit License Agreement:

(i) the Authority or any other Franklin Borough Board of Education Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other Franklin Borough Board of Education Licensee to be performed or observed under this Franklin Borough Board of Education Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other Franklin Borough Board of Education Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this Franklin Borough Board of Education Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(c) that are within the Licensor's control) the Franklin Borough Board of Education Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part

of the Licensor to be performed or observed under this Franklin Borough Board of Education Local Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

## **Section 6.2. Remedies.**

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this Franklin Borough Board of Education Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Franklin Borough Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by

statute to enforce the specific performance rights of the Authority under this Franklin Borough Board of Education Local Unit License Agreement.

**Section 6.3. Remedies Generally.**

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this Franklin Borough Board of Education Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this Franklin Borough Board of Education Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the Franklin Borough Board of Education Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such Franklin Borough Board of Education Projects until cured, including without limitation the requirement that the Company complete all Projects, including the Franklin Borough Board of Education Projects, by December 14, 2012, all in accordance with the terms of the Program Documents.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.1 Term.

(a) This Franklin Borough Board of Education Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This Franklin Borough Board of Education Local Unit License Agreement and the Franklin Borough Board of Education Local Unit License granted herein shall terminate against the Authority, after which date all Franklin Borough Board of Education Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the Franklin Borough Board of Education Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the Franklin Borough Board of Education Renewable Energy Projects shall have been removed from the Franklin Borough Board of Education Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the Franklin Borough Board of Education Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the Franklin Borough Board of Education Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 thereof, and [either the Licensor or the Licensee desires to terminate

this Franklin Borough Board of Education Local Unit License Agreement, which termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the Licensee agree in writing to terminate this Franklin Borough Board of Education Local Unit License Agreement].

(c) The “**Term**” of this Franklin Borough Board of Education Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this Franklin Borough Board of Education Local Unit License Agreement, none of the Licensor, the Authority, nor any other Franklin Borough Board of Education Licensees shall have any further rights, duties or obligations with respect to the Franklin Borough Board of Education Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this Franklin Borough Board of Education Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the Franklin Borough Board of Education Licensees to gain access under the Franklin Borough Board of Education Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority’s rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Franklin Borough Board of Education Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) Licensor: Franklin Borough Board of Education

With a copy to: Bruce Padula  
Cleary Giacobbe Alfieri Jacobs, LLC  
5 Ravine Dr.  
Matawan, NJ 07747  
Email: [bpadula@cgajlaw.com](mailto:bpadula@cgajlaw.com)

(b) Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
[jbonanni@co.Morris.nj.us](mailto:jbonanni@co.Morris.nj.us)

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: [spearlman@iandplaw.com](mailto:spearlman@iandplaw.com)

(c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)

(d) Company: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email : [principals@sunlightgeneral.com](mailto:principals@sunlightgeneral.com)

With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: [jduffy@nixonpeabody.com](mailto:jduffy@nixonpeabody.com)

(e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Vorhees, NJ 08043  
Email: [jvogel@birdsall.com](mailto:jvogel@birdsall.com)

With a copy to: Joseph Santaiti  
Gabel Associates  
417 Denison St.  
Highland Park, NJ 08904  
Email: joseph.santaiti@gabelassociates.com

**Section 7.4. Successors and Assigns.** This Franklin Borough Board of Education Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This Franklin Borough Board of Education Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This Franklin Borough Board of Education Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other Franklin Borough Board of Education Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This Franklin Borough Board of Education Local Unit License Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this Franklin Borough Board of Education Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this Franklin Borough Board of Education Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this Franklin Borough Board of Education Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This Franklin Borough Board of Education Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This Franklin Borough Board of Education Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this Franklin Borough Board of Education Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this Franklin Borough Board of Education Local Unit License Agreement and (b) its performance of the actions

contemplated by this Franklin Borough Board of Education Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this License Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**[ The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow ]**

IN WITNESS WHEREOF, the parties hereto have each caused this Franklin Borough Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]



ATTEST:

By: Ellen M. Sandman  
Ellen M. Sandman, Secretary

THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee

By: John Bonanni  
John Bonanni, Chairman

[SEAL]

FRANKLIN BOROUGH BOARD OF  
EDUCATION, as Licensor

By: \_\_\_\_\_  
Mary Alonso  
Board President

By: \_\_\_\_\_  
William S. Sabo  
Business Administrator

ATTEST:

By: \_\_\_\_\_  
William S. Sabo  
Secretary of the Board of Education

Acknowledgment and Acceptance Page to Follow

IN WITNESS WHEREOF, the parties hereto have each caused this Franklin Borough Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By: \_\_\_\_\_  
**John Bonanni, Chairman**

**ATTEST:**

By: \_\_\_\_\_  
**Ellen M. Sandman, Secretary**

[SEAL]

**FRANKLIN BOROUGH BOARD OF  
EDUCATION, as Licensor**

By: *Mary Alonso*  
**Mary Alonso  
Board President**

By: *William J. Sabo*  
**William J. Sabo  
Business Administrator**

**ATTEST:**

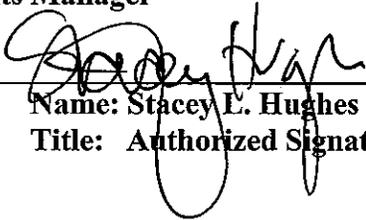
By: *William J. Sabo*  
**William J. Sabo  
Secretary of the Board of Education**

**Acknowledgment and Acceptance Page to Follow**

The terms and conditions of this Franklin Township Board of Education Local Unit License Agreement are hereby **ACKNOWLEDGED** and **ACCEPTED** by the following acknowledgment party, this 14<sup>th</sup> day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

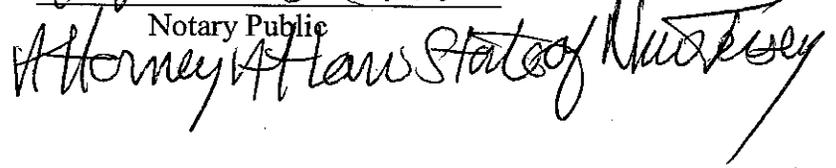
By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

STATE OF NEW JERSEY )

) ss.:

COUNTY OF MORRIS)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared John Bonanni, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

  
Notary Public  




STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
\_\_\_\_\_  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6233849  
Qualified in New York County  
My Commission Expires January 03, 2015

**EXHIBIT A**

**Morris County Improvement Authority**  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

*Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*

- (A) *Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)  
50 Washington Avenue  
Franklin, NJ*

## **EXHIBIT B**

### **[Attach Description of Franklin Borough Board of Education Renewable Energy Projects]**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

**EXHIBIT C**

**[Attach Description of Franklin Borough Board of Education Capital Improvement  
Projects]**

**None**

**EXHIBIT D**

**[Attach Franklin Borough Board of Education Draw Papers]**

Requisition No. \_\_\_\_

\_\_\_\_\_, \_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Franklin Borough Board of Education Renewable Energy Projects**")][Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**Franklin Borough Board of Education Capital Improvement Projects**")][being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]; and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Franklin Borough Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Franklin Borough Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Franklin Borough Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Franklin Borough Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with Section [1(a)] [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw

Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory

The terms of this Requisition are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT E**

**FORMS OF Franklin Borough Board of Education ACCEPTANCE CERTIFICATES**

See Attached:

Form E-1, Form of Franklin Borough Board of Education REP Acceptance Certificate

Form E-2, Form of Franklin Borough Board of Education CIP Acceptance Certificate

## EXHIBIT E-1

### [Attach Franklin Borough Board of Education REP Acceptance Certificate]

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") between The Morris County Improvement Authority, as lessor (the "**Authority**"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Franklin Borough Board of Education Renewable Energy Projects**") being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the Franklin Borough Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Franklin Borough Board of Education Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Franklin Borough Board of Education Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof], or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof].

3. The Franklin Borough Board of Education Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the Franklin Borough Board of Education Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the Franklin Borough Board of Education Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the Franklin Borough Board of Education Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Franklin Borough Board of Education Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes**

**Title: Authorized Signatory**

**ATTEST:**

---

The terms of this Franklin Borough Board of Education REP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Franklin Borough Board of Education REP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title::

## EXHIBIT E-2

### [Attach Franklin Borough Board of Education CIP Acceptance Certificate]

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the “**Franklin Borough Board of Education Capital Improvement Projects**”) being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_\_, the Franklin Borough Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Franklin Borough Board of Education Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Franklin Borough Board of Education Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof].

3. By obtaining the Licensor’s execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor’s acceptance of (a) the Franklin Borough Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which Franklin Borough Board of Education Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor’s acceptance of the Franklin Borough Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. [Choose one, as applicable]

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Franklin Borough Board of Education Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

\_\_\_\_\_

The terms of this Franklin Borough Board of Education CIP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Franklin Borough Board of Education CIP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT F**

**CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR**

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "**Series 2011 Bonds**")

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Franklin Borough Board of Education Local Unit License Agreement**") by and between The Morris County Improvement Authority (the "**Authority**") and [\_\_\_\_\_] (the "**Licensor**"), and (ii) Section 5.03(3)(a) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Franklin Borough Board of Education Local Unit License Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

[\_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to  
\_\_\_\_\_  
for \_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

[LICENSOR]

By: \_\_\_\_\_  
Authorized Officer

**The form (only) of this Certificate is hereby  
ACKNOWLEDGED by the MORRIS COUNTY  
IMPROVEMENT AUTHORITY this \_\_\_\_ day  
of \_\_\_\_, 20\_\_.**

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**

**[None]**

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**Green Township Board of Education, as Licensor**

**And**

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee**

**Dated as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS “**LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “*Green Township Board of Education Local Unit License Agreement*”), dated as of December 1, 2011, is made by and among Green Township Board of Education (the “*Licensor*”), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the “*County*”), State of New Jersey (“*State*”) and the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “*Authority*” or the “*Licensee*”), duly created by resolution of the Board of Chosen Freeholders (“*Board of Freeholders*”) of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”) and other applicable law.

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the “*County*”) desires to undertake the development and implementation of a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

**WHEREAS**, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the “*Municipal Series 2011 Local Units*”); and
- (ii) Byram Township School District, Frankford Township’s Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the “*Board of Education Series 2011 Local Units*”); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the “*County Series 2011 Local Units*”);

(each a “*Series 2011 Local Unit*”, and, collectively, the “*Series 2011 Local Units*”), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated their date of delivery (the “*Series 2011A Bonds*”) the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the “*Series 2011A Bonds*”), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)” (the “*Series 2011B Note*”, and together with the Series 2011A Bonds, “*Series 2011 Bonds*”), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County

College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments

shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a

minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011

Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure

Agreement, the "*Continuing Disclosure Agreements*"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*"); and (ii) the execution and delivery of a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*"), and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "*Sale Documents*";

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("*Section 13*") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program Documents*"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE,** for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agrees as follows:

**ARTICLE I**  
**DEFINITIONS**

**Section 1.1. Definitions.**

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**Green Township Board of Education Local Unit License Agreement**  
**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**  
**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**

**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this Green Township Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

**Account**  
**Additional Bonds**  
**Administrative Expense Account**  
**Administrative Fund**  
**Aged Account**  
**Bond**  
**Capitalized Interest Account**  
**Code**  
**Company Development Fees and Expenses**  
**Completion Conditions**  
**Completion Project**  
**Consulting Energy Engineer**  
**Consulting Energy Engineering Services**  
**Cost**

**Costs of Issuance Account**  
**County Security Fund**  
**County Security Fund Requirement**  
**Debt Service Fund**  
**Funds**  
**General Fund**  
**Gross Substitute Power Purchase Price**  
**Interest Account**  
**Investment Securities**  
**Net Substitute Power Purchase Price**  
**Outstanding**  
**Paying Agent**  
**Principal Account**  
**Principal Office**  
**Project Fund**  
**Rating Agency**  
**Renewable Energy Program Interested Party**  
**Restoration Security Fund**  
**Restoration Security Fund Requirement**  
**Revenue Account**  
**Revenue Fund**  
**Revenues**  
**Series**  
**Series 2011B Bonds**  
**Sinking Fund Installments**  
**Supplemental Resolution**  
**Tax Certificate**  
**Tax-exempt Bonds**  
**Trustee**  
**Trust Estate**

(c) The following defined terms shall, for all purposes of this Green Township Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

**Projects**

**Green Township Board of Education Capital Improvement**  
**Green Township Board of Education Licensee**  
**Green Township Board of Education Licensees**  
**Green Township Board of Education Local Unit Facilities**  
**Green Township Board of Education Local Unit License**  
**Green Township Board of Education Project Activities**  
**Green Township Board of Education Projects**

**Projects** **Green Township Board of Education Renewable Energy**

(ii) Section 3.8:

**Energy Projects** **Revised Green Township Board of Education Renewable**

(iii) Section 5.2(a)(i)

**Gross Substitute Power Purchase Price**  
**Net Substitute Power Purchase Price**

(iv) Section 6.1(a)

**Authority Event of Default**

(v) Section 6.1(b)

**Licensor Event of Default**

(vi) Section 7.1(c)

**Term**

(d) The following defined terms shall, for all purposes of this Green Township Board of Education Local Unit License Agreement, have the following meanings:

“**Green Township Board of Education Acceptance Certificates**” shall mean individually or collectively, as the case may be, the Green Township Board of Education CIP Acceptance Certificate and the Green Township Board of Education REP Acceptance Certificate, each in the form attached as **Exhibit E** to the Green Township Board of Education Local Unit License Agreement and Exhibit B to the Company Lease Agreement.

“**Green Township Board of Education CIP Acceptance Certificate**” shall mean the certificate applicable to the Green Township Board of Education Capital Improvement Projects in the form attached as **Exhibit E-2** to the Green Township Board of Education Local Unit License Agreement and Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, Licensor’s acceptance of all of the Green Township Board of Education Capital Improvement Projects, all as set forth in Section 4.3 of the Green Township Board of Education Local Unit License Agreement and Section 510(d)(ii) of the Company Lease Agreement. As there are no Green Township Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Green Township Board of Education Local Unit License Agreement. The Parties acknowledge and agree that no Green Township

Board of Education Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

**“Green Township Board of Education Construction Manager”** shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

**“Green Township Board of Education Draw Papers”** shall mean the requisitions, and attachments thereto, applicable to either the (i) Green Township Board of Education Renewable Energy Projects or (ii) Green Township Board of Education Capital Improvement Projects, in either case in the form attached as **Exhibit D** to the Green Township Board of Education Local Unit License Agreement and **Exhibit C** to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the Green Township Board of Education Renewable Energy Projects or the Green Township Board of Education Capital Improvement Projects, all as set forth in Section 4.1 of the Green Township Board of Education Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

**“Green Township Board of Education Interconnection Agreement”** shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed Green Township Board of Education Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

**“Green Township Board of Education REP Acceptance Certificate”** shall mean the certificate applicable to the Green Township Board of Education Renewable Energy Projects in the form attached as **Exhibit E-1** to the Green Township Board of Education Local Unit License Agreement and **Exhibit B-1** to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company’s acceptance of all of the Green Township Board of Education Renewable Energy Projects, all as set forth in Section 4.2 of the Green Township Board of Education Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

**“Authorized Officer”** or **“Authorized Representative”** shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the Chief School Administrator/Board Secretary or such other person designated as an Authorized Officer in the Green Township Board of Education Local Unit License Agreement or any other person or persons who shall be authorized to act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Event of Default”** shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### **Section 2.1. Representations and Warranties of the Licensor.**

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this Green Township Board of Education Local Unit License Agreement (and any documents contemplated hereby, including without limitation the Green Township Board of Education Draw Papers, the Green Township Board of Education Acceptance Certificates, and any Green Township Board of Education Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the Green Township Board of Education Local Unit Facilities. Licensor holds good, record and marketable title to each of the Green Township Board of Education Local Unit Facilities and the land underlying the Green Township Board of Education Local Unit Facilities. There are no mortgages or other liens against the Green Township Board of Education Local Unit Facilities or the land except as set forth on Exhibit G.

#### **Section 2.2. Representations and Warranties of the Licensee.**

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this Green Township Board of Education Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### **Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.**

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company thereunder, this Green Township Board of Education Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i) N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

#### **Section 2.4. Covenants of the Licensor.**

(a) Upon the delivery of the Green Township Board of Education CIP Acceptance Certificate with respect to the Green Township Board of Education Capital Improvement Projects, if any, the Licensor shall own such Green Township Board of Education Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the Green Township Board of Education Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the Green Township Board of Education Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the Green Township Board of Education Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this **Green Township Board of Education** Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

#### **Section 2.5. Covenants of the Licensee.**

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the Green Township Board of Education Renewable Energy Projects on, or as applicable, in the Green Township Board of Education Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital

Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the Green Township Board of Education Capital Improvement Projects on or as applicable, in the Green Township Board of Education Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the Green Township Board of Education Renewable Energy Projects on or as applicable, in or about the Green Township Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such Green Township Board of Education Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the Green Township Board of Education Capital Improvement Projects on or as applicable, in or about the Green Township Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that that such Green Township Board of Education Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### **Section 2.6. Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any Green Township Board of Education Capital Improvement Projects under the Program Documents and any references herein to Green Township Board of Education Capital Improvement Projects, Green Township Board of Education Capital Improvement Project Fund, Green Township Board of Education CIP Acceptance Certificates or any other term defined by reference to Green Township Board of Education Capital Improvement Projects (without limiting the application of any such term to the extent not related to Green Township Board of Education Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the County Reserve upon

issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

## ARTICLE III

### LICENSE

#### Section 3.1. License.

(a) For the Term of this Green Township Board of Education Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this Green Township Board of Education Local Unit License Agreement (each, an "**Green Township Board of Education Licensee**", and collectively, the "**Green Township Board of Education Licensees**"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on **Exhibit A** hereto (the "**Green Township Board of Education Local Unit Facilities**"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other Green Township Board of Education Licensee access to the Green Township Board of Education Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this Green Township Board of Education Local Unit License Agreement, a license (the "**Green Township Board of Education Local Unit License**") allowing each Green Township Board of Education Licensee to enter the Green Township Board of Education Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on **Exhibit B** hereto (the "**Green Township Board of Education Renewable Energy Projects**"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on **Exhibit C** hereto (the "**Green Township Board of Education Capital Improvement Projects**"), and together with the Green Township Board of Education Renewable Energy Projects, the "**Green Township Board of Education Projects**") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "**Green Township Board of Education Project Activities**"), all at the sole cost and expense of the Authority or any other Green Township Board of Education Licensee, but not the Licensor[, unless expressly set forth elsewhere herein]. As there are no Green Township Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Green Township Board of Education Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site (solely the site and not including the solar improvements) at or in each of its Green Township Board of Education Local Unit Facilities.

(b) For all purposes of this Green Township Board of Education Local Unit License Agreement, the Green Township Board of Education Local Unit License shall be deemed to include a preliminary license granted by the Licensor to the Authority and shall

include, as Green Township Board of Education Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to constitute permissive Green Township Board of Education Activities, which preliminary Green Township Board of Education Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

(c) The Green Township Board of Education Licensees shall have access to the Green Township Board of Education Local Unit Facilities to conduct Green Township Board of Education Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the Green Township Board of Education Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the Green Township Board of Education Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the Green Township Board of Education Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the Green Township Board of Education Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the Green Township Board of Education Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the Green Township Board of Education Local Unit Facilities.

(d) No other activities beyond the scope of the Green Township Board of Education Project Activities shall be undertaken on the Green Township Board of Education Local Unit Facilities by the Authority or any other Green Township Board of Education Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensors shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensors are obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensors shall use commercially reasonable efforts to avoid interfering with the Company's performance of its obligations under this Green Township Board of Education Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

**Section 3.2. Green Township Board of Education Licensees.** The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this Green Township Board of Education Local Unit License Agreement, the Green Township Board of Education Licensees shall permit the Green Township Board of Education Licensees to enter upon the Green Township Board of Education Local Unit Facilities to conduct the Green Township Board of Education Project Activities, at which time any such Green Township Board of Education Licensees shall automatically, without any further action, be bound by the provisions of this Green Township Board of Education Local Unit License Agreement during the Term hereof. The Licensee must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and subcontractors who will be present at the site, and the Licensee acknowledges that the same will be used for purposes of checking all identities against the Megans law registry.

**Section 3.3. Observation.** In connection with all Green Township Board of Education Project Activities, the Authority and/or any other Green Township Board of Education Licensee shall afford the Licensors and/or its representatives, the opportunity to observe all Green Township Board of Education Project Activities; provided, however, that such observation activities shall not interfere with any Green Township Board of Education Project Activities or delay construction of the Projects; and provided, further, that the Licensors hereby release and agree to indemnify, defend and hold harmless the Authority and each other Green Township Board of Education Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensors', or its representatives' or consultant's entry or activities on the Green Township Board of Education Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all Green Township Board of Education Licensees, to promptly provide the Licensors with copies of any final written reports prepared, compiled or generated as part of the Green Township Board of Education Project Activities, if any [list of reports can be added here]. Further, the Licensors shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the Green Township Board of Education Local Unit License, to inspect the Green Township Board of Education Local Unit Facilities and/or the Green Township Board of Education Renewable Energy Projects during the Term of this Green Township Board of Education Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the Green Township Board of Education Local Unit License under this Green Township Board of Education Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other Green Township Board of Education Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the Green Township Board of Education Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing Green Township Board of Education Project Activities on the Green Township Board of Education Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, as may be modified by the Program Documents, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority and the Licensor is given at least thirty (30) days prior written notice of such cancellation or modification. Notwithstanding anything else contained herein or in the Power Purchase Agreement, to the extent the insurance is in accordance with Acord 25 (2010/05) should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**Section 3.7. Revocation.**

(a) The parties expressly acknowledge that the Green Township Board of Education Local Unit License cannot be revoked (including deemed revocation situations where the Green Township Board of Education Local Unit Facilities are unavailable to allow the Company to perform Green Township Board of Education Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the Green Township Board of Education Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its Green Township Board of Education Local Unit License for the Green Township Board of Education Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the Green Township Board of Education Renewable Energy Projects, with as similar physical conditions to the existing Green Township Board of Education Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute Green Township Board of Education Renewable Energy Project on the Green Township Board of Education Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this Green Township Board of Education Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the Green Township Board of Education Renewable Energy Projects located on, or as applicable in, the Green Township Board of Education Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the Green Township Board of Education Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new Green Township Board of Education Local Unit Facilities for all purposes of this Green Township Board of Education Local Unit License Agreement and the other Program Documents, and similarly, the new Green Township Board of Education Renewable Energy Projects on, or as applicable in, such new Green Township Board of Education Local Unit Facilities shall be deemed the new Green Township Board of Education Renewable Energy Projects for all purposes of this Green Township Board of Education Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the Green Township Board of Education Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this Green Township Board of Education Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to

secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Green Township Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (I) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (II) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the Green Township Board of Education Renewable Energy Projects been operating at the Green Township Board of Education Local Unit Facilities for the remainder of such then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (III) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the Green Township Board of Education Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the Green Township Board of Education Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the Green Township Board of Education Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any Green Township Board of Education Local Unit Facility as a result of which such Green Township Board of Education Local Unit Facility is unavailable to allow the Company to perform its Green Township Board of

Education Project Activities shall be deemed to be a revocation of the Green Township Board of Education Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

**Section 3.8. Material Change to Green Township Board of Education Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.**

To the extent the Licensor requests a material change to the Green Township Board of Education Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the Green Township Board of Education Renewable Energy Projects (the **"Revised Green Township Board of Education Renewable Energy Projects"**), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised Green Township Board of Education Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the Green Township Board of Education Renewable Energy Projects set forth on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

**Section 3.9. Abandonment.**

If any Green Township Board of Education Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this Green Township Board of Education Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such Green Township Board of Education Renewable Energy Project, be deemed terminated and discharged.

## ARTICLE IV

### **Green Township Board of Education DRAW PAPERS; Green Township Board of Education ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE**

#### **Section 4.1. Green Township Board of Education Draw Papers.**

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the Green Township Board of Education Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the Green Township Board of Education Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the Green Township Board of Education Renewable Energy Projects and the Green Township Board of Education Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the Green Township Board of Education Renewable Energy Projects or the Green Township Board of Education Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the Green Township Board of Education Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and **Exhibit D** hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the Green Township Board of Education Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the Green Township Board of Education Capital Improvement Projects. The Licensor shall promptly review the Green Township Board of Education Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the Green Township Board of Education Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such Green Township Board of Education Draw Papers where indicated, and promptly forward the original of such Green Township Board of Education Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Green Township Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any Green Township Board of Education Draw Papers, which delegation shall be conclusively evidenced by the

Licensors' filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Green Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Green Township Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body (so long as same does not violate state statutes and regulations), in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver any Green Township Board of Education Draw Papers or (ii) delegate any such action to the Green Township Board of Education Construction Manager.

(e) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Green Township Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any Green Township Board of Education Draw Papers to the Green Township Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Green Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Green Township Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any Green Township Board of Education Draw Papers or (ii) delegate any such action to the Green Township Board of Education Construction Manager.

**Section 4.2. Green Township Board of Education REP Acceptance Certificate Relating to the Green Township Board of Education Renewable Energy Projects.**

(a) When the Company has determined that all of the Green Township Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the Green Township Board of Education Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Green Township Board of Education REP Acceptance Certificate applicable to such Green Township Board of Education Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and **Exhibit E-1** hereto.

(b) The Licensor shall promptly review the form Green Township Board of Education REP Acceptance Certificate applicable to the Green Township Board of Education Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Green Township Board of Education REP Acceptance

Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Green Township Board of Education REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Green Township Board of Education REP Acceptance Certificate where indicated, and promptly forward the original of such Green Township Board of Education REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Green Township Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Green Township Board of Education REP Acceptance Certificate to the Green Township Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Green Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. The Green Township Board of Education Construction Manager shall use all reasonable efforts to ensure that copies of all Draw Papers and the REP Acceptance Certificate are forwarded to the Licensor in a reasonably timely manner. By the Licensor's authorization, execution and delivery of this Green Township Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Green Township Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Green Township Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Green Township Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Green Township Board of Education REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Green Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Green Township Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Green Township Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Green Township Board of Education Construction Manager.

**Section 4.3. Green Township Board of Education CIP Acceptance Certificate Relating to the Green Township Board of Education Capital Improvement Projects.**

(a) When the Company has determined that all of the Green Township Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Green Township Board of Education CIP Acceptance Certificate applicable to such Green Township Board of Education Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and **Exhibit E-2** hereto.

(b) The Licensor shall promptly review the form Green Township Board of Education CIP Acceptance Certificate applicable to the Green Township Board of Education Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Green Township Board of Education CIP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Green Township Board of Education CIP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Green Township Board of Education CIP Acceptance Certificate where indicated, and promptly forward the original of such Green Township Board of Education CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Green Township Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Green Township Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Green Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Green Township Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Green Township Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Green Township Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Green Township Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Green Township Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Green Township Board of Education Construction Manager; provided, however, that any such

delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Green Township Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Green Township Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Green Township Board of Education Construction Manager.

**Section 4.4. Costs of Issuance.**

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of **Exhibit F** hereto.

## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material affect on the Licensor, it being expressly understood that any such amendment having no material affect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the Green Township Board of Education Renewable Energy Projects and restoration of the Green Township Board of Education Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this Green Township Board of Education Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the applicable Series

2011 Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power from the Company thereunder from the Green Township Board of Education Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(i) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (c), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the Green Township Board of Education Renewable Energy Projects located on, or as applicable, in the Green Township Board of Education Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the Green Township Board of Education Renewable Energy Projects installed on or, as applicable, in the Green Township Board of Education Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the Green Township Board of Education Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall take into account all

the facts and circumstances of the marketplace for such Green Township Board of Education Renewable Energy Projects at such time, including without limitation, its continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; *provided, however*, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other Green Township Board of Education Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time (as reasonably determined by the Authority), the Green Township Board of Education Renewable Energy Projects from the Green Township Board of Education Local Unit Facilities at the sole cost and expense and effort of the Company or any such other Green Township Board of Education Licensees, and (ii) restore, within a reasonable period of time, the Green Township Board of Education Local Unit Facilities, as improved by the Green Township Board of Education Capital Improvement Projects, to the condition prior to the installation of the Green Township Board of Education Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the Green Township Board of Education Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

#### **Section 5.2. Substitute Power Purchase Price.**

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, this Green Township Board of Education Local Unit License Agreement

shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its Green Township Board of Education Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the Green Township Board of Education Renewable Energy Projects located on, or as applicable, in the Green Township Board of Education Local Unit Facilities from the Authority, as owner of the Green Township Board of Education Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "**Gross Substitute Power Purchase Price**"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "**Net Substitute Power Purchase Price**") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the Green Township Board of Education Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a

portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the Green Township Board of Education Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the Green Township Board of Education Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI

### EVENT OF DEFAULT

#### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this Green Township Board of Education Local Unit License Agreement:

(i) the Authority or any other Green Township Board of Education Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other Green Township Board of Education Licensee to be performed or observed under this Green Township Board of Education Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other Green Township Board of Education Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this Green Township Board of Education Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(c) that are within the Licensor's control) the Green Township Board of Education Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part

of the Licensor to be performed or observed under this Green Township Board of Education Local Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

## **Section 6.2. Remedies.**

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this Green Township Board of Education Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Green Township Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by

statute to enforce the specific performance rights of the Authority under this Green Township Board of Education Local Unit License Agreement.

**Section 6.3. Remedies Generally.**

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this Green Township Board of Education Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this Green Township Board of Education Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the Green Township Board of Education Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such Green Township Board of Education Projects until cured, including without limitation the requirement that the Company complete all Projects, including the Green Township Board of Education Projects, by December 14, 2012, all in accordance with the terms of the Program Documents.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.1 Term.

(a) This Green Township Board of Education Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This Green Township Board of Education Local Unit License Agreement and the Green Township Board of Education Local Unit License granted herein shall terminate against the Authority, after which date all Green Township Board of Education Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the Green Township Board of Education Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the Green Township Board of Education Renewable Energy Projects shall have been removed from the Green Township Board of Education Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the Green Township Board of Education Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the Green Township Board of Education Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 thereof, and [either the Licensor or the Licensee desires to terminate

this Green Township Board of Education Local Unit License Agreement, which termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the Licensee agree in writing to terminate this Green Township Board of Education Local Unit License Agreement].

(c) The “**Term**” of this Green Township Board of Education Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this Green Township Board of Education Local Unit License Agreement, none of the Licensor, the Authority, nor any other Green Township Board of Education Licensees shall have any further rights, duties or obligations with respect to the Green Township Board of Education Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this Green Township Board of Education Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the Green Township Board of Education Licensees to gain access under the Green Township Board of Education Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority’s rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Green Township Board of Education Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) Licensor: Green Township Board of Education

- With a copy to: [ Licensor's Counsel]
- (b) Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.Morris.nj.us
- With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com
- (c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960
- With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)
- (d) Company: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email : principals@sunlightgeneral.com
- With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: [jduffy@nixonpeabody.com](mailto:jduffy@nixonpeabody.com)
- (e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Vorhees, NJ 08043  
Email: [jvogel@birdsall.com](mailto:jvogel@birdsall.com)
- With a copy to: Joseph Santaiti  
Gabel Associates

417 Denison St.  
Highland Park, NJ 08904  
Email: joseph.santaiti@gabelassociates.com

**Section 7.4. Successors and Assigns.** This Green Township Board of Education Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This Green Township Board of Education Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This Green Township Board of Education Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other Green Township Board of Education Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This Green Township Board of Education Local Unit License Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this Green Township Board of Education Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this Green Township Board of Education Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this Green Township Board of Education Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This Green Township Board of Education Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This Green Township Board of Education Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this Green Township Board of Education Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this Green Township Board of Education Local Unit License Agreement and (b) its performance of the actions contemplated by this Green Township Board of Education Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties

or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this License Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**[ The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow ]**

IN WITNESS WHEREOF, the parties hereto have each caused this Green Township Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee

By:   
John Bonanni, Chairman

ATTEST:

By:   
Ellen M. Sandman, Secretary

[SEAL]

GREEN TOWNSHIP BOARD OF  
EDUCATION, as Licensor

By: \_\_\_\_\_  
Sallyann McCarty,  
Business Administrator/Board Secretary

ATTEST:

By: \_\_\_\_\_  
Authorized Representative

Acknowledgment and Acceptance Page to Follow

IN WITNESS WHEREOF, the parties hereto have each caused this Green Township Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By: \_\_\_\_\_  
**John Bonanni, Chairman**

**ATTEST:**

By: \_\_\_\_\_  
**Ellen M. Sandman, Secretary**

[SEAL]

**GREEN TOWNSHIP BOARD OF  
EDUCATION, as Licensor**

By: Sallyann McCarty

**Sallyann McCarty,  
Business Administrator/Board Secretary**

**ATTEST:**

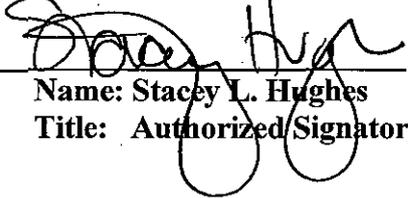
By: \_\_\_\_\_  
**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

The terms and conditions of this Green Township Board of Education Local Unit License Agreement are hereby **ACKNOWLEDGED** and **ACCEPTED** by the following acknowledgment party, this 14 day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

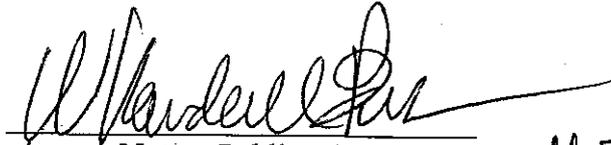
By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

STATE OF NEW JERSEY )

) ss.:

COUNTY OF MORRIS)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared John Bonanni, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

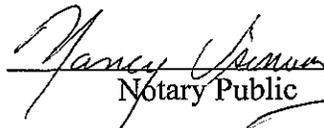
  
\_\_\_\_\_  
Notary Public  
Attorney at Law State of New Jersey

STATE OF NEW JERSEY )

) ss.:

COUNTY OF SUSSEX)

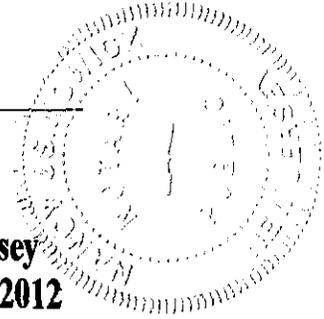
On this 2<sup>nd</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared **Sallyann McCarty** known to me (or proved to me on the basis of satisfactory evidence) to be the **Business Administrator/Board Secretary** of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
Notary Public

**Nancy Usinowicz**

**Notary Public of New Jersey**

**Commission Expires 06/01/2012**



STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
\_\_\_\_\_  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6233849  
Qualified in New York County  
My Commission Expires January 03, 2015

**EXHIBIT A**

**Morris County Improvement Authority**  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

*Green Township Board of Education (<http://greenhills.org>)*

- (A) Green Hills School (Roof 157 kW)  
69 Mackerley Road  
Greendell, NJ*

## **EXHIBIT B**

### **[Attach Description of Green Township Board of Education Renewable Energy Projects]**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

**EXHIBIT C**

**[Attach Description of Green Township Board of Education Capital Improvement  
Projects]**

**None**

**EXHIBIT D**

**[Attach Green Township Board of Education Draw Papers]**

Requisition No. \_\_\_\_\_  
\_\_\_\_\_, \_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Green Township Board of Education Renewable Energy Projects**")] [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**Green Township Board of Education Capital Improvement Projects**")] being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$ \_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]; and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Green Township Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Green Township Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Green Township Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Green Township Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with Section [1(a)] [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw

Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory

The terms of this Requisition are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT E**

**FORMS OF Green Township Board of Education ACCEPTANCE CERTIFICATES**

See Attached:

Form E-1, Form of Green Township Board of Education REP Acceptance Certificate

Form E-2, Form of Green Township Board of Education CIP Acceptance Certificate

**EXHIBIT E-1**

**[Attach Green Township Board of Education REP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") between The Morris County Improvement Authority, as lessor (the "**Authority**"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Green Township Board of Education Renewable Energy Projects**") being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_\_, the Green Township Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Green Township Board of Education Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Green Township Board of Education Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof].

3. The Green Township Board of Education Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the Green Township Board of Education Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the Green Township Board of Education Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the Green Township Board of Education Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Green Township Board of Education Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_

**Name: Stacey Hughes**

**Title: Authorized Signatory**

**ATTEST:**

---

The terms of this Green Township Board of Education REP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_

Name:

Title:

The form (only) of this Green Township Board of Education REP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_

Name:

Title:

## EXHIBIT E-2

### [Attach Green Township Board of Education CIP Acceptance Certificate]

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the “**Green Township Board of Education Capital Improvement Projects**”) being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_\_, the Green Township Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Green Township Board of Education Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Green Township Board of Education Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof].

3. By obtaining the Licensor’s execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor’s acceptance of (a) the Green Township Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which Green Township Board of Education Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor’s acceptance of the Green Township Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. [Choose one, as applicable]

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Green Township Board of Education Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

\_\_\_\_\_

The terms of this Green Township Board of Education CIP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Green Township Board of Education CIP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT F**

**CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR**

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Green Township Board of Education Local Unit License Agreement**") by and between The Morris County Improvement Authority (the "**Authority**") and [ ] (the "**Licensor**"), and (ii) Section 5.03(3)(a) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Green Township Board of Education Local Unit License Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

[ \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to  
\_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

[LICENSOR]

By: \_\_\_\_\_  
Authorized Officer

The form (only) of this Certificate is hereby  
ACKNOWLEDGED by the MORRIS COUNTY  
IMPROVEMENT AUTHORITY this \_\_\_\_ day  
of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**

**[None]**

---

**LICENSE AND ACCESS AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**Hardyston Township Board of Education, as Licensor**

**And**

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee**

**Dated as of December 1, 2011**

---

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS “**LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “*Hardyston Township Board of Education Local Unit License Agreement*”), dated as of December 1, 2011, is made by and among **Hardyston Township Board of Education** (the “*Licensor*”), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the “*County*”), State of New Jersey (“*State*”) and the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “*Authority*” or the “*Licensee*”), duly created by resolution of the Board of Chosen Freeholders (“*Board of Freeholders*”) of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”) and other applicable law.

\_\_\_\_\_

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the “*County*”) desires to undertake the development and implementation of a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

**WHEREAS**, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Peariman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the “*Municipal Series 2011 Local Units*”); and
- (ii) Byram Township School District, Frankford Township’s Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the “*Board of Education Series 2011 Local Units*”); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the “*County Series 2011 Local Units*”);

(each a “*Series 2011 Local Unit*”, and, collectively, the “*Series 2011 Local Units*”), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated their date of delivery (the “*Series 2011A Bonds*”) the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the “*Series 2011A Bonds*”), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)” (the “*Series 2011B Note*”, and together with the Series 2011A Bonds, “*Series 2011 Bonds*”), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*);

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County

College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments

shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a

minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011

Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure

Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “County Documents”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and (ii) the execution and delivery of a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County “*Sale Documents*”);

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the “*Sussex County Board of Freeholders*”) and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the “*Program Documents*”), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE,** for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agrees as follows:

**ARTICLE I**

**DEFINITIONS**

**Section 1.1. Definitions.**

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**Hardyston Township Board of Education Local Unit License Agreement**  
**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**  
**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**

**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this Hardyston Township Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

**Account**  
**Additional Bonds**  
**Administrative Expense Account**  
**Administrative Fund**  
**Aged Account**  
**Bond**  
**Capitalized Interest Account**  
**Code**  
**Company Development Fees and Expenses**  
**Completion Conditions**  
**Completion Project**  
**Consulting Energy Engineer**  
**Consulting Energy Engineering Services**  
**Cost**

**Costs of Issuance Account**  
**County Security Fund**  
**County Security Fund Requirement**  
**Debt Service Fund**  
**Funds**  
**General Fund**  
**Gross Substitute Power Purchase Price**  
**Interest Account**  
**Investment Securities**  
**Net Substitute Power Purchase Price**  
**Outstanding**  
**Paying Agent**  
**Principal Account**  
**Principal Office**  
**Project Fund**  
**Rating Agency**  
**Renewable Energy Program Interested Party**  
**Restoration Security Fund**  
**Restoration Security Fund Requirement**  
**Revenue Account**  
**Revenue Fund**  
**Revenues**  
**Series**  
**Series 2011B Bonds**  
**Sinking Fund Installments**  
**Supplemental Resolution**  
**Tax Certificate**  
**Tax-exempt Bonds**  
**Trustee**  
**Trust Estate**

(c) The following defined terms shall, for all purposes of this Hardyston Township Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

**Hardyston Township Board of Education Capital Improvement Projects**

**Hardyston Township Board of Education Licensee**  
**Hardyston Township Board of Education Licensees**  
**Hardyston Township Board of Education Local Unit Facilities**  
**Hardyston Township Board of Education Local Unit License**  
**Hardyston Township Board of Education Project Activities**  
**Hardyston Township Board of Education Projects**

**Projects** **Hardyston Township Board of Education Renewable Energy**

- (ii) Section 3.8:

**Energy Projects** **Revised Hardyston Township Board of Education Renewable**

- (iii) Section 5.2(a)(i)

**Gross Substitute Power Purchase Price**  
**Net Substitute Power Purchase Price**

- (iv) Section 6.1(a)

**Authority Event of Default**

- (v) Section 6.1(b)

**Licensor Event of Default**

- (vi) Section 7.1(c)

**Term**

(d) The following defined terms shall, for all purposes of this Hardyston Township Board of Education Local Unit License Agreement, have the following meanings:

**“Hardyston Township Board of Education Acceptance Certificates”** shall mean individually or collectively, as the case may be, the Hardyston Township Board of Education CIP Acceptance Certificate and the Hardyston Township Board of Education REP Acceptance Certificate, each in the form attached as **Exhibit E** to the Hardyston Township Board of Education Local Unit License Agreement and Exhibit B to the Company Lease Agreement.

**“Hardyston Township Board of Education CIP Acceptance Certificate”** shall mean the certificate applicable to the Hardyston Township Board of Education Capital Improvement Projects in the form attached as **Exhibit E-2** to the Hardyston Township Board of Education Local Unit License Agreement and Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, Licensor’s acceptance of all of the Hardyston Township Board of Education Capital Improvement Projects, all as set forth in Section 4.3 of the Hardyston Township Board of Education Local Unit License Agreement and Section 510(d)(ii) of the Company Lease Agreement. As there are no Hardyston Township Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Hardyston

Township Board of Education Local Unit License Agreement. The Parties acknowledge and agree that no Hardyston Township Board of Education Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

**“Hardyston Township Board of Education Construction Manager”** shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

**“Hardyston Township Board of Education Draw Papers”** shall mean the requisitions, and attachments thereto, applicable to either the (i) Hardyston Township Board of Education Renewable Energy Projects or (ii) Hardyston Township Board of Education Capital Improvement Projects, in either case in the form attached as **Exhibit D** to the Hardyston Township Board of Education Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the Hardyston Township Board of Education Renewable Energy Projects or the Hardyston Township Board of Education Capital Improvement Projects, all as set forth in Section 4.1 of the Hardyston Township Board of Education Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

**“Hardyston Township Board of Education Interconnection Agreement”** shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed Hardyston Township Board of Education Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

**“Hardyston Township Board of Education REP Acceptance Certificate”** shall mean the certificate applicable to the Hardyston Township Board of Education Renewable Energy Projects in the form attached as **Exhibit E-1** to the Hardyston Township Board of Education Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company’s acceptance of all of the Hardyston Township Board of Education Renewable Energy Projects, all as set forth in Section 4.2 of the Hardyston Township Board of Education Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

**“Authorized Officer”** or **“Authorized Representative”** shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the President, Chief School Administrator, Business Administrator or such other person designated as an Authorized Officer in the Hardyston Township Board of Education Local Unit License Agreement or any other person or persons who shall be authorized to act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Event of Default”** shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### Section 2.1. Representations and Warranties of the Licensor.

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this Hardyston Township Board of Education Local Unit License Agreement (and any documents contemplated hereby, including without limitation the Hardyston Township Board of Education Draw Papers, the Hardyston Township Board of Education Acceptance Certificates, and any Hardyston Township Board of Education Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the Hardyston Township Board of Education Local Unit Facilities. Licensor holds good, record and marketable title to each of the Hardyston Township Board of Education Local Unit Facilities and the land underlying the Hardyston Township Board of Education Local Unit Facilities. There are no mortgages or other liens against the Hardyston Township Board of Education Local Unit Facilities or the land except as set forth on Exhibit G.

#### Section 2.2. Representations and Warranties of the Licensee.

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this Hardyston Township Board of Education Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company thereunder, this Hardyston Township Board of Education Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i) N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

#### **Section 2.4. Covenants of the Licensor.**

(a) Upon the delivery of the Hardyston Township Board of Education CIP Acceptance Certificate with respect to the Hardyston Township Board of Education Capital Improvement Projects, if any, the Licensor shall own such Hardyston Township Board of Education Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the Hardyston Township Board of Education Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the Hardyston Township Board of Education Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the Hardyston Township Board of Education Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this **Hardyston Township Board of Education** Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

#### **Section 2.5. Covenants of the Licensee.**

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the Hardyston Township Board of Education Renewable Energy Projects on, or as applicable, in the Hardyston Township Board of Education Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital

Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the Hardyston Township Board of Education Capital Improvement Projects on or as applicable, in the Hardyston Township Board of Education Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the Hardyston Township Board of Education Renewable Energy Projects on or as applicable, in or about the Hardyston Township Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such Hardyston Township Board of Education Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the Hardyston Township Board of Education Capital Improvement Projects on or as applicable, in or about the Hardyston Township Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that that such Hardyston Township Board of Education Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### **Section 2.6. Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any Hardyston Township Board of Education Capital Improvement Projects under the Program Documents and any references herein to Hardyston Township Board of Education Capital Improvement Projects, Hardyston Township Board of Education Capital Improvement Project Fund, Hardyston Township Board of Education CIP Acceptance Certificates or any other term defined by reference to Hardyston Township Board of Education Capital Improvement Projects (without limiting the application of any such term to the extent not related to Hardyston Township Board of Education Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding

of the County Reserve upon issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

## ARTICLE III

### LICENSE

#### Section 3.1. License.

(a) For the Term of this Hardyston Township Board of Education Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this Hardyston Township Board of Education Local Unit License Agreement (each, an "**Hardyston Township Board of Education Licensee**", and collectively, the "**Hardyston Township Board of Education Licensees**"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on **Exhibit A** hereto (the "**Hardyston Township Board of Education Local Unit Facilities**"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other Hardyston Township Board of Education Licensee access to the Hardyston Township Board of Education Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this Hardyston Township Board of Education Local Unit License Agreement, a license (the "**Hardyston Township Board of Education Local Unit License**") allowing each Hardyston Township Board of Education Licensee to enter the Hardyston Township Board of Education Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on **Exhibit B** hereto (the "**Hardyston Township Board of Education Renewable Energy Projects**"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on **Exhibit C** hereto (the "**Hardyston Township Board of Education Capital Improvement Projects**", and together with the Hardyston Township Board of Education Renewable Energy Projects, the "**Hardyston Township Board of Education Projects**") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "**Hardyston Township Board of Education Project Activities**"), all at the sole cost and expense of the Authority or any other Hardyston Township Board of Education Licensee, but not the Licensor[, unless expressly set forth elsewhere herein]. As there are no Hardyston Township Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Hardyston Township Board of Education Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site (solely the site and not including the solar improvements) at or in each of its Hardyston Township Board of Education Local Unit Facilities.

(b) For all purposes of this Hardyston Township Board of Education Local Unit License Agreement, the Hardyston Township Board of Education Local Unit License shall

be deemed to include a preliminary license granted by the Licensor to the Authority and shall include, as Hardyston Township Board of Education Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to constitute permissive Hardyston Township Board of Education Activities, which preliminary Hardyston Township Board of Education Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

(c) The Hardyston Township Board of Education Licensees shall have access to the Hardyston Township Board of Education Local Unit Facilities to conduct Hardyston Township Board of Education Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the Hardyston Township Board of Education Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the Hardyston Township Board of Education Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the Hardyston Township Board of Education Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the Hardyston Township Board of Education Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the Hardyston Township Board of Education Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the Hardyston Township Board of Education Local Unit Facilities.

(d) No other activities beyond the scope of the Hardyston Township Board of Education Project Activities shall be undertaken on the Hardyston Township Board of Education Local Unit Facilities by the Authority or any other Hardyston Township Board of Education Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensor shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensor is obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensor shall use commercially reasonable efforts to avoid interfering with the Company's performance of its obligations under this Hardyston Township Board of Education Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

**Section 3.2. Hardyston Township Board of Education Licensees.** The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this Hardyston Township Board of Education Local Unit License Agreement, the Hardyston Township Board of Education License shall permit the Hardyston Township Board of Education Licensees to enter upon the Hardyston Township Board of Education Local Unit Facilities to conduct the Hardyston Township Board of Education Project Activities, at which time any such Hardyston Township Board of Education Licensees shall automatically, without any further action, be bound by the provisions of this Hardyston Township Board of Education Local Unit License Agreement during the Term hereof. The Licensee must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and subcontractors who will be present at the site, and the Licensee acknowledges that the same will be used for purposes of checking all identities against the Megans law registry.

**Section 3.3. Observation.** In connection with all Hardyston Township Board of Education Project Activities, the Authority and/or any other Hardyston Township Board of Education Licensee shall afford the Licensor and/or its representatives, the opportunity to observe all Hardyston Township Board of Education Project Activities; provided, however, that such observation activities shall not interfere with any Hardyston Township Board of Education Project Activities or delay construction of the Projects; and provided, further, that the Licensor hereby releases and agrees to indemnify, defend and hold harmless the Authority and each other Hardyston Township Board of Education Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensor's, or its representatives' or consultant's entry or activities on the Hardyston Township Board of Education Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all Hardyston Township Board of Education Licensees, to promptly provide the Licensor with copies of any final written reports prepared, compiled or generated as part of the Hardyston Township Board of Education Project Activities, if any [list of reports can be added here]. Further, the Licensor shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the Hardyston Township Board of Education Local Unit License, to inspect the Hardyston Township Board of Education Local Unit Facilities and/or the Hardyston Township Board of Education Renewable Energy Projects during the Term of this Hardyston Township Board of Education Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the Hardyston Township Board of Education Local Unit License under this Hardyston Township Board of Education Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other Hardyston Township Board of Education Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the Hardyston Township Board of Education Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing Hardyston Township Board of Education Project Activities on the Hardyston Township Board of Education Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, as may be modified by the Program Documents, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority and the Licensor is given at least thirty (30) days prior written notice of such cancellation or modification. Notwithstanding anything else contained herein or in the Power Purchase Agreement, to the extent the insurance is in accordance with Acord 25 (2010/05) should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**Section 3.7. Revocation.**

(a) The parties expressly acknowledge that the Hardyston Township Board of Education Local Unit License cannot be revoked (including deemed revocation situations where the Hardyston Township Board of Education Local Unit Facilities are unavailable to allow the Company to perform Hardyston Township Board of Education Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the Hardyston Township Board of Education Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its Hardyston Township Board of Education Local Unit License for the Hardyston Township Board of Education Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the Hardyston Township Board of Education Renewable Energy Projects, with as similar physical conditions to the existing Hardyston Township Board of Education Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute Hardyston Township Board of Education Renewable Energy Project on the Hardyston Township Board of Education Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this Hardyston Township Board of Education Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the Hardyston Township Board of Education Renewable Energy Projects located on, or as applicable in, the Hardyston Township Board of Education Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the Hardyston Township Board of Education Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new Hardyston Township Board of Education Local Unit Facilities for all purposes of this Hardyston Township Board of Education Local Unit License Agreement and the other Program Documents, and similarly, the new Hardyston Township Board of Education Renewable Energy Projects on, or as applicable in, such new Hardyston Township Board of Education Local Unit Facilities shall be deemed the new Hardyston Township Board of Education Renewable Energy Projects for all purposes of this Hardyston Township Board of Education Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the Hardyston Township Board of Education Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this Hardyston Township Board of Education Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Hardyston Township Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (I) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (II) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the Hardyston Township Board of Education Renewable Energy Projects been operating at the Hardyston Township Board of Education Local Unit Facilities for the remainder of such then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (III) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the Hardyston Township Board of Education Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the Hardyston Township Board of Education Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the Hardyston Township Board of Education Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any Hardyston Township Board of Education Local Unit Facility as a result of which such Hardyston Township Board of Education Local Unit Facility is unavailable to allow the Company to perform its Hardyston Township Board of Education Project Activities shall be deemed to be a revocation of the Hardyston Township Board of Education Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

**Section 3.8. Material Change to Hardyston Township Board of Education Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.**

To the extent the Licensor requests a material change to the Hardyston Township Board of Education Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the Hardyston Township Board of Education Renewable Energy Projects (the “**Revised Hardyston Township Board of Education Renewable Energy Projects**”), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised Hardyston Township Board of Education Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the Hardyston Township Board of Education Renewable Energy Projects set forth on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

**Section 3.9. Abandonment.**

If any Hardyston Township Board of Education Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this Hardyston Township Board of Education Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such Hardyston Township Board of Education Renewable Energy Project, be deemed terminated and discharged.

## ARTICLE IV

### **Hardyston Township Board of Education DRAW PAPERS; Hardyston Township Board of Education ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE**

#### **Section 4.1. Hardyston Township Board of Education Draw Papers.**

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the Hardyston Township Board of Education Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the Hardyston Township Board of Education Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the Hardyston Township Board of Education Renewable Energy Projects and the Hardyston Township Board of Education Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the Hardyston Township Board of Education Renewable Energy Projects or the Hardyston Township Board of Education Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the Hardyston Township Board of Education Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and **Exhibit D** hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the Hardyston Township Board of Education Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the Hardyston Township Board of Education Capital Improvement Projects. The Licensor shall promptly review the Hardyston Township Board of Education Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the Hardyston Township Board of Education Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such Hardyston Township Board of Education Draw Papers where indicated, and promptly forward the original of such Hardyston Township Board of Education Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Hardyston Township Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any Hardyston Township

Board of Education Draw Papers, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Hardyston Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Hardyston Township Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body (so long as same does not violate state statutes and regulations), in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver any Hardyston Township Board of Education Draw Papers or (ii) delegate any such action to the Hardyston Township Board of Education Construction Manager.

(e) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Hardyston Township Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any Hardyston Township Board of Education Draw Papers to the Hardyston Township Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Hardyston Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Hardyston Township Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any Hardyston Township Board of Education Draw Papers or (ii) delegate any such action to the Hardyston Township Board of Education Construction Manager.

**Section 4.2. Hardyston Township Board of Education REP Acceptance Certificate Relating to the Hardyston Township Board of Education Renewable Energy Projects.**

(a) When the Company has determined that all of the Hardyston Township Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the Hardyston Township Board of Education Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Hardyston Township Board of Education REP Acceptance Certificate applicable to such Hardyston Township Board of Education Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and **Exhibit E-1** hereto.

(b) The Licensor shall promptly review the form Hardyston Township Board of Education REP Acceptance Certificate applicable to the Hardyston Township Board of Education Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact

the Company to clarify or otherwise change the Hardyston Township Board of Education REP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Hardyston Township Board of Education REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Hardyston Township Board of Education REP Acceptance Certificate where indicated, and promptly forward the original of such Hardyston Township Board of Education REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Hardyston Township Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Hardyston Township Board of Education REP Acceptance Certificate to the Hardyston Township Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Hardyston Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. The Hardyston Township Board of Education Construction Manager shall use all reasonable efforts to ensure that copies of all Draw Papers and the REP Acceptance Certificate are forwarded to the Licensor in a reasonably timely manner. By the Licensor's authorization, execution and delivery of this Hardyston Township Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Hardyston Township Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Hardyston Township Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Hardyston Township Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Hardyston Township Board of Education REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Hardyston Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Hardyston Township Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Hardyston Township Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Hardyston Township Board of Education Construction Manager.

**Section 4.3. Hardyston Township Board of Education CIP Acceptance Certificate Relating to the Hardyston Township Board of Education Capital Improvement Projects.**

(a) When the Company has determined that all of the Hardyston Township Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Hardyston Township Board of Education CIP Acceptance Certificate applicable to such Hardyston Township Board of Education Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and **Exhibit E-2** hereto.

(b) The Licensor shall promptly review the form Hardyston Township Board of Education CIP Acceptance Certificate applicable to the Hardyston Township Board of Education Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Hardyston Township Board of Education CIP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Hardyston Township Board of Education CIP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Hardyston Township Board of Education CIP Acceptance Certificate where indicated, and promptly forward the original of such Hardyston Township Board of Education CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Hardyston Township Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Hardyston Township Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Hardyston Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Hardyston Township Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Hardyston Township Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Hardyston Township Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Hardyston Township Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Hardyston Township Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the

Hardyston Township Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Hardyston Township Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Hardyston Township Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Hardyston Township Board of Education Construction Manager.

**Section 4.4. Costs of Issuance.**

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of **Exhibit F** hereto.

## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material affect on the Licensor, it being expressly understood that any such amendment having no material affect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the Hardyston Township Board of Education Renewable Energy Projects and restoration of the Hardyston Township Board of Education Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this Hardyston Township Board of Education Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the

applicable Series 2011 Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power from the Company thereunder from the Hardyston Township Board of Education Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(i) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (c), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the Hardyston Township Board of Education Renewable Energy Projects located on, or as applicable, in the Hardyston Township Board of Education Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the Hardyston Township Board of Education Renewable Energy Projects installed on or, as applicable, in the Hardyston Township Board of Education Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the Hardyston Township Board of Education Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall

take into account all the facts and circumstances of the marketplace for such Hardyston Township Board of Education Renewable Energy Projects at such time, including without limitation, its continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; *provided, however*, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other Hardyston Township Board of Education Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time (as reasonably determined by the Authority), the Hardyston Township Board of Education Renewable Energy Projects from the Hardyston Township Board of Education Local Unit Facilities at the sole cost and expense and effort of the Company or any such other Hardyston Township Board of Education Licensees, and (ii) restore, within a reasonable period of time, the Hardyston Township Board of Education Local Unit Facilities, as improved by the Hardyston Township Board of Education Capital Improvement Projects, to the condition prior to the installation of the Hardyston Township Board of Education Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the Hardyston Township Board of Education Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

#### **Section 5.2. Substitute Power Purchase Price.**

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on

time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, this Hardyston Township Board of Education Local Unit License Agreement shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its Hardyston Township Board of Education Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the Hardyston Township Board of Education Renewable Energy Projects located on, or as applicable, in the Hardyston Township Board of Education Local Unit Facilities from the Authority, as owner of the Hardyston Township Board of Education Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "**Gross Substitute Power Purchase Price**"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "**Net Substitute Power Purchase Price**") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the Hardyston Township Board of Education Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement,

or any performance bond required under the Company RFP and/or the Power Purchase Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the Hardyston Township Board of Education Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the Hardyston Township Board of Education Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI

### EVENT OF DEFAULT

#### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this Hardyston Township Board of Education Local Unit License Agreement:

(i) the Authority or any other Hardyston Township Board of Education Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other Hardyston Township Board of Education Licensee to be performed or observed under this Hardyston Township Board of Education Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other Hardyston Township Board of Education Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this Hardyston Township Board of Education Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(c) that are within the Licensor's control) the Hardyston Township Board of Education Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part

of the Licensor to be performed or observed under this Hardyston Township Board of Education Local Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

## **Section 6.2. Remedies.**

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this Hardyston Township Board of Education Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Hardyston Township Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by

statute to enforce the specific performance rights of the Authority under this Hardyston Township Board of Education Local Unit License Agreement.

**Section 6.3. Remedies Generally.**

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this Hardyston Township Board of Education Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this Hardyston Township Board of Education Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the Hardyston Township Board of Education Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such Hardyston Township Board of Education Projects until cured, including without limitation the requirement that the Company complete all Projects, including the Hardyston Township Board of Education Projects, by December 14, 2012, all in accordance with the terms of the Program Documents.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.1 Term.

(a) This Hardyston Township Board of Education Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This Hardyston Township Board of Education Local Unit License Agreement and the Hardyston Township Board of Education Local Unit License granted herein shall terminate against the Authority, after which date all Hardyston Township Board of Education Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the Hardyston Township Board of Education Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the Hardyston Township Board of Education Renewable Energy Projects shall have been removed from the Hardyston Township Board of Education Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the Hardyston Township Board of Education Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the Hardyston Township Board of Education Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 thereof, and [either the Licensor or the Licensee desires to terminate

this Hardyston Township Board of Education Local Unit License Agreement, which termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the Licensee agree in writing to terminate this Hardyston Township Board of Education Local Unit License Agreement].

(c) The “**Term**” of this Hardyston Township Board of Education Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this Hardyston Township Board of Education Local Unit License Agreement, none of the Licensor, the Authority, nor any other Hardyston Township Board of Education Licensees shall have any further rights, duties or obligations with respect to the Hardyston Township Board of Education Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this Hardyston Township Board of Education Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the Hardyston Township Board of Education Licensees to gain access under the Hardyston Township Board of Education Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority’s rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Hardyston Township Board of Education Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) Licensor: Hardyston Township Board of Education

- With a copy to: [ Licensor's Counsel]
- (b) Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.Morris.nj.us
- With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com
- (c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960
- With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)
- (d) Company: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email : principals@sunlightgeneral.com
- With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: [jduffy@nixonpeabody.com](mailto:jduffy@nixonpeabody.com)
- (e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Vorhees, NJ 08043  
Email: [jvogel@birdsall.com](mailto:jvogel@birdsall.com)
- With a copy to: Joseph Santaiti  
Gabel Associates

417 Denison St.  
Highland Park, NJ 08904  
Email: joseph.santaiti@gabelassociates.com

**Section 7.4. Successors and Assigns.** This Hardyston Township Board of Education Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This Hardyston Township Board of Education Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This Hardyston Township Board of Education Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other Hardyston Township Board of Education Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This Hardyston Township Board of Education Local Unit License Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this Hardyston Township Board of Education Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this Hardyston Township Board of Education Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this Hardyston Township Board of Education Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This Hardyston Township Board of Education Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This Hardyston Township Board of Education Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this Hardyston Township Board of Education Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this Hardyston Township Board of Education Local Unit License Agreement and (b) its performance of the actions contemplated by this Hardyston Township Board of Education Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties

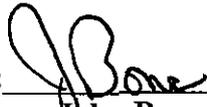
or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this License Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**[ The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow ]**

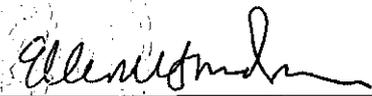
IN WITNESS WHEREOF, the parties hereto have each caused this Hardyston Township Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By:   
**John Bonanni, Chairman**

**ATTEST:**

By:   
**Ellen M. Sandman, Secretary**

[SEAL]

**HARDYSTON TOWNSHIP BOARD OF  
EDUCATION, as Licensor**

By: \_\_\_\_\_  
**James Sekelsky,  
Business Administrator/Board Secretary**

**ATTEST:**

By: \_\_\_\_\_  
**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

IN WITNESS WHEREOF, the parties hereto have each caused this Hardyston Township Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

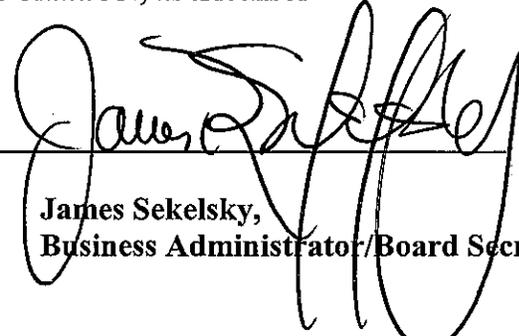
By: \_\_\_\_\_  
**John Bonanni, Chairman**

**ATTEST:**

By: \_\_\_\_\_  
**Ellen M. Sandman, Secretary**

[SEAL]

**HARDYSTON TOWNSHIP BOARD OF  
EDUCATION, as Licensor**

By:  \_\_\_\_\_  
**James Sekelsky,  
Business Administrator/Board Secretary**

**ATTEST:**

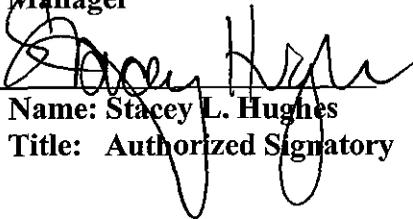
By:  \_\_\_\_\_  
**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

The terms and conditions of this Hardyston Township Board of Education Local Unit License Agreement are hereby **ACKNOWLEDGED** and **ACCEPTED** by the following acknowledgment party, this 14<sup>th</sup> day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC**  
**Its Manager**

By:   
**Name: Stacey L. Hughes**  
**Title: Authorized Signatory**



STATE OF NEW JERSEY )

) ss.:

COUNTY OF SUSSEX)

On this 12<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared **James Sekelsky** known to me (or proved to me on the basis of satisfactory evidence) to be the **Business Administrator/Board Secretary** of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.



A handwritten signature in cursive script, which appears to read "Nicole Meyer", is written over a horizontal line.

Notary Public

**NICOLE MEYER**  
**NOTARY PUBLIC OF NEW JERSEY**  
Commission Expires 9/6/2012

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
\_\_\_\_\_  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YC  
No. 02MA6233849  
Qualified In New York County  
My Commission Expires January 03, 2-

**EXHIBIT A**

**Morris County Improvement Authority**  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

*Hardyston Board of Education (<http://www.https.org/BOE/BOEIndex.htm>)*

- (A) Hardyston Middle School (Ground Mount 612 kW)  
183 Wheatsworth Road  
Hamburg, NJ*

## **EXHIBIT B**

### **[Attach Description of Hardyston Township Board of Education Renewable Energy Projects]**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

**EXHIBIT C**

**[Attach Description of Hardyston Township Board of Education Capital Improvement Projects]**

**None**

**EXHIBIT D**

**[Attach Hardyston Township Board of Education Draw Papers]**

Requisition No. \_\_\_\_\_  
\_\_\_\_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Hardyston Township Board of Education Renewable Energy Projects**") [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**Hardyston Township Board of Education Capital Improvement Projects**")]] being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensors**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$ \_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]; and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Hardyston Township Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Hardyston Township Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Hardyston Township Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Hardyston Township Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with Section [1(a)] [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw

Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**The terms of this Requisition are hereby  
ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this \_\_\_\_ day of \_\_\_\_,  
20\_\_.**

**[LICENSOR]**

**[By: CONSTRUCTION MANAGER]**

**By: \_\_\_\_\_  
Name:  
Title:**

**The form (only) of this Requisition is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_\_ day of \_\_\_\_, 20\_\_.**

**[By: CONSTRUCTION MANAGER]**

**By: \_\_\_\_\_  
Name:  
Title:**

**EXHIBIT E**

**FORMS OF Hardyston Township Board of Education ACCEPTANCE CERTIFICATES**

See Attached:

Form E-1, Form of Hardyston Township Board of Education REP Acceptance Certificate  
Form E-2, Form of Hardyston Township Board of Education CIP Acceptance Certificate

**EXHIBIT E-1**

**[Attach Hardyston Township Board of Education REP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the “**Hardyston Township Board of Education Renewable Energy Projects**”) being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the Hardyston Township Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Hardyston Township Board of Education Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Hardyston Township Board of Education Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof].

3. The Hardyston Township Board of Education Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Company’s and the Licensor’s acceptance of the Hardyston Township Board of Education Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the Hardyston Township Board of Education Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the Hardyston Township Board of Education Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Hardyston Township Board of Education Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_

**Name: Stacey Hughes**

**Title: Authorized Signatory**

**ATTEST:**

---

The terms of this Hardyston Township Board of Education REP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Hardyston Township Board of Education REP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title::

**EXHIBIT E-2**

**[Attach Hardyston Township Board of Education CIP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the “**Hardyston Township Board of Education Capital Improvement Projects**”) being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the Hardyston Township Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Hardyston Township Board of Education Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Hardyston Township Board of Education Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof].

3. By obtaining the Licensor’s execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor’s acceptance of (a) the Hardyston Township Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which Hardyston Township Board of Education Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor’s acceptance of the Hardyston Township Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. *[Choose one, as applicable]*

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Hardyston Township Board of Education Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

\_\_\_\_\_

The terms of this Hardyston Township Board of Education CIP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Hardyston Township Board of Education CIP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT F**

**CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR**

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "**Series 2011 Bonds**")

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Hardyston Township Board of Education Local Unit License Agreement**") by and between The Morris County Improvement Authority (the "**Authority**") and [ ] (the "**Licensor**"), and (ii) Section 5.03(3)(a) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Hardyston Township Board of Education Local Unit License Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

[ \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to  
\_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

**[LICENSOR]**

By: \_\_\_\_\_  
**Authorized Officer**

The form (only) of this Certificate is hereby  
**ACKNOWLEDGED** by the **MORRIS COUNTY**  
**IMPROVEMENT AUTHORITY** this \_\_\_\_ day  
of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**

**[None]**

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**High Point Regional Board of Education, as Licensor**

**And**

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee**

**Dated as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS "LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "*High Point Regional Board of Education Local Unit License Agreement*"), dated as of December 1, 2011, is made by and among **High Point Regional Board of Education** (the "*Licensor*"), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the "*County*"), State of New Jersey ("*State*") and the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the "*Authority*" or the "*Licensee*"), duly created by resolution of the Board of Chosen Freeholders ("*Board of Freeholders*") of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*") and other applicable law.

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "*Series 2011A Bonds*") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "*Series 2011A Bonds*"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*", and together with the Series 2011A Bonds, "*Series 2011 Bonds*"), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County

College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments

shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a

minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011

Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure

Agreement, the "*Continuing Disclosure Agreements*"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*"); and (ii) the execution and delivery of a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "*Sale Documents*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("*Section 13*") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program Documents*"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE,** for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agrees as follows:

## ARTICLE I

### DEFINITIONS

#### Section 1.1. Definitions.

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**High Point Regional Board of Education Local Unit License Agreement**  
**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**  
**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**

**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this High Point Regional Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

**Account**  
**Additional Bonds**  
**Administrative Expense Account**  
**Administrative Fund**  
**Aged Account**  
**Bond**  
**Capitalized Interest Account**  
**Code**  
**Company Development Fees and Expenses**  
**Completion Conditions**  
**Completion Project**  
**Consulting Energy Engineer**  
**Consulting Energy Engineering Services**  
**Cost**

**Costs of Issuance Account**  
**County Security Fund**  
**County Security Fund Requirement**  
**Debt Service Fund**  
**Funds**  
**General Fund**  
**Gross Substitute Power Purchase Price**  
**Interest Account**  
**Investment Securities**  
**Net Substitute Power Purchase Price**  
**Outstanding**  
**Paying Agent**  
**Principal Account**  
**Principal Office**  
**Project Fund**  
**Rating Agency**  
**Renewable Energy Program Interested Party**  
**Restoration Security Fund**  
**Restoration Security Fund Requirement**  
**Revenue Account**  
**Revenue Fund**  
**Revenues**  
**Series**  
**Series 2011B Bonds**  
**Sinking Fund Installments**  
**Supplemental Resolution**  
**Tax Certificate**  
**Tax-exempt Bonds**  
**Trustee**  
**Trust Estate**

(c) The following defined terms shall, for all purposes of this High Point Regional Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

**Projects**

**High Point Regional Board of Education Capital Improvement**

**High Point Regional Board of Education Licensee**  
**High Point Regional Board of Education Licensees**  
**High Point Regional Board of Education Local Unit Facilities**  
**High Point Regional Board of Education Local Unit License**  
**High Point Regional Board of Education Project Activities**  
**High Point Regional Board of Education Projects**

**Projects**

**High Point Regional Board of Education Renewable Energy**

- (ii) Section 3.8:

**Energy Projects**

**Revised High Point Regional Board of Education Renewable**

- (iii) Section 5.2(a)(i)

**Gross Substitute Power Purchase Price  
Net Substitute Power Purchase Price**

- (iv) Section 6.1(a)

**Authority Event of Default**

- (v) Section 6.1(b)

**Licensor Event of Default**

- (vi) Section 7.1(c)

**Term**

(d) The following defined terms shall, for all purposes of this High Point Regional Board of Education Local Unit License Agreement, have the following meanings:

“**High Point Regional Board of Education Acceptance Certificates**” shall mean individually or collectively, as the case may be, the High Point Regional Board of Education CIP Acceptance Certificate and the High Point Regional Board of Education REP Acceptance Certificate, each in the form attached as **Exhibit E** to the High Point Regional Board of Education Local Unit License Agreement and Exhibit B to the Company Lease Agreement.

“**High Point Regional Board of Education CIP Acceptance Certificate**” shall mean the certificate applicable to the High Point Regional Board of Education Capital Improvement Projects in the form attached as **Exhibit E-2** to the High Point Regional Board of Education Local Unit License Agreement and Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, Licensor’s acceptance of all of the High Point Regional Board of Education Capital Improvement Projects, all as set forth in Section 4.3 of the High Point Regional Board of Education Local Unit License Agreement and Section 510(d)(ii) of the Company Lease Agreement. As there are no High Point Regional Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this High Point Regional Board of Education Local Unit License Agreement. The Parties acknowledge and agree

that no High Point Regional Board of Education Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

**“High Point Regional Board of Education Construction Manager”** shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

**“High Point Regional Board of Education Draw Papers”** shall mean the requisitions, and attachments thereto, applicable to either the (i) High Point Regional Board of Education Renewable Energy Projects or (ii) High Point Regional Board of Education Capital Improvement Projects, in either case in the form attached as **Exhibit D** to the High Point Regional Board of Education Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the High Point Regional Board of Education Renewable Energy Projects or the High Point Regional Board of Education Capital Improvement Projects, all as set forth in Section 4.1 of the High Point Regional Board of Education Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

**“High Point Regional Board of Education Interconnection Agreement”** shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed High Point Regional Board of Education Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

**“High Point Regional Board of Education REP Acceptance Certificate”** shall mean the certificate applicable to the High Point Regional Board of Education Renewable Energy Projects in the form attached as **Exhibit E-1** to the High Point Regional Board of Education Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company’s acceptance of all of the High Point Regional Board of Education Renewable Energy Projects, all as set forth in Section 4.2 of the High Point Regional Board of Education Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

**“Authorized Officer”** or **“Authorized Representative”** shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the Board President, School Business Administrator or such other person designated as an Authorized Officer in the High Point Regional Board of Education Local Unit License Agreement or any other person or persons who shall be authorized to act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Event of Default”** shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### Section 2.1. Representations and Warranties of the Licensor.

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this High Point Regional Board of Education Local Unit License Agreement (and any documents contemplated hereby, including without limitation the High Point Regional Board of Education Draw Papers, the High Point Regional Board of Education Acceptance Certificates, and any High Point Regional Board of Education Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the High Point Regional Board of Education Local Unit Facilities. Licensor holds good, record and marketable title to each of the High Point Regional Board of Education Local Unit Facilities and the land underlying the High Point Regional Board of Education Local Unit Facilities. There are no mortgages or other liens against the High Point Regional Board of Education Local Unit Facilities or the land except as set forth on Exhibit G.

#### Section 2.2. Representations and Warranties of the Licensee.

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this High Point Regional Board of Education Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company thereunder, this High Point Regional Board of Education Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i) N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

#### **Section 2.4. Covenants of the Licensor.**

(a) Upon the delivery of the High Point Regional Board of Education CIP Acceptance Certificate with respect to the High Point Regional Board of Education Capital Improvement Projects, if any, the Licensor shall own such High Point Regional Board of Education Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the High Point Regional Board of Education Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the High Point Regional Board of Education Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the High Point Regional Board of Education Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this **High Point Regional Board of Education** Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

#### **Section 2.5. Covenants of the Licensee.**

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the High Point Regional Board of Education Renewable Energy Projects on, or as applicable, in the High Point Regional Board of Education Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital

Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the High Point Regional Board of Education Capital Improvement Projects on or as applicable, in the High Point Regional Board of Education Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the High Point Regional Board of Education Renewable Energy Projects on or as applicable, in or about the High Point Regional Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such High Point Regional Board of Education Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the High Point Regional Board of Education Capital Improvement Projects on or as applicable, in or about the High Point Regional Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that that such High Point Regional Board of Education Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### **Section 2.6. Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any High Point Regional Board of Education Capital Improvement Projects under the Program Documents and any references herein to High Point Regional Board of Education Capital Improvement Projects, High Point Regional Board of Education Capital Improvement Project Fund, High Point Regional Board of Education CIP Acceptance Certificates or any other term defined by reference to High Point Regional Board of Education Capital Improvement Projects (without limiting the application of any such term to the extent not related to High Point Regional Board of Education Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding

of the County Reserve upon issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

## ARTICLE III

### LICENSE

#### Section 3.1. License.

(a) For the Term of this High Point Regional Board of Education Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this High Point Regional Board of Education Local Unit License Agreement (each, an "**High Point Regional Board of Education Licensee**", and collectively, the "**High Point Regional Board of Education Licensees**"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on **Exhibit A** hereto (the "**High Point Regional Board of Education Local Unit Facilities**"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other High Point Regional Board of Education Licensee access to the High Point Regional Board of Education Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this High Point Regional Board of Education Local Unit License Agreement, a license (the "**High Point Regional Board of Education Local Unit License**") allowing each High Point Regional Board of Education Licensee to enter the High Point Regional Board of Education Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on **Exhibit B** hereto (the "**High Point Regional Board of Education Renewable Energy Projects**"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on **Exhibit C** hereto (the "**High Point Regional Board of Education Capital Improvement Projects**"), and together with the High Point Regional Board of Education Renewable Energy Projects, the "**High Point Regional Board of Education Projects**") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "**High Point Regional Board of Education Project Activities**"), all at the sole cost and expense of the Authority or any other High Point Regional Board of Education Licensee, but not the Licensor[, unless expressly set forth elsewhere herein]. As there are no High Point Regional Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this High Point Regional Board of Education Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site (solely the site and not including the solar improvements) at or in each of its High Point Regional Board of Education Local Unit Facilities.

(b) For all purposes of this High Point Regional Board of Education Local Unit License Agreement, the High Point Regional Board of Education Local Unit License shall

be deemed to include a preliminary license granted by the Licensor to the Authority and shall include, as High Point Regional Board of Education Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to constitute permissive High Point Regional Board of Education Activities, which preliminary High Point Regional Board of Education Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

(c) The High Point Regional Board of Education Licensees shall have access to the High Point Regional Board of Education Local Unit Facilities to conduct High Point Regional Board of Education Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the High Point Regional Board of Education Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the High Point Regional Board of Education Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the High Point Regional Board of Education Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the High Point Regional Board of Education Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the High Point Regional Board of Education Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the High Point Regional Board of Education Local Unit Facilities.

(d) No other activities beyond the scope of the High Point Regional Board of Education Project Activities shall be undertaken on the High Point Regional Board of Education Local Unit Facilities by the Authority or any other High Point Regional Board of Education Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensor shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensor is obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensor shall use commercially reasonable efforts to avoid interfering with the Company's performance of its obligations under this High Point Regional Board of Education Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

**Section 3.2. High Point Regional Board of Education Licensees.** The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this High Point Regional Board of Education Local Unit License Agreement, the High Point Regional Board of Education License shall permit the High Point Regional Board of Education Licensees to enter upon the High Point Regional Board of Education Local Unit Facilities to conduct the High Point Regional Board of Education Project Activities, at which time any such High Point Regional Board of Education Licensees shall automatically, without any further action, be bound by the provisions of this High Point Regional Board of Education Local Unit License Agreement during the Term hereof. The Licensee must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and subcontractors who will be present at the site, and the Licensee acknowledges that the same will be used for purposes of checking all identities against the Megans law registry.

**Section 3.3. Observation.** In connection with all High Point Regional Board of Education Project Activities, the Authority and/or any other High Point Regional Board of Education Licensee shall afford the Licensor and/or its representatives, the opportunity to observe all High Point Regional Board of Education Project Activities; provided, however, that such observation activities shall not interfere with any High Point Regional Board of Education Project Activities or delay construction of the Projects; and provided, further, that the Licensor hereby releases and agrees to indemnify, defend and hold harmless the Authority and each other High Point Regional Board of Education Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensor's, or its representatives' or consultant's entry or activities on the High Point Regional Board of Education Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all High Point Regional Board of Education Licensees, to promptly provide the Licensor with copies of any final written reports prepared, compiled or generated as part of the High Point Regional Board of Education Project Activities, if any [list of reports can be added here]. Further, the Licensor shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the High Point Regional Board of Education Local Unit License, to inspect the High Point Regional Board of Education Local Unit Facilities and/or the High Point Regional Board of Education Renewable Energy Projects during the Term of this High Point Regional Board of Education Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the High Point Regional Board of Education Local Unit License under this High Point Regional Board of Education Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other High Point Regional Board of Education Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the High Point Regional Board of Education Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing High Point Regional Board of Education Project Activities on the High Point Regional Board of Education Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, as may be modified by the Program Documents, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority and the Licensor is given at least thirty (30) days prior written notice of such cancellation or modification. Notwithstanding anything else contained herein or in the Power Purchase Agreement, to the extent the insurance is in accordance with Acord 25 (2010/05) should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**Section 3.7. Revocation.**

(a) The parties expressly acknowledge that the High Point Regional Board of Education Local Unit License cannot be revoked (including deemed revocation situations where the High Point Regional Board of Education Local Unit Facilities are unavailable to allow the Company to perform High Point Regional Board of Education Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the High Point Regional Board of Education Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its High Point Regional Board of Education Local Unit License for the High Point Regional Board of Education Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the High Point Regional Board of Education Renewable Energy Projects, with as similar physical conditions to the existing High Point Regional Board of Education Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute High Point Regional Board of Education Renewable Energy Project on the High Point Regional Board of Education Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this High Point Regional Board of Education Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the High Point Regional Board of Education Renewable Energy Projects located on, or as applicable in, the High Point Regional Board of Education Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the High Point Regional Board of Education Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new High Point Regional Board of Education Local Unit Facilities for all purposes of this High Point Regional Board of Education Local Unit License Agreement and the other Program Documents, and similarly, the new High Point Regional Board of Education Renewable Energy Projects on, or as applicable in, such new High Point Regional Board of Education Local Unit Facilities shall be deemed the new High Point Regional Board of Education Renewable Energy Projects for all purposes of this High Point Regional Board of Education Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the High Point Regional Board of Education Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this High Point Regional Board of Education Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the High Point Regional Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (I) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (II) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the High Point Regional Board of Education Renewable Energy Projects been operating at the High Point Regional Board of Education Local Unit Facilities for the remainder of such then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (III) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the High Point Regional Board of Education Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the High Point Regional Board of Education Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the High Point Regional Board of Education Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any High Point Regional Board of Education Local Unit Facility as a result of which such High Point Regional Board of Education Local Unit Facility is unavailable to allow the Company to perform its High Point Regional Board of Education Project Activities shall be deemed to be a revocation of the High Point Regional Board of Education Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

**Section 3.8. Material Change to High Point Regional Board of Education Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.**

To the extent the Licensor requests a material change to the High Point Regional Board of Education Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the High Point Regional Board of Education Renewable Energy Projects (the “**Revised High Point Regional Board of Education Renewable Energy Projects**”), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised High Point Regional Board of Education Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the High Point Regional Board of Education Renewable Energy Projects set forth on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

**Section 3.9. Abandonment.**

If any High Point Regional Board of Education Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this High Point Regional Board of Education Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such High Point Regional Board of Education Renewable Energy Project, be deemed terminated and discharged.

## ARTICLE IV

### **High Point Regional Board of Education DRAW PAPERS; High Point Regional Board of Education ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE**

#### **Section 4.1. High Point Regional Board of Education Draw Papers.**

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the High Point Regional Board of Education Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the High Point Regional Board of Education Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the High Point Regional Board of Education Renewable Energy Projects and the High Point Regional Board of Education Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the High Point Regional Board of Education Renewable Energy Projects or the High Point Regional Board of Education Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the High Point Regional Board of Education Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and **Exhibit D** hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the High Point Regional Board of Education Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the High Point Regional Board of Education Capital Improvement Projects. The Licensor shall promptly review the High Point Regional Board of Education Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the High Point Regional Board of Education Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such High Point Regional Board of Education Draw Papers where indicated, and promptly forward the original of such High Point Regional Board of Education Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the High Point Regional Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any High Point Regional

Board of Education Draw Papers, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the High Point Regional Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this High Point Regional Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body (so long as same does not violate state statutes and regulations), in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver any High Point Regional Board of Education Draw Papers or (ii) delegate any such action to the High Point Regional Board of Education Construction Manager.

(e) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the High Point Regional Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any High Point Regional Board of Education Draw Papers to the High Point Regional Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the High Point Regional Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this High Point Regional Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any High Point Regional Board of Education Draw Papers or (ii) delegate any such action to the High Point Regional Board of Education Construction Manager.

**Section 4.2. High Point Regional Board of Education REP Acceptance Certificate Relating to the High Point Regional Board of Education Renewable Energy Projects.**

(a) When the Company has determined that all of the High Point Regional Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the High Point Regional Board of Education Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the High Point Regional Board of Education REP Acceptance Certificate applicable to such High Point Regional Board of Education Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and **Exhibit E-1** hereto.

(b) The Licensor shall promptly review the form High Point Regional Board of Education REP Acceptance Certificate applicable to the High Point Regional Board of Education Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company

to clarify or otherwise change the High Point Regional Board of Education REP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the High Point Regional Board of Education REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such High Point Regional Board of Education REP Acceptance Certificate where indicated, and promptly forward the original of such High Point Regional Board of Education REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the High Point Regional Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the High Point Regional Board of Education REP Acceptance Certificate to the High Point Regional Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the High Point Regional Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. The High Point Regional Board of Education Construction Manager shall use all reasonable efforts to ensure that copies of all Draw Papers and the REP Acceptance Certificate are forwarded to the Licensor in a reasonably timely manner. By the Licensor's authorization, execution and delivery of this High Point Regional Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the High Point Regional Board of Education REP Acceptance Certificate or (ii) delegate any such action to the High Point Regional Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the High Point Regional Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the High Point Regional Board of Education REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the High Point Regional Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this High Point Regional Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the High Point Regional Board of Education REP Acceptance Certificate or (ii) delegate any such action to the High Point Regional Board of Education Construction Manager.

**Section 4.3. High Point Regional Board of Education CIP Acceptance Certificate Relating to the High Point Regional Board of Education Capital Improvement Projects.**

(a) When the Company has determined that all of the High Point Regional Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the High Point Regional Board of Education CIP Acceptance Certificate applicable to such High Point Regional Board of Education Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and **Exhibit E-2** hereto.

(b) The Licensor shall promptly review the form High Point Regional Board of Education CIP Acceptance Certificate applicable to the High Point Regional Board of Education Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the High Point Regional Board of Education CIP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the High Point Regional Board of Education CIP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such High Point Regional Board of Education CIP Acceptance Certificate where indicated, and promptly forward the original of such High Point Regional Board of Education CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the High Point Regional Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the High Point Regional Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the High Point Regional Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this High Point Regional Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the High Point Regional Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the High Point Regional Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the High Point Regional Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the High Point Regional Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the

High Point Regional Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this High Point Regional Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the High Point Regional Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the High Point Regional Board of Education Construction Manager.

**Section 4.4. Costs of Issuance.**

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of **Exhibit F** hereto.

## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material affect on the Licensor, it being expressly understood that any such amendment having no material affect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the High Point Regional Board of Education Renewable Energy Projects and restoration of the High Point Regional Board of Education Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this High Point Regional Board of Education Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the

applicable Series 2011 Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power from the Company thereunder from the High Point Regional Board of Education Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(i) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (c), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the High Point Regional Board of Education Renewable Energy Projects located on, or as applicable, in the High Point Regional Board of Education Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the High Point Regional Board of Education Renewable Energy Projects installed on or, as applicable, in the High Point Regional Board of Education Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the High Point Regional Board of Education Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall

take into account all the facts and circumstances of the marketplace for such High Point Regional Board of Education Renewable Energy Projects at such time, including without limitation, its continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; *provided, however*, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other High Point Regional Board of Education Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time (as reasonably determined by the Authority), the High Point Regional Board of Education Renewable Energy Projects from the High Point Regional Board of Education Local Unit Facilities at the sole cost and expense and effort of the Company or any such other High Point Regional Board of Education Licensees, and (ii) restore, within a reasonable period of time, the High Point Regional Board of Education Local Unit Facilities, as improved by the High Point Regional Board of Education Capital Improvement Projects, to the condition prior to the installation of the High Point Regional Board of Education Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the High Point Regional Board of Education Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

#### **Section 5.2. Substitute Power Purchase Price.**

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power

Purchase Agreement, this High Point Regional Board of Education Local Unit License Agreement shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its High Point Regional Board of Education Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the High Point Regional Board of Education Renewable Energy Projects located on, or as applicable, in the High Point Regional Board of Education Local Unit Facilities from the Authority, as owner of the High Point Regional Board of Education Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "**Gross Substitute Power Purchase Price**"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "**Net Substitute Power Purchase Price**") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the High Point Regional Board of Education Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase

Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the High Point Regional Board of Education Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the High Point Regional Board of Education Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI

### EVENT OF DEFAULT

#### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this High Point Regional Board of Education Local Unit License Agreement:

(i) the Authority or any other High Point Regional Board of Education Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other High Point Regional Board of Education Licensee to be performed or observed under this High Point Regional Board of Education Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other High Point Regional Board of Education Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this High Point Regional Board of Education Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(c) that are within the Licensor's control) the High Point Regional Board of Education Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part

of the Licensor to be performed or observed under this High Point Regional Board of Education Local Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

## **Section 6.2. Remedies.**

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this High Point Regional Board of Education Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the High Point Regional Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by

statute to enforce the specific performance rights of the Authority under this High Point Regional Board of Education Local Unit License Agreement.

**Section 6.3. Remedies Generally.**

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this High Point Regional Board of Education Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this High Point Regional Board of Education Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the High Point Regional Board of Education Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such High Point Regional Board of Education Projects until cured, including without limitation the requirement that the Company complete all Projects, including the High Point Regional Board of Education Projects, by December 14, 2012, all in accordance with the terms of the Program Documents.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.1 Term.

(a) This High Point Regional Board of Education Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This High Point Regional Board of Education Local Unit License Agreement and the High Point Regional Board of Education Local Unit License granted herein shall terminate against the Authority, after which date all High Point Regional Board of Education Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the High Point Regional Board of Education Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the High Point Regional Board of Education Renewable Energy Projects shall have been removed from the High Point Regional Board of Education Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the High Point Regional Board of Education Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the High Point Regional Board of Education Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 thereof, and [either the Licensor or the Licensee desires to terminate

this High Point Regional Board of Education Local Unit License Agreement, which termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the Licensee agree in writing to terminate this High Point Regional Board of Education Local Unit License Agreement].

(c) The “**Term**” of this High Point Regional Board of Education Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this High Point Regional Board of Education Local Unit License Agreement, none of the Licensor, the Authority, nor any other High Point Regional Board of Education Licensees shall have any further rights, duties or obligations with respect to the High Point Regional Board of Education Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this High Point Regional Board of Education Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the High Point Regional Board of Education Licensees to gain access under the High Point Regional Board of Education Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority’s rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this High Point Regional Board of Education Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) Licensor: High Point Regional Board of Education

- With a copy to: [ Licensor's Counsel]
- (b) Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.Morris.nj.us
- With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com
- (c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960
- With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)
- (d) Company: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email : principals@sunlightgeneral.com
- With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: [jduffy@nixonpeabody.com](mailto:jduffy@nixonpeabody.com)
- (e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Vorhees, NJ 08043  
Email: [jvogel@birdsall.com](mailto:jvogel@birdsall.com)
- With a copy to: Joseph Santaiti  
Gabel Associates

417 Denison St.  
Highland Park, NJ 08904  
Email: joseph.santaiti@gabelassociates.com

**Section 7.4. Successors and Assigns.** This High Point Regional Board of Education Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This High Point Regional Board of Education Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This High Point Regional Board of Education Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other High Point Regional Board of Education Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This High Point Regional Board of Education Local Unit License Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this High Point Regional Board of Education Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this High Point Regional Board of Education Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this High Point Regional Board of Education Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This High Point Regional Board of Education Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This High Point Regional Board of Education Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this High Point Regional Board of Education Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this High Point Regional Board of Education Local Unit License Agreement and (b) its performance of the actions contemplated by this High Point Regional Board of Education Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties

or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this License Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

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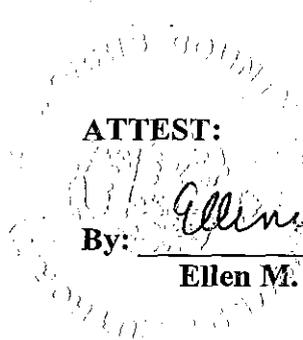
IN WITNESS WHEREOF, the parties hereto have each caused this High Point Regional High School District Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By:   
**John Bonanni, Chairman**

**ATTEST:**

  
By:   
**Ellen M. Sandman, Secretary**

[SEAL]

**HIGH POINT REGIONAL HIGH SCHOOL  
DISTRICT BOARD OF EDUCATION, as  
Licensor**

By: \_\_\_\_\_

**Linda A. Alvarez,  
Business Administrator/Board Secretary**

**ATTEST:**

By: \_\_\_\_\_

**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

IN WITNESS WHEREOF, the parties hereto have each caused this High Point Regional High School District Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By: \_\_\_\_\_  
**John Bonanni, Chairman**

**ATTEST:**

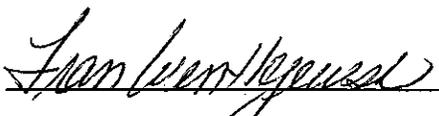
By: \_\_\_\_\_  
**Ellen M. Sandman, Secretary**

[SEAL]

**HIGH POINT REGIONAL HIGH SCHOOL  
DISTRICT BOARD OF EDUCATION, as  
Licensor**

By:   
**Linda A. Alvarez,  
Business Administrator/Board Secretary**

**ATTEST:**

By:   
**Authorized Representative**

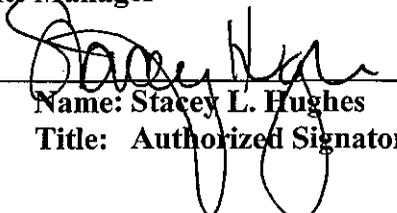
**Acknowledgment and Acceptance Page to Follow**

The terms and conditions of this High Point Regional Board of Education Local Unit License Agreement are hereby **ACKNOWLEDGED** and **ACCEPTED** by the following acknowledgment party, this 14<sup>th</sup> day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_

  
Name: Stacey L. Hughes

Title: Authorized Signatory

STATE OF NEW JERSEY )

) ss.:

COUNTY OF MORRIS)

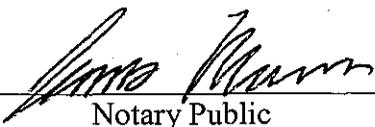
On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared John Bonanni, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

  
Notary Public  
*Attorney at Law State of New Jersey*



STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6233849  
Qualified in New York County  
My Commission Expires January 03, 2015

**EXHIBIT A**

**Morris County Improvement Authority**  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

*High Point Regional School District (<http://www.hpregional.org/>)*

- (A) *High Point Regional High School (Roof 453 kW)*  
*299 Pidgeon Hill Road*  
*Sussex, NJ*

## **EXHIBIT B**

### **[Attach Description of High Point Regional Board of Education Renewable Energy Projects]**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

**EXHIBIT C**

**[Attach Description of High Point Regional Board of Education Capital Improvement Projects]**

**None**

**EXHIBIT D**

**[Attach High Point Regional Board of Education Draw Papers]**

Requisition No. \_\_\_\_

\_\_\_\_\_, \_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**High Point Regional Board of Education Renewable Energy Projects**")] [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**High Point Regional Board of Education Capital Improvement Projects**")] being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensors**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

[\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]; and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

[\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the High Point Regional Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the High Point Regional Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the High Point Regional Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the High Point Regional Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with Section [1(a)] [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw

Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory

The terms of this Requisition are hereby  
**ACKNOWLEDGED** and **ACCEPTED** by the  
Licensor set forth below, this \_\_\_\_ day of \_\_\_\_,  
20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby  
**ACKNOWLEDGED** by **THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY** this  
\_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT E**

**FORMS OF High Point Regional Board of Education ACCEPTANCE CERTIFICATES.**

See Attached:

Form E-1, Form of High Point Regional Board of Education REP Acceptance Certificate

Form E-2, Form of High Point Regional Board of Education CIP Acceptance Certificate

**EXHIBIT E-1**

**[Attach High Point Regional Board of Education REP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the “**High Point Regional Board of Education Renewable Energy Projects**”) being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the High Point Regional Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the High Point Regional Board of Education Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the High Point Regional Board of Education Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof].

3. The High Point Regional Board of Education Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Company’s and the Licensor’s acceptance of the High Point Regional Board of Education Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the High Point Regional Board of Education Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the High Point Regional Board of Education Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the High Point Regional Board of Education Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_

**Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

---

The terms of this High Point Regional Board of Education REP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_

Name:

Title:

The form (only) of this High Point Regional Board of Education REP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_

Name:

Title::

EXHIBIT E-2

**[Attach High Point Regional Board of Education CIP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the "**Company**"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") between The Morris County Improvement Authority, as lessor (the "**Authority**"), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**High Point Regional Board of Education Capital Improvement Projects**") being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the High Point Regional Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the High Point Regional Board of Education Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the High Point Regional Board of Education Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof].

3. By obtaining the Licensor's execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor's acceptance of (a) the High Point Regional Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which High Point Regional Board of Education Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor's acceptance of the High Point Regional Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. *[Choose one, as applicable]*

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the High Point Regional Board of Education Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

\_\_\_\_\_

The terms of this High Point Regional Board of Education CIP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this High Point Regional Board of Education CIP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT F**

**CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR**

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**High Point Regional Board of Education Local Unit License Agreement**") by and between The Morris County Improvement Authority (the "**Authority**") and [ ] (the "**Licensor**"), and (ii) Section 5.03(3)(a) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the High Point Regional Board of Education Local Unit License Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

[ \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to  
\_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

[LICENSOR]

By: \_\_\_\_\_  
Authorized Officer

The form (only) of this Certificate is hereby  
ACKNOWLEDGED by the MORRIS COUNTY  
IMPROVEMENT AUTHORITY this \_\_\_\_ day  
of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**

**[None]**

---

**LICENSE AND ACCESS AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**Kittatinny Regional Board of Education, as Licensor**

**And**

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee**

**Dated as of December 1, 2011**

---

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS “**LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “*Kittatinny Regional Board of Education Local Unit License Agreement*”), dated as of December 1, 2011, is made by and among **Kittatinny Regional Board of Education** (the “*Licensor*”), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the “*County*”), State of New Jersey (“*State*”) and the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “*Authority*” or the “*Licensee*”), duly created by resolution of the Board of Chosen Freeholders (“*Board of Freeholders*”) of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”) and other applicable law.

---

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the “*County*”) desires to undertake the development and implementation of a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

**WHEREAS**, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the “*Municipal Series 2011 Local Units*”); and
- (ii) Byram Township School District, Frankford Township’s Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the “*Board of Education Series 2011 Local Units*”); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the “*County Series 2011 Local Units*”);

(each a “*Series 2011 Local Unit*”, and, collectively, the “*Series 2011 Local Units*”), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated their date of delivery (the “*Series 2011A Bonds*”) the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the “*Series 2011A Bonds*”), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)” (the “*Series 2011B Note*”, and together with the Series 2011A Bonds, “*Series 2011 Bonds*”), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*);

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County

College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments

shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a

minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011

Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure

Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “*County Documents*”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and (ii) the execution and delivery of a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County “*Sale Documents*”);

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the “*Sussex County Board of Freeholders*”) and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the “*Program Documents*”), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agrees as follows:

**ARTICLE I**

**DEFINITIONS**

**Section 1.1. Definitions.**

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**Kittatinny Regional Board of Education Local Unit License Agreement**  
**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**  
**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**

**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this Kittatinny Regional Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

**Account**  
**Additional Bonds**  
**Administrative Expense Account**  
**Administrative Fund**  
**Aged Account**  
**Bond**  
**Capitalized Interest Account**  
**Code**  
**Company Development Fees and Expenses**  
**Completion Conditions**  
**Completion Project**  
**Consulting Energy Engineer**  
**Consulting Energy Engineering Services**  
**Cost**

**Costs of Issuance Account**  
**County Security Fund**  
**County Security Fund Requirement**  
**Debt Service Fund**  
**Funds**  
**General Fund**  
**Gross Substitute Power Purchase Price**  
**Interest Account**  
**Investment Securities**  
**Net Substitute Power Purchase Price**  
**Outstanding**  
**Paying Agent**  
**Principal Account**  
**Principal Office**  
**Project Fund**  
**Rating Agency**  
**Renewable Energy Program Interested Party**  
**Restoration Security Fund**  
**Restoration Security Fund Requirement**  
**Revenue Account**  
**Revenue Fund**  
**Revenues**  
**Series**  
**Series 2011B Bonds**  
**Sinking Fund Installments**  
**Supplemental Resolution**  
**Tax Certificate**  
**Tax-exempt Bonds**  
**Trustee**  
**Trust Estate**

(c) The following defined terms shall, for all purposes of this Kittatinny Regional Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

**Projects**

**Kittatinny Regional Board of Education Capital Improvement**  
**Kittatinny Regional Board of Education Licensee**  
**Kittatinny Regional Board of Education Licensees**  
**Kittatinny Regional Board of Education Local Unit Facilities**  
**Kittatinny Regional Board of Education Local Unit License**  
**Kittatinny Regional Board of Education Project Activities**  
**Kittatinny Regional Board of Education Projects**



that no Kittatinny Regional Board of Education Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

**“Kittatinny Regional Board of Education Construction Manager”** shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

**“Kittatinny Regional Board of Education Draw Papers”** shall mean the requisitions, and attachments thereto, applicable to either the (i) Kittatinny Regional Board of Education Renewable Energy Projects or (ii) Kittatinny Regional Board of Education Capital Improvement Projects, in either case in the form attached as **Exhibit D** to the Kittatinny Regional Board of Education Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the Kittatinny Regional Board of Education Renewable Energy Projects or the Kittatinny Regional Board of Education Capital Improvement Projects, all as set forth in Section 4.1 of the Kittatinny Regional Board of Education Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

**“Kittatinny Regional Board of Education Interconnection Agreement”** shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed Kittatinny Regional Board of Education Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

**“Kittatinny Regional Board of Education REP Acceptance Certificate”** shall mean the certificate applicable to the Kittatinny Regional Board of Education Renewable Energy Projects in the form attached as **Exhibit E-1** to the Kittatinny Regional Board of Education Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company’s acceptance of all of the Kittatinny Regional Board of Education Renewable Energy Projects, all as set forth in Section 4.2 of the Kittatinny Regional Board of Education Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

**“Authorized Officer”** or **“Authorized Representative”** shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the Jack McDonald, Interim Business Administrator/Board Secretary or such other person designated as an Authorized Officer in the Kittatinny Regional Board of Education Local Unit License Agreement or any other person or persons who shall be authorized to act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Event of Default”** shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### Section 2.1. Representations and Warranties of the Licensor.

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this Kittatinny Regional Board of Education Local Unit License Agreement (and any documents contemplated hereby, including without limitation the Kittatinny Regional Board of Education Draw Papers, the Kittatinny Regional Board of Education Acceptance Certificates, and any Kittatinny Regional Board of Education Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the Kittatinny Regional Board of Education Local Unit Facilities. Licensor holds good, record and marketable title to each of the Kittatinny Regional Board of Education Local Unit Facilities and the land underlying the Kittatinny Regional Board of Education Local Unit Facilities. There are no mortgages or other liens against the Kittatinny Regional Board of Education Local Unit Facilities or the land except as set forth on Exhibit G.

#### Section 2.2. Representations and Warranties of the Licensee.

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this Kittatinny Regional Board of Education Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company thereunder, this Kittatinny Regional Board of Education Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i) N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

#### **Section 2.4. Covenants of the Licensor.**

(a) Upon the delivery of the Kittatinny Regional Board of Education CIP Acceptance Certificate with respect to the Kittatinny Regional Board of Education Capital Improvement Projects, if any, the Licensor shall own such Kittatinny Regional Board of Education Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the Kittatinny Regional Board of Education Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the Kittatinny Regional Board of Education Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the Kittatinny Regional Board of Education Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this **Kittatinny Regional Board of Education** Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

#### **Section 2.5. Covenants of the Licensee.**

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the Kittatinny Regional Board of Education Renewable Energy Projects on, or as applicable, in the Kittatinny Regional Board of Education Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital

Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the Kittatinny Regional Board of Education Capital Improvement Projects on or as applicable, in the Kittatinny Regional Board of Education Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the Kittatinny Regional Board of Education Renewable Energy Projects on or as applicable, in or about the Kittatinny Regional Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such Kittatinny Regional Board of Education Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the Kittatinny Regional Board of Education Capital Improvement Projects on or as applicable, in or about the Kittatinny Regional Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that that such Kittatinny Regional Board of Education Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### **Section 2.6. Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any Kittatinny Regional Board of Education Capital Improvement Projects under the Program Documents and any references herein to Kittatinny Regional Board of Education Capital Improvement Projects, Kittatinny Regional Board of Education Capital Improvement Project Fund, Kittatinny Regional Board of Education CIP Acceptance Certificates or any other term defined by reference to Kittatinny Regional Board of Education Capital Improvement Projects (without limiting the application of any such term to the extent not related to Kittatinny Regional Board of Education Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the

County Reserve upon issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

## ARTICLE III

### LICENSE

#### Section 3.1. License.

(a) For the Term of this Kittatinny Regional Board of Education Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this Kittatinny Regional Board of Education Local Unit License Agreement (each, an "**Kittatinny Regional Board of Education Licensee**", and collectively, the "**Kittatinny Regional Board of Education Licensees**"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on **Exhibit A** hereto (the "**Kittatinny Regional Board of Education Local Unit Facilities**"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other Kittatinny Regional Board of Education Licensee access to the Kittatinny Regional Board of Education Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this Kittatinny Regional Board of Education Local Unit License Agreement, a license (the "**Kittatinny Regional Board of Education Local Unit License**") allowing each Kittatinny Regional Board of Education Licensee to enter the Kittatinny Regional Board of Education Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on **Exhibit B** hereto (the "**Kittatinny Regional Board of Education Renewable Energy Projects**"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on **Exhibit C** hereto (the "**Kittatinny Regional Board of Education Capital Improvement Projects**"), and together with the Kittatinny Regional Board of Education Renewable Energy Projects, the "**Kittatinny Regional Board of Education Projects**") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "**Kittatinny Regional Board of Education Project Activities**"), all at the sole cost and expense of the Authority or any other Kittatinny Regional Board of Education Licensee, but not the Licensor[, unless expressly set forth elsewhere herein]. As there are no Kittatinny Regional Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Kittatinny Regional Board of Education Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site (solely the site and not including the solar improvements) at or in each of its Kittatinny Regional Board of Education Local Unit Facilities.

(b) For all purposes of this Kittatinny Regional Board of Education Local Unit License Agreement, the Kittatinny Regional Board of Education Local Unit License shall

be deemed to include a preliminary license granted by the Licensor to the Authority and shall include, as Kittatinny Regional Board of Education Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to constitute permissive Kittatinny Regional Board of Education Activities, which preliminary Kittatinny Regional Board of Education Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

(c) The Kittatinny Regional Board of Education Licensees shall have access to the Kittatinny Regional Board of Education Local Unit Facilities to conduct Kittatinny Regional Board of Education Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the Kittatinny Regional Board of Education Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the Kittatinny Regional Board of Education Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the Kittatinny Regional Board of Education Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the Kittatinny Regional Board of Education Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the Kittatinny Regional Board of Education Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the Kittatinny Regional Board of Education Local Unit Facilities.

(d) No other activities beyond the scope of the Kittatinny Regional Board of Education Project Activities shall be undertaken on the Kittatinny Regional Board of Education Local Unit Facilities by the Authority or any other Kittatinny Regional Board of Education Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensors shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensors is obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensors shall use commercially reasonable efforts to avoid interfering with the Company's performance of its obligations under this Kittatinny Regional Board of Education Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

**Section 3.2. Kittatinny Regional Board of Education Licensees.** The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this Kittatinny Regional Board of Education Local Unit License Agreement, the Kittatinny Regional Board of Education Licensee shall permit the Kittatinny Regional Board of Education Licensees to enter upon the Kittatinny Regional Board of Education Local Unit Facilities to conduct the Kittatinny Regional Board of Education Project Activities, at which time any such Kittatinny Regional Board of Education Licensees shall automatically, without any further action, be bound by the provisions of this Kittatinny Regional Board of Education Local Unit License Agreement during the Term hereof. The Licensee must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and subcontractors who will be present at the site, and the Licensee acknowledges that the same will be used for purposes of checking all identities against the Megans law registry.

**Section 3.3. Observation.** In connection with all Kittatinny Regional Board of Education Project Activities, the Authority and/or any other Kittatinny Regional Board of Education Licensee shall afford the Licensors and/or its representatives, the opportunity to observe all Kittatinny Regional Board of Education Project Activities; provided, however, that such observation activities shall not interfere with any Kittatinny Regional Board of Education Project Activities or delay construction of the Projects; and provided, further, that the Licensors hereby releases and agrees to indemnify, defend and hold harmless the Authority and each other Kittatinny Regional Board of Education Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensors', or its representatives' or consultant's entry or activities on the Kittatinny Regional Board of Education Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all Kittatinny Regional Board of Education Licensees, to promptly provide the Licensors with copies of any final written reports prepared, compiled or generated as part of the Kittatinny Regional Board of Education Project Activities, if any [list of reports can be added here]. Further, the Licensors shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the Kittatinny Regional Board of Education Local Unit License, to inspect the Kittatinny Regional Board of Education Local Unit Facilities and/or the Kittatinny Regional Board of Education Renewable Energy Projects during the Term of this Kittatinny Regional Board of Education Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the Kittatinny Regional Board of Education Local Unit License under this Kittatinny Regional Board of Education Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other Kittatinny Regional Board of Education Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the Kittatinny Regional Board of Education Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing Kittatinny Regional Board of Education Project Activities on the Kittatinny Regional Board of Education Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, as may be modified by the Program Documents, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority and the Licensor is given at least thirty (30) days prior written notice of such cancellation or modification. Notwithstanding anything else contained herein or in the Power Purchase Agreement, to the extent the insurance is in accordance with Acord 25 (2010/05) should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**Section 3.7. Revocation.**

(a) The parties expressly acknowledge that the Kittatinny Regional Board of Education Local Unit License cannot be revoked (including deemed revocation situations where the Kittatinny Regional Board of Education Local Unit Facilities are unavailable to allow the Company to perform Kittatinny Regional Board of Education Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the Kittatinny Regional Board of Education Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its Kittatinny Regional Board of Education Local Unit License for the Kittatinny Regional Board of Education Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the Kittatinny Regional Board of Education Renewable Energy Projects, with as similar physical conditions to the existing Kittatinny Regional Board of Education Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute Kittatinny Regional Board of Education Renewable Energy Project on the Kittatinny Regional Board of Education Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this Kittatinny Regional Board of Education Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the Kittatinny Regional Board of Education Renewable Energy Projects located on, or as applicable in, the Kittatinny Regional Board of Education Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the Kittatinny Regional Board of Education Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new Kittatinny Regional Board of Education Local Unit Facilities for all purposes of this Kittatinny Regional Board of Education Local Unit License Agreement and the other Program Documents, and similarly, the new Kittatinny Regional Board of Education Renewable Energy Projects on, or as applicable in, such new Kittatinny Regional Board of Education Local Unit Facilities shall be deemed the new Kittatinny Regional Board of Education Renewable Energy Projects for all purposes of this Kittatinny Regional Board of Education Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the Kittatinny Regional Board of Education Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this Kittatinny Regional Board of Education Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Kittatinny Regional Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (I) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (II) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the Kittatinny Regional Board of Education Renewable Energy Projects been operating at the Kittatinny Regional Board of Education Local Unit Facilities for the remainder of such then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (III) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the Kittatinny Regional Board of Education Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the Kittatinny Regional Board of Education Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the Kittatinny Regional Board of Education Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any Kittatinny Regional Board of Education Local Unit Facility as a result of which such Kittatinny Regional Board of Education Local Unit Facility is unavailable to allow the Company to perform its Kittatinny Regional Board of Education Project Activities shall be deemed to be a revocation of the Kittatinny Regional Board of Education Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

**Section 3.8. Material Change to Kittatinny Regional Board of Education Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.**

To the extent the Licensor requests a material change to the Kittatinny Regional Board of Education Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the Kittatinny Regional Board of Education Renewable Energy Projects (the “**Revised Kittatinny Regional Board of Education Renewable Energy Projects**”), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised Kittatinny Regional Board of Education Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the Kittatinny Regional Board of Education Renewable Energy Projects set forth on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

**Section 3.9. Abandonment.**

If any Kittatinny Regional Board of Education Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this Kittatinny Regional Board of Education Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such Kittatinny Regional Board of Education Renewable Energy Project, be deemed terminated and discharged.

## ARTICLE IV

### **Kittatinny Regional Board of Education DRAW PAPERS; Kittatinny Regional Board of Education ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE**

#### **Section 4.1. Kittatinny Regional Board of Education Draw Papers.**

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the Kittatinny Regional Board of Education Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the Kittatinny Regional Board of Education Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the Kittatinny Regional Board of Education Renewable Energy Projects and the Kittatinny Regional Board of Education Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the Kittatinny Regional Board of Education Renewable Energy Projects or the Kittatinny Regional Board of Education Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the Kittatinny Regional Board of Education Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and **Exhibit D** hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the Kittatinny Regional Board of Education Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the Kittatinny Regional Board of Education Capital Improvement Projects. The Licensor shall promptly review the Kittatinny Regional Board of Education Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the Kittatinny Regional Board of Education Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such Kittatinny Regional Board of Education Draw Papers where indicated, and promptly forward the original of such Kittatinny Regional Board of Education Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Kittatinny Regional Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any Kittatinny Regional

Board of Education Draw Papers, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Kittatinny Regional Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Kittatinny Regional Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body (so long as same does not violate state statutes and regulations), in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver any Kittatinny Regional Board of Education Draw Papers or (ii) delegate any such action to the Kittatinny Regional Board of Education Construction Manager.

(e) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Kittatinny Regional Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any Kittatinny Regional Board of Education Draw Papers to the Kittatinny Regional Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Kittatinny Regional Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Kittatinny Regional Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any Kittatinny Regional Board of Education Draw Papers or (ii) delegate any such action to the Kittatinny Regional Board of Education Construction Manager.

**Section 4.2. Kittatinny Regional Board of Education REP Acceptance Certificate Relating to the Kittatinny Regional Board of Education Renewable Energy Projects.**

(a) When the Company has determined that all of the Kittatinny Regional Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the Kittatinny Regional Board of Education Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Kittatinny Regional Board of Education REP Acceptance Certificate applicable to such Kittatinny Regional Board of Education Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and **Exhibit E-1** hereto.

(b) The Licensor shall promptly review the form Kittatinny Regional Board of Education REP Acceptance Certificate applicable to the Kittatinny Regional Board of Education Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company

to clarify or otherwise change the Kittatinny Regional Board of Education REP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Kittatinny Regional Board of Education REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Kittatinny Regional Board of Education REP Acceptance Certificate where indicated, and promptly forward the original of such Kittatinny Regional Board of Education REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Kittatinny Regional Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Kittatinny Regional Board of Education REP Acceptance Certificate to the Kittatinny Regional Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Kittatinny Regional Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. The Kittatinny Regional Board of Education Construction Manager shall use all reasonable efforts to ensure that copies of all Draw Papers and the REP Acceptance Certificate are forwarded to the Licensor in a reasonably timely manner. By the Licensor's authorization, execution and delivery of this Kittatinny Regional Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Kittatinny Regional Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Kittatinny Regional Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Kittatinny Regional Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Kittatinny Regional Board of Education REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Kittatinny Regional Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Kittatinny Regional Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Kittatinny Regional Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Kittatinny Regional Board of Education Construction Manager.

**Section 4.3. Kittatinny Regional Board of Education CIP Acceptance Certificate Relating to the Kittatinny Regional Board of Education Capital Improvement Projects.**

(a) When the Company has determined that all of the Kittatinny Regional Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Kittatinny Regional Board of Education CIP Acceptance Certificate applicable to such Kittatinny Regional Board of Education Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and **Exhibit E-2** hereto.

(b) The Licensor shall promptly review the form Kittatinny Regional Board of Education CIP Acceptance Certificate applicable to the Kittatinny Regional Board of Education Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Kittatinny Regional Board of Education CIP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Kittatinny Regional Board of Education CIP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Kittatinny Regional Board of Education CIP Acceptance Certificate where indicated, and promptly forward the original of such Kittatinny Regional Board of Education CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Kittatinny Regional Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Kittatinny Regional Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Kittatinny Regional Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Kittatinny Regional Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Kittatinny Regional Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Kittatinny Regional Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Kittatinny Regional Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Kittatinny Regional Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the

Kittatinny Regional Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Kittatinny Regional Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Kittatinny Regional Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Kittatinny Regional Board of Education Construction Manager.

**Section 4.4. Costs of Issuance.**

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of **Exhibit F** hereto.

## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material affect on the Licensor, it being expressly understood that any such amendment having no material affect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the Kittatinny Regional Board of Education Renewable Energy Projects and restoration of the Kittatinny Regional Board of Education Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this Kittatinny Regional Board of Education Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the

applicable Series 2011 Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power from the Company thereunder from the Kittatinny Regional Board of Education Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(i) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (c), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the Kittatinny Regional Board of Education Renewable Energy Projects located on, or as applicable, in the Kittatinny Regional Board of Education Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the Kittatinny Regional Board of Education Renewable Energy Projects installed on or, as applicable, in the Kittatinny Regional Board of Education Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the Kittatinny Regional Board of Education Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall take into account all

the facts and circumstances of the marketplace for such Kittatinny Regional Board of Education Renewable Energy Projects at such time, including without limitation, its continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; *provided, however*, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other Kittatinny Regional Board of Education Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time (as reasonably determined by the Authority), the Kittatinny Regional Board of Education Renewable Energy Projects from the Kittatinny Regional Board of Education Local Unit Facilities at the sole cost and expense and effort of the Company or any such other Kittatinny Regional Board of Education Licensees, and (ii) restore, within a reasonable period of time, the Kittatinny Regional Board of Education Local Unit Facilities, as improved by the Kittatinny Regional Board of Education Capital Improvement Projects, to the condition prior to the installation of the Kittatinny Regional Board of Education Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the Kittatinny Regional Board of Education Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

#### **Section 5.2. Substitute Power Purchase Price.**

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power

Purchase Agreement, this Kittatinny Regional Board of Education Local Unit License Agreement shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its Kittatinny Regional Board of Education Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the Kittatinny Regional Board of Education Renewable Energy Projects located on, or as applicable, in the Kittatinny Regional Board of Education Local Unit Facilities from the Authority, as owner of the Kittatinny Regional Board of Education Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "**Gross Substitute Power Purchase Price**"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "**Net Substitute Power Purchase Price**") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the Kittatinny Regional Board of Education Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase

Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the Kittatinny Regional Board of Education Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the Kittatinny Regional Board of Education Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI

### EVENT OF DEFAULT

#### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this Kittatinny Regional Board of Education Local Unit License Agreement:

(i) the Authority or any other Kittatinny Regional Board of Education Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other Kittatinny Regional Board of Education Licensee to be performed or observed under this Kittatinny Regional Board of Education Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other Kittatinny Regional Board of Education Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this Kittatinny Regional Board of Education Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(c) that are within the Licensor's control) the Kittatinny Regional Board of Education Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part

of the Licensor to be performed or observed under this Kittatinny Regional Board of Education Local Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

## **Section 6.2. Remedies.**

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this Kittatinny Regional Board of Education Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Kittatinny Regional Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by

statute to enforce the specific performance rights of the Authority under this Kittatinny Regional Board of Education Local Unit License Agreement.

**Section 6.3. Remedies Generally.**

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this Kittatinny Regional Board of Education Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this Kittatinny Regional Board of Education Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the Kittatinny Regional Board of Education Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such Kittatinny Regional Board of Education Projects until cured, including without limitation the requirement that the Company complete all Projects, including the Kittatinny Regional Board of Education Projects, by December 14, 2012, all in accordance with the terms of the Program Documents.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.1 Term.

(a) This Kittatinny Regional Board of Education Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This Kittatinny Regional Board of Education Local Unit License Agreement and the Kittatinny Regional Board of Education Local Unit License granted herein shall terminate against the Authority, after which date all Kittatinny Regional Board of Education Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the Kittatinny Regional Board of Education Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the Kittatinny Regional Board of Education Renewable Energy Projects shall have been removed from the Kittatinny Regional Board of Education Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the Kittatinny Regional Board of Education Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the Kittatinny Regional Board of Education Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 thereof, and [either the Licensor or the Licensee desires to terminate

this Kittatinny Regional Board of Education Local Unit License Agreement, which termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the Licensee agree in writing to terminate this Kittatinny Regional Board of Education Local Unit License Agreement].

(c) The “**Term**” of this Kittatinny Regional Board of Education Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this Kittatinny Regional Board of Education Local Unit License Agreement, none of the Licensor, the Authority, nor any other Kittatinny Regional Board of Education Licensees shall have any further rights, duties or obligations with respect to the Kittatinny Regional Board of Education Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this Kittatinny Regional Board of Education Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the Kittatinny Regional Board of Education Licensees to gain access under the Kittatinny Regional Board of Education Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority’s rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Kittatinny Regional Board of Education Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) Licensor: Kittatinny Regional Board of Education

- With a copy to: [ Licensor's Counsel]
- (b) Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.Morris.nj.us
- With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com
- (c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960
- With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)
- (d) Company: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email : principals@sunlightgeneral.com
- With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: [jduffy@nixonpeabody.com](mailto:jduffy@nixonpeabody.com)
- (e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Vorhees, NJ 08043  
Email: [jvogel@birdsall.com](mailto:jvogel@birdsall.com)
- With a copy to: Joseph Santaiti  
Gabel Associates

417 Denison St.  
Highland Park, NJ 08904  
Email: joseph.santaiti@gabelassociates.com

**Section 7.4. Successors and Assigns.** This Kittatinny Regional Board of Education Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This Kittatinny Regional Board of Education Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This Kittatinny Regional Board of Education Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other Kittatinny Regional Board of Education Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This Kittatinny Regional Board of Education Local Unit License Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this Kittatinny Regional Board of Education Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this Kittatinny Regional Board of Education Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this Kittatinny Regional Board of Education Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This Kittatinny Regional Board of Education Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This Kittatinny Regional Board of Education Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this Kittatinny Regional Board of Education Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this Kittatinny Regional Board of Education Local Unit License Agreement and (b) its performance of the actions contemplated by this Kittatinny Regional Board of Education Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties

or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this License Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**[ The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow ]**

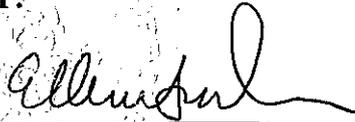
IN WITNESS WHEREOF, the parties hereto have each caused this Kittatinny Regional Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By:   
**John Bonanni, Chairman**

**ATTEST:**

By:   
**Ellen M. Sandman, Secretary**

[SEAL]

**KITTATINNY REGIONAL SCHOOL  
DISTRICT BOARD OF EDUCATION, as  
Licensor**

By: \_\_\_\_\_  
**Jack McDonald,  
Business Administrator/Board Secretary**

**ATTEST:**

By: \_\_\_\_\_  
**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

IN WITNESS WHEREOF, the parties hereto have each caused this Kittatinny Regional Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

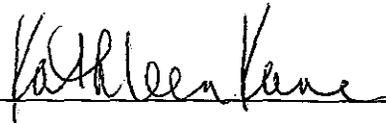
By: \_\_\_\_\_  
**John Bonanni, Chairman**

ATTEST:

By: \_\_\_\_\_  
**Ellen M. Sandman, Secretary**

[SEAL]

**KITTATINNY REGIONAL SCHOOL  
DISTRICT board of education, as Licensor**

By: 

**Kathleen Kane,  
Business Administrator/Board Secretary**

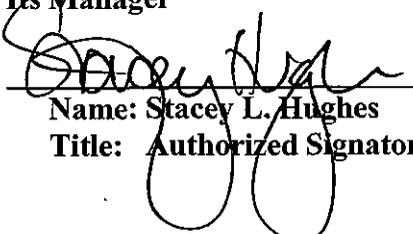
ATTEST:

By:   
**Authorized Representative**

The terms and conditions of this Kittantiny Regional Board of Education Local Unit License Agreement are hereby **ACKNOWLEDGED** and **ACCEPTED** by the following acknowledgment party, this 14<sup>th</sup> day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC**  
**Its Manager**

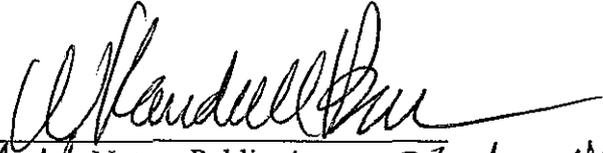
By: 

Name: Stacey L. Hughes

Title: Authorized Signatory

STATE OF NEW JERSEY )  
 ) ss.:  
COUNTY OF MORRIS)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared John Bonanni, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

  
Notary Public  




STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
\_\_\_\_\_  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6233849  
Qualified in New York County  
My Commission Expires January 03, 2015

**EXHIBIT A**

**Morris County Improvement Authority**  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

*Kittatinny Regional School District (<http://www.krhs.net/>)*

- (A) *Kittatinny Regional High School (Roof 187 kW and Parking Canopy  
173 kW)  
77 Halsey Road  
Newton, NJ*

## **EXHIBIT B**

### **[Attach Description of Kittatinny Regional Board of Education Renewable Energy Projects]**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

**EXHIBIT C**

**[Attach Description of Kittatinny Regional Board of Education Capital Improvement  
Projects]**

**None**

**EXHIBIT D**

**[Attach Kittatinny Regional Board of Education Draw Papers]**

Requisition No. \_\_\_\_\_

\_\_\_\_\_, \_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Kittatinny Regional Board of Education Renewable Energy Projects**") [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**Kittatinny Regional Board of Education Capital Improvement Projects**")]] being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]; and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Kittatinny Regional Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Kittatinny Regional Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Kittatinny Regional Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Kittatinny Regional Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with Section [1(a)] [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw

Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory

The terms of this Requisition are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT E**

**FORMS OF Kittatinny Regional Board of Education ACCEPTANCE CERTIFICATES**

See Attached:

Form E-1, Form of Kittatinny Regional Board of Education REP Acceptance Certificate  
Form E-2, Form of Kittatinny Regional Board of Education CIP Acceptance Certificate

**EXHIBIT E-1**

**[Attach Kittatinny Regional Board of Education REP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the “**Kittatinny Regional Board of Education Renewable Energy Projects**”) being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the Kittatinny Regional Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Kittatinny Regional Board of Education Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Kittatinny Regional Board of Education Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof].

3. The Kittatinny Regional Board of Education Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Company’s and the Licensor’s acceptance of the Kittatinny Regional Board of Education Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the Kittatinny Regional Board of Education Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the Kittatinny Regional Board of Education Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Kittatinny Regional Board of Education Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_

**Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**



The terms of this Kittatinny Regional Board of Education REP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Kittatinny Regional Board of Education REP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title::

**EXHIBIT E-2**

**[Attach Kittatinny Regional Board of Education CIP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the “**Kittatinny Regional Board of Education Capital Improvement Projects**”) being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the Kittatinny Regional Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Kittatinny Regional Board of Education Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Kittatinny Regional Board of Education Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof].

3. By obtaining the Licensor’s execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor’s acceptance of (a) the Kittatinny Regional Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which Kittatinny Regional Board of Education Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor’s acceptance of the Kittatinny Regional Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. *[Choose one, as applicable]*

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Kittatinny Regional Board of Education Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

\_\_\_\_\_

The terms of this Kittatinny Regional Board of Education CIP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Kittatinny Regional Board of Education CIP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT F**

**CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR**

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the “Series 2011 Bonds”)

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Kittatinny Regional Board of Education Local Unit License Agreement**”) by and between The Morris County Improvement Authority (the “**Authority**”) and [ ] (the “**Licensor**”), and (ii) Section 5.03(3)(a) of the Authority’s bond resolution duly adopted July 20, 2011 and entitled “Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority”, as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Kittatinny Regional Board of Education Local Unit License Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

[ \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to \_\_\_\_\_  
for \_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

[LICENSOR]

By: \_\_\_\_\_  
Authorized Officer

The form (only) of this Certificate is hereby  
ACKNOWLEDGED by the MORRIS COUNTY  
IMPROVEMENT AUTHORITY this \_\_\_\_ day  
of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**

**[None]**

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**Newton Board of Education, as Licensor**

**And**

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee**

**Dated as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS "**LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "*Newton Board of Education Local Unit License Agreement*"), dated as of December 1, 2011, is made by and among **Newton Board of Education** (the "*Licensor*"), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the "*County*"), State of New Jersey ("*State*") and the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the "*Authority*" or the "*Licensee*"), duly created by resolution of the Board of Chosen Freeholders ("*Board of Freeholders*") of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*") and other applicable law.

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "*Series 2011A Bonds*") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "*Series 2011A Bonds*"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*", and together with the Series 2011A Bonds, "*Series 2011 Bonds*"), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*);

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County

College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments

shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a

minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011

Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure

Agreement, the "*Continuing Disclosure Agreements*"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*"); and (ii) the execution and delivery of a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "*Sale Documents*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("*Section 13*") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "*Sussex County Board of Freeholders*") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program Documents*"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE,** for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agrees as follows:

**ARTICLE I**  
**DEFINITIONS**

**Section 1.1. Definitions.**

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**Newton Board of Education Local Unit License Agreement**  
**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**  
**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**

**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this Newton Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

**Account**  
**Additional Bonds**  
**Administrative Expense Account**  
**Administrative Fund**  
**Aged Account**  
**Bond**  
**Capitalized Interest Account**  
**Code**  
**Company Development Fees and Expenses**  
**Completion Conditions**  
**Completion Project**  
**Consulting Energy Engineer**  
**Consulting Energy Engineering Services**  
**Cost**

**Costs of Issuance Account**  
**County Security Fund**  
**County Security Fund Requirement**  
**Debt Service Fund**  
**Funds**  
**General Fund**  
**Gross Substitute Power Purchase Price**  
**Interest Account**  
**Investment Securities**  
**Net Substitute Power Purchase Price**  
**Outstanding**  
**Paying Agent**  
**Principal Account**  
**Principal Office**  
**Project Fund**  
**Rating Agency**  
**Renewable Energy Program Interested Party**  
**Restoration Security Fund**  
**Restoration Security Fund Requirement**  
**Revenue Account**  
**Revenue Fund**  
**Revenues**  
**Series**  
**Series 2011B Bonds**  
**Sinking Fund Installments**  
**Supplemental Resolution**  
**Tax Certificate**  
**Tax-exempt Bonds**  
**Trustee**  
**Trust Estate**

(c) The following defined terms shall, for all purposes of this Newton Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

**Newton Board of Education Capital Improvement Projects**  
**Newton Board of Education Licensee**  
**Newton Board of Education Licensees**  
**Newton Board of Education Local Unit Facilities**  
**Newton Board of Education Local Unit License**  
**Newton Board of Education Project Activities**  
**Newton Board of Education Projects**  
**Newton Board of Education Renewable Energy Projects**

**Projects**

(ii) Section 3.8:

**Revised Newton Board of Education Renewable Energy**

(iii) Section 5.2(a)(i)

**Gross Substitute Power Purchase Price  
Net Substitute Power Purchase Price**

(iv) Section 6.1(a)

**Authority Event of Default**

(v) Section 6.1(b)

**Licensor Event of Default**

(vi) Section 7.1(c)

**Term**

(d) The following defined terms shall, for all purposes of this Newton Board of Education Local Unit License Agreement, have the following meanings:

“**Newton Board of Education Acceptance Certificates**” shall mean individually or collectively, as the case may be, the Newton Board of Education CIP Acceptance Certificate and the Newton Board of Education REP Acceptance Certificate, each in the form attached as **Exhibit E** to the Newton Board of Education Local Unit License Agreement and Exhibit B to the Company Lease Agreement.

“**Newton Board of Education CIP Acceptance Certificate**” shall mean the certificate applicable to the Newton Board of Education Capital Improvement Projects in the form attached as **Exhibit E-2** to the Newton Board of Education Local Unit License Agreement and Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, Licensor’s acceptance of all of the Newton Board of Education Capital Improvement Projects, all as set forth in Section 4.3 of the Newton Board of Education Local Unit License Agreement and Section 510(d)(ii) of the Company Lease Agreement. As there are no Newton Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Newton Board of Education Local Unit License Agreement. The Parties acknowledge and agree that no Newton Board of Education Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

**“Newton Board of Education Construction Manager”** shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

**“Newton Board of Education Draw Papers”** shall mean the requisitions, and attachments thereto, applicable to either the (i) Newton Board of Education Renewable Energy Projects or (ii) Newton Board of Education Capital Improvement Projects, in either case in the form attached as **Exhibit D** to the Newton Board of Education Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the Newton Board of Education Renewable Energy Projects or the Newton Board of Education Capital Improvement Projects, all as set forth in Section 4.1 of the Newton Board of Education Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

**“Newton Board of Education Interconnection Agreement”** shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed Newton Board of Education Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

**“Newton Board of Education REP Acceptance Certificate”** shall mean the certificate applicable to the Newton Board of Education Renewable Energy Projects in the form attached as **Exhibit E-1** to the Newton Board of Education Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company’s acceptance of all of the Newton Board of Education Renewable Energy Projects, all as set forth in Section 4.2 of the Newton Board of Education Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

**“Authorized Officer”** or **“Authorized Representative”** shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen

signatures of each such person; (ii) with respect to the Licensor: the Business Administrator/Board Secretary, Superintendent or such other person designated as an Authorized Officer in the Newton Board of Education Local Unit License Agreement or any other person or persons who shall be authorized to act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Event of Default”** shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### Section 2.1. Representations and Warranties of the Licensor.

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this Newton Board of Education Local Unit License Agreement (and any documents contemplated hereby, including without limitation the Newton Board of Education Draw Papers, the Newton Board of Education Acceptance Certificates, and any Newton Board of Education Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the Newton Board of Education Local Unit Facilities. Licensor holds good, record and marketable title to each of the Newton Board of Education Local Unit Facilities and the land underlying the Newton Board of Education Local Unit Facilities. There are no mortgages or other liens against the Newton Board of Education Local Unit Facilities or the land except as set forth on Exhibit G.

#### Section 2.2. Representations and Warranties of the Licensee.

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this Newton Board of Education Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late

or insufficient payment of Basic Lease Payments by the Company thereunder, this Newton Board of Education Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i) N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

#### **Section 2.4. Covenants of the Licensor.**

(a) Upon the delivery of the Newton Board of Education CIP Acceptance Certificate with respect to the Newton Board of Education Capital Improvement Projects, if any, the Licensor shall own such Newton Board of Education Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the Newton Board of Education Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the Newton Board of Education Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the Newton Board of Education Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this **Newton Board of Education** Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

#### **Section 2.5. Covenants of the Licensee.**

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the Newton Board of Education Renewable Energy Projects on, or as applicable, in the Newton Board of Education Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the Newton Board of

Education Capital Improvement Projects on or as applicable, in the Newton Board of Education Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the Newton Board of Education Renewable Energy Projects on or as applicable, in or about the Newton Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such Newton Board of Education Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the Newton Board of Education Capital Improvement Projects on or as applicable, in or about the Newton Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that that such Newton Board of Education Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### **Section 2.6. Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any Newton Board of Education Capital Improvement Projects under the Program Documents and any references herein to Newton Board of Education Capital Improvement Projects, Newton Board of Education Capital Improvement Project Fund, Newton Board of Education CIP Acceptance Certificates or any other term defined by reference to Newton Board of Education Capital Improvement Projects (without limiting the application of any such term to the extent not related to Newton Board of Education Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the County Reserve upon issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

## ARTICLE III

### LICENSE

#### Section 3.1. License.

(a) For the Term of this Newton Board of Education Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this Newton Board of Education Local Unit License Agreement (each, an "**Newton Board of Education Licensee**", and collectively, the "**Newton Board of Education Licensees**"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on **Exhibit A** hereto (the "**Newton Board of Education Local Unit Facilities**"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other Newton Board of Education Licensee access to the Newton Board of Education Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this Newton Board of Education Local Unit License Agreement, a license (the "**Newton Board of Education Local Unit License**") allowing each Newton Board of Education Licensee to enter the Newton Board of Education Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on **Exhibit B** hereto (the "**Newton Board of Education Renewable Energy Projects**"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on **Exhibit C** hereto (the "**Newton Board of Education Capital Improvement Projects**", and together with the Newton Board of Education Renewable Energy Projects, the "**Newton Board of Education Projects**") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "**Newton Board of Education Project Activities**"), all at the sole cost and expense of the Authority or any other Newton Board of Education Licensee, but not the Licensor[, unless expressly set forth elsewhere herein]. As there are no Newton Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Newton Board of Education Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site (solely the site and not including the solar improvements) at or in each of its Newton Board of Education Local Unit Facilities.

(b) For all purposes of this Newton Board of Education Local Unit License Agreement, the Newton Board of Education Local Unit License shall be deemed to include a preliminary license granted by the Licensor to the Authority and shall include, as Newton Board of Education Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the

Licensors, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to constitute permissive Newton Board of Education Activities, which preliminary Newton Board of Education Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

(c) The Newton Board of Education Licensees shall have access to the Newton Board of Education Local Unit Facilities to conduct Newton Board of Education Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the Newton Board of Education Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the Newton Board of Education Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the Newton Board of Education Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the Newton Board of Education Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the Newton Board of Education Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the Newton Board of Education Local Unit Facilities.

(d) No other activities beyond the scope of the Newton Board of Education Project Activities shall be undertaken on the Newton Board of Education Local Unit Facilities by the Authority or any other Newton Board of Education Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensor shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance

agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensor is obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensor shall use commercially reasonable efforts to avoid interfering with the Company's performance of its obligations under this Newton Board of Education Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

**Section 3.2. Newton Board of Education Licensees.** The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this Newton Board of Education Local Unit License Agreement, the Newton Board of Education License shall permit the Newton Board of Education Licensees to enter upon the Newton Board of Education Local Unit Facilities to conduct the Newton Board of Education Project Activities, at which time any such Newton Board of Education Licensees shall automatically, without any further action, be bound by the provisions of this Newton Board of Education Local Unit License Agreement during the Term hereof. The Licensee must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and subcontractors who will be present at the site, and the Licensee acknowledges that the same will be used for purposes of checking all identities against the Megans law registry.

**Section 3.3. Observation.** In connection with all Newton Board of Education Project Activities, the Authority and/or any other Newton Board of Education Licensee shall afford the Licensor and/or its representatives, the opportunity to observe all Newton Board of Education Project Activities; provided, however, that such observation activities shall not interfere with any Newton Board of Education Project Activities or delay construction of the Projects; and provided, further, that the Licensor hereby releases and agrees to indemnify, defend and hold harmless the Authority and each other Newton Board of Education Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensor's, or its representatives' or consultant's entry or activities on the Newton Board of Education Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all Newton Board of Education Licensees, to promptly provide the Licensor with copies of any final written reports prepared, compiled or generated as part of the Newton Board of Education Project Activities, if any [list of reports can be added here]. Further, the Licensor shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the Newton Board of Education Local Unit License, to inspect the Newton Board of Education Local Unit Facilities and/or the Newton Board of Education Renewable Energy Projects during the Term of this Newton Board of Education Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the Newton Board of Education Local Unit License under this Newton Board of Education Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other Newton Board of Education Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of

the Newton Board of Education Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing Newton Board of Education Project Activities on the Newton Board of Education Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, as may be modified by the Program Documents, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority and the Licensor is given at least thirty (30) days prior written notice of such cancellation or modification. Notwithstanding anything else contained herein or in the Power Purchase Agreement, to the extent the insurance is in accordance with Acord 25 (2010/05) should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**Section 3.7. Revocation.**

(a) The parties expressly acknowledge that the Newton Board of Education Local Unit License cannot be revoked (including deemed revocation situations where the Newton Board of Education Local Unit Facilities are unavailable to allow the Company to perform Newton Board of Education Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the Newton Board of Education Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its Newton Board of Education Local Unit License for the Newton Board of Education Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the Newton Board of Education Renewable Energy Projects, with as similar physical conditions to the existing Newton Board of Education Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute Newton Board of Education Renewable Energy Project on the Newton Board of Education Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any

electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this Newton Board of Education Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the Newton Board of Education Renewable Energy Projects located on, or as applicable in, the Newton Board of Education Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the Newton Board of Education Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new Newton Board of Education Local Unit Facilities for all purposes of this Newton Board of Education Local Unit License Agreement and the other Program Documents, and similarly, the new Newton Board of Education Renewable Energy Projects on, or as applicable in, such new Newton Board of Education Local Unit Facilities shall be deemed the new Newton Board of Education Renewable Energy Projects for all purposes of this Newton Board of Education Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the Newton Board of Education Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this Newton Board of Education Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Newton Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program

Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (I) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (II) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the Newton Board of Education Renewable Energy Projects been operating at the Newton Board of Education Local Unit Facilities for the remainder of such then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (III) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the Newton Board of Education Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the Newton Board of Education Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the Newton Board of Education Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any Newton Board of Education Local Unit Facility as a result of which such Newton Board of Education Local Unit Facility is unavailable to allow the Company to perform its Newton Board of Education Project Activities shall be deemed to be a revocation of the Newton Board of Education Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

### **Section 3.8. Material Change to Newton Board of Education Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.**

To the extent the Licensor requests a material change to the Newton Board of Education Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material

changes to the Newton Board of Education Renewable Energy Projects (the “**Revised Newton Board of Education Renewable Energy Projects**”), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised Newton Board of Education Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the Newton Board of Education Renewable Energy Projects set forth on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

**Section 3.9. Abandonment.**

If any Newton Board of Education Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this Newton Board of Education Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such Newton Board of Education Renewable Energy Project, be deemed terminated and discharged.

## ARTICLE IV

### **Newton Board of Education DRAW PAPERS; Newton Board of Education ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE**

#### **Section 4.1. Newton Board of Education Draw Papers.**

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the Newton Board of Education Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the Newton Board of Education Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the Newton Board of Education Renewable Energy Projects and the Newton Board of Education Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the Newton Board of Education Renewable Energy Projects or the Newton Board of Education Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the Newton Board of Education Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and **Exhibit D** hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the Newton Board of Education Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the Newton Board of Education Capital Improvement Projects. The Licensor shall promptly review the Newton Board of Education Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the Newton Board of Education Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such Newton Board of Education Draw Papers where indicated, and promptly forward the original of such Newton Board of Education Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Newton Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any Newton Board of Education Draw Papers, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies

to the Authority, the Company, and the Newton Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Newton Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body (so long as same does not violate state statutes and regulations), in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver any Newton Board of Education Draw Papers or (ii) delegate any such action to the Newton Board of Education Construction Manager.

(e) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Newton Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any Newton Board of Education Draw Papers to the Newton Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Newton Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Newton Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any Newton Board of Education Draw Papers or (ii) delegate any such action to the Newton Board of Education Construction Manager.

**Section 4.2. Newton Board of Education REP Acceptance Certificate Relating to the Newton Board of Education Renewable Energy Projects.**

(a) When the Company has determined that all of the Newton Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the Newton Board of Education Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Newton Board of Education REP Acceptance Certificate applicable to such Newton Board of Education Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and **Exhibit E-1** hereto.

(b) The Licensor shall promptly review the form Newton Board of Education REP Acceptance Certificate applicable to the Newton Board of Education Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Newton Board of Education REP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Newton Board of Education REP Acceptance Certificate from the Company in a form acceptable to the Licensor,

the Licensor shall execute the acknowledgment form to such Newton Board of Education REP Acceptance Certificate where indicated, and promptly forward the original of such Newton Board of Education REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Newton Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Newton Board of Education REP Acceptance Certificate to the Newton Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Newton Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. The Newton Board of Education Construction Manager shall use all reasonable efforts to ensure that copies of all Draw Papers and the REP Acceptance Certificate are forwarded to the Licensor in a reasonably timely manner. By the Licensor's authorization, execution and delivery of this Newton Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Newton Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Newton Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Newton Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Newton Board of Education REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Newton Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Newton Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Newton Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Newton Board of Education Construction Manager.

**Section 4.3. Newton Board of Education CIP Acceptance Certificate Relating to the Newton Board of Education Capital Improvement Projects.**

(a) When the Company has determined that all of the Newton Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Newton Board of Education CIP Acceptance Certificate applicable to such Newton Board of Education Capital Improvement

Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and **Exhibit E-2** hereto.

(b) The Licensor shall promptly review the form Newton Board of Education CIP Acceptance Certificate applicable to the Newton Board of Education Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Newton Board of Education CIP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Newton Board of Education CIP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Newton Board of Education CIP Acceptance Certificate where indicated, and promptly forward the original of such Newton Board of Education CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Newton Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Newton Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Newton Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Newton Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Newton Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Newton Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Newton Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Newton Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Newton Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Newton Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Newton Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Newton Board of Education Construction Manager.

**Section 4.4. Costs of Issuance.**

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of **Exhibit F** hereto.

## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material affect on the Licensor, it being expressly understood that any such amendment having no material affect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the Newton Board of Education Renewable Energy Projects and restoration of the Newton Board of Education Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this Newton Board of Education Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the applicable Series

2011 Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power from the Company thereunder from the Newton Board of Education Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(i) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (c), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the Newton Board of Education Renewable Energy Projects located on, or as applicable, in the Newton Board of Education Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the Newton Board of Education Renewable Energy Projects installed on or, as applicable, in the Newton Board of Education Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the Newton Board of Education Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall take into account all the facts and circumstances

of the marketplace for such Newton Board of Education Renewable Energy Projects at such time, including without limitation, its continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; *provided, however*, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other Newton Board of Education Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time (as reasonably determined by the Authority), the Newton Board of Education Renewable Energy Projects from the Newton Board of Education Local Unit Facilities at the sole cost and expense and effort of the Company or any such other Newton Board of Education Licensees, and (ii) restore, within a reasonable period of time, the Newton Board of Education Local Unit Facilities, as improved by the Newton Board of Education Capital Improvement Projects, to the condition prior to the installation of the Newton Board of Education Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the Newton Board of Education Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

## **Section 5.2. Substitute Power Purchase Price.**

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, this Newton Board of Education Local Unit License Agreement shall

continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its Newton Board of Education Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the Newton Board of Education Renewable Energy Projects located on, or as applicable, in the Newton Board of Education Local Unit Facilities from the Authority, as owner of the Newton Board of Education Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "**Gross Substitute Power Purchase Price**"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "**Net Substitute Power Purchase Price**") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the Newton Board of Education Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a portion of the Gross Substitute Power Purchase Price shall be paid over or

directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the Newton Board of Education Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the Newton Board of Education Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI

### EVENT OF DEFAULT

#### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this Newton Board of Education Local Unit License Agreement:

(i) the Authority or any other Newton Board of Education Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other Newton Board of Education Licensee to be performed or observed under this Newton Board of Education Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other Newton Board of Education Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this Newton Board of Education Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(c) that are within the Licensor's control) the Newton Board of Education Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part

of the Licensor to be performed or observed under this Newton Board of Education Local Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

## **Section 6.2. Remedies.**

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this Newton Board of Education Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Newton Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by

statute to enforce the specific performance rights of the Authority under this Newton Board of Education Local Unit License Agreement.

**Section 6.3. Remedies Generally.**

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this Newton Board of Education Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this Newton Board of Education Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the Newton Board of Education Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such Newton Board of Education Projects until cured, including without limitation the requirement that the Company complete all Projects, including the Newton Board of Education Projects, by December 14, 2012, all in accordance with the terms of the Program Documents.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.1 Term.

(a) This Newton Board of Education Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This Newton Board of Education Local Unit License Agreement and the Newton Board of Education Local Unit License granted herein shall terminate against the Authority, after which date all Newton Board of Education Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the Newton Board of Education Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the Newton Board of Education Renewable Energy Projects shall have been removed from the Newton Board of Education Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the Newton Board of Education Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the Newton Board of Education Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 thereof, and [either the Licensor or the Licensee desires to terminate this Newton Board of Education Local Unit License Agreement, which

termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the Licensee agree in writing to terminate this Newton Board of Education Local Unit License Agreement].

(c) The “**Term**” of this Newton Board of Education Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this Newton Board of Education Local Unit License Agreement, none of the Licensor, the Authority, nor any other Newton Board of Education Licensees shall have any further rights, duties or obligations with respect to the Newton Board of Education Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this Newton Board of Education Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the Newton Board of Education Licensees to gain access under the Newton Board of Education Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority’s rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Newton Board of Education Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

- (a) Licensor:                      Newton Board of Education  
With a copy to:                [ Licensor’s Counsel]

(b) Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.Morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearman@iandplaw.com

(c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)

(d) Company: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email : principals@sunlightgeneral.com

With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: [jduffy@nixonpeabody.com](mailto:jduffy@nixonpeabody.com)

(e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Vorhees, NJ 08043  
Email: [jvogel@birdsall.com](mailto:jvogel@birdsall.com)

With a copy to: Joseph Santaiti  
Gabel Associates  
417 Denison St.

Highland Park, NJ 08904  
Email: joseph.santaiti@gabelassociates.com

**Section 7.4. Successors and Assigns.** This Newton Board of Education Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This Newton Board of Education Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This Newton Board of Education Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other Newton Board of Education Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This Newton Board of Education Local Unit License Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this Newton Board of Education Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this Newton Board of Education Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this Newton Board of Education Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This Newton Board of Education Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This Newton Board of Education Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this Newton Board of Education Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this Newton Board of Education Local Unit License Agreement and (b) its performance of the actions contemplated by this Newton Board of Education Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a

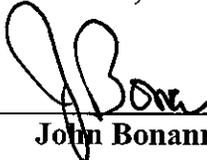
judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this License Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**[ The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow ]**

IN WITNESS WHEREOF, the parties hereto have each caused this Newton Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee

By:   
John Bonanni, Chairman

ATTEST:

By:   
Ellen M. Sandman, Secretary

[SEAL]

NEWTON BOARD OF EDUCATION, as  
Licensor

By: \_\_\_\_\_

Donna C. Snyder,  
Business Administrator/Board Secretary

ATTEST:

By: \_\_\_\_\_

Authorized Representative

Acknowledgment and Acceptance Page to Follow

IN WITNESS WHEREOF, the parties hereto have each caused this Newton Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By: \_\_\_\_\_  
**John Bonanni, Chairman**

ATTEST:

By: \_\_\_\_\_  
**Ellen M. Sandman, Secretary**

[SEAL]

**NEWTON BOARD OF EDUCATION, as  
Licensor**

By: Donna C. Snyder

**Donna C. Snyder,  
Business Administrator/Board Secretary**

ATTEST:

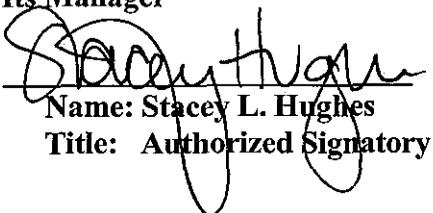
By: \_\_\_\_\_  
**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

The terms and conditions of this Newton Board of Education Local Unit License Agreement are hereby **ACKNOWLEDGED** and **ACCEPTED** by the following acknowledgment party, this 14<sup>th</sup> day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

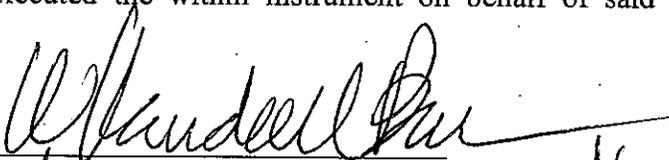
By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

STATE OF NEW JERSEY )

) ss.:

COUNTY OF MORRIS)

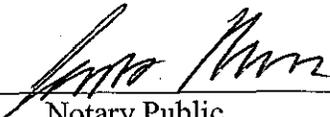
On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared John Bonanni, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

  
\_\_\_\_\_  
Notary Public  
Attorney at Law State of New Jersey



STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
\_\_\_\_\_  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6233849  
Qualified In New York County  
My Commission Expires January 03, 2015

**EXHIBIT A**

**Morris County Improvement Authority**  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

*Newton Board of Education (<http://www.newtonnj.org>)*

- (A) *Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)  
81 Merriam Avenue  
Newton, NJ; and*
  
- (B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)  
44 Ryerson Avenue  
Newton, NJ*

## **EXHIBIT B**

### **[Attach Description of Newton Board of Education Renewable Energy Projects]**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

**EXHIBIT C**

**[Attach Description of Newton Board of Education Capital Improvement Projects]**

**None**

**EXHIBIT D**

**[Attach Newton Board of Education Draw Papers]**

Requisition No. \_\_\_\_

\_\_\_\_\_, \_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Newton Board of Education Renewable Energy Projects**")] [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**Newton Board of Education Capital Improvement Projects**")] being developed for [\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$ \_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]; and

(b) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Newton Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Newton Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Newton Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Newton Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with Section [1(a)] [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw

Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**The terms of this Requisition are hereby  
ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this \_\_\_\_ day of \_\_\_\_,  
20\_\_.**

**[LICENSOR]**

**[By: CONSTRUCTION MANAGER]**

**By: \_\_\_\_\_  
Name:  
Title:**

**The form (only) of this Requisition is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_\_ day of \_\_\_\_, 20\_\_.**

**[By: CONSTRUCTION MANAGER]**

**By: \_\_\_\_\_  
Name:  
Title:**

**EXHIBIT E**

**FORMS OF Newton Board of Education ACCEPTANCE CERTIFICATES**

See Attached:

Form E-1, Form of Newton Board of Education REP Acceptance Certificate

Form E-2, Form of Newton Board of Education CIP Acceptance Certificate

## EXHIBIT E-1

### [Attach Newton Board of Education REP Acceptance Certificate]

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the “**Newton Board of Education Renewable Energy Projects**”) being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the Newton Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Newton Board of Education Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Newton Board of Education Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof].

3. The Newton Board of Education Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Company’s and the Licensor’s acceptance of the Newton Board of Education Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the Newton Board of Education Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the Newton Board of Education Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Newton Board of Education Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_

**Name: Stacey Hughes**

**Title: Authorized Signatory**

**ATTEST:**



The terms of this Newton Board of Education  
REP Acceptance Certificate are hereby  
ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this \_\_\_\_ day of \_\_\_\_,  
20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Newton Board of  
Education REP Acceptance Certificate is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title::

**EXHIBIT E-2**

**[Attach Newton Board of Education CIP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the “**Newton Board of Education Capital Improvement Projects**”) being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_ , the Newton Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Newton Board of Education Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Newton Board of Education Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof], or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof].

3. By obtaining the Licensor’s execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor’s acceptance of (a) the Newton Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which Newton Board of Education Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor’s acceptance of the Newton Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. *[Choose one, as applicable]*

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Newton Board of Education Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

\_\_\_\_\_

The terms of this Newton Board of Education CIP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_

Name:

Title:

The form (only) of this Newton Board of Education CIP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_

Name:

Title:

**EXHIBIT F**

**CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR**

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the “**Series 2011 Bonds**”)

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Newton Board of Education Local Unit License Agreement**”) by and between The Morris County Improvement Authority (the “**Authority**”) and [ ] (the “**Licensor**”), and (ii) Section 5.03(3)(a) of the Authority’s bond resolution duly adopted July 20, 2011 and entitled “Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority”, as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Newton Board of Education Local Unit License Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

[ \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to  
\_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

[LICENSOR]

By: \_\_\_\_\_  
Authorized Officer

The form (only) of this Certificate is hereby  
ACKNOWLEDGED by the MORRIS COUNTY  
IMPROVEMENT AUTHORITY this \_\_\_\_ day  
of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**

**[None]**

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**LICENSE AND ACCESS AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**County of Sussex, as Licensor**

**And**

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee**

**Dated as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS “**LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “*County of Sussex Local Unit License Agreement*”), dated as of December 1, 2011, is made by and among County of Sussex (the “*Licensor*”), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the “*County*”), State of New Jersey (“*State*”) and the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “*Authority*” or the “*Licensee*”), duly created by resolution of the Board of Chosen Freeholders (“*Board of Freeholders*”) of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”) and other applicable law.

---

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the “*County*”) desires to undertake the development and implementation of a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

**WHEREAS**, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "*Series 2011A Bonds*") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "*Series 2011A Bonds*"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*", and together with the Series 2011A Bonds, "*Series 2011 Bonds*"), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County

College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments

shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a

minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011

Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure

Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “County Documents”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and (ii) the execution and delivery of a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County “*Sale Documents*”);

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the “*Sussex County Board of Freeholders*”) and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the “*Program Documents*”), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE,** for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agrees as follows:

**ARTICLE I**  
**DEFINITIONS**

**Section 1.1. Definitions.**

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**County of Sussex Local Unit License Agreement**  
**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**  
**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**

**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this County of Sussex Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

**Account**  
**Additional Bonds**  
**Administrative Expense Account**  
**Administrative Fund**  
**Aged Account**  
**Bond**  
**Capitalized Interest Account**  
**Code**  
**Company Development Fees and Expenses**  
**Completion Conditions**  
**Completion Project**  
**Consulting Energy Engineer**  
**Consulting Energy Engineering Services**  
**Cost**

**Costs of Issuance Account**  
**County Security Fund**  
**County Security Fund Requirement**  
**Debt Service Fund**  
**Funds**  
**General Fund**  
**Gross Substitute Power Purchase Price**  
**Interest Account**  
**Investment Securities**  
**Net Substitute Power Purchase Price**  
**Outstanding**  
**Paying Agent**  
**Principal Account**  
**Principal Office**  
**Project Fund**  
**Rating Agency**  
**Renewable Energy Program Interested Party**  
**Restoration Security Fund**  
**Restoration Security Fund Requirement**  
**Revenue Account**  
**Revenue Fund**  
**Revenues**  
**Series**  
**Series 2011B Bonds**  
**Sinking Fund Installments**  
**Supplemental Resolution**  
**Tax Certificate**  
**Tax-exempt Bonds**  
**Trustee**  
**Trust Estate**

(c) The following defined terms shall, for all purposes of this County of Sussex Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

**County of Sussex Capital Improvement Projects**  
**County of Sussex Licensee**  
**County of Sussex Licensees**  
**County of Sussex Local Unit Facilities**  
**County of Sussex Local Unit License**  
**County of Sussex Project Activities**  
**County of Sussex Projects**  
**County of Sussex Renewable Energy Projects**

(ii) Section 3.8:

**Revised County of Sussex Renewable Energy Projects**

(iii) Section 5.2(a)(i)

**Gross Substitute Power Purchase Price  
Net Substitute Power Purchase Price**

(iv) Section 6.1(a)

**Authority Event of Default**

(v) Section 6.1(b)

**Licensor Event of Default**

(vi) Section 7.1(c)

**Term**

(d) The following defined terms shall, for all purposes of this County of Sussex Local Unit License Agreement, have the following meanings:

“**County of Sussex Acceptance Certificates**” shall mean individually or collectively, as the case may be, the County of Sussex CIP Acceptance Certificate and the County of Sussex REP Acceptance Certificate, each in the form attached as **Exhibit E** to the County of Sussex Local Unit License Agreement and Exhibit B to the Company Lease Agreement.

“**County of Sussex CIP Acceptance Certificate**” shall mean the certificate applicable to the County of Sussex Capital Improvement Projects in the form attached as **Exhibit E-2** to the County of Sussex Local Unit License Agreement and Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, Licensor’s acceptance of all of the County of Sussex Capital Improvement Projects, all as set forth in Section 4.3 of the County of Sussex Local Unit License Agreement and Section 510(d)(ii) of the Company Lease Agreement. As there are no County of Sussex Capital Improvement Projects for the Licensor, this definition shall have no effect in this County of Sussex Local Unit License Agreement. The Parties acknowledge and agree that no County of Sussex Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

“**County of Sussex Construction Manager**” shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by

either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

**“County of Sussex Draw Papers”** shall mean the requisitions, and attachments thereto, applicable to either the (i) County of Sussex Renewable Energy Projects or (ii) County of Sussex Capital Improvement Projects, in either case in the form attached as **Exhibit D** to the County of Sussex Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the County of Sussex Renewable Energy Projects or the County of Sussex Capital Improvement Projects, all as set forth in Section 4.1 of the County of Sussex Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

**“County of Sussex Interconnection Agreement”** shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed County of Sussex Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

**“County of Sussex REP Acceptance Certificate”** shall mean the certificate applicable to the County of Sussex Renewable Energy Projects in the form attached as **Exhibit E-1** to the County of Sussex Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company’s acceptance of all of the County of Sussex Renewable Energy Projects, all as set forth in Section 4.2 of the County of Sussex Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

**“Authorized Officer”** or **“Authorized Representative”** shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the Richard A Zeoli (Freehold Director), John H. Eskilson (County administrator) and Elaine A. Morgan, (Clerk, Board of Chosen Freeholders) or such other person designated as an Authorized Officer in the County of Sussex Local Unit License Agreement or any other person or persons who shall be authorized to

act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Event of Default”** shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### Section 2.1. Representations and Warranties of the Licensor.

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this County of Sussex Local Unit License Agreement (and any documents contemplated hereby, including without limitation the County of Sussex Draw Papers, the County of Sussex Acceptance Certificates, and any County of Sussex Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the County of Sussex Local Unit Facilities. Licensor holds good, record and marketable title to each of the County of Sussex Local Unit Facilities and the land underlying the County of Sussex Local Unit Facilities. There are no mortgages or other liens against the County of Sussex Local Unit Facilities or the land except as set forth on Exhibit G.

#### Section 2.2. Representations and Warranties of the Licensee.

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this County of Sussex Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company thereunder, this County of

Sussex Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i) N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

**Section 2.4. Covenants of the Licensor.**

(a) Upon the delivery of the County of Sussex CIP Acceptance Certificate with respect to the County of Sussex Capital Improvement Projects, if any, the Licensor shall own such County of Sussex Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the County of Sussex Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the County of Sussex Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the County of Sussex Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this **County of Sussex** Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

**Section 2.5. Covenants of the Licensee.**

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the County of Sussex Renewable Energy Projects on, or as applicable, in the County of Sussex Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the County of Sussex Capital Improvement Projects on or as applicable, in the County of Sussex Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the County of Sussex Renewable Energy Projects on or as applicable, in or about the County of Sussex Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such County of Sussex Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the County of Sussex Capital Improvement Projects on or as applicable, in or about the County of Sussex Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that that such County of Sussex Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### **Section 2.6. Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any County of Sussex Capital Improvement Projects under the Program Documents and any references herein to County of Sussex Capital Improvement Projects, County of Sussex Capital Improvement Project Fund, County of Sussex CIP Acceptance Certificates or any other term defined by reference to County of Sussex Capital Improvement Projects (without limiting the application of any such term to the extent not related to County of Sussex Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the County Reserve upon issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

## ARTICLE III

### LICENSE

#### Section 3.1. License.

(a) For the Term of this County of Sussex Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this County of Sussex Local Unit License Agreement (each, an **"County of Sussex Licensee"**, and collectively, the **"County of Sussex Licensees"**), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on **Exhibit A** hereto (the **"County of Sussex Local Unit Facilities"**), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other County of Sussex Licensee access to the County of Sussex Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this County of Sussex Local Unit License Agreement, a license (the **"County of Sussex Local Unit License"**) allowing each County of Sussex Licensee to enter the County of Sussex Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on **Exhibit B** hereto (the **"County of Sussex Renewable Energy Projects"**), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on **Exhibit C** hereto (the **"County of Sussex Capital Improvement Projects"**, and together with the County of Sussex Renewable Energy Projects, the **"County of Sussex Projects"**) and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the **"County of Sussex Project Activities"**), all at the sole cost and expense of the Authority or any other County of Sussex Licensee, but not the Licensor[, unless expressly set forth elsewhere herein]. As there are no County of Sussex Capital Improvement Projects for the Licensor, this definition shall have no effect in this County of Sussex Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site (solely the site and not including the solar improvements) at or in each of its County of Sussex Local Unit Facilities.

(b) For all purposes of this County of Sussex Local Unit License Agreement, the County of Sussex Local Unit License shall be deemed to include a preliminary license granted by the Licensor to the Authority and shall include, as County of Sussex Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to

constitute permissive County of Sussex Activities, which preliminary County of Sussex Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

(c) The County of Sussex Licensees shall have access to the County of Sussex Local Unit Facilities to conduct County of Sussex Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the County of Sussex Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the County of Sussex Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the County of Sussex Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the County of Sussex Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the County of Sussex Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the County of Sussex Local Unit Facilities.

(d) No other activities beyond the scope of the County of Sussex Project Activities shall be undertaken on the County of Sussex Local Unit Facilities by the Authority or any other County of Sussex Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensor shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensor is obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensor shall use commercially reasonable efforts to avoid interfering

with the Company's performance of its obligations under this County of Sussex Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

**Section 3.2. County of Sussex Licensees.** The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this County of Sussex Local Unit License Agreement, the County of Sussex License shall permit the County of Sussex Licensees to enter upon the County of Sussex Local Unit Facilities to conduct the County of Sussex Project Activities, at which time any such County of Sussex Licensees shall automatically, without any further action, be bound by the provisions of this County of Sussex Local Unit License Agreement during the Term hereof. The Licensee must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and subcontractors who will be present at the site, and the Licensee acknowledges that the same will be used for purposes of checking all identities against the Megans law registry.

**Section 3.3. Observation.** In connection with all County of Sussex Project Activities, the Authority and/or any other County of Sussex Licensee shall afford the Licensor and/or its representatives, the opportunity to observe all County of Sussex Project Activities; provided, however, that such observation activities shall not interfere with any County of Sussex Project Activities or delay construction of the Projects; and provided, further, that the Licensor hereby releases and agrees to indemnify, defend and hold harmless the Authority and each other County of Sussex Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensor's, or its representatives' or consultant's entry or activities on the County of Sussex Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all County of Sussex Licensees, to promptly provide the Licensor with copies of any final written reports prepared, compiled or generated as part of the County of Sussex Project Activities, if any [list of reports can be added here]. Further, the Licensor shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the County of Sussex Local Unit License, to inspect the County of Sussex Local Unit Facilities and/or the County of Sussex Renewable Energy Projects during the Term of this County of Sussex Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the County of Sussex Local Unit License under this County of Sussex Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other County of Sussex Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the County of Sussex Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing County of Sussex Project Activities on the

County of Sussex Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, as may be modified by the Program Documents, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority and the Licensor is given at least thirty (30) days prior written notice of such cancellation or modification. Notwithstanding anything else contained herein or in the Power Purchase Agreement, to the extent the insurance is in accordance with Acord 25 (2010/05) should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

### **Section 3.7. Revocation.**

(a) The parties expressly acknowledge that the County of Sussex Local Unit License cannot be revoked (including deemed revocation situations where the County of Sussex Local Unit Facilities are unavailable to allow the Company to perform County of Sussex Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the County of Sussex Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its County of Sussex Local Unit License for the County of Sussex Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the County of Sussex Renewable Energy Projects, with as similar physical conditions to the existing County of Sussex Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute County of Sussex Renewable Energy Project on the County of Sussex Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this County of Sussex Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the County of Sussex Renewable Energy Projects located on, or as applicable in, the County of Sussex Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the County of Sussex Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new County of Sussex Local Unit Facilities for all purposes of this County of Sussex Local Unit License Agreement and the other Program Documents, and similarly, the new County of Sussex Renewable Energy Projects on, or as applicable in, such new County of Sussex Local Unit Facilities shall be deemed the new County of Sussex Renewable Energy Projects for all purposes of this County of Sussex Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the County of Sussex Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this County of Sussex Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the County of Sussex Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (I) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (II) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the County of Sussex Renewable Energy Projects been operating at the County of Sussex Local Unit Facilities for the remainder of such

then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (III) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the County of Sussex Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the County of Sussex Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the County of Sussex Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any County of Sussex Local Unit Facility as a result of which such County of Sussex Local Unit Facility is unavailable to allow the Company to perform its County of Sussex Project Activities shall be deemed to be a revocation of the County of Sussex Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

### **Section 3.8. Material Change to County of Sussex Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.**

To the extent the Licensor requests a material change to the County of Sussex Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the County of Sussex Renewable Energy Projects (the "**Revised County of Sussex Renewable Energy Projects**"), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised County of Sussex Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the County of Sussex Renewable Energy Projects set forth on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

**Section 3.9. Abandonment.**

If any County of Sussex Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this County of Sussex Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such County of Sussex Renewable Energy Project, be deemed terminated and discharged.

## ARTICLE IV

### County of Sussex DRAW PAPERS; County of Sussex ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE

#### Section 4.1. County of Sussex Draw Papers.

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the County of Sussex Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the County of Sussex Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the County of Sussex Renewable Energy Projects and the County of Sussex Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the County of Sussex Renewable Energy Projects or the County of Sussex Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the County of Sussex Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and **Exhibit D** hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the County of Sussex Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the County of Sussex Capital Improvement Projects. The Licensor shall promptly review the County of Sussex Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the County of Sussex Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such County of Sussex Draw Papers where indicated, and promptly forward the original of such County of Sussex Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the County of Sussex Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any County of Sussex Draw Papers, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the County of Sussex Construction Manager; provided, however, that any

such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this County of Sussex Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body (so long as same does not violate state statutes and regulations), in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver any County of Sussex Draw Papers or (ii) delegate any such action to the County of Sussex Construction Manager.

(e) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the County of Sussex Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any County of Sussex Draw Papers to the County of Sussex Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the County of Sussex Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this County of Sussex Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any County of Sussex Draw Papers or (ii) delegate any such action to the County of Sussex Construction Manager.

**Section 4.2. County of Sussex REP Acceptance Certificate Relating to the County of Sussex Renewable Energy Projects.**

(a) When the Company has determined that all of the County of Sussex Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the County of Sussex Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the County of Sussex REP Acceptance Certificate applicable to such County of Sussex Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and **Exhibit E-1** hereto.

(b) The Licensor shall promptly review the form County of Sussex REP Acceptance Certificate applicable to the County of Sussex Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the County of Sussex REP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the County of Sussex REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such County of Sussex REP Acceptance Certificate where indicated,

and promptly forward the original of such County of Sussex REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the County of Sussex Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the County of Sussex REP Acceptance Certificate to the County of Sussex Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the County of Sussex Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. The County of Sussex Construction Manager shall use all reasonable efforts to ensure that copies of all Draw Papers and the REP Acceptance Certificate are forwarded to the Licensor in a reasonably timely manner. By the Licensor's authorization, execution and delivery of this County of Sussex Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the County of Sussex REP Acceptance Certificate or (ii) delegate any such action to the County of Sussex Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the County of Sussex Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the County of Sussex REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the County of Sussex Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this County of Sussex Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the County of Sussex REP Acceptance Certificate or (ii) delegate any such action to the County of Sussex Construction Manager.

#### **Section 4.3. County of Sussex CIP Acceptance Certificate Relating to the County of Sussex Capital Improvement Projects.**

(a) When the Company has determined that all of the County of Sussex Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the County of Sussex CIP Acceptance Certificate applicable to such County of Sussex Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and **Exhibit E-2** hereto.

(b) The Licensor shall promptly review the form County of Sussex CIP Acceptance Certificate applicable to the County of Sussex Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the County of Sussex CIP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the County of Sussex CIP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such County of Sussex CIP Acceptance Certificate where indicated, and promptly forward the original of such County of Sussex CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the County of Sussex Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the County of Sussex CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the County of Sussex Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this County of Sussex Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the County of Sussex CIP Acceptance Certificate or (ii) delegate any such action to the County of Sussex Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the County of Sussex Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the County of Sussex CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the County of Sussex Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this County of Sussex Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the County of Sussex CIP Acceptance Certificate or (ii) delegate any such action to the County of Sussex Construction Manager.

#### **Section 4.4. Costs of Issuance.**

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the

Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of **Exhibit F** hereto.

## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material affect on the Licensor, it being expressly understood that any such amendment having no material affect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the County of Sussex Renewable Energy Projects and restoration of the County of Sussex Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this County of Sussex Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the applicable Series 2011

Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power from the Company thereunder from the County of Sussex Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(i) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (c), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the County of Sussex Renewable Energy Projects located on, or as applicable, in the County of Sussex Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the County of Sussex Renewable Energy Projects installed on or, as applicable, in the County of Sussex Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the County of Sussex Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall take into account all the facts and circumstances of the marketplace for such County of Sussex Renewable Energy Projects at such time, including without limitation, its

continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; *provided, however*, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other County of Sussex Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time (as reasonably determined by the Authority), the County of Sussex Renewable Energy Projects from the County of Sussex Local Unit Facilities at the sole cost and expense and effort of the Company or any such other County of Sussex Licensees, and (ii) restore, within a reasonable period of time, the County of Sussex Local Unit Facilities, as improved by the County of Sussex Capital Improvement Projects, to the condition prior to the installation of the County of Sussex Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the County of Sussex Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

#### **Section 5.2. Substitute Power Purchase Price.**

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, this County of Sussex Local Unit License Agreement shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its County of Sussex Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the County of Sussex Renewable Energy Projects located on, or as applicable, in the County of Sussex Local Unit Facilities from the Authority, as owner of the County of Sussex Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "**Gross Substitute Power Purchase Price**"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "**Net Substitute Power Purchase Price**") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the County of Sussex Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the

Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the County of Sussex Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the County of Sussex Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI

### EVENT OF DEFAULT

#### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this County of Sussex Local Unit License Agreement:

(i) the Authority or any other County of Sussex Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other County of Sussex Licensee to be performed or observed under this County of Sussex Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other County of Sussex Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this County of Sussex Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(c) that are within the Licensor's control) the County of Sussex Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Licensor to be performed or observed under this County of Sussex Local

Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

## **Section 6.2. Remedies.**

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this County of Sussex Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the County of Sussex Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by

statute to enforce the specific performance rights of the Authority under this County of Sussex Local Unit License Agreement.

**Section 6.3. Remedies Generally.**

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this County of Sussex Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this County of Sussex Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the County of Sussex Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such County of Sussex Projects until cured, including without limitation the requirement that the Company complete all Projects, including the County of Sussex Projects, by December 14, 2012, all in accordance with the terms of the Program Documents.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.1 Term.

(a) This County of Sussex Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This County of Sussex Local Unit License Agreement and the County of Sussex Local Unit License granted herein shall terminate against the Authority, after which date all County of Sussex Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the County of Sussex Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the County of Sussex Renewable Energy Projects shall have been removed from the County of Sussex Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the County of Sussex Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the County of Sussex Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 thereof, and [either the Licensor or the Licensee desires to terminate this County of Sussex Local Unit License Agreement, which termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the

Licensee agree in writing to terminate this County of Sussex Local Unit License Agreement].

(c) The "Term" of this County of Sussex Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this County of Sussex Local Unit License Agreement, none of the Licensor, the Authority, nor any other County of Sussex Licensees shall have any further rights, duties or obligations with respect to the County of Sussex Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this County of Sussex Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the County of Sussex Licensees to gain access under the County of Sussex Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority's rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this County of Sussex Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

- (a) Licensor: County of Sussex  
With a copy to: [ Licensor's Counsel]
- (b) Authority: The Morris County Improvement Authority

P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.Morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com

(c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)

(d) Company: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email : principals@sunlightgeneral.com

With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: [jduffy@nixonpeabody.com](mailto:jduffy@nixonpeabody.com)

(e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Vorhees, NJ 08043  
Email: [jvogel@birdsall.com](mailto:jvogel@birdsall.com)

With a copy to: Joseph Santaiti  
Gabel Associates  
417 Denison St.  
Highland Park, NJ 08904  
Email: [joseph.santaiti@gabelassociates.com](mailto:joseph.santaiti@gabelassociates.com)

**Section 7.4. Successors and Assigns.** This County of Sussex Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This County of Sussex Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This County of Sussex Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other County of Sussex Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This County of Sussex Local Unit License Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this County of Sussex Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this County of Sussex Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this County of Sussex Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This County of Sussex Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This County of Sussex Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this County of Sussex Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this County of Sussex Local Unit License Agreement and (b) its performance of the actions contemplated by this County of Sussex Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this License Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and

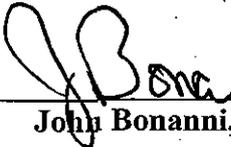
irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**[ The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow ]**

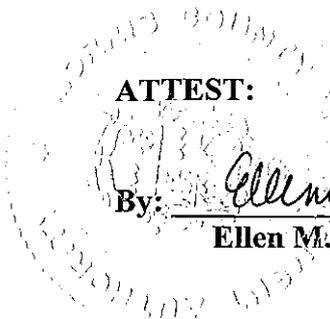
IN WITNESS WHEREOF, the parties hereto have each caused this County of Sussex Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

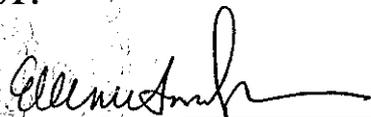
[SEAL]

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee**

By:   
**John Bonanni, Chairman**

**ATTEST:**



By:   
**Ellen M. Sandman, Secretary**

[SEAL]

**COUNTY OF SUSSEX, as Licensor**

By: \_\_\_\_\_  
**John Eskilson, County Administrator**

**ATTEST:**

By: \_\_\_\_\_  
**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

IN WITNESS WHEREOF, the parties hereto have each caused this County of Sussex Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

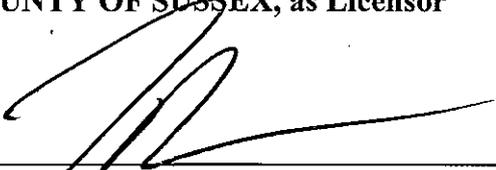
By: \_\_\_\_\_  
**John Bonanni, Chairman**

**ATTEST:**

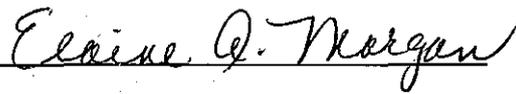
By: \_\_\_\_\_  
**Ellen M. Sandman, Secretary**

[SEAL]

**COUNTY OF SUSSEX, as Licensor**

By:  \_\_\_\_\_  
**John Eskilson, County Administrator**

**ATTEST:**

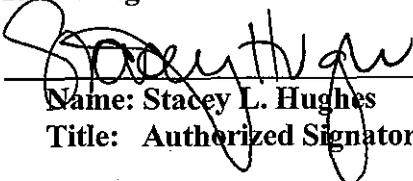
By:  \_\_\_\_\_  
**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

The terms and conditions of this County of Sussex Local Unit License Agreement are hereby **ACKNOWLEDGED** and **ACCEPTED** by the following acknowledgment party, this 14<sup>th</sup> day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC**  
**Its Manager**

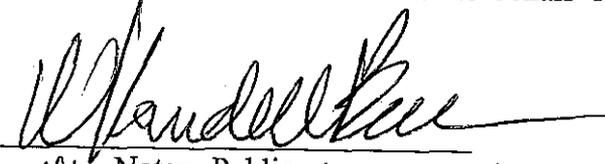
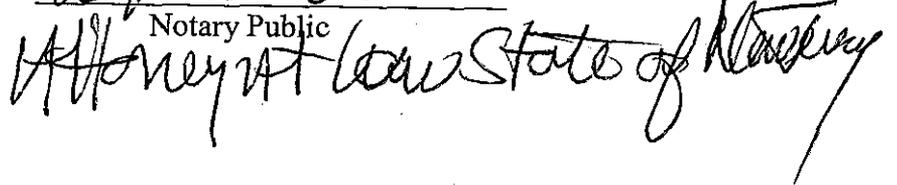
By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

STATE OF NEW JERSEY )

) ss.:

COUNTY OF MORRIS)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared John Bonanni, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

  
Notary Public  
  
Attorney at Law State of New Jersey

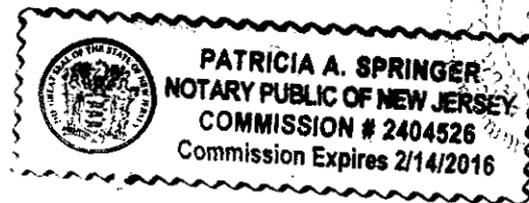
STATE OF NEW JERSEY )

) ss.:

COUNTY OF SUSSEX)

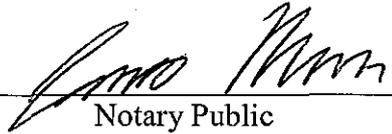
On this <sup>12<sup>th</sup></sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared **John Eskilson** known to me (or proved to me on the basis of satisfactory evidence) to be the **County Administrator** of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

*Patricia A. Springer*  
Notary Public



STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6233849  
Qualified in New York County  
My Commission Expires January 03, 2015

**EXHIBIT A**

**Morris County Improvement Authority**  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

*County of Sussex (<http://www.sussex.nj.us/>)*

- (A) Sussex County Judicial Center (Parking Canopy 468 kW)  
39 High Street  
Newton, NJ*
  
- (B) Wheatsworth Facility (Ground Mount 149 kW)  
149 Wheatsworth Road  
Hardyston, NJ*
  
- (C) Main Library (Ground Mount 100 kW)  
125 Morris Turnpike  
Newton, NJ*

## **EXHIBIT B**

### **[Attach Description of County of Sussex Renewable Energy Projects]**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

**EXHIBIT C**

**[Attach Description of County of Sussex Capital Improvement Projects]**

**None**

**EXHIBIT D**

**[Attach County of Sussex Draw Papers]**

Requisition No. \_\_\_\_\_

\_\_\_\_\_, \_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**County of Sussex Renewable Energy Projects**")][Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**County of Sussex Capital Improvement Projects**")] being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]; and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this  
Requisition were incurred in connection with the [acquisition, construction, or installation of the  
County of Sussex Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction,  
renovation or installation of the County of Sussex Capital Improvement Projects listed on  
**Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of  
the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor:  
\_\_\_\_\_

(b) Such funds requested in accordance with Section 1(b) of this  
Requisition were incurred in connection with the [acquisition, construction, or installation of the  
County of Sussex Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction,  
renovation or installation of the County of Sussex Capital Improvement Projects listed on  
**Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of  
the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor:  
\_\_\_\_\_

3. Such payment obligation, for which funds have been requested in accordance with  
Section [1(a)] [1(b)] of this Requisition, (i) has been properly incurred in accordance with the  
Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against  
the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto  
is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or  
has been paid by or on behalf of the Company. This Requisition, together with any such  
attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw

Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

The terms of this Requisition are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

**[LICENSOR]**

**[By: CONSTRUCTION MANAGER]**

**By: \_\_\_\_\_  
Name:  
Title:**

The form (only) of this Requisition is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

**[By: CONSTRUCTION MANAGER]**

**By: \_\_\_\_\_  
Name:  
Title:**

**EXHIBIT E**

**FORMS OF County of Sussex ACCEPTANCE CERTIFICATES**

See Attached:

Form E-1, Form of County of Sussex REP Acceptance Certificate

Form E-2, Form of County of Sussex CIP Acceptance Certificate

**EXHIBIT E-1**

**[Attach County of Sussex REP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") between The Morris County Improvement Authority, as lessor (the "**Authority**"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**County of Sussex Renewable Energy Projects**") being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensors**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the County of Sussex Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the County of Sussex Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the County of Sussex Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof].

3. The County of Sussex Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensors with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensors, all as set forth in the Program Documents. This Section 3, together with the Licensors' acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensors' acceptance of the County of Sussex Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the County of Sussex Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the County of Sussex Renewable Energy Projects.

5. *[Choose one, as applicable]*

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the County of Sussex Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_**

**Name: Stacey Hughes**

**Title: Authorized Signatory**

**ATTEST:**

---

The terms of this County of Sussex REP  
Acceptance Certificate are hereby  
ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this \_\_\_ day of \_\_\_,  
20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this County of Sussex REP  
Acceptance Certificate is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_ day of \_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT E-2**

**[Attach County of Sussex CIP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the "**Company**"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") between The Morris County Improvement Authority, as lessor (the "**Authority**"), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**County of Sussex Capital Improvement Projects**") being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the County of Sussex Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the County of Sussex Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the County of Sussex Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof].

3. By obtaining the Licensor's execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor's acceptance of (a) the County of Sussex Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which County of Sussex Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor's acceptance of the County of Sussex Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. *[Choose one, as applicable]*

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the County of Sussex Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_  
**Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

\_\_\_\_\_

The terms of this County of Sussex CIP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this County of Sussex CIP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT F

CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "County of Sussex Local Unit License Agreement") by and between The Morris County Improvement Authority (the "Authority") and [ ] (the "Licensor"), and (ii) Section 5.03(3)(a) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the County of Sussex Local Unit License Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

[ \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to  
\_\_\_\_\_ for \_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

**[LICENSOR]**

By: \_\_\_\_\_  
Authorized Officer

The form (only) of this Certificate is hereby  
ACKNOWLEDGED by the MORRIS COUNTY  
IMPROVEMENT AUTHORITY this \_\_\_\_ day  
of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**

**[None]**

---

**LICENSE AND ACCESS AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**Sussex County Vocational School Board of Education, as Licensor**

**And**

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee**

**Dated as of December 1, 2011**

---

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS “**LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “*Sussex County Vocational School Board of Education Local Unit License Agreement*”), dated as of December 1, 2011, is made by and among Sussex County Vocational School Board of Education (the “*Licensor*”), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the “*County*”), State of New Jersey (“*State*”) and the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “*Authority*” or the “*Licensee*”), duly created by resolution of the Board of Chosen Freeholders (“*Board of Freeholders*”) of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”) and other applicable law.

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the “*County*”) desires to undertake the development and implementation of a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

**WHEREAS**, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the “*Municipal Series 2011 Local Units*”); and
- (ii) Byram Township School District, Frankford Township’s Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the “*Board of Education Series 2011 Local Units*”); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the “*County Series 2011 Local Units*”);

(each a “*Series 2011 Local Unit*”, and, collectively, the “*Series 2011 Local Units*”), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated their date of delivery (the “*Series 2011A Bonds*”) the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the “*Series 2011A Bonds*”), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)” (the “*Series 2011B Note*”, and together with the Series 2011A Bonds, “*Series 2011 Bonds*”), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County

College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("*SRECs*") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments

shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a

minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty;

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011

Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure

Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “County Documents”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and (ii) the execution and delivery of a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County “*Sale Documents*”);

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the “*Sussex County Board of Freeholders*”) and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the “*Program Documents*”), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE,** for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agrees as follows:

**ARTICLE I**  
**DEFINITIONS**

**Section 1.1. Definitions.**

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**Sussex County Vocational School Board of Education Local Unit License Agreement**

**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**  
**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***

**Local Unit License**  
**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this Sussex County Vocational School Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

**Account**  
**Additional Bonds**  
**Administrative Expense Account**  
**Administrative Fund**  
**Aged Account**  
**Bond**  
**Capitalized Interest Account**  
**Code**  
**Company Development Fees and Expenses**  
**Completion Conditions**  
**Completion Project**  
**Consulting Energy Engineer**  
**Consulting Energy Engineering Services**

**Cost**  
**Costs of Issuance Account**  
**County Security Fund**  
**County Security Fund Requirement**  
**Debt Service Fund**  
**Funds**  
**General Fund**  
**Gross Substitute Power Purchase Price**  
**Interest Account**  
**Investment Securities**  
**Net Substitute Power Purchase Price**  
**Outstanding**  
**Paying Agent**  
**Principal Account**  
**Principal Office**  
**Project Fund**  
**Rating Agency**  
**Renewable Energy Program Interested Party**  
**Restoration Security Fund**  
**Restoration Security Fund Requirement**  
**Revenue Account**  
**Revenue Fund**  
**Revenues**  
**Series**  
**Series 2011B Bonds**  
**Sinking Fund Installments**  
**Supplemental Resolution**  
**Tax Certificate**  
**Tax-exempt Bonds**  
**Trustee**  
**Trust Estate**

(c) The following defined terms shall, for all purposes of this Sussex County Vocational School Board of Education Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

<b>Improvement Projects</b>	<b>Sussex County Vocational School Board of Education Capital</b>
<b>Licensees</b>	<b>Sussex County Vocational School Board of Education Licensee Sussex County Vocational School Board of Education</b>
<b>Unit Facilities</b>	<b>Sussex County Vocational School Board of Education Local</b>



acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, Licensor's acceptance of all of the Sussex County Vocational School Board of Education Capital Improvement Projects, all as set forth in Section 4.3 of the Sussex County Vocational School Board of Education Local Unit License Agreement and Section 510(d)(ii) of the Company Lease Agreement. As there are no Sussex County Vocational School Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Sussex County Vocational School Board of Education Local Unit License Agreement. The Parties acknowledge and agree that no Sussex County Vocational School Board of Education Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

**"Sussex County Vocational School Board of Education Construction Manager"** shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

**"Sussex County Vocational School Board of Education Draw Papers"** shall mean the requisitions, and attachments thereto, applicable to either the (i) Sussex County Vocational School Board of Education Renewable Energy Projects or (ii) Sussex County Vocational School Board of Education Capital Improvement Projects, in either case in the form attached as **Exhibit D** to the Sussex County Vocational School Board of Education Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the Sussex County Vocational School Board of Education Renewable Energy Projects or the Sussex County Vocational School Board of Education Capital Improvement Projects, all as set forth in Section 4.1 of the Sussex County Vocational School Board of Education Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

**"Sussex County Vocational School Board of Education Interconnection Agreement"** shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed Sussex County Vocational School Board of Education Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

**"Sussex County Vocational School Board of Education REP Acceptance Certificate"** shall mean the certificate applicable to the Sussex County Vocational School Board

of Education Renewable Energy Projects in the form attached as **Exhibit E-1** to the Sussex County Vocational School Board of Education Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company's acceptance of all of the Sussex County Vocational School Board of Education Renewable Energy Projects, all as set forth in Section 4.2 of the Sussex County Vocational School Board of Education Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

**“Authorized Officer”** or **“Authorized Representative”** shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the [E] or such other person designated as an Authorized Officer in the Sussex County Vocational School Board of Education Local Unit License Agreement or any other person or persons who shall be authorized to act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Event of Default”** shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### Section 2.1. Representations and Warranties of the Licensor.

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this Sussex County Vocational School Board of Education Local Unit License Agreement (and any documents contemplated hereby, including without limitation the Sussex County Vocational School Board of Education Draw Papers, the Sussex County Vocational School Board of Education Acceptance Certificates, and any Sussex County Vocational School Board of Education Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the Sussex County Vocational School Board of Education Local Unit Facilities. Licensor holds good, record and marketable title to each of the Sussex County Vocational School Board of Education Local Unit Facilities and the land underlying the Sussex County Vocational School Board of Education Local Unit Facilities. There are no mortgages or other liens against the Sussex County Vocational School Board of Education Local Unit Facilities or the land except as set forth on Exhibit G.

#### Section 2.2. Representations and Warranties of the Licensee.

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this Sussex County Vocational School Board of Education Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company thereunder, this Sussex County Vocational School Board of Education Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i) N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

#### **Section 2.4. Covenants of the Licensor.**

(a) Upon the delivery of the Sussex County Vocational School Board of Education CIP Acceptance Certificate with respect to the Sussex County Vocational School Board of Education Capital Improvement Projects, if any, the Licensor shall own such Sussex County Vocational School Board of Education Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the Sussex County Vocational School Board of Education Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the Sussex County Vocational School Board of Education Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the Sussex County Vocational School Board of Education Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this **Sussex County Vocational School Board of Education** Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

#### **Section 2.5. Covenants of the Licensee.**

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the Sussex County Vocational School Board of Education Renewable Energy Projects on, or as applicable, in the Sussex County Vocational School Board of Education Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the Sussex County Vocational School Board of Education Capital Improvement Projects on or as applicable, in the Sussex County Vocational School Board of Education Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the Sussex County Vocational School Board of Education Renewable Energy Projects on or as applicable, in or about the Sussex County Vocational School Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such Sussex County Vocational School Board of Education Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the Sussex County Vocational School Board of Education Capital Improvement Projects on or as applicable, in or about the Sussex County Vocational School Board of Education Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that that such Sussex County Vocational School Board of Education Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### **Section 2.6. Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any Sussex County Vocational School Board of Education Capital Improvement Projects under the Program Documents and any references herein to Sussex County Vocational School Board of Education Capital Improvement Projects, Sussex County Vocational School Board of Education Capital Improvement Project Fund, Sussex County Vocational School Board of Education CIP Acceptance Certificates or any other term defined by reference to Sussex County Vocational School Board of Education Capital Improvement Projects

(without limiting the application of any such term to the extent not related to Sussex County Vocational School Board of Education Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the County Reserve upon issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

## ARTICLE III

### LICENSE

#### Section 3.1. License.

(a) For the Term of this Sussex County Vocational School Board of Education Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this Sussex County Vocational School Board of Education Local Unit License Agreement (each, an "**Sussex County Vocational School Board of Education Licensee**", and collectively, the "**Sussex County Vocational School Board of Education Licensees**"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on **Exhibit A** hereto (the "**Sussex County Vocational School Board of Education Local Unit Facilities**"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other Sussex County Vocational School Board of Education Licensee access to the Sussex County Vocational School Board of Education Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this Sussex County Vocational School Board of Education Local Unit License Agreement, a license (the "**Sussex County Vocational School Board of Education Local Unit License**") allowing each Sussex County Vocational School Board of Education Licensee to enter the Sussex County Vocational School Board of Education Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on **Exhibit B** hereto (the "**Sussex County Vocational School Board of Education Renewable Energy Projects**"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on **Exhibit C** hereto (the "**Sussex County Vocational School Board of Education Capital Improvement Projects**"), and together with the Sussex County Vocational School Board of Education Renewable Energy Projects, the "**Sussex County Vocational School Board of Education Projects**") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "**Sussex County Vocational School Board of Education Project Activities**"), all at the sole cost and expense of the Authority or any other Sussex County Vocational School Board of Education Licensee, but not the Licensor[, unless expressly set forth elsewhere herein]. As there are no Sussex County Vocational School Board of Education Capital Improvement Projects for the Licensor, this definition shall have no effect in this Sussex County Vocational School Board of Education Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site (solely the site and not including the solar improvements) at or in each of its Sussex County Vocational School Board of Education Local Unit Facilities.

(b) For all purposes of this Sussex County Vocational School Board of Education Local Unit License Agreement, the Sussex County Vocational School Board of Education Local Unit License shall be deemed to include a preliminary license granted by the Licensor to the Authority and shall include, as Sussex County Vocational School Board of Education Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to constitute permissive Sussex County Vocational School Board of Education Activities, which preliminary Sussex County Vocational School Board of Education Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

(c) The Sussex County Vocational School Board of Education Licensees shall have access to the Sussex County Vocational School Board of Education Local Unit Facilities to conduct Sussex County Vocational School Board of Education Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the Sussex County Vocational School Board of Education Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the Sussex County Vocational School Board of Education Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the Sussex County Vocational School Board of Education Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the Sussex County Vocational School Board of Education Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the Sussex County Vocational School Board of Education Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the Sussex County Vocational School Board of Education Local Unit Facilities.

(d) No other activities beyond the scope of the Sussex County Vocational School Board of Education Project Activities shall be undertaken on the Sussex County Vocational School Board of Education Local Unit Facilities by the Authority or any other Sussex County Vocational School Board of Education Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensor shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensor is obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensor shall use commercially reasonable efforts to avoid interfering with the Company's performance of its obligations under this Sussex County Vocational School Board of Education Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

**Section 3.2. Sussex County Vocational School Board of Education Licensees.**

The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this Sussex County Vocational School Board of Education Local Unit License Agreement, the Sussex County Vocational School Board of Education Licensee shall permit the Sussex County Vocational School Board of Education Licensees to enter upon the Sussex County Vocational School Board of Education Local Unit Facilities to conduct the Sussex County Vocational School Board of Education Project Activities, at which time any such Sussex County Vocational School Board of Education Licensees shall automatically, without any further action, be bound by the provisions of this Sussex County Vocational School Board of Education Local Unit License Agreement during the Term hereof. The Licensee must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and subcontractors who will be present at the site, and the Licensee acknowledges that the same will be used for purposes of checking all identities against the Megans law registry.

**Section 3.3. Observation.** In connection with all Sussex County Vocational School Board of Education Project Activities, the Authority and/or any other Sussex County Vocational School Board of Education Licensee shall afford the Licensor and/or its representatives, the opportunity to observe all Sussex County Vocational School Board of Education Project Activities; provided, however, that such observation activities shall not interfere with any Sussex County Vocational School Board of Education Project Activities or delay construction of the Projects; and provided, further, that the Licensor hereby releases and agrees to indemnify, defend and hold harmless the Authority and each other Sussex County Vocational School Board of Education Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensor's, or its representatives' or consultant's entry or activities on the Sussex County Vocational School Board of Education Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all Sussex County Vocational School Board of Education Licensees, to promptly provide the Licensor with

copies of any final written reports prepared, compiled or generated as part of the Sussex County Vocational School Board of Education Project Activities, if any [list of reports can be added here]. Further, the Licensor shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the Sussex County Vocational School Board of Education Local Unit License, to inspect the Sussex County Vocational School Board of Education Local Unit Facilities and/or the Sussex County Vocational School Board of Education Renewable Energy Projects during the Term of this Sussex County Vocational School Board of Education Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the Sussex County Vocational School Board of Education Local Unit License under this Sussex County Vocational School Board of Education Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other Sussex County Vocational School Board of Education Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the Sussex County Vocational School Board of Education Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing Sussex County Vocational School Board of Education Project Activities on the Sussex County Vocational School Board of Education Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, as may be modified by the Program Documents, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority and the Licensor is given at least thirty (30) days prior written notice of such cancellation or modification. Notwithstanding anything else contained herein or in the Power Purchase Agreement, to the extent the insurance is in accordance with Acord 25 (2010/05) should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

### **Section 3.7. Revocation.**

(a) The parties expressly acknowledge that the Sussex County Vocational School Board of Education Local Unit License cannot be revoked (including deemed revocation situations where the Sussex County Vocational School Board of Education Local Unit Facilities are unavailable to allow the Company to perform Sussex County Vocational School Board of Education Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the Sussex County Vocational School Board of Education Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its Sussex County Vocational School Board of Education Local Unit License for the Sussex County Vocational School Board of Education Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the Sussex County Vocational School Board of Education Renewable Energy Projects, with as similar physical conditions to the existing Sussex County Vocational School Board of Education Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute Sussex County Vocational School Board of Education Renewable Energy Project on the Sussex County Vocational School Board of Education Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this Sussex County Vocational School Board of Education Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the Sussex County Vocational School Board of Education Renewable Energy Projects located on, or as applicable in, the Sussex County Vocational School Board of Education Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the Sussex County Vocational School Board of Education Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed

upon location shall be deemed the new Sussex County Vocational School Board of Education Local Unit Facilities for all purposes of this Sussex County Vocational School Board of Education Local Unit License Agreement and the other Program Documents, and similarly, the new Sussex County Vocational School Board of Education Renewable Energy Projects on, or as applicable in, such new Sussex County Vocational School Board of Education Local Unit Facilities shall be deemed the new Sussex County Vocational School Board of Education Renewable Energy Projects for all purposes of this Sussex County Vocational School Board of Education Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the Sussex County Vocational School Board of Education Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this Sussex County Vocational School Board of Education Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Sussex County Vocational School Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (I) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (II) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the Sussex County Vocational School Board of Education Renewable Energy Projects been operating at the Sussex County Vocational School Board of Education Local Unit Facilities for the remainder of such then existing Term, if any (other than the credit against

its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (III) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the Sussex County Vocational School Board of Education Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the Sussex County Vocational School Board of Education Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the Sussex County Vocational School Board of Education Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any Sussex County Vocational School Board of Education Local Unit Facility as a result of which such Sussex County Vocational School Board of Education Local Unit Facility is unavailable to allow the Company to perform its Sussex County Vocational School Board of Education Project Activities shall be deemed to be a revocation of the Sussex County Vocational School Board of Education Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

### **Section 3.8. Material Change to Sussex County Vocational School Board of Education Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.**

To the extent the Licensor requests a material change to the Sussex County Vocational School Board of Education Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the Sussex County Vocational School Board of Education Renewable Energy Projects (the "**Revised Sussex County Vocational School Board of Education Renewable Energy Projects**"), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised Sussex County Vocational School Board of Education Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the Sussex County Vocational School Board of Education Renewable Energy Projects set forth

on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

**Section 3.9. Abandonment.**

If any Sussex County Vocational School Board of Education Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this Sussex County Vocational School Board of Education Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such Sussex County Vocational School Board of Education Renewable Energy Project, be deemed terminated and discharged.

## ARTICLE IV

### **Sussex County Vocational School Board of Education DRAW PAPERS; Sussex County Vocational School Board of Education ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE**

#### **Section 4.1. Sussex County Vocational School Board of Education Draw Papers.**

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the Sussex County Vocational School Board of Education Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the Sussex County Vocational School Board of Education Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the Sussex County Vocational School Board of Education Renewable Energy Projects and the Sussex County Vocational School Board of Education Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the Sussex County Vocational School Board of Education Renewable Energy Projects or the Sussex County Vocational School Board of Education Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the Sussex County Vocational School Board of Education Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and **Exhibit D** hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the Sussex County Vocational School Board of Education Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the Sussex County Vocational School Board of Education Capital Improvement Projects. The Licensor shall promptly review the Sussex County Vocational School Board of Education Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the Sussex County Vocational School Board of Education Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such Sussex County Vocational School Board of Education Draw Papers where indicated, and promptly forward the original of such Sussex County Vocational School Board of Education Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Sussex County Vocational School Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any Sussex County Vocational School Board of Education Draw Papers, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Sussex County Vocational School Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Sussex County Vocational School Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body (so long as same does not violate state statutes and regulations), in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver any Sussex County Vocational School Board of Education Draw Papers or (ii) delegate any such action to the Sussex County Vocational School Board of Education Construction Manager.

(e) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Sussex County Vocational School Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any Sussex County Vocational School Board of Education Draw Papers to the Sussex County Vocational School Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Sussex County Vocational School Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Sussex County Vocational School Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any Sussex County Vocational School Board of Education Draw Papers or (ii) delegate any such action to the Sussex County Vocational School Board of Education Construction Manager.

**Section 4.2. Sussex County Vocational School Board of Education REP Acceptance Certificate Relating to the Sussex County Vocational School Board of Education Renewable Energy Projects.**

(a) When the Company has determined that all of the Sussex County Vocational School Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the Sussex County Vocational School Board of Education Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Sussex

County Vocational School Board of Education REP Acceptance Certificate applicable to such Sussex County Vocational School Board of Education Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and **Exhibit E-1** hereto.

(b) The Licensor shall promptly review the form Sussex County Vocational School Board of Education REP Acceptance Certificate applicable to the Sussex County Vocational School Board of Education Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Sussex County Vocational School Board of Education REP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Sussex County Vocational School Board of Education REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Sussex County Vocational School Board of Education REP Acceptance Certificate where indicated, and promptly forward the original of such Sussex County Vocational School Board of Education REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Sussex County Vocational School Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Sussex County Vocational School Board of Education REP Acceptance Certificate to the Sussex County Vocational School Board of Education Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Sussex County Vocational School Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. The Sussex County Vocational School Board of Education Construction Manager shall use all reasonable efforts to ensure that copies of all Draw Papers and the REP Acceptance Certificate are forwarded to the Licensor in a reasonably timely manner. By the Licensor's authorization, execution and delivery of this Sussex County Vocational School Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Sussex County Vocational School Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Sussex County Vocational School Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Sussex County Vocational School Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Sussex County Vocational School Board of Education REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Sussex County Vocational School Board of Education

Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Sussex County Vocational School Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Sussex County Vocational School Board of Education REP Acceptance Certificate or (ii) delegate any such action to the Sussex County Vocational School Board of Education Construction Manager.

**Section 4.3. Sussex County Vocational School Board of Education CIP Acceptance Certificate Relating to the Sussex County Vocational School Board of Education Capital Improvement Projects.**

(a) When the Company has determined that all of the Sussex County Vocational School Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Sussex County Vocational School Board of Education CIP Acceptance Certificate applicable to such Sussex County Vocational School Board of Education Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and **Exhibit E-2** hereto.

(b) The Licensor shall promptly review the form Sussex County Vocational School Board of Education CIP Acceptance Certificate applicable to the Sussex County Vocational School Board of Education Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Sussex County Vocational School Board of Education CIP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Sussex County Vocational School Board of Education CIP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Sussex County Vocational School Board of Education CIP Acceptance Certificate where indicated, and promptly forward the original of such Sussex County Vocational School Board of Education CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Sussex County Vocational School Board of Education Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Sussex County Vocational School Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Sussex County Vocational School Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's

authorization, execution and delivery of this Sussex County Vocational School Board of Education Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Sussex County Vocational School Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Sussex County Vocational School Board of Education Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Sussex County Vocational School Board of Education Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Sussex County Vocational School Board of Education CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Sussex County Vocational School Board of Education Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Sussex County Vocational School Board of Education Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Sussex County Vocational School Board of Education CIP Acceptance Certificate or (ii) delegate any such action to the Sussex County Vocational School Board of Education Construction Manager.

#### **Section 4.4. Costs of Issuance.**

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of **Exhibit F** hereto.

## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material affect on the Licensor, it being expressly understood that any such amendment having no material affect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the Sussex County Vocational School Board of Education Renewable Energy Projects and restoration of the Sussex County Vocational School Board of Education Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this Sussex County Vocational School Board of Education Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights,

duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the applicable Series 2011 Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power from the Company thereunder from the Sussex County Vocational School Board of Education Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(i) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (c), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the Sussex County Vocational School Board of Education Renewable Energy Projects located on, or as applicable, in the Sussex County Vocational School Board of Education Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the Sussex County Vocational School Board of Education Renewable Energy Projects installed on or, as applicable, in the Sussex County Vocational School Board of Education Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the Sussex County Vocational School Board of Education Renewable Energy Projects, such Fair Market Value to be

determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall take into account all the facts and circumstances of the marketplace for such Sussex County Vocational School Board of Education Renewable Energy Projects at such time, including without limitation, its continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; *provided, however*, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other Sussex County Vocational School Board of Education Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time (as reasonably determined by the Authority), the Sussex County Vocational School Board of Education Renewable Energy Projects from the Sussex County Vocational School Board of Education Local Unit Facilities at the sole cost and expense and effort of the Company or any such other Sussex County Vocational School Board of Education Licensees, and (ii) restore, within a reasonable period of time, the Sussex County Vocational School Board of Education Local Unit Facilities, as improved by the Sussex County Vocational School Board of Education Capital Improvement Projects, to the condition prior to the installation of the Sussex County Vocational School Board of Education Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the Sussex County Vocational School Board of Education Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

#### **Section 5.2. Substitute Power Purchase Price.**

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term,

or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, this Sussex County Vocational School Board of Education Local Unit License Agreement shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its Sussex County Vocational School Board of Education Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the Sussex County Vocational School Board of Education Renewable Energy Projects located on, or as applicable, in the Sussex County Vocational School Board of Education Local Unit Facilities from the Authority, as owner of the Sussex County Vocational School Board of Education Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "**Gross Substitute Power Purchase Price**"), and the Licensor shall pay the Authority directly for any such electricity; or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "**Net Substitute Power Purchase Price**") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the Sussex County

Vocational School Board of Education Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the Sussex County Vocational School Board of Education Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the Sussex County Vocational School Board of Education Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI

### EVENT OF DEFAULT

#### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this Sussex County Vocational School Board of Education Local Unit License Agreement:

(i) the Authority or any other Sussex County Vocational School Board of Education Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other Sussex County Vocational School Board of Education Licensee to be performed or observed under this Sussex County Vocational School Board of Education Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other Sussex County Vocational School Board of Education Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this Sussex County Vocational School Board of Education Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(c) that are within the Licensor's control) the Sussex County Vocational School Board of Education Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Licensor to be performed or observed under this Sussex County Vocational School Board of Education Local Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

### **Section 6.2. Remedies.**

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this Sussex County Vocational School Board of Education Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Sussex County Vocational School Board of Education Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by statute to enforce the specific performance rights of the Authority under this Sussex County Vocational School Board of Education Local Unit License Agreement.

**Section 6.3. Remedies Generally.**

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this Sussex County Vocational School Board of Education Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this Sussex County Vocational School Board of Education Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the Sussex County Vocational School Board of Education Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such Sussex County Vocational School Board of Education Projects until cured, including without limitation the requirement that the Company complete all Projects, including the Sussex County Vocational School Board of Education Projects, by December 14, 2012, all in accordance with the terms of the Program Documents.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.1 Term.

(a) This Sussex County Vocational School Board of Education Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This Sussex County Vocational School Board of Education Local Unit License Agreement and the Sussex County Vocational School Board of Education Local Unit License granted herein shall terminate against the Authority, after which date all Sussex County Vocational School Board of Education Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the Sussex County Vocational School Board of Education Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the Sussex County Vocational School Board of Education Renewable Energy Projects shall have been removed from the Sussex County Vocational School Board of Education Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the Sussex County Vocational School Board of Education Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the Sussex County Vocational School Board of Education Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 thereof, and [either the Licensor or the Licensee desires to terminate this Sussex County Vocational School Board of Education Local Unit License Agreement, which termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the Licensee agree in writing to terminate this Sussex County Vocational School Board of Education Local Unit License Agreement].

(c) The “**Term**” of this Sussex County Vocational School Board of Education Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this Sussex County Vocational School Board of Education Local Unit License Agreement, none of the Licensor, the Authority, nor any other Sussex County Vocational School Board of Education Licensees shall have any further rights, duties or obligations with respect to the Sussex County Vocational School Board of Education Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this Sussex County Vocational School Board of Education Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the Sussex County Vocational School Board of Education Licensees to gain access under the Sussex County Vocational School Board of Education Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority’s rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Sussex County Vocational School Board of Education Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice

or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) Licensor: Sussex County Vocational School Board of Education

With a copy to: [ Licensor's Counsel]

(b) Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.Morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com

(c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)

(d) Company: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email : principals@sunlightgeneral.com

With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: [jduffy@nixonpeabody.com](mailto:jduffy@nixonpeabody.com)

(e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group

1101 Laurel Oak Road, Suite 160  
Vorhees, NJ 08043  
Email: jvogel@birdsall.com

With a copy to: Joseph Santaiti  
Gabel Associates  
417 Denison St.  
Highland Park, NJ 08904  
Email: joseph.santaiti@gabelassociates.com

**Section 7.4. Successors and Assigns.** This Sussex County Vocational School Board of Education Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This Sussex County Vocational School Board of Education Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This Sussex County Vocational School Board of Education Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other Sussex County Vocational School Board of Education Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This Sussex County Vocational School Board of Education Local Unit License Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this Sussex County Vocational School Board of Education Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this Sussex County Vocational School Board of Education Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this Sussex County Vocational School Board of Education Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This Sussex County Vocational School Board of Education Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This Sussex County Vocational School Board of Education Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this Sussex County Vocational School Board of Education Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this Sussex County Vocational School Board of Education Local Unit License Agreement and (b) its performance of the actions contemplated by this Sussex County Vocational School Board of Education Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this License Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

[ The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow ]

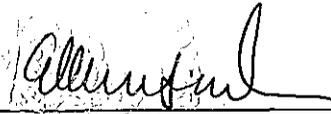
IN WITNESS WHEREOF, the parties hereto have each caused this Sussex County Vocational School Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By:   
**John Bonanni, Chairman**

ATTEST:

By:   
**Ellen M. Sandman, Secretary**

[SEAL]

**SUSSEX COUNTY VOCATIONAL SCHOOL  
BOARD OF EDUCATION, as Licensor**

By: \_\_\_\_\_

**Robert Clark, Authorized Representative**

ATTEST:

By: \_\_\_\_\_

**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

**IN WITNESS WHEREOF**, the parties hereto have each caused this Sussex County Vocational School Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By: \_\_\_\_\_  
**John Bonanni, Chairman**

**ATTEST:**

By: \_\_\_\_\_  
**Ellen M. Sandman, Secretary**

[SEAL]

**SUSSEX COUNTY VOCATIONAL SCHOOL  
BOARD OF EDUCATION, as Licensor**

By:  \_\_\_\_\_

**Robert Clark, Authorized Representative**

**ATTEST:**

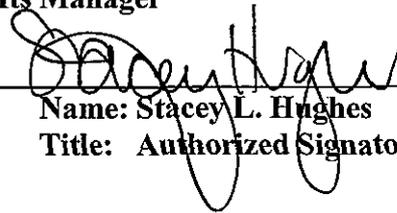
By:  \_\_\_\_\_  
**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

The terms and conditions of this Sussex County Vocational School Board of Education Local Unit License Agreement are hereby **ACKNOWLEDGED** and **ACCEPTED** by the following acknowledgment party, this 14<sup>th</sup> day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory



STATE OF NEW JERSEY )

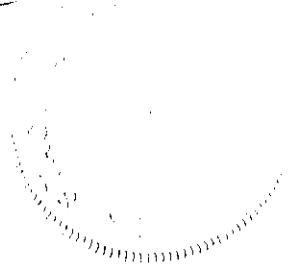
) ss.:

COUNTY OF SUSSEX)

On this 7<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared **Robert Clark** known to me (or proved to me on the basis of satisfactory evidence) to be the **Authorized Representative** of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
\_\_\_\_\_  
Notary Public

STACY A. CROSSON  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires 3/27/2015



STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
\_\_\_\_\_  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6233849  
Qualified In New York County  
My Commission Expires January 03, 2015

**EXHIBIT A**

**Morris County Improvement Authority**

not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

*Sussex County Technical School (<http://www.sussex.tec.nj.us/>)*

- (A) *Sussex County Technical School (Roof 112 kW, Ground Mount 1,142 kW and Parking Canopy 290 kW)  
105 North Church Road  
Sparta, NJ*

## **EXHIBIT B**

### **[Attach Description of Sussex County Vocational School Board of Education Renewable Energy Projects]**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

**EXHIBIT C**

**[Attach Description of Sussex County Vocational School Board of Education Capital Improvement Projects]**

**None**

**EXHIBIT D**

**[Attach Sussex County Vocational School Board of Education Draw Papers]**

Requisition No. \_\_\_\_\_  
\_\_\_\_\_, \_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Sussex County Vocational School Board of Education Renewable Energy Projects**") [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**Sussex County Vocational School Board of Education Capital Improvement Projects**")]] being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

[\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]; and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

[\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Sussex County Vocational School Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Sussex County Vocational School Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor:  
\_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the Sussex County Vocational School Board of Education Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the Sussex County Vocational School Board of Education Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor:  
\_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with Section [1(a)] [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or

has been paid by or on behalf of the Company. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**The terms of this Requisition are hereby  
ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this \_\_\_\_ day of \_\_\_\_,  
20\_\_.**

**[LICENSOR]**

**[By: CONSTRUCTION MANAGER]**

**By: \_\_\_\_\_  
Name:  
Title:**

**The form (only) of this Requisition is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_\_ day of \_\_\_\_, 20\_\_.**

**[By: CONSTRUCTION MANAGER]**

**By: \_\_\_\_\_  
Name:  
Title:**

**EXHIBIT E**

**FORMS OF Sussex County Vocational School Board of Education ACCEPTANCE  
CERTIFICATES**

See Attached:

Form E-1, Form of Sussex County Vocational School Board of Education REP Acceptance  
Certificate

Form E-2, Form of Sussex County Vocational School Board of Education CIP Acceptance  
Certificate

## EXHIBIT E-1

### [Attach Sussex County Vocational School Board of Education REP Acceptance Certificate]

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the “**Sussex County Vocational School Board of Education Renewable Energy Projects**”) being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the Sussex County Vocational School Board of Education Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Sussex County Vocational School Board of Education Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Sussex County Vocational School Board of Education Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof].

3. The Sussex County Vocational School Board of Education Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Company’s and the Licensor’s acceptance of the Sussex County Vocational School Board of Education Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the Sussex County Vocational School Board of Education Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the Sussex County Vocational School Board of Education Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Sussex County Vocational School Board of Education Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

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The terms of this Sussex County Vocational School Board of Education REP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_ day of \_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Sussex County Vocational School Board of Education REP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_ day of \_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title::

**EXHIBIT E-2**

**[Attach Sussex County Vocational School Board of Education CIP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the “**Sussex County Vocational School Board of Education Capital Improvement Projects**”) being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the Sussex County Vocational School Board of Education Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Sussex County Vocational School Board of Education Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Sussex County Vocational School Board of Education Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof].

3. By obtaining the Licensor’s execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor’s acceptance of (a) the Sussex County Vocational School Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which Sussex County Vocational School Board of Education Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor’s acceptance of the Sussex County Vocational School Board of Education Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. *[Choose one, as applicable]*

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Sussex County Vocational School Board of Education Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_  
**Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

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The terms of this Sussex County Vocational School Board of Education CIP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_ day of \_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Sussex County Vocational School Board of Education CIP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_ day of \_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT F**

**CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR**

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "**Series 2011 Bonds**")

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Sussex County Vocational School Board of Education Local Unit License Agreement**") by and between The Morris County Improvement Authority (the "**Authority**") and [ ] (the "**Licensor**"), and (ii) Section 5.03(3)(a) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Sussex County Vocational School Board of Education Local Unit License Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

[ \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to  
for \_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

[LICENSOR]

By: \_\_\_\_\_  
Authorized Officer

The form (only) of this Certificate is hereby  
ACKNOWLEDGED by the MORRIS COUNTY  
IMPROVEMENT AUTHORITY this \_\_\_\_ day  
of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**

**[None]**

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**LICENSE AND ACCESS AGREEMENT  
(Sussex County Renewable Energy Program; Series 2011)**

**By and Between**

**Sussex County Community College, as Licensor**

**And**

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee**

**Dated as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**LICENSE AND ACCESS AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS “**LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “*Sussex County Community College Local Unit License Agreement*”), dated as of December 1, 2011, is made by and among **Sussex County Community College** (the “*Licensor*”), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the “*County*”), State of New Jersey (“*State*”) and the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “*Authority*” or the “*Licensee*”), duly created by resolution of the Board of Chosen Freeholders (“*Board of Freeholders*”) of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”) and other applicable law.

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the “*County*”) desires to undertake the development and implementation of a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

**WHEREAS**, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "*Series 2011A Bonds*") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "*Series 2011A Bonds*"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*", and together with the Series 2011A Bonds, "*Series 2011 Bonds*"), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*);

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County

College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments

shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a

minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011

Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure

Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “County Documents”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and (ii) the execution and delivery of a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County “*Sale Documents*”);

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the “*Sussex County Board of Freeholders*”) and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the “*Program Documents*”), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE,** for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agrees as follows:

## ARTICLE I

### DEFINITIONS

#### Section 1.1. Definitions.

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**Sussex County Community College Local Unit License Agreement**  
**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**  
**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**

**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this Sussex County Community College Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

**Account**  
**Additional Bonds**  
**Administrative Expense Account**  
**Administrative Fund**  
**Aged Account**  
**Bond**  
**Capitalized Interest Account**  
**Code**  
**Company Development Fees and Expenses**  
**Completion Conditions**  
**Completion Project**  
**Consulting Energy Engineer**  
**Consulting Energy Engineering Services**  
**Cost**

**Costs of Issuance Account**  
**County Security Fund**  
**County Security Fund Requirement**  
**Debt Service Fund**  
**Funds**  
**General Fund**  
**Gross Substitute Power Purchase Price**  
**Interest Account**  
**Investment Securities**  
**Net Substitute Power Purchase Price**  
**Outstanding**  
**Paying Agent**  
**Principal Account**  
**Principal Office**  
**Project Fund**  
**Rating Agency**  
**Renewable Energy Program Interested Party**  
**Restoration Security Fund**  
**Restoration Security Fund Requirement**  
**Revenue Account**  
**Revenue Fund**  
**Revenues**  
**Series**  
**Series 2011B Bonds**  
**Sinking Fund Installments**  
**Supplemental Resolution**  
**Tax Certificate**  
**Tax-exempt Bonds**  
**Trustee**  
**Trust Estate**

(c) The following defined terms shall, for all purposes of this Sussex County Community College Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

**Sussex County Community College Capital Improvement**  
**Projects**  
**Sussex County Community College Licensee**  
**Sussex County Community College Licensees**  
**Sussex County Community College Local Unit Facilities**  
**Sussex County Community College Local Unit License**  
**Sussex County Community College Project Activities**  
**Sussex County Community College Projects**



County Community College Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

“**Sussex County Community College Construction Manager**” shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

“**Sussex County Community College Draw Papers**” shall mean the requisitions, and attachments thereto, applicable to either the (i) Sussex County Community College Renewable Energy Projects or (ii) Sussex County Community College Capital Improvement Projects, in either case in the form attached as **Exhibit D** to the Sussex County Community College Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the Sussex County Community College Renewable Energy Projects or the Sussex County Community College Capital Improvement Projects, all as set forth in Section 4.1 of the Sussex County Community College Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

“**Sussex County Community College Interconnection Agreement**” shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed Sussex County Community College Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

“**Sussex County Community College REP Acceptance Certificate**” shall mean the certificate applicable to the Sussex County Community College Renewable Energy Projects in the form attached as **Exhibit E-1** to the Sussex County Community College Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company’s acceptance of all of the Sussex County Community College Renewable Energy Projects, all as set forth in Section 4.2 of the Sussex County Community College Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

**“Authorized Officer”** or **“Authorized Representative”** shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the Vice President of Finance and Operations or such other person designated as an Authorized Officer in the Sussex County Community College Local Unit License Agreement or any other person or persons who shall be authorized to act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Event of Default”** shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### **Section 2.1. Representations and Warranties of the Licensor.**

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this Sussex County Community College Local Unit License Agreement (and any documents contemplated hereby, including without limitation the Sussex County Community College Draw Papers, the Sussex County Community College Acceptance Certificates, and any Sussex County Community College Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the Sussex County Community College Local Unit Facilities. Licensor holds good, record and marketable title to each of the Sussex County Community College Local Unit Facilities and the land underlying the Sussex County Community College Local Unit Facilities. There are no mortgages or other liens against the Sussex County Community College Local Unit Facilities or the land except as set forth on Exhibit G.

#### **Section 2.2. Representations and Warranties of the Licensee.**

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this Sussex County Community College Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### **Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.**

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company thereunder, this Sussex County Community College Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i) N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

#### **Section 2.4. Covenants of the Licensor.**

(a) Upon the delivery of the Sussex County Community College CIP Acceptance Certificate with respect to the Sussex County Community College Capital Improvement Projects, if any, the Licensor shall own such Sussex County Community College Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the Sussex County Community College Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the Sussex County Community College Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the Sussex County Community College Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this **Sussex County Community College** Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

#### **Section 2.5. Covenants of the Licensee.**

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the Sussex County Community College Renewable Energy Projects on, or as applicable, in the Sussex County Community College Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital

Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the Sussex County Community College Capital Improvement Projects on or as applicable, in the Sussex County Community College Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the Sussex County Community College Renewable Energy Projects on or as applicable, in or about the Sussex County Community College Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such Sussex County Community College Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the Sussex County Community College Capital Improvement Projects on or as applicable, in or about the Sussex County Community College Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that that such Sussex County Community College Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### **Section 2.6. Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any Sussex County Community College Capital Improvement Projects under the Program Documents and any references herein to Sussex County Community College Capital Improvement Projects, Sussex County Community College Capital Improvement Project Fund, Sussex County Community College CIP Acceptance Certificates or any other term defined by reference to Sussex County Community College Capital Improvement Projects (without limiting the application of any such term to the extent not related to Sussex County Community College Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the County Reserve upon issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

## ARTICLE III

### LICENSE

#### Section 3.1. License.

(a) For the Term of this Sussex County Community College Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this Sussex County Community College Local Unit License Agreement (each, an "**Sussex County Community College Licensee**", and collectively, the "**Sussex County Community College Licensees**"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on **Exhibit A** hereto (the "**Sussex County Community College Local Unit Facilities**"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other Sussex County Community College Licensee access to the Sussex County Community College Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this Sussex County Community College Local Unit License Agreement, a license (the "**Sussex County Community College Local Unit License**") allowing each Sussex County Community College Licensee to enter the Sussex County Community College Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on **Exhibit B** hereto (the "**Sussex County Community College Renewable Energy Projects**"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on **Exhibit C** hereto (the "**Sussex County Community College Capital Improvement Projects**", and together with the Sussex County Community College Renewable Energy Projects, the "**Sussex County Community College Projects**") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "**Sussex County Community College Project Activities**"), all at the sole cost and expense of the Authority or any other Sussex County Community College Licensee, but not the Licensor[, unless expressly set forth elsewhere herein]. As there are no Sussex County Community College Capital Improvement Projects for the Licensor, this definition shall have no effect in this Sussex County Community College Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site (solely the site and not including the solar improvements) at or in each of its Sussex County Community College Local Unit Facilities.

(b) For all purposes of this Sussex County Community College Local Unit License Agreement, the Sussex County Community College Local Unit License shall be deemed to include a preliminary license granted by the Licensor to the Authority and shall include, as

Sussex County Community College Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to constitute permissive Sussex County Community College Activities, which preliminary Sussex County Community College Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

(c) The Sussex County Community College Licensees shall have access to the Sussex County Community College Local Unit Facilities to conduct Sussex County Community College Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the Sussex County Community College Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the Sussex County Community College Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the Sussex County Community College Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the Sussex County Community College Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the Sussex County Community College Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the Sussex County Community College Local Unit Facilities.

(d) No other activities beyond the scope of the Sussex County Community College Project Activities shall be undertaken on the Sussex County Community College Local Unit Facilities by the Authority or any other Sussex County Community College Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensors shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensors are obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensors shall use commercially reasonable efforts to avoid interfering with the Company's performance of its obligations under this Sussex County Community College Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

**Section 3.2. Sussex County Community College Licensees.** The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this Sussex County Community College Local Unit License Agreement, the Sussex County Community College License shall permit the Sussex County Community College Licensees to enter upon the Sussex County Community College Local Unit Facilities to conduct the Sussex County Community College Project Activities, at which time any such Sussex County Community College Licensees shall automatically, without any further action, be bound by the provisions of this Sussex County Community College Local Unit License Agreement during the Term hereof. The Licensee must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and subcontractors who will be present at the site, and the Licensee acknowledges that the same will be used for purposes of checking all identities against the Megans law registry.

**Section 3.3. Observation.** In connection with all Sussex County Community College Project Activities, the Authority and/or any other Sussex County Community College Licensee shall afford the Licensors and/or its representatives, the opportunity to observe all Sussex County Community College Project Activities; provided, however, that such observation activities shall not interfere with any Sussex County Community College Project Activities or delay construction of the Projects; and provided, further, that the Licensors hereby release and agree to indemnify, defend and hold harmless the Authority and each other Sussex County Community College Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensors', or its representatives' or consultant's entry or activities on the Sussex County Community College Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all Sussex County Community College Licensees, to promptly provide the Licensors with copies of any final written reports prepared, compiled or generated as part of the Sussex County Community College Project Activities, if any [list of reports can be added here]. Further, the Licensors shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the Sussex County Community College Local Unit License, to inspect the Sussex County Community College Local Unit Facilities and/or the Sussex County Community College Renewable Energy Projects during the Term of this Sussex County Community College Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the Sussex County Community College Local Unit License under this Sussex County Community College Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other Sussex County Community College Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the Sussex County Community College Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing Sussex County Community College Project Activities on the Sussex County Community College Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, as may be modified by the Program Documents, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority and the Licensor is given at least thirty (30) days prior written notice of such cancellation or modification. Notwithstanding anything else contained herein or in the Power Purchase Agreement, to the extent the insurance is in accordance with Acord 25 (2010/05) should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**Section 3.7. Revocation.**

(a) The parties expressly acknowledge that the Sussex County Community College Local Unit License cannot be revoked (including deemed revocation situations where the Sussex County Community College Local Unit Facilities are unavailable to allow the Company to perform Sussex County Community College Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the Sussex County Community College Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its Sussex County Community College Local Unit License for the Sussex County Community College Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the Sussex County Community College Renewable Energy Projects, with as similar physical conditions to the existing Sussex County Community College Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute Sussex County Community College Renewable Energy Project on the Sussex County Community College Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this Sussex County Community College Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the Sussex County Community College Renewable Energy Projects located on, or as applicable in, the Sussex County Community College Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the Sussex County Community College Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new Sussex County Community College Local Unit Facilities for all purposes of this Sussex County Community College Local Unit License Agreement and the other Program Documents, and similarly, the new Sussex County Community College Renewable Energy Projects on, or as applicable in, such new Sussex County Community College Local Unit Facilities shall be deemed the new Sussex County Community College Renewable Energy Projects for all purposes of this Sussex County Community College Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the Sussex County Community College Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this Sussex County Community College Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to

secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Sussex County Community College Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (I) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (II) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the Sussex County Community College Renewable Energy Projects been operating at the Sussex County Community College Local Unit Facilities for the remainder of such then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (III) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the Sussex County Community College Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the Sussex County Community College Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the Sussex County Community College Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any Sussex County Community College Local Unit Facility as a result of which such Sussex County Community College Local Unit Facility is unavailable to allow the Company to perform its Sussex County

Community College Project Activities shall be deemed to be a revocation of the Sussex County Community College Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

**Section 3.8. Material Change to Sussex County Community College Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.**

To the extent the Licensor requests a material change to the Sussex County Community College Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the Sussex County Community College Renewable Energy Projects (the “**Revised Sussex County Community College Renewable Energy Projects**”), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised Sussex County Community College Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the Sussex County Community College Renewable Energy Projects set forth on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

**Section 3.9. Abandonment.**

If any Sussex County Community College Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this Sussex County Community College Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such Sussex County Community College Renewable Energy Project, be deemed terminated and discharged.

## ARTICLE IV

### Sussex County Community College DRAW PAPERS; Sussex County Community College ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE

#### Section 4.1. Sussex County Community College Draw Papers.

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the Sussex County Community College Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the Sussex County Community College Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the Sussex County Community College Renewable Energy Projects and the Sussex County Community College Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the Sussex County Community College Renewable Energy Projects or the Sussex County Community College Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the Sussex County Community College Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and **Exhibit D** hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the Sussex County Community College Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the Sussex County Community College Capital Improvement Projects. The Licensor shall promptly review the Sussex County Community College Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the Sussex County Community College Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such Sussex County Community College Draw Papers where indicated, and promptly forward the original of such Sussex County Community College Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Sussex County Community College Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any Sussex County Community College Draw Papers, which delegation shall be conclusively evidenced by the

Licensors' filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Sussex County Community College Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this Sussex County Community College Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body (so long as same does not violate state statutes and regulations), in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver any Sussex County Community College Draw Papers or (ii) delegate any such action to the Sussex County Community College Construction Manager.

(e) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Sussex County Community College Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any Sussex County Community College Draw Papers to the Sussex County Community College Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Sussex County Community College Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Sussex County Community College Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any Sussex County Community College Draw Papers or (ii) delegate any such action to the Sussex County Community College Construction Manager.

**Section 4.2. Sussex County Community College REP Acceptance Certificate Relating to the Sussex County Community College Renewable Energy Projects.**

(a) When the Company has determined that all of the Sussex County Community College Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the Sussex County Community College Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the Sussex County Community College REP Acceptance Certificate applicable to such Sussex County Community College Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and **Exhibit E-1** hereto.

(b) The Licensor shall promptly review the form Sussex County Community College REP Acceptance Certificate applicable to the Sussex County Community College Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the Sussex County Community College REP Acceptance Certificate to a form

acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Sussex County Community College REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such Sussex County Community College REP Acceptance Certificate where indicated, and promptly forward the original of such Sussex County Community College REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the Sussex County Community College Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the Sussex County Community College REP Acceptance Certificate to the Sussex County Community College Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the Sussex County Community College Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. The Sussex County Community College Construction Manager shall use all reasonable efforts to ensure that copies of all Draw Papers and the REP Acceptance Certificate are forwarded to the Licensor in a reasonably timely manner. By the Licensor's authorization, execution and delivery of this Sussex County Community College Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the Sussex County Community College REP Acceptance Certificate or (ii) delegate any such action to the Sussex County Community College Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Sussex County Community College Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Sussex County Community College REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the Sussex County Community College Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Sussex County Community College Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Sussex County Community College REP Acceptance Certificate or (ii) delegate any such action to the Sussex County Community College Construction Manager.

**Section 4.3. Sussex County Community College CIP Acceptance Certificate Relating to the Sussex County Community College Capital Improvement Projects.**

(a) When the Company has determined that all of the Sussex County Community College Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensors, with a copy to the Authority, the Sussex County Community College CIP Acceptance Certificate applicable to such Sussex County Community College Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and **Exhibit E-2** hereto.

(b) The Licensors shall promptly review the form Sussex County Community College CIP Acceptance Certificate applicable to the Sussex County Community College Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensors shall promptly contact the Company to clarify or otherwise change the Sussex County Community College CIP Acceptance Certificate to a form acceptable to Licensors. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the Sussex County Community College CIP Acceptance Certificate from the Company in a form acceptable to the Licensors, the Licensors shall execute the acknowledgment form to such Sussex County Community College CIP Acceptance Certificate where indicated, and promptly forward the original of such Sussex County Community College CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensors may delegate to the Sussex County Community College Construction Manager the Licensors' rights to review, acknowledge, accept, execute and deliver the Sussex County Community College CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Licensors' filing of a Certificate of an Authorized Officer of the Licensors to such effect with the Trustee, with copies to the Authority, the Company, and the Sussex County Community College Construction Manager; provided, however, that any such delegation shall not absolve the Licensors from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensors' authorization, execution and delivery of this Sussex County Community College Local Unit License Agreement, the Licensors shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensors either to (i) review, acknowledge, accept, execute and deliver the Sussex County Community College CIP Acceptance Certificate or (ii) delegate any such action to the Sussex County Community College Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the Sussex County Community College Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the Sussex County Community College CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensors, and the Sussex County Community College Construction Manager; provided, however, that any such

delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this Sussex County Community College Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the Sussex County Community College CIP Acceptance Certificate or (ii) delegate any such action to the Sussex County Community College Construction Manager.

**Section 4.4. Costs of Issuance.**

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of **Exhibit F** hereto.

## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material affect on the Licensor, it being expressly understood that any such amendment having no material affect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the Sussex County Community College Renewable Energy Projects and restoration of the Sussex County Community College Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this Sussex County Community College Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the applicable Series

2011 Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power from the Company thereunder from the Sussex County Community College Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(i) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (c), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the Sussex County Community College Renewable Energy Projects located on, or as applicable, in the Sussex County Community College Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the Sussex County Community College Renewable Energy Projects installed on or, as applicable, in the Sussex County Community College Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the Sussex County Community College Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall take into account all

the facts and circumstances of the marketplace for such Sussex County Community College Renewable Energy Projects at such time, including without limitation, its continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; *provided, however*, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other Sussex County Community College Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time (as reasonably determined by the Authority), the Sussex County Community College Renewable Energy Projects from the Sussex County Community College Local Unit Facilities at the sole cost and expense and effort of the Company or any such other Sussex County Community College Licensees, and (ii) restore, within a reasonable period of time, the Sussex County Community College Local Unit Facilities, as improved by the Sussex County Community College Capital Improvement Projects, to the condition prior to the installation of the Sussex County Community College Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the Sussex County Community College Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

## **Section 5.2. Substitute Power Purchase Price.**

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, this Sussex County Community College Local Unit License Agreement

shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its Sussex County Community College Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the Sussex County Community College Renewable Energy Projects located on, or as applicable, in the Sussex County Community College Local Unit Facilities from the Authority, as owner of the Sussex County Community College Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "**Gross Substitute Power Purchase Price**"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "**Net Substitute Power Purchase Price**") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the Sussex County Community College Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a

portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the Sussex County Community College Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the Sussex County Community College Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI

### EVENT OF DEFAULT

#### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this Sussex County Community College Local Unit License Agreement:

(i) the Authority or any other Sussex County Community College Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other Sussex County Community College Licensee to be performed or observed under this Sussex County Community College Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensors; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other Sussex County Community College Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensors are kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this Sussex County Community College Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(c) that are within the Licensor's control) the Sussex County Community College Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part

of the Licensor to be performed or observed under this Sussex County Community College Local Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

## **Section 6.2. Remedies.**

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this Sussex County Community College Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Sussex County Community College Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by

statute to enforce the specific performance rights of the Authority under this Sussex County Community College Local Unit License Agreement.

**Section 6.3. Remedies Generally.**

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this Sussex County Community College Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this Sussex County Community College Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the Sussex County Community College Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such Sussex County Community College Projects until cured, including without limitation the requirement that the Company complete all Projects, including the Sussex County Community College Projects, by December 14, 2012, all in accordance with the terms of the Program Documents.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.1 Term.

(a) This Sussex County Community College Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This Sussex County Community College Local Unit License Agreement and the Sussex County Community College Local Unit License granted herein shall terminate against the Authority, after which date all Sussex County Community College Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the Sussex County Community College Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the Sussex County Community College Renewable Energy Projects shall have been removed from the Sussex County Community College Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the Sussex County Community College Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the Sussex County Community College Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 thereof, and [either the Licensor or the Licensee desires to terminate

this Sussex County Community College Local Unit License Agreement, which termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the Licensee agree in writing to terminate this Sussex County Community College Local Unit License Agreement].

(c) The “**Term**” of this Sussex County Community College Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this Sussex County Community College Local Unit License Agreement, none of the Licensor, the Authority, nor any other Sussex County Community College Licensees shall have any further rights, duties or obligations with respect to the Sussex County Community College Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this Sussex County Community College Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the Sussex County Community College Licensees to gain access under the Sussex County Community College Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority’s rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Sussex County Community College Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) Licensor: Sussex County Community College

- With a copy to: [Licensor's Counsel]
- (b) Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.Morris.nj.us
- With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com
- (c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960
- With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)
- (d) Company: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email : principals@sunlightgeneral.com
- With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: [jduffy@nixonpeabody.com](mailto:jduffy@nixonpeabody.com)
- (e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Vorhees, NJ 08043  
Email: [jvogel@birdsall.com](mailto:jvogel@birdsall.com)
- With a copy to: Joseph Santaiti  
Gabel Associates

417 Denison St.  
Highland Park, NJ 08904  
Email: joseph.santaiti@gabelassociates.com

**Section 7.4. Successors and Assigns.** This Sussex County Community College Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This Sussex County Community College Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This Sussex County Community College Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other Sussex County Community College Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This Sussex County Community College Local Unit License Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this Sussex County Community College Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this Sussex County Community College Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this Sussex County Community College Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This Sussex County Community College Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This Sussex County Community College Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this Sussex County Community College Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this Sussex County Community College Local Unit License Agreement and (b) its performance of the actions contemplated by this Sussex County Community College Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any

court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this License Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**[ The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow ]**

IN WITNESS WHEREOF, the parties hereto have each caused this Sussex County Community College Board of Education Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee

By:   
John Bonanni, Chairman

ATTEST:

By:   
Ellen M. Sandman, Secretary

[SEAL]

SUSSEX COUNTY COMMUNITY COLLEGE,  
as Licensor

By: \_\_\_\_\_

Dr. Paul Mazur, President

ATTEST:

By: \_\_\_\_\_

Authorized Representative

Acknowledgment and Acceptance Page to Follow

IN WITNESS WHEREOF, the parties hereto have each caused the Sussex County Community College Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee**

By: \_\_\_\_\_  
**John Bonanni, Chairman**

**ATTEST:**

By: \_\_\_\_\_  
**Ellen M. Sandman, Secretary**

[SEAL]

**SUSSEX COUNTY COMMUNITY COLLEGE,  
as Licensor**

By: Frank Nocella  
**Frank Nocella, Vice President of Finance  
and Operations**

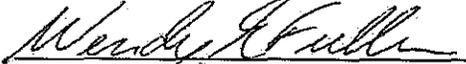
**ATTEST:**

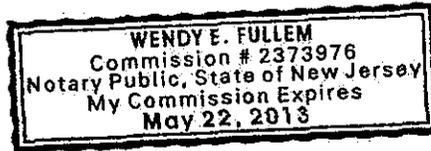
By: Wendy A. Fuller  
**Authorized Representative**

**Acknowledgment and Acceptance Page to Follow**

STATE OF NEW JERSEY )  
 ) ss.:  
COUNTY OF SUSSEX)

On this \_\_ day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared **Dr. Paul Mazur** known to me (or proved to me on the basis of satisfactory evidence) to be the **President** of the Sussex County Community College within the Series 2011 Local Units, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

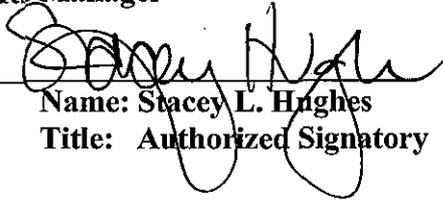
  
Notary Public



The terms and conditions of this Sussex County Community College Local Unit License Agreement are hereby **ACKNOWLEDGED** and **ACCEPTED** by the following acknowledgment party, this 14<sup>th</sup> day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

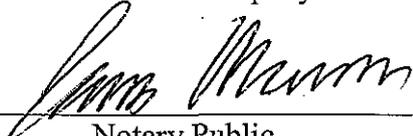
**By: Sunlight General Capital Management, LLC  
Its Manager**

By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory



STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
\_\_\_\_\_  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6233849  
Qualified in New York County  
My Commission Expires January 03, 2015

**EXHIBIT A**

**Morris County Improvement Authority**  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

*Sussex County Community College (Ground Mount 122 kW, Parking Canopy 924 kw)*  
*One College Hill Road*  
*Newton, NJ 07860*

## **EXHIBIT B**

### **[Attach Description of Sussex County Community College Renewable Energy Projects]**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

**EXHIBIT C**

**[Attach Description of Sussex County Community College Capital Improvement Projects]**

**None**

**EXHIBIT D**

**[Attach Sussex County Community College Draw Papers]**

Requisition No. \_\_\_\_\_

\_\_\_\_\_, \_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "**Sussex County Community College Renewable Energy Projects**") [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "**Sussex County Community College Capital Improvement Projects**") being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensors**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]; and

(b) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this  
Requisition were incurred in connection with the [acquisition, construction, or installation of the  
Sussex County Community College Renewable Energy Projects listed on **Exhibit A-1**]  
[acquisition, construction, renovation or installation of the Sussex County Community College  
Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be  
financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the  
following Local Unit Facilities of the Licensor: \_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this  
Requisition were incurred in connection with the [acquisition, construction, or installation of the  
Sussex County Community College Renewable Energy Projects listed on **Exhibit A-1**]  
[acquisition, construction, renovation or installation of the Sussex County Community College  
Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be  
financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the  
following Local Unit Facilities of the Licensor: \_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with  
Section [1(a)] [1(b)] of this Requisition, (i) has been properly incurred in accordance with the  
Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against  
the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto  
is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or  
has been paid by or on behalf of the Company. This Requisition, together with any such  
attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw

Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory

The terms of this Requisition are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT E**

**FORMS OF Sussex County Community College ACCEPTANCE CERTIFICATES**

See Attached:

Form E-1, Form of Sussex County Community College REP Acceptance Certificate  
Form E-2, Form of Sussex County Community College CIP Acceptance Certificate

**EXHIBIT E-1**

**[Attach Sussex County Community College REP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the “**Sussex County Community College Renewable Energy Projects**”) being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the Sussex County Community College Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Sussex County Community College Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Sussex County Community College Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof].

3. The Sussex County Community College Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Company’s and the Licensor’s acceptance of the Sussex County Community College Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the Sussex County Community College Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the Sussex County Community College Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Sussex County Community College Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_**

**Name: Stacey Hughes**

**Title: Authorized Signatory**

**ATTEST:**

---

The terms of this Sussex County Community College REP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Sussex County Community College REP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title::

**EXHIBIT E-2**

**[Attach Sussex County Community College CIP Acceptance Certificate]**

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the “**Sussex County Community College Capital Improvement Projects**”) being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the Sussex County Community College Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the Sussex County Community College Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the Sussex County Community College Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof[, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof].

3. By obtaining the Licensor’s execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor’s acceptance of (a) the Sussex County Community College Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which Sussex County Community College Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor’s acceptance of the Sussex County Community College Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. *[Choose one, as applicable]*

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the Sussex County Community College Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital Management, LLC  
Its Manager**

**By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory**

**ATTEST:**

\_\_\_\_\_

The terms of this Sussex County Community College CIP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_

Name:

Title:

The form (only) of this Sussex County Community College CIP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_

Name:

Title:

**EXHIBIT F**

**CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR**

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the “**Series 2011 Bonds**”)

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Sussex County Community College Local Unit License Agreement**”) by and between The Morris County Improvement Authority (the “**Authority**”) and [ ] (the “**Licensor**”), and (ii) Section 5.03(3)(a) of the Authority’s bond resolution duly adopted July 20, 2011 and entitled “Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority”, as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Sussex County Community College Local Unit License Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

[ \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to  
\_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

**[LICENSOR]**

By: \_\_\_\_\_  
Authorized Officer

**The form (only) of this Certificate is hereby  
ACKNOWLEDGED by the MORRIS COUNTY  
IMPROVEMENT AUTHORITY this \_\_\_\_ day  
of \_\_\_\_, 20\_\_.**

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**

**[None]**

---

**LEASE PURCHASE AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Lessor**

**and**

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC, as Lessee**

**Dated as of December 1, 2011**

---

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**LEASE PURCHASE AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS “**LEASE PURCHASE AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “**Company Lease Agreement**”), dated as of December 1, 2011, is made by and among the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “**Authority**” or “**Lessor**”), duly created by resolution of the Board of Chosen Freeholders (“**Board of Freeholders**”) of the County of Morris (the “**County of Morris**”), State of New Jersey (“**State**”) as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “**Act**”) and other applicable law, and **SUNLIGHT GENERAL SUSSEX SOLAR, LLC**, a limited liability company organized and existing under the laws of the State of Delaware, duly authorized to conduct business in the State (including any successors and assigns, the “**Company**” or “**Lessee**”).

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the “*County*”) desires to undertake the development and implementation of a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

**WHEREAS**, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy

Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the “*Local Unit Facilities*”);

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the “*Municipal Series 2011 Local Units*”); and
- (ii) Byram Township School District, Frankford Township’s Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the “*Board of Education Series 2011 Local Units*”); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the “*County Series 2011 Local Units*”);

(each a “*Series 2011 Local Unit*”, and, collectively, the “*Series 2011 Local Units*”), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,

Series 2011A (Federally Taxable)” dated their date of delivery (the “*Series 2011A Bonds*”) the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the “*Series 2011A Bonds*”), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)” (the “*Series 2011B Note*”, and together with the Series 2011A Bonds, “*Series 2011 Bonds*”), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year’s worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*”);

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the “*Bonds*”) shall be issued pursuant to the terms of that certain “RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY” adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the “*Bond Resolution*”), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a “*Local Unit License Agreement*”, and collectively, the “*Local Unit License Agreements*”) with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the “*Local Unit License*”), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced

from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority’s covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority’s covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority’s rights to the Solar Renewable Energy Certificates (“*SRECs*”) generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to

purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and

executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease

Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above (i) reduce the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge*

*Agreement*”), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12 (“*Rule 15c-12*”) promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain “Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the “*Company Continuing Disclosure Agreement*”) with the Authority and the Trustee, as dissemination agent (the “*Dissemination Agent*”) in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain “County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the “*County Continuing Disclosure Agreement*” and together with the Company Continuing Disclosure Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “County Documents”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary*

*Official Statement*"); and (ii) the execution and delivery of a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*"), and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "*Sale Documents*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("*Section 13*") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program Documents*"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE**, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

#### SECTION 101. Definitions.

(a) The terms set forth in this Section shall have the meanings ascribed to them for all purposes of this Company Lease Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires. Terms used in this Company Lease Agreement and not otherwise defined shall have the meaning assigned to them in the Bond Resolution.

(b) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**

**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**  
**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**  
**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(c) The following defined terms shall, for all purposes of this Company Lease Agreement, have the meanings ascribed to such terms in the Bond Resolution

**Account**  
**Additional Bonds**  
**Administrative Expense Account**  
**Administrative Fund**

**Aged Account**  
**Bond**  
**Capitalized Interest Account**  
**Code**  
**Company Development Fees and Expenses**  
**Completion Conditions**  
**Completion Project**  
**Consulting Energy Engineer**  
**Consulting Energy Engineering Services**  
**Cost**  
**Costs of Issuance Account**  
**County Security Fund**  
**County Security Fund Requirement**  
**Debt Service Fund**  
**Funds**  
**General Fund**  
**Gross Substitute Power Purchase Price**  
**Interest Account**  
**Investment Securities**  
**Net Substitute Power Purchase Price**  
**Outstanding**  
**Paying Agent**  
**Principal Account**  
**Principal Office**  
**Project Fund**  
**Rating Agency**  
**Renewable Energy Program Interested Party**  
**Restoration Security Fund**  
**Restoration Security Fund Requirement**  
**Revenue Account**  
**Revenue Fund**  
**Revenues**  
**Series**  
**Series 2011B Bonds**  
**Sinking Fund Installments**  
**Supplemental Resolution**  
**Tax Certificate**  
**Tax-exempt Bonds**  
**Trustee**  
**Trust Estate**

(d) The following defined terms shall, for all purposes of this Company Lease Agreement, have the following meanings:

**"Acceptance Certificates"** shall mean, individually or collectively, as the case may be, the CIP Acceptance Certificates and the REP Acceptance Certificates.

**"Additional Lease Payment"** shall mean any amount payable by the Company at the times and under the other terms of the Company Lease Agreement, other than Basic Lease Payments, including without limitation, (i) Administrative Expenses not otherwise provided from a portion of the proceeds of the Bonds, including the second and succeeding Bond Year Administrative Fee, (ii) interest on any past due Lease Payments payable at the Overdue Rate (but not any such past due Basic Lease Payment), (iii) to the extent Company funds are available, after payment of all reasonable Company expenses and prior to any member distributions, replenishment of any deficiency in the County Security Fund Requirement, (iv) the Purchase Option Price in accordance with Section 701 of the Company Lease Agreement, (v) the Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement, (vi) the Restoration Security Fund deposits up to the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution, and (vii) a one-time payment of \$1,500,000 payable no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 for deposit in the County Security Fund to satisfy the County Security Fund Requirement.

**"Administrative Expenses"** shall mean the fees and expenses which are incurred from time to time by or on behalf of the Authority, the County, the County Security Provider, or the Series 2011 Local Units, including the Administrative Fee, if any, in carrying out their respective rights and duties under the terms of the Program Documents, including, without limitation the Preliminary Program Costs, accounting, administrative, financial advisory, and legal expenses, the Consulting Energy Engineering Services, the fees and expenses of the Trustee, the Paying Agent, or any other fiduciaries or agents acting on behalf of the Authority, the County, or the Series 2011 Local Units, under or pursuant to the terms of the Program Documents, which amounts shall be due and payable by the Company as an Additional Lease Payment at the times set forth in the Program Documents, or, as applicable, upon presentation of an invoice for payment; provided, however, that to the extent an Administrative Expense is incurred solely due to the action or inaction of a Series 2011 Local Unit not caused by or otherwise resulting from any action, inaction or request of the Company, such Administrative Expense shall be paid by such Series 2011 Local Unit upon presentation of an invoice for payment. Other than the Series 2011 Bond proceeds deposited in the Administrative Fund in accordance with Section 2.03(7)(a) of the Bond Resolution and earmarked for certain costs and expenses, including certain Administrative Expenses, and other than the Authority's annual Administrative Fee and the Trustee's annual fee to be paid as an Additional Lease Payment by the Company, the Company and the Series 2011 Local Units shall only be responsible for the reasonable amount of Administrative Expenses caused by the action or inaction of the Company or the Series 2011 Local Unit, as applicable, to the extent any such Administrative Expenses arise in the course of the implementation of the Renewable Energy Projects and/or the performance by the Authority, County, and/or Series 2011 Local Unit of their rights, duties and obligations under the Program Documents.

**“Administrative Fee”** shall mean the sum of the following, payable by the Company to the Authority at the times and the amounts as set forth below:

(i) With respect to the Series 2011 Bonds for the first Bond Year upon initial issuance thereof, the Authority’s fee for the Renewable Energy Program in the amount of \$120,000, consisting of the sum of (a) \$100,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Costs of Issuance Account of the Administrative Fund pursuant to Section 2.03(7)(a)(i) of the Bond Resolution and (b) \$20,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Administrative Expense Account of the Administrative Fund pursuant to Section 2.03(7)(a)(ii)(A) of the Bond Resolution; plus

(ii) For all Bond Years with respect to the Series 2011 Bonds thereafter (commencing June 15, 2013), a sum of money payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund payable on the Basic Lease Payment Date immediately preceding the first day of any such Bond Year, equal to \$20,000, which amount may be referred to as the Authority’s annual Administrative Fee; plus

(iii) For all Bond Years with respect to the Series 2011 Bonds commencing December 15, 2017 and thereafter, a sum or sums of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(c) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(iv) For all Bond Years with respect to the Series 2011 Bonds, a sum of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(b) and/or Section 6.3(d) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(v) With respect to any Series of Bonds, interest on any past due Basic Lease Payments payable at the Overdue Rate in accordance with the Company Lease Agreement (but not any such past due Basic Lease Payment); plus

(vi) For all Bond Years with respect to any Series of Additional Bonds, such amounts as may be set forth in a Supplemental Resolution, including without limitation, for any Series of Additional Bonds that refund the Series 2011 Bonds or any other Series of Outstanding Bonds, (a) a financing fee payable upon the issuance of any such Series of Additional Bonds (from the proceeds thereof, from the Company, or otherwise) in the amount of two percent (2%) of the aggregate principal amount of any such Series of Additional Bonds, or such different amount as shall be agreed to by the Company and the Authority, plus (b) all reasonable Administrative Expenses of the Authority and any other Renewable Energy Program Interested Party involved in any such refunding payable upon the issuance of any such Series of Additional Bonds, plus (c) an annual financing fee of one percent (1%) of the aggregate principal amount of any such Series of Additional Bonds Outstanding and payable by the Company as of the first day of each Bond Year until final maturity (stated or otherwise) thereof, plus (d) the amounts, if any, payable to the Authority pursuant to Section 6.3(d) of the Power Purchase Agreement, except as any such amounts may be modified in any such Supplemental Resolution authorizing the issuance of any such Series of Additional Bonds.

“**Applicable**” shall mean (i) with reference to any Series 2011 Local Unit, the Series 2011 Local Unit intended to be benefited or obligated thereby, (ii) with reference to any Renewable Energy Project, the Renewable Energy Project for the intended Series 2011 Local Unit, (iii) with reference to any Local Unit Facilities, the Local Unit Facilities for the intended Series 2011 Local Unit, and (iv) with reference to any Local Unit License Agreement, the Local Unit License Agreement executed for the benefit of the intended Series 2011 Local Unit.

“**Applicable Law**” means all applicable provisions of any constitution, statute, law ordinance, code, rule, regulation, decision, order, decree, judgment, release, license, permit, stipulation or other official pronouncement enacted, promulgated or issued by any Governmental Authority.

“**Architect**” shall mean individually or collectively, as the case may be, the individual or entity appointed or caused to be appointed or employed by the Applicable Series 2011 Local Unit, the Lessor, or the Lessee, as applicable, with respect to the provision of architectural services relating to the Renewable Energy Projects or the Capital Improvement Projects on, in, affixed or adjacent to, or otherwise for the benefit of the Local Unit Facilities for such Applicable Series 2011 Local Unit, all in accordance with applicable law, which may include the Local Public Contracts Law or the Public Schools Contracts Law, including any rules and regulations relating thereto and to which such Applicable Series 2011 Local Unit, the Lessor, or the Lessee is subject, including without limitation any architect of record with respect to such Projects and/or Local Unit Facilities. The Architect may be a Contractor providing services pursuant to a Development Contract.

“**Authorized Officer**” or “**Authorized Representative**” shall mean, (i) with respect to the Authority: the Chairman, the Vice Chairman, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who

shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairman or by the Vice Chairman of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to any Series 2011 Local Unit: the person designated as an Authorized Officer in the Applicable Local Unit License Agreement of any such Series 2011 Local Unit or any other person or persons who shall be authorized to act on behalf of such Series 2011 Local Unit by virtue of a resolution of the governing body of such Series 2011 Local Unit, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Base Rate”** shall mean the rate of interest established by the Trustee from time to time as its reference rate in making loans but does not reflect the rate of interest charged to any particular class of borrowers, and is not tied to any external rate of interest or index. The applicable rate will change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any party. If no other rate shall be so established by the Trustee, the Base Rate shall be the Trustee’s prime rate as determined from time to time.

**“Basic Lease Payment”** shall mean, as of each Basic Lease Payment Date, the amount set forth in Exhibit A-3 to the Company Lease Agreement corresponding to such Basic Lease Payment Date and designated as a Basic Lease Payment. The Basic Lease Payment as of any Basic Lease Payment Date is equal to the payment of the Principal Portion and Interest Portion due on such Basic Lease Payment Date, and shall be established as the amount set forth in Exhibit A-3 to the Company Lease Agreement for such date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments), and interest on the Outstanding Bonds on the next occurring (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) Principal Payment Date and Interest Payment Date respectively, of the Outstanding Bonds, including without limitation the credits available under (i) Section 302(a)(i) and (ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to

investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701 of the Company Lease Agreement with respect to prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

**“Basic Lease Payment Date”** shall mean any date set forth in Exhibit A-3 to the Company Lease Agreement and designated as a Basic Lease Payment Date, which for the Interest Portion (January 15 and July 15, commencing January 15, 2013) and Principal Portion (January 15, commencing January 15, 2013) of any Basic Lease Payment, shall be a day five (5) months prior to any (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) regularly scheduled Interest Payment Date and any regularly scheduled Principal Payment Date, respectively, or if either of such days is not a Business Day, the first Business Day prior to such date.

**“Bond Counsel”** shall mean Inglesino, Pearlman, Wyciskala & Taylor, LLC, or any other attorney at law, or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exclusion of interest on bonds or other obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state.

**“Bond Year”** shall mean (i) with respect to any Series of Outstanding Bonds, including the Series 2011 Bonds, a period of twelve (12) consecutive months beginning on June 15 of any calendar year and ending on June 14 of the immediately succeeding calendar year except that (ii) the first Bond Year with respect to the Series 2011 Bonds shall be a period commencing on the date of issuance of the Series 2011 Bonds and ending on June 14, 2012 and (iii) the first Bond Year with respect to any other Series of Bonds shall be a period commencing on the date of issuance of such Series of Bonds and ending on the succeeding 14<sup>th</sup> day of June.

**“Bondholder”, “Bond Holder,” “Holder” or “Holder of Bonds”** shall mean the registered owner of any Series of Bonds of the Authority, including the Authority’s Series 2011 Bonds, which by its terms, upon original issuance of the Series 2011 Bonds, shall mean the respective registered owners of the Series 2011A Bonds and with respect to the Series 2011B Note, the County.

**“Business Day”** shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or the

Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

“**Certificate**” shall mean a written certificate signed in the name of the Authority, any Series 2011 Local Unit, the County, the Company or the Trustee. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the instruments so combined shall be read and construed as a single instrument.

“**CIP Acceptance Certificates**” shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Capital Improvement Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as **Exhibit B-2** to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Capital Improvement Projects for each such Series 2011 Local Unit has been completed in accordance with the Plans and Specifications therefore, and has been accepted by such Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution. The Authority and the Company acknowledge and agree that the Company shall not be responsible for the construction of any Capital Improvement Projects under the Program Documents and any references in such Program Documents to the Capital Improvement Projects shall be of no further force and effect.

“**CIP Acceptance State**” shall mean the good working order condition of the Capital Improvement Projects for the Series 2011 Local Units, at the time of the authorization, execution and delivery of, and as certified and acknowledged by such Applicable Series 2011 Local Units in, the respective CIP Acceptance Certificates.

“**Company Appendices**” shall mean that portion of the Preliminary Official Statement and the Official Statement relating to the Company, including the appendices thereof, which may include financial, demographic or other information supplied by or on behalf of the Company, or a link or other reference to such information, all as shall be designated in the Company Continuing Disclosure Agreement, and as to which the Company shall make certain certifications under federal securities law.

“**Construction Manager**” shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Lessor or any Series 2011 Local Unit with the consent of the Lessor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Lessee for any Series 2011 Local Unit, or the oversight of the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement

Projects, if any, by the Lessee for any Series 2011 Local Unit. The Consulting Energy Engineer may act as Construction Manager.

**“Construction Performance Bond”** shall have the meaning ascribed to such term in the Power Purchase Agreement.

**“Contractor”** shall mean the Company and the EPC Contractor, in any such case as the entity obligated to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

**“Developer”** shall mean an Affiliate of the Company to be designated at the time of execution of the Development Agreement.

**“Development Agreement”** means the Development Agreement to be entered into by and between the Company and the Developer for development services related to the Projects.

**“Development Contract”** shall mean (i) in the case of the Company, the Company Lease Agreement, (ii) as to the EPC Contractor, the EPC Contract, and (iii) in the case of any other Contractor, that certain contract obligating any such other subcontractor or other third-party, as Contractor and on behalf of the Company, to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units. Nothing in any Development Contract shall relieve the Company from its obligations under the Company Lease Agreement and the other Company Documents, which obligations shall include the Company’s continual obligation to design, permit, acquire, construct, install, operate and/or maintain all of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, and to design, permit, acquire, construct, renovate and/or install all of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

**“Development Fee”** means the fee payable to the Developer for services provided under the Development Agreement.

**“Draw Date”** shall have the meaning ascribed to such term in Section 510(b) of this Company Lease Agreement, and shall not be a regularly scheduled set of dates, but shall occur no more frequently than twice a month.

**“Draw Paper Ratio”** shall have the meaning ascribed to such term in Section 510(c) of this Company Lease Agreement.

“**Draw Papers**” shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

“**Event of Default**” shall have the meaning ascribed to such term in Section 1001 of this Company Lease Agreement.

“**Excess Power Purchase Price Payments**” shall have the meaning ascribed to such term in Section 311(a) of this Company Lease Agreement.

“**Exhibit A-3**” shall mean Exhibit A-3 to this Company Lease Agreement, which for all purposes of the Program Documents, shall mean **Exhibit A-3-** attached hereto and made a part of this Company Lease Agreement.

“**Force Majeure**” shall mean any event which is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party or its affiliates, including, but not limited to and without limitation, (a) strikes or other labor disputes (other than strikes or labor disputes solely by employees or contractors of the Parties to this Power Purchase Agreement as a result of such Party’s failure to comply with a collective bargaining agreement), (b) adverse weather conditions, breakdown or failure of the utility transmission or distribution system not caused by the Service Provider, and (c) other acts of nature, riot or civil unrest. The term Force Majeure does not include (i) any acts or omissions of any third party, including, without limitation, any vendor, customer, or supplier of the Service Provider, unless such acts or omissions are themselves excused by reason of Force Majeure; (ii) any full or partial curtailment in the electric output of the Renewable Energy Projects that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear, unless such mishap is caused by Force Majeure; (iii) changes in market conditions that affect the cost of the Service Provider’s supplies, or that affect demand or price for any of the Service Provider’s products, including, but not limited to the price of electricity, SRECs or other environmental attributes; or (iv) any action that constitutes negligence or gross negligence by the Party claiming a Force Majeure event.

“**Governmental Authority**” means any federal, state or local legislative, executive, judicial, quasi-judicial or other public authority, agency, department, bureau, division, unit, court, tribunal, or other public body, person or entity having jurisdiction over a Party, the Renewable Energy Projects or this Company Lease Agreement.

“**Independent Insurance Consultant**” shall mean a nationally recognized, independent actuary, insurance company or broker acceptable to the Lessor that has actuarial personnel experienced in the area of insurance for which the Lessee is to be self-insured.

“**Initial Basic Lease Payment Date**” shall mean January 15, 2013, the first Basic Lease Payment Date.

**“Interconnection Agreement”** shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Lessee, the Applicable Series 2011 Local Unit and/or the Lessor, with respect to the interconnection of the completed Renewable Energy Projects for such Series 2011 Local Unit to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

**“Interest Payment Date”** shall mean, the date on which interest on the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June and December until final maturity of the Bonds, including the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Interest Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

**“Interest Portion”** shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the interest due and owing on the Outstanding Bonds, including the Series 2011 Bonds, on the immediately succeeding Interest Payment Date, as set forth in Exhibit A-3 to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Interest Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the interest on the Bonds on the next occurring Interest Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(i) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

**“Lease Payments”** shall mean all amounts due and payable by the Company pursuant to the terms of the Company Lease Agreement, and shall consist of Basic Lease Payments and the Additional Lease Payments.

**“Lease Term”** or **“Term”** shall mean the period during which this Company Lease Agreement is in effect, as specified in Section 402 hereof.

**“Leased Property”** shall mean the Renewable Energy Projects, as set forth in **Exhibit A-1** to the Company Lease Agreement and in Exhibit B to the respective Local Unit License Agreements for the Series 2011 Local Units, together with all properties, rights, duties and obligations related thereto, including without limitation the right to enter upon and locate the Renewable Energy Projects on the Local Unit Facilities, as all such property shall be leased by the Authority, as owner and lessor, to the Company, as lessee, pursuant to Section 401 of the Company Lease Agreement for the Lease Term, with the express intent that such lease shall convey ownership of such property for purposes of the Code to the Company. The Leased Property shall not include the Capital Improvement Projects, if any, of the Series 2011 Local Units, all of which shall be owned by the respective Series 2011 Local Units.

**“Mandatory Purchase Price”** shall have the meaning ascribed to such term in Section 702 of the Company Lease Agreement relating to the acceleration of the Bonds of any Series, including the Series 2011 Bonds.

**“Maximum Gross Bond Funded Project Cost Amount”** shall mean the sum of (i) the Maximum Net Bond Funded Project Cost Amount funded with a portion of the proceeds of the Series 2011 Bonds and deposited with the Trustee in the Project Fund upon initial issuance thereof, together with (ii) any interest earned thereon prior to disbursement from the Project Fund in accordance with the Company Lease Agreement and the Bond Resolution, which amount has been estimated by the Lessee to be sufficient, together with the Equity Contribution, to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

**“Maximum Net Bond Funded Project Cost Amount”** shall mean \$24,700,000, the amount deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(e)(i), (ii) and (iii) of the Bond Resolution to fund a portion of the Project Costs, which amount was established by the Lessee pursuant to the Company Proposal.

**“Net Proceeds”** shall mean any insurance, condemnation, Construction Performance Bond or other performance bond, or any other financial guaranty proceeds paid with respect to any portion of the Projects, remaining after payment therefrom of all expenses incurred in the collection thereof; and, with respect to insurance, if and at such time as the Lessee elects to provide self-insurance under Section 614 of this Company Lease Agreement, any moneys payable from any self-insurance fund of the Lessee which may lawfully be expended for the purposes for which such self-insurance is provided.

**“Overdue Rate”** shall mean two percent (2%) per annum over the Base Rate, which rate shall change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any Renewable Energy Program Interested Parties; *provided, however,* that notwithstanding the foregoing, to the extent the County Security, if any, shall have

been drawn upon to reimburse the County in full for any County payments under the County Guaranty, the Overdue Rate with respect to interest to be paid on past due Basic Lease Payments (such payment of interest constituting an Additional Lease Payment hereunder) shall have such different meaning, if any, as may be set forth in the County Security Agreement, if any.

**“Permitted Encumbrances”** shall mean as of any particular time: (i) liens for taxes and assessments not then delinquent with respect to the Leased Property, (ii) the Company Lease Agreement and the other Program Documents, (iii) the pledge and assignment by the Lessor of the Reimbursement Collateral to the County Security Provider, if any, under the County Security Agreement, if any, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security, (iv) the pledge of the Trust Estate by the Lessor to the Trustee under the Bond Resolution, and (v) any mechanic’s, laborer’s, materialmen’s, supplier’s or vendor’s lien or right arising during construction of any Renewable Energy Project prior to December 17, 2012 and not filed or perfected in the manner prescribed by law.

**“Plans and Specifications”** shall mean the architectural and engineering drawings and specifications prepared by the Architect or other Contractor (through a Development Contract or otherwise) describing the Renewable Energy Projects or the Capital Improvement Projects (if any), including any Completion Project, as the case may be, as agreed to among the Company and the Applicable Series 2011 Local Unit pursuant to Section 501 of the Company Lease Agreement.

**“PPA Price”** shall have the meaning set forth in Section 6.2 of the Power Purchase Agreement.

**“Power Purchase Price Payments”** shall mean the payments made by the respective Series 2011 Local Units for the purchase of electricity to the Trustee at the direction of and on behalf of the Lessee and Lessor, all in accordance with Section 5.1(c)(i) of the Local Unit License Agreements.

**“Principal Payment Date”** shall mean, the date on which principal (including Sinking Fund Installments, if any) of the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June until final maturity of the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Principal Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

**“Principal Portion”** shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the principal

(including Sinking Fund Installments) of the Outstanding Bonds, including the Series 2011 Bonds, due and owing on the immediately succeeding Principal Payment Date, as set forth in Exhibit A-3 attached to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Principal Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments) the Bonds on the next occurring Principal Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

**“Purchase Option Price”** shall have the meaning ascribed to such term in Section 701 of the Company Lease Agreement relating to the optional redemption of the Bonds of any Series, including the Series 2011 Bonds.

**“Reimbursement Collateral”** shall mean, to the extent a County Security Agreement shall be delivered to the Lessor and the Trustee in accordance with the provisions of Section 5.07(6) of the Bond Resolution, (i) the SRECs, (ii) the Net Substitute Power Purchase Price, and (iii) any past due Basic Lease Payments, together with any Additional Lease Payments constituting interest payable on such past due Basic Lease Payments at the Overdue Rate, all of which shall have been pledged and assigned by the Lessor to the County Security Provider under the County Security Agreement, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security. If no County Security Agreement shall be so delivered, which shall be the case upon original issuance of the Series 2011A Bonds, this term shall mean the County Reserve and any other monies and securities on deposit in the County Security Fund at any time, if any, that shall be available to the Lessee, in such case as County Security Provider, after and to the extent the County has been fully paid under its County Guaranty; provided that no such monies shall be made available to the Lessee until the County has completed all of its payment obligations under the County Guaranty and been fully reimbursed therefor, from the County Security Fund or otherwise.

**“REP Acceptance Certificates”** shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Renewable Energy Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as **Exhibit B-1** to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Renewable Energy Projects for each such Series 2011 Local Unit have been completed in accordance with the Plans and Specifications therefor, and have been accepted by the Company and the Applicable Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution.

**“Reserved Rights”** shall mean the Authority’s right to retain the following under the Company Lease Agreement, which shall not be part of the Trust Estate pledged to the Trustee under Section 1.04 of the Bond Resolution:

(i) Receive the Additional Lease Payments earmarked for purposes other than the Purchase Option Price or the Mandatory Purchase Price (which Purchase Option Price or the Mandatory Purchase Price Additional Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), including without limitation (a) the Administrative Fee, if any, and any other Administrative Expenses, which the Authority shall be obligated to pay or cause to be paid to the Renewable Energy Program Interested Parties due such Administrative Expenses, and (b) interest payable on past due Lease Payments at the Overdue Rate (but not the Basic Lease Payments that may be paid together with any payment at the Overdue Rate, which Basic Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), provided, further, that the portion of which interest that is attributable to past due Basic Lease Payments may be assigned by the Authority to the County and/or the County Security Provider, if any, as part of the Reimbursement Collateral;

(ii) The payments set forth in Section 5.2(a)(ii) and (iii) of the Local Unit License Agreements for the Series 2011 Local Units that reflect the difference between the Gross Substitute Power Purchase Price and the Net Substitute Power Purchase Price, which includes the Administrative Fee;

(iii) Receive notices provided for in the Company Lease Agreement or any other Program Document;

(iv) Appoint, replace or remove such parties as shall be appointed, replaced or removed under the Company Lease Agreement or any other Program Document at the direction of the Authority; and

(v) The right to give or withhold consents, including consents to amendments, permitted or required of the Authority under the Company Lease Agreement or any other Program Documents, to the extent that any such consent or amendment would diminish the rights or enlarge the responsibilities or adversely affect the ability of the Authority to realize or perform same, respectively, or which would increase the Authority's potential liability or exposure to any party to any Program Document or to any third party as a result thereof. All such notices, appointments or consents under any other Program Document (i.e., other than the Company Lease Agreement) shall be unaffected by these rights, as the Authority's rights under the other Program Documents are not subject to the pledge of the Trust Estate under Section 1.04 of the Bond Resolution, and are either retained by the Authority, or assigned pursuant to the terms of the Program Documents, but in any event, shall not constitute Revenues or other part of the Trust Estate for purposes of the Bond Resolution.

**"Tax Benefit Recapture Event"** has the meaning set forth in Section 609(g).

## **SECTION 102. Exhibits.**

The following Exhibits are attached to, and by reference are made a part of, this Company Lease Agreement pursuant to which the Renewable Energy Projects are to be leased by the Authority to the Lessee:

(a) **Exhibit A:** Various details regarding a description of the Projects, the schedule of regularly scheduled Basic Lease Payments and maximum Project Costs funded from the Series 2011 Bonds.

(i) **Exhibit A-1.** Description of Renewable Energy Projects for Series 2011 Local Units;

(ii) **Exhibit A-2:** Description of Capital Improvement Projects (if any) for Series 2011 Local Units;

(iii) **Exhibit A-3:** Basic Lease Payment Schedule, consisting of **Exhibit A-3-Regular** and **Exhibit A-3-Alternate**; and

(iv) **Exhibit A-4:** Notice Information for Series 2011 Local Units.

(b) **Exhibit B:** Form of Acceptance Certificates, consisting of:

(i) **Exhibit B-1.** Form of REP Acceptance Certificates; and

(ii) **Exhibit B-2.** Form of CIP Acceptance Certificates.

(c) **Exhibit C:** Form of Draw Papers.

(i) **Exhibit C-1.** Initial Project Workforce Form AA201.

(d) **Exhibit D:** Certificate of an Authorized Officer of the Lessee for Company Development Fees and Expenses Incurred on behalf of the Lessee.

(e) **Exhibit E:** Attach Form of Power Purchase Agreement and Company Continuing Disclosure Agreement.

**SECTION 103. Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Company Lease Agreement, the parties hereto acknowledge and agree that (a) the Lessee is not responsible for the construction of any Capital Improvements Projects under the Program Documents and any references herein to Capital Improvement Projects, CIP Acceptance Certificates or any other term defined by reference to Capital Improvement Projects (without limiting the application of any such term to the extent not related to Capital Improvement Projects) shall be of no further force and effect, and (b) there shall be no need for a County Security Agreement, a County Security Provider or County Security and any references thereto shall be of no further force and effect.

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES; DISCLAIMERS

#### SECTION 201. Representations, Covenants and Warranties of Lessee.

The Lessee represents, covenants and warrants as follows:

(a) The Lessee (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and (ii) has or will have all requisite power and authority, and as applicable, all requisite governmental licenses, authorizations, consents and approvals, to (A) own or lease its assets and carry on and transact its business, including without limitation the conduct of business within the State in accordance with the terms of the Company Documents, (B) authorize, execute, deliver and perform its obligations under the Company Documents, and (C) accept and be bound by the terms of the other Program Documents, and (iii) is duly qualified and is licensed and, as applicable, is in good standing under the laws of each jurisdiction, including the State, where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license. The Lessee has all of the requisite power and authority and has full legal right to (x) enter into each of the Company Documents, (y) perform, observe and comply with all of its respective agreements and obligations under the Company Documents, and (z) otherwise be bound by the terms of all of the other Company Documents.

(b) The constitution and the laws of the State and the jurisdiction of the Lessee's organization authorize the Lessee to, and the Lessee has the right, power, authority and expertise to, and shall (i) design, permit, acquire, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of the Local Unit Facilities for all of the Series 2011 Local Units in accordance with the technical specifications set forth in Appendix C of the Company RFP attached hereto as part of Exhibit A-1, and otherwise in accordance with the terms of the Company Documents, (ii) design, permit, acquire, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities in accordance with the plans and specifications and construction documents included or referred to herein and otherwise in accordance with the terms of the Program Documents, (iii) enter into the Company Documents, to acknowledge and consent and otherwise be bound by the terms of the other Program Documents, and to consummate the transactions and perform the obligations contemplated thereby. Notwithstanding the foregoing, the Lessee shall in all circumstances commence construction of the first Renewable Energy Project on or before May 15, 2012 and all Renewable Energy Projects on or before September 15, 2012, and complete construction and file all Acceptance Certificates for all Projects in accordance with the provisions of Section 510(e) hereof no later than December 14, 2012, unless extended, per Project, by Force Majeure, or Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement or cure period which absent a cure would lead to a Series 2011 Local Unit Event of Default. Any such extension shall have no effect on the obligation to make Basic Lease Payments on time and in full.

(c) The execution and delivery by the Lessee of the Company Documents, the performance by the Lessee of all of its respective agreements and obligations under each of such documents and to be bound by the other Company Documents, and the incurring by the Lessee of all of the obligations contemplated by the Company Documents, have been duly authorized by all necessary requisite actions on the part of the Lessee, and the provisions of the Company Documents do not and shall not (i) contravene any provision of the Lessee's certificate of incorporation, by-laws and any other organizational documentation (each from time to time in effect), (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessee under any material agreement, mortgage or other instrument to which the Lessee is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessee's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation to which the Lessee is or may be bound, or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable to such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessee, or (v) to the best of Lessee's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of execution and delivery hereof and prior to the date of issuance of the Series 2011 Bonds, or are not required as a matter of law until a future date including the Interconnection Agreement for each Project, under any provision of applicable law.

(d) The officers or other authorized signatories of the Lessee executing and delivering its Company Documents have been duly authorized to execute and deliver the same under the laws of the State and the state of its organization and any other organizational documentation, and upon the Lessee's execution and delivery of the Company Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Company Documents shall constitute valid and binding obligations of the Lessee, enforceable against the Lessee in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessee or, to the best of the Lessee's knowledge, threatened against the Lessee (or, to the best of the Lessee's knowledge, is there any basis therefore) (I) that contests or would contest the Lessee's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Company Document or that would preclude the Lessee from performing in accordance with the terms of any Company Document or (II) wherein an unfavorable decision, ruling or finding would adversely affect (A) the transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessee is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

(f) The Lessee has obtained all authorizations, consents and approvals that are

required in order for Lessee to execute and deliver this Company Lease Agreement and to perform its financial and other obligations hereunder, except for permits and approvals to be obtained after the date hereof pursuant to Section 510(c).

(g) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessee shall not transfer, lease, assign, mortgage or encumber the Projects or any property of the Lessee constituting the Trust Estate.

(h) The Lessee currently intends to continue this Company Lease Agreement for its entire Term and to pay all Basic Lease Payments required hereunder, unless the Lessee shall pay and otherwise comply with the terms related to the Purchase Option Price or Mandatory Purchase Price in accordance with Article VII hereof, or any other termination provisions contained in this Company Lease Agreement.

(i) Information supplied and statements made by the Lessee in any financial statement or current budget delivered prior to or contemporaneously with this Company Lease Agreement, including the Company Appendices, present such information fairly, accurately and completely, in all material respects and in accordance with generally accepted accounting principles. The Lessee agrees to take all reasonable actions in connection with the Authority's marketing and sale of the Bonds, including without limitation executing Certificates of an Authorized Officer of the Lessee (i) regarding the deemed final nature of the Company Appendices for purposes of Rule 15c2-12, and (ii) to the effect that the Company Appendices, and any other information concerning the Company or its rights, duties and obligations under the Company Documents set forth in the Preliminary Official Statement and the Official Statement (A) contain no material misstatement of fact and (B) do not omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, materially misleading.

(j) Information provided by Lessee, in writing or at the interview date with the Authority pursuant to the Company RFP process on October 19, 2011, upon which Lessor relied in selecting Lessee under the Company RFP process, remains materially accurate.

## **SECTION 202. Representations, Covenants and Warranties of Lessor.**

The Lessor represents, covenants and warrants as follows:

(a) The Lessor (i) is a public body corporate and politic duly organized, validly existing and in good standing under the Act and other applicable laws of the State, (ii) has full and complete power to enter into or adopt, as the case may be, the Program Documents and to carry out the transactions contemplated thereby, (iii) is possessed with full power to own and hold real and personal property, including the Renewable Energy Projects, and to lease the Leased Property subject to the terms of the Act and any other applicable law, and (iv) has duly authorized the execution and delivery of or has duly adopted, as the case may be, the Program Documents.

(b) Neither the execution and delivery or adoption, as the case may be, of the Program Documents, the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby conflicts with or results in a breach of the terms, conditions or provisions of any restriction, any agreement or any instrument to which the Lessor is now a party or by which the Lessor or its property are bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Lessor or upon the Projects, except Permitted Encumbrances.

(c) The execution and delivery by the Lessor of the Program Documents, the performance by the Lessor of all of its respective agreements and obligations under each of the Program Documents, and the incurring by the Lessor of all of the obligations contemplated by the Program Documents, have been duly authorized by all necessary requisite actions on the part of the Lessor, and the Lessor's authorization, execution, delivery and performance pursuant to the terms of the Program Documents do not and shall not (i) contravene any provision of the Act, (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessor under any material agreement, mortgage or other instrument to which the Lessor is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessor's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation thereunder or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable to such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessor, or (v) to the best of Lessor's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of issuance of the Series 2011 Bonds, under any provision of any applicable law.

(d) The officers of the Lessor executing and delivering its Program Documents have been duly authorized to execute and deliver the same under the Act, and upon the Lessor's execution and delivery of the Program Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Program Documents shall constitute valid and binding obligations of the Lessor, enforceable against the Lessor in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessor or, to the best of the Lessor's knowledge, threatened against the Lessor (or, to the best of the Lessor's knowledge, is there any basis therefore) (I) that contests or would contest the Lessor's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Program Document or that would preclude the Lessor from performing in accordance with the terms of any Program Document or (II) wherein an unfavorable decision, ruling or finding would adversely affect (A) the

transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessor is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

(f) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessor shall not transfer, lease, assign, mortgage or encumber the Projects or the Trust Estate.

(g) Upon the exercise by the Lessee of its option to purchase the entire Renewable Energy Projects pursuant to Article VII hereof, the Lessor (i) shall deliver to the Lessee all of the documents that are or may be necessary to vest all of the Lessor's right, title and interest in and to the Renewable Energy Projects in the Lessee, and (ii) shall release all liens and encumbrances created under this Company Lease Agreement, or the other Program Documents with respect to the Renewable Energy Projects, all as provided in Article VII hereof.

(h) Simultaneously with the execution and delivery hereof, Lessor shall issue the Series 2011A Bonds and the Series 2011B Note to provide capitalized interest payments on the Series 2011A Bonds due June 15, 2012 and December 15, 2012. To the extent the Company proposes a Completion Project on one (1) or more existing Local Unit Facility or Facilities whereby additional electricity can be generated at such Local Unit Facility or Facilities beyond that contemplated in the Company Proposal, Lessor may consider issuing Additional Bonds in an amount, together with all Outstanding Series 2011 Bonds, shall not exceed \$50,000,000. To the extent Lessor, in its sole discretion, determines the issuance of any such Additional Bonds is in the best interests of the Authority, the County and the Applicable Local Unit, the Authority shall issue such Additional Bonds in an amount sufficient to pay for any such Completion Project, any reserves or capitalized interest, as required, and the costs of issuance thereof, but only to the extent the Company Lease Agreement is amended and supplemented to increase the Basic Lease Payment schedule to reflect the issuance of such Series of Additional Bonds.

**SECTION 203. Disclaimer of Lessor and Trustee.**

THE TRUSTEE, BY ACCEPTANCE OF THE TRUSTS SET FORTH IN THE BOND RESOLUTION, AND THE LESSOR, BY ADOPTION OF THE BOND RESOLUTION, BY ISSUANCE OF THE BONDS AND BY EXECUTION AND DELIVERY OF ALL OTHER PROGRAM DOCUMENTS, MAKE NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF ANY PROJECT.

**SECTION 204. Tax Covenants of Lessee.**

There shall be no covenants herein arising from or otherwise relating to the issuance of the Series 2011 Bonds, as such Bonds shall not be issued as a Series of Tax-exempt Bonds.

## ARTICLE III

### LEASE PAYMENTS

#### SECTION 301. Lease Payments.

(a) The Lessee agrees to pay to the Trustee the following Lease Payments, as rent for the Leased Property for the Term hereof, in immediately available funds, no later than when due, delivered to the principal corporate trust office of, or some other location designated by, the Trustee:

(i) For deposit in the Revenue Account of the Revenue Fund, Basic Lease Payments, as set forth in Sections 305 and 306 hereof and **Exhibit A-3** hereof, on each Basic Lease Payment Date; and

(ii) For deposit in the Administrative Expense Account of the Administrative Fund, from time to time as provided herein, as Additional Lease Payments, all as set forth in Section 308 hereof:

(A) Administrative Expenses (including the Authority's annual Administrative Fee, but excluding those properly payable by the Applicable Series 2011 Local Unit(s)) at the times set forth in invoices to be received by the Lessee from the Trustee in accordance with the Bond Resolution, provided that no further invoice shall be required for payment of the annual Administrative Fee and the Trustee's annual fee in an annual amount not to exceed \$5,000, which shall be due and payable in advance on the first day of any Bond Year (except that the initial Administrative Fee shall be funded from a portion of the proceeds of the Series 2011 Bonds);

(B) Interest on any overdue Lease Payments at the Overdue Rate, which amounts shall be immediately due and payable to the extent any Lease Payments are overdue;

(C) The Purchase Option Price in accordance with Section 701 of the Company Lease Agreement;

(D) The Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement; and

(E) All other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder or under the terms of any other Company Document, which shall be deposited in the Administrative Fund if no other direction is set

forth in the Company Documents or to the particular Fund or Account set forth in any such Company Document.

(iii) For deposit in the Restoration Security Fund, the amounts necessary to fund the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution as Additional Lease Payments, all as set forth in Section 308 hereof;

(iv) For deposit in the County Security Fund, \$1,500,000, the initial amount of the County Security Fund Requirement for the County Reserve, to be funded by the Lessee no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and thereafter, any deficiency in the County Security Fund Requirement shall be funded by the Company to the extent of any available funds after payment of all reasonable Company expenses and prior to any member distributions; and

(b) The Lessee shall be entitled to a credit against Basic Lease Payments for unused moneys held in the Project Fund in accordance with Section 510(e)(i)(B) hereof, and for earnings on other funds held by the Trustee and certain other Revenue Fund transfers in accordance with Section 310(b) hereof, all at the times and in the amounts and determined in accordance with the provisions of the Bond Resolution and this Company Lease Agreement; provided, however, that such credits, if applicable, shall be applied first to the Interest Portion and then the Principal Portion of Basic Lease Payments and second to Additional Lease Payments due, if any.

(c) Notwithstanding anything to the contrary herein, the Lessee may make any and all Lease Payments in immediately available funds through wire transfer or otherwise, to the extent the Trustee or other payee consents in writing to such method of delivery.

**SECTION 302. Lease Payments to be Unconditional, Except for Power Purchase Price Payments; No Abatement or Set-Off.**

(a) Except as set forth in clauses (i) and (ii) below, the obligation of the Lessee to make Lease Payments in full and when due shall be absolute and unconditional in all events, including without limitation any circumstance regarding the Projects, regardless of whether any such event shall be foreseen or otherwise, and regardless of whether any such event shall occur by accident or otherwise. The Lessee hereby acknowledges and irrevocably covenants that the terms of this Company Lease Agreement create a valid and binding obligation of the Lessee to make Lease Payments from any available source under all circumstances.

(i) Lessee shall receive a credit against the Interest Portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of all Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment

Date.

(ii) Lessee shall receive a credit against the Principal Portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of any remaining Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment Date, after accounting for the application of the credit set forth in clause (i) above.

(iii) For purposes of applying this credit, Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee within ten (10) Business Days of any Basic Lease Payment Date shall be deemed to have been received by the Trustee the Business Day after such Basic Lease Payment Date (and therefore the Lessee shall not be entitled to a credit for such amounts paid by the Series 2011 Local Units until the following Basic Lease Payment Date). The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the aggregate amount of all Power Purchase Price Payments made by the Series 2011 Local Units since the prior Basic Lease Payment Date that are available for such credit, (A) as of the date that is thirty (30) days' prior to each Basic Lease Payment Date, and (B) on the Business Day immediately following the ten (10) Business Day credit cutoff date noted above.

(b) Notwithstanding any dispute between the Lessor and the Lessee, or between or among any party hereto and any one or more of any Renewable Energy Program Interested Party or any other person, in any case concerning any provision of any Program Document, the Lessee shall make all Lease Payments in full and when due, and the Lessee shall not withhold any Lease Payment pending final resolution of such dispute, nor shall the Lessee assert against the Lessor, the Trustee, any Renewable Energy Program Interested Party or any other person any right of set-off, recoupment or counterclaim against its obligation to make such Lease Payments, regardless of whether or not the Projects are completed, available for use, or used by the Lessee or any other Renewable Energy Program Interested Party, as applicable.

(c) However, nothing herein shall be construed to release the Lessor from the performance of its obligations hereunder; and if the Lessor should fail to perform any such obligation, the Lessee may institute such legal action against the Lessor as the Lessee may deem necessary to compel the performance of such obligation; but if and only if the Lessee is not in default under the terms of this Company Lease Agreement and if the Lessee shall have paid all amounts that are required to be paid pursuant to the terms of this Company Lease Agreement; and if the Lessee shall have performed all of its obligations under the terms of this Company Lease Agreement and continues to pay and perform as provided herein, the Lessee shall not be precluded from bringing any action it may otherwise have against the Lessor.

**SECTION 303. Termination of Lease Term; Lease Payment Obligation.**

The Lessee shall not terminate this Company Lease Agreement (other than such termination as is provided for under the terms of this Company Lease Agreement) or be excused from its obligations hereunder, including without limitation Lessee's obligations to make Lease Payments, for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute an eviction or constructive eviction, failure of consideration, failure of title or frustration of purpose, any damage to or destruction of any Project, the taking by eminent domain of title or the right of temporary use of all or any part of any Project, or the failure of the Lessor or any other Renewable Energy Program Interested Party to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation that arises out of or that is related to this Company Lease Agreement or any other Program Document.

**SECTION 304. Return of Renewable Energy Projects upon Termination of Company Lease Agreement; CIP Acceptance State.**

(a) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value (as defined in the Power Purchase Agreement) in accordance with Section 609(d) hereof, Lessee shall (i) take no action regarding the removal of any such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, or if none, the Local Unit Facilities to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or thereto from that would ordinarily degrade the state of any such Capital Improvement Projects, if any, or Capital Improvement Project from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from the Lessee's operation and maintenance of such Renewable Energy Projects.

(b) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are eligible for sale by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value in accordance with Section 609(d) hereof, but no accommodation on sale price or other terms shall be reached in accordance with Section 3.7(b) of the Power Purchase Agreement, and the Lessee shall accordingly be prospectively entitled to the full use and enjoyment of any such Renewable Energy Projects, the Lessee shall (i) promptly remove such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, for any such Applicable Series 2011 Local Units to the CIP Acceptance State, or if no Capital Improvement Projects, to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or thereto from that would ordinarily degrade the state of any such Capital Improvement Projects or Local Unit Facility from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from either (A) the Lessee's operation and maintenance of such Renewable Energy Projects or (B) the Lessee's removal of such Renewable Energy Projects.

(c) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessor to the Applicable Series 2011 Local Units for nominal consideration in accordance with Section 609(f) hereof (after a Lessee Event of Default), Lessee shall (i) take no action regarding the removal of any such Renewable Energy Projects

from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, for any such Applicable Series 2011 Local Units to the CIP Acceptance State, after giving effect to the normal wear and tear thereon or thereto from that would ordinarily degrade the state of any such Capital Improvement Projects from the date of any such CIP Acceptance Certificate to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, from the Lessee's operation and maintenance of such Renewable Energy Projects.

**SECTION 305. Basic Lease Payments; Principal Portion.**

(a) The Principal Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of principal due and payable on the Bonds, including the Series 2011 Bonds, on the immediately succeeding Principal Payment Date, with respect to regularly scheduled Principal Payment Dates, all as set forth on **Exhibit A-3** hereto; *provided, however*, that no Principal Portion of Basic Lease Payments shall be payable by the Lessee, or the Principal Portion of Basic Lease Payments shall be reduced, as applicable, (a) to the extent of a balance available for payment of principal on the Bonds on deposit in the Principal Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Principal Portion of Basic Lease Payments in accordance with (A) Section 302(a)(ii) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(e)(i)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award or (ii) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(iii)(B) hereof.

**SECTION 306. Basic Lease Payments; Interest Portion.**

(a) The Interest Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of interest due and payable on the Bonds, including the Series

2011 Bonds, on the immediately succeeding Interest Payment Date, with respect to regularly scheduled Interest Payment Dates, all as set forth on **Exhibit A-3** hereto; *provided, however*, that no Interest Portion of Basic Lease Payments shall be payable by the Lessee, or the Interest Portion of Basic Lease Payments shall be reduced, as applicable, (a) for any period to the extent interest payable on the Bonds for such period shall have been previously provided to the Trustee as capitalized interest for deposit in the Capitalized Interest Account of the Debt Service Fund from proceeds derived from the sale of the Bonds and (b) to the extent of a balance available for payment of interest on the Bonds on deposit in the Interest Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Interest Portion of Basic Lease Payments in accordance with (A) Section 302(a)(i) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(e)(i)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award, or (ii) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(iii)(B) hereof.

**SECTION 307. Interest Calculation.**

The Interest Portion of Basic Lease Payments is equal to the interest accrued on the Bonds, including the Series 2011 Bonds. Interest on the Bonds is computed upon the basis of a 360-day year, consisting of twelve 30-day months.

**SECTION 308. Additional Lease Payments.**

(a) At the times required in the definition of “Administrative Fee”, when not otherwise provided for from a portion of the proceeds of a Series of Bonds, including the Series 2011 Bonds, the Lessee shall pay the Administrative Fee to the Trustee as an Additional Lease Payment for deposit in the Administrative Expense Account of the Administrative Fund.

(b) The Lessee shall pay to the Trustee, for deposit in the Administrative Expense Account of the Administrative Fund as an Additional Lease Payment, from time to time

upon the Lessee's receipt from the Trustee of an invoice therefore in accordance with the terms of the Bond Resolution, reasonable compensation for all services rendered by the Trustee pursuant to the Bond Resolution, all reasonable expenses, charges, counsel fees and other disbursements (including those of the Trustee's attorneys, agents and employees) incurred in the performance of its powers and duties under the Bond Resolution, and any other Administrative Expenses.

(c) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, interest on any past due Lease Payment at the Overdue Rate in accordance with Section 1007 hereof.

(d) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Purchase Option Price in accordance with Section 701 hereof, reflecting the optional redemption of a Series of Bonds, including the Series 2011 Bonds.

(e) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Mandatory Purchase Price in accordance with Section 702 hereof, reflecting the acceleration or any other mandatory payment of a Series of Bonds, including the Series 2011 Bonds.

(f) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the amounts required to fund the Restoration Security Fund at the Restoration Security Fund Requirement, in the amounts and at the times as set forth in Section 5.07(9) and Exhibit C to the Bond Resolution. Notwithstanding the foregoing, however, the Lessee shall be required to pay to the Restoration Security Fund an amount to bring the balance therein to the Restoration Security Fund Requirement from time to time if the Lessee has sufficient available cash flow to fund the same after making all other payments payable by the Company during such year; provided, however, in no event shall cash flow distributions be made to the members of the Company in any year in which the Restoration Security Fund is required to be funded to the extent the Restoration Security Fund is not funded in such year to the level required by the Restoration Security Fund Requirement.

(g) The Lessee shall make a one-time payment of \$1,500,000 payable no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, for deposit by the Trustee in the County Security Fund to satisfy the County Security Fund Requirement.

(h) The Lessee shall pay to the Trustee as an Additional Lease Payment all other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder, under the Bond Resolution, under the Tax Certificate for any Series of Tax-exempt Bonds or under any other Program Document, including without limitation deficiencies in the payment of principal (including mandatory sinking fund installments) of and interest on Bonds when due as may be contemplated by Article V of the Bond Resolution, which Article shall not be amended by Lessor to add any such payment obligation without Lessee's

consent, and any amounts that may be required to be paid into a rebate fund at the times required hereunder and under any such Tax Certificate.

**SECTION 309. General Obligation of Company to Make Lease Payments; Pledge of Reimbursement Collateral; Company Pledge Agreement.**

(a) The Lessee hereby covenants to make all Lease Payments due under this Company Lease Agreement, during the entire Lease Term, from any and all funds or other assets available to the Lessee, including without limitation, but not limited to, such economic benefits as may be conferred upon the Company pursuant to the Program Documents.

(b) Pledge of Section 1603 Grant to Trustee. Subject to American Recovery and Reinvestment Act of 2009, as security and further assurance for the Lessee's obligations to make certain initial Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Trustee a collateral security interest in the Section 1603 Grant, such grant of a collateral security interest to remain in effect only so long as set forth in the Company Pledge Agreement, including specifically Sections 2.01 and 7.11 thereof. At the Lessee's discretion for so long as the EPC Contractor is continuing to provide the In-Kind Equity Contribution and no Event of Default has occurred hereunder, the aforementioned security interest granted in favor of the Trustee may be subordinate to that of the EPC Contractor under the EPC Contract.

(c) Pledge of Certain Revenues to Authority. As security and further assurance for the Lessee's obligations to perform its obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Authority a collateral security interest in any funds it may receive with respect to the following:

(i) the sale of renewable energy produced by the Renewable Energy Projects under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements;

(ii) the sale of SRECs from the Renewable Energy Projects;

and

(iii) the Construction Performance Bond.

At the Lessee's discretion for so long as the EPC Contractor is continuing to provide the In-Kind Equity Contribution and no Event of Default has occurred hereunder, the aforementioned security interest granted in favor of the Authority may be subordinate to that of the EPC Contractor under the EPC Contract.

The Lessor hereby covenants that the security interest granted pursuant to this

Section 309(c) shall not, provided no Event of Default has occurred and is continuing, adversely affect any of the Lessee's:

(A) use and enjoyment of the Renewable Energy Projects,

(B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements, or

(C) SRECs.

(d) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee shall and hereby does acknowledge

(i) that the Lessor has the right to deliver the County Security Agreement, if any, in accordance with the provisions of Section 5.07 of the Bond Resolution, whereupon the Reimbursement Collateral shall be assigned and pledged by the Lessor to the County and the County Security Provider, if any, in accordance with the terms of the County Guaranty Agreement and such County Security Agreement, respectively, as to which terms the Lessor hereby covenants that the rights of the County and the County Security Provider to the Reimbursement Collateral shall not adversely affect any of the Lessee's:

(A) use and enjoyment of the Renewable Energy Projects,

(B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements, or

(C) SRECs,

in all cases prior to the date of an Event of Default caused by the Lessee, it being the express intent of the parties that any such assignment and pledge of the Reimbursement Collateral is only to protect the County and/or the County Security Provider to the extent any such Renewable Energy Program Interested Party shall not have been reimbursed for funds expended under the Program Documents due to the Lessee's actions or inactions under the Program Documents, and it being the further express intent of the parties that any and all such remedies flowing from any such Event of Default caused by the Lessee are within the Lessee's control to prevent by complying with the terms of this and all

other Program Documents, including without limitation the making of Lease Payments in full and on time,

(ii) upon an Event of Default, including an occurrence as a result of the Lessee's failure to make its Lease Payments on time and in full, the Lessee's rights to the Leased Property may be terminated in accordance with the terms hereof, and the County and the County Security Provider, if any, may realize all or a portion of the Reimbursement Collateral in accordance with the terms of their respective County Guaranty Agreement and County Security Agreement, if any and as applicable, which economic benefits comprising the Reimbursement Collateral had been previously available to the Lessee, and would continue to be so available, should any such Event of Default never occur or be timely cured.

(e) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby covenants to deliver the Company Pledge Agreement from the Pledgor defined in the Company Pledge Agreement contemporaneously herewith, and in any event, no later than the issuance of the Series 2011 Bonds, the terms of which Company Pledge Agreement are hereby acknowledged and accepted by the Lessee.

(f) The Lessee, as debtor, authorizes the Trustee, on behalf of itself as creditor, and the Lessor, as creditor, to file UCC1 financing statements with respect to the foregoing pledge of collateral contemplated by this Section 309.

**SECTION 310. Investment of Bond Resolution Funds; Credit for Certain Investment Earnings.**

(a) The Lessor shall cause the monies in the Funds and Accounts established under the Bond Resolution to be invested in accordance with the provisions of Section 5.11 of the Bond Resolution; *provided, however*, that the Lessee may direct the Lessor in writing to cause the Trustee to invest the Project Fund, the County Security Fund and the Restoration Security Fund in any Investment Securities available under the Bond Resolution; absent any such direction from the Lessee, the Lessor may cause the investment of the Project Fund, the County Security Fund and the Restoration Security Fund in such Investment Securities as the Lessor shall determine.

(b) (i) To the extent interest earnings on any such Funds or Accounts are transferred to the Aged Account of the Revenue Fund in accordance with the provisions of Section 5.11(3) and (4) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such earnings, plus interest earned thereon as of any such Basic Lease Payment Date, against the next due Interest Portion of Basic Lease

Payments due and owing from the Lessee, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied or if additional interest earnings are on deposit in the Aged Account, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), within ten (10) Business Days after each Basic Lease Payment Date, of the amount of such interest earnings credit available to the Company as of the next Basic Lease Payment Date.

(ii) To the extent the amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Interest Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(i) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Interest Portion of Basic Lease Payments due and owing from the Lessee, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

(iii) To the extent amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Principal Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(ii) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

## ARTICLE IV

### LEASE OF LEASED PROPERTY; TERM OF COMPANY LEASE AGREEMENT

#### SECTION 401. Lease of Leased Property.

(a) The Lessor hereby agrees to (i) finance its share of the Renewable Energy Projects and the Capital Improvement Projects, if any, for the Series 2011 Local Units, through the issuance of the Series 2011 Bonds, the balance of which shall be financed by or on behalf of the Lessee through the Equity Contribution, and (ii) enter into the Local Unit License Agreements with the Series 2011 Local Units, thereby giving the Lessor nominal ownership of the Renewable Energy Projects, and providing the Company with a license and access to the Local Unit Facilities for the Series 2011 Local Units.

(b) The Lessee hereby agrees to (i) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects as described on **Exhibit A-1** hereof and (ii) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, as described on **Exhibit A-2** hereof, all for the Series 2011 Local Units.

(c) Upon the acquisition of title to the Leased Property from the Contractor (the timing of which does not adversely affect the Lessee's obligations hereunder, including the obligations to make Lease Payments), the Lessor hereby agrees to lease to the Lessee, except for the Reserved Rights, all of its right, title and interest in and to the Leased Property for the duration of the Lease Term hereof, and to grant to the Lessee an option to purchase the Leased Property as set forth in Article VII hereof. The Lessee hereby agrees to take and lease from the Lessor, other than the Reserved Rights, all of the Lessor's right, title and interest in and to the Leased Property on the terms and conditions set forth in this Company Lease Agreement, including, without limitation, all of the Lessee's duties and obligations under the Program Documents. The lease of the Leased Property from the Lessor to the Lessee is also intended to convey to the Lessee any product of the Leased Property, including any right, title and interest of the Lessor in and to the SRECs and the right to electricity generated from the Renewable Energy Projects for the Series 2011 Local Units at their respective Local Unit Facilities, subject to the terms and conditions of the Program Documents. The Lessor hereby acknowledges the Lessee's intent to exercise such option to purchase the Leased Property during or upon the termination of the Lease Term.

(d) It is an express purpose of this Company Lease Agreement that the benefits and burdens of owning the Leased Property being conveyed by the Lessor to the Lessee pursuant to this Company Lease Agreement be such that the Lessee shall be deemed to be the owner of the Leased Property for purposes of the Code. Accordingly, Lessor and Lessee agree and acknowledge that, for federal income tax purposes: (i) Lessee will treat the use of Series 2011 Bond proceeds to purchase, construct and install the Renewable Energy Projects as construction loan advances of Series 2011 Bond proceeds to Lessee by Authority; (ii) Lessee will treat all payments (or credits against such payments) made under this Company Lease Agreement

as payments of interest and principal to the Authority with respect to such construction loan, with an allocation of principal and interest based upon the Authority's related principal and interest payments on the Series 2011 Bonds; and (iii) Lessee will report all payments made by the Series 2011 Local Units under the Power Purchase Agreements as revenues earned by Lessee. Notwithstanding the foregoing, for State law purposes, Lessor and Lessee agree that under the Program Document structure, any benefit to the Company shall be deemed incidental, the primary purpose of the Renewable Energy Program being to provide the Series 2011 Local Units with electricity at multi-year locked in rates to the greatest extent practicable below tariff, which goal has been effectively realized through the financing structure contemplated by the Program Documents.

#### **SECTION 402. Lease Term.**

(a) This Company Lease Agreement shall be and remain in effect with respect to the Leased Property (the "**Lease Term**") commencing on the date of authorization, execution, authentication and delivery of the Series 2011 Bonds that shall finance, among other things, the Renewable Energy Project component of the Leased Property, and continuing until terminated as provided for in this Section 402. The Term of this Company Lease Agreement shall terminate upon the occurrence of the first of the following of events:

(i) The exercise by the Lessee of its option or its requirement to purchase the Lessor's entire interest in the Leased Property pursuant to Article VII hereof;

(ii) The occurrence and continuation of an Event of Default hereunder by the Lessee and the Lessor's election to exercise remedies under this Company Lease Agreement pursuant to Section 1002 hereof;

(iii) Subject to an extension of this Company Lease Agreement in accordance with clause (iv) below, which provisions shall control even if the other requirements of this clause (iii) have been satisfied, the occurrence of all of the following: (A) the payment by the Lessee of all Lease Payments, which requirement as to Basic Lease Payments (unless sooner terminated or extended in accordance with the provisions hereof) shall be fully satisfied on December 15, 2027 (unless extended by an amendment hereto resulting from the issuance of Additional Bonds), (B) the Bonds, including the Series 2011 Bonds, shall no longer be Outstanding under the Bond Resolution, and if the provisions of Section 703(b) are applicable, and (C) on the date specified in the Certificate of Authorized Officer of the Lessee required by Section 703(b)(iii); or

(iv) The expiration date of any extension to the initial term of this Company Lease Agreement, which initial term would be determined by clauses (i), (ii), and (iii) above, as such extension date shall be set forth in any amendment of this Company Lease Agreement (in accordance with the

amendment provisions of Section 1103 hereof), to the extent permitted under then applicable law.

(b) Notwithstanding the foregoing, this Company Lease Agreement shall be in effect until all the obligations created hereunder have been fulfilled.

(c) Notwithstanding the foregoing, any termination by reason of clause (a)(ii) above shall not alter or terminate the Lessee's unconditional payment obligations hereunder, including Sections 302 and 309 hereof.

#### **SECTION 403. Net Lease.**

(a) The Lessee intends for the Lease Payments to be net to the Lessor. The obligation of the Lessee to pay Lease Payments shall be absolute and unconditional and shall in no way be released, discharged or otherwise affected for any reason, including, without limitation, (i) any defect in the condition, quality or fitness for use of, or title to, any Project or (ii) any damage to or abandonment, destruction, requisition or taking of any portion of any Project.

(b) The Lessee shall comply with and pay all (i) local, state and federal taxes incurred with respect to the design, permitting, acquisition, construction, renovation, installation, operation, maintenance, ownership, possession or use of any Renewable Energy Project or the design, permitting, acquisition, construction, renovation or installation of any Capital Improvement Projects, including, without limitation, income, franchise, gross receipts, sales, use, documentary stamp, excise and real and personal property taxes, (ii) payments in lieu of taxes, assessments, licenses, registration fees, freight and transportation charges and any other charges imposed or liabilities incurred with respect to the design, permitting, acquisition, construction, renovation, installation, operation, maintenance, ownership, possession or use of any Renewable Energy Project or the design, permitting, acquisition, construction, renovation or installation of any Capital Improvement Projects, (iii) Lease Payments, and (iv) penalties, fines or interest imposed on any of the foregoing during the Lease Term.

(c) The Lessee shall pay, from a portion of the proceeds of the Bonds or otherwise, all reasonable expenses incurred by the Lessor in connection with all filings or recordings of any documents relating to this Company Lease Agreement, the other Company Documents, or the Lessor's rights hereunder and thereunder. The Lessor shall have the right to make any of the payments required of the Lessee, but shall not be obligated to pay the same, and to charge such payment with interest at the Overdue Rate from the due date thereof through the date of payment as an Additional Lease Payment to be paid by the Lessee with the next Basic Lease Payment due under this Company Lease Agreement.

## ARTICLE V

### CONSTRUCTION OF PROJECT; CARE AND USE; DRAW PROCEDURES

#### SECTION 501. Design of Project.

(a) Within ninety (90) days of the execution and delivery of this Company Lease Agreement, the Lessee shall cause preliminary Plans and Specifications to be prepared by one or more Architects or other Contractors with respect to all of the Projects for all of the Series 2011 Local Units and within the parameters set forth in the Company RFP. In preparing or causing the preparation of such preliminary Plans and Specifications, the Lessee expressly acknowledges that the Lessor shall only be providing financing, through the issuance of the Series 2011 Bonds, for the Maximum Net Bond Funded Project Cost Amount, and that any costs and expenses beyond such amount, except for any Completion Projects agreed in writing to be financed by the Lessor, are to be borne solely and wholly by the Lessee from any available funds.

(b) Copies of the Plans and Specifications, when in form satisfactory to the Lessee, shall be promptly delivered to the Lessor and the Applicable Series 2011 Local Units for the review, comment and approval of the Applicable Series 2011 Local Units. Within five (5) Business Days of receipt, each Applicable Series 2011 Local Unit shall have reviewed, and either commented on or approved the Plans and Specifications prepared by the Lessee for each respective Renewable Energy Project and each Capital Improvement Project, if any, for the respective Series 2011 Local Units. To the extent approval from any Series 2011 Local Unit shall not be received, the Lessee shall promptly modify the Plans and Specifications to address the Series 2011 Local Unit's reasonable concerns, whereupon the Lessee shall resubmit the Plans and Specifications to the Lessor and the Applicable Series 2011 Local Unit for further review, comment and approval. Such process shall continue until the Lessor and Lessee have received the approval of all of the Series 2011 Local Units; provided however, that both parties and the Applicable Series 2011 Local Units shall endeavor to complete the review, comment and approval process within one (1) month of the original submission to the Lessor and the Series 2011 Local Units. Notwithstanding any other provision of this Agreement or any other Company Document, to the extent an Applicable Series 2011 Local Unit does not adhere to the timetable set forth in this Section 501(b), then the required completion date for the respective Renewable Energy Project shall be extended by a time period equal to the delay by the Applicable Series 2011 Local Unit.

(c) Promptly after having received the respective Series 2011 Local Unit approvals of the Plans and Specifications related to their respective Projects, the Lessee shall submit or cause the submission of such Plans and Specifications to all other federal, state or local governmental or quasi-governmental agencies having jurisdiction over the Projects or any part thereof, and shall receive any required Project permits or approvals.

## **SECTION 502. Construction of Project.**

(a) The Lessee shall be responsible for entering into the Development Agreement with the Developer and for the letting of Development Contracts with Contractors for (a) the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for all of the Series 2011 Local Units, (b) the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for all of the Series 2011 Local Units, (c) the completion and acceptance of the Renewable Energy Projects in accordance with the Plans and Specifications therefor and the other terms hereof, including the filing of the REP Acceptance Certificates in accordance with Section 510(d)(i) hereof, (d) the completion of the Capital Improvement Projects in accordance with the Plans and Specifications therefor and the other terms hereof, including the filing of the CIP Acceptance Certificates in accordance with Section 510(d)(ii) hereof, and (e) all other matters that are incidental to the performance of the duties and powers that are expressly granted to the Lessee herein in connection with any of the foregoing. The Lessee may carry out its functions hereunder without obtaining any further approval of the Lessor; provided, however, that the Lessee shall issue monthly reports to the Lessor and the Applicable Series 2011 Local Unit detailing the progress of the foregoing and the anticipated completion dates thereof.

(b) After complying with the notification provisions of this subsection (b), the Lessee shall enter into one or more Development Contracts with the Contractor(s) providing for (i) the design, permitting, acquisition, construction, installation, operation and/or maintenance of the Renewable Energy Projects in accordance with the Plans and Specifications and/or (ii) the design, permitting, acquisition, construction, renovation, and/or installation of the Capital Improvement Projects in accordance with the Plans and Specifications. At least five (5) Business Days prior to the Lessee's entering into of each such Development Contract, the Lessee shall notify and provide each of the Lessor, the Applicable Series 2011 Local Unit and the Construction Manager with substantially final drafts thereof. Within a reasonable period of time thereafter, the Lessor, the Applicable Series 2011 Local Units and/or the Construction Manager shall notify the Lessee of any deviation therein from the Plans and Specifications for the Projects or from applicable law, if any. The Lessee shall, in its discretion, determine to incorporate or disregard any such advice into the final form of such Development Contracts; provided, however, that any such action or inaction shall not relieve the Lessee from completing the Projects in accordance with the agreed upon Plans and Specifications and in accordance with all applicable law. After such five (5) Business Day notice period, the Lessee may enter into such Development Contracts, providing only that final executed copies thereof be delivered to each of the Lessor, the Applicable Series 2011 Local Unit and the Construction Manager. After such execution, the Lessee shall cause each Contractor to perform its obligations under the Development Contracts, and shall deliver the completed Project available for occupancy and use by the Company with respect to the Renewable Energy Projects and the Applicable Series 2011 Local Unit with respect to the Capital Improvement Projects, on or before December 14, 2012, as such date may be extended in accordance with the Program Documents.

(c) None of the Lessor, the Series 2011 Local Unit or the Trustee makes any warranties or representations or accepts any liabilities or responsibilities with respect to or for the adequacy, sufficiency or suitability of, or defects in or with respect to, the design, permitting, acquisition, construction, renovation or installation of the Project.

**SECTION 503. Construction Performance Bond and Other Guaranty.**

Any Development Contracts authorized to be entered into by the Lessor under the terms of this Company Lease Agreement in connection with the design, permitting, acquisition, construction, and installation of the Renewable Energy Projects and the design, permitting, acquisition, construction, renovation and installation of the Capital Improvement Projects shall be let in accordance with the requirements set forth in Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP attached as part of **Exhibit A-1** hereto. The Lessor shall cause each Contractor to provide a Construction Performance Bond covering, with respect to the portion of the Projects to which the Development Contract applies, the (a) performance of the Development Contract, including coverage for correction of defects developing within one year after completion of construction and commencement of commercial operation of each Project, and (b) payment for labor and materials, in each case issued by a responsible surety company qualified to do business in the State. Such bond or bonds shall name the Lessor, the Lessee as co-obligees, or shall otherwise entitle the Lessor to draw upon such Construction Performance Bond, and shall be in amounts equal to the fixed contract price plus the Equity Contribution, if not so included in the fixed contract price; provided, however, that the one-year post completion and commencement of commercial operation portion may be limited to ten percent of the Development Contract price allocated to such Project in the Development Contract.

**SECTION 504. Default in Contractors' Performance.**

(a) In the event of default of the Contractor, including any subcontractor, under any Development Contract made in connection with any Project, the Lessee shall promptly proceed, either separately or in conjunction with others, to exhaust the remedies of the Lessee against the Contractor or any subcontractor so in default and against each surety for the performance of such Contractor or subcontractor. All such actions shall be construed to be Costs of the Project for purposes of this Company Lease Agreement, inasmuch as the same shall be necessary to enable any such Project to be designed, permitted, constructed, acquired, renovated or installed in accordance with the terms hereof and of the Development Contracts. The Lessee agrees to advise the Lessor, in writing, of the steps it intends to take in connection with any such default. If the Lessee shall so notify the Lessor, the Lessor may, in good faith, in its own name or in the name of the Lessee, with notice to the Lessee, prosecute or defend any action or proceeding or take such other action involving the Contractor, including any subcontractor, or surety that the Lessor deems reasonably necessary, and in such event the Lessor hereby agrees to cooperate fully with the Lessee, but at the sole cost and expense of the Lessor. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing shall be paid into the Project Fund or the Revenue Fund, as shall be determined by the Lessee.

(b) In the event that the Lessee is unable to comply with its requirements under this Company Lease Agreement prior to the execution of any Acceptance Certificate or if for any reason the design, permitting, acquisition, construction, renovation and installation of any Project is delayed, there shall be no resulting liability on the part of the Lessor and there shall be no diminution in or postponement of the amounts that are due and payable by the Lessee to the Lessor under the terms of this Company Lease Agreement.

**SECTION 505. Additional Rights of Lessee.**

The Lessor agrees that the Lessee shall, at its own expense, have the right to make immaterial changes to any Project or to make such additions, modifications and improvements thereto as in the Lessee's judgment are necessary to enable it to perform its obligations under this Company Lease Agreement without materially impairing the Project or materially changing the design of the Project from the Plans and Specifications; provided, however, that none of the foregoing shall in any way damage the Project or cause the Project to be used for purposes other than those authorized under the provisions of all applicable law. With respect to any such additions (only) to the Project in accordance with the provisions of this Section 505, such additions shall for all purposes of this Company Lease Agreement be deemed to be and remain the property of the Lessee and shall not become part of the Project, and any such item may be removed, altered or changed by the Lessee upon or before the termination of this Company Lease Agreement; provided, however, that such removal, alteration or change shall not damage the Project or, if any such damage shall occur, the Lessee shall repair the same at its sole cost and expense.

**SECTION 506. Maintenance and Use of Project; Lessor Access; Repairs Not to Create Liens.**

(a) With respect to the Renewable Energy Projects or a portion thereof financed under this Company Lease Agreement, the Lessee shall, at its own and sole expense, maintain, preserve and keep such Projects or any portion thereof, as the case may be, in good repair, working order and condition, and shall from time to time make all repairs, replacements and improvements necessary to keep such Projects or any portion thereof in such condition. The requirements to repair and keep the Capital Improvement Projects in good working order shall remain with the owners thereof, the Applicable Series 2011 Local Units.

(b) The Lessee agrees that the Lessor and the Applicable Series 2011 Local Unit shall have the right (but not the obligation) to enter upon the premises at reasonable times and upon reasonable notice in a reasonable manner where the Renewable Energy Projects or a portion thereof, as the case may be, is located in order to inspect the same for the purpose of assuring that such Renewable Energy Projects are being properly maintained, preserved and kept in good repair and condition. The Lessee further agrees that the Lessor or the Applicable Series 2011 Local Unit shall have such rights of access to such Renewable Energy Projects as may be reasonably necessary to cause the proper maintenance, preservation and keeping in good repair of

such Renewable Energy Projects in the event of a failure by the Lessee to perform its obligations hereunder, which rights of access shall in no way imply any obligation on the part of the Lessor or the Applicable Series 2011 Local Unit.

(c) The Lessee shall not permit any mechanic's or materialmen's or other lien to be established or remain against any portion of the Projects for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the Lessee pursuant to Section 505 hereof and this Section 506, other than Permitted Encumbrances; provided, however, that if any such lien is established and the Lessee notifies the Lessor of its intention so to do, the Lessee may, in good faith, contest any lien filed or established against the Projects and, in such event, permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such item, the interest of the Lessor or the Applicable Series 2011 Local Unit in such Project shall be materially endangered or such Project or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide the Lessor and the Applicable Series 2011 Local Unit with full security against any such loss or forfeiture. The Lessor shall cooperate, and shall cause the Applicable Series 2011 Local Unit to cooperate fully with the Lessee in any such contest upon such request at the sole cost and expense of the Lessee.

**SECTION 507. Possession and Enjoyment of Projects during Lease Term.**

(a) From and after the execution and delivery of the REP Acceptance Certificate with respect to the applicable Renewable Energy Projects, the Lessor hereby agrees that during the Lease Term the Lessee, so long as the Lessee is not in default hereunder, shall have the quiet use and enjoyment of such Renewable Energy Projects, and the Lessee shall during such Lease Term peaceably and quietly have, hold and enjoy such Renewable Energy Projects, without suit, trouble or hindrance from the Lessor, any 2011 Local Unit, or any party claiming under or through the Lessor or such Local Unit, except as expressly set forth in the Program Documents. The Lessor and the Applicable Series 2011 Local Unit shall, at the request of the Lessee and at the Lessee's sole cost and expense, join in any legal action in which the Lessee asserts its right to such possession and enjoyment against any third-party to the extent the Lessor and the Applicable Series 2011 Local Unit lawfully may so do; in addition, the Lessee, while not in default hereunder, may in its discretion and at its sole cost and expense bring any such action in the name of the Lessor.

(b) From and after the execution and delivery of the CIP Acceptance Certificate with respect to the applicable Capital Improvement Projects, if any, the Lessor and the Lessee hereby agrees that during the Lease Term, the Applicable Series 2011 Local Unit, as fee owner thereof, shall have the quiet use and enjoyment of such Capital Improvement Projects, and the Applicable Series 2011 Local Unit shall during such Lease Term peaceably and quietly have, hold and enjoy such Capital Improvement Projects, without suit, trouble or hindrance from the Lessor or the Lessee, or any party claiming under or through the Lessor or the Lessee, except as

may be expressly set forth in the Program Documents.

**SECTION 508. Lessee's Negligence.**

Subject to Section 608 hereof, the Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Projects, or any portion thereof, and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of the Lessee or of Contractors or other third parties, and whether such property damage be to the Lessee's property or to the property of others, which injury, death or damage is proximately caused by the negligent conduct of the Lessee or its officers, employees and agents, including any Contractors. The Lessee hereby assumes responsibility for and agrees to reimburse the Lessor and the Applicable Series 2011 Local Unit for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorneys' fees), of whatsoever kind and nature, imposed on, incurred by or asserted against the Lessor or the Applicable Series 2011 Local Unit that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part upon the negligent conduct of the Lessee or its officers, employees and agents, to the maximum extent permitted by law.

**SECTION 509. Project Costs; Payment.**

(a) The Project Costs to be incurred by the Lessee, or on behalf of the Lessee by any Contractor, relating to the acquisition, construction, and installation of the Renewable Energy Projects and the acquisition, construction, renovation and installation of the Capital Improvement Projects for all Series 2011 Local Units have been estimated by the Lessee under the Company RFP to be an aggregate amount not to exceed the sum of the Maximum Gross Bond Funded Project Cost Amount plus the Equity Contribution. Accordingly, the Lessor shall cause the Series 2011 Bonds to be issued, and further, shall cause the Maximum Net Bond Funded Project Cost Amount to be deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(e)(i) and (ii) of the Bond Resolution. The Lessee represents that such initial deposit of the Maximum Net Bond Funded Project Cost Amount, together with interest to be earned thereon prior to disbursement in accordance with the terms hereof and of the Bond Resolution giving rise to the Maximum Gross Bond Funded Project Cost Amount, together with the Equity Contribution, shall be sufficient to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

(b) It is expressly acknowledged by the Lessee and the Lessor that the Lessor shall be under no obligation to issue any Bonds in an amount in excess of the Maximum Net Bond Funded Project Cost Amount to fund any Project Cost, including the Costs of any Completion Project related to either the Renewable Energy Projects or the Capital Improvement Projects of the Series 2011 Local Units on, in or about their Local Unit Facilities, unless the Authority agrees to issue a Series of Additional Bonds pursuant to the provisions of Section

202(h) hereof.

(c) Any Project Costs in excess of such estimated Project Cost amount as set forth in subsection (a) above shall be solely borne by and solely paid from any funds available to the Lessee (which shall not include monies under the Bond Resolution, absent the Lessor's written consent). The Lessee hereby covenants to complete all of the Projects in accordance with the Plans and Specifications regardless of the actual Costs of such Projects and regardless of the amounts remaining on deposit in the Project Fund to pay such Project Costs. To the extent the Lessee shall complete all of the Projects in accordance with the Plans and Specifications in an aggregate amount less than any such deposit, plus estimated investment earnings, in the amount of such estimated Project Costs, any excess amounts remaining on deposit in the Project Fund, after the final Acceptance Certificate shall have been filed by the Lessee in accordance with the terms hereof, shall be applied as a credit to the next due Basic Lease Payments otherwise due and owing by the Lessee in accordance with Section 510(e)(i)(B) hereof and Section 5.02(3)(b) of the Bond Resolution.

(d) The Lessee shall cause moneys on hand from time to time in the Project Fund, held by the Trustee, to be made available for payment of all Project Costs, in the manner provided herein for submission of Draw Papers, including Sections 510 and 511 hereof, and in the Bond Resolution, including Sections 5.02(1) and 5.02(2)(a) thereof. The Lessee may cause moneys on hand from time to time in the Project Fund held by the Trustee to be made available for payment of all Company Development Fees and Expenses up to an aggregate amount of \$800,000 unless the Lessee receives the written acknowledgment of a higher ceiling from the Lessor, through the submission of a Certificate of an Authorized Officer of the Lessee substantially in the form of **Exhibit D** hereto, and otherwise following the terms set forth in Section 5.02(2)(b) of the Bond Resolution; provided, however, that notwithstanding the foregoing, the Lessee may not withdraw moneys from the Project Fund for payment of Company Development Fees and Expenses in excess of \$500,000, excluding those third-party and other Company Development Fees and Expenses approved by the Authority and paid upon issuance of the Series 2011A Bonds or thereafter, until the Company has satisfied, or caused the satisfaction of, all of the Completion Conditions. The Lessee, at its sole discretion, may apply less of the aggregate amount on deposit in the Project Fund and earmarked for payment of Company Development Fees and Expenses to such purpose, and instead apply all or a portion of such earmark (including any interest earned thereon) toward Costs of the Renewable Energy Projects or Capital Improvement Projects in the manner contemplated by Sections 510 and 511 hereof, and Section 5.02(2)(a) of the Bond Resolution. Any moneys remaining on deposit in the Project Fund, including interest earnings, upon the payment of all Project Costs (for which the Company shall submit Draw Papers) and all Company Development Fees and Expenses (for which the Company shall submit such **Exhibit D** form Certificate), shall be applied in the manner set forth in Section 510(e) hereof.

**SECTION 510. Submission of Draws; Procedures; Acceptance Certificates.**

(a) As payments are required for the Project under this Company Lease

Agreement, the Lessee shall prepare and assemble the Draw Papers (as defined below) and submit them to the Trustee.

(b) On or before 10:00 a.m. EST on each date on which the Lessee intends to submit Draw Papers requisitioning funds held by the Trustee in the Project Fund for Costs of the Renewable Energy Projects or Capital Improvement Projects for an Applicable Series 2011 Local Unit (each a “**Draw Date**”), the Lessee shall advise the Trustee in writing of the aggregate amount of funds needed for disbursement to pay such Project Costs. An amount equal to the lesser of (i) such aggregate amount of funds needed and (ii) the amount of funds available in the Project Fund (and not otherwise earmarked to pay the Costs of the Projects for the other Series 2011 Local Units) shall be applied to the payment of such Project Costs upon submission of the Draw Papers in accordance with subsection (c) below.

(c) Except as otherwise provided in Section 511 hereof, the Lessee shall cause the Trustee to make payments from the Project Fund to the Contractors under the Development Contracts or other third-party vendors, in either case for Costs of the Projects, but only after the Lessee shall have supplied the Trustee with a duly authorized, completed and executed requisition from the Lessee substantially in the form of **Exhibit C** hereto (together with any attachments thereto, the “**Draw Papers**”), each executed by the Lessee, acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.1(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and acknowledged as to form only by the Lessor (in accordance with Section 4.1(e) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), stating with respect to each such payment to be made: (i) the requisition number, (ii) the name and address of the Contractor, other person, other corporation or other entity to which payment is due or, if for reimbursement to the Lessee, to which Contractor, other person, other corporation or other entity and when payment has previously been made by the Lessee, and as applicable in either case, the Development Contract under which such payment is or was due, (iii) the amount to be paid, (iv) the Renewable Energy Project or Capital Improvement Project to which such payment is to be applied, including the Applicable Series 2011 Local Unit and their Local Unit Facility, (v) that such payment obligation has been properly incurred in accordance with the Plans and Specifications, is an item of the Cost of such Project, is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal, (vi) that attached thereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Lessee. Lessee also agrees to file a monthly Initial Project Workforce Form AA201, and (vii) the amount being requisitioned shall not exceed seventy percent (70%) of any Renewable Energy Project Cost for which payment is being sought, it being expressly understood by the Lessee that for each requisition being submitted, the Lessee shall pay or cause to be paid at least thirty percent (30%) from the Equity Contribution (the ratio of not exceeding seventy percent (70%) payment from requisition and at least thirty percent (30%) payment from Equity Contribution for each Project Cost for which a requisition is submitted shall be defined herein as the “**Draw Paper Ratio**”), substantially in the form of, and consistent with the instructions included in, **Exhibit C-1** attached hereto, with the Lessor and the Division of Public Contracts

Equal Opportunity Compliance, through and including the month after the final Acceptance Certificate has been filed.

(d) From time to time, in accordance with the terms of the Company Lease Agreement, the Local Unit License Agreements with respect to the Series 2011 Local Units, and this Bond Resolution, the Lessee shall file with the Trustee, duly authorized, completed, executed, acknowledged, and delivered Acceptance Certificates in the form of **Exhibit B** hereto at the following times and with respect to the following matters, and upon receipt thereof, the Trustee shall take the following actions:

(i) The Lessee shall file with the Trustee (A) the REP Acceptance Certificates in the form of **Exhibit B-1** hereto, one for each Series 2011 Local Unit, signed by an Authorized Officer of the Lessee with respect to the Renewable Energy Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Units, (x) when the Lessee has submitted all Draw Papers respecting Costs of such Renewable Energy Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed and installed in accordance with the Plans and Specifications therefor, (z) when all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by the Lessee and such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Renewable Energy Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.2(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.2(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager) and until accompanied by one or more Interconnection Agreements with respect to all such Renewable Energy Projects or Completion Projects related thereto;

(ii) The Lessee shall file with the Trustee (A) the CIP Acceptance Certificates in the form of **Exhibit B-2** hereto, one for each Series 2011 Local Unit that is financing Capital Improvement Projects with a portion of the proceeds of the Bonds, signed by an Authorized Officer of the Lessee with respect to such Capital Improvement Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Units, (x)

when the Lessee has submitted all Draw Papers respecting Costs of such Capital Improvement Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed, renovated and installed in accordance with the Plans and Specifications therefor, (z) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Capital Improvement Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only. Each such CIP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.3(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.3(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager); and

(e) If, upon the completion of the design, permitting, acquisition, construction, renovation and installation of all of the Projects for the Series 2011 Local Units on or prior to December 14, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), as evidenced by the filing of all Acceptance Certificates by the Company, as duly acknowledged by the Series 2011 Local Units and the Lessor, on or prior to December 14, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), all in accordance with the terms hereof, of the Bond Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, then upon the Trustee's receipt of the final Acceptance Certificate so designated, the Trustee shall, without any further authorization, (i) transfer any surplus funds remaining on deposit in the Project Fund to the Debt Service Fund for application as a credit to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and if still not fully applied, then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied, all unless the provisions of Section 5.02 of the Bond Resolution require application otherwise, in which case the Trustee shall (ii) apply any such surplus funds remaining on deposit in the Project Fund in accordance with the terms of Section 5.02 of the Bond Resolution. To the extent the final Acceptance Certificate for all of the Series 2011 Local Units shall not have been filed by the

Lessee, as duly acknowledged by the Series 2011 Local Units and the Lessor, all in accordance with the terms hereof, of the Bond Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, on or prior to December 14, 2012, as extended if applicable (thereby causing an Event of Default hereunder, but not under the Bond Resolution), the Trustee shall transfer any funds remaining on deposit in the Project Fund as set forth in a Certificate of an Authorized Officer of the Authority, as required pursuant to the provisions of Section 5.02(3)(b) of the Bond Resolution.

**SECTION 511. Reimbursement to Lessee from Moneys in the Project Fund.**

Notwithstanding the provisions of Section 510 hereof to the contrary, the Lessee shall be entitled to submit Draw Papers to the Trustee and receive reimbursement for the amounts set forth in such Draw Papers for advances made with respect to the Projects, prior to a given Draw Date, so long as the Lessee submits the requisite requisition and supporting copies of invoices prior to being reimbursed directly by the Trustee.

**SECTION 512. Construction Period Insurance.**

Each Contractor shall be required to provide and maintain in force during the entire acquisition, construction, renovation or installation period of all Projects, and prior to the Contractor's performance of work under any Development Contract, builder's risk or property damage insurance (in an amount not less than the full value of all work done and materials and equipment provided or delivered by the Contractor and, in any event, not less than the applicable Purchase Option Price at such time), comprehensive liability insurance, worker's compensation insurance and any other insurance required by law or customarily maintained with respect to like projects. All such policies of insurance shall show the Lessor, the Lessee and the Applicable Series 2011 Local Unit as named insureds, in such amounts as their interests may appear. Evidence of such insurance shall be filed with the Lessor. Notwithstanding the foregoing, the EPC Contractor and the Company will not be required to maintain property insurance concurrently. The EPC Contractor shall supply builder's risk insurance until completion and the Company shall supply property insurance thereafter.

**SECTION 513. Taxes and Other Governmental Charges and Utility Charges.**

The Lessee shall pay when due all gas, water, steam, electricity, heat, power, telephone and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Renewable Energy Projects. The Lessee shall also pay all property and excise taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Renewable Energy Projects or any part thereof or the Lease Payments, which become due during the Term of this Company Lease Agreement with respect thereto, and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Renewable Energy Projects; provided, however, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only

such installments as are required to be paid during the Term of this Company Lease Agreement as and when the same become due. The Lessee shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate or other similar tax payable by the Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any real estate or other tax upon property and arises out of or is levied upon the Lessor's interest in the Renewable Energy Projects hereunder.

The Lessee may, at its own expense and in its or the Lessor's name, contest in good faith any such taxes, assessments or utility or other charges (and the Lessor shall cooperate fully in any such contest) and, in the event of any such contest, permit such taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items, the interest of the Lessor in the Renewable Energy Projects shall be materially endangered, or the Renewable Energy Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss or forfeiture that may result from nonpayment.

**SECTION 514. Site Visits.**

The Lessor shall visit the site of the Project at least quarterly to monitor the acquisition, construction, renovation and installation of the Projects by the Lessee and/or the Contractors, as the case may be.

**SECTION 515. Construction Manager.**

At its sole discretion, the Lessor may employ one or more Construction Manager, payable from a portion of the proceeds of the Series 2011 Bonds in excess of the Maximum Net Bond Funded Project Cost Amount, to act on behalf of the Lessor in exercising any of its rights, or in discharging any of its duties and obligations under this Company Lease Agreement or other Program Document with respect to the (a) design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units and/or the (b) design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units.

## ARTICLE VI

### INSURANCE; TITLE TO PROJECT AND OTHER MATTERS

#### SECTION 601. Insurance Coverage for the Projects.

The Lessee shall procure and maintain or cause to be procured and maintained, from and after the date it accesses a Local Unit Facility and through the balance of the Term of this Company Lease Agreement and in accordance with the further terms of this Article VI, (i) public liability insurance, including, without limitation, bodily injury and property damage coverage, (ii) auto liability insurance, including, without limitation, bodily injury and property damage coverage, (iii) worker's compensation insurance, and (iv) property insurance, including, without limitation, fire and comprehensive other risk coverage, all to be procured and maintained with an insurance company approved by the State and such insurance policy or policies naming the Lessee, the Lessor and the Applicable Series 2011 Local Units as insureds or, if the Lessee elects and receives the consent of the Lessor, the Lessee shall provide to the Lessor a Certificate of an Authorized Officer of the Lessee to the effect that adequate reserves are deposited and maintained in trust with an independent trustee in the amounts sufficient to cover the loss or damage to any Project. Any insurance proceeds in excess of the Purchase Option Price for all of the Bonds Outstanding at such time with respect to the Projects under this Company Lease Agreement shall be remitted to the Lessee. Notwithstanding the foregoing, the timing of delivery of insurance required by this Company Lease Agreement can be changed with a Certificate of an Authorized Officer of the Authority.

#### SECTION 602. Public Liability Insurance.

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard commercial general liability insurance policy or policies in protection of the Lessee, the Lessor and the Applicable Series 2011 Local Units. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by the operation or ownership of the Projects. Said policy or policies shall provide coverage in the amount of \$1,000,000.00. This coverage must be in writing on an occurrence form, claims made policies will be unacceptable. This Comprehensive General Liability insurance shall cover the Lessee, the Authority, each of the Series 2011 Locals Unit and their employees, agents and officers from and against any claim arising out of personal injury of Lessee or the Lessee's failure to comply with the terms of this Company Lease Agreement. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by a Lessee or by any other persons. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in this Company Lease Agreement. The policy shall also be endorsed to include coverage for products, completed operations, and independent contractors. Such public liability

insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

**SECTION 603. Auto Liability Insurance.**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard comprehensive automobile liability insurance policy or policies in protection of the Lessee, the Lessor, and the Applicable Series 2011 Local Unit. Said policy or policies shall be written in a comprehensive form, shall comply with N.J.S.A. 39:6b-1 et seq. and all local regulations and case law regarding the scope and effect of the New Jersey Compulsory Motor Vehicle Insurance Statute, and shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage arising from the maintenance, use or operation of any owned or non-owned vehicle used in or in connection with the Projects. Said policy or policies shall provide coverage in an amount not less than \$1,000,000.00, shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles, which may be used by Lessee in connection with the services, required under the Power Purchase Agreement. such auto liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

**SECTION 604. [Reserved].**

**SECTION 605. Worker's Compensation Insurance.**

If required by State law, the Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, worker's compensation insurance covering all of Lessee's and its Contractors' employees on, in, near or about the Projects, and, upon request, shall furnish to the Lessor certificates evidencing such coverage. To the extent the Lessee is procuring or maintaining such insurance, such coverage may, at the option of the Lessee, be provided through a self-insurance program that is established and operating in conformity with all applicable State law. To the extent that any other entity is procuring or maintaining such insurance, such insurance shall be provided under a policy written by an insurance company approved by the State in a minimum amount of \$1,000,000 for damage

resulting from a single accident or event.

**SECTION 606. Excess Liability**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, an excess liability insurance policy or policies in protection of the Lessee, the Lessor, and the Applicable Local Unit Facility, each applicable Series 2011 Local Unit. Said policy or policies shall be in the amount of \$4,000,000.00 shall be in the form of an Umbrella policy rather than a following form excess policy. This policy or policies shall be specifically endorsed to be excess of the required Comprehensive General Liability Coverage, the Employers' Liability Coverage on the Workers' Compensation policy, and the Comprehensive Automobile Liability policy.

**SECTION 607. Other Insurance and Requirements for All Insurance.**

All insurance required by Article V hereof or this Article VI (a) may be carried under a separate policy or a rider or endorsement, (b) shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State, or may be maintained as part of any insurance pool permitted under the laws of the State, (c) shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the Lessor at least thirty (30) days before the cancellation or revision becomes effective, and (d) shall name the Lessee, the Lessor and the Applicable Series 2011 Local Units as insured parties as their respective interests may appear. The Lessee shall deposit with the Lessor original policies evidencing any such insurance procured by it or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy, the party obligated under the terms of this Company Lease Agreement to maintain such insurance shall furnish to the other party evidence that the policy has been renewed or replaced by another policy conforming to the provisions of Article V hereof and this Article VI, unless such insurance is no longer obtainable in which event such party shall notify the other party of this fact and the Lessee shall thereafter self-insure pursuant to the terms of this Article VI. Neither the Trustee nor any Applicable Series 2011 Local Unit shall have responsibility with respect to any determinations as to the sufficiency of any insurance required under this Company Lease Agreement nor as to the compliance by the Lessee with the provisions of the Bond Resolution regarding insurance.

**SECTION 608. Indemnification.**

The Lessee shall (a) indemnify and save harmless the Lessor and the Series 2011 Local Units and their agents, employees, officers and directors from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of any breach or non-performance by the Lessee of its obligations under this Company Lease Agreement, or negligence or misconduct by the Lessee in

connection with such performance or non-performance, or the ownership, rental, possession, operation, condition, sale or return of the Projects, and (b) reimburse the Lessor or the Series 2011 Local Units for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Lessor or the Series 2011 Local Units, as applicable, has acted with gross negligence or willful misconduct in connection with the liabilities for which the Lessor or the Series 2011 Local Units, as applicable, is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 608 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefore by the Lessor or the Series 2011 Local Units, as applicable (which demand cannot be made prior to the Lessee's receipt thereof), and shall survive the termination or expiration of this Company Lease Agreement.

**SECTION 609. Title to Projects Upon Termination of Company Lease Agreement.**

(a) Upon the financing of the Renewable Energy Projects with a portion of the proceeds of the Bonds and the filing of the REP Acceptance Certificates, the Lessor shall be the holder of title to such Renewable Energy Projects for all State law purposes, subject to the lease of the Leased Property contemplated hereby. Upon the filing of the CIP Acceptance Certificates, if any, the parties hereto acknowledge that the respective Series 2011 Local Units shall be the fee owners of the respective Capital Improvement Projects described in any such Certificates. The parties further acknowledge that the Lessor may assign the Reimbursement Collateral pursuant to the terms of the County Security Agreement, if any, and/or the County Guaranty Agreement. So long as no Event of Default shall have occurred and be continuing hereunder, the Lessor shall not sell, assign or alienate all or any part of the Renewable Energy Projects (but such provision shall not apply to the Capital Improvement Projects, the Lessor having no interest therein) or any interest therein to any other Renewable Energy Program Interested Party or other third-party (other than to the Lessee pursuant to Article VII hereof), it being the purpose and intent hereof that the Lessee shall have the option to purchase all of the Lessor's right, title and interest in and to the Renewable Energy Projects during or upon the termination of this Company Lease Agreement, with credit toward the Basic Lease Payments for any such purchase price paid, all in accordance with Article VII hereof.

(b) Upon the termination of this Company Lease Agreement in accordance with Section 402(a)(iii) or (iv) hereof, (i) all of the Lessor's right, title and interest in and to the Renewable Energy Projects (and not the Capital Improvement Projects, the Lessor having no interest therein) shall be deemed sold, for purposes of State law, by the Lessor to the Lessee for the consideration of all previous Basic Lease Payments, and to the extent the Lessor was deemed to have a fee interest therein or to have retained title thereto for purposes of State law, such interest shall be deemed extinguished under State Law and such title thereto shall be deemed

automatically and without further action conveyed by Lessor to Lessee, (ii) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(c) Upon the termination of this Company Lease Agreement due to an optional or mandatory pre-purchase of the Renewable Energy Projects in accordance with Section 402(a)(i) and Sections 701 or 702, as applicable, hereof, (i) the rights of the Lessor and the Lessee in the title to the Renewable Energy Projects (but not the Capital Improvement Projects, which title shall remain with the respective Series 2011 Local Units) shall be as set forth in Section 703 hereof, (ii) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(d) Upon the termination of the Power Purchase Agreement, the parties acknowledge that (i) the Company and each Series 2011 Local Unit shall have thirty (30) days from any such termination to negotiate a fair market value purchase price for the Renewable Energy Project developed for any such Applicable Series 2011 Local Unit and (ii) to the extent the Company and any such Applicable Series 2011 Local Unit can agree to any such fair market value purchase price for such Renewable Energy Project, the parties acknowledge that the right, title and interest in and to such Renewable Energy Project may be sold by the Lessee to any such Applicable Series 2011 Local Unit for such fair market value price, and any other terms and

conditions, all in accordance with the provisions of Section 5.2(d) of the Local Unit License Agreement for any such Applicable Series 2011 Local Unit.

(e) Upon the termination of this Company Lease Agreement due to a Lessee Event of Default in accordance with Section 402(a)(ii) hereof, (i) Lessor shall possess full right, title and interest in and to the Renewable Energy Projects for all of the Series 2011 Local Units (but not the Capital Improvement Projects, if any, which title shall remain with the respective Series 2011 Local Units), (ii) Lessee shall have no further leasehold or other right, title and interest in and to such Renewable Energy Projects (nor any such Capital Improvement Projects), (iii) except for the rights of the Series 2011 Local Units to effect a nominal value purchase of their respective Renewable Energy Projects in accordance with subsection (f) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessee and its officers shall take all actions necessary to authorize, execute and deliver to the Lessor any and all documents necessary to vest in the Lessor all of the Lessee's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessee or the Lessor to be prepared and filed with the Lessee and the Lessor, and, upon the request of the Lessee or the Lessor, shall execute and deliver to the Lessee and the Lessor all such instruments as may be desirable to evidence such discharge and satisfaction.

(f) Upon the termination of this Company Lease Agreement as contemplated in Section 609(e) above, the parties acknowledge that the right, title and interest in and to the Renewable Energy Project developed for any one or more Series 2011 Local Units may be sold by the Lessor to any such Applicable Series 2011 Local Unit for nominal consideration in accordance with the provisions of Section 5.2(a)(iv) of the Local Unit License Agreement for such Applicable Series 2011 Local Unit.

(g) Notwithstanding any other provision of this Section 609, in no event shall there be any transfer of any Renewable Energy Project or any interest therein to any person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event. The expression "Tax Benefit Recapture Event" means an event which would entitle the United States Department of the Treasury or the Internal Revenue Service to require that the Lessee return all or part of the Section 1603 Grant in lieu of tax credit received in connection with the Renewable Energy Projects, or to disallow the Lessee's tax deductions or recapture all or a portion of the investment tax credits previously claimed with respect to investments in energy property for depreciation.

**SECTION 610. No Further Encumbrances; Exceptions.**

(a) The Lessee shall not, directly or indirectly, create, incur, assume or suffer

to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Projects, other than the respective rights of the Lessor and the Lessee as herein provided and the Permitted Encumbrances or in any other Program Document. Except as expressly provided in this Article VI, the Lessee shall promptly, at its own expense, take such action as may be necessary to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Lessee shall reimburse the Lessor and/or the Applicable Series 2011 Local Units, as applicable, for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

(b) The Lessee may, at its own expense and in its name, contest in good faith any taxes, assessments or utility and other charges and, in the event of any such contest, permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items the interest of the Lessor in the Projects shall be materially affected or the Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss that may result from nonpayment, in form satisfactory to the Lessor.

#### **SECTION 611. Trustee Indemnification.**

The Lessee shall (a) indemnify and save harmless the Trustee and its agents, employees, officers and directors from and against any and all liabilities, including, without limitation, all claims, demands, damages, losses, costs, penalties, charges and expenses (including, but not limited to, reasonable attorneys' fees) in any way relating to or arising from (i) the development, ownership, possession, operation, condition, sale, rental, sub-rental or return of the Projects, (ii) the Program Documents, and (iii) any resignation by the Trustee in accordance with Section 10.07(2) of the Bond Resolution; and (b) reimburse the Trustee for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Trustee may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Trustee has acted with negligence or willful misconduct in connection with the liabilities for which the Trustee is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 611 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefore by the Trustee, and shall survive the termination or expiration of this Company Lease Agreement.

#### **SECTION 612. Advances.**

If the Lessee shall fail to perform any of its obligations under this Company Lease Agreement, the Lessor or the Applicable Series 2011 Local Units may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and the Lessee shall be obligated to repay all such advances on demand to the Lessor or

the Applicable Series 2011 Local Units, as the case may be, as Additional Lease Payments with interest at the Overdue Rate from the date of the advance to the date of repayment.

**SECTION 613. Net Proceeds of Insurance; Form of Policies.**

(a) Each policy of insurance obtained pursuant to or required by this Article VI shall provide that all Net Proceeds thereunder shall be payable (i) with respect to the Renewable Energy Projects, to the Lessor for deposit with the Trustee in the Project Fund, the Revenue Fund or such other Fund or Account under the Bond Resolution, in any event as directed by the Lessee, but only so long as the Lessee has not caused an Event of Default hereunder, in which latter case such Net Proceeds shall be payable to the Lessor, (ii) with respect to the Capital Improvement Projects, to the Applicable Series 2011 Local Unit, or at their direction, to the Trustee for deposit in the Project Fund, or other Fund or Account under the Bond Resolution, or (iii) if not discernable as to Project or otherwise, payable to the Lessor or at the Lessor's direction, to the Trustee for deposit in the Project Fund, the Revenue Fund, or other Fund or Account under the Bond Resolution.

(b) The Lessee shall pay or cause to be paid when due the premiums for all insurance policies required by this Company Lease Agreement, and shall promptly furnish or cause to be furnished to the Lessor and the Series 2011 Local Units evidence of such payments. All such policies shall provide that the Applicable Series 2011 Local Units and the Lessor shall be given not less than thirty (30) days' notice of each expiration, any intended cancellation and any intended reduction of the coverage provided thereby.

(c) Neither the Applicable Series 2011 Local Units nor the Authority shall be responsible for the sufficiency of any insurance herein required, and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Applicable Series 2011 Local Units or the Authority, as the case may be.

(d) The Lessee shall cause to be delivered to the Applicable Series 2011 Local Units and the Lessor on each anniversary of the date of issuance of the Series 2011 Bonds a Certificate of an Authorized Officer of the Lessee, satisfactory to the Applicable Series 2011 Local Units and the Lessor, that the insurance policies required by this Company Lease Agreement are in full force and effect.

**SECTION 614. Self-Insurance.**

Self-insurance, in lieu of policy coverage, maintained by the Lessee pursuant to this Article VI shall only be deemed to comply with this Article VI to the extent all of the following are satisfied:

(a) The self-insurance program shall be acceptable to the Lessor, the Applicable Series 2011 Local Units and the Lessee, as evidenced by Certificates of Authorized

Officers to such effect;

(b) The self-insurance program shall be approved by an Independent Insurance Consultant;

(c) The self-insurance program shall include an actuarially sound claims reserve fund out of which each self-insured claim shall be paid; the adequacy of each such fund shall be evaluated on an annual basis by an Independent Insurance Consultant; and any deficiencies in any self-insurance claims reserve fund shall be remedied in accordance with the recommendation of an Independent Insurance Consultant;

(d) The self-insurance claims fund shall be held in a separate trust fund by an independent trustee, which independent trustee may also be the Trustee serving as such under the Bond Resolution;

(e) The self-insurance program shall comply in every particular with all applicable law; and

(f) In the event the self-insurance program shall be discontinued, the actuarial soundness of its claims reserve fund, as determined by an Independent Insurance Consultant, shall be maintained.

## ARTICLE VII

### OPTION TO PURCHASE; PREPAYMENT OF LEASE PAYMENTS

#### **SECTION 701. Lessee's Prepayment and Purchase Option; Purchase Option Price.**

(a) The Lessee is hereby granted the option to prepay its Basic Lease Payments in part, in accordance with Section 8.07 of the Bond Resolution. Any partial prepayment shall not affect the Lessor's right, title and interest in and to the Renewable Energy Projects, nor the Series 2011 Local Units' right, title and interest in and to the Capital Improvement Projects. At the Lessee's option, as directed in a Certificate of an Authorized Officer of the Company delivered by the Company to the Trustee, the Lessor, and the County accompanying any such partial prepayment, any such partial prepayment shall be either (i) credited to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied or (ii) applied to defease Outstanding Bonds in the manner contemplated by Article XII of the Bond Resolution, and in the amounts and on the dates as set forth in any such partial prepayment Certificate of the Company, which in the case of such defeasance option selected by the Company, such Certificate of the Company shall be acknowledged by an Authorized Officer of the Authority to the effect that such dates and amounts conform to the requirements of the Bond Resolution. Upon any such partial prepayment, new schedules reflecting the revised Basic Lease Payments due from the Lessee, taking into account any such partial prepayment, shall be attached by the Lessor hereto.

The Lessee may not utilize funds in the County Security Fund or Restoration Security Fund, if any, toward any such partial prepayment; provided, however, that such limitation does not extend to monies previously released from the County Security Fund and transferred to the Aged Account in the Revenue Fund in accordance with Section 5.07(3)(a) of the Bond Resolution at the time of any such partial prepayment; provided, further however, that such limitation does not extend to such amounts that would be eligible for release pursuant to the calculations referred to in Section 5.07(3)(a) of the Bond Resolution immediately after any such partial prepayment (to the extent the Series 2011 Bonds will not be redeemed simultaneously with the prepayment, the Series 2011 Bonds that will be defeased upon the prepayment shall not be considered Outstanding for purposes of such calculations, and therefore can be released and applied to any such prepayment if the calculations so warrant release), to the extent the Lessor has verified such calculations in writing to the Lessee and the Trustee. In any such instance where this limitation does not so extend, the Lessee may direct the Trustee in writing, with a copy to the Lessor, to apply any such amounts in the County Security Fund, if any, to any such partial prepayment, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(b) The Lessee is further hereby granted the option to prepay and purchase all

of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, if any) in whole, at the times set forth in Section 701(c) hereof, by paying to the Trustee the "Purchase Option Price", which for any date of calculation shall be the sum of (i) the aggregate amount of unpaid principal of the Bonds to their maturity date under the terms of the Bond Resolution and as set forth in the Lessee's notice to the Trustee of such prepayment, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the final maturity date set forth in clause (i) above, (iii) the redemption premium, if any, applicable to the payment of the Bonds on the maturity date set forth in clause (i) above, and (iv) any costs of redemption or defeasance or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

The Lessee may direct the Trustee in writing, with a copy to the Lessor, that all or a portion of the Purchase Option Price (where all of the Outstanding Bonds shall be paid) shall be funded from the County Security Fund, if any, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(c) The prepayment options set forth in subsections (a) and (b) above may be exercised by the Lessee at any time by (i) giving written notice to the Trustee and the Lessor of the exercise of such option at least fifty-two (52) days prior to the final maturity date set forth in such notice, and (ii) if the prepayment shall occur before January 15, 2021, complying with any other requirements of Article XII of the Bond Resolution that may be required by the Trustee or the Lessor to defease the Bonds in accordance with the terms of the Bond Resolution, including, without limitation, a verification report from a nationally recognized accounting firm approved by the Trustee and the Lessor to the effect that the amount so prepaid shall equal the Purchase Option Price (for a full prepayment) and shall therefore be sufficient to defease the Bonds (in whole or in part, as the case may be) by paying all of the principal thereof and redemption premium, if any, thereon through and including the final maturity thereof, plus all interest accruing thereon to such final maturity date. Such option shall be exercised by depositing with said notice cash and/or Investment Securities in such amount as shall be sufficient, together with interest to accrue thereon, to pay the Bonds to be defeased on said redemption date.

(d) Notwithstanding any provision herein or in any Program Document to the contrary, the Lessee may not advance refund, currently refund or otherwise refund any Series of Bonds with bonds, notes or other obligations of the Lessee, or such other moneys available to the Lessee, and use such moneys to make any prepayments hereunder unless (i) provision has been made by the Lessee for the payment of all (A) principal of, redemption premium if any, and interest on the Series of Bonds being refunded to any redemption date and (B) Administrative Expenses of the Lessor relating thereto, and (ii) if applicable, prior written notification of any such refunding has been given to the Lessor. Notwithstanding the foregoing, the Lessor may, in its sole discretion at the times and under the circumstances and for the purposes set forth in the Bond Resolution, advance refund, currently refund, or otherwise refund any Series of Bonds, the allocation of the benefit from which shall be determined between the Lessor and the Lessee at the time of any such defeasance and/or refunding.

**SECTION 702. Mandatory Prepayment and Purchase of Project; Mandatory Purchase Price.**

(a) Upon the acceleration of the Bonds, the Lessee shall forthwith prepay and purchase all of the Renewable Energy Projects (but not the Capital Improvement Projects, if any) by paying to the Trustee, immediately upon receipt of notice of such acceleration, the "*Mandatory Purchase Price*", which for any date of calculation shall be the sum of (i) the aggregate amount of the unpaid principal of the Bonds, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the date that the amount in clause (i) above has been paid in full, and (iii) any costs of acceleration or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

(b) In the event the Mandatory Purchase Price remains unpaid when due, the Lessee shall make an Additional Lease Payment immediately due and payable equal to, for any date of such deficiency, the amount of such deficiency times the per diem Overdue Rate.

**SECTION 703. Effect of Prepayment.**

(a) In the event of a deposit sufficient to purchase the Renewable Energy Projects (but not the Capital Improvement Projects, if any) pursuant to Section 701 or 702 hereof and to pay any and all amounts due hereunder, (i) all of the Lessor's right, title and interest in and to such Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest) shall be deemed sold to the Lessee for the consideration set forth in such Sections, (ii) except for the rights of the Series 2011 Local Units to effect a Fair Market Value purchase of their respective Renewable Energy Projects in accordance with Section 609(d) hereof, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest), free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(b) Notwithstanding anything to the contrary herein or in any Program Document, including without limitation subsection (a) above, to the extent the Lessee has satisfied all of the conditions of subsection (a) above in order to terminate this Company Lease Agreement, including the payment of all amounts due and owing hereunder and under the other Company

Documents, and at the date all of such conditions are satisfied, (i) the Lessee is not in any continuing default or Event of Default hereunder or under any Company Document, (ii) the term of one (1) or more Local Unit License Agreements with one (1) or more Series 2011 Local Units has not expired, (iii) the Lessee delivers to the Lessor and such Series 2011 Local Unit a Certificate of an Authorized Officer of the Lessee expressing the Lessee's interest in continuing the term of this Company Lease Agreement to a specified date which date shall be no later than the termination date of any such Local Unit License Agreements, then without any further action (a) the Company Lease Agreement shall not terminate, but rather shall continue for a term no longer than the termination date of the Applicable Local Unit License Agreement, all as set forth in any such Certificate, (b) the Lessee's only remaining payment obligations under the Company Lease Agreement are to pay rent for the Leased Property in an amount that shall be the sum of (I) the Authority's annual Administrative Fee, (II) any Administrative Expense that Lessee causes the Authority, the County or any such Series 2011 Local Unit to incur, both as Additional Lease Payments hereunder, there being no continuing obligation to make Basic Lease Payments as the Series 2011 Bonds and any Additional Bonds that are Outstanding are either defeased or redeemed under the Bond Resolution, and (III) ten (10) dollars per annum, payable annually in advance, (c) the Lessee can only cause an Event of Default hereunder should the Lessee fail to pay such amounts, fail to operate and maintain the Applicable Renewable Energy Project, or fail to allow the Applicable Series 2011 Local Unit to discharge its obligations under its Local Unit License Agreement, such as to take and pay for the Electricity generated under the Renewable Energy Program by the Lessee for the benefit of any such Series 2011 Local Unit, and (d) the Company retains all other rights, duties and obligations under the Program Documents, until the termination of the Applicable Local Unit License Agreement with respect to the particular Project, including without limitation the right to receive the PPA Price, as escalated, for the duration of any such term. The Lessee may continue this arrangement with the Authority and more than one (1) Series 2011 Local Unit, to the extent all such conditions are satisfied with respect to any other Series 2011 Local Unit and their respective Renewable Energy Projects, until the termination of this Company Lease Agreement, without interruption, in accordance with the terms of Section 402(a)(iii) hereof, in which case title to the Applicable Renewable Energy Project(s) shall transfer in accordance with the provisions of Section 609(b) hereof.

**SECTION 704. Substitution of Project.**

The Lessee is hereby granted the full power of substitution with respect to any Project so long as the Lessor and the Trustee receive the prior written consent of the Applicable Series 2011 Local Unit and the Authority, along with revised Exhibits to the Applicable Program Documents.

## ARTICLE VIII

### DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

#### SECTION 801. Damage, Destruction and Condemnation.

(a) If either (i) the Projects or any portion thereof are destroyed or damaged by fire or other casualty or (ii) title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by any governmental body, other than Sussex County, a division of Sussex County Government, any Series 2011 Local Unit, or by any person, firm or corporation acting under governmental authority, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to purchase the Project in whole by paying the then applicable Purchase Option Price in accordance with Section 701 hereof and causing the Lessor to deposit, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so deposit, such Net Proceeds with the Trustee in the Revenue Fund, the Debt Service Fund, or such other Fund or Account that would allow the application of the Net Proceeds toward the Purchase Option Price. Subsections (y) and (z) above are mutually exclusive.

(b) If title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by Sussex County, a division of Sussex County Government, or any Series 2011 Local Unit, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project

Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to have no further obligation with respect to the affected Project(s). Subsections (y) and (z) above are mutually exclusive.

(c) In the event of any damage, destruction, condemnation, taking or other event that constitutes a revocation or deemed revocation under Section 3.7 of any Local Unit License Agreement with respect to a Project requiring payment of the amounts set forth in Section 3.7(a)(iv) of such Local Unit License Agreement, upon receipt of such amount, this Company Lease Agreement and the obligations of Lessee thereunder with respect of and solely with respect to such Project, shall terminate and title thereto shall vest in Lessee. Such event shall have no effect on the Lessee's obligations to continue to make all Lease Payments on time and in full.

#### **SECTION 802. Insufficiency of Net Proceeds.**

If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement relating to the Projects as so damaged or taken, the Lessee shall either:

(a) direct the application of the Net Proceeds in the manner as set forth in Sections 801(a)(y) or 801(b)(y) above, thereby requiring the Lessee to complete the work relating to the Projects as so set forth, except that the Lessee shall itself pay any Project Costs in excess of the amount of the Net Proceeds, and, if by reason of any such insufficiency of the Net Proceeds the Lessee shall make any payments pursuant to the provisions of this Section 802(a), the Lessee shall not be entitled to any reimbursement therefor from the Lessor, nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Projects;

(b) direct the application of the Net Proceeds in the manner as set forth in Section 801(a)(z) above, thereby requiring the Lessee to make an equity contribution to the extent the Net Proceeds are insufficient to cover the Purchase Option Price and thereupon exercise Lessee's option to purchase the Project in whole, in accordance with Article VII hereof, in which event the Net Proceeds shall be used toward this purpose; or

(c) direct the application of the Net Proceeds consistent with the determination contemplated in Section 801(b)(y) above, thereby causing the Net Proceeds to be applied to the payment of the Interest Portion and, to the extent available, the Principal Portion of the Basic Lease Payments due on the immediately succeeding Basic Lease Payment Dates until all of the Net Proceeds have been so applied, in which event the Lessee shall not be entitled to any reimbursement therefor from the Lessor nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Project. Subsections (a), (b) and (c) above are mutually exclusive.

**SECTION 803. Cooperation of Lessor.**

The Lessor and the Applicable Series 2011 Local Unit shall cooperate fully with the Lessee, at the sole cost and expense of the Lessee, in filing any proof of loss with respect to any insurance policy covering the casualties described in Section 801 hereof and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Projects or any part thereof. In no event shall the Lessor or the Applicable Series 2011 Local Unit voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim or any prospective or pending condemnation proceeding with respect to the Projects or any part thereof, without the prior written consent of the Lessee.

**SECTION 804. Condemnation of Other Property Owned by Lessee.**

The Lessee shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for the destruction of, damage to or taking of its property not included in the Project.

## **ARTICLE IX**

### **ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING**

#### **SECTION 901. Assignment by Lessor.**

Except for this Company Lease Agreement and as otherwise provided below and in any other Program Document, including without limitation with respect to its payment obligations under the Power Purchase Agreement to the Series 2011 Local Units under the Local Unit License Agreements, or with respect to the assignment of the Reimbursement Collateral to the County and the County Security Provider, if any, under the County Guaranty Agreement and the County Security Agreement, if any and as applicable, the Lessor shall not assign its obligations under this Company Lease Agreement and no such purported assignment thereof shall be effective. All of the Lessor's right, title and interest in and to this Company Lease Agreement, the Lease Payments and the other amounts due to it hereunder and under the Project shall be assigned by the Lessor to the Trustee pursuant to the pledge of the Trust Estate under the Bond Resolution no later than the execution and delivery hereof.

#### **SECTION 902. Lease Payments to Trustee.**

The Lessor and the Lessee hereby agree that from and after the adoption of the Bond Resolution and the execution of this Company Lease Agreement, so long as the same shall remain in effect, payment by the Lessee to the Trustee or, if applicable, to the successor thereto of any moneys or sums due hereunder from the Lessee to the Lessor shall satisfy the obligation of the Lessee to pay such money or sums.

#### **SECTION 903. Assignment and Subleasing by Lessee.**

This Company Lease Agreement may not be assigned or subleased by the Lessee without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Lessee entered into this Company Lease Agreement as the successful respondent pursuant to the Company RFP and all applicable law, and the Lessor and the Series 2011 Local Units have selected the Lessee, and not any assignee, to receive the rights, and perform the duties and obligations hereunder. Any such purported assignment or sublease shall be deemed null and void without such prior written consent.

#### **SECTION 904. Restriction on Mortgage or Sale of Project by Lessee.**

The Lessee shall not mortgage, sell, assign, transfer or convey the Projects or any portion thereof during the Term of this Company Lease Agreement without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Program Documents contemplate such Projects being available, directly in the case of the Capital Improvement Projects, or indirectly in the case of the Renewable Energy Projects as a source of power, for the benefit of the Series 2011 Local Units.

**SECTION 905. Reorganization.**

It is understood and agreed by the parties hereto that reorganization of the Lessee with the consent of the Lessor shall not constitute an assignment under this Article IX.

## ARTICLE X

### EVENTS OF DEFAULT; REMEDIES

#### SECTION 1001. Events of Default.

(a) An Event of Default hereunder means the occurrence of any one or more of the following events:

(i) The Lessee fails to (A) make any Basic Lease Payment as it becomes due or (B) make any Additional Lease Payment as it becomes due or maintain any insurance requirement set forth hereunder, and in the case of (B) only, such failure is not cured within thirty (30) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, if the Basic Lease Payment is paid with funds from the County Reserve, such payment will not constitute an Event of Default.

(ii) The Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder or under any Company Document, and such failure is not cured within ninety (90) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, that if such failure cannot be cured within said ninety (90) day period, the Lessee shall not be in default if it has commenced to cure within such ninety (90) day period, it continuously proceeds with the cure, and if such action to cure the default is acceptable to the Lessor and the Lessor indicates the same in writing.

(iii) The discovery by the Lessor or the Trustee that any material statement, representation or warranty made by the Lessee in this Company Lease Agreement, or in any writing delivered by the Lessee pursuant hereto or in connection herewith, is false, misleading or erroneous in any material respect.

(iv) The Lessee becomes insolvent or admits in writing its inability to pay its debts as they mature or applies for, consents to or acquiesces in the appointment of a trustee, receiver or custodian for the Lessee or a substantial part of its property; or in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed for the Lessee or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, moratorium or other proceeding under bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or, if permitted by law, against the Lessee and, if instituted against the Lessee, is consented to or acquiesced in by the Lessee or is not dismissed within sixty (60) days.

(v) The entering of an order or decree appointing a receiver for the Leased Property or for any part thereof or for the revenues thereof with or without the consent or acquiescence of the Lessee, and such order or decree shall not be vacated, discharged or stayed within ninety (90) days after the date of such entry.

(b) Upon the occurrence of an Event of Default under this Section 1001, the Trustee shall transmit a written notice, including electronic mail, of such Event of Default to the Lessor, the Lessee and the Series 2011 Local Units within thirty (30) days of the Trustee's knowledge thereof.

(c) Upon the occurrence of an Event of Default under this Section 1001, all obligations of the Lessee under this Company Lease Agreement shall remain in full force and effect.

#### **SECTION 1002. Remedies.**

(a) Upon the occurrence and continuation of any Event of Default as described in Section 1001 hereof, at the option of the Lessor, the Mandatory Purchase Price with respect to the Project shall become immediately due and payable by the Lessee upon the Lessor's declaration. So long as the Lessor is not in default hereunder, the Lessor shall have the right to direct all remedial proceedings under this Company Lease Agreement, including the consent to remedies taken upon an Event of Default. Subject to the preceding sentence, the Lessor shall have the right, without any further demand or notice, to take one or any combination of the remedial steps below:

(i) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and exclude the Lessee from using it; provided, however, that if this Company Lease Agreement has not been terminated, the Lessor shall return possession of same to the Lessee when the Event of Default has been cured; and provided, further, that the Lessee shall continue to be responsible for the Lease Payments due hereunder during the remainder of the Lease Term.

(ii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and sell, lease or sublease its interest therein or any part thereof.

(iii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and apply any portion of same, or of the proceeds of same (in accordance with clause (ii) above) in accordance with the

provisions of Section 5.07(1)(b) of the Bond Resolution.

(iv) With or without terminating this Company Lease Agreement, declare all Lease Payments due or to become due hereunder to be immediately due and payable by the Lessee, whereupon such Lease Payments shall be immediately due and payable.

(v) Take whatever action at law or in equity may appear necessary or desirable to collect the Lease Payments then due and thereafter to become due hereunder with respect to the Project or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Company Lease Agreement.

(b) Notwithstanding any other provisions of this Section 1002, in no event shall there be any transfer of any Renewable Energy Project or any interest therein to any person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event as described in Section 609.

#### **SECTION 1003. Reinstatement.**

Notwithstanding any termination of this Company Lease Agreement that shall be made in accordance with the provisions of Section 1002 hereof, unless the Lessor shall have entered into a firm bilateral agreement providing for the reletting of the Project for a period of at least one year, if, after the maturity of the Outstanding Bonds shall have been accelerated by the Trustee (upon the occurrence of an Event of Default) under the terms of the Bond Resolution, (a) all arrears of interest on such Outstanding Bonds and interest on overdue installments of principal, redemption premium, if any, and (to the extent permitted by law) interest on such Bonds at a rate per annum equal to the highest rate per annum borne by any of the Bonds shall have been paid, (b) the principal and redemption premium, if any, on all Outstanding Bonds that have become due and payable (other than by an acceleration) shall have been paid, (c) all other sums payable under the terms of the Bond Resolution, except the principal of and the interest on such Bonds that by such acceleration shall have become due and payable, and under the terms of the other Program Documents shall have been paid, (d) all other things shall have been performed in respect of which there was an Event of Default, (e) the reasonable fees and expenses of the Lessor, the Trustee, the Series 2011 Local Units, the County, the County Security Provider, and the Bondholders, including Administrative Expenses thereof (including reasonable attorneys' fees paid or incurred) shall have been paid, and (f) such acceleration under the terms of the Bond Resolution is rescinded, then the Lessee's Event of Default hereunder shall be waived without further action by the Trustee or the Lessor or any other Renewable Energy Program Interested Party. Upon such payment and waiver, this Company Lease Agreement shall be fully reinstated as if it had never been terminated, and the Lessee shall be restored to the use, occupancy and possession of the Renewable Energy Projects and the other Leased Property.

**SECTION 1004. Election of Remedies; No Waiver of Elected Remedies.**

No failure on the part of either party to exercise, and no delay in exercising any right or remedy so provided for herein, shall operate as a waiver thereof, nor shall any single or partial exercise by either party of any right or remedy so provided hereunder preclude any other or further exercise of any other right or remedy provided hereunder.

**SECTION 1005. No Additional Waiver Implied by One Waiver.**

In the event any agreement contained in this Company Lease Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder, and shall not be construed to be an implied term hereof or a course of dealing between the parties hereto.

**SECTION 1006. Agreement to Pay Attorneys' Fees and Expenses.**

In the event either party to this Company Lease Agreement should default under any of the provisions hereof and the non-defaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement, performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall, on demand therefor, pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

**SECTION 1007. Late Charges.**

Whenever any payment of Lease Payments is not made when due, the Lessee promises to pay to the Lessor, in addition to the amount due, interest thereon at the Overdue Rate; provided, however, that this Section 1007 shall not be applicable if or to the extent the application thereof would affect the validity of this Company Lease Agreement.

**SECTION 1008. Delay; Notice.**

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof. Any such right or power may be exercised from time to time and as often as may be deemed expedient, and any one exercise thereof shall not be deemed an exclusive exercise. To entitle any party to exercise any remedy reserved to it in this Company Lease Agreement, it shall not be necessary to give any notice other than as may be specifically required in this Company Lease Agreement.



- (b) If to the Lessee: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email: principals@sunlightgeneral.com
- With a copy to: James F. Duffy, Esq.  
Nixon Peabody, LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com
- (c) If to the Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960
- With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: nconcilio@mdmc-law.com
- (d) If to the Series 2011 Local Units: See **Exhibit A-4** attached hereto.
- (e) If to the Construction Manager: Jessica Vogel, CBSB  
Birdsall Services Group, Inc.  
1101 Laurel Oak Road, Suite 160  
Voorhees, NJ 08043  
Email: jvogel@birdsall.com
- With a copy to: Joseph Santaiti  
Gabel Associates  
417 Denison Street  
Highland Park, NJ 08904  
Email: Joseph.santaiti@gabelassociates.com

**SECTION 1102. Severability.**

In the event any provision of this Company Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

### **SECTION 1103. Amendments, Changes and Modifications.**

(a) This Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to the recomputation of Basic Lease Payments or Additional Lease Payments related to the Purchase Option Price or Mandatory Purchase Price, or with respect to any other term of this Company Lease Agreement affecting the security of the Bond Resolution, by (i) written amendment authorized executed and delivered by each of the Lessor and the Lessee and (ii) by compliance with Article XI of the Bond Resolution regarding conditions required for amendment of the Bond Resolution, which may include the consent of the Trustee.

(b) Other than as provided in subsection (a) above, this Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to its Term or any of its other provisions by written amendment authorized and executed by the Lessor, the Lessee, and to the extent any of the rights, duties or obligations of any Series 2011 Local Units or other Renewable Energy Program Interested Parties under a Program Document are affected, with the written acknowledgment and consent of any one or more such Series 2011 Local Units and/or Renewable Energy Program Interested Parties, as applicable.

(c) To the extent Bonds are Outstanding at the time of any amendment, supplement or modification of this Company Lease Agreement, any such proposed amendment, supplement or modification, in substantially final form, shall be delivered by the Lessor at least fifteen (15) days in advance of its execution to the Trustee and each Rating Agency that at such time is rating any such Bonds, unless this provision is waived by any such Rating Agency and the Trustee; moreover, no such amendment, supplement or modification shall be entered into by the parties unless there shall be no adverse affect on the rating of such Bonds. Where there shall be no such adverse affect on the rating of such Bonds, a final copy of any such authorized, executed and delivered amendment, supplement or modification of this Company Lease Agreement shall be promptly delivered to each such Rating Agency and the Trustee.

### **SECTION 1104. Further Assurances and Corrective Instruments.**

The Lessor and the Lessee agree that they shall, if necessary, execute, acknowledge and deliver such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Projects or the Leased Property, or any inadequate or incorrect description intended so to be, or for carrying out the expressed intention of this Company Lease Agreement.

### **SECTION 1105. Applicable Law.**

This Company Lease Agreement shall be governed by and construed in accordance with the laws of the State.

**SECTION 1106. Lessor and Lessee Officers.**

Whenever under the provisions of this Company Lease Agreement the approval of the Lessor or the Lessee is required or the Lessor or the Lessee is required to take some action at the request of the other, such approval of such request shall be given for each party by its respective Authorized Officer, and any party hereto shall be authorized to rely upon any such approval or request.

**SECTION 1107. Captions.**

The captions or headings in this Company Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Company Lease Agreement.

**SECTION 1108. Company Lease Agreement is Original.**

For all purposes of filing, perfection or any other matter requiring identification or possession of the "original" copy of a lease, the executed original hereof identified as the "original" shall be the "original" to evidence this Company Lease Agreement.

**SECTION 1109. Binding; Counterparts.**

This Company Lease Agreement shall be binding upon the parties hereto only when duly executed on behalf of both the Lessor and the Lessee together; provided, however, that each set of counterparts taken together shall constitute an original.

**SECTION 1110. Inspections Permitted.**

The Lessee shall, whenever requested, advise the Lessor and the Applicable Series 2011 Local Units of the exact location and condition of the Projects. The Lessor and the Applicable Series 2011 Local Units may enter upon the premises of the Projects for the purpose of inspection at all reasonable times, and, upon reasonable notice, may enter upon the job, building or place where the Projects and the books and records of the Lessee with respect thereto are located.

**SECTION 1111. Time is of the Essence.**

Time is of the essence with respect to this Company Lease Agreement, and no covenant or obligation hereunder to be performed by the Lessee may be waived except by the written consent of the Lessor and the Lessee. Waiver of any such covenant or obligation or a forbearance to invoke any remedy on any occasion shall not constitute or be treated as a waiver of such covenant or obligation or any other covenant or obligation as to any other occasion and shall not preclude the Lessor from invoking such remedy at any later time prior to the Lessee's cure of the condition giving rise to such remedy. Each of the Lessor's rights hereunder is

cumulative to its other rights hereunder and not alternative thereto.

**SECTION 1112. No Personal Liability or Accountability.**

No covenant or agreement contained in this Company Lease Agreement shall be deemed to be the covenant or agreement of any present, past or future officer, agent or employee of the Lessor or the Lessee, in his or her individual capacity, and neither the officers, agents or employees of the Lessor or the Lessee nor any official executing this Company Lease Agreement shall be liable personally on this Company Lease Agreement or be subject to any personal liability or accountability by reason of any transaction or activity relating to this Company Lease Agreement.

**SECTION 1113. Gender.**

Use of the masculine, feminine or neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the other genders whenever and wherever appropriate.

**SECTION 1114. Receipt of Company Lease Agreement.**

The parties hereto each acknowledge receipt of a signed, true and exact copy of this Company Lease Agreement.

**SECTION 1115. Waiver of Sovereign Immunity.**

For the purposes of this Company Lease Agreement, the Lessor acknowledges and agrees that (a) its execution and delivery of this Company Lease Agreement and (b) its performance of the actions contemplated by this Company Lease Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Lessor in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this Company Lease Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Lessor and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**SECTION 1116. Approvals.**

In order to ensure that construction of the Renewable Energy Projects is not unduly delayed, in the event that any party to this Company Lease Agreement seeks the approval or consent of another party to this Company Lease Agreement, the party considering such request

shall not unreasonably condition, withhold or delay such consent or approval.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Lessor and the Lessee have each caused this Company Lease Agreement to be executed in its name by its respective duly authorized officers, all as of the date first above written.

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Lessor**

By:   
**John Bonanni, Chairman**

[SEAL]

ATTEST:

By:   
**Ellen M. Sandman, Secretary**

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

By: **Sunlight General Capital  
Management, LLC, its Manager**

By: \_\_\_\_\_  
**Name: Stacey L. Hughes  
Title: Authorized Signatory**

ATTEST:

By: \_\_\_\_\_  
**Name:**  
**Title:**

IN WITNESS WHEREOF, the Lessor and the Lessee have each caused this Company Lease Agreement to be executed in its name by its respective duly authorized officers, all as of the date first above written.

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Lessor**

[SEAL]

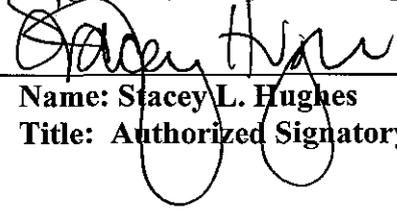
By: \_\_\_\_\_  
**John Bonanni, Chairman**

ATTEST:

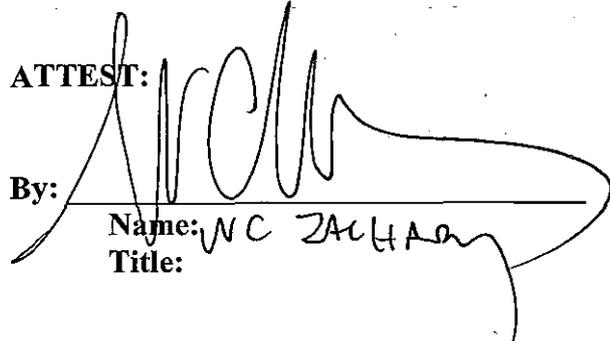
By: \_\_\_\_\_  
**Ellen M. Sandman, Secretary**

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

By: **Sunlight General Capital  
Management, LLC, its Manager**

By:   
\_\_\_\_\_  
**Name: Stacey L. Hughes  
Title: Authorized Signatory**

ATTEST:

By:   
\_\_\_\_\_  
**Name: NC Zachary  
Title:**

STATE OF NEW JERSEY )

) ss.:

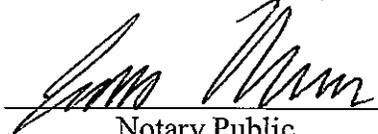
COUNTY OF MORRIS)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared John Bonanni, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

  
Notary Public  
Attorney at Law State of New Jersey

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
\_\_\_\_\_  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6233849  
Qualified in New York County  
My Commission Expires January 03, 2015

## **EXHIBIT A**

### **1. DESCRIPTION OF PROJECTS**

**EXHIBIT A-1:** See attached Description of Renewable Energy Project for each Series 2011 Local Unit, to be constructed in accordance with Exhibit C to the Company RFP, also attached. See also attachment of Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP

**EXHIBIT A-2:** See attached Description of Capital Improvement Project for each Series 2011 Local Unit

### **2. BASIC LEASE PAYMENT SCHEDULE**

**EXHIBIT A-3:** See attached Basic Lease Payment Schedule

**Exhibit A-3-Regular**  
**Exhibit A-3-Alternate**

### **3. NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS**

**EXHIBIT A-4:** Notice Information for Series 2011 Local Units

### **4. MAXIMUM PROJECT COSTS FINANCED BY THE SERIES 2011 BONDS**

The maximum Project Costs financed by the Series 2011 Bonds is the Maximum Net Bond Funded Project Cost Amount of \$24,700,000.

## **EXHIBIT A-1**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP.

### **Morris County Improvement Authority**

\$27,700,000 aggregate principal amount of

County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011

(Federally Taxable), consisting of:

\$26,715,000 Series 2011A Bonds, and

\$985,000 Series 2011B Note

### **Series 2011 Local Unit List of Local Unit Facilities**

**EXHIBIT A-1 (cont.)**

[Attach Appendix C to the Company RFP]

**EXHIBIT A-1 (cont.)**

[Attach Article VII to the Company RFP]

## **EXHIBIT A-2**

Please see the Local Unit Facility Roof Warranty Chart at the end of this Exhibit A-2 for information concerning roof warrantors and duration of existing roof warranties for each Local Unit Facility. The Capital Improvement Projects set forth below related to maintaining and extending existing roof warranties must be compatible with the information contained in the Chart.

### **Local Unit Facility Roof Warranty Chart**

*See Attached*

**EXHIBIT A-3-Regular  
BASIC LEASE PAYMENT SCHEDULE  
(paying 5 months prior to Series 2011 Bonds)**

**Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011A & B (Federally Taxable)**

\*Preliminary, subject to change\*

Basic Lease Payment Date**	Principal	Semi-Annual Interest	Semi-Annual Lease Payment	Annual Lease Payment
1/15/2012				
7/15/2012				
1/15/2013	1,850,000	506,394.59	2,356,394.59	
7/15/2013	-	485,425.45	485,425.45	2,841,820.04
1/15/2014	1,850,000	485,425.45	2,335,425.45	
7/15/2014	-	470,976.95	470,976.95	2,806,402.40
1/15/2015	1,850,000	470,976.95	2,320,976.95	
7/15/2015	-	451,218.95	451,218.95	2,772,195.90
1/15/2016	1,850,000	451,218.95	2,301,218.95	
7/15/2016	-	428,223.45	428,223.45	2,729,442.40
1/15/2017	1,850,000	428,223.45	2,278,223.45	
7/15/2017	-	401,305.95	401,305.95	2,679,529.40
1/15/2018	1,845,000	401,305.95	2,246,305.95	
7/15/2018	-	371,693.70	371,693.70	2,617,999.65
1/15/2019	1,845,000	371,693.70	2,216,693.70	
7/15/2019	-	340,439.40	340,439.40	2,557,133.10
1/15/2020	1,845,000	340,439.40	2,185,439.40	

7/15/2020	-	307,340.10	307,340.10	2,492,779.50
1/15/2021	1,845,000	307,340.10	2,152,340.10	
7/15/2021	-	273,318.30	273,318.30	2,425,658.40
1/15/2022	1,845,000	273,318.30	2,118,318.30	
7/15/2022	-	227,765.25	227,765.25	2,346,083.55
1/15/2023	1,845,000	227,765.25	2,072,765.25	
7/15/2023	-	182,212.20	182,212.20	2,254,977.45
1/15/2024	1,845,000	182,212.20	2,027,212.20	
7/15/2024	-	136,659.15	136,659.15	2,163,871.35
1/15/2025	1,845,000	136,659.15	1,981,659.15	
7/15/2025	-	91,106.10	91,106.10	2,072,765.25
1/15/2026	1,845,000	91,106.10	1,936,106.10	
7/15/2026	-	45,553.05	45,553.05	1,981,659.15
1/15/2027	1,845,000	45,553.05	1,890,553.05	
7/15/2027	-	-	-	1,890,553.05
		<b>27,700,000</b>	<b>8,932,870.59</b>	<b>36,632,870.59</b>
			<b>36,632,870.59</b>	

*\* Basic Lease Payment Schedule derived from and will be equal to the debt service payments and amortization schedule for the Series 2011 A and B Bonds, once determined. The Series 2011 A Bonds are assumed to include annual principal payments on June 15, 2013 through and including June 15, 2027 and semiannual interest payments on June 15th and December 15th of each year, commencing on June 15, 2012 (the June 15, 2012 and December 15, 2012 interest payments will be paid by capitalized interest being funded through the Series 2011B Bonds). The Series 2011B Bonds are assumed to be issued on December 14, 2011 simultaneously with the bond financing and will include a single payment of principal and interest on January 15, 2013. The interest rates included in this schedule correspond to the principal payment dates of the Series 2011 Bonds which are 5-months after such Basic Lease Payment dates.*

Note: There are no Basic Lease Payment Dates on January 15, 2012 and July 15, 2012, each five (5) months prior to the corresponding interest payment dates for the Series 2011A Bonds of June 15, 2012 and December 15, 2012, because the Series 2011A Bond interest due on such Series 2011A Bond interest payment dates has been provided for through the deposit of the Series 2011B Note proceeds in the Capitalized Interest Account of the Debt Service Fund. There is no Series 2011B Note interest due on such dates.

**EXHIBIT A-4**  
**NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS**

**Morris County Improvement Authority**

\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011 B Note

**Series 2011 Local Unit Distribution List**

**EXHIBIT B**

**FORMS OF ACCEPTANCE CERTIFICATES**

See Attached:

Form B-1, Form of REP Acceptance Certificate

Form B-2, Form of CIP Acceptance Certificate

## EXHIBIT B-1

### FORM OF REP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "**Company**"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") between The Morris County Improvement Authority, as lessor (the "**Authority**"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") being developed for [\_\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the [A] Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof, or if such funds were insufficient, the Company has provided available funding as the Equity Contribution, to complete the design, permitting, acquisition, construction and installation thereof].

3. The [A] Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the [A] Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the [A] Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the [A] Renewable Energy Projects.

5. [Choose one, as applicable]

510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the [A] Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, release any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

6. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital  
Management, LLC, its Manager**

**By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory**

**ATTEST:**

**By: \_\_\_\_\_  
Name:  
Title:**

**The terms of this REP Acceptance Certificate  
are hereby ACKNOWLEDGED and  
ACCEPTED by the Licensor set forth below, this  
\_\_\_\_ day of \_\_\_\_, 20\_\_.**

**[LICENSOR]**

**[By: CONSTRUCTION MANAGER]**

**By: \_\_\_\_\_  
Name:  
Title:**

**The form (only) of this REP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_ day of \_\_\_, 20\_\_.**

**By: BIRDSALL SERVICES GROUP, INC., AS CONSTRUCTION MANAGER**

**By: \_\_\_\_\_**

**Name:**

**Title:**

## EXHIBIT B-2

### FORM OF CIP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the “**Company**”), pursuant to the terms of that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “**Company Lease Agreement**”) between The Morris County Improvement Authority, as lessor (the “**Authority**”), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the “[A] **Capital Improvement Projects**”) being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the “**Licensor**”) (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), **DO HEREBY CERTIFY** as follows:

1. As of \_\_\_\_\_, 20\_\_, the [A] Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof[, or if such funds were insufficient, the Company has provided available funding as the Equity Contribution, to complete the design, permitting, acquisition, construction, renovation, and installation thereof].

3. By obtaining the Licensor’s execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor’s acceptance of (a) the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which [A] Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor’s acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor’s acceptance of the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. *[Choose one, as applicable]*

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for

the [A] Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, release any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital  
Management, LLC, its Manager**

**By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory**

**ATTEST:**

**By: \_\_\_\_\_  
Name:  
Title:**

The terms of this CIP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_

Name:

Title:

The form (only) of this CIP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_

Name:

Title:

**EXHIBIT C**

**FORM OF DRAW PAPERS**

Requisition No. \_\_\_\_

\_\_\_\_\_, \_\_, 20\_\_

U.S. Bank National Association, as Trustee

Re: The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted September 28, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] **Renewable Energy Projects**")] [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] **Capital Improvement Projects**")] being developed for [\_\_\_\_], as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

[\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to \_\_\_\_\_ for \_\_\_\_\_ services] [incurred in connection with the following Development Contract: \_\_\_\_\_]; and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

[\_\_\_\_\_ for \_\_\_\_\_ services] [incurred in connection with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to \_\_\_\_\_ for \_\_\_\_\_ services] [incurred in connection with the following Development Contract: \_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the [A] Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the [A] Renewable Energy Projects listed on **Exhibit A-1**] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on **Exhibit A-2**] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with Section [1(a)] [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company, and (vi) the amount being requisitioned shall not exceed the Draw Paper Ratio. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of

counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital  
Management, LLC, its Manager**

**By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory**

**ATTEST:**

**By: \_\_\_\_\_  
Name:  
Title:**

**The terms of this Requisition are hereby  
ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this \_\_\_\_ day of \_\_\_\_,  
20\_\_.**

**[LICENSOR]**

**[By: CONSTRUCTION MANAGER]**

**By: \_\_\_\_\_  
Name:  
Title:**

**The form (only) of this Requisition is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_\_ day of \_\_\_\_, 20\_\_.**

**By: BIRDSALL SERVICES GROUP, INC., AS  
CONSTRUCTION MANAGER**

**By:** \_\_\_\_\_  
**Name:**  
**Title:**

**EXHIBIT C-1**

**[Attach Initial Project Workforce Form AA201]**

[Insert Form found at [http://www.state.nj.us/treasury/contract\\_compliance/pdf/aa201.pdf](http://www.state.nj.us/treasury/contract_compliance/pdf/aa201.pdf)]

**EXHIBIT D**

**CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LESSEE FOR COMPANY DEVELOPMENT FEES AND EXPENSES INCURRED ON BEHALF OF THE LESSEE**

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

U.S. Bank National Association, as Trustee  
Corporate Trust Services  
21 South Street, 3rd Floor  
Morristown, NJ 07960  
Attention: Paul O'Brien  
paul.obrien@usbank.com

Re: The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "**Series 2011 Bonds**")

Dear Sir or Madam:

Pursuant to (i) Section 509(d) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2)(b) of the Authority's bond resolution duly adopted September 28, 2011 and entitled "Resolution Authorizing the Issuance of County Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee (which direction has occurred through Section 5.02(2)(b) of the Bond Resolution) to pay the following Company Development Fees and Expenses incurred by or on behalf of the Company from moneys on deposit in the Project Fund in the aggregate amount of \$800,000, which amount shall be payable to

[ \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Company for reimbursement of Company Development Fees and Expenses previously paid  
by \_\_\_\_\_ the \_\_\_\_\_ Company \_\_\_\_\_ to  
for \_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Company Development Fees and Expense as such term is defined in the Bond Resolution, including without limitation within the aggregate ceiling of \$\_\_\_\_\_ for such defined term (unless the Authority agrees, below or otherwise in writing, to an increase above such ceiling), is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Company Development Fees and Expenses is due or has been paid by or on behalf of the Company.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC**

**By: Sunlight General Capital  
Management, LLC, its Manager**

**By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory**

**ATTEST:**

**By: \_\_\_\_\_  
Name:  
Title:**

The form (only) of this Certificate is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_ day of \_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT E**

**[Attach form of Power Purchase Agreement and  
Company Continuing Disclosure Agreement]**

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**POWER PURCHASE AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

**and**

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**Dated as of December 1, 2011**

---

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**POWER PURCHASE AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS “**POWER PURCHASE AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “*Power Purchase Agreement*”), dated as of December 1, 2011, is made by and among the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “*Authority*”), duly created by resolution of the Board of Chosen Freeholders (“*Board of Freeholders*”) of the County of Morris (the “*County of Morris*”), State of New Jersey (“*State*”) as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”) and other applicable law, and **SUNLIGHT GENERAL SUSSEX SOLAR, LLC**, a limited liability company organized and existing under the laws of the State (including any successors and assigns, the “*Company*” or “*Service Provider*”).

---

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the “*County*”) desires to undertake the development and implementation of a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

**WHEREAS**, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent

of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with

the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”); and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the “*Municipal Series 2011 Local Units*”); and
- (ii) Byram Township School District, Frankford Township’s Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the “*Board of Education Series 2011 Local Units*”); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the “*County Series 2011 Local Units*”);

(each a “*Series 2011 Local Unit*”, and, collectively, the “*Series 2011 Local Units*”), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated their date of delivery (the “*Series 2011A Bonds*”) the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the “*Series 2011A Bonds*”), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)” (the “*Series 2011B Note*”, and together with the Series 2011A Bonds, “*Series 2011 Bonds*”), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such

terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power*

*Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "*Company Proposal*") submitted with respect to Sunlight General Sussex Solar, LLC (the "*Company*"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Lease Agreement*") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and

the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty

certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented

from time to time in accordance with its terms, the “*EPC Contract*”) between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the “*In-Kind Equity Contribution*”) until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the “*Cash Equity Contribution*”) which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the *In-Kind Equity Contribution*, together with the *Cash Equity Contribution* shall be known as the “*Equity Contribution*”), (ii) a cash reserve in the amount of \$1,500,000 (the “*County Reserve*”) to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above (i) reduce the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event

to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement "deemed final" within

the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*"); and (ii) the execution and delivery of a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "*Sale Documents*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("*Section 13*") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "*Sussex County Board of Freeholders*") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program Documents*"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and conditions referenced and exchanged herein, the sufficiency and receipt of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

## ARTICLE I

### DEFINITIONS

#### Section 1.1 Definitions.

(a) The terms set forth in this Section shall have the meanings ascribed to them for all purposes of this Power Purchase Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires.

(b) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**Act**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**County**  
**County Continuing Disclosure Agreement**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Service Agreement**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**Equity Contribution**  
**EPC Contract**  
**EPC Contractor**  
**Initial Tranche**

**In-Kind Equity Contribution**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**  
**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Official Statement**  
**Power Purchase Agreement**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units**  
**Shared Services Act**  
**SRECs**  
**State**  
**Underwriter**

(c) The following defined terms shall, for all purposes of this Power Purchase Agreement, have the meanings as set forth in the Company Lease Agreement:

**Acceptance Certificates**  
**Administrative Fee**  
**Applicable**  
**CIP Acceptance Certificates**  
**Construction Manager**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**Development Contract**  
**Interconnection Agreement**  
**Paying Agent**  
**Plans and Specifications**  
**Principal Office**  
**Renewable Energy Program Interested Party**  
**REP Acceptance Certificates**

**Restoration Security Fund  
Restoration Security Fund Requirement  
Trustee**

(d) The following defined terms shall, for all purposes of this Power Purchase Agreement, have the following meanings:

**“Applicable Law”** means all applicable provisions of any constitution, statute, law ordinance, code, rule, regulation, decision, order, decree, judgment, release, license, permit, stipulation or other official pronouncement enacted, promulgated or issued by any Governmental Authority.

**“Business Day”** shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or the Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

**“Commencement Date”** shall have the meaning set forth in Section 3.5 of this Power Purchase Agreement.

**“Completion Conditions”** shall have the meaning set forth in Section 3.6(a) of this Power Purchase Agreement.

**“Construction and Interconnection Phase”** shall have the meaning set forth in Section 3.2 of this Power Purchase Agreement.

**“Construction Performance Bond”** shall mean that construction performance bond provided by or on behalf of the Company securing, in part, the Company’s obligations under this Power Purchase Agreement to complete the Projects, in the form set forth in **Exhibit G** to this Power Purchase Agreement.

**“Customer”** shall mean individually or collectively, as the case may be, the Series 2011 Local Units that are receiving or have contracted to receive Electricity under the combination of this Power Purchase Agreement and the Local Unit License Agreements, including Section 5.1(c)(i) thereof, which Series 2011 Local Units shall be entitled to the rights and obligated to perform the duties and obligations of Customer hereunder, both as a third-party beneficiary and third-party obligor of this Power Purchase Agreement.

**“Designated Representative”** shall have the meaning set forth in Section 3.3 of this Power Purchase Agreement.

**“Effective Date”** shall have the meaning set forth in Section 3.1(a) of this Power Purchase Agreement.

**“Electricity”** shall mean that alternating current electricity which is produced by the Renewable Energy Projects at the respective Local Unit Facilities as the result of the conversion of

solar energy into electricity pursuant to the terms of this Power Purchase Agreement and pursuant to the Plans and Specifications;

“**Event of Default**” shall have the various meanings, as applicable, set forth in Article IX of this Power Purchase Agreement.

“**Fair Market Value**” shall mean the price at which an asset would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell, and both having reasonable knowledge of relevant facts, and which price shall be established by one or more third party appraisals from firms experienced in the valuation of assets similar to those comprising the Renewable Energy Projects, as contemplated by Section 3.7(b) of this Power Purchase Agreement.

“**Force Majeure**” shall mean any event which is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party or its affiliates, including, but not limited to and without limitation, (a) strikes or other labor disputes (other than strikes or labor disputes solely by employees or contractors of the Parties to this Power Purchase Agreement as a result of such Party’s failure to comply with a collective bargaining agreement), (b) adverse weather conditions, breakdown or failure of the utility transmission or distribution system not caused by the Service Provider and (c) other acts of nature, riot or civil unrest. The term Force Majeure does not include (i) any acts or omissions of any third party, including, without limitation, any vendor, customer, or supplier of the Service Provider, unless such acts or omissions are themselves excused by reason of Force Majeure; (ii) any full or partial curtailment in the electric output of the Renewable Energy Projects that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear, unless such mishap is caused by Force Majeure; (iii) changes in market conditions that affect the cost of the Service Provider’s supplies, or that affect demand or price for any of the Service Provider’s products, including, but not limited to the price of electricity, SRECs or other environmental attributes; or (iv) any action that constitutes negligence or gross negligence by the Party claiming a Force Majeure event.

“**Governmental Authority**” means any federal, state or local legislative, executive, judicial, quasi-judicial or other public authority, agency, department, bureau, division, unit, court, tribunal, or other public body, person or entity having jurisdiction over a Party, the Renewable Energy Projects or this Company Lease Agreement.

“**Initial Basic Lease Payment Date**” shall mean the first Basic Lease Payment Date.

“**Initial Term**” shall have the meaning set forth in Section 3.1(a) of this Power Purchase Agreement.

“**Meter**” shall mean that metering system or systems owned or controlled by Service Provider that accurately measures the amount of solar energy that is converted into Electricity by the Renewable Energy Projects and delivered to each Customer pursuant to this Power Purchase Agreement.

“**Parties**” or “**Party**” shall mean, individually or collectively, as the case may be, the Authority, the Service Provider, and the Series 2011 Local Units, as third-party beneficiaries and obligors under this Power Purchase Agreement.

**“Point of Delivery”** shall mean that physical point, which is identified in the Plans and Specifications, at which Service Provider shall deliver Electricity to each Customer’s Applicable Local Unit Facility pursuant to this Power Purchase Agreement, it being understood that Service Provider shall be responsible for all operating, maintenance and repair costs associated with the delivery of Electricity from the Renewable Energy Projects to and including the Point of Delivery, and that Customer shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery to Customer’s operating site at or in its Local Unit Facility.

**“PPA Price”** shall have the meaning set forth in Section 6.2 of this Power Purchase Agreement.

**“Required Completion Date”** shall have the meaning set forth in Section 3.6(a) of this Power Purchase Agreement, as such date may be extended in accordance with the terms of this Power Purchase Agreement.

**“SREC”** shall mean a New Jersey Solar Renewable Energy Certificate available as a result of the operation of the Renewable Energy Projects.

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**ARTICLE II**  
**CONDITIONS**

**Section 2.1 Conditions Precedent for Service Provider.**

The obligations of Service Provider under this Power Purchase Agreement are expressly conditioned on and subject to the satisfaction, or waiver by Service Provider, of the following conditions precedent:

(a) The execution and delivery by the Customer of any license, easement, or other real property interests in or contract rights to use the Customer's real property that Customer is obligated to deliver hereunder prior to the scheduled commencement of construction of the Projects. The Parties acknowledge that such condition precedent shall be satisfied by the authorization, execution and delivery of the Local Unit License Agreements by each Customer and the Authority contemporaneously herewith, which Local Unit License Agreements, among other things, by their respective terms (including Section 3.1(a) thereof) provide authority for the Company (and their subcontractors, consultants, agents or other designees) to access the Local Unit Facilities of Customer for the purpose of (i) designing, permitting, acquiring, constructing, installing, operating and maintaining the Renewable Energy Projects and (ii) designing, permitting, acquiring, constructing, renovating and installing the Capital Improvement Projects, if any.

**Section 2.2 Conditions Precedent for Authority.**

The obligations of the Authority hereunder, assumed by the respective Customers under the Local Unit License Agreements (including Section 5.11 thereof) to accept deliveries of Electricity derived from the Renewable Energy Projects and make service payments hereunder to the Service Provider, are expressly conditioned on and subject to the satisfaction or waiver of the following conditions precedent:

(a) The receipt by or on behalf of the Authority of the County Security, County Security Agreement, if any, the Company Lease Agreement and the other Program Documents.

**Section 2.3 Conditions Precedent for all Parties.**

The respective obligations of Service Provider, the Authority and the Customer with respect to the Projects related to any Customer are each expressly conditioned on and subject to the receipt, prior to the commencement of construction of such Projects, of (a) any policies of insurance that the Service Provider is required to maintain hereunder and under the Company Lease Agreement and (b) the receipt by Service Provider of all required State and local regulatory permits, consents and approvals, including without limitation the New Jersey Department of Education to (i) design, permit, acquire, construct and install the Renewable Energy Projects in accordance with the Plans and Specifications and the technical specifications of Appendix C to the Company RFP attached as a portion of Exhibit A-1 to the Company Lease Agreement, such that the REP Acceptance Certificates required under the Company Lease Agreement can be obtained prior to the Required Completion Date, and (ii) design, permit, acquire, construct, renovate and install the Capital Improvement Projects, if any, in accordance with the Plans and Specifications and the attached technical

specifications of the Company RFP such that the CIP Acceptance Certificates required under the Company Lease Agreement can be obtained prior to the Required Completion Date.

**Section 2.4 Non-Satisfaction of Conditions.**

(a) Notwithstanding the Service Provider's commercially reasonable efforts to satisfy the conditions precedent in Section 2.3, in the event that the conditions precedent in Section 2.3 are not satisfied by December 14, 2012 (or earlier or later with the written consent of the Parties, which waiver in time shall be granted if Service Provider can demonstrate continued progress in satisfying any such conditions), the Parties agree to act in good faith to secure a replacement Project in accordance with the relevant provisions of Section 4.6 hereof.

(b) In the event that the conditions precedent set forth in this Article II are not satisfied, after the provisions of Section 4.6 hereof have been pursued and both Parties agree in writing that such provisions do not provide a solution to the issues preventing the satisfaction of such conditions, unless Service Provider, or the Authority, on behalf of the Customers, shall elect to waive such conditions precedent, then Service Provider or the Authority may terminate this Power Purchase Agreement with respect to such Projects without further liability effective upon five (5) days advance written notice to the other Party, in which event neither Party shall have any further rights or obligations hereunder.

**Section 2.5 Inapplicable Terms.**

Notwithstanding anything to the contrary contained in this Power Purchase Agreement, the Parties hereto acknowledge and agree that (a) the Service Provider is not responsible for the construction of any Capital Improvement Projects under the Program Documents and any references herein to Capital Improvement Projects, CIP Acceptance Certificates or any other term defined by reference to Capital Improvement Projects (without limiting the application of any such term to the extent not related to Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the County Reserve no later than the Initial Basic Lease Payment Date, shall be the Company for purposes of the Program Documents.

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## ARTICLE III

### COMMENCEMENT DATES, REQUIRED COMPLETION DATE, AND INITIAL TERM

#### Section 3.1 Commencement and Length of Initial Term.

(a) This Power Purchase Agreement shall become effective and legally binding upon the Parties (including their permitted successors and assigns) and be enforceable in accordance with its terms, upon the execution and delivery hereof by the Authority, the Company and each Customer (the "**Effective Date**"), and shall remain in full force and effect, (i) with respect to the Authority and the Service Provider, until the end of the fifteenth (15<sup>th</sup>) annual anniversary of the final Commencement Date of all Customers, as set forth in subsection (b) below, and (ii) with respect to each respective Customer, until the end of the applicable period for such Customer set forth in subsection (b) below (as applicable, the "**Initial Term**").

(b) Unless otherwise terminated as provided herein, this Power Purchase Agreement shall remain in full force and effect, for each Customer, for a period of time (i) beginning on the respective Commencement Dates for each such Customer as established in accordance with Section 3.5 below and (ii) ending on the fifteenth (15<sup>th</sup>) annual anniversary of each such Commencement Date.

#### Section 3.2 The Construction and Interconnection Phase.

The period commencing on the Effective Date and continuing until the earlier occurrence of either (a) the respective Commencement Dates for each Customer or (b) a termination of this Power Purchase Agreement as to the Project(s) relative to each such Customer in accordance with Section 2.4 herein shall be hereinafter referred to as the "**Construction and Interconnection Phase**" for each such Customer. During this phase, the Service Provider shall use commercially reasonable efforts to complete (but in any event shall complete by December 14, 2012, unless extended, per Project, by Force Majeure or Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement), for each such Customer, the construction, start-up and testing of their respective Renewable Energy Projects and the interconnection of their Renewable Energy Projects to their applicable Local Unit Facility, all to permit the transfer of Electricity on or before the applicable Required Completion Date. Note that pursuant to the Company Lease Agreement, the applicable Interconnection Agreement must be in place prior to the issuance of the Acceptance Certificates, which are a prerequisite to the Commencement Dates for each Customer. The Service Provider further agrees to commence construction of the first Renewable Energy Projects by June 15, 2012 and all of the Renewable Energy Projects for each Customer no later than December 14, 2012, unless extended, per Project, by Force Majeure or Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement or cure period which absent a cure would lead to a Series 2011 Local Unit Event of Default. Service Provider agrees to the maximum extent practicable that it shall not interfere with the Customer's use of the Local Unit Facility during the Construction and Interconnection Phase.

### **Section 3.3 Designated Representatives.**

(a) To insure a smooth and orderly coordination of activities during the Construction and Interconnection Phase, the Authority, the Service Provider and each Customer shall appoint a designated representative of such Party (each a “**Designated Representative**”) who or which shall be authorized and directed by its principal to meet with the Designated Representative of the other Parties and shall have full power and authority, to the greatest extent practicable in light of Applicable Law governing the actions of the Authority and Customer, to bind its principal with respect to all construction matters relating to the Projects, and all operational matters relating to the Renewable Energy Projects.

(b) As soon as practicable following the Effective Date, the Designated Representatives shall hold, at a mutually acceptable time and location, an initial Project meeting, at which time the Designated Representatives shall prepare jointly, based on the best information available to Customer and Service Provider (and if applicable, the Authority) at such time, a preliminary schedule for completing the construction of the Projects, and the interconnection, testing and start-up of the Renewable Energy Projects. After the initial Project meeting, the Designated Representatives shall meet periodically, but no less frequently than once every two (2) weeks, at such times and locations as they may mutually agree or as may be requested by one of the Parties for the purposes of coordinating all relevant construction matters with respect to the Projects, and all relevant operational matters with respect to the Renewable Energy Projects, and achieving a timely completion of all Project work and all testing of the Renewable Energy Projects.

(c) The Authority hereby appoints the Construction Manager designated by it under the Company Lease Agreement as its Designated Representative. The Service Provider shall submit its proposed Designated Representative to each Customer. Each Customer shall have five (5) Business Days to either approve or reject Service Provider’s proposed Designated Representative; *provided however*, that its approval shall not be unreasonably withheld, and any failure to respond within the five (5) Business Days specified shall be deemed to be a conclusive approval of Service Provider’s proposed Designated Representative.

### **Section 3.4 Cooperation.**

The Authority and each Customer agree to reasonably cooperate and assist Service Provider to the fullest extent practicable, at Service Provider’s cost, to perform any and all actions within their respective control that Service Provider may reasonably request in connection with (a) the design, permitting, acquisition, construction, installation, interconnection, start-up, and testing of the Renewable Energy Projects, and (b) the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, if any, including, without limitation, the granting of any required rights of access to Service Provider and its contractors in accordance with the terms of the Local Unit License Agreements, the timely execution and return of any required consent of the Authority and/or such Customers, the execution and delivery of any Interconnection Agreement, and the participation as and when required of the Authority’s and/or Customers’ employees and representatives, including the Construction Manager, in the performance of any test in respect of the Renewable Energy Projects. The Service Provider must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and

subcontractors who will be present at the site, and the Service Provider acknowledges that the same will be used for purposes of checking all identities against the Megans law registry.

### **Section 3.5. Commencement Dates and PPA Price.**

(a) Each Customer shall have its own Commencement Date (which may or may not be the same date as that for one or more other Customers) determined as set forth in subsection (b) below. As there are two (2) Municipal Series 2011 Local Units, eight (8) Board of Education Series 2011 Local Units, and three (3) County Series 2011 Local Units, except as set forth in subsection (c) below, there shall be thirteen (13) Commencement Dates for purposes of this Power Purchase Agreement and the Local Unit License Agreements.

(b) Except as the Authority, in its sole discretion, may determine in accordance with subsection (c) below, the “**Commencement Date**” for each Customer shall be the date on which the Company shall have filed with the Trustee both the REP Acceptance Certificate and the CIP Acceptance Certificate, if any, with respect to all of the Local Unit Facilities for such Customer (see **Exhibit A** hereto for a list of Customers and their Local Unit Facilities), certifying that all of the Renewable Energy Projects and Capital Improvement Projects, if any, for such Customer have been completed and accepted.

(c) Notwithstanding subsection (b) above, the Authority may, in its sole discretion, determine to establish an earlier Commencement Date for one or more Customers, by written notification of same to the Company, the Trustee, and the affected Customer, but only with respect to the completed Renewable Energy Projects and Capital Improvement Projects for the Local Unit Facilities of such Customer (otherwise eligible for the issuance of Acceptance Certificates, were it not for the following), and only in the event the Authority determines that the Acceptance Certificates (which require completion of all such Projects for a Customer under subsection (b) above) are being unduly delayed for some reason not within the control of the Company.

- (i) Nothing in this subsection (c) shall waive the requirement to ultimately receive such Acceptance Certificates for other purposes of the Renewable Energy Program.
- (ii) Should the Authority act to establish an earlier Commencement Date for one or more Renewable Energy Projects for a Customer (as opposed to when all Renewable Energy Projects for such Customer shall have received Acceptance Certificates under subsection (b) above) in accordance with this subsection (c), there shall be more than one Commencement Date for such Customer, and the terms and provisions in this Power Purchase Agreement relating to Commencement Dates shall be applied separately, as applicable, for such one or more Renewable Energy Projects of such Customer.

(d) Upon the earlier to occur of (i) the completion of the construction and start-up of each Renewable Energy Project for any Customer and the interconnection thereof to the applicable Local Unit Facility for such Customer, or (ii) the applicable Commencement Date for such Customer, then:

- (A) The full Electricity production capability of such completed Renewable Energy Project for such Customer shall be exclusively dedicated to such Customer for the applicable Initial Term and any extensions thereto;
- (B) Service Provider shall operate and maintain the Renewable Energy Projects for such Customer through the Initial Term and any extensions thereof;
- (C) Service Provider shall commence the delivery of all Electricity produced from such Renewable Energy Projects to such Customer; and
- (D) Upon receipt of such Electricity, such Customer shall pay the PPA Price in the amount and manner as set forth in subsection (e) below, in Section 6.4 hereof, and **Exhibit B** attached hereto.

(e) (i) When Service Provider commences deliveries of Electricity to such Customer in accordance with subsection (d) above, either prior to or on the applicable Commencement Date for such Customer, such Customer shall pay for such deliveries, at the initial PPA Price specified in **Exhibit B, Section 1** attached hereto, without escalation. Therefore, the escalation to the first year PPA Price specified in **Exhibit B, Section 1** attached hereto shall not be made until the first annual anniversary of the Commencement Date for such Customer. The escalation (as specified in **Exhibit B, Section 2** attached hereto) for amounts payable in any following year shall be made on each succeeding anniversary after such Commencement Date, for such succeeding year. Escalation adjustments (as specified in **Exhibit B, Section 2** attached hereto) shall be made on each such anniversary date through the end of the Initial Term and any extension thereto for such Customer. As so adjusted for each subsequent year beyond the first annual anniversary of the Commencement Date, each such escalated amount (as specified in **Exhibit B** attached hereto) shall be the PPA Price payable for such year.

(ii) Notwithstanding anything to the contrary herein or in any other Program Document, the PPA Price set forth in **Exhibit B, Section 1** attached hereto, shall be promptly adjusted (without any further authorization or other action required by any Renewable Energy Program Interested Party, but with notice of such change to be promptly provided by the Authority to the Company (and any other County Security Provider, if any), the County, the Series 2011 Local Units, and the Trustee) to reflect any change in the County Security Fund Requirement in accordance with the terms of the definition thereof as set forth in the Bond Resolution.

(f) The obligations of Customers under this Power Purchase Agreement, including those to take and pay for Electricity with respect to their applicable Local Unit Facilities, shall be several, and not joint. The Authority shall have no obligation with respect to such take and pay obligations other than to obligate the Series 2011 Local Units, as Customers, to take and pay for

such Electricity in accordance with the terms hereof, including this Section 3.5, and other than to enforce such obligations, all as set forth in the Local Unit License Agreements, including Section 5.1I thereof.

**Section 3.6. Required Completion Date; Liquidated Completion Damages.**

(a) Unless excused by reason of Force Majeure, fault of Customer due to its default under the Local Unit License Agreement, or otherwise as may be expressly provided herein, Service Provider hereby covenants to satisfy the following conditions (the “**Completion Conditions**”) no later than December 14, 2012 (the “**Required Completion Date**”):

(i) Service Provider shall, in such order and timeframe as Service Provider shall determine, as shall be communicated by Service Provider to the Authority and Customer in accordance with Section 3.3 hereof, complete, in accordance with the Plans and Specifications for Projects prepared by or on behalf of Service Provider and approved by the applicable Customer (all in accordance with Section 501 of the Company Lease Agreement), which Customer approval shall be promptly provided to Service Provider and not withheld unreasonably, which Plans and Specifications shall incorporate, as necessary, desirable or convenient, the technical specifications of the Company RFP, and any further applicable requirements of (A) **Exhibits C and D** to this Power Purchase Agreement, (B) Exhibit A-2 to the Company Lease Agreement and (C) Exhibit C to the Local Unit License Agreements:

(Y) The design, permitting, acquisition, construction, installation, interconnection, start-up, and testing of all of the Renewable Energy Projects for all Customers on their Local Unit Facilities (see **Exhibit A** attached hereto); and

(Z) The design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, if any, for all applicable Customers on their Local Unit Facilities (see **Exhibit A** attached hereto);

(ii) Service Provider shall obtain all of the Acceptance Certificates relating to all Customers on all of the Local Unit Facilities; and

(iii) Service Provider shall commence the production, delivery and sale of Electricity to all Customers through the operation and maintenance of the Renewable Energy Projects, to continue through the Initial Term of this Power Purchase Agreement, and any extensions hereof.

(b) Unless excused by reason of Force Majeure, fault of Customer due to its default under the Local Unit License Agreement, or otherwise as may be expressly provided herein, if Service Provider fails to satisfy the conditions set forth in subsection (a) prior to the Required Completion Date, then Service Provider shall pay liquidated damages to each such Customer equal to the difference between the variable line item per kWh costs for delivered electricity payable by

each such Customer to the local electric utility distribution provider, minus the initial PPA Price (as specified in **Exhibit B, Section 1** attached hereto per kWh), multiplied by the guaranteed kWh production of Electricity referenced in Section 6.1(b) of this Power Purchase Agreement for each day after the Required Completion Date, until the Renewable Energy Projects for such respective Customers are able to produce, and Service Provider shall deliver, Electricity for and to such Customers as contemplated by this Power Purchase Agreement.

(c) At the Authority's option, whereby the Authority may look to be directed by the respective Customers, or determine on its own, as the Authority shall in its sole discretion decide, the Authority may recover any amounts due and owing by the Service Provider in accordance with subsection (b) above either through realization of such liquidated damage amount under the Construction Performance Bond provided by Service Provider, or alternatively, accrue and offset such liquidated damage amount against next due PPA Price payments made by Customers, or some combination thereof, in any event as such determination shall be communicated in writing by the Authority to Service Provider and Customer.

(d) In the event Service Provider has an allowable excuse as outlined in subsection (a) above, which shall be the sole cause for failing to meet the timeframes and conditions set forth in subsection (a) above, and after Service Provider has used all commercially reasonable efforts to meet such timeframes and conditions (e.g., overtime), then Service Provider shall not be liable to Customer for such liquidated damages contemplated by subsection (b) above. In the event of any such performance excusing event, Service Provider shall promptly give written notice to Customer and the Authority (but in no event later than twenty-four (24) hours following such occurrence), specifying the Force Majeure event or Customer's alleged failure to act, cooperate or assist Service Provider or other performance excusing event, as applicable. Should the Service Provider performance excusing event be caused by Customer's action or inaction, Customer shall promptly respond (but in no event later than forty-eight (48) hours) to Service Provider and the Authority regarding such notice by outlining all such remedial actions to be undertaken by or on behalf of Customer, and further, Customer shall promptly implement such action outlined in such response as shall be necessary, desirable or convenient in order to remedy such event, and allow Service Provider to meet such conditions as set forth in subsection (a), as soon as practicable, after the Required Completion Date.

### **Section 3.7 Extension of Initial Term and other options; Obligations at Termination.**

(a) At least one-hundred and twenty (120) days prior to the expiration of the Initial Term, to the extent then permitted by Applicable Law, the Authority, on behalf of one or more Customers, may submit a written request to Service Provider expressing a desire by such Customer to pursue a possible extension of this Power Purchase Agreement. Upon receipt of the Authority's request, Service Provider, the Authority and Customer agree to promptly meet with the intent of negotiating an amendment on mutually agreeable terms and conditions, reflecting, among other things, the cost of any necessary equipment replacements or upgrades, the costs of contract maintenance and operating services, and Service Provider's profit and overhead. Neither Service Provider nor Customer shall be legally obligated to enter into or perform any extension or

replacement of this Power Purchase Agreement until and unless reduced to a writing duly executed and delivered by both parties, and the provisions of Sections 5.1 and 7.1 of the applicable Local Unit License Agreement are either complied with or waived by the Authority and/or the applicable Customer.

(b) If the parties shall fail to enter into an agreement extending the Initial Term, then Customer shall elect, at its sole option, to either require that the Service Provider promptly remove the Renewable Energy Projects and return and restore the Local Unit Facilities to the state and condition existing prior to construction and installation of the Renewable Energy Projects (i.e., after the construction, renovation and installation of the Capital Improvement Projects on the applicable Local Unit Facility, if applicable), reasonable wear and tear excluded, at Service Provider's sole cost, although Service Provider is permitted to use any and all funds on deposit in the Restoration Security Fund for such purpose, or purchase the physical Renewable Energy Projects at Fair Market Value, in any event in compliance with Sections 5.1 and 7.1 of the applicable Local Unit License Agreement. Such Fair Market Value shall be established by an appraisal firm agreed to by the Parties. The cost of the appraisal shall be shared equally by Service Provider and the applicable Customer. In the event the Parties cannot agree to a single appraisal firm, then the Company, the Authority and the Customer shall each contract with a qualified appraisal firm for an appraisal at its own cost, and Fair Market Value shall be the average of the three (3) appraisals.

(i) In the event the end of term option selected by the Local Unit is removal of the Renewable Energy Projects, Service Provider shall remove all of its tangible property comprising such Renewable Energy Projects from the Local Unit Facility by a mutually convenient date but in no case later than one hundred eighty (180) days after the end of the Initial Term. Service Provider shall provide Customer, the applicable roof warrantor for the applicable Local Unit Facility, and the Authority, with a removal plan, at Service Provider's sole cost and expense, with respect to such removal, although Service Provider is permitted to use any and all funds on deposit in the Restoration Security Fund for such purpose. Such removal plan is subject to the review and approval by Customer, such warrantors, and the Authority, which approval (with respect to Customer and the Authority) shall not be unreasonably withheld or delayed.

(ii) In implementing such removal plan, Service Provider (A) shall cause the portion of the Local Unit Facility on which the Renewable Energy Projects were installed to be returned to the state and condition set forth in subsection (b) above, including removal of above grade electrical wires and conduits, inverters, photovoltaic panels, steel superstructure, combiner boxes, and Renewable Energy Projects disconnect switches, and (B) shall not adversely affect the remaining warranties then in existence with respect to such roofs on such Local Unit Facilities. Not included in the removal schedule are below-grade electric/wiring components (unless otherwise specified in the approved removal plan), material that cannot be removed due to safety concerns, and ordinary wear and tear. Service Provider shall leave the portion of the Local Unit Facilities on which the Renewable Energy Projects were installed in neat and clean order, having sealed any penetrations into such portion of the roofs of such Local Unit Facilities, all subject to the applicable Customer's inspection and approval, not to be unreasonably withheld or delayed.

## ARTICLE IV

### DEVELOPMENT OF PROJECTS AND RELATED AGREEMENTS AND UNDERTAKINGS

#### Section 4.1 Development of Projects.

(a) Service Provider has covenanted to undertake the obligations set forth in Section 3.6(a) hereof with respect to the development of the Projects prior to the Required Completion Date. Thereupon, Service Provider shall deliver Electricity to each Customer, each Customer shall pay for such Electricity, and Service Provider shall operate and maintain the Renewable Energy Projects, all through the Initial Term and any extensions thereof, and all as set forth in Section 3.5(d) hereof.

(b) Service Provider shall be solely responsible for taking, and shall take or cause to be taken, with the cooperation of the Authority and Customer, including as applicable and as required pursuant to Section 3.4 hereof, all action deemed necessary, desirable or convenient by Service Provider in order to discharge its obligations set forth in subsection (a) above. Toward that end, Service Provider shall coordinate all Project construction activities with the Authority and the applicable Customer, and shall provide the Authority and such Customer with all Plans and Specifications and other information that the Authority or such Customer may reasonably request from time to time. The Authority and such Customer shall be provided with submittals during design and construction of such Projects. Such Customer shall provide comments, if any, within five (5) Business Days of receipt of such submittals. Review and comments by Customer, if any, shall not relieve Service Provider of its obligations under this Power Purchase Agreement. The Authority shall have no obligation, but may on its own volition undertake, to review and comment on such submittals. Service Provider reserves the right to substitute products provided such substitutions are equal or better in quality and performance than the products submitted in the Company Proposal, based on which the Authority selected Service Provider, as the successful respondent to the Company RFP, as such substitution shall be agreed to and approved in writing (consent not to be unreasonably withheld) by such Customer and the Authority. Service Provider shall timely apply for all required permits and approvals from all applicable authorities having jurisdiction relating to the construction of the Projects, and the operation and maintenance of the Renewable Energy Projects, and any other activities contemplated by this Power Purchase Agreement. If despite commercially reasonable efforts, Service Provider is unable to obtain a required permit; such occurrence shall be deemed an event of Force Majeure hereunder.

(c) For its undertaking of the obligations set forth in subsection (a), Service Provider shall be entitled to receive the PPA Price from Customer in accordance with Section 6.2 hereof, as full and complete consideration for such services and the undertaking and discharging such obligations by Service Provider.

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## **Section 4.2 Operation and Maintenance of the Renewable Energy Projects.**

Throughout the Initial Term and any extensions thereof, Service Provider shall operate and maintain the Renewable Energy Projects in a manner that meets or exceeds good industry practice, and in good working order and repair, and shall coordinate all planned maintenance activities with Customer in order to minimize any adverse impact on Customer and/or its Local Unit Facility. The Renewable Energy Projects shall remain in Service Provider's sole custody and control during the term of this Power Purchase Agreement and Customer shall not attempt to use, repair or otherwise interfere with Service Provider's custody, except in accordance with Service Provider's express consent. Service Provider shall have the right, but not the obligation, to replace or exchange, in its discretion, any component of the Renewable Energy Projects during the Initial Term or any extensions thereof provided that the Renewable Energy Projects continue to operate in accordance with the Plans and Specifications. Service Provider shall be responsible, at its sole cost and expense, for performing all required Renewable Energy Projects operation and maintenance to insure that the Renewable Energy Projects shall operate in an efficient manner in accordance with the Plans and Specifications. It is understood and agreed that Service Provider may delegate its operation and maintenance responsibilities to a technically qualified and financially responsible third party, upon notification to the Authority and the applicable Customer, and upon their review and approval of any such contract, which Authority and Customer approval shall be promptly provided to Service Provider and not withheld unreasonably. Any delegation by Service Provider to such third party shall not relieve Service Provider from its obligations under this Power Purchase Agreement.

## **Section 4.3 Reserved**

## **Section 4.4 Outages.**

Service Provider, the Authority and Customer understand and agree that from time to time it shall be necessary for Service Provider to remove all or part of the production, distribution, and interconnection portions of the Renewable Energy Projects from service to make any necessary repairs or replacements. Accordingly, Service Provider shall have the right to interrupt, reduce or discontinue the delivery of Electricity for the purposes of inspection, maintenance, repair, replacement, construction, installation, removal or alteration of the equipment used for the production or delivery of the same; *provided however*, that unless the exigencies of the situation require otherwise, Service Provider shall use commercially reasonable efforts to only interrupt or restrict delivery of Electricity at such times as Service Provider and Customer shall mutually agree. Customer and Service Provider agree to act in good faith to accommodate the reasonable requests of the other in fulfilling their respective obligations under this Power Purchase Agreement. If the circumstances require Service Provider to remove the Renewable Energy Projects from service for more than several hours, Service Provider shall take such actions as are reasonable under the circumstances to minimize the effect on Customer's Local Unit Facility and its operations. Unless the exigencies of the situation require otherwise, Service Provider shall provide Customer with at least ten (10) days prior notice of any proposed service outage, which notice shall explain in detail the reason for the proposed interruption, the proposed maintenance or other corrective action to be undertaken, and the expected length of the interruption. For the purposes of this Section 4.4, exigent circumstances shall include, but shall not be limited to, conditions which, in Service Provider's reasonable judgment, pose an imminent and unreasonable risk of personal injury or property loss, or circumstances under which Service Provider's failure to remove its system from service would, in

Service Provider's reasonable judgment, constitute an illegality or violation of any statute, regulation or order of any Governmental Authority in the exercise of its regulatory jurisdiction, or any similar events or circumstances.

#### **Section 4.5 Removal and Re-installation of Panels; Roof Maintenance & Repairs.**

(a) If at any time during the term of this Power Purchase Agreement, Customer is required to remove or interrupt, or cause the removal or interruption, as applicable, of the operation of one or more of Service Provider's solar panels that comprise a portion of the Renewable Energy Projects, to repair or replace the roof of such Customer's Local Unit Facility, or perform required maintenance on any other of the Local Unit's equipment located on such roof, or for any other governmental reason for which no other commercially reasonable solution exists other than to interrupt some portion of service provided by the Renewable Energy Projects, Customer shall promptly notify Service Provider and the Authority of the specific panels and/or other portion of the affected Renewable Energy Project that must be removed or shut down, and when removal or shut-down is required, taking into account to the greatest extent practicable any efforts within Customer's control to minimize the loss of Electricity generated by such removed or shut down (in whole or in part) of the Renewable Energy Project. In such instance, Service Provider agrees to remove and re-install or shut down and re-initiate the operation of such minimum number of panels for the minimum amount of time necessary in order to allow Customer access to its Local Unit Facility to undertake the required task causing the need for such removal.

(b) To the extent Customer is required to take the action set forth in subsection (a) above in whole or in part due to some action or inaction of Service Provider or any of its designees, consultants, subcontractors or agents, or another licensee (other than the Authority or the Authority's designees, consultants, subcontractors or agents) under Customer's Local Unit License Agreement, then Service Provider shall (i) bear and pay for the cost of such removal, and (ii) reimburse Customer for the difference between (A) Customer's actual cost for electricity, as evidenced by that amount delivered and billed by the local electric utility distribution provider to Customer in lieu of the Electricity to have been provided by Service Provider during such applicable period for which Customer is not receiving Electricity from Service Provider, in whole or in part, and (B) the PPA Price that would have been applicable to such amount of electricity so delivered to Customer under clause (i) above, had Service Provider delivered such deficient amount of Electricity during such period.

(c) Conversely, to the extent Service Provider is required, with the Authority's consent, to remove and re-install or shut down and re-initiate the operation of a portion, or all of a Renewable Energy Project due to some action or inaction by Customer or any of its designees, consultants, subcontractors, or agents, Service Provider shall be reimbursed by Customer at Service Provider's actual out-of-pocket cost, plus ten percent (10%) overhead. Further, Customer shall reimburse the Service Provider for the cost of lost production during the period of removal or shut-down in excess of ten (10) days in any twelve (12) month period, starting on the Commencement Date (for such Customer or as applicable, such Local Unit Facility) and each anniversary thereafter. The cost of lost production shall include an allowance for both lost Electricity at the applicable PPA Price, and lost SRECs, at the market value of such SREC's as determined in comparable transactions. Customer may at its option, elect to pay Service Provider any amounts in this subsection (c) in either a lump sum payment, or in uniform monthly payments, including interest on

the unpaid balance, at the rate set out in Section 6.4 (relating to payment terms) over not greater than a twelve (12) month period. For purposes of this subsection, an action of inaction of a Customer's designees, consultants, subcontractors or agents shall not include students unless such students are under the direct control of the Customer at the time such action or inaction occurred.

#### **Section 4.6 Certain Local Unit Facility Issues.**

(a) Prior to commencement of construction of each of the Renewable Energy Projects, preferably prior to the Effective Date, and no later than the completion of the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, if applicable, for each Local Unit Facility, Service Provider shall investigate and secure an opinion from a structural engineer licensed in the State that the Local Unit Facility roof is structurally sound and requires no structural reinforcement to support the Renewable Energy Projects to be provided in accordance with the terms hereof. To the extent required by the applicable local building code for a Local Unit Facility, a wind analysis shall also be conducted by or on behalf of Service Provider to insure the proposed mounting structures for the Renewable Energy Projects shall be sufficient to meet wind conditions at each Local Unit Facility. A copy of such opinion and analysis, if so required, for each Local Unit Facility shall be delivered to the Authority and applicable Customer.

(b) If the Service Provider delivers to the Authority a Certificate of an Authorized Officer of the Service Provider to the effect that such opinion and/or analysis and/or other credible evidence demonstrates any of the following: (i) that structural reinforcement of a Local Unit Facility would be required in order to support the contemplated Renewable Energy Projects, (ii) that any roof of a Local Unit Facility is structurally unsound or that the Local Unit Facility is not otherwise available for the contemplated Project, including issues of title, damage, or condemnation affecting the Local Unit Facility, (iii) that there are other latent subsurface or structural conditions present at any Local Unit Facility that is not a roof, which latent subsurface or structural conditions were not contemplated in its Company Proposal and would have a material adverse financial impact on the Service Provider or (iv) that the existing warranties can only be maintained through an unreasonable scope of work, or at an unreasonable cost, in either case as determined solely by the Authority, and if in any such case (clauses (i) – (iv) inclusive) the Authority, in exercising its reasonable discretion (with input from the Customer), agrees with such determination as evidenced by their acknowledgment of such Service Provider Certificate by an Authorized Officer of the Authority, then neither the Authority nor Customer shall have any responsibility to provide any additional funding for such Renewable Energy Projects, and Service Provider is not entitled to any additional compensation for such Renewable Energy Projects, it being understood by the Parties that any such circumstance has been preliminarily reviewed and subject to a diligence review by Service Provider, as any contemplated cost relating thereto shall have been included in the Company Proposal as part of the submitted cost of the Projects.

(c) To the extent the Authority executes and delivers to the Service Provider the acknowledgment contemplated by subsection (b) above, notwithstanding the other provisions of subsection (b) above the Parties shall work together in good faith to select an alternative location (hereinafter, such alternative location shall be known as the revised Local Unit Facility for such Series 2011 Local Unit for all purposes hereof and of the other Program Documents) within the jurisdiction of the following, and in the following order: (i) first of the affected Series 2011 Local

Unit for which the Renewable Energy Project shall no longer be developed, in which case the revised Local Unit Facility shall act as the location for the replacement renewable energy project (hereinafter a Renewable Energy Project for all purposes hereof and of the other Program Documents), and as necessary, required or desirable, the revised capital improvement project (hereinafter a Capital Improvement Project for all purposes hereof and of the other Program Documents), (ii) second, within the jurisdiction of any other Series 2011 Local Unit, in which case the revised Local Unit Facility and Project shall be located in such agreed upon jurisdiction, and (iii) if a suitable replacement location within such jurisdiction is still not available on a mutually agreeable basis, then from any location within (and including) the County upon which the Parties can agree, in which case the revised Local Unit Facility and Project shall be located in such agreed upon jurisdiction. Any alternative Projects shall, to the maximum extent practicable, be of a similar (or more advantageous to the Parties) size, scope and economic impact as the Projects being replaced.

(d) Should an alternative Local Unit Facility be selected by the Parties in accordance with subsection (c) above, (i) a new Commencement Date and a new Completion Date shall be developed for the replacement Renewable Energy Project, and as applicable, Capital Improvement Project, (ii) such revised Commencement Date and Completion Date for such replacement Renewable Energy Project shall be incorporated into this Power Purchase Agreement via a written amendment executed by the Parties, which amendment shall also incorporate a revised **Exhibit A** hereto and any other changes the Parties deem necessary, desirable, or convenient to implement the change in Project and Local Unit Facility, and (iii) the other Program Documents shall be amended to reflect any required changes caused by such amendment hereof, including without limitation the revised Project, the replaced Local Unit Facility, and if necessary, a new Series 2011 Local Unit (in which case instead of an amended Local Unit License Agreement with such new Series 2011 Local Unit, there shall be a new Local Unit License Agreement with such new Series 2011 Local Unit), provided that the economic rights and responsibilities of the Parties shall not be amended (including without limitation, the PPA Price), unless agreed to at the complete discretion of the Parties.

(e) If after good faith negotiations the Parties are unable to secure a replacement Local Unit Facility and Project within six (6) months of the date of the Authority's acknowledgment of the Certificate of an Authorized Officer of the Service Provider contemplated in subsection (b) above, then the Service Provider shall have the option, exercisable at any time within nine (9) months of the date of such Authority Certificate, to abandon the Project associated with the Local Unit Facility that was to be replaced. Such option shall be exercised by the Service Provider delivering a Certificate of an Authorized Officer of the Service Provider to the Trustee, the County, the Authority, and the affected Series 2011 Local Unit, (i) setting forth the authorization for, and the reasons why the Project and Local Unit Facility are being abandoned, and (ii) further, that attached thereto is a partial prepayment of Basic Lease Payments (or evidence thereof, in the case of a wire transfer or other similar conveyance) in immediately available funds that shall be applied in the manner set forth in Section 701(a) of the Company Lease Agreement. Upon the abandonment of any Project, the Service Provider, the Authority and the Customer will enter into such amendments of the Program Documents as shall be necessary to evidence the partial termination of the Program Documents solely with respect to such Project.

**Section 4.7 Incorporation of Certain Company RFP Terms and Conditions.**

To the extent not otherwise inconsistent with the provisions of this Power Purchase Agreement and the other Program Documents, the terms and conditions of Article VII and Appendix C to the Company RFP, as attached to the Company Lease Agreement as part of Exhibit A-1 thereto, are hereby incorporated by reference into this Power Purchase Agreement.

**Section 4.8 Service Provider's Ability to Choose Subcontractors.**

Service Provider shall enter into the applicable contract(s) for construction, renovation and installation of the Projects, subject to the terms of any Renewable Energy Program agreement executed by any Party. Prior to implementing any such contract(s), Service Provider and Customer shall have agreed upon a list of acceptable subcontractors, with all other subcontractors subject to notification to the Authority and Customer's consent, such consent not to be unreasonably withheld or delayed; *provided, however*, that Customer's agreement as to the list of acceptable subcontractors shall not make the Authority or Customer in any way responsible for, or a guarantor of, such subcontractors, nor relieve Service Provider of any of its duties and obligations with respect to subcontractors or otherwise hereunder. Service Provider shall insure all subcontractors are qualified, reputable and adhere to all applicable regulations and laws of the State. The Service Provider must require the EPC Contractor to provide the names of all employees, agents, and workers of the EPC Contractor and subcontractors who will be present at the site, and the Service Provider acknowledges that the same will be used for purposes of checking all identities against the Megans law registry. The Service Provider identified and the Authority and Customer have approved the initial list of subcontractors, as set forth in **Exhibit H**, by the time of execution and delivery hereof (such list is not intended to be exclusive, should Service Provider subsequently determine to proffer one or more other subcontractors).

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## ARTICLE V

### LOCAL UNIT LICENSE AGREEMENT – LOCAL UNIT FACILITY ACCESS

#### Section 5.1. Local Unit License Agreement.

(a) For consideration of the transactions contemplated by this Power Purchase Agreement and the Local Unit License Agreement, Service Provider, the Authority and Customer hereby agree that Service Provider and their subcontractors, including the EPC Contractor pursuant to their Development Contract with Service Provider, and other agents and designees shall each be deemed a permitted licensee under Customer's Local Unit License Agreement, and accordingly, Service Provider and their subcontractors and other agents and designees shall have access to the Local Unit Facility of Customer to (i) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, (ii) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, and (iii) perform the other related Project activities set forth in Section 3.1, including subsection (c) thereof, of the Local Unit License Agreement for Customer.

(b) The license provided to Service Provider in accordance with subsection (a) and Customer's Local Unit License Agreement, subject to Section 3.7 of such Customer's Local Unit License Agreement, shall be irrevocable for the Initial Term of this Power Purchase Agreement and any extension, for so long as Service Provider is not in default of its delivery obligations hereunder, thereby causing an Event of Default hereunder, and except as otherwise expressly provided in this Power Purchase Agreement.

(c) Service Provider shall insure that any equipment used or installed by the Service Provider shall not adversely affect the structural integrity or existing roofing warranties of the Local Unit Facility roof and shall be completed in strict accordance with manufacturer's requirements by a certified manufacturer roofing contractor.

(d) In the event a Customer exercises revocation rights pursuant to Section 3.7 of such Customer's Local Unit License Agreement, upon the satisfaction of all requirements under such Section 3.7, this Power Purchase Agreement shall be terminated in respect of, and solely with respect to, such applicable Project.

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## ARTICLE VI

### ENERGY SERVICES PROVIDED BY SERVICE PROVIDER PRIOR TO OR UPON COMMENCEMENT DATE

#### Section 6.1 Sale and Purchase of Electricity Converted from Solar Energy.

(a) On the date set forth in Section 3.5(d) of this Power Purchase Agreement, which date shall be on or prior to the Commencement Date, Customer shall purchase and take, and Service Provider shall sell and deliver, all Electricity produced from the Renewable Energy Projects.

(b) The Plans and Specifications for the Renewable Energy Projects shall provide for the output guaranteed by Service Provider in Section 6(b) of its Form A-1 of the Company Proposal attached hereto as **Exhibit C** (which, in accordance with Form A-1 of the Company Proposal, needs to be adjusted to reflect the actual solar insolation measured at the site for the time period under review), unless Customer agrees in writing to a different output to be set forth in such Plans and Specifications. For the avoidance of doubt, the Parties hereto expressly agree that the proposed output for the Renewable Energy Projects for the Series 2011 Local Units so set forth in Form A-1 of the Company Proposal and as detailed in Company Proposal Table 6(b) that is made a part of **Exhibit C** hereto shall be the standard against which the output guaranty contemplated by this Power Purchase Agreement shall be measured, notwithstanding the fact that the anticipated output for such Renewable Energy Projects shall be as detailed in Company Proposal Table 6(a) and also incorporated in **Exhibit C** hereto. The Parties hereto agree that Exhibit C hereto shall be amended upon the completion and sizing of the Projects.

(c) Service Provider shall guarantee the output of the Renewable Energy Projects cumulatively through the 5<sup>th</sup>, 10<sup>th</sup>, and 15<sup>th</sup> years of the Initial Term to be within ten percent (10%) of the output (calculated using the PV Watts version 1.0 with initial system sizes rated at STC methodology employed by the Company in the Company Proposal, using a de-rate assumption of .80 and a default location of Newark, based on tilt and azimuth assumptions provided in the Company Proposal) as set forth in the final Plans and Specifications for the Renewable Energy Projects; provided, that to the extent that such output shall fall below such limit, the remedy therefor shall be solely as set forth in subsection (d) below.

(d) To the extent that the Renewable Energy Projects' output shall fall below the limits set out in the preceding subsection (c) and such shortfall is not due to an action of the Customer, Service Provider shall reimburse Customer for the difference between Customer's variable line item cost for electricity, per kWh, as evidenced by that amount delivered and billed by the local electric utility distribution provider to Customer in lieu of the Electricity to have been provided by Service Provider, and the PPA Price, per kWh, set forth in this Power Purchase Agreement, such difference in price per kWh to be applied to the amount of such Renewable Energy Projects' output deficiency. Such reimbursement shall occur no later than sixty (60) days after the next occurring anniversary of the Commencement Date that arises after the date in which the shortfall occurred. In the event such reimbursement payment is not made by Service Provider, Customer shall be entitled to deduct such amount in three (3) equal amounts from its PPA Price invoice payments in the following three (3) months after such sixty (60) days, or if invoice amounts

are not large enough to allow for the entirety of such credit during such time, the balance shall be credited as quickly as possible thereafter.

(e) To the extent that the Renewable Energy Projects' output shall fall below the limits set out in the preceding subsection (c) at the end of one of the 5-year periods of the Initial Term, and Service Provider reimburses Customer as set out in the preceding subsection (d), the amount of the shortfall in kWh upon which the reimbursement payment is based shall be deducted from the cumulative guaranteed output amounts at the end of subsequent 5-year periods.

(f) To the extent that a reduction in the amount of Electricity produced by the Renewable Energy Projects is caused due to action of the Customer, such as that contemplated in Section 4.5(c) or due to the circumstances described in Sections 3.6(d), 4.6(b) or 6.6 hereof, 100% of the amount of Electricity that would otherwise have been produced will be deducted from both (i) the cumulative guaranteed output at the end of the 5-year period in which the reduction due to Customer action occurs, and (ii) the cumulative guaranteed output amounts at the end of all subsequent 5-year periods.

## **Section 6.2 Rates and Charges.**

Customer shall pay to Service Provider the monthly fees and charges for Electricity as set forth in **Exhibit B** and Sections 3.5(e) and 6.4 hereof (the "PPA Price").

## **Section 6.3 Service Provider Reservation of Rights; Benefits Shared.**

(a) Service Provider retains all ownership and rights to use, sell, or transfer (i) except as set forth in subsection (c) below, SRECs and (ii) rights with respect to Federal tax benefits (Investment Tax Credit and MACRS Depreciation) associated with the Renewable Energy Projects. Nothing in this Section 6.3 shall relieve Service Provider from its obligation to sell Electricity generated by the Renewable Energy Projects to the Customers.

(b) The Authority shall have the option, in accordance with Section 6.3(e), to direct an Authorized Officer of the Authority directing the Service Provider to sell to the Authority, from the period on and after the date of the election, fifty percent (50%) of any financial / environmental benefits, with the exception of SRECs or as described in Section 6.3(d) hereof (allocated in accordance with subsections (a) and (c)), determined in the future (but unknown at this time) to be attributable to the Renewable Energy Projects for the Series 2011 Local Units. If the Authority exercises this option, to the extent any such Authority Certificate so directs, Service Provider further agrees to act as agent for the Authority, and sell or otherwise monetize such financial / environmental benefits on behalf of the Authority, paying the proceeds realized from any such sale to the Authority as an additional Administrative Fee. The balance of any such financial / environmental benefits are the property of the Service Provider. If the Authority exercises this option, to the extent any such Authority Certificate so directs, Service Provider further agrees to act as agent for the Authority, and sell such financial and environmental benefits on behalf of the Authority, paying the proceeds realized from any such sale to the Authority as an additional Administrative Fee.

(c) The Authority shall have the option, exercisable by the Authority in its sole discretion at any time from July 15, 2017 until and including December 15, 2017, through the execution by the Authority and delivery to the Service Provider of a Certificate of an Authorized Officer of the Authority directing the Service Provider to sell to the Authority fifty percent (50%) of the remaining SRECs to be realized from the expected generation of electricity from all of the Renewable Energy Projects from December 15, 2017 through and including December 15, 2027. The purchase price for any such sale of SRECs, to the extent the Authority exercises this option, shall be three hundred dollars (\$300). If the Authority exercises this option, to the extent any such Authority Certificate so directs, Service Provider further agrees to act as agent for the Authority, and sell such SRECs on behalf of the Authority, paying the proceeds realized from any such sale to the Authority as an additional Administrative Fee.

(d) The Authority shall have the option, in accordance with Section 6.3(e) to direct the Service Provider to sell to the Authority, from the period on and after the date of election, fifty percent (50%) of any additional benefits resulting from the Service Provider's participation in the Authority's Renewable Energy Program, including without limitation any savings resulting from one or more refundings of the Series 2011 Bonds, with such specific terms of allocation to be set forth in a Certificate of an Authorized Officer of the Authority, as acknowledged in writing by Service Provider. The purchase price for any such sale, to the extent the Authority exercises this option, shall be set forth in any such Certificate. If the Authority exercises this option, to the extent any such Authority Certificate so directs, Service Provider further agrees to act as agent for the Authority, and monetize such benefit on behalf of the Authority, paying the proceeds realized from any such sale to the Authority as an additional Administrative Fee.

(e) The option provided in Sections 6.3(b) and (d) shall be exercisable simultaneously by the Authority in its sole discretion during the period July 15, 2017 through December 15, 2017 by a Certificate of an Authorized Officer of the Authority to the Service Provider and accompanied by (x) the payment of \$250,000, and (y) such other amount as the parties may agree constitutes fair market value therefor, and accompanied by a professional opinion that such alternative amount is consistent with the fair market value of the rights described in Sections 6.3(b) and (d).

#### **Section 6.4 Payment Terms.**

Service Provider shall measure and read all Meters on or about the first Business Day of each calendar month during the term of this Power Purchase Agreement, commencing the first month immediately following the date set forth in Section 3.5(d) of this Power Purchase Agreement, which date shall be on or prior to the Commencement Date. Promptly thereafter, Service Provider shall provide in writing to Customer, with a copy to the Trustee, an invoice setting forth the Electricity charges as set forth in **Exhibit B** and quantity of Electricity delivered during the previous period. Should an error in invoicing be determined, then Service Provider agrees to promptly provide for an adjustment of the next-due invoice to remedy said error. Customer shall have thirty (30) Business Days after the date of the invoice in which to pay the invoice in full. Any sums owing and remaining unpaid after the expiration of said period of time shall bear interest at a rate equal to the lesser of one and one-half percent (1 and ½%) per month until paid in full, or highest rate allowed by law.

### **Section 6.5 Taxes; Other Governmental Charges.**

To the extent that Service Provider, Customer, and/or the Authority shall become responsible for the payment of any tax as a result of the placement, operation or maintenance of the Renewable Energy Projects on the Local Unit Facility (other than taxes imposed by Customer after the date of this Power Purchase Agreement), Service Provider shall be responsible for the payment of all such taxes and or assessments. Such obligation shall be limited to the Renewable Energy Project improvements constructed by the Service Provider on the Local Unit Facility. The Service Provider shall have the right to challenge the lawfulness of any tax or assessment associated with the construction, operation, or maintenance of the Renewable Energy Projects on the Local Unit Facility that shall be imposed on Service Provider, or that shall be attributable to Customer and/or the Authority for which Service Provider shall be required to pay. The Authority and Customer shall be notified of any such challenge by Service Provider, and further, shall be periodically kept informed of all developments, including copies of any pleadings or other documents comprising the docket of any such challenge.

### **Section 6.6 Alterations to Customer's Facilities.**

The Authority and Customer agree not to undertake any structural alterations or repairs to the Local Unit Facilities that may adversely impact the operation and maintenance of the Renewable Energy Projects by Service Provider, without giving prior written notice to Service Provider, and without obtaining the input from Service Provider regarding the best manner in which such alterations or repairs might be conducted without affecting, or minimizing the effect on, as applicable, the operations and maintenance of the Renewable Energy Projects. If the Authority or Customer shall perform any alterations or repairs that permanently reduce the production of the Renewable Energy Projects resulting from such alteration or repairs, then the Parties shall negotiate a per kWh PPA Price adjustment to make the Service Provider whole for any loss in production capability. The per kWh PPA Price adjustment shall be established by negotiation by the Parties or, failing agreement within a reasonable time, by arbitration pursuant to the provisions of Section 14.5.

### **Section 6.7 Point of Delivery.**

Service Provider agrees that it shall provide Electricity services to Customer at the Point of Delivery as specified in the Plans and Specifications.

### **Section 6.8 Energy Metering.**

The output of the Renewable Energy Projects will be measured by revenue grade production meters in addition to load metering, inverter monitoring, and sub-combiner monitoring meters installed by the Service Provider in accordance with industry standards. Service Provider shall conduct tests of the Meters at such times as it deems appropriate in accordance with industry standards, but not less than once in any two year period. Service Provider shall promptly repair all Meter failures or defects. Should a Meter ever be deemed to reflect inaccuracies in measurement, the Service Provider shall make corresponding adjustments to the records of the amount of Electricity being provided by the Renewable Energy Project delivered based on the period in between the date of the discovery of the inaccuracy and the last testing date of the Meter. Should the Meter ever become non-operational, but Electricity is still being provided by Service Provider to Customer

hereunder, then the Parties hereto shall endeavor in good faith to address the Meter failure based upon, among other things, historical and cyclical consumption. To the extent that the Parties hereto are unable to adjust the inaccuracy, then they shall appoint their respective engineers or an independent meter consultant who, along with a third party independent engineer chosen by the Parties' engineers, shall review, examine, mediate and arbitrate the Meter adjustment. The decision of the engineers shall be final, and shall be reduced to the form of an invoice adjustment to be delivered by Service Provider to Customer. Notwithstanding the existence of any inaccuracy, or the allegation or belief of the existence of an erroneous Meter reading, Customer shall at all times pay all invoices in accordance with those time periods set forth herein, with the understanding that adjustments shall be reflected on subsequent invoices. Customer shall have no right to withhold invoice payment due to the actual or alleged existence of Meter inaccuracy except in the case when the current invoice varies by thirty percent (30%) or greater compared with historic like month data.

**Section 6.9 Information Technology Support.**

Customer shall provide Service Provider with access to the Customer's data management network for the Service Provider to monitor system performance and metering from remote locations, as required by Section 3.1(c)(iv) of the Local Unit License Agreement.

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## ARTICLE VII

### REPRESENTATIONS AND WARRANTIES

#### Section 7.1 Warranties and Representations of the Authority.

The Authority does hereby warrant, represent, covenant and agree with the other Parties as follows:

(a) The Authority is a duly constituted governmental entity that possesses the full power and authority to enter into this Power Purchase Agreement, and perform its obligations hereunder;

(b) The Authority has obtained all authorizations, consents and approvals that are required in order for the Authority to execute and deliver this Power Purchase Agreement, and to perform its obligations hereunder;

(c) The performance by the Authority of its obligations hereunder do not conflict with the Authority's constituent documents, bylaws and/or resolutions, or otherwise conflict with or be in violation of any other indenture, loan agreement, covenant, condition, order, agreement or other obligation to which the Authority is a party or is otherwise bound; and

(d) The Authority shall cause Customer to purchase and acquire the Electricity from Service Provider during the Initial Term and any extensions hereto, and further, cause Customer to not otherwise look to or utilize any other entity as the source of Electricity until after Customer has acquired all of the Electricity that the Renewable Energy Projects is capable of producing. The Authority shall be deemed to have satisfied this subsection through its entering into and enforcement of the Local Unit License Agreement with Customer.

#### Section 7.2 Warranties and Representations of Customer.

Each Customer does hereby warrant, represent, covenant and agree with the other Parties as follows:

(a) Customer is a duly constituted governmental entity that possesses the full power and authority to acknowledge and be bound by the terms of this Power Purchase Agreement, and to perform its financial and other obligations hereunder;

(b) Customer has obtained all authorizations, consents and approvals that are required in order for Customer to acknowledge, be bound by the terms of, and deliver this Power Purchase Agreement, and perform its financial and other obligations hereunder;

(c) The performance by the Customer of its obligations hereunder does not conflict with the Customer constituent documents, bylaws and/or resolutions, or otherwise conflict with or be in violation of any other indenture, loan agreement, covenant, condition, order, agreement or other obligation to which the Customer is a party or is otherwise bound; and

(d) Customer shall purchase and acquire the Electricity from Service Provider under this Power Purchase Agreement and Local Unit License Agreement during the Initial Term and any extensions hereto, and shall not otherwise look to or utilize any other entity as the source of Electricity until after Customer has acquired all of the Electricity that the Renewable Energy Projects is capable of producing.

### **Section 7.3 Warranties and Representations of Service Provider.**

Service Provider does hereby warrant, represent, covenant and agree with the other Parties as follows:

(a) Service Provider is a duly constituted business entity that possesses the full power and authority to enter into this Power Purchase Agreement and perform its financial and other obligations hereunder;

(b) Service Provider has obtained all authorizations, consents and approvals that are required in order for Service Provider to execute and deliver this Power Purchase Agreement and perform its financial and other obligations hereunder, except for permits and approvals to be obtained after the date hereof as contemplated by Section 2.3(b) hereof;

(c) The performance by Service Provider of its financial and other obligations hereunder do not conflict with Service Provider's constituent documents, bylaws and/or resolutions, or otherwise conflict with or be in violation of any other indenture, loan agreement, covenant, condition, order, agreement or other obligation to which Service Provider is a party or is otherwise bound;

(d) Service Provider warrants that no later than March 15, 2013 it will cause to be removed (or post security pending resolution as provided by law) any mechanics', suppliers' or similar liens or encumbrance which will exist or attach to the Local Unit Facility as a result of any Project, and by March 15, 2013, all contractors, vendors, suppliers and workers relating to any Project will have been paid in full; provided, however, that notwithstanding the foregoing, the March 15, 2013 date will be extended to the extent applicable by any number of days the Required Completion Date is extended pursuant to Section 3.6(a) hereof;

(e) All Project equipment shall be new, and all work performed by or on behalf of Service Provider pursuant to this Power Purchase Agreement shall be free of any liens other than such liens and security interests permitted under Section 7.3(d) in connection with the authorization, sale, issuance and security of the Series 2011 Bonds; and

(f) The Renewable Energy Projects shall interconnect with Local Unit Facility's existing electrical system, and the Electricity delivered to the Local Unit Facility's existing system shall conform to utility and BPU requirements, and the Projects and the Electricity generated from the Renewable Energy Projects shall conform to the Plans and Specifications.

## ARTICLE VIII

### INDEMNIFICATION AND INSURANCE

#### **Section 8.1 Indemnification.**

Customer and Service Provider shall each indemnify, defend and hold harmless the other, the Authority, and their respective officers, agents, servants, and employees from and against any and all claims, demands, actions, suits, recoveries, judgments, and any associated costs and expenses, including any reasonable attorney fees, expert expenses and costs of litigation, relating to the loss of life, property, or injury to the person or property of any person(s) and which results from, in the case of Service Provider, Service Provider's performance of its obligations under the Power Purchase Agreement, and, in the case of Customer, Customer's operation, maintenance, repair, construction, or alteration of the Local Unit Facility due to the sole negligence of each Party. Notwithstanding the foregoing, the Service Provider shall have no indemnity obligation nor any remediation or other obligation with respect to on-site contamination that exists prior to commencement of the installation work at a Local Unit Facility except to the extent a release of hazardous materials from the contaminated areas occurs due to the negligent acts of the Service Provider or its contractors or subcontractors (or their employees or agents).

#### **Section 8.2 Service Provider's Insurance.**

(a) Prior to accessing the Local Unit Facilities and at all times thereafter for as long as this Power Purchase Agreement remains in effect, Service Provider shall procure and maintain or cause to be procured and maintained by the EPC Contractor (other than general liability and excess liability which shall be provided by the Service Provider at all times), the following insurance:

(i) Comprehensive General Liability Coverage in the amount of \$1,000,000.00. This coverage must be in writing on an occurrence form, claims made policies will be unacceptable. This Comprehensive General Liability insurance shall cover Service Provider, the Authority, Customer and their employees, agents and officers from and against any claim arising out of personal injury of Service Provider or Service Provider's failure to comply with the terms of this Power Purchase Agreement. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by Service Provider. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in this Power Purchase Agreement. The policy shall also be endorsed to include coverage for products, completed operations, and independent contractors.

(ii) Property and Casualty Damage Coverage in the amount of the aggregate replacement value of all of the Renewable Energy Projects which the Parties acknowledge will be maintained as builders risk insurance by the EPC Contractor prior to the Completion of the Projects.

(iii) Workers' Compensation Coverage as statutorily required by the State for all employees of Service Provider. Employers' Liability coverage on the Workers Compensation policy shall be written in the minimal amount of \$1,000,000.00.

(iv) Comprehensive Automobile Liability Coverage, in an amount not less than \$1,000,000.00, shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles, which may be used by the EPC Contractor or the Service Provider in connection with the services, required under the Power Purchase Agreement.

(v) Excess Liability Coverage, in the amount of \$4,000,000.00 shall be in the form of an umbrella or following form excess policy. This policy or policies shall be specifically endorsed to be excess of the required coverages in clauses (i), (iii) and (iv) above.

(b) All such insurance coverages, with the exception of Workers' Compensation, shall name the Authority, Customer, and their employees, agents, officers and directors as additional insured hereunder.

(c) Evidence of such coverages being in place shall be promptly delivered to the Authority prior to or simultaneously with accessing a Local Unit Facility. All such coverages shall be endorsed to indicate that such coverages shall not be materially changed or canceled without at least thirty (30) days prior notice to the Authority and Customer, such prior notice being mandatory and not the best efforts of the carrier to notify. Prior to the expiration of the required coverages, Service Provider shall provide the Authority and Customer with evidence of the renewal of all such coverages required on at least the same terms and conditions as originally required for this Power Purchase Agreement. All agents, contractors and other licensees under the Local Unit License Agreement (other than the Authority) working for the Service Provider shall also be required to maintain all insurance coverages set forth in this Section 8.2; however, that any such party covered by the EPC Contractor or the Service Provider's insurance coverage is not required to have duplicative insurance coverage, except (i) property damage coverage will be provided exclusively by the EPC Contractor (in case of builder's risk coverage) and by the Service Provider (in the case of the property insurance covering the Local Unit Facility after it enters into commercial operation), and (ii) to the extent any subcontractor is unable to provide the excess liability coverage in the amount required under Section 8.02(a)(v), the excess liability coverage requirement can be satisfied if such subcontractor is included under the excess liability policy of the EPC Contractor.

(d) Reserved.

### **Section 8.3 Customer's Insurance.**

On or before Service Provider shall commence any construction activities at the Local Unit Facilities and at all times thereafter for as long as this Power Purchase Agreement remains in effect, Customer shall maintain at its sole expense Comprehensive General Liability (including contractual) and coverage for loss or damage, in an amount not less than \$1,000,000, with respect to any liability, losses, damages, expenses, claims, actions, judgments and settlements for any personal injury, death or property or economic loss occurring in Local Unit Facilities or surrounding premises and arising

out of or incident to the operation, maintenance, repair, construction, replacement or modification of the Local Unit Facilities, excluding the Renewable Energy Projects.

#### **Section 8.4 Additional Insured.**

Service Provider and Customer shall each name the other, for all eligible types of insurance, the Authority, and the local government, if different from Customer that owns the Local Unit Facility as an additional insured on each eligible policy of insurance procured by it in satisfaction of this Article VIII.

#### **Section 8.5 Evidence of Insurance.**

Prior to accessing a Local Unit Facility, Service Provider and Customer shall each furnish to the other one or more certificates of insurance evidencing the existence of the coverage set forth in Sections 8.2 and 8.3, respectively. Each certificate shall state that the insurance carrier will give Service Provider and Customer at least thirty (30) days written notice of any cancellation or material change in the terms and conditions of such policy during the periods of coverage. Notwithstanding anything else contained herein or in the License Agreement, to the extent the insurance is in accordance with Acord 25 (2010/05) should any of the above policies described herein be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

#### **Section 8.6 Use of Insurance Proceeds.**

Unless the Authority, the Customer, and the Service Provider agree otherwise, in the event of any loss or liability related to the Projects, Service Provider agrees to promptly restore the Projects to the condition prior to such loss, and Service Provider will use the proceeds received by or on behalf of the Authority (the Authority agreeing to make such proceeds available) or the Service Provider, in either case from any policy of insurance providing coverage for such loss to make all necessary repairs or replacements to the Projects and to promptly restore deliveries of Electricity to Customer.

#### **Section 8.7 Casualty and Condemnation with Respect to Underlying Local Unit Facilities.**

(a) Casualty. In the instance where a Local Unit Facility has suffered a casualty which renders the applicable Project inoperable and such Customer fails to rebuild such Local Unit Facility within a commercially reasonable time, then Customer shall comply with the terms of Section 3.7(i)-(iv), inclusive, of such Customer's Local Unit License Agreement with respect to such Local Unit Facility as if such failure to rebuild is deemed a revocation pursuant to Section 3.7 of the applicable Local Unit License Agreement.

(b) Condemnation. In the instance where a Local Unit Facility has suffered a taking which renders the construction or operation of the applicable Project unfeasible and such Customer fails to remediate such taking, then Customer shall comply with the terms of Section 3.7(i)-(iv), inclusive, of such Customer's Local Unit License Agreement with respect to such Local Unit Facility as if such taking is deemed a revocation pursuant to Section 3.7 of the applicable Local Unit License Agreement.

## ARTICLE IX

### EVENT OF DEFAULT

#### Section 9.1 Service Provider Event of Default.

Any of the following events shall constitute a Service Provider Event of Default:

(a) Service Provider shall fail or cease to deliver Electricity to a Customer for a continuous period of thirty (30) days unless (i) Service Provider's performance is excused by a Force Majeure event, or by action or inaction of such Customer, or otherwise as provided in this Power Purchase Agreement, and Service Provider is diligently pursuing a cure, or (ii) Service Provider is willing to pay Customer during the term of such non-performance liquidated damages equal to the positive difference, if any, of the cost of replacement power less the per kwh PPA Price provided in this Power Purchase Agreement;

(b) Service Provider fails to make timely lease payments or otherwise causes an Event of Default as defined under the Company Lease Agreement or as defined in any other Company Document, notwithstanding a Force Majeure event; or,

(c) Service Provider shall fail to comply with any other provision of this Power Purchase Agreement, other than as described in subsection (a) and (b) above, and such failure continues for ninety (90) days of a written demand to cure; *provided, however*, that if such failure cannot be cured within said ninety (90) day period, Service Provider shall not be in default if it has commenced to cure within such ninety (90) day period if such action to cure the default is acceptable to the Authority and the Authority indicates the same in writing; and *provided, further*, that Service Provider diligently seeks to cure such failure.

#### Section 9.2 Customer Event of Default.

The following events shall constitute a Customer Event of Default:

(a) Customer shall fail or refuse to pay any bill for service rendered under this Power Purchase Agreement for Electricity on which payment is due in accordance with the terms of this Power Purchase Agreement, within forty-five (45) days of Service Provider's written demand therefor.

(b) Customer shall fail to comply with any other provision of the Agreement or their Local Unit License Agreement (including any failure to comply that constitutes a Licensor Event of Default as defined in the Local Unit License Agreement) and such failure shall continue for a period of sixty (60) days after receipt of written notice of such failure provided, that if such failure cannot be cured within sixty (60) days, then within a reasonable time so long as Customer diligently seeks to cure such failure.

**Section 9.3 Authority Event of Default.**

The following events shall constitute an Authority Event of Default:

(a) Authority shall fail to comply with any other provision of this Power Purchase Agreement or the Local Unit License Agreements and such failure shall continue for a period of thirty (30) days after receipt of written notice of such failure provided, that if such failure cannot be cured within thirty (30) days, than within a reasonable time so long as the Authority diligently seeks to cure such failure.

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## ARTICLE X

### REMEDIES

#### **Section 10.1 Remedies upon a Service Provider Event of Default.**

(a) Upon a Service Provider Event of Default as described in Section 9.1(a) hereof, the affected Customer may terminate the Power Purchase Agreement as to such Customer by written notice to Service Provider, which notice shall be effective upon delivery, which may give rights to certain Parties or other interested parties involved in the Renewable Energy Program to the County Security and/or the Construction Performance Bond. Such rights shall be in addition to any and all other rights and remedies that Customer may have at law or in equity including, without limitation, the right to recover monetary damages and thereafter pursue such damages or other relief to which Customer may be entitled with respect to any monetary damages owed by Service Provider which do not result in a termination of this Power Purchase Agreement,

(b) Upon a Service Provider Event of Default as described in Section 9.1(b), the Authority may exercise its rights under any other Company Document.

(c) Upon a Service Provider Event of Default as described in Section 9.1(c), the sole remedy of any other Party shall be specific performance or if applicable monetary damages.

#### **Section 10.2 Remedies upon a Customer Event of Default.**

(a) Upon a Customer Event of Default as described in Section 9.2(a) hereof (i.e., following expiration of the 45-day period following Service Provider's written demand for payment), (i) Service Provider may suspend performance hereunder until such time as Customer cures the Event of Default), and (ii) if such Event of Default continues for another 30 days, Service Provider may terminate the Power Purchase Agreement with respect to such Customer by written notice to the Authority and such Customer, which notice shall be effective upon delivery, it being expressly understood however that any such termination shall not relieve Service Provider from its obligations under the Company Lease Agreement with respect to the lease payments due thereunder, or under any other Company Lease Agreement, with respect to any other Customer. Such rights shall be in addition to any and all other rights and remedies that Service Provider may have at law or in equity including, without limitation, the right to recover monetary damages and thereafter pursue such damages or other relief to which Service Provider may be entitled.

(b) Upon a Customer Event of Default as described in Section 9.2(b), the sole remedy available to any other Party shall be specific performance or, if applicable, monetary damages.

(c) To the extent a Customer Event of Default would constitute a Licensor Event of Default under the applicable Customer's Local Unit License Agreement, the remedies set forth in Section 6.2 of such Customer's Local Unit License Agreement shall apply to the same extent as set forth herein.

### **Section 10.3 Remedies upon an Authority Event of Default.**

(a) Upon an Authority Event of Default as described in Section 9.3, the sole remedy available to any other Party shall be specific performance, or if applicable, monetary damages.

## **ARTICLE XI**

### **FORCE MAJEURE**

#### **Section 11.1 Suspension of Performance.**

No Party shall be in default in respect of any obligation under this Power Purchase Agreement with respect to one or more Projects if the Party is unable to perform such obligation by reason of a Force Majeure event affecting any such Project; *provided* that the suspension of performance with respect to such Project shall be commensurate with the nature and duration of the Force Majeure event and the nonperforming Party is using its commercially reasonable efforts to restore its ability to perform.

#### **Section 11.2 Termination by Reason of Force Majeure.**

If a Party's performance with respect to any Project is excused by reason of Force Majeure for more than twelve (12) consecutive months, any of the Parties (otherwise not in breach of this Power Purchase Agreement) may terminate this Power Purchase Agreement in so far as it relates to such Project upon thirty (30) days written notice to the other Parties, notwithstanding the existence of Force Majeure.

## **ARTICLE XII**

### **LIMITATION ON LIABILITY**

#### **Section 12.1 Limitation on Liability.**

Notwithstanding anything in this Power Purchase Agreement to the contrary, none of the Authority, Customer or Service Provider shall be responsible to any other in contract or in tort for any special, incidental or consequential loss or damage, including opportunity costs, arising out of this Power Purchase Agreement. The Parties hereto agree that Customer is fully responsible for the upkeep and maintenance of all of the Customer's equipment and property after the Point of Delivery to Customer's operating site that is utilized in connection with the operation of the Renewable Energy Projects including, without limitation, electric panels, sub-panels and sub-metering. Except as provided in Section 3.6 hereof, which shall be Customer's sole and exclusive remedy, Service Provider shall not be responsible for any damages that Customer may incur as a result of delays associated with the construction of the Projects.

## ARTICLE XIII

### TERMINATION

#### Section 13.1 Termination.

No Party may terminate the Agreement, except upon the other's Event of Default as provided herein, or as otherwise expressly provided in this Power Purchase Agreement.

## ARTICLE XIV

### MISCELLANEOUS

#### Section 14.1 Assignment.

None of Service Provider, the Authority or any Customer shall assign this Power Purchase Agreement without first having obtained the written consent of the other Parties; *provided, however*, Service Provider may assign its rights and delegate its duties and obligations under this Power Purchase Agreement to any special purpose entity which it may organize for the purpose of owning and operating the Renewable Energy Projects (a "Permitted Provider Assignee"), so long as contemporaneously herewith such Service Provider, or its Permitted Provider Assignee, delivers the County Security and the Construction Performance Bond; and provided, further, that with the consent of Service Provider and Customer, certain payments hereunder may be assigned to the Trustee for the Series 2011 Bonds as further security therefor.

#### Section 14.2 Governing Law, Waiver of Right to Jury Trial, and Jurisdiction.

(a) This Power Purchase Agreement and the rights and obligations of the Parties shall be governed by, construed, and enforced in accordance with, the laws of the State. In order to expedite resolution of any actions, suits, or proceedings that arise under this Power Purchase Agreement, and in light of the complexity of the transactions contemplated hereby, each of the Parties (i) irrevocably waives the right to trial by jury in any such actions, suit, or proceeding of any kind or nature in any court to which it may be a Party and (ii) other than with respect to arbitration in accordance with the provisions of Section 14.5 hereof, agrees that venue shall be laid in the Superior Courts of Morris County, New Jersey.

(b) With respect to any such action, suit, or proceedings relating to this Power Purchase Agreement or arising in connection with the transactions contemplated hereby, the Parties irrevocably (i) submit to the exclusive jurisdiction of the federal and State courts of the State; (ii) waive any objection which it or they may have at any time to the laying of venue of any action, suit or proceeding in any such court; (iii) waive any claim that any such action, suit, or proceeding has been brought in an inconvenient forum and (iv) waive the right to object that such court does not have jurisdiction over the Parties.

### **Section 14.3. Successors and Assigns.**

This Power Purchase Agreement shall inure to the benefit of, and be binding upon the Parties hereto and to their successors and assigns.

### **Section 14.4 Waiver.**

No provision of this Power Purchase Agreement may be waived absent the express written consent of the Authority, the Service Provider and each affected Customer, if any. The failure of any Party hereto to assert any of its rights under this Power Purchase Agreement shall not be construed to constitute a waiver of such provision, nor in any way be deemed to affect the validity of this Power Purchase Agreement or any part hereof or the right of any Party hereto to thereafter subsequently enforce its rights and remedies as otherwise provided herein. No express and written waiver of any breach of this Power Purchase Agreement shall be held to constitute a waiver of any other provision hereof or any subsequent breach hereof.

### **Section 14.5 Arbitration.**

Should any dispute, controversy or claim arise hereunder, then the Parties covenant and agree, to the extent permitted by law, that all such disputes, controversies or claims shall be submitted to non-binding arbitration, and in all other cases legal actions concerning such disputes, controversies and claims shall be brought in the Superior Court of Morris County, New Jersey. Arbitration shall be conducted before an arbitrator chosen by the American Arbitration Association, should the Parties hereto not be able to otherwise agree upon an arbitrator to adjudicate said matter. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The cost of arbitration, along with the prevailing Party's legal fees and costs of arbitration, shall be borne by that Party which the arbitrator deems to be the non-prevailing Party to the arbitration. It is the intent of the Parties that there shall be liberal discovery permitted including depositions and document production.

### **Section 14.6 Entire Agreement, Amendment.**

This Power Purchase Agreement, together with the other Program Documents, constitutes the entire agreement by and between the Parties hereto and supersedes and replaces all previous understandings and agreements, whether written or oral, which may have existed between the Parties hereto. This Power Purchase Agreement may only be modified by a subsequent written instrument which shall be executed by the Authority and the Service Provider, and to the extent any such amendment involves any terms that could adversely affect any Customer, by such Customer.

### **Section 14.7 Partial Invalidity.**

If any non-material part of this Power Purchase Agreement is held to be unenforceable, the rest of this Power Purchase Agreement will continue in effect. If a material provision is determined to be unenforceable and the Party which would have been benefited by the provision does not waive its unenforceability, then the Parties shall negotiate in good faith and if they are unable to reach

agreement on an appropriate amendment within a reasonable time, their disagreement shall constitute a dispute and be resolved pursuant to the provisions of Section 14.5 (relating to arbitration). The arbitrator may grant any remedy or relief, including reformation of this Power Purchase Agreement, that the arbitrator deems just and equitable.

#### **Section 14.8 Non-Substitution.**

Customer covenants and agrees that throughout the Initial Term of this Power Purchase Agreement, and all extensions hereof, that with respect to the Local Unit Facility (a) it shall not purchase, lease or rent property to perform the same function or provide the same services as, or functions or services taking the place of, those functions and services being provided by Service Provider under this Power Purchase Agreement, (b) it shall not permit such functions or services to be performed or supplied by Customer's own employees or by Customer or any agency, affiliate or third party of Customer, (c) it shall not otherwise enter into any agreement with any third party or otherwise affiliated party to perform such functions or services, and/or (d) otherwise take steps to circumvent or defeat the intentions of this paragraph or this Power Purchase Agreement. During the Initial Term of this Power Purchase Agreement and throughout all extensions hereof, Customer covenants and agrees to look to and consider Service Provider as the Local Unit's sole and exclusive supplier of Electricity up to the total amount generated by the Renewable Energy Projects.

#### **Section 14.9 Further Assurances.**

The Parties hereto agree to execute all documents and take all further actions which might be reasonably requested by any other Party in order to better fulfill or evidence the intentions of the Parties hereto.

#### **Section 14.10 Counterpart Execution; Facsimile Signatures.**

This Power Purchase Agreement may be executed and acknowledged in counterparts, and when signed by all of the Parties hereto shall constitute one binding agreement. Facsimile Signatures shall be deemed the same as originals.

#### **Section 14.11 Waiver of Sovereign Immunity.**

For the purposes of this Power Purchase Agreement, the Authority and each Customer acknowledge and agree that (a) its execution and delivery of this Power Purchase Agreement and (b) its performance of the actions contemplated by this Power Purchase Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or such Customer in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this Power Purchase Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**Section 14.12 Notice.**

Unless otherwise provided in writing, any notices to be given or to be served upon any Party hereto, or any other documents to be delivered to Party, all in connection with this Power Purchase Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the Party to whom it is addressed. Such notice or document shall be given to the Party at their following respective addresses or at such other address as any Party may hereafter designate to the other Parties hereto in writing:

(a) If to the Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearman@iandplaw.com

(b) If to Service Provider: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, New York 10017  
Email: principals@sunlightgeneral.com

With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com

If to Customer: See **Exhibit F** attached hereto.

[balance of page intentionally left blank]

**Section 14.13. Approvals.**

In order to ensure that construction of the Renewable Energy Projects is not unduly delayed, in the event that any party to this Power Purchase Agreement, including without limitation any Series 2011 Local Unit, seeks the approval or consent of another Party to this Power Purchase Agreement, the Party considering such request shall not unreasonably condition, withhold or delay such consent or approval.

[balance of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have caused this Power Purchase Agreement to be duly executed and delivered as of the date and day first above written.

**SUNLIGHT GENERAL SUSSEX  
SOLAR, LLC**

By: Sunlight General Capital  
Management, LLC, its Manager

By: Stacey Hughes  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

By: WC ZACHAR  
Name: WC ZACHAR  
Title:

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

[SEAL]

By: \_\_\_\_\_  
John Bonanni  
Chairman

ATTEST:

By: \_\_\_\_\_  
Ellen M. Sandman  
Secretary

IN WITNESS WHEREOF, the undersigned have caused this Power Purchase Agreement to be duly executed and delivered as of the date and day first above written.

**SUNLIGHT GENERAL SUSSEX  
SOLAR, LLC**

**By: Sunlight General Capital  
Management, LLC, its Manager**

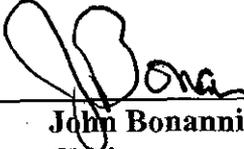
**By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory**

**ATTEST:**

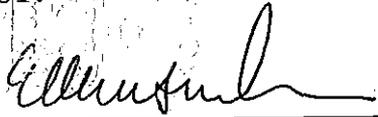
**By: \_\_\_\_\_  
Name:  
Title:**

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

[SEAL]

**By:  \_\_\_\_\_  
John Bonanni  
Chairman**

**ATTEST:**

**By:  \_\_\_\_\_  
Ellen M. Sandman  
Secretary**

**ACKNOWLEDGMENT**

Pursuant to Section 5.1(c) of their respective Local Unit License Agreements, the terms and conditions of this Power Purchase Agreement are hereby **acknowledged** and **accepted** by each of the Series 2011 Local Units, as acknowledgment parties to this Power Purchase Agreement, intending to be severally entitled to, and bound by, the rights, duties and obligations of Customer hereunder, this 9<sup>th</sup> day of December, 2011.

**FREDON TOWNSHIP**

BY: *Joanne Charner*  
Name: **IOANNE CHARNER**  
Title: **Municipal Clerk**

**TOWN OF NEWTON**

BY: \_\_\_\_\_  
Name: **THOMAS S. RUSSO, JR.**  
Title: **Town Manager**

**BYRAM TOWNSHIP SCHOOL DISTRICT**

BY: \_\_\_\_\_  
Name: **THERESA LINSKEY**  
Title: **Businesss Administrator/  
Board Secretary**

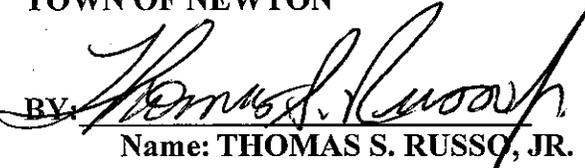
**ACKNOWLEDGMENT**

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**FREDON TOWNSHIP**

BY: \_\_\_\_\_  
Name: JOANNE CHARNER  
Title: Municipal Clerk

**TOWN OF NEWTON**

BY:   
Name: THOMAS S. RUSSO, JR.  
Title: Town Manager

**BYRAM TOWNSHIP SCHOOL DISTRICT**

BY: \_\_\_\_\_  
Name: THERESA LINSKEY  
Title: Business Administrator/  
Board Secretary

**ACKNOWLEDGMENT**

Pursuant to Section 5.1(c) of their respective Local Unit License Agreements, the terms and conditions of this Power Purchase Agreement are hereby **acknowledged** and **accepted** by each of the Series 2011 Local Units, as acknowledgment parties to this Power Purchase Agreement, intending to be severally entitled to, and bound by, the rights, duties and obligations of Customer hereunder, this 9<sup>th</sup> day of December, 2011.

**FREDON TOWNSHIP**

**BY:** \_\_\_\_\_  
**Name:** JOANNE CHARNER  
**Title:** Municipal Clerk

**TOWN OF NEWTON**

**BY:** \_\_\_\_\_  
**Name:** THOMAS S. RUSSO, JR.  
**Title:** Town Manager

**BYRAM TOWNSHIP SCHOOL DISTRICT**

**BY:**   
**Name:** THERESA LINSKEY  
**Title:** Business Administrator/  
Board Secretary



**FRANKFORD TOWNSHIP BOARD OF  
EDUCATION**

BY:   
Name: CRAIG WORTS  
Title: Board President

BY:   
Name: CHRISTOPHER M.  
LESSARD  
Title: Business Administrator

**FRANKLIN BOROUGH BOARD OF  
EDUCATION**

BY: \_\_\_\_\_  
Name: MARY ALONSO  
Title: Board President

BY: \_\_\_\_\_  
Name: WILLIAM J. SABO  
Title: Business Administrator

**GREEN TOWNSHIP BOARD OF  
EDUCATION**

BY: \_\_\_\_\_  
Name: SALLYANN McCARTY  
Title: Business  
Administrator/Board Secretary

**HARDYSTON BOARD OF  
EDUCATION**

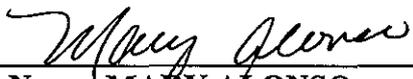
BY: \_\_\_\_\_  
Name: JAMES SEKELSKY  
Title: Business  
Administrator/Board Secretary

**FRANKFORD TOWNSHIP BOARD OF  
EDUCATION**

**BY:** \_\_\_\_\_  
**Name: CRAIG WORTS**  
**Title: Board President**

**BY:** \_\_\_\_\_ **M.**  
**Name: CHRISTOPHER**  
**LESSARD**  
**Title: Business Administrator**

**FRANKLIN BOROUGH BOARD OF  
EDUCATION**

**BY:**   
\_\_\_\_\_  
**Name: MARY ALONSO**  
**Title: Board President**

**BY:**   
\_\_\_\_\_  
**Name: WILLIAM J. SABO**  
**Title: Business Administrator**

**GREEN TOWNSHIP BOARD OF  
EDUCATION**

**BY:** \_\_\_\_\_  
**Name: SALLYANN McCARTY**  
**Title: Business**  
**Administrator/Board Secretary**

**HARDYSTON BOARD OF  
EDUCATION**

**BY:** \_\_\_\_\_  
**Name: JAMES SEKELSKY**  
**Title: Business**  
**Administrator/Board Secretary**

**FRANKFORD TOWNSHIP  
CONSOLIDATED SCHOOLS**

**BY:** \_\_\_\_\_  
**Name: CHRISTOPHER M.  
LESSARD**  
**Title: Business Administrator**

**FRANKLIN BOROUGH BOARD OF  
EDUCATION**

**BY:** \_\_\_\_\_  
**Name: WILLIAM J. SABO**  
**Title: Business  
Administrator/Board Secretary**

**GREEN TOWNSHIP BOARD OF  
EDUCATION**

**BY:**   
**Name: SALLYANN McCARTY**  
**Title: Business  
Administrator/Board Secretary**

**HARDYSTON BOARD OF  
EDUCATION**

**BY:** \_\_\_\_\_  
**Name: JAMES SEKELSKY**  
**Title: Business  
Administrator/Board Secretary**

**HIGH POINT REGIONAL SCHOOL  
DISTRICT**

**BY:** \_\_\_\_\_  
**Name: LINDA A. ALVAREZ**  
**Title: Business  
Administrator/Board Secretary**

**FRANKFORD TOWNSHIP  
CONSOLIDATED SCHOOLS**

**BY:** \_\_\_\_\_  
**Name: CHRISTOPHER M.  
LESSARD**  
**Title: Business Administrator**

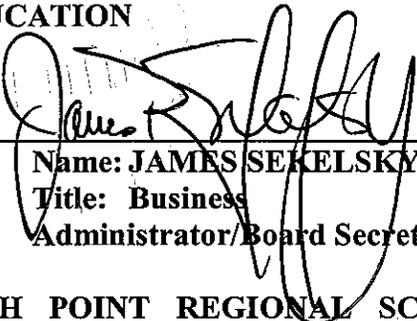
**FRANKLIN BOROUGH BOARD OF  
EDUCATION**

**BY:** \_\_\_\_\_  
**Name: WILLIAM J. SABO**  
**Title: Business  
Administrator/Board Secretary**

**GREEN TOWNSHIP BOARD OF  
EDUCATION**

**BY:** \_\_\_\_\_  
**Name: SALLYANN McCARTY**  
**Title: Business  
Administrator/Board Secretary**

**HARDYSTON BOARD OF  
EDUCATION**

**BY:**   
\_\_\_\_\_  
**Name: JAMES SEKELSKY**  
**Title: Business  
Administrator/Board Secretary**

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DISTRICT**

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Administrator/Board Secretary**

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**Name: CHRISTOPHER M.  
LESSARD**  
**Title: Business Administrator**

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EDUCATION**

**BY:** \_\_\_\_\_  
**Name: WILLIAM J. SABO**  
**Title: Business  
Administrator/Board Secretary**

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EDUCATION**

**BY:** \_\_\_\_\_  
**Name: SALLYANN McCARTY**  
**Title: Business  
Administrator/Board Secretary**

**HARDYSTON BOARD OF  
EDUCATION**

**BY:** \_\_\_\_\_  
**Name: JAMES SEKELSKY**  
**Title: Business  
Administrator/Board Secretary**

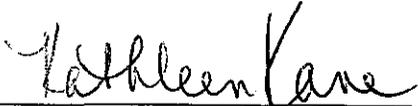
**HIGH POINT REGIONAL HIGH  
SCHOOL DISTRICT BOARD OF  
EDUCATION**

**BY:**   
**Name: LINDA A. ALVAREZ**  
**Title: Business  
Administrator/Board Secretary**

**HIGH POINT REGIONAL HIGH  
SCHOOL DISTRICT BOARD OF  
EDUCATION**

**BY:** \_\_\_\_\_  
**Name:** LINDA A. ALVAREZ  
**Title:** Business  
Administrator/Board Secretary

**KITTATINNY REGIONAL SCHOOL  
DISTRICT**

**BY:**  \_\_\_\_\_  
**Name:** KATHLEEN KANE  
**Title:** Business  
Administrator/Board Secretary

**NEWTON BOARD OF EDUCATION**

**BY:** \_\_\_\_\_  
**Name:** DONNA C. SYNDER  
**Title:** Business  
Administrator/Board  
Secretary

**SUSSEX COUNTY TECHNICAL  
SCHOOL**

**BY:** \_\_\_\_\_  
**Name:** ROBERT CLARK  
**Title:** Business  
Administrator/Board  
Secretary

**KITTATINNY REGIONAL SCHOOL  
DISTRICT**

**BY:** \_\_\_\_\_  
**Name: JACK McDONALD**  
**Title: Business**  
**Administrator/Board Secretary**

**NEWTON BOARD OF EDUCATION**

**BY:**   
\_\_\_\_\_  
**Name: DONNA C. SYNDER**  
**Title: Business**  
**Administrator/Board**  
**Secretary**

**SUSSEX COUNTY TECHNICAL  
SCHOOL**

**BY:** \_\_\_\_\_  
**Name: ROBERT CLARK**  
**Title: Business**  
**Administrator/Board**  
**Secretary**

**SUSSEX COUNTY COMMUNITY  
COLLEGE**

**BY:** \_\_\_\_\_  
**Name: DR. PAUL MAZUR**  
**Title: President**

**KITTATINNY REGIONAL SCHOOL DISTRICT**

**BY:** \_\_\_\_\_

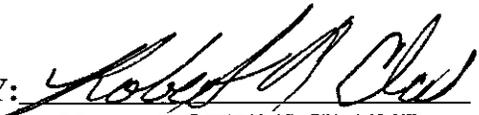
**Name: JACK McDONALD**  
**Title: Business**  
**Administrator/Board Secretary**

**NEWTON BOARD OF EDUCATION**

**BY:** \_\_\_\_\_

**Name: DONNA C. SYNDER**  
**Title: Business**  
**Administrator/Board**  
**Secretary**

**SUSSEX COUNTY TECHNICAL SCHOOL**

**BY:**  \_\_\_\_\_

**Name: ROBERT CLARK**  
**Title: Business**  
**Administrator/Board**  
**Secretary**

**SUSSEX COUNTY COMMUNITY COLLEGE**

**BY:** \_\_\_\_\_

**Name: DR. PAUL MAZUR**  
**Title: President**

SUSSEX COUNTY COMMUNITY  
COLLEGE

BY: Frank Nocella

Name: FRANK NOCELLA

Title: Vice President of Finance  
and Operations

COUNTY OF SUSSEX

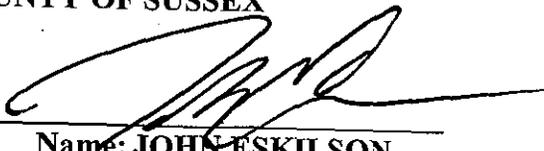
BY: \_\_\_\_\_

Name: JOHN ESKILSON

Title: County Administrator

**COUNTY OF SUSSEX**

**BY:**



**Name: JOHN ESKILSON**  
**Title: County Administrator**

**EXHIBIT A**

**Morris County Improvement Authority**

\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

**Series 2011 Local Unit List of Local Unit Facilities**

**a. Series 2011 Municipal Local Units**

(i) *Fredon Township (<http://www.twp.fredon.nj.us/>)*

(A) *Civic Center (Roof 61 kW)*  
436 Route 94  
Fredon, NJ

(ii) *Town of Newton (<http://www.newtontownhall.com/>)*

(A) *DPW Complex (Roof 73 kW)*  
39 Trinity Street  
Newton, NJ

(B) *Wastewater Treatment Plant (Ground Mount 109 kW)*  
Townsend Street  
Newton, NJ

**b. Series 2011 Board of Education Local Units**

(i) *Byram Township School District (<http://www.byramschools.org/>)*

(A) *Byram Lakes Elementary School (Roof 38 kW,  
Parking Canopy 455 kW)*  
11 Mansfield Drive  
Stanhope, NJ

(ii) *Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*

(A) *Frankford Township School (Ground Mount 362 kW)*  
2 Pines Road  
Branchville, NJ

- (iii) *Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*
- (A) *Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)*  
50 Washington Avenue  
Franklin, NJ
- (iv) *Green Township Board of Education (<http://greenhills.org>)*
- (A) *Green Hills School (Roof 157 kW)*  
69 Mackerley Road  
Greendell, NJ
- (v) *Hardyston Board of Education (<http://www.https.org/BOE/BOEIndex.htm>)*
- (A) *Hardyston Middle School (Ground Mount 612 kW)*  
183 Wheatsworth Road  
Hamburg, NJ
- (vi) *High Point Regional School District (<http://www.hpregional.org/>)*
- (A) *High Point Regional High School (Roof 453 kW)*  
299 Pidgeon Hill Road  
Sussex, NJ
- (vii) *Kittatinny Regional School District (<http://www.krhs.net/>)*
- (A) *Kittatinny Regional High School (Roof 187 kW and Parking Canopy 173 kW)*  
77 Halsey Road  
Newton, NJ
- (viii) *Newton Board of Education (<http://www.newtonnj.org>)*
- (A) *Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)*  
81 Merriam Avenue  
Newton, NJ; and
- (B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)*  
44 Ryerson Avenue  
Newton, NJ

c. **Series 2011 County Local Units**

(i) *Sussex County Technical School (<http://www.sussex.tec.nj.us/>)*

(A) *Sussex County Technical School (Roof 112 kW, Ground Mount 1,142 kW  
and Parking Canopy 290 kW)  
105 North Church Road  
Sparta, NJ*

(ii) *County of Sussex (<http://www.sussex.nj.us/>)*

(A) *Sussex County Judicial Center (Parking Canopy 468 kW)  
39 High Street  
Newton, NJ*

(B) *Wheatsworth Facility (Ground Mount 149 kW)  
149 Wheatsworth Road  
Hardyston, NJ*

(C) *Main Library (Ground Mount 100 kW)  
125 Morris Turnpike  
Newton, NJ*

(iii) *Sussex County Community College (Ground Mount 122 kW, Parking Canopy 924 kW)  
One College Hill Road  
Newton, NJ 07860*

## **Exhibit B**

### **PPA Price**

#### **- Electricity Rates and Escalation Adjustments**

For any year of this Power Purchase Agreement and with respect to each respective Customer, the PPA Price payable by any one such Customer is the sum of Sections a and b below (after the escalation percentage factor in Section 2 below is converted into a dollar amount for the applicable year of computation).

(a) Cost of Electricity, per kWh, pursuant to the Power Purchase Agreement, for the period (a) from the date of the first delivery by the Service Provider to such Customer of Electricity from the Renewable Energy Project on the Local Unit Facility of such Customer (b) to, but excluding, the first anniversary of the applicable Commencement Date for such Customer: \$0.0935/ kWh.

(b) Annual escalation (expressed as a fixed percentage increase from the prior year's PPA Price) applicable as of each anniversary date of the Commencement Date for such Customer in effect for the following year to, but not including, the immediately succeeding anniversary of such Commencement Date for such Customer: three percent (3.00%).

(i) This escalation factor commences on the first anniversary of the Commencement Date for such Customer, and ends at the end of the Initial Term, unless further adjusted in accordance with the terms of any extension of the Initial Term pursuant to the terms of the Power Purchase Agreement.

(c) The Parties further agree to the following:

(i) Although the percentage of escalation is fixed in Section 2, since it is based on the prior year's PPA Price, which is itself increasing on an annual basis, the actual dollar amount of each year's escalation increases.

(ii) With the possibility that each Customer shall have different Commencement Dates, and although each Customer shall be subject to the same base cost of Electricity governed by Section 1 above and the same escalation factor governed by Section 2 above, the actual PPA Price payable by one or more Customers may vary on the same date of computation for different Customers.

(iii) In light of the provisions of Section 6.5 of the Power Purchase Agreement, the PPA Price for any Applicable Customer shall be further escalated for any increase in taxes assessed or levied against the Renewable Energy Projects, which taxes shall be imposed by or on behalf of any such Customer, if any; provided, however, that any such increase shall be solely available to the entity that must pay any such tax, the intent being that there shall be no after tax effect on the PPA Price, should any such tax ever be imposed.

## EXHIBIT C

### PLANS AND SPECIFICATIONS FOR RENEWABLE ENERGY PROJECTS

[NOTE- PHOTOVOLTAIC RENEWABLE ENERGY PROJECTS DESCRIBED BELOW IS SUBJECT TO CHANGE BASED UPON CUSTOMER INPUT, SOLAR MODULE AVAILABILITY AND FINAL DESIGN DETAILS. ALL "AS BUILT" DESIGN DOCUMENTS AND PLANS AND SPECIFICATIONS SHALL BECOME PART OF THIS EXHIBIT C WHEN COMPLETE.]

1. Service Provider shall install the Renewable Energy Projects for each Local Unit Facility as described in **Exhibit A** to this Power Purchase Agreement and, as applicable, with a roof support system that minimizes roof penetrations and assures the safety and integrity of the system and continued validity of the respective roof warranties for each Local Unit Facility.

**[Attach Company Proposal Table 6(b)-  
Guaranteed Output]**

See Closing Item No. 19d.

**[Attach Company Proposal Table 6(a)-  
Expected Output]**

See Closing Item No. 19d.

**EXHIBIT D**

**PLANS, SPECIFICATIONS AND LOCAL UNIT EXISTING ROOF WARRANTY  
DURATION CHART FOR CAPITAL IMPROVEMENT PROJECTS**

**NONE**

**EXHIBIT E**

**[ATTACH FORM OF LOCAL UNIT LICENSE AGREEMENT]**

**SEE CLOSING ITEM NO. 1**

**EXHIBIT F**

**Morris County Improvement Authority**

not to exceed \$50,000,000 aggregate principal amount of

County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

Attach local unit distribution list.

**EXHIBIT G**

**[Attach Construction Performance Bond]**

FORM A-3

Forms of Construction Performance Bond and Consent of Surety

CONSTRUCTION PERFORMANCE BOND

In providing the below Construction Performance Bond, such Construction Performance Bond shall not contain any conditions to its issuance or any conditions to the obligations of the surety company issuing same, except as expressly provided in this form of Construction Performance Bond.

Date:

Power Partners MasTec, LLC, PRINCIPAL

Travelers Casualty and Surety Company of America, SURETY

\_\_\_\_\_, SURETY

\_\_\_\_\_, SURETY

THE MORRIS COUNTY IMPROVEMENT AUTHORITY, and SunLight General Sussex Solar, LLC "Owner" as Obligee(s)

KNOW ALL MEN BY THESE PRESENTS, that we, the PRINCIPAL and SURETIES above named, are held and firmly bound unto the above named OBLIGEE, in the just and full sum of **Twenty Six Million Four** \* (\$ 26,403,700.00 ) for the payment of which sum well and truly to be made, the said PRINCIPAL and SURETIES bind themselves, their respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents. Provided, that, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the PRINCIPAL, for the payment of such sum only as is set forth opposite the name of such Surety at the end of this Bond.

\* **Hundred Three Thousand Seven Hundred and NO/100 Dollars**

WHEREAS, the PRINCIPAL has entered into a certain written agreement with the OBLIGEE, dated \_\_\_\_\_, 2011 entitled, "Power Purchase Agreement," (the "Agreement"), whereby the PRINCIPAL shall provide construction related services to The Morris County Improvement Authority, which Power Purchase Agreement is by reference made a part hereof, as if set forth in full herein.

NOW THEREFORE, the condition of this obligation is such that , if the PRINCIPAL shall faithfully perform its obligations under the Power Purchase Agreement solely as they relate to the engineering, procurement of materials, construction and installation of the Renewable

Energy Project(s) at the series Local Unit Facilities, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

PROVIDED, HOWEVER:

Whenever the PRINCIPAL shall be, and is, declared to be in default of its construction obligations under the Power Purchase Agreement by the OBLIGEE, the OBLIGEE having performed its construction obligations under the Power Purchase Agreement, the SURETIES may promptly remedy the default or shall promptly as follows:

- (1) Perform the construction obligations under the Power Purchase Agreement in accordance with the terms and conditions of the Power Purchase Agreement and for the elimination of any doubt it is made clear that this obligation shall not extend to any other services being provided under or in accordance with the terms and conditions of the Power Purchase Agreement other than the engineering, procurement of materials, construction and installation of the Renewable Energy Projects to the point of commercial operation, or
- (2) Obtain a Proposal or Proposals for performance of the construction obligations under the Power Purchase Agreement in accordance with the terms and conditions of the Power Purchase Agreement, and upon a determination by SURETIES and the OBLIGEE of the lowest responsible Respondent, arrange for a contract between such Respondent and the OBLIGEE, and make available as services continue (even though there should be a default or a succession of defaults under the contract or contracts arranged under this paragraph) sufficient funds to pay the cost of performance of such said construction obligations; but not exceeding, including other costs and damages for which the SURETIES may be liable hereunder, the amount set forth in the first paragraph hereof.
- (3) After investigation, determine the amount for which it may be liable to the OBLIGEE and, as soon as practicable after the amount is determined, tender payment therefor to the OBLIGEE.
- (4) Without waiver of any rights of the OBLIGEE, notify the OBLIGEE of the denial of liability in whole or in part citing reasons therefor.

Notwithstanding any term or condition contained in the Power Purchase Agreement to the contrary, it is understood and agreed that the PRINCIPAL's and SURETIES' obligation under this bond shall not be assigned without the written consent of the PRINCIPAL and the SURETIES, which consent shall not unreasonably be withheld; provided however, that this bond may be assigned to a trustee in connection with the issuance of any debt obligations issued by the OBLIGEE for or with respect to the Services .

No right or action shall accrue on this bond to or for the use of any person or corporation other than the OBLIGEE named herein or their heirs, executors, administrators, or successors of the OBLIGEE.

The PRINCIPAL and the SURETIES shall not be liable to the OBLIGEE in the aggregate in excess of the penal sum above stated. Any payment made by the SURETIES in good faith under this bond shall reduce the bond amount stated by a like amount.

Any suit under this Bond must be instituted before the expiration of two (2) years from the date the PRINCIPAL ceased performing those obligations covered by this bond.

The SURETIES hereby stipulate and agree that no modifications, omissions or additions in or to the terms of the Power Purchase Agreement or in or to the specifications therefor should in any way affect the obligation of the SURETIES on this Bond.

Notice to the SURETIES shall be by certified or registered mail and sent to:

[NAME AND ADDRESS OF SURETY]

**Travelers Casualty and Surety Company of America  
One Tower Square  
Hartford, CT 06183**

The SURETIES shall have no liability under this bond for any obligation of the PRINCIPAL, to defese, pay for, assume responsibility with respect to or otherwise incur liability for any debt obligations issued by the OBLIGEE.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals on the date indicated above.

PRINCIPAL Power Partners MasTec, LLC

Limit: \$ 26,403,700.00

[Signature]  
Title Vice President

SURETY Travelers Casualty and Surety Company of America

Limit: \$ 26,403,700.00

[Signature]  
Attorney-in-fact Joe Martinez

SURETY N/A

Limit: \$ N/A

N/A  
Attorney-in-fact N/A

Countersigned:

Not Required - Retalitory

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed and attested by a duly authorized officer, and its corporate seal to be hereto affixed this 8th day of December 2011.

Power Partners MasTec, LLC  
ATTEST:

Travelers Casualty and Surety Company of America  
(Name of Bank) (Name of Surety Company)

By: Mandy Latham

By: [Signature]

Name: Mandy Latham

Name: Sandra Parker

Title: Witness

Title: Witness

**SURETY DISCLOSURE STATEMENT AND CERTIFICATION**

pursuant to N.J.S.A. 2A:44-143

(for use when surety(ies) have a certificate from U.S. Secretary of the Treasury in accordance with 31 U.S.C. Section 9305)

Travelers Indemnity Company, St. Paul Fire and Marine Insurance Company, Travelers Casualty and Surety Company, United States Fidelity and Guaranty Company, Standard Fire Insurance Company, Travelers Casualty Insurance Company of America, Farmington Casualty Company, St. Paul Mercury Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Guardian Insurance Company, Fidelity and Guaranty Insurance Company, Travelers Casualty and Surety Company of America, surety(ies) on the attached bond, hereby certifies(y) the following:

- 1) Each surety meets the applicable capital and surplus requirements of R.S.17:17-6 or R.S.17:17-7 as of the surety's most current annual filing with the New Jersey Department of Insurance.
  
- 2) The capital and surplus, as determined in accordance with the applicable laws of this State, of the surety(ies) participating in the issuance of the attached bond is (are) in the following amounts as of the calendar year ended **December 31, 2009** (most recent calendar year for which capital and surplus amounts are available), which amounts have been certified by **KPMG LLP**, located at One Financial Plaza, Hartford, CT 06103-4103, in the Annual Audited Combined Financial Statements for the first eleven (11) companies below, and on a Stand-alone Annual Audited Financial Statement for the twelfth (12<sup>th</sup>) company below, all on file with the New Jersey Department of Insurance, 20 West State Street CN-325, Trenton, New Jersey 08625-0325.

<u>Surety Company</u>	<u>Capital</u>	<u>Surplus</u>
The Travelers Indemnity Company	\$10,790,700	\$8,372,638,876
St. Paul Fire and Marine Insurance Company	\$20,000,000	\$6,591,354,104
Travelers Casualty and Surety Company	\$25,000,000	\$6,197,925,689
United States Fidelity and Guaranty Company	\$35,214,075	\$2,465,755,650
The Standard Fire Insurance Company	\$5,000,000	\$1,375,963,003
Travelers Casualty Insurance Company of America	\$6,000,000	\$519,427,743
Farmington Casualty Company	\$6,000,000	\$271,696,232
St. Paul Mercury Insurance Company	\$4,230,000	\$67,015,259
Fidelity and Guaranty Insurance Underwriters, Inc.	\$5,000,000	\$36,182,279
St. Paul Guardian Insurance Company	\$4,200,000	\$27,198,158
Fidelity and Guaranty Insurance Company	\$5,000,000	\$19,329,592
Travelers Casualty and Surety Company of America	\$6,480,000	\$1,836,848,661

- 3) With respect to each surety participating in the issuance of the attached bond that has received from the U.S. Secretary of the Treasury a certificate of authority pursuant to 31 U.S.C. Section 9305, the underwriting limitation established therein on **July 1, 2010** (most recent calendar year available) is as follows:

<u>Surety Company</u>	<u>Limitation</u>
The Travelers Indemnity Company	\$837,264,000
St. Paul Fire and Marine Insurance Company	\$388,784,000
Travelers Casualty and Surety Company	\$408,938,000
United States Fidelity and Guaranty Company	\$246,576,000
The Standard Fire Insurance Company	\$137,596,000
Travelers Casualty Insurance Company of America	\$51,943,000
Farmington Casualty Company	\$27,170,000
St. Paul Mercury Insurance Company	\$6,702,000
Fidelity and Guaranty Insurance Underwriters, Inc.	\$3,618,000
St. Paul Guardian Insurance Company	\$2,720,000
Fidelity and Guaranty Insurance Company	\$1,933,000
Travelers Casualty and Surety Company of America	\$183,685,000

4) If, by virtue of one or more contracts of reinsurance, the amount of the bond indicated under Item 5 below exceeds the total underwriting limitation of all sureties on the bond as set forth in Item 3 above, then for each such contract of reinsurance:

a) The name and address of each such reinsurer under that contract and the amount of the reinsurer's participation in the contract is as follows:

<u>Reinsurer</u>	<u>Address</u>	<u>Amount</u>
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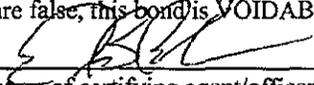
The amount of the bond indicated under Item 5 below *does not* exceed the total underwriting limitation of all sureties on the bond as set forth in Item 3 above.

and;

b) Each surety that is party to such contract of reinsurance certifies that each reinsurer listed under Item 4(a) satisfies the credit for reinsurance requirement established under P.L.1993, c. 243 (C.17:51B-1 *et seq.*) and any applicable regulations in effect as of the date on which the bond to which this statement and certification is attached shall have been filed with the appropriate public agency.

**CERTIFICATE**

I, **Eric B. Bruder**, as Attorney-in-Fact for the companies herein listed, corporations domiciled in Connecticut, Iowa, Maryland, Minnesota and Wisconsin, DO HEREBY CERTIFY that, to the best of my knowledge, the foregoing statements made by me are true, and ACKNOWLEDGE that, if any of those statements made by me are false, this bond is VOIDABLE.

  
\_\_\_\_\_  
(Signature of certifying agent/officer)

Eric B. Bruder  
\_\_\_\_\_  
(Print name of certifying agent/officer)

Vice President and CFO, Bond & Financial Products  
\_\_\_\_\_  
(Title of certifying agent/officer)

Date: 9/1/2010

5) The amount of the bond to which the statement and certification is attached is \$ **26,403,700.00**, which *does not* exceed the total underwriting limitation of all sureties on the bond as set forth in Item 3 above

**CERTIFICATE**

I, Joe Martinez (name of agent), as Attorney-in-Fact for the companies herein listed, corporations domiciled in Connecticut, Iowa, Maryland, Minnesota and Wisconsin, DO HEREBY CERTIFY that, to the best of my knowledge, the foregoing statement made by me is true, and ACKNOWLEDGE that, if the statement made by me is false, this bond is VOIDABLE.

  
\_\_\_\_\_  
(Signature of certifying agent/officer)

Joe Martinez  
\_\_\_\_\_  
(Print name of certifying agent/officer)

Attorney-In-Fact  
\_\_\_\_\_  
(Title of certifying agent/officer)

Date: December 8, 2011



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 222891

Certificate No. 004546930

KNOW ALL MEN BY THESE PRESENTS: That St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, that Farmington Casualty Company, Travelers Casualty and Surety Company, and Travelers Casualty and Surety Company of America are corporations duly organized under the laws of the State of Connecticut, that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Donald R. Gibson, Sandra R. Parker, Melissa Haddick, Joe Martinez, Gina Rodriguez, and Tannis Mattson

of the City of Houston, State of Texas, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 19th day of September, 2011

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: [Signature]
George W. Thompson, Senior Vice President

On this the 19th day of September, 2011, before me personally appeared George W. Thompson, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2016.



[Signature]
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 8th day of December, 20 11.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

Kevin E. Hughes  
Kevin E. Hughes, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at [www.travelersbond.com](http://www.travelersbond.com). Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

**EXHIBIT H**

**[Attach Initial List of Subcontractors]**

1. EPC Contractor

**ATTACHMENT X**

**OWNER-APPROVED SUBCONTRACTORS AND VENDORS**

**SOLAR INSTALLERS / ELECTRIC**

- ROWE ELECTRIC
  - ZENSKY ELECTRICAL CONTRACTORS
  - EAST COAST ALTERNATIVE ENERGY
  - BAM SOLAR ENERGY\*
  - HELIOS SOLAR ENERGY\*
  - LAMANNA ELECTRIC\*
  - ALLIED ELECTRIC\*
  - PRO-TECH\*
  - HUEN ELECTRICAL\*
  - UNION ELECTRIC\*
  - SOLAR ENERGY SYSTEMS
  - LIGHTON INDUSTRIES\*
- \*Subject to inspection of an existing installation

**RACKING & STEEL**

- SCHLETTER\*\*
  - PANEL CLAW\*\*\*
  - SUNLINK\*\*\*
  - RBI
  - STRUCTURAL STEEL FABRICATORS
  - CANAM STEEL
- \*\* Ground-Mount systems only  
\*\*\* Roof-Mount systems only

**CANOPIES\*\*\*\***

- PROTEK
  - SOLAR VENTURES
  - CRIDER AMERICAS
  - BAJA
  - SKYLINE STEEL
- \*\*\*\* Powder-coated finish only

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**COUNTY GUARANTY AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

**By and Between**

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

**And**

**COUNTY OF SUSSEX**

**Dated: as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

THIS “**COUNTY GUARANTY AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” dated as of December 1, 2011 (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “*County Guaranty Agreement*”) by and between the **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the “*Authority*”), duly created by resolution of the Board of Chosen Freeholders (“*Board of Freeholders*”) of the hereinafter defined County as a public body corporate and politic of the State of New Jersey (“*State*”) pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”) and other applicable law, and the **COUNTY OF SUSSEX**, a political subdivision of the State (the “*County*”).

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the “*County*”) desires to undertake the development and implementation of a renewable energy program (the “*Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Renewable Energy Projects*”) for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the “*Local Units*”);

**WHEREAS**, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on,

in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A

(Federally Taxable)” dated their date of delivery (the “*Series 2011A Bonds*”) the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the “*Series 2011A Bonds*”), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)” (the “*Series 2011B Note*”, and together with the Series 2011A Bonds, “*Series 2011 Bonds*”), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year’s worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*”);

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the “*Bonds*”) shall be issued pursuant to the terms of that certain “RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY” adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the “*Bond Resolution*”), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a “*Local Unit License Agreement*”, and collectively, the “*Local Unit License Agreements*”) with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the “*Local Unit License*”), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such

Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

(a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

(b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be

amended or supplemented from time to time in accordance with its terms, the “Power Purchase Agreement”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority’s covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority’s covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority’s rights to the Solar Renewable Energy Certificates (“SRECs”) generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge

Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be

issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy

Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above (i) reduce the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County

Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the “*Company Continuing Disclosure Agreement*”) with the Authority and the Trustee, as dissemination agent (the “*Dissemination Agent*”) in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain “County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the “*County Continuing Disclosure Agreement*” and together with the Company Continuing Disclosure Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “County Documents”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and (ii) the execution and delivery of a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County “*Sale Documents*”);

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the “Sussex County Board of Freeholders”) and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the “*Program Documents*”), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and agreements set forth herein, the Authority and the County and its successors and assigns, do mutually covenant, promise and agree as follows:

**Section 1.** Pursuant to the provisions of the Act and the County Guaranty ordinance, the County shall, and hereby agrees to fully, irrevocably, and unconditionally guarantee the punctual payment of the principal of (including sinking fund installments) and the interest on the Series 2011 Bonds. The full faith and credit of the County are hereby pledged for the full and punctual performance of the County Guaranty. Accordingly, the Freeholder-Director of the County shall, and hereby is, authorized and directed to execute and deliver the County Guaranty Certificate in the form set forth in Section 14.01 of the Bond Resolution upon initial issuance of the Series 2011 Bonds, as part of each such Series 2011 Bond. This County Guaranty Agreement shall not guaranty the payment of any redemption premium with respect to the Series 2011 Bonds. Capitalized terms not defined herein shall have the meaning ascribed to such terms in the Bond Resolution.

**Section 2.** The Authority agrees to apply the proceeds derived from the sale of the Series 2011 Bonds to Costs associated with the Projects for the Series 2011 Local Units, including payment of Costs of Issuance, Administrative Expenses and required reserves, if any, and such other matters as set forth in the Bond Resolution.

**Section 3.** The Authority will keep, or cause to be kept by the Trustee or otherwise, proper books of record and account in which complete and correct entries shall be made of its transactions relating to the Projects and which, together with all other books and papers of the Authority, shall at all reasonable times be subject to inspection by the County.

**Section 4.** Attached hereto as **Exhibit A** is the following information required by the County in order to discharge its obligations under this County Guaranty Agreement:

(a) The date of issuance, the maturity dates, the principal amortization, the interest rate or rates, and the Trustee and Paying Agent for the Series 2011 Bonds.

(b) The Basic Lease Payments and the Basic Lease Payment Dates.

**Section 5.** If, thirty (30) days prior to any Interest Payment Date or Principal Payment Date, the amounts that are on deposit in the Aged Account of the Revenue Fund established under the Bond Resolution are insufficient to provide for the payment of the principal of (including sinking fund payments, if any) and/or interest on the Series 2011 Bonds that are due and payable on such payment dates, the Trustee shall notify the County's Chief Financial Officer on such day of the amounts that are necessary to provide for the payment of the principal of and/or interest on the Series 2011 Bonds (the "**Deficiency**"). The County shall be obligated to make payment of the Deficiency to the Trustee no later than one (1) Business Day prior to the Interest Payment Date or the Principal Payment Date, as applicable, of the Series 2011 Bonds. Notwithstanding any other provision of this Guaranty Agreement, failure by the Trustee to give the County notice as provided herein shall not relieve the County of its obligations to make payment under the terms of the County Guaranty.

(a) Notwithstanding the foregoing provisions of this Section 5, upon the occurrence and continuance of the Deficiency one (1) Business Day prior to the Interest Payment Date or the Principal Payment Date,

(i) with respect to the Series 2011A Bonds only, the County may, in its sole discretion determine to exercise its right to cause the optional redemption or if applicable, defeasance and subsequent optional redemption, of all or a portion of the Series 2011A Bonds, which optional redemption is contemplated by Section 2.03(5)(a) and (b) of the Bond Resolution, and which defeasance is contemplated by Article XII of the Bond Resolution. In any such instance, the County may establish the defeasance date, as applicable, at any time, and the redemption date at any time on or after June 15, 2021, all with written notice to the Authority and the Trustee and otherwise in accordance with the terms of the Bond Resolution. Nothing in this Section 5(a)(i) is intended to diminish the County's rights to reimbursement, including those rights set forth in Section 7 hereof.

(ii) with respect to the Series 2011B Note only, the Series 2011B Note is not subject to redemption.

**Section 6.** Subject to Section 5(a) hereof, when notice has been provided, as described above, the County shall take all necessary actions to make payment of the Deficiency to the Trustee as provided above. Such actions shall include the adoption of an emergency appropriation or an emergency temporary appropriation and the funding of such appropriation in accordance with the requirements of the Local Budget Law (N.J.S.A. 40A:4A-1 *et seq.*), the levy of *ad valorem* taxes on all taxable property in the County, without limitation as to rate or amount, or any other actions that are legally permitted to be taken to meet the requirements of such County Guaranty (including the adoption of a bond ordinance pursuant to the provisions of the Local Bond Law).

**Section 7.** (a) The Authority hereby covenants to the County that in the event the County Guaranty is called upon, the Authority shall be obligated and shall take all actions within its power (in accordance with the terms of the Act), including causing the Trustee to pay over to the County all funds on deposit in the County Security Fund, if any, held by the Trustee under the Bond Resolution as monies therein shall not be part of the Trust Estate pledged to the payment of debt service on the Series 2011 Bonds, so as to enable the County to be reimbursed, to the maximum extent practicable, up to the amount that shall have been paid by the County pursuant to the terms of this County Guaranty Agreement (i.e., the Deficiency), at the earliest practicable date. The Authority shall not be obligated to pay the Deficiency from funds within its general control that are not contemplated by the Program Documents; the Authority, shall, however, pay or cause the Deficiency to be paid from amounts the Authority controls on deposit in the County Security Fund, or from any past due Basic Lease Payments it receives from the Company. The County and the Authority acknowledge and agree that as of the date of this Guaranty Agreement, it has been determined that the amount of the County Security Fund Requirement will be \$1,500,000, and there is no County Security Agreement, County Security Provider or other form of County Security, and any provisions herein with respect to such terms are hereby of no further force or effect.

(b) Nothing herein provided shall in any way diminish the County's rights to receive payment from the County Security Fund for reimbursement of any County payment of the Deficiency. The Authority shall take all actions necessary, desirable or convenient to assist the County in any such reimbursement action, and simultaneously with the authorization, execution and delivery hereof, the Authority shall (i) deliver or cause to be delivered for the benefit of the County the County Reserve to be deposited with the Trustee in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, and further, the Authority shall (ii) incorporate into the Program Documents repayment provisions to the County relating to the County Security, including without limitation Section 5.07 of the Bond Resolution.

(c) As further security and further assurance for the Company's obligations to (i) make Basic Lease Payments, (ii) make those Additional Lease Payments constituting part of the Trust Estate, and (iii) pay interest at the Overdue Rate on such amounts in clauses (i) and (ii), all at the times, in the amounts, and otherwise in accordance with the terms and provisions of the Company Lease Agreement, the failure to make timely and full payment of which could cause any such Deficiency, the Authority hereby further assigns and pledges all of its right, title and interest in and to the Reimbursement Collateral to the County, to be held as collateral to secure such Deficiency payment; provided, however, that to the extent the County is never required to make payment under its County Guaranty or the County is reimbursed in full for its Deficiency payment(s) by or on behalf of the County Security Provider from the County Security, the County expressly acknowledges it shall have no further rights to the Reimbursement Collateral, and further, that the County Security Provider (upon issuance of the Series 2011 Bonds, with no County Security Agreement, being the Company) shall, in such instance, be exclusively entitled to any balance of the Reimbursement Collateral. This County Guaranty Agreement shall be deemed to be a security agreement for purposes of the Uniform Commercial Code and all other applicable law.

**Section 8.** The obligations of the County under this County Guaranty Agreement shall be full, absolute, irrevocable, and unconditional, and shall remain in full force and effect until the entire principal of (including Sinking Fund Installments, if any) and interest on the Series 2011 Bonds shall have been paid or duly provided for in accordance with the provisions of the Bond Resolution. The County Guaranty is a guaranty of payment and not of collectability. The obligations of the County hereunder shall not be affected, modified or impaired upon the occurrence from time to time of any event, including without limitation any of the following, whether or not with notice to, or the consent of, the County:

(a) The waiver, compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of the Authority which are contained in the Bond Resolution and any other Program Document, or of the payment, performance or observance thereof;

(b) The failure to give notice to the County of the occurrence of an event of default under the provisions of this County Guaranty Agreement;

(c) The transfer, assignment or mortgaging or the purported transfer, assignment or mortgaging of all or any part of the interest or security interest of the Authority in the Projects;

(d) The extension of the time for payment of the principal of or interest on the Series 2011 Bonds or of the time for performance of any obligations, covenants or agreements under or arising out of the Program Documents;

(e) The modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Program Documents;

(f) The taking, suffering or the omission of any of the actions referred to in the Series 2011 Bond Resolution or of any actions under this County Guaranty Agreement;

(g) Any failure, omission, delay or lack on the part of the Authority to enforce, assert or exercise any right, power or remedy conferred on the Authority in this County Guaranty Agreement, the Series 2011 Bond Resolution or any other act or acts on the part of the Authority or any of the holders from time to time of the Series 2011 Bonds;

(h) The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment or other similar proceedings affecting the Authority, the Company or any other Renewable Energy Program Interested Party or any assets of any of them, or any allegation or contest of the validity of the County Guaranty, or the Series 2011 Bond Resolution;

(i) To the extent permitted by law, any event or action that would, in the absence of this clause, result in the release or discharge by operation of law of the County from the

performance or observance of any obligation, covenant or agreement contained in this County Guaranty Agreement; or

(j) The default or failure of the County fully to perform any of its obligations set forth in this County Guaranty Agreement.

**Section 9.** No set-off, counterclaim, reduction, recoupment, or diminution of any obligation, or any defense of any kind or nature (other than full and timely performance by the County of its obligations hereunder) which the County or the Authority has or may have against the Authority, the County, the Trustee, any other Renewable Energy Program Interested Party, or against any holder of the Series 2011 Bonds, shall be available to the County or the Authority hereunder against the Authority, the County, the Trustee, any other Renewable Energy Program Interested Party, or against any holder of the Series 2011 Bonds or anyone succeeding to the respective interests thereof.

**Section 10.** The County further guarantees that all payments made with respect to the Series 2011 Bonds, when made, will be final and agrees that if such payment is recovered from or repaid by or on behalf of the Authority or the holders of the Series 2011 Bonds in whole or in part in any bankruptcy, insolvency or similar proceeding instituted by or against the Authority or the Company, the County Guaranty shall continue to be fully applicable to such liabilities to the same extent as though the payment so recovered or repaid had never been originally made on such liabilities.

**Section 11.** In the event of a default in payment of the principal of or interest on the Series 2011 Bonds when and as the same shall become due, whether at the stated maturity thereof or otherwise, the Authority, the Trustee or any party to whom the Authority's or the Trustee's rights have been assigned may proceed to enforce their rights hereunder and may proceed first and directly against the County under the terms of this County Guaranty Agreement without proceeding against or exhausting any other remedies which it may have and without resorting to any other security held by the Authority or the Trustee. In any such event, the County shall be subrogated to the rights of such party with respect to such security. All moneys recovered pursuant to this County Guaranty Agreement shall be applied in accordance with the provisions of the Bond Resolution.

**Section 12.** The County hereby acknowledges that it is an "obligated person" as such term is defined in Rule 15c2-12, and the preparation, negotiation, execution and delivery of the County Continuing Disclosure Agreement in accordance with Rule 15c2-12 is hereby approved in the form attached as **Exhibit B** hereto, and the Freeholder Director of the County is hereby authorized to execute the County Continuing Disclosure Agreement and to deliver the same to the Trustee and the Authority. The Freeholder Director is hereby authorized and directed to execute and deliver such other documents, certificates and agreements required to be delivered by the County under the County Continuing Disclosure Agreement, and the Clerk of the Board of Chosen Freeholders is hereby authorized and directed to attest and affix the seal of the County to any such document, certificate or agreement, if necessary.

**Section 13.** This County Guaranty Agreement shall terminate after (a) payment in full of the principal of and interest on the Series 2011 Bonds have been made, or provision for the payment of same has been made in accordance with the terms of the Bond Resolution, including without limitation Article XII thereof, provided, however, this Guaranty Agreement shall survive if payment of principal and interest is made pursuant to Section 10 hereof and (b) the County shall have been fully reimbursed for any payments made by it, if any, under the County Guaranty.

**Section 14.** This County Guaranty Agreement may be executed in any number of counterparts, each of which shall be executed by the Authority and by the County and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same. This County Guaranty Agreement shall be governed by the laws of the State.

**Section 15.** The County hereby acknowledges and consents to the irrevocable assignment of the right of the Authority to receive payments from the County under the provisions of the County Guaranty by the Authority to the Trustee for the benefit of the holders of the Series 2011 Bonds, as and to the extent provided in the Bond Resolution.

**Section 16.** Notwithstanding anything contained herein to the contrary, in the event that the form of government is changed so that there is no longer a Chief Financial Officer of the County, any notices contemplated hereunder shall be provided to and any actions contemplated to be taken hereunder shall be taken by the chief executive officer of the County.

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**Section 17.** Notwithstanding anything contained herein to the contrary, the following defined terms may be amended or supplemented in accordance with the provisions of Section 4.6 of the Power Purchase Agreement, and to the extent the Power Purchase Agreement is amended for such purpose, such following defined terms shall automatically (without any further action) be amended and supplemented for all purposes hereof: Capital Improvement Projects, Local Unit Facilities, Projects, Renewable Energy Projects, and Series 2011 Local Units.

[Remainder of Page Intentionally Left Blank]

**Section 17.** Notwithstanding anything contained herein to the contrary, the following defined terms may be amended or supplemented in accordance with the provisions of Section 4.6 of the Power Purchase Agreement, and to the extent the Power Purchase Agreement is amended for such purpose, such following defined terms shall automatically (without any further action) be amended and supplemented for all purposes hereof: Capital Improvement Projects, Local Unit Facilities, Projects, Renewable Energy Projects, and Series 2011 Local Units.

**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be signed by their respective officers thereunto duly authorized and this agreement to be dated as of the date and the year first above written.

**ATTEST:**

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By: \_\_\_\_\_  
**Ellen M. Sandman**  
Secretary

By: \_\_\_\_\_  
**John Bonanni**  
Chairman

**ATTEST:**

**COUNTY OF SUSSEX,  
NEW JERSEY**

By: *Elaine A. Morgan*  
**Elaine A. Morgan**  
Clerk,  
Board of Chosen Freeholders

By: *Richard A. Zeoli*  
**Richard A. Zeoli**  
Freeholder Director

[ Signature Page to the County Guaranty Agreement ]

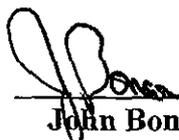
IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their respective officers thereunto duly authorized and this agreement to be dated as of the date and the year first above written.

ATTEST:

By: 

Ellen M. Sandman  
Secretary

THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY

By: 

John Bonanni  
Chairman

ATTEST:

By: \_\_\_\_\_

Elaine A. Morgan  
Clerk,  
Board of Chosen Freeholders

COUNTY OF SUSSEX,  
NEW JERSEY

By: \_\_\_\_\_

Richard A. Zeoli  
Freeholder Director

[ Signature Page to the County Guaranty Agreement ]

**EXHIBIT A**

**Pricing Information with respect to the Series 2011 Bonds**

1. Dated Date, Issuance Date and Date of Authentication of Series 2011 Bonds:

Dated Date, Issuance Date and Date of Authentication of Series 2011A Bonds:  
December 14, 2011

Dated Date, Issuance Date and Date of Authentication of Series 2011B Note:  
December 14, 2011

2. Paying Agent and Trustee for Series 2011 Bonds: U.S. Bank National Association

3. Amortization, including Sinking Fund Installments, and Interest Rates of Series 2011 Bonds:

See 4 below.

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4. Scheduled debt service payments for Series 2011 Bonds, including Sinking Fund Installments:

- \* Series 2011A Bond interest due on such dates provided for through deposit of the Series 2011B Note proceeds in the Capitalized Interest Account of the Debt Service Fund.
- \*\* Series 2011B Note principal repayment, plus interest.

## DETAILED BOND DEBT SERVICE

## MORRIS COUNTY IMPROVEMENT AUTHORITY

County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 A&amp;B (Taxable)

Dated Date 12/14/2011  
 Delivery Date 12/14/2011

2011A Serial Bonds (BOND)

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/15/2012			218,234.72	218,234.72	
12/15/2012			217,029.00	217,029.00	
12/31/2012					435,263.72
06/15/2013	865,000	1.138%	217,029.00	1,082,029.00	
12/15/2013			212,107.15	212,107.15	
12/31/2013					1,294,136.15
06/15/2014	1,850,000	1.562%	212,107.15	2,062,107.15	
12/15/2014			197,658.65	197,658.65	
12/31/2014					2,259,765.80
06/15/2015	1,850,000	2.136%	197,658.65	2,047,658.65	
12/15/2015			177,900.65	177,900.65	
12/31/2015					2,225,559.30
06/15/2016	1,850,000	2.486%	177,900.65	2,027,900.65	
12/15/2016			154,905.15	154,905.15	
12/31/2016					2,182,805.80
06/15/2017	1,850,000	2.910%	154,905.15	2,004,905.15	
12/15/2017			127,987.65	127,987.65	
12/31/2017					2,132,892.80
06/15/2018	1,845,000	3.210%	127,987.65	1,972,987.65	
12/15/2018			98,375.40	98,375.40	
12/31/2018					2,071,363.05
06/15/2019	1,845,000	3.388%	98,375.40	1,943,375.40	
12/15/2019			67,121.10	67,121.10	
12/31/2019					2,010,496.50
06/15/2020	1,845,000	3.588%	67,121.10	1,912,121.10	
12/15/2020			34,021.80	34,021.80	
12/31/2020					1,946,142.90
06/15/2021	1,845,000	3.688%	34,021.80	1,879,021.80	
12/31/2021					1,879,021.80
	15,645,000		2,792,447.82	18,437,447.82	18,437,447.82

DETAILED BOND DEBT SERVICE

MORRIS COUNTY IMPROVEMENT AUTHORITY

County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 A&B (Taxable)

Dated Date 12/14/2011  
 Delivery Date 12/14/2011

2011A Term Bond (2027TERM)

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/15/2012			274,836.74	274,836.74	
12/15/2012			273,318.30	273,318.30	
12/31/2012					548,155.04
06/15/2013			273,318.30	273,318.30	
12/15/2013			273,318.30	273,318.30	
12/31/2013					546,636.60
06/15/2014			273,318.30	273,318.30	
12/15/2014			273,318.30	273,318.30	
12/31/2014					546,636.60
06/15/2015			273,318.30	273,318.30	
12/15/2015			273,318.30	273,318.30	
12/31/2015					546,636.60
06/15/2016			273,318.30	273,318.30	
12/15/2016			273,318.30	273,318.30	
12/31/2016					546,636.60
06/15/2017			273,318.30	273,318.30	
12/15/2017			273,318.30	273,318.30	
12/31/2017					546,636.60
06/15/2018			273,318.30	273,318.30	
12/15/2018			273,318.30	273,318.30	
12/31/2018					546,636.60
06/15/2019			273,318.30	273,318.30	
12/15/2019			273,318.30	273,318.30	
12/31/2019					546,636.60
06/15/2020			273,318.30	273,318.30	
12/15/2020			273,318.30	273,318.30	
12/31/2020					546,636.60
06/15/2021			273,318.30	273,318.30	
12/15/2021			273,318.30	273,318.30	
12/31/2021					546,636.60
06/15/2022	1,845,000	4.938%	273,318.30	2,118,318.30	
12/15/2022			227,765.25	227,765.25	
12/31/2022					2,346,083.55
06/15/2023	1,845,000	4.938%	227,765.25	2,072,765.25	
12/15/2023			182,212.20	182,212.20	
12/31/2023					2,254,977.45
06/15/2024	1,845,000	4.938%	182,212.20	2,027,212.20	
12/15/2024			136,659.15	136,659.15	
12/31/2024					2,163,871.35
06/15/2025	1,845,000	4.938%	136,659.15	1,981,659.15	
12/15/2025			91,106.10	91,106.10	
12/31/2025					2,072,765.25
06/15/2026	1,845,000	4.938%	91,106.10	1,936,106.10	
12/15/2026			45,553.05	45,553.05	
12/31/2026					1,981,659.15
06/15/2027	1,845,000	4.938%	45,553.05	1,890,553.05	
12/31/2027					1,890,553.05
	11,070,000		7,107,794.24	18,177,794.24	18,177,794.24

DETAILED BOND DEBT SERVICE

MORRIS COUNTY IMPROVEMENT AUTHORITY  
 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 A&B (Taxable)

Dated Date 12/14/2011  
 Delivery Date 12/14/2011

2011B Note (NOTE)

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
01/15/2013 12/31/2013	985,000	1.500%	16,047.29	1,001,047.29	1,001,047.29
	985,000		16,047.29	1,001,047.29	1,001,047.29

## BOND DEBT SERVICE

## MORRIS COUNTY IMPROVEMENT AUTHORITY

County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 A&amp;B (Taxable)

		Dated Date	12/14/2011			
		Delivery Date	12/14/2011			
Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	
06/15/2012			493,071.45	493,071.45		
12/15/2012			490,347.30	490,347.30		
12/31/2012					983,418.75	
01/15/2013	985,000	1.500%	16,047.29	1,001,047.29		
06/15/2013	865,000	1.138%	490,347.30	1,355,347.30		
12/15/2013			485,425.45	485,425.45		
12/31/2013					2,841,820.04	
06/15/2014	1,850,000	1.562%	485,425.45	2,335,425.45		
12/15/2014			470,976.95	470,976.95		
12/31/2014					2,806,402.40	
06/15/2015	1,850,000	2.136%	470,976.95	2,320,976.95		
12/15/2015			451,218.95	451,218.95		
12/31/2015					2,772,195.90	
06/15/2016	1,850,000	2.486%	451,218.95	2,301,218.95		
12/15/2016			428,223.45	428,223.45		
12/31/2016					2,729,442.40	
06/15/2017	1,850,000	2.910%	428,223.45	2,278,223.45		
12/15/2017			401,305.95	401,305.95		
12/31/2017					2,679,529.40	
06/15/2018	1,845,000	3.210%	401,305.95	2,246,305.95		
12/15/2018			371,693.70	371,693.70		
12/31/2018					2,617,999.65	
06/15/2019	1,845,000	3.388%	371,693.70	2,216,693.70		
12/15/2019			340,439.40	340,439.40		
12/31/2019					2,557,133.10	
06/15/2020	1,845,000	3.588%	340,439.40	2,185,439.40		
12/15/2020			307,340.10	307,340.10		
12/31/2020					2,492,779.50	
06/15/2021	1,845,000	3.688%	307,340.10	2,152,340.10		
12/15/2021			273,318.30	273,318.30		
12/31/2021					2,425,658.40	
06/15/2022	1,845,000	4.938%	273,318.30	2,118,318.30		
12/15/2022			227,765.25	227,765.25		
12/31/2022					2,346,083.55	
06/15/2023	1,845,000	4.938%	227,765.25	2,072,765.25		
12/15/2023			182,212.20	182,212.20		
12/31/2023					2,254,977.45	
06/15/2024	1,845,000	4.938%	182,212.20	2,027,212.20		
12/15/2024			136,659.15	136,659.15		
12/31/2024					2,163,871.35	
06/15/2025	1,845,000	4.938%	136,659.15	1,981,659.15		
12/15/2025			91,106.10	91,106.10		
12/31/2025					2,072,765.25	
06/15/2026	1,845,000	4.938%	91,106.10	1,936,106.10		
12/15/2026			45,553.05	45,553.05		
12/31/2026					1,981,659.15	
06/15/2027	1,845,000	4.938%	45,553.05	1,890,553.05		
12/31/2027					1,890,553.05	
	27,700,000		9,916,289.34	37,616,289.34	37,616,289.34	

5. Basic Lease Payments and Basic Lease Payment Dates relating to the Series 2011 Bonds:

**Morris County Improvement Authority**  
**County of Sussex Guaranteed Renewable Energy Program Lease**  
**Revenue Bonds, Series 2011A & B (Federally Taxable)**

\*Preliminary, subject to change\*

Basic Lease Payment Date**	Principal	Semi-Annual Interest	Semi-Annual Lease Payment	Annual Lease Payment
1/15/2012				
7/15/2012				
1/15/2013	1,850,000	506,394.59	2,356,394.59	
7/15/2013	-	485,425.45	485,425.45	2,841,820.04
1/15/2014	1,850,000	485,425.45	2,335,425.45	
7/15/2014	-	470,976.95	470,976.95	2,806,402.40
1/15/2015	1,850,000	470,976.95	2,320,976.95	
7/15/2015	-	451,218.95	451,218.95	2,772,195.90
1/15/2016	1,850,000	451,218.95	2,301,218.95	
7/15/2016	-	428,223.45	428,223.45	2,729,442.40
1/15/2017	1,850,000	428,223.45	2,278,223.45	
7/15/2017	-	401,305.95	401,305.95	2,679,529.40
1/15/2018	1,845,000	401,305.95	2,246,305.95	
7/15/2018	-	371,693.70	371,693.70	2,617,999.65
1/15/2019	1,845,000	371,693.70	2,216,693.70	
7/15/2019	-	340,439.40	340,439.40	2,557,133.10
1/15/2020	1,845,000	340,439.40	2,185,439.40	
7/15/2020				

	-	307,340.10	307,340.10	2,492,779.50
1/15/2021	1,845,000	307,340.10	2,152,340.10	
7/15/2021	-	273,318.30	273,318.30	2,425,658.40
1/15/2022	1,845,000	273,318.30	2,118,318.30	
7/15/2022	-	227,765.25	227,765.25	2,346,083.55
1/15/2023	1,845,000	227,765.25	2,072,765.25	
7/15/2023	-	182,212.20	182,212.20	2,254,977.45
1/15/2024	1,845,000	182,212.20	2,027,212.20	
7/15/2024	-	136,659.15	136,659.15	2,163,871.35
1/15/2025	1,845,000	136,659.15	1,981,659.15	
7/15/2025	-	91,106.10	91,106.10	2,072,765.25
1/15/2026	1,845,000	91,106.10	1,936,106.10	
7/15/2026	-	45,553.05	45,553.05	1,981,659.15
1/15/2027	1,845,000	45,553.05	1,890,553.05	
7/15/2027	-	-	-	1,890,553.05
	<b>27,700,000</b>	<b>8,932,870.59</b>	<b>36,632,870.59</b>	<b>36,632,870.59</b>

*\* Basic Lease Payment Schedule derived from and will be equal to the debt service payments and amortization schedule for the Series 2011 A and B Bonds, once determined. The Series 2011 A Bonds are assumed to include annual principal payments on June 15, 2013 through and including June 15, 2027 and semiannual interest payments on June 15th and December 15th of each year, commencing on June 15, 2012 (the June 15, 2012 and December 15, 2012 interest payments will be paid by capitalized interest being funded through the Series 2011B Bonds). The Series 2011B Bonds are assumed to be issued on December 14, 2011 simultaneously with the bond financing and will include a single payment of principal and interest on January 15, 2013. The interest rates included in this schedule correspond to the principal payment dates of the Series 2011 Bonds which are 5-months after such Basic Lease Payment dates.*

Note: There are no Basic Lease Payment Dates on January 15, 2012 and July 15, 2012, each five (5) months prior to the corresponding interest payment dates for the Series 2011A Bonds of June 15, 2012 and December 15, 2012, because the Series 2011A Bond interest due on such Series 2011A Bond interest payment dates has been provided for through the deposit of the Series 2011B Note proceeds in the Capitalized Interest Account of the Debt Service Fund. There is no Series 2011B Note interest due on such dates.

[Attach supporting schedules from Authority financial advisor allocating debt service payments among the Series 2011A Bonds and the Series 2011B Note, and allocating Basic Lease Payments to each such Series of Series 2011 Bonds]

**Exhibit B**

See Closing Item No. 6

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**PLEDGE AND SECURITY AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)**

**By**

**SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC, as Pledgor**

**in favor of**

**U.S. BANK NATIONAL ASSOCIATION, as Trustee**

**Dated as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

**PLEDGE AND SECURITY AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)**

THIS “**PLEDGE AND SECURITY AGREEMENT (Sussex County Renewable Energy Program, Series 2011)**” (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this “*Agreement*” or this “*Security Agreement*”) dated as of December 1, 2011, is executed by SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC, a limited liability company organized and existing under the laws of the State of New Jersey (the “*State*”) and the signatory party hereto (including successors and assigns, the “*Person*”, or the “*Pledgor*”), the member of SUNLIGHT GENERAL SUSSEX SOLAR, LLC (including successors and assigns, the “*Company*”), a limited liability company organized and existing under the laws of the State and an acknowledgment party hereto, in favor of U.S. BANK NATIONAL ASSOCIATION (including successors and assigns, the “*Bank*”), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State, where the Bank acts as trustee (the “*Trustee*”) under and pursuant to that certain “RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011A AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY” adopted by the governing body of the Morris County Improvement Authority (including successors and assigns, the “*Authority*”) as resolution no. 11-\_\_ on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by a Certificate of an Authorized Officer of the Authority to be dated the date of issuance of each of the Series 2011A Bonds and the Series 2011B Bonds authorized and defined therein (the “*Bond Resolution*”), to be held by the Trustee pursuant to the provisions of Section 5.07(5) of the Bond Resolution.

WITNESSETH:

**WHEREAS**, the Authority has been duly created by resolution duly adopted by the Board of Chosen Freeholders (the “*Board of Freeholders*”) of the County of Morris (“*Morris County*”) in the State as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the “*Act*”), and other applicable law;

**WHEREAS**, simultaneously herewith and in order to implement the Authority’s Renewable Energy Program for the Series 2011 Local Units on their respective Local Unit Facilities (as all such terms are defined in the hereinafter defined Company Lease Agreement), the Company has entered into that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (as amended, modified and supplemented and in effect from time to time, the “*Company Lease Agreement*”) with the Authority;

**WHEREAS**, simultaneously herewith and in furtherance of the Authority's Renewable Energy Program, the Company has also entered into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (as amended, modified and supplemented and in effect from time to time, the "*Power Purchase Agreement*") with the Authority;

**WHEREAS**, the Company has certain obligations set forth under the Company Lease Agreement and the Power Purchase Agreement (collectively, and together with this Agreement and certain other agreements defined in the Company Lease Agreement as Company Agreements, the "*Company Agreements*"), including without limitation the obligation to make Lease Payments and finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the Series 2011 Local Units as defined in and contemplated under the Company Agreements (collectively, the "*Obligations*"), which if not performed by or on behalf of the Company, give rise to an Event of Default as defined in and in accordance with the terms of such Company Agreements (each an "*Event of Default*");

**WHEREAS**, as of the date hereof, the Pledgor owns one hundred percent (100%) of the legal and beneficial ownership interests (the "*Equity Interests*") in and to the Company; and

**WHEREAS**, in order to secure the payment and performance of all Obligations of the Company, the Pledgor has granted the security interests contemplated by this Agreement.

**NOW, THEREFORE**, for and in consideration of the foregoing and of any financial accommodations or extensions of credit (including, without limitation, any loan or advance by renewal, refinancing or extension of the agreements described hereinabove) heretofore, now or hereafter made to or for the benefit of the Company and/or the Pledgor by the Trustee in connection with the transactions contemplated by the Acknowledgment (as defined in Section 1.03 below), the Company Agreements, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

## ARTICLE I

### GRANT OF SECURITY INTEREST: PLEDGED COLLATERAL

Section 1.01 Pledged Collateral. As security for the full and punctual payment and performance of the Obligations (whether at stated maturity, by required repayment, declaration, acceleration, demand or otherwise, including without limitation the payment of amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. §362(a), whether allowed or allowable as claims), the Pledgor, hereby grants, pledges, hypothecates, transfers and assigns to the Trustee a first priority and continuing lien on, and first priority security interest, in, and, in furtherance of such grant, pledge, hypothecation, transfer and assignment, hereby transfers and assigns to the Trustee as collateral security, all of the Pledgor's right, title, ownership, equity or other interests in and to the following, whether now owned or hereafter acquired, now existing or hereafter arising and wherever located (collectively, the "*Pledged Collateral*"):

(a) the Equity Interests of the Persons described in **Schedule 1** attached hereto, in and to the Company (the "*Pledged Entity*"), as and to the extent of their Equity Interests in and to the Company described on said **Schedule 1** (collectively, the "*Pledged Equity*");

(b) all rights, privileges, general intangibles, payments intangibles, voting rights, authority and power arising from its interest in the Pledged Equity;

(c) the capital of the Pledgor in the Company and any and all profits, losses, Distributions (as defined below), and allocations attributable to the Pledged Equity as well as the proceeds of any Distribution thereof, whether arising under the terms of any Organizational Agreement (as defined below) or otherwise;

(d) all other payments, if any, due or to become due, to the Pledgor from the Pledged Entity and all other present or future claims by the Pledgor against any Pledged Entity, or in respect of the Pledged Equity, under or arising out of (i) any Organizational Agreement, (ii) monies loaned or advanced, for services rendered or otherwise, (iii) any other contractual obligations, commercial tort claims, supporting obligations, damages, insurance proceeds, condemnation awards or other amounts due to the Pledgor from any Pledged Entity or with respect to the Pledged Equity;

(e) the Pledgor's claims, rights, powers, privileges, authority, options, security interests, liens and remedies, if any, under or arising out of the ownership of the Pledged Equity;

(f) to the extent permitted by applicable law, the Pledgor's rights, if any, in any Pledged Entity pursuant to any Organizational Agreement, or at law, to exercise and enforce every right, power, remedy, authority, option and privilege of the Pledgor relating to the Pledged Equity, including without limitation, the right to (i) execute any

instruments and to take any and all other action on behalf of and in the name of the Pledgor in respect of the Pledged Equity, (ii) exercise any and all voting, consent and management rights of the Pledgor in or with respect to any Pledged Entity, (iii) exercise any election (including, but not limited to, election of remedies) or option or to give or receive any notice, consent, amendment, waiver or approval with respect to any Pledged Entity, (iv) enforce or execute any checks, or other instruments or orders of any Pledged Entity, and (v) file any claims and to take any action in connection with any of the foregoing, together with full power and authority to demand, receive, enforce or collect any of the foregoing or any property of any Pledged Entity;

(g) all Investment Property (as such term is defined in Section §9-102 of the UCC (as defined below)) issued by or relating to any Pledged Entity;

(h) all additional Equity Interests or other property, securities, or assets now existing or hereafter acquired by the Pledgor relating to the Pledged Equity, including, without limitation, as a result of any consolidation, combinations, mergers, reorganizations, acquisitions, exchange offers, recapitalizations of any type, contributions to capital, splits, spin-offs, or similar actions or the exercise of options or other rights relating to the Pledged Equity;

(i) all partnership certificates, member certificates, stock certificate, or any other instrument, note, chattel paper or certificate (including, without limitation, "certificated securities" within the meaning of §8-102 of the UCC) (whether or not qualifying as Investment Property) representing interests in the Pledged Equity and any interest of the Pledgor in the entries on the books of any financial intermediary pertaining to such certificates or writings, and all options and warrants for the purchase of such Equity Interests now or hereafter held in the name of the Pledgor (collectively, "Certificated Securities"), and all Certificated Securities in the Pledged Entity from time to time acquired by the Pledgor in any manner, and any interest of the Pledgor in the entries on the books of any financial intermediary pertaining to such Certificated Securities, and all securities convertible into and options, warrants, dividends, cash, instruments and other rights and options from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Certificated Securities (including all rights to request or cause the issuer thereof to register any or all of the Pledged Collateral under federal and state securities laws to the maximum extent possible under any agreement for such registration rights), and all put rights, tag-along rights or other rights pertaining to the sale or other transfer of such Pledged Collateral, together in each case with all right under any Organizational Agreements pertaining to such rights;

(j) (i) all "proceeds" (as such term is defined in §9-102 of the UCC) of any or all of the foregoing (whether cash or non-cash proceeds, including insurance proceeds), (ii) whatever is receivable or received when any of the Pledged Collateral is sold, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, and includes, without limitation, all rights to payment, including return premiums, with respect to any insurance relating thereto and also includes all interest,

dividends and other property receivable or received on account of any of the Pledged Collateral or proceeds thereof, and in any event, shall include all Distributions or other income from any of the Pledged Collateral, all collections thereon or all Distributions with respect thereto, and (iii) all proceeds, products, accessions, rents, profits, income, benefits, substitutions and replacements of and to any of the Pledged Collateral. The inclusion of proceeds in the Pledged Collateral does not authorize the Pledgor to sell, dispose of or otherwise use the Pledged Collateral in any manner not specifically authorized hereby.

(k) To the extent any of the Pledged Collateral constitutes an “uncertificated security” (as defined in Section 8-102(a)(18) of the UCC), the Pledgor shall cause the issuer thereof to acknowledge to the Trustee the registration on the books of such issuer of the pledge and security interest hereby created in the manner required by Section 8-301(b) of the UCC.

(l) The Pledgor, as debtor, authorizes the Trustee, on behalf of itself as creditor, to file UCC1 financing statements with respect to the foregoing pledge of collateral contemplated by this Section 1.01.

Section 1.02 Definitions. Unless otherwise defined herein, all words and terms set forth and defined in the Company Agreements shall have the same meaning as set forth in the Company Agreements, as if fully set forth in this Security Agreement, and the following terms have the following meanings (such meanings being equally applicable to both the singular and plural forms of the terms defined):

(a) “Distributions” means all dividends, distributions, liquidation proceeds, cash, profits, instruments and other property and payments or economic benefits or interests to which the Pledgor is entitled with respect to the Pledged Equity whether or not received by or otherwise distributed to the Pledgor, whether such dividends, distributions, liquidation proceeds, cash, profits, instruments and other property and economic benefits are paid or distributed by the Pledged Entities in respect of operating profits, sales, exchanges, refinancing, condemnations or insured losses of the company’s assets, the liquidation of the company’s assets and affairs, management fees, guaranteed payments, repayment of loans, reimbursement of expenses or otherwise in respect of or in exchange for any or all of the Pledged Equity but shall not include the payment of the Development Fee or any of the proceeds thereof.

(b) “Organizational Agreement” means the limited liability company agreement and other organizational or governing documents, as applicable, of any Pledged Entity.

(c) “Section 1603 Grant” means any payment by the United States Department of Treasury under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009.

(d) “UCC” means the Uniform Commercial Code, as in effect from time to time in the State where the property subject to this Security Agreement is located.

Section 1.03 Perfection of Security Interest: Further Acts. On or before the issuance of the Series 2011A Bonds, the Pledgor shall (a) enter into such arrangements as may be necessary to give control of any pledged Investment Property to the Trustee within the meaning of §8-106 of the UCC, (b) cause each Pledged Entity to execute and deliver the Agreement and Acknowledgement attached hereto as Exhibit A (the “Acknowledgement”), and (c) promptly take all other actions required to perfect the security interest of the Trustee in the Pledged Collateral under applicable law. It is the intention of the Pledgor and the Trustee that at all times while the Agreement remains in effect, the Pledged Equity shall constitute Investment Property, and, to that end, the Pledgor shall take, and shall cause each Pledged Entity to take, all necessary action to obtain such classification pursuant to the UCC.

Section 1.04 Acts of the Trustee. All of the Pledged Collateral at any time delivered to the Trustee pursuant to this Agreement shall be held by the Trustee subject to the terms, covenants and conditions set forth in the Company Agreements. Neither the Trustee nor any of the Trustee’s directors, officers, agents, employees or counsel shall be liable for any action taken or omitted to be taken by such party or parties relative to any of the Pledged Collateral, except to the extent of such party’s or parties’ own negligence or willful misconduct. The Trustee shall be entitled to rely in good faith upon any writing or other document (including, without limitation, any telegram or e-mail) or any telephone conversation reasonably believed by it to be genuine and correct and to have been signed, sent or made by the proper Person (but the Trustee shall be entitled to such additional evidence of authority or validity as it may, in its sole and absolute discretion request, but it shall have no obligation to make any such request), and with respect to any legal matter, the Trustee may rely in acting or in refraining from acting upon the advice of counsel selected by it concerning all matters hereunder.

Section 1.05 Custody of Pledged Collateral. The Trustee shall not have any duty concerning the collection or protection of the Pledged Collateral or any income thereon or payments with respect thereto, or concerning the preservation of any rights pertaining thereto beyond exercising reasonable care with respect to the custody of any tangible evidence of the Pledged Collateral actually in its possession.

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## ARTICLE II

### POWERS OF THE PLEDGOR PRIOR TO AN EVENT OF DEFAULT

Section 2.01 Distributions; Exercise of Rights. Unless an Event of Default has occurred and is continuing, and subject to the terms of the Company Agreements, the Pledgor shall be entitled to (a) receive cash Distributions (including in respect of the Section 1603 Grant or the proceeds from the sale of any SRECs) allocable to the Pledged Collateral, and (b) exercise (but only in a manner that will not (i) violate or be inconsistent with the terms hereof or of any other Company Agreement or (ii) have the effect of impairing the position or interests of the Trustee) the voting, consent, administration, management and all other powers, rights and remedies of the Pledgor with respect to the Pledged Collateral under the Organizational Agreements of any Pledged Entity (including all other rights and powers thereunder which are pledged hereunder or otherwise). If the Pledgor shall become entitled to receive or shall receive from any Pledged Entity (A) any non-cash Distribution as an addition to, on account of, in substitution of, or in exchange for the Pledged Collateral or any part thereof, or (B) upon the occurrence of any Event of Default that is continuing, any cash Distributions, in either case the same shall immediately be remitted to the Trustee (in the exact form received, with the Pledgor's endorsement or assignment or other instrument as the Trustee may deem appropriate) to be held as additional Pledged Collateral for the Obligations or for application thereto, as applicable, and until so remitted, shall be received and held by the Pledgor in trust and as agent for the Trustee. For the avoidance of doubt, any Distribution by the Company (including in respect of the Section 1603 Grant or any proceeds from the sale of SRECs) occurring prior to an Event of Default shall be irrevocable and shall not be subject to refund or recovery by the Trustee, including without limitation, upon the occurrence of an Event of Default.

Section 2.02 Termination of Powers. Upon the occurrence of an Event of Default that is continuing, all such powers, rights and remedies of the Pledgor, which are conditionally permitted pursuant to Section 2.01 of this Agreement, shall cease and the provisions of Article IV of this Agreement shall apply.

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### ARTICLE III

#### REPRESENTATIONS, WARRANTIES AND COVENANTS OF PLEDGOR

The Pledgor hereby represents, warrants and covenants with and to the Trustee as follows:

Section 3.01 Percentage Ownership. As of the date hereof, the Pledgor owns one hundred (100%) percent of the legal and beneficial ownership interests in and to all Pledged Equity. The Pledgor does not have any outstanding options or rights or other agreements to acquire or sell or otherwise transfer all or any portion of any Pledged Equity.

Section 3.02 Title to Pledged Collateral. The Pledgor validly acquired and is the legal and beneficial owner of the Pledged Collateral in which it has granted a security interest, and transferred a collateral interest, herein, free and clear of all Liens except such as are created pursuant to this Agreement. The Pledgor has the legal right to pledge and grant a security interest in the Pledged Collateral as herein provided without the consent of any other person or entity, other than any such consent that has been obtained. The Pledgor will have like title in, and the right to pledge, any other property at any time hereafter acquired by the Pledgor and pledged to the Trustee as Pledged Collateral hereunder.

Section 3.03 Defense of Title. The Pledgor will defend the Trustee's right, title and interest in and to the Pledged Collateral against the claims and demands of all other persons and entities.

Section 3.04 No Transfer. Except for the transfer effected by this Agreement, the Pledgor will not transfer the Pledged Collateral, or any portion thereof, or suffer or permit any transfer thereof to occur. Any transfer made in violation of the foregoing provisions shall be an immediate Event of Default hereunder without notice or opportunity to cure and shall be void and of no force and effect, and upon demand of the Trustee, shall forthwith be cancelled or satisfied by an appropriate instrument in writing. Notwithstanding any other provisions herein, nothing in this Agreement shall limit the transferability of ownership interests in Pledgor or the admission or withdrawal of members of the Pledgor.

Section 3.05 Perfected Security Interest. Giving effect to this Agreement, the Trustee has, with respect to all Pledged Collateral owned by the Pledgor as of the Closing Date, and will have with respect to any other property at any time hereafter acquired by the Pledgor and pledged to the Trustee as Pledged Collateral hereunder, a valid, perfected and continuing first lien upon and security interest in the Pledged Collateral. For purposes hereof, "Closing Date" shall mean the date of issuance of the Series 2011 Bonds.

Section 3.06 No Financing Statements. Except for financing statements filed or to be filed in favor of the Trustee as secured party, or such other financing statements expressly permitted with the Trustee's prior written consent, which may be withheld in the Trustee's sole

and absolute discretion, there are not now any financing statements under the UCC covering any or all of the Pledged Collateral filed in any public office, and the Pledgor will not authorize the filing of any such financing statements.

Section 3.07 Certificated Securities. The Pledgor represents and warrants that if all of the Pledged Equity is not evidenced by a certificated security, it shall promptly take all actions required to perfect the security interest of the Trustee in such Pledged Equity under applicable law as required under Section 1.03 of this Agreement. The Pledgor further agrees to take such additional actions as the Trustee deems necessary or desirable to effect the foregoing and to permit the Trustee to exercise any of its rights and remedies hereunder and agrees to provide an opinion of counsel satisfactory to the Trustee with respect to any such pledge of Equity Interests which are not Certificated Securities promptly upon request of the Trustee. Without limiting the effect of the immediately preceding clause, the Pledgor, upon the occurrence of an Event of Default, hereby grants to the Trustee an irrevocable proxy to vote the Pledged Equity and to exercise all other rights, powers, privileges and remedies to which a holder of the pledged equity would be entitled (including without limitation (a) giving or withholding written consents, (b) calling special meetings, (c) voting at such meetings, and (d) voting at any time or place) with respect to any action, decision, determination or election by the pledged entities or the holders of the respective equity interests therein that the Pledged Equity (or any new or additional equity interest in such Pledged Entity) be, or cease to be, a certificated security, and all other matters related to any such action, decision, determination or election, which proxy shall be effective automatically and without the necessity of any action (including any transfer of any pledged equity on the record books of the issuer thereof) by any other person (including the issuer of the Pledged Equity or any officer or agent thereof) as of the date hereof, and which proxy shall only terminate upon the termination of this Agreement.

Section 3.08 Fully Paid and Non-Assessable. All of the Pledged Equity has been duly authorized and validly created and is subject to no options to purchase or similar rights of any Person. The Pledgor is not, and will not become, a party to or otherwise be or become bound by any agreement, other than this Agreement and the other Company Agreements, which restricts in any manner the rights of any present or future holder of any of the Pledged Equity with respect thereto. There are no set-offs, counterclaims or defenses with respect to the Pledged Collateral owned by the Pledgor and no agreement, oral or written, has been made with any other person or party under which any deduction or discount may be claimed with respect to such Pledged Collateral and the Pledgor knows of no fact which would prohibit or prevent the Pledgor assigning or granting a security interest in the Pledged Collateral.

Section 3.09 Organizational Agreements. Attached hereto as Exhibit B are true, correct, and complete copies of the Organizational Agreements of each Pledged Entity. The Organizational Agreements are in full force and effect and have not been modified or amended except as attached hereto. The Pledgor is not in default of any of its obligations under the Organizational Agreements nor is the Pledgor aware of a default by any other member in their respective obligations under the Organizational Agreements.

Section 3.10 Amendments. The Pledgor shall not allow any Pledged Entity to (a) amend any provision of its Organizational Agreements, (b) dissolve, liquidate, wind-up, merge

or consolidate with any other entity or (c) transfer any of its respective assets and properties to any Person except as permitted by the Company Agreements.

Section 3.11 Authority, Enforceability, Etc. The execution, delivery and performance of this Agreement by the Pledgor will not cause a violation of or a default under the Organizational Agreements of the Pledgor or any Pledged Entity. The execution and delivery of this Agreement and the performance of the Pledgor's obligations hereunder will not conflict with or result in a breach of the terms or provisions of any (a) applicable law, (b) agreement to which the Pledgor or any Pledged Entity is a party or by which any of his assets are bound, or (c) judgment, decree, arbitration award, or pending litigation to which the Pledgor or any Pledged Entity is subject. No approval by, authorization or consent of, or filing with any governmental authority or any other Person is necessary in connection with the execution, delivery and performance by the Pledgor of this Agreement, or if such approval, authorization, or consent is necessary, it has been obtained. This Agreement constitutes the valid and legally binding obligations of the Pledgor and is fully enforceable against the Pledgor in accordance with its terms, subject to the effects of Bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and limitations imposed by general principles of equity. The jurisdiction of organization (as such term is defined in the UCC) and place of business of the Pledgor is set forth in the signature block of the Pledgor. No change has been or will be made in the jurisdiction of organization or place of business of the Pledgor, except upon at least thirty (30) days' prior notice to the Trustee.

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## ARTICLE IV

### EVENTS OF DEFAULT AND REMEDIES

If an Event of Default shall occur during the term of this Agreement and during its continuance:

Section 4.01 Transfer Rights. Subject to the limitation of Section 4.10 hereof, the Trustee shall have the right, at any time and from time to time, to affect the transfer of any or all of the Pledged Collateral, subject only to the provisions of the UCC and any other applicable statute which, in accordance with such statute, cannot be waived, in any one or more of the following ways:

(a) Register in the name of, or transfer to, the Trustee, a nominee or nominees, or designee or designees, of the Trustee; provided that the provisions of Section 5.06 of this Agreement are complied with;

(b) Sell, resell, assign and deliver, in the Trustee's sole and absolute discretion, any or all of the Pledged Collateral (whether in whole or in part and at the same or different times) and all right, title and interest, claim and demand therein and right of redemption thereof, at public or private sale, for cash or upon credit (by the Trustee only), in accordance with the applicable procedures specified in Article V of this Agreement; and

(c) Proceed by a suit or suits at law or in equity to foreclose all or any part of the security interests in the Pledged Collateral and sell the Pledged Collateral or any portion thereof, under a judgment or decree of a court of competent jurisdiction, retaining during the duration of such judicial enforcement all other rights with respect to the Pledged Collateral, including specifically the rights specified hereafter in Article V of this Agreement with respect to each Pledged Entity.

Section 4.02 Voting Rights. Upon the occurrence of an Event of Default and during its continuance, the Trustee may exercise, either by itself or by its nominee or designee, in the name of the Pledgor, the rights, powers and remedies granted to the Trustee hereunder and under the other Company Agreements in respect of the Pledged Collateral at any time prior to effecting the transfer of such Pledged Collateral to the Trustee or its nominee or designee, or any third party purchasers, as contemplated in Sections 4.01(a) and (b) above, and whether or not any judicial action as contemplated in Sections 4.01(c) above has been commenced or is continuing prior to a final unappealable judgment. Such rights and remedies shall include, without limitation, and the Pledgor hereby grants to the Trustee the right to exercise by delivering notice to the Pledgor and the applicable Pledged Entity, (a) all voting, consent, managerial and other rights relating to the Pledged Equity, whether in the Pledgor's name or otherwise, including without limitation the right to appoint officers, directors, managers and other similar positions and (b) the right to exercise the Pledgor's rights, if any, of conversion, exchange, or subscription, or any other rights, privileges or options pertaining to any of the Pledged Equity, including, without limitation, the

right to exchange, at the Trustee's sole and absolute discretion, any and all of the Pledged Equity upon the merger, consolidation, reorganization, recapitalization or other readjustment of such Pledged Entity, all without liability, except to account for property actually received by the Trustee. The Pledgor hereby irrevocably authorizes and directs each Pledged Entity, on receipt of any such notice (i) to deem and treat the Trustee or its nominee in all respects as a member, partner or shareholder, as applicable (and not merely an assignee of a member, partner or shareholder) of such Pledged Entity, entitled to exercise all the rights, powers and privileges (including, without limitation, the right to vote on or take any action with respect to such Pledged Entity matters pursuant to the Organizational Agreement) thereof, to receive all distributions, to be credited with the capital account and to have all other rights, powers and privileges pertaining to such member, partner or shareholder interest, as applicable, to which the Pledgor would have been entitled had the Pledgor not executed this Agreement and (ii) to file an amendment to the Organizational Agreement of such Pledged Entity admitting the Trustee or such nominee(s) as a member, partner or shareholder in place of the Pledgor.

Section 4.03 Power of Attorney.

(a) The Pledgor hereby irrevocably authorizes and empowers the Trustee, and assigns and transfers of the Trustee, and constitutes and appoints the Trustee and any of its assigns, its true and lawful attorney-in-fact (coupled with an interest) and as its agent with full power of substitution for the Pledgor to proceed from time to time in the Pledgor's name, in order to more fully vest in the Trustee the rights and remedies provided for herein, in any statutory or non-statutory legal or other proceeding, including without limitation, any Bankruptcy proceeding affecting any Pledged Entity or the Pledged Collateral and Pledgor's interest in any Pledged Entity or the Pledged Collateral.

(b) The Trustee and any of its assigns, or their respective nominees, may, to the extent permitted by applicable law, either pursuant to such power-of-attorney or otherwise, take any action and exercise and execute any instrument that it determines necessary or advisable to accomplish the purposes of this Agreement, including without limitation: (i) execute and file proof of claim with respect to any or all of the Pledged Collateral against any Pledged Entity and vote such claims with respect to all or any portion of such Pledged Collateral (A) for or against any proposal or resolution, (B) for a trustee or trustees or for a receiver or receivers or for a committee of creditors, and/or (C) for the acceptance or rejection of any proposed arrangement, plan of reorganization, composition or extension; (ii) receive, endorse and collect all drafts, checks and other instruments for the payment of money made payable to the Pledgor representing any interest, payment of principal or other distribution payable in respect of the Pledged Collateral; (iii) execute endorsements, assignments or other instruments of conveyance or transfer in respect of any other property which is or may become a part of the Pledged Collateral hereunder; and (iv) execute releases and negotiate settlements, as appropriate, including on account of, or in exchange for, any or all of the Pledged Collateral, or any payment or distribution received by the Pledgor, or the Trustee on the Pledgor's behalf.

(c) The foregoing power-of-attorney is irrevocable and coupled with an interest, and any similar or dissimilar powers previously given by the Pledgor in respect

of the Pledged Collateral or any Pledged Entity to any Person or any other person or entity (other than the Trustee) are hereby revoked. The power-of-attorney granted herein shall terminate automatically upon the termination of this Agreement in accordance with the terms hereof.

Section 4.04 Management Rights. The Trustee may at such time and from time to time thereafter, without notice to, or consent of, the Pledgor or any Person (to the extent permitted by law), but without affecting any of the Obligations, in the name of the Pledgor or in the name of the Trustee: (a) notify any other party to make payment and performance directly to the Trustee, (b) extend the time of payment and performance of, compromise or settle for cash, credit or otherwise, and upon any terms and conditions, any obligations owing to the Pledgor, or claims of the Pledgor under any Organizational Agreement of any Pledged Entity, as applicable, (c) file any claims, commence, maintain or discontinue any actions, suits or other proceedings deemed by the Trustee reasonably necessary or advisable for the purpose of collecting upon or enforcing any Organizational Agreement of any Pledged Entity and (d) execute any instrument and do all other things deemed reasonably necessary and proper by the Trustee to protect and preserve and realize upon the Pledged Collateral or any portion thereof and the other rights contemplated hereby.

Section 4.05 Right of Substitution. The Trustee shall have the right, without notice to or consent of the Pledgor, to become, or to designate its nominee, designee, agent or assignee to become, a partner, member, officer or director, as applicable, of any Pledged Entity, in substitution of any existing Person serving in such capacity, subject to the terms of the Organizational Agreement.

Section 4.06 UCC Rights. The Trustee may exercise all of the rights and remedies of a secured party under the UCC.

Section 4.07 The Trustee Self-Help Rights.

(a) Subject to all applicable Laws, the Trustee shall have the right, but not the obligation, to take any appropriate action as it, in its reasonable judgment, may deem necessary to (i) cure any Event of Default, (ii) cause any term, covenant, condition or obligation required under this Agreement or other Company Agreement to be promptly performed or observed on behalf of the Pledgor or (iii) protect the Pledged Collateral and any other security obtained pursuant to the other Company Agreements. All amounts advanced by, or on behalf of, the Trustee in exercising its rights under this Article IV (including, without limitation, reasonable legal expenses and disbursements incurred in connection therewith), together with interest thereon at the Overdue Rate (as defined in the Company Lease Agreement) from the date of any such advance, shall be payable by the Pledgor to the Trustee upon demand therefor and shall be secured by the Pledged Collateral.

(b) The Trustee shall not be obligated to perform or discharge any obligation of the Pledgor or any Pledged Entity as a result of this Agreement. The acceptance by the Trustee of this Agreement shall not at any time or in any event obligate the Trustee to (i)

appear in or defend any action or proceeding relating to the Pledged Collateral to which it is not a party, or (ii) take any action hereunder or thereunder, or expend any money or incur any expenses or perform or discharge any obligation, duty or liability under the Pledged Collateral.

Section 4.08 Remedies Cumulative. The obligations of the Pledgor under this Agreement shall be absolute and unconditional and shall remain in full force and effect without regard to, and shall not be released, suspended, discharged, terminated or otherwise affected by, any circumstances or occurrence except as specifically provided in this Agreement. The rights, powers and remedies of the Trustee under this Agreement shall be cumulative and not exclusive of any other right, power or remedy which the Trustee may have against the Pledgor or any Person pledging collateral pursuant to the other Company Agreements or existing at law or in equity or otherwise. The Trustee's rights, powers and remedies may be pursued singly, concurrently or otherwise, at such time and in such order as the Trustee may determine in its sole and absolute discretion. **THE TRUSTEE SHALL HAVE NO DUTY TO EXERCISE ANY OF THE AFORESAID RIGHTS, POWERS AND REMEDIES AND SHALL NOT BE RESPONSIBLE FOR ANY FAILURE TO DO SO OR DELAY IN SO DOING.**

Section 4.09 Notice of Exercise of Remedies. The Pledgor hereby waives notice of acceptance hereof, and except as otherwise specifically provided herein or required by provision of law which may not be waived, hereby waives any and all notices or demands with respect to any exercise by the Trustee of any rights or powers which it may have or to which it may be entitled with respect to the Pledged Collateral, except that notwithstanding the foregoing or anything herein to the contrary, the Trustee shall provide thirty (30) days advance notice prior to the Trustee's exercising any such rights or powers with respect to the Pledged Collateral, during which time the Pledgor shall have the opportunity to cure the circumstance giving rise to such notice.

Section 4.10 Limitation. The Trustee may not sell or otherwise transfer any interest in the Pledged Collateral to a person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event. The expression, "***Tax Benefit Recapture Event***", means an event which would entitle the United States Department of the Treasury or Internal Revenue Service to require that the Company return all or part of the Section 1603 Grant in lieu of tax credit received in connection with the Renewable Energy Projects, or to disallow the Company's tax deductions or recapture all or a portion of investment tax credits previously claimed with respect to investments in energy property or for depreciation.

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## ARTICLE V

### SALES OF THE PLEDGED COLLATERAL

Section 5.01 Right to Conduct Partial Sale of Pledged Collateral. In connection with any sale of the Pledged Collateral, the Trustee may grant options and may impose reasonable conditions such as requiring any purchaser to represent that any "securities" constituting any part of the Pledged Collateral are being purchased for investment only. If all or any of the Pledged Collateral is sold at any such sale by the Trustee to a third party upon credit, the Trustee shall not be liable for the failure of the purchaser to purchase or pay for the same and, in the event of any such failure, the Trustee may resell such Pledged Collateral. It is expressly agreed that the Trustee may exercise its rights with respect to less than all of the Pledged Collateral, leaving unexercised its rights with respect to the remainder of the Pledged Collateral; provided, however, that such partial exercise shall in no way restrict or jeopardize the Trustee's right to exercise its rights with respect to the remaining Pledged Collateral at a later time or times. The Pledgor hereby waives and releases any and all rights of redemption with respect to the sale of any Pledged Collateral.

Section 5.02 Sale Procedures. Except as may be required by any applicable laws, no demand, advertisement or notice, all of which are hereby expressly waived by the Pledgor, shall be required in connection with any sale or other disposition of all or any part of the Pledged Collateral, except that the Trustee shall give the Pledgor at least ten (10) days' prior notice of the time and place of any public sale or of the time and the place at which any private sale or other disposition is to be made, which notice the Pledgor hereby agrees is reasonable. All other demands, advertisements and notices are hereby irrevocably waived by the Pledgor. The notice of such sale shall (a) in case of a public sale, state the time and place fixed for such sale, (b) in case of a sale at a broker's board or on a securities exchange, state the board or exchange at which such sale is to be made and the day on which the Pledged Collateral, or the portion thereof so being sold, first will be offered for sale at such board or exchange, and (c) in the case of a private sale, state the date after which such sale may be consummated. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as the Trustee may fix in the notice of such sale.

Section 5.03 Adjournment; Credit Sale. The Trustee shall not be obligated to make any sale of the Pledged Collateral if it shall determine, in its sole and absolute discretion, not to do so, regardless of the fact that notice of sale may have been given, and the Trustee may without notice or publication adjourn any public or private sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. Upon each public or private sale of all or any portion of the Pledged Collateral, unless prohibited by any applicable statute which cannot be waived, the Trustee (or its nominee or designee) may purchase all or any portion of the Pledged Collateral being sold, free and clear of, and discharged from, any trusts, claims, equity or right of redemption of the Pledgor, all of which are hereby waived and released to the extent permitted by law, and may make payment therefor by credit against any of the Obligations in lieu of cash or any other obligations.

Section 5.04 Expenses of Sale. In the case of any sale, public or private, of any portion of or all of the Pledged Collateral, the Pledgor shall be responsible for the payment of all reasonable costs and expenses of every kind for the sale and delivery, including, without limitation, brokers' and reasonable attorneys' fees and disbursements and any tax imposed thereon. The proceeds of the sale of the Pledged Collateral shall be available to cover such costs and expenses, and, after deducting such costs and expenses from the proceeds of the sale, the Trustee shall apply any remaining amounts to the payment of the Obligations in the order of priority as set forth in the Company Agreements.

Section 5.05 No Public Registration of Sale. The Pledgor is aware that §9-610(c) of the UCC may restrict the Trustee's ability to purchase the Pledged Collateral at a private sale. The Pledgor is also aware that Securities and Exchange Commission (the "SEC") staff personnel have, over a period of years, issued various No-Action Letters that describe procedures which, in the view of the SEC staff, permit a foreclosure sale of securities to occur in a manner that is public for purposes of Part 6 of Article 9 of the UCC, yet not public for purposes of Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act"). The Pledgor is also aware that the Trustee may wish to purchase certain interests that are sold at a foreclosure sale, and the Pledgor believes that such purchases would be appropriate in circumstances in which such interests are sold in conformity with the principles set forth in such No-Action Letters. §9-603 of the UCC permits the Pledgor to agree on the standards for determining whether the Trustee has complied with its obligations under §9-610. Pursuant to §9-603 of the UCC, the Pledgor specifically agrees that a foreclosure sale conducted in conformity with the principles set forth in such No-Action Letters (a) shall be considered to be a "public disposition" for purposes of §9-610(c) of the UCC; (b) will be considered commercially reasonable notwithstanding that the Trustee has not registered or sought to register the interests under the Securities Act, even if the Pledgor or any Pledged Entity agree to pay all costs of the registration process; and (c) shall be considered to be commercially reasonable, notwithstanding that the Trustee purchases such interests at such a sale.

Section 5.06 Strict Foreclosure. Upon the occurrence of an Event of Default:

(a) The Trustee may, but shall have no obligation to, in its sole and absolute discretion, either negotiate an agreement ("Strict Foreclosure Agreement") with the Pledgor, or make a written proposal ("Strict Foreclosure Proposal") to the Pledgor, to retain the Pledged Collateral in full or partial satisfaction of the financial Obligations in accordance with the procedures specified in §9-620 of the UCC.

(b) In the case of a Strict Foreclosure Proposal, the Pledgor shall, within ten (10) Business Days of the Pledgor's receipt of the Strict Foreclosure Proposal, indicate the Pledgor's (i) acceptance or rejection of such Strict Foreclosure Proposal and (ii) waiver of any right to redeem the Pledged Collateral pursuant to §9-624(c) of the UCC ("UCC Waiver"). The Pledgor's indication of acceptance of a Strict Foreclosure Proposal shall be made by delivering a notice in a form substantially identical to the form attached hereto as Exhibit C.

(c) The Trustee shall notify any guarantor, any other creditor with perfected lien rights in the Pledged Collateral, and any Person, or any other person or entity entitled to notice under §9-621 of the UCC ("Interested Parties") of any Strict Foreclosure Agreement or Strict Foreclosure Proposal. Such Interested Party shall, within ten (10) Business Days of receipt of notice thereof, indicate its (i) acceptance or rejection of the Strict Foreclosure Agreement or the Strict Foreclosure Proposal, and (ii) UCC Waiver.

(d) If The Trustee fails to receive (i) the Pledgor's acceptance of a Strict Foreclosure Proposal and UCC Waiver or (ii) acknowledgements from all Interested Parties of acceptance of the Strict Foreclosure Agreement or the Strict Foreclosure Proposal, as applicable) and their respective UCC Waivers, within ten (10) Business Days of receipt of the notice periods specified in subsections (b) and (c) above (collectively the "Notice Period"), then the Pledgor, or such other Interested Party, as applicable, shall be deemed to have objected to the Strict Foreclosure Agreement or the Strict Foreclosure Proposal, as applicable.

(e) Notwithstanding the acceptance of either a Strict Foreclosure Agreement or a Strict Foreclosure Proposal by the Pledgor and each Interested Party within the applicable Notice Period, the Pledgor and the Trustee shall not be required to consummate such transfer of the Pledged Collateral unless and until (i) twenty (20) days have elapsed after the delivery of such acceptance and, (ii) any Interested Party shall have not paid and satisfied the financial Obligations in full within such twenty (20) day period as contemplated under §9-623 of the UCC (a "Redemption"). If a Redemption is consummated, the Pledgor's acceptance shall be deemed to have been revoked with the consent of the Trustee.

(f) If all the conditions specified in subsections (a) through (e) of this Section 5.06 have been satisfied, the Pledgor and each Pledged Entity shall fully cooperate, at their sole expense, in all matters deemed reasonably necessary by the Trustee to effect such transfer of ownership on the records of such Pledged Entity in accordance with any applicable requirements of the Organizational Agreement of such Pledged Entity and/or the Company Agreements. Such cooperation shall include using the Pledgor's best efforts to assist the Trustee in obtaining any necessary review, approvals and other administrative action from such Pledged Entity and the Trustee. Such assistance shall include, at the Trustee's request (i) attending all meetings with, and providing all related financial and operational documents and materials to, such third parties, and (ii) providing such assurances and executing such documentation as is required by such third parties or The Trustee to effect such transfer.

Section 5.07 Receipt of Sales Proceeds. Upon any sale of the Pledged Collateral, or any portion thereof, by the Trustee hereunder (whether by virtue of the power of sale herein granted, pursuant to judicial process or otherwise), the receipt of the proceeds by the Trustee or the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Pledged Collateral so sold, and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Trustee or such officer or be answerable in any way for the misapplication or non-application thereof.

Section 5.08 Application of Pledged Collateral. All proceeds from the sale of all or any portion of the Pledged Collateral, and all Distributions now or at any time hereafter received or retained by the Trustee pursuant to the provisions of this Agreement shall be applied by the Trustee to the satisfaction of the Obligations in such order and priority as determined by the Trustee in its sole and absolute discretion and in accordance with applicable law.

Section 5.09 Preferences. The Trustee shall have no obligation to marshal any assets in favor of the Pledgor or any other party or against, or in payment of, any or all of the Obligations. To the extent the Pledgor makes a payment or payments to the Trustee, which payment or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any Bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Obligations intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by the Trustee.

Section 5.10 Limitation. The rights and powers of the Trustee set out in this Article V are subject to the limitation of Section 4.10 hereof.

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## ARTICLE VI

### SECURITIES ACT

Section 6.01 Private Securities Sale. If at any time when the Trustee shall determine to exercise its right to sell all or any part of the Pledged Collateral pursuant to Article V of this Agreement, and such Pledged Collateral or the part thereof to be sold shall not, for any reason whatsoever, be effectively registered under the Securities Act, as then in effect, the Trustee may, in its sole and absolute discretion, sell such Pledged Collateral or part thereof by private sale (for securities law purposes) in such manner and under such circumstances as the Trustee may deem necessary or advisable in order that such sale may legally be effected without such registration, provided that at least ten (10) days' notice is given to the Pledgor in accordance with the private sale notice provisions of Article V of this Agreement. Without limiting the generality of the foregoing, in any such event the Trustee, in its sole and absolute discretion (a) may proceed to make such private sale notwithstanding that a registration statement for the purpose of registering such Pledged Collateral or part thereof shall have been filed under such Securities Act, (b) may approach and negotiate with a single potential purchaser to effect such sale, and (c) may restrict such sale to a purchaser who will represent and agree that such purchaser is purchasing for its own account, for investment, and not with a view to the distribution or sale of such Pledged Collateral or part thereof. In the event of any such sale, the Trustee shall incur no responsibility or liability for selling all or any part of the Pledged Collateral at a price which the Trustee may in good faith deem reasonable under the circumstances, notwithstanding the possibility that a substantially higher price might be realized if the sale was made pursuant to a filed registration statement under the Securities Act.

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## ARTICLE VII

### MISCELLANEOUS

Section 7.01 Further Assurances. The Pledgor hereby agrees to sign and deliver to the Trustee financing statements, continuation statements and other documents, agreements, and instruments, in form acceptable to the Trustee, and do such further acts, as the Trustee may from time to time reasonably request or which are reasonably necessary to establish and maintain a valid and perfected security interest in the Pledged Collateral (and to pay any filing fees relative thereto) or to further assure or confirm the Trustee's rights hereunder. Without limiting the foregoing, the Pledgor authorizes the Trustee, to the extent permitted by law, to file such financing statements and amendments thereto and continuations thereof relating to all or any part of the Pledged Collateral without the signature of the Pledgor (including, to the extent permitted by law, to file a photographic or other reproduction of this Agreement).

Section 7.02 No Release, Etc. No delay or omission to exercise any remedy, right or power accruing upon a default or an Event of Default shall impair any such remedy, right or power or shall be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of any default or Event of Default shall not be construed to be a waiver of any subsequent default or Event of Default or to impair any remedy, right or power of the Trustee. Any and all of the Trustee's rights with respect to any Pledged Collateral shall continue unimpaired, and the Pledgor shall be and remain obligated in accordance with the terms hereof, notwithstanding, among other things: (a) any renewal, extension, amendment or modification of, or addition or supplement to, or deletion from, this Agreement or any other Company Agreement or any other instrument or agreement referred to therein, or any assignment or transfer of any thereof; (b) any waiver, consent, delay, extension of time, indulgence or other action or inaction under or in respect of this Agreement or any other Company Agreement; (c) any exercise or non-exercise of any right, remedy, power or privilege under or in respect of this Agreement or any other Company Agreement; (d) any sale, exchange, release, surrender, or substitution of, or realization upon, any Pledged Collateral (except to the extent otherwise specifically agreed to by the Trustee) or any other security held by the Trustee to cure the financial Obligations; (e) the furnishing to or acceptance by the Trustee of any additional security to secure the financial Obligations; or (f) any invalidity, irregularity or unenforceability of all or any part of the Obligations or of any security therefor.

Section 7.03 Notices. All notices, consents, approvals, demands and requests required or permitted hereunder shall be given in the manner set forth in the Acknowledgment.

Section 7.04 Modification; Waiver in Writing. No modification, amendment, extension, discharge, termination or waiver of any provision of this Agreement, nor consent to any departure by the Pledgor therefrom, shall in any event be effective unless the same shall be in a writing signed by the party against whom enforcement is sought, and then such waiver or consent shall be effective only in the specific instance, and for the purpose, for which given. Except as otherwise expressly provided herein, no notice to, or demand on the Pledgor, shall

entitle the Pledgor to any other or future notice or demand in the same, similar or other circumstances.

Section 7.05 Number and Gender. All references to sections and exhibits are to sections and exhibits in or to this Agreement unless otherwise specified. Unless otherwise specified, the words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision, article, section or other subdivision of this Agreement. Unless otherwise specified, all meanings attributed to defined terms herein shall be equally applicable to both the singular and plural forms of the terms so defined. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 7.06 Headings, Etc. The headings and captions of various paragraphs of this Agreement are for the convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 7.07 Counterparts. This Agreement may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Agreement. The failure of any party hereto to execute this Agreement, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

Section 7.08 GOVERNING LAW; SEVERABILITY. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW JERSEY, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICT OF LAWS THEREUNDER. WHEREVER POSSIBLE, EACH PROVISION OF THIS AGREEMENT SHALL BE INTERPRETED IN SUCH MANNER AS TO BE EFFECTIVE AND VALID UNDER APPLICABLE LAW, BUT IF ANY PROVISION OF THIS AGREEMENT SHALL BE PROHIBITED BY OR INVALID UNDER APPLICABLE LAW, SUCH PROVISION SHALL BE INEFFECTIVE TO THE EXTENT OF SUCH PROHIBITION OR INVALIDITY, WITHOUT INVALIDATING THE REMAINDER OF SUCH PROVISION OR THE REMAINING PROVISIONS OF THIS AGREEMENT.

Section 7.09 JURY TRIAL. THE PLEDGOR AND THE TRUSTEE (BY ACCEPTANCE OF THIS AGREEMENT) MUTUALLY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THE COMPANY AGREEMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY, INCLUDING, WITHOUT LIMITATION, ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS OR ACTIONS OF THE TRUSTEE RELATING TO THE ADMINISTRATION OR ENFORCEMENT OF THE COMPANY AGREEMENTS, AND AGREE THAT NEITHER PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS

NOT BEEN WAIVED. EXCEPT AS PROHIBITED BY LAW, THE PLEDGOR HEREBY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION ANY EXEMPLARY, OR PUNITIVE DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. THE PLEDGOR CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE TRUSTEE HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT TRUSTEE WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR TRUSTEE TO ACCEPT THIS AGREEMENT.

Section 7.10 Successors and Assigns. This Agreement and all obligations of the Pledgor hereunder shall be binding upon the successors and assigns of the Pledgor, except that the Pledgor shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Trustee. The Trustee shall have the right to assign its interest in this Agreement and all rights and remedies of the Trustee hereunder shall inure to the benefit of the Trustee and its participants, successors and assigns. Neither this Agreement nor anything set forth herein is intended to, nor shall it, confer any rights on any person or entity other than the parties hereto and all third party rights are expressly negated.

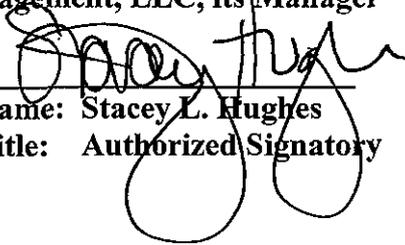
Section 7.11 Term; Termination of Pledge. This Agreement shall terminate at the end of the recapture period relating to the investment tax credit (or the Section 1603 Grant in lieu of such credit) available to the Company under Sections 38, 46 and 48 of the Code in connection with the Renewable Energy Projects, as certified to the Trustee by an Authorized Officer of the Company in a certificate to such effect delivered by or on behalf of the Company to the Trustee and the Authority.

**SIGNATURE PAGE TO FOLLOW**

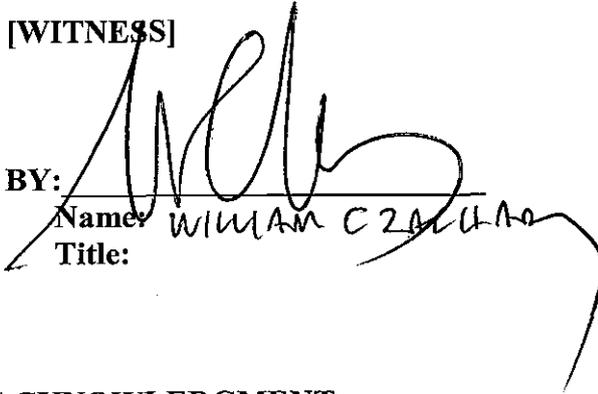
IN WITNESS WHEREOF, the Pledgor has caused this Pledge and Security Agreement to be duly executed and delivered, all as of the day and year first above written.

SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC

By: Sunlight General Capital Management, LLC, its Manager

By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

[WITNESS]

BY:   
Name: WILLIAM CZUCHRA  
Title:

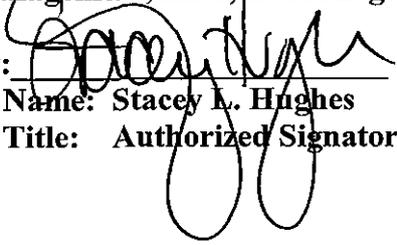
Jurisdiction of Organization: New Jersey  
Place of Business:  
501 Fifth Avenue, Suite 602  
New York, New York 10017

ACKNOWLEDGMENT

The terms of this Pledge and Security Agreement are hereby acknowledged, and accepted, by the Company, as of the 1<sup>st</sup> day of December, 2011.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC,

By: Sunlight General Capital Management, LLC, its Manager

By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

**Schedule 1**

<b>Pledgor, consisting of the following Persons</b>	<b>Pledged Entity</b>	<b>Pledged Equity Interest</b>
Sunlight General Sussex Holdings, LLC	Company	All Pledgor's Membership Interest in the Company

## Exhibit A

### AGREEMENT AND ACKNOWLEDGMENT

THE UNDERSIGNED hereby agrees, acknowledges and consents to the execution and delivery to U.S. BANK NATIONAL ASSOCIATION (the "*Bank*"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State of New Jersey (the "*State*"), where the Bank acts as trustee (together with its successors, assigns, and designees for the purposes hereof, the "*Trustee*") under and pursuant to that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Morris County Improvement Authority (the "*Authority*") as resolution number 11-39 on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds authorized and defined therein (the "*Bond Resolution*"), of the Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of December 1, 2011 to which this Agreement and Acknowledgement is attached (as amended and supplemented, the "*Pledge Agreement*") made by all of the Persons (collectively, the "*Pledgor*"), as collateral security for the payment and performance of the Obligations, and the assignment and pledge thereby to the Trustee by the Pledgor of all of the Pledgor's right, title and interest to the Pledged Collateral described therein. All capitalized terms used herein not otherwise defined herein shall have the meanings ascribed to such terms in the Pledge Agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned, hereby represents, warrants, covenants and agrees for the benefit of the Trustee as follows:

1. Representations and Warranties. The undersigned represents and warrants that (a) the execution and delivery of the Pledge Agreement does not violate any of such undersigned's Organizational Agreements or any other agreement to which such undersigned is a party or by which any of the property of such undersigned is bound, (b) the undersigned has not entered into a control agreement perfecting a security interest in any of the Equity Interests favor of any other party (other than pursuant to the Permitted Encumbrances), (c) the Pledged Collateral is not subject to any security interest or lien in favor of any Person, or other person or entity (other than the Trustee) and has not been pledged, transferred or assigned to, and is not otherwise in the control of, any Person, or other person or entity (other than the Trustee), (d) the undersigned does not have any present claim, right of offset, or counterclaim against the Pledgor under or with respect to the Pledged Collateral or otherwise under any of the undersigned's Organizational Agreements, (e) the Pledgor is not in default to the undersigned or otherwise under or in respect of any of his obligations under any of such undersigned's Organizational Agreements, and (f) all of the representations and warranties of the Pledgor made in the Pledge Agreement are true, accurate and complete in all material respects.



Email: jbonann@co.morris.nj.us

With a copy to:

Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com

(ii) If to Trustee

U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to:

Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)

(iii) If to undersigned

Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email : principals@sunlightgeneral.com

With a copy to:

James Duffy Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com

3. Events of Default; Sales of Pledged Collateral. The undersigned hereby agrees that upon the occurrence of an Event of Default, (a) all Distributions will be made directly to the Trustee, (b) the Trustee shall have the sole and exclusive right to exercise all voting, consensual and other powers of ownership pertaining to the Pledged Collateral, (c) the Trustee may take any reasonable action which the Trustee may deem necessary for the maintenance, preservation and protection of any of the Pledged Collateral or the Trustee's security interests therein, including, without limitation, the right to declare any or all Obligations to be immediately due and payable without demand or notice and the right to transfer any of the Pledged Equity or other Pledged Collateral into the Trustee's name or the name of any designee or nominee of the Trustee, (d) the Trustee may dispose of the Pledged Collateral in accordance with Articles 8 and 9 of the UCC and the provisions of the Pledge Agreement, in which case, notwithstanding anything to the contrary in the Organizational Agreements, (i) the Trustee, or its designee or assign, shall automatically be admitted as a member of the undersigned and shall be entitled to receive all

benefits and exercise all rights in connection therewith pursuant to the Organizational Agreements of the undersigned, (ii) the undersigned shall recognize the Trustee (or its designee or assign) as the successor in interest to the Pledgor, and (iii) notwithstanding any provisions to the contrary in the Organizational Agreements, the Trustee shall not be required to pay any fees or other consideration of any type, or execute any documents, or be limited by any requirements or conditions whatsoever (regarding Distributions receivable by the Trustee from the undersigned, the Trustee's financial condition or otherwise), other than any such requirements, if any, that are expressly set forth in the Company Agreements.

4. No Liability. Notwithstanding the security interests of the Trustee in the Pledged Collateral or any of its rights hereunder, (a) the Trustee shall have no obligation or liability whatsoever for matters in connection with the Pledged Equity arising or occurring, directly or indirectly, prior to the Trustee's (or its designee's, successor's or assign's) becoming a shareholder, member or partner, as the case may be, of the undersigned, and except to the extent set forth in the Company Agreements, the Pledgor shall have no liability for matters in connection with the Pledged Equity first occurring or arising after the Trustee's (or its designee's, successor's or assign's) acquisition through foreclosure of the Pledged Equity, and (b) the Trustee shall not be obligated to perform any of the obligations or duties of the Pledgor under any of the undersigned's Organizational Agreements, or to take any action to collect or enforce any claim for payment due the Pledgor arising thereunder.

5. Transfers. The undersigned acknowledges that the security interest of the Trustee in the Pledged Collateral and all of the Trustee's rights and remedies under the Pledge Agreement may be freely transferred or assigned by the Trustee. In the event of any such transfer or assignment, all of the provisions of this Agreement and Acknowledgment shall inure to the benefit of the transferees, successors, and/or assigns of the Trustee. The provisions of this Agreement and Acknowledgment shall likewise be binding upon any and all permitted transferees, successors and assigns of the undersigned.

6. Further Assurances. The undersigned shall, from time to time, promptly execute and deliver such further instruments, documents and agreements, and perform such further acts as may be reasonably necessary or proper to carry out and effect the terms of the Pledge Agreement and this Agreement and Acknowledgment.

7. Reliance. This Agreement and Acknowledgment is being given to induce the Trustee to accept the Pledge Agreement and with the understanding that the Trustee will rely hereon.

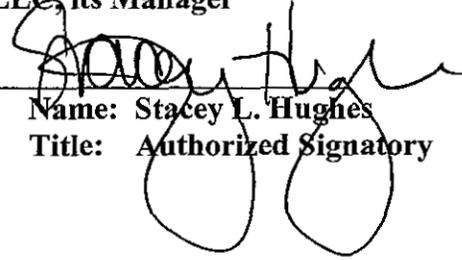
8. Counterparts. This Agreement and Acknowledgment may be executed in counterparts.

9. Miscellaneous. The provisions of Article 7 of the Pledge Agreement are hereby incorporated herein by this reference (with all references to the Pledgor therein deemed to mean and refer to the undersigned).

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC,  
as Pledged Entity (the Company)**

**By: Sunlight General Capital Management,  
LLC, its Manager**

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "Stacey L. Hughes", written over a horizontal line. The signature is stylized and cursive.

**Name: Stacey L. Hughes  
Title: Authorized Signatory**

**Exhibit B**

**Organizational Agreements**

**See Closing Item No. 34c**

**Exhibit C**

Acceptance of the Trustee's Proposal under Section 5.06

\_\_\_\_\_, 20\_\_

U.S. Bank National Association, as Trustee  
Morristown, NJ

Ladies and Gentlemen:

This letter agreement and waiver is being delivered by the undersigned (the "Pledgor") to [\_\_\_\_\_] (the "Trustee") in connection with that certain Pledge and Security Agreement dated as of December 1, 2011 by the Pledgor in favor of the Trustee (as amended and supplemented, the "Pledge Agreement"). All capitalized terms used herein, unless otherwise defined herein, shall have the meanings specified in the Pledge Agreement.

1. As contemplated by Section 5.06 of the Pledge Agreement, the Pledgor hereby accepts the Trustee's Strict Foreclosure Proposal to retain all right, title and interest in and to the Pledged Collateral, and agrees to ratify such retention at the direction of the Trustee in accordance with such Section 5.06 and the other applicable provisions of the Company Agreements.

2. This acceptance is irrevocable and unconditional, subject, however, to the terms of Paragraph 5 below.

3. All of the Interested Parties acknowledge and consent to the acceptance and agreements set forth in Paragraph 1 and Paragraph 2 hereof.

4. In accordance with Section 9-624(c) of the UCC, each Pledged Entity and each Interested Party, hereby waives, effective as of the date hereof, all of its rights under the UCC with respect to the Facility, the Pledge Agreement and the Pledged Collateral, if any, including any rights described in Section 9-623 of the UCC, in each case to the fullest extent such rights may be waived in accordance with the UCC ("UCC Waiver").

5. Notwithstanding the acceptance and UCC Waiver, the Pledgor and the Trustee shall not be required to consummate such retention by the Trustee unless and until (a) twenty (20) days have elapsed after the delivery of such acceptance, and (b) none of the Interested Parties have caused the entire financial Obligations to be paid and satisfied in full within such twenty day period (a "Redemption"), and, if a Redemption is consummated pursuant to the terms of the Company Agreements and in accordance with applicable law, the Pledgor's acceptance shall be deemed to have been revoked with the consent of the Trustee.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX  
HOLDINGS, LLC**

**By: Sunlight General Capital  
Management, LLC, its Manager**

**By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory**

**ACKNOWLEDGED AND AGREED:**

\_\_\_\_\_  
a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

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**COUNTY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)**

**among**

**COUNTY OF SUSSEX**

**and**

**U.S. BANK NATIONAL ASSOCIATION, as Trustee**

**and**

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

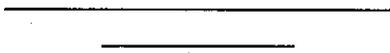
**Dated as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

**COUNTY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)**

THIS COUNTY CONTINUING DISCLOSURE AGREEMENT (SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011) (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "*County Continuing Disclosure Agreement*") is made and entered into as of December 1, 2011 by and among the COUNTY OF SUSSEX, NEW JERSEY, a political subdivision of the hereinafter defined State (the "*County*"), U.S. BANK NATIONAL ASSOCIATION (the "*Bank*"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State of New Jersey (the "*State*"), where the Bank acts as trustee under and pursuant to the hereinafter defined Bond Resolution (including any successors and assigns, the "*Trustee*"), and the MORRIS COUNTY IMPROVEMENT AUTHORITY, a public body corporate and politic duly created and validly existing under the laws of the State (including any successors and assigns, the "*Authority*").



**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy

Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the “*Local Unit Facilities*”);

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the “*Municipal Series 2011 Local Units*”); and
- (ii) Byram Township School District, Frankford Township’s Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the “*Board of Education Series 2011 Local Units*”); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the “*County Series 2011 Local Units*”);

(each a “*Series 2011 Local Unit*”, and, collectively, the “*Series 2011 Local Units*”), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease

Revenue Bonds, Series 2011A (Federally Taxable)” dated their date of delivery (the “*Series 2011A Bonds*”) the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the “*Series 2011A Bonds*”), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)” (the “*Series 2011B Note*”, and together with the Series 2011A Bonds, “*Series 2011 Bonds*”), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year’s worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*”);

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the “*Bonds*”) shall be issued pursuant to the terms of that certain “RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY” adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the “*Bond Resolution*”), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a “*Local Unit License Agreement*”, and collectively, the “*Local Unit License Agreements*”) with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the “*Local Unit License*”), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced

from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

(b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("*SRECs*") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to

purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the “*Company Documents*”;

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain “County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the “*County Guaranty Agreement*”) by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County’s obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the “*County Guaranty*”), all pursuant to Section 37 (“*Section 37*”) of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and

executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic

Lease Payment Date (the “Cash Equity Contribution”) which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the “*Equity Contribution*”), (ii) a cash reserve in the amount of \$1,500,000 (the “*County Reserve*”) to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above (i) reduce the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member’s interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain “Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the

“*Company Pledge Agreement*”), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12 (“*Rule 15c-12*”) promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain “Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the “*Company Continuing Disclosure Agreement*”) with the Authority and the Trustee, as dissemination agent (the “*Dissemination Agent*”) in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain “County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the “*County Continuing Disclosure Agreement*” and together with the Company Continuing Disclosure Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “County Documents”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary*”

*Official Statement*"); and (ii) the execution and delivery of a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "*Sale Documents*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("*Section 13*") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "*Sussex County Board of Freeholders*") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program Documents*"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE**, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

#### SECTION 1.1. Definitions.

The following additional terms shall have the meanings specified below:

“Annual Report” means Financial Statements and Operating Data provided at least annually with respect to the County.

“Bondholder” or “Holder” or any similar term, when used with reference to the Series 2011 Bonds, means any person who shall be the registered owner of any outstanding the Series 2011 Bonds, including holders of beneficial interests in the Series 2011 Bonds.

“Bond Disclosure Event” means any event described in subsection 2.6(a) of this County Continuing Disclosure Agreement.

“Bond Disclosure Event Notice” means the notice to the MSRB as provided in subsection 2.6(b) of this County Continuing Disclosure Agreement.

“Dissemination Agent” means an entity acting in its capacity as Dissemination Agent under this County Continuing Disclosure Agreement, or any successor Dissemination Agent designated in writing by the County and which has filed a written acceptance of such designation.

“Final Official Statement” means the Official Statement relating to the Series 2011A Bonds dated December 7, 2011.

“Financial Statements” means the audited financial statements of the County for each Fiscal Year and includes balance sheets, statements of changes in fund balances and statements of current funds, revenues, expenditures and other charges or statements which convey similar information.

“Fiscal Year” means the fiscal year of the County as determined by the County from time to time pursuant to State law. As of the date of this County Continuing Disclosure Agreement, the Fiscal Year of the County begins on January 1 of each calendar year and closes on the following December 31.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States of America, consistently applied, as modified by governmental accounting

standards and mandated State statutory principles applicable to the County as may be in effect from time to time.

“GAAS” means generally accepted auditing standards as in effect from time to time in the United States of America, consistently applied, as modified by governmental auditing standards and mandated State statutory principles applicable to the County as may be in effect from time to time.

“MSRB” means the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to Rule 15c2-12. Effective August 1, 2009 and until otherwise designated by the MSRB or the SEC, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) website of the MSRB, currently located at <http://emma.msrb.org>.

“Operating Data” means certain financial and statistical information of the County, which for purposes of this County Continuing Disclosure Agreement shall include the financial and statistical information in Appendix A and B to the Final Official Statement, a copy of which is attached hereto as Exhibit A.

“SEC” means the Securities and Exchange Commission.

Notwithstanding anything contained herein to the contrary, the following defined terms may be amended or supplemented in accordance with the provisions of Section 4.6 and 4.7 of the Power Purchase Agreement, and to the extent the Power Purchase Agreement is amended for such purpose, such following defined terms shall automatically (without any further action) be amended and supplemented for all purposes hereof: Capital Improvement Projects, Local Unit Facilities, Projects, Renewable Energy Projects, and Series 2011 Local Units.

Section 1.3. Interpretation. Words of masculine gender include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular include the plural and vice versa, and words importing Persons include corporations, associations, partnerships (including limited partnerships), trusts, firms and other legal entities, including public bodies, as well as natural persons. Articles and Sections referred to by number mean the corresponding Articles and Sections of this County Continuing Disclosure Agreement. The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms as used in this County Continuing Disclosure Agreement, refer to this County Continuing Disclosure Agreement as a whole unless otherwise expressly stated.

The headings of this County Continuing Disclosure Agreement are for convenience only and shall not define or limit the provisions hereof.

## ARTICLE 2

### CONTINUING DISCLOSURE COVENANTS AND REPRESENTATIONS

Section 2.1. Continuing Disclosure Covenants of the County. The County agrees that it will provide, or, if the County has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to provide:

(a) Not later than two hundred twenty-five (225) days after the end of each Fiscal Year, commencing with the Fiscal Year of the County ending after December 31, 2011, an Annual Report to the MSRB via electronic format (accompanied by such identifying information as is prescribed by the MSRB) and to the Authority; provided that the Financial Statements of the County may be submitted separately from the balance of the Annual Report and later than the date required herein for the filing of the Annual Report if the Financial Statements of the County are not available by that date, but only if the unaudited financial statements of the County are included in the Annual Report; and

(b) Not later than fifteen (15) days prior to the date of each year specified in subsection 2.1(a), a copy of the Annual Report, complete to the extent required in Section 2.1(a), to the Trustee and the Dissemination Agent, if the County has appointed or engaged a Dissemination Agent.

Section 2.2. Continuing Disclosure Representations of the County. The County represents and warrants that:

(a) Financial Statements shall be prepared according to the audit requirements prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey and Government Auditing standards issued by the Comptroller General of the United States.

(b) Financial Statements shall be audited by an independent certified public accountant or a registered municipal accountant or such other accountant as shall be permitted or required under State law in accordance with GAAS.

Section 2.3. Form of Annual Report. (a) The Annual Report may be submitted by the County, or on behalf thereof, as a single document or as separate documents comprising a package.

(b) Any or all of the items which must be included in the Annual Report may be incorporated by reference from other documents, including official statements delivered in connection with other financings issued on behalf of the County or related public entities thereof which have been made available to the public on the MSRB's website or filed with the SEC. If the document incorporated by reference is a final official statement, it must be available from the

MSRB. The County shall clearly identify each such other document so incorporated by reference.

(c) The Annual Report for any Fiscal Year containing any modified operating data or financial information (as contemplated by Sections 4.9 and 4.10 hereof) for such Fiscal Year shall explain, in narrative form, the reasons for such modification and the effect of such modification on the Annual Report being provided for such Fiscal Year.

Section 2.4. Responsibilities and Duties of the Authority, the County, the Dissemination Agent and the Trustee.

(a) If fifteen (15) days prior to the date specified in subsection 2.1(a), the Trustee has not received a copy of the Annual Report, complete to the extent required in Section 2.1(a), the Trustee shall notify the County in writing to provide notice of the County's obligations pursuant to Sections 2.1(a), 2.1(b) and 2.4(c) hereof.

(b) If the Trustee, by the date specified in subsection 2.1(a) herein, has not received a written report from the County, as required by Section 2.4(c) hereof, indicating that an Annual Report, complete to the extent required in Section 2.1(a), been provided to the MSRB and to the Authority by the date specified in subsection 2.1(a), the Trustee shall send a notice to the MSRB, in electronic format, substantially in the form attached hereto as Exhibit B, together with identifying information as prescribed by the MSRB, with a copy thereof to the Authority and the County.

(c) The County shall, or, if the County has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to, by the date specified in subsection 2.1(a) herein, provide a written report to the Authority and the Trustee (and, if a Dissemination Agent has been appointed, to the County), upon which said parties may rely, certifying that the Annual Report, complete to the extent required in Section 2.1(a), has been provided pursuant to this Continuing Disclosure Agreement, and stating the date that it was provided to the MSRB.

(d) If the Fiscal Year of the County changes, the County shall promptly notify, in writing, the Authority and the Trustee, and shall disclose such change in its next Annual Report.

Section 2.5. Appointment, Removal and Resignation of the Dissemination Agent.

(a) The County may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this County Continuing Disclosure Agreement and shall provide notice of such appointment to the Trustee and the Authority. Thereafter, the County may discharge any such Dissemination Agent and satisfy its obligations under this County Continuing Disclosure Agreement without the assistance of a Dissemination Agent, or the County may discharge a Dissemination Agent and appoint a successor Dissemination Agent, such discharge to be effective on the date of the appointment of a successor Dissemination Agent. The County shall provide notice of the discharge of a Dissemination Agent to the Trustee

and the Authority and shall further indicate either the decision of the County to satisfy its obligations under this County Continuing Disclosure Agreement without the assistance of a Dissemination Agent or the identity of the new Dissemination Agent. In the absence of a separate Dissemination Agent, the Trustee shall assume and discharge all of the obligations as Dissemination Agent under this County Continuing Disclosure Agreement.

(b) The Dissemination Agent shall have only such duties as are specifically set forth in this County Continuing Disclosure Agreement.

(c) The Dissemination Agent, or any successor thereto, may at any time resign and be discharged of its duties and obligations hereunder by giving not less than thirty (30) days written notice to the County. Such resignation shall take effect on the date specified in such notice.

Section 2.6. Responsibilities and Duties of the Authority.

(a) Authority agrees that it will provide in a timely manner to the MSRB not in excess of ten (10) business days, notice of any of the following events with respect to the Series 2011 Bonds (each, a "Bond Disclosure Event"), and will provide a copy of such notice to the Trustee and the County, for informational purposes only:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves, reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements, reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Series 2011 Bonds, or other material events affecting the tax status of the Series 2011 Bonds;
- (vii) Modifications to rights of the holder of the Series 2011 Bonds, if material;
- (viii) Bond calls, if material and tender offers;
- (ix) Defeasances;

(x) Release, substitution, or sale of property securing repayment of the Series 2011 Bonds, if material; and

(xi) Rating changes;

(xii) Bankruptcy, insolvency, receivership or similar events of the County;

(xiii) The consummation of a merger, consolidation or acquisition involving the County of the sale of all or substantially all of the assets of the County, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action of the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

(xiv) Appointment of a successor or additional trustee or the change of name of trustee, if material.

(b) If the Authority has determined that the occurrence of a Bond Disclosure Event has occurred, the Authority shall promptly provide a notice of such occurrence to the MSRB (the "Bond Disclosure Event Notice") in electronic format together with identifying information as prescribed by the MSRB, in the form determined by the Authority; provided, that the Bond Disclosure Event Notice pertaining to the occurrence of a Bond Disclosure Event described in clauses 2.6(a)(viii) (Bond calls) or 2.6(a)(ix) (defeasances) need not be given under this subsection any earlier than the time when the notice (if any) of such Bond Disclosure Event shall be given to Series 2011 Bondholders of affected Bonds as provided in the Bond Resolution. The obligations of the Authority to provide the notices required under this Continuing Disclosure Agreement are in addition to, and not in substitution of, any of the obligations (if any) of the Trustee to provide notices of events of default to Series 2011 Bondholders under said Bond Resolution. The Authority shall file a copy of each Bond Disclosure Event Notice with the Trustee and the County, for informational purposes only.

#### Section 2.7. Immunities and Liabilities of the Trustee.

Article X of the Bond Resolution, relating to compensation, reimbursement, immunities and liabilities of the Trustee, is hereby made applicable to its and the Dissemination Agent's responsibilities under this County Continuing Disclosure Agreement. The immunities and liabilities of the Trustee and Dissemination Agent shall survive the termination of the Bond Resolution, as amended and supplemented and the removal or resignation of the Trustee or the Dissemination Agent. The Trustee shall have no obligation hereunder to provide, or to monitor the Authority's obligation to provide, Bond Disclosure Event Notices.

## ARTICLE 3

### REMEDIES [Subject to Bond Resolution]

#### Section 3.1. Remedies.

(a) The Trustee may (and at the request of the Holders of at least twenty-five percent (25%) in aggregate principal amount of outstanding the Series 2011 Bonds, and after provision of indemnity in accordance with Section 10.03 of the Bond Resolution, shall), or any Bondholder, for the equal benefit and protection of all Bondholders similarly situated, may take whatever action at law or in equity against the County and the Authority and any of their respective officers, agents and employees which is necessary or desirable to enforce the specific performance and observance of any obligation, agreement or covenant of the County and the Authority under this County Continuing Disclosure Agreement and may compel the County or the Authority or any of their respective officers, agents or employees (except for the Dissemination Agent with respect to the obligations, agreements and covenants of the County), to perform and carry out their duties under this County Continuing Disclosure Agreement; provided, that no person or entity shall be entitled to recover monetary damages hereunder under any circumstances; and provided further that any Bondholder, acting for the equal benefit and protection of all Bondholders similarly situated, may pursue specific performance only with respect to the failure to file the Annual Reports and Bond Disclosure Event Notices required by this County Continuing Disclosure Agreement, and may not pursue specific performance in challenging the adequacy of Annual Reports which have been filed pursuant to the provisions hereof.

(b) In case the Trustee or any Bondholder shall have proceeded to enforce its rights under this County Continuing Disclosure Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or any Bondholder, as the case may be, then and in every such case the County, the Authority, the Trustee and any Bondholder, as the case may be, shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the County, the Authority, the Trustee and any Bondholder shall continue as though no such proceeding had been taken.

(c) A failure by the Authority or the County to perform their respective obligations under this County Continuing Disclosure Agreement shall not be deemed an event of default under any other agreement entered into in connection with the issuance of the Series 2011 Bonds or the Bond Resolution, and the sole remedy under this County Continuing Disclosure Agreement in the event of any failure by the Authority or the County to comply with this County Continuing Disclosure Agreement shall be as set forth in subsection 3.1(a) of this County Continuing Disclosure Agreement.

## ARTICLE 4

### MISCELLANEOUS

Section 4.1. Purposes of this County Continuing Disclosure Agreement. This County Continuing Disclosure Agreement is being executed and delivered by the County, the Trustee and the Authority for the benefit of the Bondholders and in order to assist the Participating Underwriter in complying with clause (b)(5) of Rule 15c2-12.

Section 4.2. The Authority and the Bondholders.

(a) The Authority may enforce any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee or the Holders of the Series 2011 Bonds.

(b) Each Bondholder is hereby recognized as being a third-party beneficiary hereunder and each may enforce, for the equal benefit and protection of all Bondholders similarly situated, any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee, to the extent permitted in Section 3.1(a) hereof.

Section 4.3. Obligations of the Authority Hereunder; Indemnified Parties. Neither the Authority nor any member, official, employee, counsel, consultant or agent of the Authority or any person executing the Series 2011 Bonds shall bear any obligation for the performance of any duty, agreement or covenant of the County or the Trustee under this County Continuing Disclosure Agreement. The obligations of the Authority under this County Continuing Disclosure Agreement are expressly limited to the duties set forth in Sections 2.6, 4.9(c) and 4.12 herein.

The County agrees to indemnify and hold harmless the Authority, any member, officer, official, employee, counsel (including, without limitation, Bond Counsel to the Authority), consultant and agent of the Authority, including the Trustee and the Dissemination Agent and any of their members, officers or employees or agents or any purchaser of the Series 2011 Bonds (collectively, the "Indemnified Parties"), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by the County's failure to perform or observe any of the County's obligations, agreements or covenants under the terms of this County Continuing Disclosure Agreement, but only if and insofar as such losses, claims, damages, liabilities or expenses are caused directly or indirectly by any such failure of the County to perform. In case any action shall be brought against the Indemnified Parties based upon this County Continuing Disclosure Agreement and in respect of which indemnity may be sought against the County, the Indemnified Parties shall promptly notify the County in writing. Upon receipt of such notification, the County shall promptly assume the defense of such action, including the retention of counsel, the payment of all expenses in connection with such action and the right to negotiate and settle any such action on behalf of such party to the extent allowed by law. Any Indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such

Indemnified Party unless the employment of such counsel has been specifically authorized by the County, or unless by reason of conflict of interest determined by the written opinion of counsel to any such party, it is advisable for such party to be represented by separate counsel, to be retained by the County, in which case the fees and expenses of such separate counsel shall be borne by the County. The County shall not be liable for any settlement of any such action effected without its written consent, but if settled with the written consent of the County or if there be a final judgment for the plaintiff in any such action with or without written consent, the County agrees to indemnify and hold harmless the Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Nothing in this paragraph shall require or obligate the County to indemnify or hold harmless the Indemnified Parties from or against any loss, claim, damage, liability or expense caused by any negligence, recklessness or intentional misconduct of the Indemnified Parties in connection with the County's performance of its obligations, agreements and covenants under this County Continuing Disclosure Agreement. The provisions of this section shall survive the termination of this County Continuing Disclosure Agreement and the removal or resignation of the Trustee.

Section 4.4. Additional Information. Nothing in this County Continuing Disclosure Agreement shall be deemed to prevent the County or the Authority (a) from disseminating any other information, using the means of dissemination set forth in this County Continuing Disclosure Agreement or any other means of communication, or (b) including, in addition to that which is required by this County Continuing Disclosure Agreement, in the case of the County, any other information in any Annual Report and in the case of the Authority, any other information in any Bond Disclosure Event Notice. If the County chooses to include any information in any Annual Report or if the Authority chooses to include any information in any Bond Disclosure Event Notice, in addition to that which is specifically required by this County Continuing Disclosure Agreement, neither the County nor the Authority shall have any obligation under this County Continuing Disclosure Agreement to update such information or include it in any future Annual Report or Bond Disclosure Event Notice, as the case may be.

Section 4.5. Notices. All notices required to be given or authorized to be given by each party pursuant to this County Continuing Disclosure Agreement shall be in writing and shall be sent by registered or certified mail (as well as by facsimile), addressed to: in the case of the County, One Spring Street, Newton, New Jersey (attention: County Treasurer); in the case of the Trustee, U.S. Bank National Association, 21 South Street, 3rd Floor, Morristown, New Jersey 07960, Attention Paul O'Brien, with a copy to Nicholas A. Concilio, Esq., McElroy, Deutsch, Mulvaney & Carpenter, LLP, 1300 Mt. Kemble Avenue, P.O. Box 2075, Morristown, NJ 07962-2075, Email: nconcilio@mdmc-law.com; and in the case of the Authority, the Morris County Improvement Authority, P.O. Box 900, Morristown, NJ 07963-0900 (attention: Chairman), with a copy to Stephen B. Pearlman, Esq., of Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, NJ 07054. In addition, all notices sent to the County shall also be sent to the County's auditor and bond counsel.

Section 4.6. Assignments. This County Continuing Disclosure Agreement may not be assigned by any party without the consent of the others and, as a condition to any such

assignment, only upon the assumption in writing of all of the obligations imposed upon such party by this County Continuing Disclosure Agreement.

Section 4.7. Severability. If any provision of this County Continuing Disclosure Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 4.8. Execution of Counterparts. This County Continuing Disclosure Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Each party hereto may sign the same counterpart or each party hereto may sign a separate counterpart.

Section 4.9. Amendments, Changes and Modifications.

(a) Except as otherwise provided in this County Continuing Disclosure Agreement, subsequent to the initial issuance of the Series 2011 Bonds and prior to their payment in full (or provision for payment thereof having been made in accordance with the provisions of the Bond Resolution), this County Continuing Disclosure Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto.

(b) Without the consent of any Bondholders, the County, the Trustee and the Authority at any time and from time to time may enter into any amendments or modifications to this County Continuing Disclosure Agreement for any of the following purposes:

(i) to add to covenants and agreements of the County or the Authority hereunder for the benefit of the Bondholders, or to surrender any right or power conferred upon the County or the Authority by this County Continuing Disclosure Agreement;

(ii) to modify the contents, presentation and format of the Annual Report from time to time to conform to changes in accounting or disclosure principles or practices and legal requirements followed by or applicable to the County or to reflect changes in the identity, nature or status of the County or in the business, structure or operations of the County or any mergers, consolidations, acquisitions or dispositions made by or affecting the County; provided that any such modification shall not be in contravention of Rule 15c2-12 as then in effect at the time of such modification; or

(iii) to cure any ambiguity, to correct or supplement any provision hereof which may be inconsistent with any other provision hereof, or to include any other provisions with respect to matters or questions arising under this County Continuing Disclosure Agreement which, in each case, would have complied with the requirements of Rule 15c2-12 at the time of the primary offering, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances;

provided, that prior to approving any such amendment or modification an opinion of Bond Counsel to the Authority is delivered to the Trustee to the effect that such amendment or modification does not adversely affect the interests of the Holders of the Series 2011 Bonds in any material respect.

(c) Upon entering into any amendment or modification required or permitted by this County Continuing Disclosure Agreement which materially affects the interests of the Holders of the Series 2011 Bonds, the Authority shall deliver to the MSRB written notice of any such amendment or modification.

(d) The County, the Trustee and the Authority shall be entitled to rely conclusively upon a written opinion of Bond Counsel to the Authority to the effect that such amendments or modifications comply with the conditions and provisions of this Section 4.9.

Section 4.10. Amendments Required by Rule 15c2-12. The County, the Trustee and the Authority each recognize that the provisions of this County Continuing Disclosure Agreement are intended to enable the compliance with Rule 15c2-12. If, as a result of a change in Rule 15c2-12 or in the interpretation thereof or the promulgation of a successor rule, statute or regulation thereto, a change in this County Continuing Disclosure Agreement shall be permitted or necessary to assure continued compliance with Rule 15c2-12 and upon delivery of an opinion of Bond Counsel to the Authority to the effect that such amendments shall be permitted or necessary to assure continued compliance with Rule 15c2-12 as so amended or interpreted, then the County, the Trustee and the Authority shall amend this County Continuing Disclosure Agreement to comply with and be bound by any such amendment to this County Continuing Disclosure Agreement to the extent necessary or desirable to assure compliance with the provisions of Rule 15c2-12 and provide the written notice of such amendment as required by subsection 4.9(c) hereof.

Section 4.11. Governing Law. This County Continuing Disclosure Agreement shall be governed exclusively by and construed in accordance with the laws of the State and the laws of the United States, as applicable.

Section 4.12. Commencement and Termination of Continuing Disclosure Obligations. Except as otherwise provided herein, the obligations of the Authority, the County and the Trustee hereunder shall be in full force and effect from the date of issuance of the Series 2011 Bonds and shall continue in effect until the earlier of (i) the date the Series 2011 Bonds are no longer outstanding in accordance with the terms of the Bond Resolution or (ii) the County's obligations under the County Refunding Bond are no longer outstanding, and only after the Authority delivers written notice to such effect to the MSRB.

Section 4.13. Prior Undertakings. The County has not failed to comply in any material respect with any prior continuing disclosure undertaking made by the County, if any, in accordance with Rule 15c2-12.

Section 4.14. Binding Effect. This County Continuing Disclosure Agreement shall inure to the benefit of and shall be binding upon the County, the Trustee and the Authority and their respective successors and assigns.

IN WITNESS WHEREOF, the COUNTY OF SUSSEX, U.S. BANK NATIONAL ASSOCIATION and the MORRIS COUNTY IMPROVEMENT AUTHORITY have caused this County Continuing Disclosure Agreement to be executed in their respective names and their corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

[SEAL]

ATTEST:

COUNTY OF SUSEX, NEW JERSEY

Elaine A. Morgan  
Elaine A. Morgan  
Clerk of the Board of Freeholders

By: Richard Zeoli  
Richard Zeoli  
Freeholder Director

ATTEST:

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

\_\_\_\_\_

By: \_\_\_\_\_

[SEAL]

ATTEST:

THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY

\_\_\_\_\_  
Ellen M. Sandman  
Secretary

By: \_\_\_\_\_  
John Bonanni  
Chairman

IN WITNESS WHEREOF, the COUNTY OF SUSSEX, U.S. BANK NATIONAL ASSOCIATION and the MORRIS COUNTY IMPROVEMENT AUTHORITY have caused this County Continuing Disclosure Agreement to be executed in their respective names and their corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

[SEAL]

ATTEST:

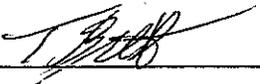
COUNTY OF SUSEX, NEW JERSEY

\_\_\_\_\_  
Elaine A. Morgan  
Deputy Clerk of the Board of Freeholders

By: \_\_\_\_\_  
Richard Zeoli  
Freeholder Director

ATTEST:

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

\_\_\_\_\_  


By: \_\_\_\_\_  
  
Paul O'Brien  
Vice President

[SEAL]

ATTEST:

THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY

\_\_\_\_\_  
Ellen M. Sandman  
Secretary

By: \_\_\_\_\_  
John bonanni  
Chairman

IN WITNESS WHEREOF, the COUNTY OF SUSSEX, U.S. BANK NATIONAL ASSOCIATION and the MORRIS COUNTY IMPROVEMENT AUTHORITY have caused this County Continuing Disclosure Agreement to be executed in their respective names and their corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

[SEAL]

ATTEST:

COUNTY OF SUSEX, NEW JERSEY

\_\_\_\_\_  
Elaine A. Morgan  
Deputy Clerk of the Board of Freeholders

By: \_\_\_\_\_  
Richard Zeoli  
Freeholder Director

ATTEST:

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

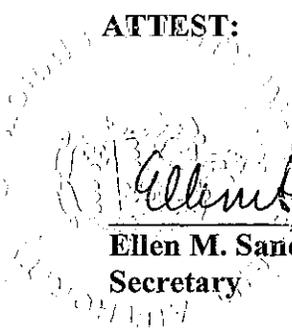
\_\_\_\_\_

By: \_\_\_\_\_

[SEAL]

ATTEST:

THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY

  
\_\_\_\_\_  
Ellen M. Sandman  
Secretary

By:  \_\_\_\_\_  
John bonanni  
Chairman

**EXHIBIT A**

**EXCERPT OF FINAL OFFICIAL STATEMENT**

1. **Appendix A to the Final Official Statement.**  
**[See Closing Item No. 21a]**
2. **Appendix B to the Final Official Statement.**  
**[See Closing Item No. 21a]**

**EXHIBIT B**

**FORM OF NOTICE TO MSRB OF  
FAILURE TO FILE ANNUAL REPORT**

Name of Obligated Person: The County of Sussex

Name of Bond Issue: The Morris County Improvement Authority's  
County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011 ("Bonds")

Date of Issuance: Series 2011A Bonds: December \_\_, 2011  
Series 2011B Note: December \_\_, 2011

CUSIP Numbers:

**NOTICE IS HEREBY GIVEN** that the County of Sussex (the "County") has not provided an Annual Report with respect to the above-named Bonds as required by the "Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 among the County, U.S. Bank National Association, as Trustee, and the Morris County Improvement Authority. [The County anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_

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**COMPANY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)**

**among**

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**and**

**U.S. BANK NATIONAL ASSOCIATION, as Trustee**

**and**

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

**Dated as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

**COMPANY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)**

THIS COMPANY CONTINUING DISCLOSURE AGREEMENT (SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011) (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "*Company Continuing Disclosure Agreement*") is made and entered into as of December 1, 2011 by and among SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a limited liability company organized and existing under the laws of the State of New Jersey (the "State") (including any successors and assigns, the "*Company*"), U.S. BANK NATIONAL ASSOCIATION (the "*Bank*"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State, where the Bank acts as trustee under and pursuant to the hereinafter defined Bond Resolution (including any successors and assigns, the "*Trustee*"), and the MORRIS COUNTY IMPROVEMENT AUTHORITY, a public body corporate and politic duly created and validly existing under the laws of the State (including any successors and assigns, the "*Authority*").

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be

installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the “*Local Unit Facilities*”);

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the “*Municipal Series 2011 Local Units*”); and
- (ii) Byram Township School District, Frankford Township’s Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the “*Board of Education Series 2011 Local Units*”); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the “*County Series 2011 Local Units*”);

(each a “*Series 2011 Local Unit*”, and, collectively, the “*Series 2011 Local Units*”), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated their date of delivery (the “*Series 2011A Bonds*”) the terms of which sale shall be as set forth in that certain Bond Purchase

Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*", and together with the Series 2011A Bonds, "*Series 2011 Bonds*"), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local

Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units). under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A.

40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge

Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the

County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of

the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above (i) reduce the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011

(as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*"); and (ii) the execution and delivery of a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "*Sale Documents*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (*"Section 13"*) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the *"Sussex County Board of Freeholders"*) and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the *"Program Documents"*), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE**, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

#### SECTION 1.1. Definitions.

The following additional terms shall have the meanings specified below:

“Annual Report” means Financial Statements and Operating Data provided at least annually with respect to the Company.

“Bondholder” or “Holder” or any similar term, when used with reference to the Series 2011 Bonds, means any person who shall be the registered owner of any outstanding the Series 2011 Bonds, including holders of beneficial interests in the Series 2011 Bonds.

“Bond Disclosure Event” means any event described in subsection 2.6(a) of this Company Continuing Disclosure Agreement.

“Bond Disclosure Event Notice” means the notice to the MSRB as provided in subsection 2.6(b) of this Company Continuing Disclosure Agreement.

“Dissemination Agent” means an entity acting in its capacity as Dissemination Agent under this Company Continuing Disclosure Agreement, or any successor Dissemination Agent designated in writing by the Company and which has filed a written acceptance of such designation.

“Final Official Statement” means the Official Statement relating to the Series 2011A Bonds dated December 7, 2011.

“Financial Statements” means the audited financial statements of the Company for each Fiscal Year and includes balance sheets, statements of changes in fund balances and statements of current funds, revenues, expenditures and other charges or statements which convey similar information.

“Fiscal Year” means the fiscal year of the Company as determined by the Company from time to time pursuant to State law. As of the date of this Company Continuing Disclosure Agreement, the Fiscal Year of the Company begins on January 1 of each calendar year and closes on the following December 31.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States of America, consistently applied.

“GAAS” means generally accepted auditing standards as in effect from time to time in the United States of America, consistently applied.

“MSRB” means the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to Rule 15c2-12. Effective August 1, 2009 and until otherwise designated by the MSRB or the SEC, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) website of the MSRB, currently located at <http://emma.msrb.org>.

“Operating Data” means certain financial and statistical information of the Company, which for purposes of this Company Continuing Disclosure Agreement shall include the financial and statistical information in Appendix C to the Final Official Statement, if any, a copy of which is attached hereto as Exhibit A.

“SEC” means the Securities and Exchange Commission.

Notwithstanding anything contained herein to the contrary, the following defined terms may be amended or supplemented in accordance with the provisions of Section 4.6 and 4.7 of the Power Purchase Agreement, and to the extent the Power Purchase Agreement is amended for such purpose, such following defined terms shall automatically (without any further action) be amended and supplemented for all purposes hereof: Capital Improvement Projects, Local Unit Facilities, Projects, Renewable Energy Projects, and Series 2011 Local Units.

Section 1.3. Interpretation. Words of masculine gender include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular include the plural and vice versa, and words importing Persons include corporations, associations, partnerships (including limited partnerships), trusts, firms and other legal entities, including public bodies, as well as natural persons. Articles and Sections referred to by number mean the corresponding Articles and Sections of this Company Continuing Disclosure Agreement. The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms as used in this Company Continuing Disclosure Agreement, refer to this Company Continuing Disclosure Agreement as a whole unless otherwise expressly stated.

The headings of this Company Continuing Disclosure Agreement are for convenience only and shall not define or limit the provisions hereof.

## ARTICLE 2

### CONTINUING DISCLOSURE COVENANTS AND REPRESENTATIONS

Section 2.1. Continuing Disclosure Covenants of the Company. The Company agrees that it will provide, or, if the Company has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to provide:

(a) Not later than two hundred twenty-five (225) days after the end of each Fiscal Year, commencing with the Fiscal Year of the Company ending after December 31, 2011, an Annual Report to the MSRB via electronic format (accompanied by such identifying information as is prescribed by the MSRB) and to the Authority; provided that the Financial Statements of the Company may be submitted separately from the balance of the Annual Report and later than the date required herein for the filing of the Annual Report if the Financial Statements of the Company are not available by that date, but only if the unaudited financial statements of the Company are included in the Annual Report; and

(b) Not later than fifteen (15) days prior to the date of each year specified in subsection 2.1(a), a copy of the Annual Report, complete to the extent required in Section 2.1(a), to the Trustee and the Dissemination Agent, if the Company has appointed or engaged a Dissemination Agent.

Section 2.2. Continuing Disclosure Representations of the Company. The Company represents and warrants that:

(a) Financial Statements shall be prepared according to GAAP.

(b) Financial Statements shall be audited by an independent certified public accountant or a registered municipal accountant or such other accountant as shall be permitted or required under State law in accordance with GAAS.

Section 2.3. Form of Annual Report. (a) The Annual Report may be submitted by the Company, or on behalf thereof, as a single document or as separate documents comprising a package.

(b) Any or all of the items which must be included in the Annual Report may be incorporated by reference from other documents, including official statements delivered in connection with other financings issued on behalf of the Company or related public entities thereof which have been made available to the public on the MSRB's website or filed with the SEC. If the document incorporated by reference is a final official statement, it must be available from the MSRB. The Company shall clearly identify each such other document so incorporated by reference.

(c) The Annual Report for any Fiscal Year containing any modified operating data or financial information (as contemplated by Sections 4.9 and 4.10 hereof) for such Fiscal Year

shall explain, in narrative form, the reasons for such modification and the effect of such modification on the Annual Report being provided for such Fiscal Year.

Section 2.4. Responsibilities and Duties of the Authority, the Company, the Dissemination Agent and the Trustee.

(a) If fifteen (15) days prior to the date specified in subsection 2.1(a), the Trustee has not received a copy of the Annual Report, complete to the extent required in Section 2.1(a), the Trustee shall notify the Company in writing to provide notice of the Company's obligations pursuant to Sections 2.1(a), 2.1(b) and 2.4(c) hereof.

(b) If the Trustee, by the date specified in subsection 2.1(a) herein, has not received a written report from the Company, as required by Section 2.4(c) hereof, indicating that an Annual Report, complete to the extent required in Section 2.1(a), been provided to the MSRB and to the Authority by the date specified in subsection 2.1(a), the Trustee shall send a notice to the MSRB, in electronic format, substantially in the form attached hereto as Exhibit B, together with identifying information as prescribed by the MSRB, with a copy thereof to the Authority and the Company.

(c) The Company shall, or, if the Company has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to, by the date specified in subsection 2.1(a) herein, provide a written report to the Authority and the Trustee (and, if a Dissemination Agent has been appointed, to the Company), upon which said parties may rely, certifying that the Annual Report, complete to the extent required in Section 2.1(a), has been provided pursuant to this Continuing Disclosure Agreement, and stating the date that it was provided to the MSRB.

(d) If the Fiscal Year of the Company changes, the Company shall promptly notify, in writing, the Authority and the Trustee, and shall disclose such change in its next Annual Report.

Section 2.5. Appointment, Removal and Resignation of the Dissemination Agent.

(a) The Company may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Company Continuing Disclosure Agreement and shall provide notice of such appointment to the Trustee and the Authority. Thereafter, the Company may discharge any such Dissemination Agent and satisfy its obligations under this Company Continuing Disclosure Agreement without the assistance of a Dissemination Agent, or the Company may discharge a Dissemination Agent and appoint a successor Dissemination Agent, such discharge to be effective on the date of the appointment of a successor Dissemination Agent. The Company shall provide notice of the discharge of a Dissemination Agent to the Trustee and the Authority and shall further indicate either the decision of the Company to satisfy its obligations under this Company Continuing Disclosure Agreement without the assistance of a Dissemination Agent or the identity of the new Dissemination Agent. In the absence of a separate Dissemination Agent, the Trustee shall assume and discharge all of the obligations as Dissemination Agent under this Company Continuing Disclosure Agreement.

(b) The Dissemination Agent shall have only such duties as are specifically set forth in this Company Continuing Disclosure Agreement.

(c) The Dissemination Agent, or any successor thereto, may at any time resign and be discharged of its duties and obligations hereunder by giving not less than thirty (30) days written notice to the Company. Such resignation shall take effect on the date specified in such notice.

Section 2.6. Responsibilities and Duties of the Authority.

(a) Authority agrees that it will provide in a timely manner to the MSRB not in excess of ten (10) business days, notice of any of the following events with respect to the Series 2011 Bonds (each, a "Bond Disclosure Event"), and will provide a copy of such notice to the Trustee and the Company, for informational purposes only:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves, reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements, reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Series 2011 Bonds, or other material events affecting the tax status of the Series 2011 Bonds;
- (vii) Modifications to rights of the holder of the Series 2011 Bonds, if material;
- (viii) Bond calls, if material and tender offers;
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Series 2011 Bonds, if material; and
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar events of the Company;

(xiii) The consummation of a merger, consolidation or acquisition involving the Company of the sale of all or substantially all of the assets of the Company, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action of the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

(xiv) Appointment of a successor or additional trustee or the change of name of trustee, if material.

(b) If the Authority has determined that the occurrence of a Bond Disclosure Event has occurred, the Authority shall promptly provide a notice of such occurrence to the MSRB (the "Bond Disclosure Event Notice") in electronic format together with identifying information as prescribed by the MSRB, in the form determined by the Authority; provided, that the Bond Disclosure Event Notice pertaining to the occurrence of a Bond Disclosure Event described in clauses 2.6(a)(viii) (Bond calls) or 2.6(a)(ix) (defeasances) need not be given under this subsection any earlier than the time when the notice (if any) of such Bond Disclosure Event shall be given to Series 2011 Bondholders of affected Bonds as provided in Section 4.05, Article XII and other related sections of the Bond Resolution. The obligations of the Authority to provide the notices required under this Continuing Disclosure Agreement are in addition to, and not in substitution of, any of the obligations (if any) of the Trustee to provide notices of events of default to Series 2011 Bondholders under said Section 4.05, Article XII and other related sections of the Bond Resolution. The Authority shall file a copy of each Bond Disclosure Event Notice with the Trustee and the Company, for informational purposes only.

#### Section 2.7. Immunities and Liabilities of the Trustee.

Article X of the Bond Resolution, relating to compensation, reimbursement, immunities and liabilities of the Trustee, is hereby made applicable to its and the Dissemination Agent's responsibilities under this Company Continuing Disclosure Agreement. The immunities and liabilities of the Trustee and Dissemination Agent shall survive the termination of the Bond Resolution, as amended and supplemented and the removal or resignation of the Trustee or the Dissemination Agent. The Trustee shall have no obligation hereunder to provide, or to monitor the Authority's obligation to provide, Bond Disclosure Event Notices.

## ARTICLE 3

### REMEDIES

#### Section 3.1. Remedies.

(a) The Trustee may (and at the request of the Holders of at least twenty-five percent (25%) in aggregate principal amount of outstanding the Series 2011 Bonds, and after provision of indemnity in accordance with Section 10.03 of the Bond Resolution, shall), or any Bondholder, for the equal benefit and protection of all Bondholders similarly situated, may take whatever action at law or in equity against the Company and the Authority and any of their respective officers, agents and employees which is necessary or desirable to enforce the specific performance and observance of any obligation, agreement or covenant of the Company and the Authority under this Company Continuing Disclosure Agreement and may compel the Company or the Authority or any of their respective officers, agents or employees (except for the Dissemination Agent with respect to the obligations, agreements and covenants of the Company), to perform and carry out their duties under this Company Continuing Disclosure Agreement; provided, that no person or entity shall be entitled to recover monetary damages hereunder under any circumstances; and provided further that any Bondholder, acting for the equal benefit and protection of all Bondholders similarly situated, may pursue specific performance only with respect to the failure to file the Annual Reports and Bond Disclosure Event Notices required by this Company Continuing Disclosure Agreement, and may not pursue specific performance in challenging the adequacy of Annual Reports which have been filed pursuant to the provisions hereof.

(b) In case the Trustee or any Bondholder shall have proceeded to enforce its rights under this Company Continuing Disclosure Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or any Bondholder, as the case may be, then and in every such case the Company, the Authority, the Trustee and any Bondholder, as the case may be, shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Company, the Authority, the Trustee and any Bondholder shall continue as though no such proceeding had been taken.

(c) A failure by the Authority or the Company to perform their respective obligations under this Company Continuing Disclosure Agreement shall not be deemed an event of default under any other agreement entered into in connection with the issuance of the Series 2011 Bonds or the Bond Resolution, and the sole remedy under this Company Continuing Disclosure Agreement in the event of any failure by the Authority or the Company to comply with this Company Continuing Disclosure Agreement shall be as set forth in subsection 3.1(a) of this Company Continuing Disclosure Agreement.

## ARTICLE 4

### MISCELLANEOUS

Section 4.1. Purposes of this Company Continuing Disclosure Agreement. This Company Continuing Disclosure Agreement is being executed and delivered by the Company, the Trustee and the Authority for the benefit of the Bondholders and in order to assist the Underwriter in complying with clause (b)(5) of Rule 15c2-12.

Section 4.2. The Authority and the Bondholders.

(a) The Authority may enforce any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee or the Holders of the Series 2011 Bonds.

(b) Each Bondholder is hereby recognized as being a third-party beneficiary hereunder and each may enforce, for the equal benefit and protection of all Bondholders similarly situated, any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee, to the extent permitted in Section 3.1(a) hereof.

Section 4.3. Obligations of the Authority Hereunder: Indemnified Parties. Neither the Authority nor any member, official, employee, counsel, consultant or agent of the Authority or any person executing the Series 2011 Bonds shall bear any obligation for the performance of any duty, agreement or covenant of the Company or the Trustee under this Company Continuing Disclosure Agreement. The obligations of the Authority under this Company Continuing Disclosure Agreement are expressly limited to the duties set forth in Sections 2.6, 4.9(c) and 4.12 herein.

The Company agrees to indemnify and hold harmless the Authority, any member, officer, official, employee, counsel (including, without limitation, Bond Counsel to the Authority), consultant and agent of the Authority, including the Trustee and the Dissemination Agent and any of their members, officers or employees or agents or any purchaser of the Series 2011 Bonds (collectively, the "Indemnified Parties"), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by the Company's failure to perform or observe any of the Company's obligations, agreements or covenants under the terms of this Company Continuing Disclosure Agreement, but only if and insofar as such losses, claims, damages, liabilities or expenses are caused directly or indirectly by any such failure of the Company to perform. In case any action shall be brought against the Indemnified Parties based upon this Company Continuing Disclosure Agreement and in respect of which indemnity may be sought against the Company, the Indemnified Parties shall promptly notify the Company in writing. Upon receipt of such notification, the Company shall promptly assume the defense of such action, including the retention of counsel, the payment of all expenses in connection with such action and the right to negotiate and settle any such action on behalf of such party to the extent allowed by law. Any Indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless the employment of such counsel has been specifically

authorized by the Company, or unless by reason of conflict of interest determined by the written opinion of counsel to any such party, it is advisable for such party to be represented by separate counsel, to be retained by the Company, in which case the fees and expenses of such separate counsel shall be borne by the Company. The Company shall not be liable for any settlement of any such action effected without its written consent, but if settled with the written consent of the Company or if there be a final judgment for the plaintiff in any such action with or without written consent, the Company agrees to indemnify and hold harmless the Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Nothing in this paragraph shall require or obligate the Company to indemnify or hold harmless the Indemnified Parties from or against any loss, claim, damage, liability or expense caused by any negligence, recklessness or intentional misconduct of the Indemnified Parties in connection with the Company's performance of its obligations, agreements and covenants under this Company Continuing Disclosure Agreement. The provisions of this section shall survive the termination of this Company Continuing Disclosure Agreement and the removal or resignation of the Trustee.

Section 4.4. Additional Information. Nothing in this Company Continuing Disclosure Agreement shall be deemed to prevent the Company or the Authority (a) from disseminating any other information, using the means of dissemination set forth in this Company Continuing Disclosure Agreement or any other means of communication, or (b) including, in addition to that which is required by this Company Continuing Disclosure Agreement, in the case of the Company, any other information in any Annual Report and in the case of the Authority, any other information in any Bond Disclosure Event Notice. If the Company chooses to include any information in any Annual Report or if the Authority chooses to include any information in any Bond Disclosure Event Notice, in addition to that which is specifically required by this Company Continuing Disclosure Agreement, neither the Company nor the Authority shall have any obligation under this Company Continuing Disclosure Agreement to update such information or include it in any future Annual Report or Bond Disclosure Event Notice, as the case may be.

Section 4.5. Notices. All notices required to be given or authorized to be given by each party pursuant to this Company Continuing Disclosure Agreement shall be in writing and shall be sent by registered or certified mail (as well as by facsimile), addressed to: in the case of the Company, c/o Sunlight General Sussex Solar, LLC, 501 Fifth Avenue, Suite 602, New York, NY 10017, Attention : Stacey L. Hughes, with a copy to: James F. Duffy, Esq., Nixon Peabody, LLP, 100 Summer Street, Boston, MA 02110-2131; in the case of the Trustee, U.S. Bank National Association, 21 South Street, 3rd Floor, Morristown, New Jersey 07960, Attention Paul O'Brien; Nicholas A. Concilio, Esq., McElroy, Deutsch, Mulvaney & Carpenter, LLP, 1300 Mt. Kemble Avenue, P.O. Box 2075, Morristown, NJ 07962-2075, Email: nconcilio@mdmc-law.com and in the case of the Authority, the Morris County Improvement Authority, P.O. Box 900, Morristown, NJ 07963-0900 (attention: Chairman), with a copy to Stephen B. Pearlman, Esq., of Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, NJ 07054. In addition, all notices sent to the Company shall also be sent to the Company's auditor and bond counsel.

Section 4.6. Assignments. This Company Continuing Disclosure Agreement may not be assigned by any party without the consent of the others and, as a condition to any such assignment, only upon the assumption in writing of all of the obligations imposed upon such party by this Company Continuing Disclosure Agreement.

Section 4.7. Severability. If any provision of this Company Continuing Disclosure Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 4.8. Execution of Counterparts. This Company Continuing Disclosure Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Each party hereto may sign the same counterpart or each party hereto may sign a separate counterpart.

Section 4.9. Amendments, Changes and Modifications.

(a) Except as otherwise provided in this Company Continuing Disclosure Agreement, subsequent to the initial issuance of the Series 2011 Bonds and prior to their payment in full (or provision for payment thereof having been made in accordance with the provisions of the Bond Resolution), this Company Continuing Disclosure Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto.

(b) Without the consent of any Bondholders, the Company, the Trustee and the Authority at any time and from time to time may enter into any amendments or modifications to this Company Continuing Disclosure Agreement for any of the following purposes:

(i) to add to covenants and agreements of the Company or the Authority hereunder for the benefit of the Bondholders, or to surrender any right or power conferred upon the Company or the Authority by this Company Continuing Disclosure Agreement;

(ii) to modify the contents, presentation and format of the Annual Report from time to time to conform to changes in accounting or disclosure principles or practices and legal requirements followed by or applicable to the Company or to reflect changes in the identity, nature or status of the Company or in the business, structure or operations of the Company or any mergers, consolidations, acquisitions or dispositions made by or affecting the Company; provided that any such modification shall not be in contravention of Rule 15c2-12 as then in effect at the time of such modification; or

(iii) to cure any ambiguity, to correct or supplement any provision hereof which may be inconsistent with any other provision hereof, or to include any other provisions with respect to matters or questions arising under this Company Continuing Disclosure Agreement which, in each case, would have complied with the requirements of Rule 15c2-12 at the time of the primary offering, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances;

provided, that prior to approving any such amendment or modification an opinion of Bond Counsel to the Authority is delivered to the Trustee to the effect that such amendment or modification does not adversely affect the interests of the Holders of the Series 2011 Bonds in any material respect.

(c) Upon entering into any amendment or modification required or permitted by this Company Continuing Disclosure Agreement which materially affects the interests of the Holders of the Series 2011 Bonds, the Authority shall deliver to the MSRB written notice of any such amendment or modification.

(d) The Company, the Trustee and the Authority shall be entitled to rely conclusively upon a written opinion of Bond Counsel to the Authority to the effect that such amendments or modifications comply with the conditions and provisions of this Section 4.9.

Section 4.10. Amendments Required by Rule 15c2-12. The Company, the Trustee and the Authority each recognize that the provisions of this Company Continuing Disclosure Agreement are intended to enable the compliance with Rule 15c2-12. If, as a result of a change in Rule 15c2-12 or in the interpretation thereof or the promulgation of a successor rule, statute or regulation thereto, a change in this Company Continuing Disclosure Agreement shall be permitted or necessary to assure continued compliance with Rule 15c2-12 and upon delivery of an opinion of Bond Counsel to the Authority to the effect that such amendments shall be permitted or necessary to assure continued compliance with Rule 15c2-12 as so amended or interpreted, then the Company, the Trustee and the Authority shall amend this Company Continuing Disclosure Agreement to comply with and be bound by any such amendment to this Company Continuing Disclosure Agreement to the extent necessary or desirable to assure compliance with the provisions of Rule 15c2-12 and provide the written notice of such amendment as required by subsection 4.9(c) hereof.

Section 4.11. Governing Law. This Company Continuing Disclosure Agreement shall be governed exclusively by and construed in accordance with the laws of the State and the laws of the United States, as applicable.

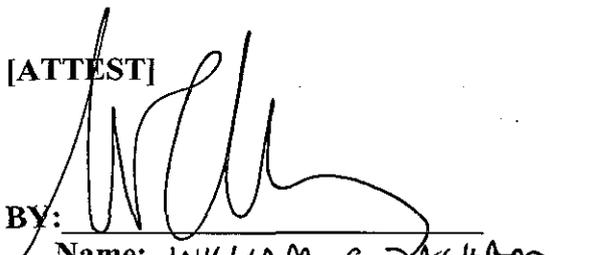
Section 4.12. Commencement and Termination of Continuing Disclosure Obligations. Except as otherwise provided herein, the obligations of the Authority, the Company and the Trustee hereunder shall be in full force and effect from the date of issuance of the Series 2011 Bonds and shall continue in effect until the earlier of (i) the date the Series 2011 Bonds are no longer outstanding in accordance with the terms of the Bond Resolution or (ii) the Company's obligations under the Series 2011 Bonds are no longer outstanding, and only after the Authority delivers written notice to such effect to the MSRB.

Section 4.13. Prior Undertakings. The Company has not failed to comply in any material respect with any prior continuing disclosure undertaking made by the Company, if any, in accordance with Rule 15c2-12.

Section 4.14. Binding Effect. This Company Continuing Disclosure Agreement shall inure to the benefit of and shall be binding upon the Company, the Trustee and the Authority and their respective successors and assigns.

IN WITNESS WHEREOF, SUNLIGHT GENERAL SUSSEX SOLAR, LLC, U.S. BANK NATIONAL ASSOCIATION and the MORRIS COUNTY IMPROVEMENT AUTHORITY have caused this Company Continuing Disclosure Agreement to be executed in their respective names and their corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

[ATTEST]

BY:   
Name: WILLIAM C ZACHARY  
Title:

ATTEST:

\_\_\_\_\_

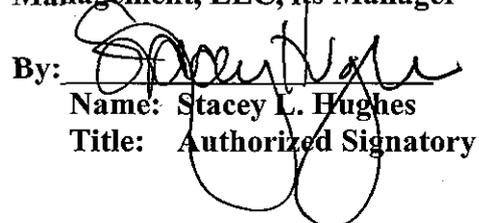
[SEAL]

ATTEST:

\_\_\_\_\_  
Ellen M. Sandman  
Secretary

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

By: \_\_\_\_\_  
John Bonanni  
Chairperson

IN WITNESS WHEREOF, SUNLIGHT GENERAL SUSSEX SOLAR, LLC, U.S. BANK NATIONAL ASSOCIATION and the MORRIS COUNTY IMPROVEMENT AUTHORITY have caused this Company Continuing Disclosure Agreement to be executed in their respective names and their corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

[ATTEST]

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

BY: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

\_\_\_\_\_  


By: \_\_\_\_\_  
  
Paul O'Brien  
Vice President

[SEAL]

ATTEST:

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

\_\_\_\_\_  
Ellen M. Sandman  
Secretary

By: \_\_\_\_\_  
John Bonanni  
Chairperson

IN WITNESS WHEREOF, SUNLIGHT GENERAL SUSSEX SOLAR, LLC, U.S. BANK NATIONAL ASSOCIATION and the MORRIS COUNTY IMPROVEMENT AUTHORITY have caused this Company Continuing Disclosure Agreement to be executed in their respective names and their corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

[ATTEST]

BY: \_\_\_\_\_  
Name:  
Title:

ATTEST:

\_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_

[SEAL]

ATTEST:

  
\_\_\_\_\_  
Ellen M. Sandman  
Secretary

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

By:   
\_\_\_\_\_  
John Bonanni  
Chairperson

**EXHIBIT A**

**EXCERPT OF FINAL OFFICIAL STATEMENT**

- 1. Section heading of the Final Official Statement entitled "THE COMPANY".  
[See Closing Item No. 21a]**
  
- 2. Appendix C to the Final Official Statement.  
[See Closing Item No. 21a]**

**EXHIBIT B**

**FORM OF NOTICE TO THE MSRB OF  
FAILURE TO FILE ANNUAL REPORT**

Name of Obligated Person: SUNLIGHT GENERAL SUSSEX SOLAR, LLC

Name of Bond Issue: The Morris County Improvement Authority's  
County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011 ("Bonds")

Date of Issuance: Series 2011A Bonds: December 14, 2011  
Series 2011B Note: December 14, 2011

CUSIP Numbers:

**NOTICE IS HEREBY GIVEN** that SUNLIGHT GENERAL SUSSEX SOLAR, LLC (the "Company") has not provided an Annual Report with respect to the above-named Bonds as required by the "Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 among the Company, U.S. Bank National Association, as Trustee, and the Morris County Improvement Authority. [The Company anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_

COUNTY IMPROVEMENT AUTHORITIES

40:37A-44. Short title

This act shall be known and may be cited as the "county improvement authorities law."

P.L. 1960, c. 183, § 1, eff. Jan. 18, 1961.

40:37A-45. Definitions

As used in this act, unless a different meaning clearly appears from the context:

- (a) "Authority" shall mean a public body created pursuant to this act;
- (b) "Bond resolution" shall have the meaning ascribed thereto in section 17 of P.L. 1960, c. 183 (C.40:37A-60);
- (c) "Bonds" shall mean bonds, notes or other obligations issued pursuant to this act;
- (d) "Construct" and "construction" shall connote and include acts of clearance, demolition, construction, development or redevelopment, reconstruction, replacement, extension, improvement and betterment;
- (e) "Cost" shall mean, in addition to the usual connotations thereof, the cost of planning, acquisition or construction of all or any part of any public facility or facilities of an authority and of all or any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient therefor or in connection therewith, including interest or discount on bonds, cost of issuance of bonds, architectural, engineering and inspection costs and legal expenses, cost of financial, professional and other estimates and advice, organization, administrative, operating and other expenses of the authority prior to and during such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of such public facility or facilities or part thereof and the placing of the same fully in operation or the disposition of the same, and also such provision or reserves for working capital, operating, maintenance or replacement expenses or for payment or security of principal or of interest on bonds during or after such acquisition or construction as the authority may determine, and also reimbursements to the authority or any governmental unit or person of any moneys theretofore expended for the purposes of the authority;
- (f) The term "county" shall mean any county of any class of the State and shall include, without limitation, the terms "the county" and "beneficiary county" defined in this act, and the term "the county" shall mean the county which created an authority pursuant to this act;
- (g) "Development project" shall mean any lands, structures, or property or facilities acquired or constructed or to be acquired or constructed by an authority for the purposes of the authority described in subsection (e) of section 11 of P.L. 1960, c. 183 (C.40:37A-54);

COUNTY IMPROVEMENT AUTHORITIES

and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms:

- (i) "Blighted, deteriorated or deteriorating area" may include an area determined heretofore by the municipality to be blighted in accordance with the provisions of P.L. 1949, c. 187, repealed by P.L. 1992, c. 79 (C.40:55-21.1 et seq.) and, in addition, areas which are determined by the municipality, pursuant to the same procedures as provided in said law, to be blighted, deteriorated or deteriorating because of structures or improvements which are dilapidated or characterized by disrepair, lack of ventilation or light or sanitary facilities, faulty arrangement, location, or design, or other unhealthful or unsafe conditions;
- (u) "Redevelopment" may include planning, replanning, conservation, rehabilitation, clearance, development and redevelopment and the construction and rehabilitation and provision for construction and rehabilitation of residential, commercial, industrial, public or other structures and the grant or dedication or rededication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes including recreational and other facilities incidental or appurtenant thereto, in accordance with a redevelopment plan approved by the governing body of a municipality;
- (v) "Redevelopment plan" shall mean a plan as it exists from time to time for the redevelopment of all or any part of a redevelopment area, which plan shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, conservation or rehabilitation as may be proposed to be carried out in the area of the project, zoning and planning changes, if any, land uses, maximum densities, building requirements, the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements and provision for relocation of any residents and occupants to be displaced in a manner which has been or is likely to be approved by the Department of Community Affairs pursuant to the "Relocation Assistance Law of 1967," P.L. 1967, c. 79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act," P.L. 1971, c. 362 (C.28:4-1 et seq.) and rules and regulations pursuant thereto;
- (w) "Redevelopment project" shall mean any undertakings and activities for the elimination, and for the prevention of the development or spread, of blighted, deteriorated, or deteriorating areas and may involve any work or undertaking pursuant to a redevelopment plan: such undertaking may include: (1) acquisition of real property and demolition, removal or rehabilitation of buildings and improvements thereon; (2) carrying out plans for a program of voluntary repair and rehabilitation of buildings or other improvements; and (3) installation, construction or reconstruction of streets, utilities, parks, playgrounds or other improvements necessary for carrying out the objectives of the redevelopment project;
- (x) "Redeveloper" shall mean any person or governmental unit that shall enter into or propose to enter into a contract with an authority for the redevelopment of an area or any part thereof under the provisions of this act;

COUNTY IMPROVEMENT AUTHORITIES

- (h) "Facility charges" shall have the meaning ascribed to said term in section 14 of P.L. 1960, c. 183 (C.40:37A-57);
- (i) "Facility revenues" shall have the meaning ascribed to said term in subsection (c) of section 20 of P.L. 1960, c. 183 (C.40:37A-63);
- (j) "Governing body" shall mean, in the case of a county, the board of chosen freeholders, or in the case of a county operating under article 3 or 5 of the "Optional County Charter Law" (P.L. 1972, c. 154; C.40:41A-1 et seq.) as defined thereunder, and, in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality;
- (k) "Governmental unit" shall mean the United States of America or the State or any county or municipality or any subdivision, department, agency, or instrumentality heretofore or hereafter created, designated or established by or for the United States of America or the State or any county or municipality;
- (l) "Local bond law" shall mean chapter 2 of Title 40A, Municipalities and Counties, of the New Jersey Statutes (N.J.S.) as amended and supplemented;
- (m) "Municipality" shall mean any city, borough, village, town, or township of the State but not a county or a school district;
- (n) "Person" shall mean any person, partnership, association, corporation or entity other than a nation, state, county or municipality or any subdivision, department, agency or instrumentality thereof;
- (o) "Project" shall have the meaning ascribed to said term in section 17 of P.L. 1960, c. 183 (C.40:37A-60);
- (p) "Public facility" shall mean any lands, structures, franchises, equipment, or other property or facilities acquired, constructed, owned, financed, or leased by the authority or any other governmental unit or person to accomplish any of the purposes of an authority authorized by section 11 of P.L. 1960, c. 183 (C.40:37A-54);
- (q) "Real property" shall mean lands within or without the State, above or below water, and improvements thereof or thereon, or any riparian or other rights or interests therein;
- (r) "Garbage and solid waste disposal system" shall mean the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by a county improvement authority, including incinerators, sanitary landfill facilities or other plants for the treatment and disposal of garbage, solid waste and refuse matter and all other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection and treatment or disposal in a sanitary manner of garbage, solid waste and refuse matter (but not including sewage);
- (s) "Garbage, solid waste or refuse matter" shall mean garbage, refuse and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including sludge, chemical waste, hazardous wastes and liquids, except for liquids which are treated in public sewage treatment plants and except for solid animal

COUNTY IMPROVEMENT AUTHORITIES

- (y) "Redevelopment area" shall mean an area of a municipality which the governing body thereof finds is a blighted area or an area in need of rehabilitation whose redevelopment is necessary to effectuate the public purposes declared in this act. A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but whose inclusion is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part;
- (z) "Sludge" shall mean any solid, semisolid, or liquid waste generated from a municipal, industrial or other sewage treatment plant, water supply treatment plant, air pollution control facility, or any other such waste having similar characteristics and effects, but shall not include effluent; and
- (aa) "Beneficiary county" shall mean any county that has not created an authority pursuant to this act.

P.L. 1960, c. 183, s. 2; amended 1962, c. 224, s. 3; 1968, c. 66, s. 1; 1973, c. 330, s. 1; 1979, c. 275, s. 3; 1981, c. 492, s. 1; 1982, c. 113, s. 1; 1994, c. 76, s. 1.

40:37A-46. Creation of authority

The governing body of a county may by ordinance or resolution, as appropriate, create a public body corporate and politic under and pursuant to this act, under the name and style of "the county improvement authority," with all or any significant part of the name of said county inserted. Said body shall consist of the 5 members thereof, who shall be residents of the county and be appointed by ordinance or resolution of said governing body as hereinafter provided, and it shall constitute the authority contemplated and provided for in this act and an agency or instrumentality of said county. Copies of said ordinance or resolution for the creation of the authority, certified by the clerk of said governing body, shall be filed in the office of the Secretary of State and in the office of the Division of Local Government Services in the Department of Community Affairs. A copy of any such certified ordinance or resolution, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any action or proceeding and shall be conclusive evidence of due and proper adoption and filing thereof as aforesaid. After such filing in the office of the Secretary of State, a copy of said ordinance or resolution shall be published at least once in a newspaper published or circulating in the county, together with a notice stating the fact and date of its adoption and the date of the first publication of such notice. If no action questioning the validity of the creation or establishment of the authority shall be commenced within 45 days after the first publication of such notice, then said authority shall be conclusively deemed to have been validly created and established and authorized to transact business and exercise powers as a public body created pursuant to this act.

P.L. 1960, c. 183, § 3, eff. Jan. 18, 1961. Amended by L. 1982, c. 113, § 2, eff. Aug. 14, 1982.

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40:37A-47. Dissolution of Authority

The governing body of any county which has created an authority pursuant to this act may be ordinance or resolution, as appropriate, dissolve such authority if either (1) such authority has no debts or obligations outstanding, or (2) all creditors or other obligees of the authority have consented to said ordinance or resolution. A copy of said ordinance or resolution, certified by the clerk of said governing body, shall be filed in the office of the Secretary of State and in the office of the Division of Local Government Services in the Department of Community Affairs. Upon proof of such filing and upon proof either that said authority had no debts or obligations outstanding at the time of the adoption of such ordinance or resolution or that all creditors or other obligees of the authority have consented to such ordinance or resolution, the authority shall be conclusively deemed to have been lawfully and properly dissolved. Thereupon, all right, title and interest in and to the property of the authority shall be vested in the county, except that any particular property shall vest in any other governmental unit or person if the terms of any lease or other agreement of the authority with respect thereto shall so provide. A copy of any such certified ordinance or resolution, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any action or proceeding and shall be conclusive evidence of due and proper adoption and filing thereof as aforesaid.

P.L. 1960, c. 183, § 4, eff. Jan. 18, 1961. Amended by L. 1982, c. 113, § 3, eff. Aug. 14, 1982.

40:37A-47.1. Legislative determination

It is hereby found and declared: (a) that there are located within this State various federal installations comprising substantial tracts of land including, in many cases, buildings and other improvements thereon; (b) that, as the defense and other requirements and plans of the federal government continue to change and develop, large areas of such lands are liable to become surplus to the needs of the federal government and it is probable that such surplus areas will from time to time be disposed of by the federal government and become available for other use and development; (c) that, unless developed or redeveloped in the public interest on a comprehensive basis and under appropriate controls, any such surplus land, when so disposed of by the federal government, will constitute or be in danger of becoming a blighted area which will impair economic values and tax revenues, result in increased unemployment, and cause an increase in and spread of poverty, disease and crime, and accordingly be a menace to the health, safety, morals and welfare of residents of this State necessitating excessive and disproportionate expenditure of public funds for relief, crime prevention and punishment, public health and safety, and other public services and facilities; (d) that the several counties of this State, by means and through the agency of or services provided by a county improvement authority, are best qualified and able to provide for public acquisition of such surplus lands and accordingly the orderly development and redevelopment thereof in the public interest in order to remove or prevent the conditions herein above recited and to encourage industrial, commercial, residential or other proper uses of such lands or restore or increase employment opportunities for residents of this State; and (e) that the acquisition of such surplus lands and development or redevelopment thereof as aforesaid

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Revised Statutes, a secretary, a treasurer, an executive director and a chief engineer and such other agents and employees as it may require, and it shall determine their qualifications, terms of office, duties and compensation.

P.L. 1960, c. 183, § 6, eff. Jan. 18, 1961.

40:37A-50. Vesting of powers; quorum

The powers of an authority shall be vested in the members thereof in office from time to time, and a majority of the entire authorized voting membership of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting of the members thereof by the affirmative vote of a majority of the voting members present, unless in any case the bylaws of the authority shall require a larger number.

P.L. 1960, c. 183, § 7, eff. Jan. 18, 1961. Amended by L. 1982, c. 113, § 5, eff. Aug. 14, 1982.

40:37A-51. Compensation of members; reimbursement for expenses

The members of an authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties.

P.L. 1960, c. 183, § 8, eff. Jan. 18, 1961.

40:37A-52. Ex officio member

No member of the governing body of the county or any existing or potential beneficiary county shall be appointed as a member of, or employed by, an authority; but the governing body of the county may, by ordinance or resolution, as appropriate, provide that, in addition to the members appointed pursuant to section 5 of P.L. 1960, c. 183 (C. 40:37A-48), the county executive in the case of a county having adopted article 3 of the "Optional County Charter Law," P.L. 1972, c. 154 (C. 40:41A-3) et seq., the county supervisor in the case of a county having adopted article 5 of that act (C. 40:41A-59 et seq.), or the president of the board of chosen freeholders in case the county is any other type of county, shall be appointed to serve ex officio, as a non-voting member of an authority.

P.L. 1960, c. 183, § 9, amended 1982, c. 113, § 6; 1994, c. 76, § 3.

40:37A-53. Removal of members of authority

A member of an authority may be removed by the governing body of the county for incapacity, inefficiency or neglect of duty or misconduct in office or other disqualifying

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are public uses and purposes for which public funds may be expended and private property taken or acquired, and are governmental functions of State concern. The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

P.L. 1962, c. 224, s. 1; amended 1994, c. 76, § 2.

40:37A-48. Appointment of members; terms; vacancies

a. After expiration of the period of 45 days following the first publication as provided in section 3 hereof of a notice regarding creation of an authority, 5 persons shall be appointed as the members of the authority. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in each year after such first appointments, one person shall be appointed as a member of the authority for a term commencing on or after February 1 in such year and expiring on February 1 in the fifth year after such year. Each member shall hold office for the term of appointment and until his successor shall have been appointed and qualified. Any vacancy in the membership of the authority during an unexpired term shall be filled by appointment of a person as member for the unexpired term. A copy of any resolution appointing any such members, certified by the clerk of the governing body, may be filed in the office of the Secretary of State. A copy of any such certified resolution, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any action or proceeding and shall be conclusive evidence of due and proper adoption and filing thereof as aforesaid and, except in an action or proceeding seeking only exclusion of the appointee from office, shall be conclusive evidence of the due and proper appointment of the members named therein.

b. Notwithstanding the provisions of subsection a. of this section and section 3 of P.L. 1960, c. 183 (C. 40:37A-46), whenever any county governed by the "Optional County Charter Law," P.L. 1972, c. 154 (C. 40:41A-1 et seq.) shall proceed to reorganize its county improvement authority pursuant to the reorganization powers granted under section 30 of that act (C. 40:41A-30), the ordinance adopted for that purpose shall prescribe the number of members of the authority, their respective terms of office, and the dates upon which their respective terms of office shall expire.

P.L. 1960, c. 183, § 5, eff. Jan. 18, 1961. Amended by L. 1982, c. 113, § 4, eff. Aug. 14, 1982.

40:37A-49. Election of officers; terms; appointment of agents and employees

Every authority, upon the first appointment of its members and thereafter on or after February 1 in each year, shall annually elect from among its members a chairman and a vice chairman who shall hold office until February 1 next ensuing and until their respective successors shall have been appointed and qualified. Every authority may also appoint and employ, without regard to the provisions of Title 11, Civil Service, of the

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cause and after he shall have been given a copy of the charges against him and, not sooner than 10 days thereafter, been afforded opportunity for a hearing, in person or by counsel, by such governing body with respect to such charges.

P.L. 1960, c. 183, § 10, eff. Jan. 18, 1961.

40:37A-54. Purposes

The purposes of every authority shall be (a) provision within the county or any beneficiary county of public facilities for use by the State, the county or any beneficiary county, or any municipality in any such county, or any two or more or any subdivisions, departments, agencies or instrumentalities of any of the foregoing for any of their respective governmental purposes, (b) provision within the county or any beneficiary county of public facilities for use as convention halls, or the rehabilitation, improvement or enlargement of any convention hall, including appropriate and desirable appurtenances located within the convention hall or near, adjacent to or over it within boundaries determined at the discretion of the authority, including but not limited to office facilities, commercial facilities, community service facilities, parking facilities, hotel facilities and other facilities for the accommodation and entertainment of tourists and visitors, (c) provision within the county or any beneficiary county of structures, franchises, equipment and facilities for operation of public transportation or for terminal purposes, including development and improvement of port terminal structures, facilities and equipment for public use in counties in, along or through which a navigable river flows, (d) provision within the county any beneficiary county of structures or other facilities used or operated by the authority or any governmental unit in connection with, or relative to development and improvement of, aviation for military or civilian purposes, including research in connection therewith, and including structures or other facilities for the accommodation of passengers, (e) provision within the county any beneficiary county of a public facility for a combination of governmental and nongovernmental uses; provided that not more than 50% of the usable space in any such facility shall be made available for nongovernmental use under a lease or other agreement by or with the authority, (f) acquisition of any real property within the county or any beneficiary county, with or without the improvements thereof or thereon or personal property appurtenant or incidental thereto, from the United States of America or any department, agency or instrumentality heretofore or hereafter created, designated or established by or for it, and the clearance, development or redevelopment, improvement, use or disposition of the acquired lands and premises in accordance with the provisions and for the purposes stated in this act, including the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of improvements on or to said lands and premises, and structures and facilities incidental to the foregoing as may be necessary, convenient or desirable, (g) acquisition, construction, maintenance and operation of garbage and solid waste disposal systems for the purpose of collecting and disposing of garbage, solid waste or refuse matter, whether owned or operated by any person, the authority or any other governmental unit, within or without the county or any beneficiary county, (h) the improvement, furtherance and promotion of the tourist industries and recreational attractiveness of the county or any beneficiary county through the planning, acquisition,

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construction, improvement, maintenance and operation of facilities for the recreation and entertainment of the public, which facilities may include, without being limited to, a center for the performing and visual arts, (f) provision of loans and other financial assistance and technical assistance for the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of buildings or facilities designed to provide decent, safe and sanitary dwelling units for persons of low and moderate income in need of housing, including the acquisition of land, equipment or other real or personal properties which the authority determines to be necessary, convenient or desirable appurtenances, all in accordance with the provisions of this act, as amended and supplemented, (g) planning, initiating and carrying out redevelopment projects for the elimination, and for the prevention of the development or spread of blighted, deteriorated or deteriorating areas and the disposition, for uses in accordance with the objectives of the redevelopment project, of any property or part thereof acquired in the area of such project, (k) any combination or combinations of the foregoing or following, and (l) subject to the prior approval of the Local Finance Board, the planning, design, acquisition, construction, improvement, renovation, installation, maintenance and operation of facilities or any other type of real or personal property within the county for a corporation or other person organized for any one or more of the purposes described in subsection a. of N.J.S. 15A:2-1 except those facilities or any other type of real or personal property which can be financed pursuant to the provisions of P.L. 1972, c. 29 (C.26:2-1 et seq.) as amended.

P.L. 1960, c.183, s.1; amended 1962, c.224, s.4; 1967, c.242, s.1; 1968, c.66, s.2; 1973, c.330, s.2; 1978, c.112; 1979, c.275, s.32; 1981, c.460, s.1; 1982, c.113, s.7; 1994, c.76, s.4; 1994, c.110.

40:37A-55. Body politic and corporate; powers and duties

Every authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public convenience, benefit and welfare and shall have perpetual succession and, for the effectuation of its purposes, have the following additional powers:

- (a) To adopt and have a common seal and to alter the same at pleasure;
- (b) To sue and be sued;
- (c) To acquire, hold, use and dispose of its facility charges and other revenues and other moneys;
- (d) To acquire, rent, hold, use and dispose of other personal property for the purposes of the authority;
- (e) Subject to the provisions of section 26 of this act, to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements or interests therein necessary or useful and convenient for the purposes of the authority, whether subject to mortgages, deeds of trust or other liens or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the authority, provided that the authority may dispose of such property at any time to any

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- (p) To mortgage, pledge or assign or otherwise encumber all or any portion of its revenues and other income, real and personal property, projects and facilities for the purpose of securing its bonds, notes and other obligations or otherwise in furtherance of the purpose of this act;
- (q) To extend credit or make loans to redevelopers for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing any redevelopment project or redevelopment work;
- (r) To conduct examinations and investigations, hear testimony and take proof, under oath at public or private hearings of any material matter, require the attendance of witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of the State, unable to attend, or excused from attendance;
- (s) To authorize a committee designated by it consisting of one or more members, or counsel, or any officer or employee to conduct any such investigation or examination, in which case such committee, counsel, officer or employee shall have power to administer oaths, take affidavits and issue subpoenas or commissions; and
- (t) To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority or to carry out any power expressly given in this act subject to P.L. 1971, c. 198, "Local Public Contracts Law" (C. 40A:11-1 et seq.).

P.L. 1960, c. 183, § 12, eff. Jan. 18, 1961. Amended by L. 1975, c. 96, § 6, eff. May 16, 1975; P.L. 1977, c. 291, § 1, eff. Dec. 12, 1977; L. 1979, c. 275, § 33, eff. Jan. 3, 1980; L. 1982, c. 113, § 8, eff. Aug. 14, 1982.

40:37A-55.1. Power of authority for purposes of redevelopment of blighted, deteriorated or deteriorating areas

For purposes of the redevelopment of blighted, deteriorated or deteriorating areas, and subject to the provisions of this act, an authority may:

- a. Acquire or contract to acquire from any person, firm or corporation, public or private, by contribution, gift, grant, bequest, devise, purchase, condemnation or otherwise, real or personal property or any interest therein, including such property as it may deem necessary or proper, although temporarily not required for such purposes, in a redevelopment area and in any area designated by the municipal governing body as necessary for carrying out the relocation of the residents, industry and commerce displaced from a redevelopment area;
- b. Demolish, remove or rehabilitate buildings or other improvements in any area acquired and install, construct or reconstruct streets, facilities, utilities and site improvements essential to the preparation of sites for use in accordance with the redevelopment plan;
- c. Relocate or arrange for the relocation of residents and occupants of an area;

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governmental unit or person if the authority shall receive a leasehold interest in the property for such term as the authority deems appropriate to fulfill its purposes;

- (f) Subject to the provisions of section 13 of this act, to lease to any governmental unit or person, all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;
- (g) To enter into agreements to lease, as lessee, public facilities for such term and under such conditions as the authority may deem necessary and desirable to fulfill its purposes, and to agree, pursuant thereto, to be unconditionally obligated to make payments for the term of the lease, without set-off or counterclaim, whether or not the public facility is completed, operating or operable, and notwithstanding the destruction of, damage to, or suspension, interruption, interference, reduction or curtailment of the availability or output of the public facility to which the agreement applies;
- (h) To extend credit or make loans to any governmental unit or person for the planning, design, acquisition, construction, equipping and furnishing of a public facility, upon the terms and conditions that the loans be secured by loan and security agreements, mortgages, leases and other instruments, the payments on which shall be sufficient to pay the principal of and interest on any bonds issued for the purpose by the authority, and upon such other terms and conditions as the authority shall deem reasonable;
- (i) Subject to the provisions of section 13 of this act, to make agreements of any kind with any governmental unit or person for the use or operation of all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;
- (j) To borrow money and issue negotiable bonds or notes or other obligations and provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;
- (k) To apply for and to accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the authority from any governmental unit or person, and to make and perform agreements and contracts and to do any and all things necessary or useful and convenient in connection with the procuring, acceptance or disposition of such gifts or grants;
- (l) To determine the location, type and character of any public facility and all other matters in connection with all or any part of any public facility which it is authorized to own, construct, establish, effectuate or control;
- (m) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of any public facility, and to amend the same;
- (n) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contract with any governmental unit or person;
- (o) To acquire, purchase, construct, lease, operate, maintain and undertake any project and to fix and collect facility charges for the use thereof;

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- d. Dispose of land so acquired for the uses specified in the redevelopment plan as determined by it to any person, firm, or corporation or to any public agency by sale, lease or exchange;
- e. Request the municipal planning board, if any, to recommend and the municipal governing body pursuant to existing law to designate blighted areas in need of redevelopment and to make recommendations for such development;
- f. Study the recommendations of the municipal planning board for redevelopment of any area and to make its own investigations and recommendations as to current trends in the municipality, blighted areas and blighting factor, to the governing body of the municipality thereon;
- g. Publish and disseminate information;
- h. Prepare or arrange by contract for preparation of plans by registered architects or licensed professional engineers or planners for the carrying out of the redevelopment projects;
- i. Arrange or contract with public agencies or redevelopers for the planning, replanning, conservation, rehabilitation, construction, or undertaking of any project, or redevelopment work, or any part thereof, to provide as part of any such arrangement or contract for extension of credit or making of loans to redevelopers to finance any project or redevelopment work, and to arrange or contract with public agencies for the opening, grading or closing of streets, roads, roadways, alleys, or other places or for the furnishing of facilities or for the acquisition by such agency of property options or property rights or for the furnishing of property or services in connection with a redevelopment area;
- j. Arrange or contract with a public agency, to the extent that it is within the scope of that agency's functions, to cause the services customarily provided by such other agency to be rendered for the benefit of the occupants of any redevelopment area, and to have such other agency provide and maintain parks, recreation centers, schools, sewerage, transportation, water and other municipal facilities adjacent to or in connection with redevelopment areas;
- k. Enter upon any building or property in any redevelopment area in order to conduct investigations or make surveys, soundings or test borings necessary to carry out the purposes of this act;
- l. Arrange or contract with a public agency for the relocation of residents, industry or commerce displaced from a redevelopment area;
- m. Make (1) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements; and (2) plans for the enforcement of laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;
- n. Develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of blight; and

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o. To finance by mortgage loans or otherwise the construction or establishment of retail food outlets and to make temporary loans or advances in anticipation of permanent loans.

P.L. 1979, c. 275, § 34, eff. Jan. 3, 1980. Amended by L. 1983, c. 270, § 1, eff. July 18, 1983.

40:37A-56. Report to governing body; powers limited

(1) Whenever an authority after investigation and study shall plan to undertake any public facility or facilities (other than a development project or redevelopment project) for the purposes of the authority, the authority shall make to the governing body of the county and if the public facility or facilities (including a development project or redevelopment project) benefit any beneficiary county, to the governing body of any such beneficiary county a detailed report dealing with the proposed public facility or facilities. Notwithstanding any other provision of this act, the authority shall not construct or acquire such public facility or facilities (other than a development project or redevelopment project within the county which created the authority), or make any lease or other agreement relating to use by any governmental unit or person of all or any part of any such public facility or facilities for a term in excess of five years, until there has been filed with the authority a copy of a resolution adopted by the governing body of the county and, if applicable, by any beneficiary county, certified by its clerk, describing such public facility or facilities in terms sufficient for reasonable identification and consenting to the construction or acquisition thereof by the authority or the making of such leases or other agreements.

(2) Unless otherwise required by any agreement of the authority with holders of its bonds, no authority shall sell any part of a development project or make any lease or other agreement relating to use by any governmental unit or person of said part for a term in excess of five years (A) Until the Commissioner of Community Affairs (hereinafter called the "commissioner") has approved a plan (hereinafter called, with respect to such part, the "development plan") prepared by the authority which provides an outline for the development of said part sufficient, in the opinion of the commissioner: (i) to indicate its relationship to appropriate land uses in the area and proper traffic, public transportation, public utility, recreational and community facilities, and other public improvements, (ii) to indicate proposed land uses and building requirements and restrictions in said part, and (iii) to provide reasonable assurance that said part will not be in danger of becoming a blighted area and will be developed in a manner reasonably designed in the public interest to encourage industrial, commercial, residential or other proper uses thereof or restore or increase employment opportunities for residents of the State; or (B) Unless such sale, lease or other agreement, in the opinion of the authority, is necessary or desirable in order to effectuate and carry out the said development plan.

(3) Every authority shall have power, subject to the provisions of subsection (2) of this section, to sell or otherwise dispose of all or any part of any development project or to lease the same to any governmental unit or person or make agreement of any kind with any governmental unit or person for the use or operation thereof, for such consideration

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operation and maintenance of any public facility or other property owned or controlled by the authority, including insurance, improvements, replacements, reconstruction and any other required payments, and to pay the principal of and interest on any bonds, and to maintain such reserves or sinking funds for any of the foregoing purposes as may be required by the terms of any lease or other agreement of the authority or as may be deemed necessary or convenient and desirable by the authority.

P.L. 1960, c. 183, § 15, eff. Jan. 18, 1961.

40:37A-60. Purpose of issuance; bonds authorized; pledge of contributions or revenue, or real or personal property

For the purpose of (1) financing the cost of any public facility or facilities (in this act sometimes referred to as the "project"), or (2) funding or refunding any bonds, the authority shall authorize and provide for the issuance of bonds by a resolution (in this act sometimes referred to as the "bond resolution"). Pursuant to the bond resolution, bonds may be issued in one or more series and shall bear such date or dates, mature at such time or times not exceeding 40 years from the date thereof, bear interest at such rate or rates, which may be fixed or may change, at such time or times and according to such formula or method of determination, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources, in such medium of payment, at such place or places within or without the State, and be subject to such terms of redemption (with or without premium) as the bond resolution may provide. The authority may also authorize bonds to be issued and sold from time to time and delegate to such officer or agent of the authority as the authority shall designate the power to determine the time and manner (public or private) of sale, the maturities and rate or rates of interest (which may be fixed or may change, at such time or times and in accordance with a specified formula or method of determination), and such other terms and conditions as may be deemed appropriate by the officer or agent of the authority so designated, provided, however, that the amounts and maturities of and interest rate or rates on such bonds shall be within the limits prescribed by the authority in its delegation to the officer or agent of the power to authorize the sale and issuance of bonds. The authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable (a) exclusively from the income and revenues of the project financed with the proceeds of such bonds; (b) exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or in part with the proceeds of such bonds; or (c) from its revenues generally. Any such bonds may be additionally secured by a pledge of any grant or contributions from any governmental unit or person or a pledge of any income or revenues of the authority from any source whatsoever, or by a mortgage or pledge of all or any part of the real or personal property of the authority, including property which is acquired, improved, constructed, financed or refinanced by the proceeds of such bonds.

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and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon. In the exercise of such power, the authority may make any land or structure in the development project available for use by private enterprise or governmental units in accordance with the development plan at its use value, being the value (whether expressed in terms of rental or capital price) at which the authority determines such land or structure should be made available in order that it may be developed or used for the purpose or purposes specified in such plan. In order to assure that land or other property included in the development project is developed or used in accordance with the development plan, the authority, upon the sale, lease or other disposition of such land or property, shall obligate purchasers, lessees or other users: (A) to use the land or property for the purpose designated in such plan, (B) to begin the building or installation of their improvements or other property (if any), and to complete the same, within such periods of time as the authority may fix as reasonable, and (C) to comply with such other conditions as are necessary or desirable to carry out the purposes stated in this act. Any such obligations imposed on a purchaser of land shall be covenants and conditions running with the land where the authority so stipulates.

P.L. 1960, c. 183, s. 13; amended 1962, c. 224, s. 5; 1979, c. 275, s. 35; 1994, c. 76, s. 5.

40:37A-57. Facility charges

Every authority is hereby authorized to charge and collect tolls, rents, rates, fares, fees or other charges (in this act sometimes referred to as "facility charges") in connection with, or for the use or services of, or otherwise relating to, any public facility or other property owned, leased or controlled by the authority. If the public facility is a system of solid waste disposal, including, but not limited to, a resource recovery facility, recycling plant or transfer station owned, leased or controlled by the authority, the authority may charge and collect in connection with that system from any governmental unit included within the jurisdiction of the authority or which contracts for service with that authority or from any owner or occupant of any real property situated in a constituent municipality or in a municipality which contracts for service with that authority. Such facility charges may be charged to and collected from any governmental unit or person and such governmental unit or person shall be liable for and shall pay such facility charges to the authority at the time when and place where such facility charges are due and payable.

P.L. 1960, c. 183, s. 14; amended 1968, c. 66, s. 3; 1982, c. 113, s. 9; 1988, c. 140.

40:37A-58. Compliance of facility charges with terms of lease or other agreement regarding facility; adjustment of charges

The facility charges fixed, charged and collected by an authority with respect to any public facility shall comply with the terms of any lease or other agreement of the authority with regard to such public facility, and the facility charges fixed, charged and collected by an authority may be so adjusted that the revenues of the authority will at all times be adequate to pay all expenses of the authority, including the expenses of

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P.L. 1960, c. 183, § 17, eff. Jan. 18, 1961. Amended by L. 1977, c. 80, § 1, eff. May 2, 1977; P.L. 1977, c. 291, § 2, eff. Dec. 12, 1977; L. 1982, c. 113, § 10, eff. Aug. 14, 1982.

40:37A-61. Sale of bonds

Bonds of an authority may be sold at public or private sale at such price or prices as the authority shall determine.

P.L. 1960, c. 183, § 18. Amended by L. 1977, c. 80, § 2, eff. May 2, 1977.

40:37A-62. Filing copy of bond resolution; publication; effect

An authority shall cause a copy of any bond resolution adopted by it to be filed for public inspection in its office and in the office of the clerk of the governing body of the county, and if the public facility financed by such bond resolution benefits a beneficiary county, in the office of the clerk of the governing body of the beneficiary county, and may thereupon cause to be published at least once in a newspaper published or circulating in the county, and if applicable, any beneficiary county, a notice stating the fact and date of such adoption and the places where such bond resolution has been so filed for public inspection and also the date of the first publication of such notice and also stating that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of bonds provided for by the bond resolution, or the validity of any covenants, agreements or contracts provided for by the bond resolution shall be commenced within 20 days after the first publication of such notice. If any such notice shall at any time be published and if no action or proceeding questioning the validity or proper authorization of bonds provided for by the bond resolution referred to in said notice, or the validity of any covenants, agreements or contracts provided for by said bond resolution shall be commenced or instituted within 20 days after the first publication of said notice, then all residents and taxpayers and owners of property in the county and, if applicable, any beneficiary county and all other persons shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court, or from pleading any defense to any action or proceeding, questioning the validity or proper authorization of such bonds, or the validity of such covenants, agreements or contracts, and said bonds, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

P.L. 1960, c. 183, s. 19; amended 1994, c. 76, s. 6.

40:37A-63. Covenants and agreements with holders of bonds

Any bond resolution of an authority providing for or authorizing the issuance of any bonds may contain provisions, and such authority, in order to secure the payment of such bonds and in addition to its other powers, shall have power by provision in such bond resolution to covenant and agree with the several holders of such bonds, as to:

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- (a) The custody, security, use, expenditure or application of the proceeds of the bonds;
- (b) The construction and completion, or replacement, of any public facility or facilities;
- (c) The use, regulation, operation, maintenance, insurance or disposition of any public facility or facilities, or restrictions on the exercise of the powers of the authority to dispose, or to limit or regulate the use, of any public facility or facilities;
- (d) Payment of the principal of or interest on the bonds, or any other obligations, and the sources and methods thereof, the rank or priority of any such bonds or obligations as to any lien or security, or the acceleration of the maturity of any such bonds or obligations;
- (e) The use and disposition of any moneys of the authority, including revenues (in this act sometimes called "facility revenues") derived or to be derived from the operation of any public facility or facilities, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired;
- (f) Pledging, setting aside, depositing or trusteing all or any part of the facility revenues or other moneys of the authority, and mortgaging, pledging or otherwise encumbering all or any part of its real or personal property, then owned or thereafter acquired, to secure the payment of the principal of or interest on the bonds or any other obligations or the payment of expenses of operation or maintenance of any public facility or facilities, and the powers and duties of any trustee with regard thereto;
- (g) The setting aside out of the facility revenues or other moneys of the authority of reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;
- (h) Determination or definition of the facility revenues or of the expenses of operation and maintenance of a public facility or facilities;
- (i) The rents, rates, fares, fees, or other charges in connection with, or for the use or services of, or otherwise relating to any public facility or facilities, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired, and the fixing, establishment, collection and enforcement of the same, the amount or amounts of facility revenues to be produced thereby, and the disposition and application of the amounts charged or collected;
- (j) The assumption or payment or discharge of any indebtedness, liens or other claims relating to any part of any public facility or facilities or any obligations having or which may have a lien on any part of the facility revenues;
- (k) Limitations on the issuance of additional bonds or any other obligations or on the incurrence of indebtedness of the authority;
- (l) Limitations on the powers of the authority to construct, acquire or operate any structures, facilities or properties which may compete or tend to compete with any of its public facilities;

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- (a) By any action or proceeding, enforce all rights of the holders of such bonds, including the right to require the authority to charge and collect facility charges adequate to carry out any contract as to, or pledge of, facility revenues, and to require the authority to carry out and perform the terms of any contract with the holders of such bonds or its duties under this act;
  - (b) Bring an action upon all or any part of such bonds or interest coupons or claims appurtenant thereto;
  - (c) By action, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;
  - (d) By action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; or
  - (e) Declare all such bonds due and payable, whether or not in advance of maturity, upon 30 days' prior notice in writing to the authority and, if all defaults shall be made good, then with the consent of the holders of 25% of the principal amount of such bonds then outstanding, annul such declaration and its consequences.
- (3) Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of the functions specifically set forth herein or incident to the general representation of the holders of bonds of such series in the enforcement and protection of their rights.
- (4) In any action or proceeding by such trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, appointed pursuant to this act, shall, if allowed by the court, constitute taxable costs and disbursements, and all costs and disbursements, allowed by the court, shall be a first charge upon any facility charges and facility revenues of the authority pledged for the payment or security of bonds of such series.

P.L. 1960, c. 183, § 21, eff. Jan. 18, 1961.

40:37A-65. Receivers

If the bond resolution of an authority authorizing or providing for the issuance of a series of its bonds shall provide in substance that the holders of the bonds of such series shall be entitled to the benefits of section 21 of this act and shall further provide in substance that any trustee appointed pursuant to said section or having the powers of such a trustee shall have the powers provided by this section, then such trustee, whether or not all of the bonds of such series shall have been declared due and payable, shall be entitled to the appointment of a receiver of the public facility or facilities of the authority, and such receiver may enter upon and take possession of such public facility or facilities and, subject to any pledge or contract with the holders of bonds of the authority, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance, reconstruction, sale, lease or disposition of such public facility or facilities and proceed with such acquisition, construction, operation, maintenance, reconstruction, sale, lease or disposition which the authority is under any

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- (m) Vesting in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the holders of bonds pursuant to section 21 of this act, and limiting or abrogating the right of such holders to appoint a trustee pursuant to section 21 of this act or limiting the rights, duties and powers of such trustee;
- (n) Payment of the costs or expenses incident to the enforcement of the bonds or the provisions of the bond resolution or of any covenant or agreement of the authority with the holders of bonds;
- (o) The procedure, if any, by which the terms of any covenant or agreement with, or duty to, the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given or evidenced; or
- (p) Any other matter or course of conduct which, by recital in the bond resolution, is declared to further secure the payment of the principal of or interest on bonds and to be part of any covenant or agreement with the holders of bonds.

All such provisions of said bond resolution and all such covenants and agreements shall constitute valid and legally binding contracts between the authority and the several holders of the bonds, regardless of the time or issuance of such bonds, and shall be enforceable by any such holder or holders by appropriate action or proceeding in any court of competent jurisdiction, including a proceeding in lieu of prerogative writ.

P.L. 1960, c. 183, § 20, eff. Jan. 18, 1961. Amended by L.1968, c. 66, § 4, eff. June 18, 1968; P.L.1977, c. 291, § 3, eff. Dec. 12, 1977.

40:37A-64. Bond provisions

- (1) If the bond resolution of an authority authorizing or providing for the issuance of a series of its bonds shall provide in substance that the holders of the bonds of such series shall be entitled to the benefits of this section, then if there shall be a default in the payment of principal of or interest on any bonds of such series after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of 30 days, or if the authority shall fail or refuse to comply with any of the provisions of this act or shall fail or refuse to carry out and perform the terms of any contract with the holders of any such bonds and such failure or refusal shall continue for a period of 30 days after written notice to the authority of its existence and nature, the holders of 25% in aggregate principal amount of the bonds of such series then outstanding by instrument or instruments filed in the office of the Secretary of State and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds of such series for the purposes provided in this section.
- (2) Such trustee may, and upon written request of the holders of 25% in aggregate principal amount of the bonds of such series then outstanding shall, in his or its own name:

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obligation to do, and operate, maintain, reconstruct, and prosecute such public facility or facilities and fix, charge, collect, enforce and receive the facility charges and all facility revenues and other moneys thereafter arising subject to any pledge thereof or contract with the holders of bonds relating thereto and perform the public duties and carry out the contracts and obligations of the authority in the same manner as the authority itself might do and under the direction of the court.

P.L. 1960, c. 183, § 22. Amended by L.1962, c. 224, § 7, eff. Jan. 14, 1963.

40:37A-66. Liability on bonds

Neither the members of an authority nor any person executing bonds issued pursuant to this act shall be liable personally on the bonds by reason of the issuance thereof. Bonds or other obligations issued by an authority pursuant to this act shall not be in any way a debt or liability of the State or any subdivision thereof and shall not create or constitute any indebtedness, liability or obligation of the State or any such subdivision, except the authority and any county which in accordance with this act shall have guaranteed payment of the principal of and interest on such bonds.

P.L. 1960, c. 183, § 23, eff. Jan. 18, 1961.

40:37A-67. Negotiability of bonds

Any provision of any law to the contrary notwithstanding, any bond or other obligation issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of the negotiable instruments law of the State, and each holder or owner of such a bond or other obligation, or of any coupon appurtenant thereto, by accepting such bond or coupon shall be conclusively deemed to have agreed that such bond, obligation or coupon is and shall be fully negotiable within the meaning and for all purposes of said negotiable instruments law.

P.L. 1960, c. 183, § 24, eff. Jan. 18, 1961.

40:37A-68. Act as complete authority for issuance of bonds

This act shall be complete authority for the issuance of bonds by an authority, and the provisions of any other law shall not apply to the issuance of such bonds.

P.L. 1960, c. 183, § 25, eff. Jan. 18, 1961.

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40:37A-68.1. Contract or agreement to meet deficiency in revenues; approval

No county improvement authority shall enter into any contract or agreement to meet any deficiency in its revenues in order to meet debt services on bonds, notes, or any other financing obligations for one or more housing projects or developments on any housing or mortgage financing, or for any operating or maintenance expenses of such authority for one or more housing projects or developments, unless the Director of the Division of Local Government Services, after reviewing such contract or agreement and the ability of any party to such contract or agreement to make any payments which may be required, shall give his approval.

P.L. 1979, c. 275, § 42, eff. Jan. 3, 1980.

40:37A-69. Eminent domain

Every authority is hereby empowered, in its own name but for the county or any beneficiary county, to acquire by purchase, gift, grant or devise and to take for public use real property, within or without the county or any beneficiary county, or any interest therein which may be deemed by the authority necessary for its purposes, including public lands owned by or in which any municipality within the county or any beneficiary county has a right, title or interest. Such authority is hereby empowered to acquire and take such real property including such public property or interests therein, by condemnation, in the manner provided for in the "Eminent Domain Act of 1971," P.L. 1971, c.361 (C.20:3-1 et seq.) and, to that end, may invoke and exercise in the manner or mode of procedure prescribed in that act, either in its own name or in the name of the county or any beneficiary county, all of the powers of such county to acquire or take property for public use; provided, however, that, notwithstanding the foregoing or any other provision of this act, no authority shall take, by condemnation, any real property except upon consent thereto by the county which created the authority or, if applicable, any beneficiary county given by resolution adopted by its governing body and further provided, in the case of authorities operating a public transportation facility, every taking by condemnation in connection with such powers, shall be subject to the provisions of sections 48, 49 and 63 of P.L. 1962, c.198 (C.48:3-17.6 to 48:3-17.8).

P.L. 1960, c.183, s.26; amended 1968, c.66, s.5; 1994, c.76, s.7.

40:37A-70. Declaration of taking; effect

Upon the filing by an authority of a complaint in any action to fix the compensation to be paid for any property or at any time thereafter, the authority may file with the clerk of the county in which such property is located and also with the Clerk of the Superior Court a declaration of taking, signed by the authority, declaring that possession of 1 or more of the tracts or parcels of land or property described in the complaint is thereby being taken by and for the use of the authority. The said declaration of taking shall be sufficient if it sets forth (a) a description of each tract or parcel of land or property to be so taken

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sufficient for the identification thereof to which there may or may not be attached a plan or map thereof, (b) a statement of the estate or interest in the said land or property being taken, (c) a statement of the sum of money estimated by the authority by resolution to be just compensation for the taking of the estate or interest in each tract or parcel of land or property described in said declaration, and (d) an allegation that, in compliance with the provisions of this act, the authority has established and is maintaining a trust fund as hereinafter provided.

P.L. 1960, c. 183, § 27, eff. Jan. 18, 1961.

40:37A-71. Deposit of estimated compensation

Upon the filing by an authority of a declaration of taking of property as provided in this act, the authority shall deposit with the Clerk of the Superior Court the amount of the estimated compensation stated in said declaration. In addition to the said deposits with the Clerk of the Superior Court, the authority at all times shall maintain a fund on deposit with a bank or trust company doing business in the State in an amount at least equal to the aggregate amount deposited with the Clerk of the Superior Court as estimated compensation for all property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court. Said fund shall consist of cash or securities readily convertible into cash constituting legal investments for trust funds under the laws of the State or may consist of all or some part of the proceeds of bonds of the authority held by any trustee for the holders of such bonds and available for payment for the land or other property described in such declarations of taking. Said fund shall be held by or on behalf of the authority to secure and may be applied to the payment of just compensation for the land or other property described in such declarations of taking. The authority shall be entitled to withdraw from said fund from time to time so much as may then be in excess of the aggregate amount deposited with the Clerk of the Superior Court as estimated compensation for all land or other property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court.

P.L. 1960, c. 183, § 28, eff. Jan. 18, 1961.

40:37A-72. Right of entry and use of land

Upon the filing by an authority of a declaration of taking of property as provided in this act and the depositing with the Clerk of the Superior Court of the amount of the estimated compensation stated in said declaration, the authority, without other process or proceedings, shall be entitled to the exclusive possession and use of each tract of land or property described in said declaration and may forthwith enter into and take possession of said land or property, it being the intent of this provision that the action to fix compensation to be paid or any other proceedings relating to the taking of said land or interest therein or other property shall not delay the taking of possession thereof and the

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use thereof by the authority for the purpose or purposes for which the authority is authorized by law to acquire or condemn such land or other property or interest therein.

P.L. 1960, c. 183, § 29, eff. Jan. 18, 1961.

40:37A-73. Service of notice; payment

Each authority shall cause notice of the filing of a declaration of taking of property as provided in this act and of the making of the deposit required by this act with respect thereto to be served upon each party to the action to fix the compensation to be paid who resides in the State, either personally or by leaving a copy thereof at his residence if known, and upon each such party who resides out of the State, by mailing a copy thereof to him at his residence if known. In the event that the residence of any such party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the property is located. Such service, mailing or publication shall be made within 30 days after filing such declaration. Upon the application of any party in interest and after notice to other parties in interest, including the authority, the Superior Court may direct that the money deposited with the Clerk of the Superior Court or any part thereof be paid forthwith to the person or persons entitled thereto for or on account of the just compensation to be awarded in said action, provided that each such person shall have filed with the Clerk of the Superior Court a consent in writing that, in the event the award in the said action shall be less than the amount deposited, the court, after such notice as the court prescribes and hearing, may determine his liability, if any, for the return of the difference or any part thereof and enter judgment therefor. If the amount of the award as finally determined shall exceed the amount so deposited, the person or persons to whom the award is payable shall be entitled to recover from the authority the difference between the amount of the deposit and the amount of the award, with interest at the rate of 6% per annum thereon from the date of making the deposit. If the amount of the award as so determined shall be less than the amount so deposited, the Clerk of the Superior Court shall return the difference between the amount of the award and the deposit to the authority unless the deposit or any part thereof shall have theretofore been distributed, in which event the court, on application of the authority and notice to all persons interested in the award and affording them an opportunity to be heard, shall enter judgment in favor of the authority for the difference against the party or parties liable for the return thereof.

P.L. 1960, c. 183, § 30, eff. Jan. 18, 1961.

40:37A-74. Abandonment of condemnation proceedings

The authority shall not abandon any condemnation proceeding subsequent to the date upon which it has taken possession of the land or property as provided in this act.

P.L. 1960, c. 183, § 31, eff. Jan. 18, 1961.

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40:37A-75. Additional powers

In addition to the other powers conferred upon it by this act or by any other law and not in limitation thereof, every authority, in connection with construction or operation of any public facility, shall have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles or any other equipment and appliances (in this section called "works") of any public utility as defined in section 48:2-13 of the Revised Statutes, in, on, along, over or under any real property, including public lands or waters. Whenever in connection with construction or operation of any public facility, any authority shall determine that it is necessary that any such works, which now are or hereafter may be located in, on, along, over or under any such real property, should be relocated in such real property or should be removed therefrom, the public utility owning or operating such works shall relocate or remove the same in accordance with the order of the authority, provided, however, that the cost and expenses of such relocation or removal, including the cost of installing such works in a new location or new locations, and the cost of any lands or any rights or interest in lands or any other rights acquired to accomplish such relocation or removal, less the cost of any lands or any rights or interests in lands or any other rights of the public utility paid to the public utility in connection with the relocation or removal of such works, shall be paid by the authority and may be included in the cost of such public facility. In case of any such relocation or removal of works as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such works, with the necessary appurtenances, in the new location or new locations for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such works in their former location.

P.L. 1960, c. 183, § 32, eff. Jan. 18, 1961.

40:37A-76. Actions by municipalities or county

For the purpose of aiding an authority and co-operating in the planning, undertaking, acquisition, construction or operation of any public facility, the county or any beneficiary county or any municipality in any such county may (a) acquire real property in its name for such public facility or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues or highways to any such public facility, or partly for such purposes and partly for other county or municipal purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by such county or municipality, (b) furnish, dedicate, close, vacate, pave, install, grade, regrade, plan or replan parks, streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake, and (c) do any and all things necessary or convenient to aid and co-operate in the planning, undertaking, construction or operation of any such public facility, and cause services to be furnished to the authority of any character which such county or municipality is otherwise empowered to furnish, and to incur the entire expense thereof.

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FL. 1960, c.183, s.33; amended 1994, c.76, s.8.

**40:37A-77. Sale, lease, loan, grant or conveyance of, or permit to use, real or personal property of county or municipality**

Any county by resolution of its governing body, municipality by ordinance of its governing body, governmental unit or person is hereby empowered, without any referendum or public or competitive bidding, to sell, lease, lend, grant or convey to an authority, or to permit an authority to use, maintain or operate as part of any public facility, any real or personal property which may be necessary or useful and convenient for the purposes of the authority and accepted by the authority. Any such sale, lease, loan, grant, conveyance or permit may be made or given with or without consideration and for a specified or an unlimited period of time and under any agreement and on any terms and conditions which may be approved by such county, municipality, governmental unit or person and which may be agreed to by the authority in conformity with its contracts with the holders of any bonds. Subject to any such contracts with the holders of bonds, the authority may enter into and perform any and all agreements with respect to property so purchased, leased, borrowed, received or accepted by it, including agreements for the assumption of principal or interest or both of indebtedness of such county, municipality, governmental unit or person or of any mortgage or lien existing with respect to such property or for the operation and maintenance of such property as part of any public facility.

P.L. 1960, c. 183, § 34, eff. Jan. 18, 1961.

**40:37A-78. Lease or other agreement with authority to use public facilities**

Any county, municipality, governmental unit or person is hereby empowered to enter into and perform any lease or other agreement with an authority for the lease to or use by such county, municipality, governmental unit or person of all or any part of any public facility or facilities. Any such lease or other agreement may provide for the payment to the authority by such county, municipality, governmental unit or persons annually or otherwise of such sum or sums of money, computed at fixed amounts or by any formula or in any other manner, as may be fixed in or pursuant thereto. Any such lease or other agreement may be made and entered into for a term beginning currently or at some future or contingent date and with or without consideration and for a specified or unlimited time and on any terms and conditions which may be approved by such county, municipality, governmental unit or person and which may be agreed to by the authority in conformity with its contracts with the holders of any bonds, and shall be valid and binding on such county, municipality, governmental unit or person whether or not an appropriation is made thereby prior to authorization or execution of such lease or other agreement. Every such county, municipality, governmental unit or person is hereby authorized and directed to do and perform any and all acts and things necessary, convenient or desirable to carry out and perform any such lease or other agreement entered into by it and to provide for

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officer thereof as may be designated in the resolution or ordinance authorizing such guaranty, and such county or municipality shall thereupon and thereafter be obligated to pay the principal and interest on said bonds in the same manner and to the same extent as in the case of bonds issued by it. Any such guaranty of bonds of an authority may be made, and any resolution authorizing such guaranty may be adopted, notwithstanding any statutory debt or other limitations, including particularly any limitation of requirement under or pursuant to the local bond law, but the principal amount of bonds so guaranteed, shall, after their issuance, be included in the gross debt of such county or municipality for the purpose of determining the indebtedness of such county or municipality under or pursuant to the local bond law. The principal amount of said bonds so guaranteed and included in gross debt shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of said local bond law (a) from and after the time of issuance of said bonds until the end of the fiscal year beginning next after the completion of acquisition or construction of the facility to be financed from the proceeds of such bonds and (b) in any annual debt statement filed pursuant to said local bond law as of the end of said fiscal year or any subsequent fiscal year if the revenues or other receipts or moneys of the authority in such year are sufficient to pay its expenses of operation and maintenance in such year and all amounts payable in such year on account of the principal and interest on all such guaranteed bonds, all bonds of any such county or any municipality issued as provided in section 36 of P.L. 1960, c.183 (C. 40:37A-79), and all bonds of the authority issued under this act.

P.L. 1960, c.183, s.37; amended 1962, c.224, s.8; 1981, c.460, s.2; 1982, c.313, s.11; 1994, c.76, s.10.

**40:37A-81. Pledge or assignment of lease or other agreement to secure bonds of authority**

Any lease or other agreement, and any instruments making or evidencing the same, may be pledged or assigned by the authority to secure its bonds and thereafter may not be modified except as provided by the terms of such instrument or by the terms of such pledge or assignment.

P.L. 1960, c. 183, § 38, eff. Jan. 18, 1961.

**40:37A-82. Exemption of property of authority from levy and sale**

All property of an authority shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against an authority be a charge or lien upon its property; provided, that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge, mortgage or lien given by an authority on its facility revenues or other moneys, or on its real or personal property.

P.L. 1960, c. 183, § 39, eff. Jan. 18, 1961. Amended by L.1977, c. 291, § 4, eff. Dec. 12, 1977.

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the payment or discharge of any obligation thereunder in the same manner as other obligations of such county, municipality, governmental unit or person.

P.L. 1960, c. 183, § 35, eff. Jan. 18, 1961.

**40:37A-79. Appropriations by county or municipality**

For the purpose of aiding an authority and co-operating in the planning, undertaking, acquisition, construction or operation of any public facility, the county or any beneficiary county by resolution of its governing body, or any municipality in the county or beneficiary county by ordinance of its governing body, shall have power from time to time and for such period and upon such terms, with or without consideration, as may be provided by such resolution or ordinance and accepted by the authority (a) to appropriate moneys for the purposes of the authority, and to loan or donate such money to the authority in such installments and upon such terms as may be agreed upon with the authority, (b) to covenant and agree with the authority to pay to or on the order of the authority annually or at shorter intervals as a subsidy for the promotion of its purposes not exceeding such sums of money as may be stated in such resolution or ordinance or computed in accordance therewith, (c) upon authorization by it in accordance with law of the performance of any act or thing which it is empowered by law to authorize and perform and after appropriation of the moneys (if any) necessary for such performance, to covenant and agree with the authority to do and perform such act or thing and as to the time, manner and other details of its doing and performance, and (d) to appropriate money for all or any part of the cost of acquisition or construction of such public facility, and, in accordance with the limitations and any exceptions thereto and in the manner or mode of procedure prescribed by the local bond law to incur indebtedness, borrow money and issue its negotiable bonds for the purpose of financing such public facility and appropriation, and to pay the proceeds of such bonds to the authority.

P.L. 1960, c.183, s.36; amended 1994, c.76, s.9.

**40:37A-80. Guaranty of bonds**

For the purpose of aiding an authority in the planning, undertaking, acquisition, construction, financing or operation of any facility which the authority is authorized to undertake pursuant to section 11 of P.L. 1960, c.183 (C.40:37A-54), the county or any beneficiary county may, pursuant to resolution duly adopted by its governing body, or any municipality in the county or beneficiary county may, by ordinance of its governing body, in the manner provided for adoption of a bond ordinance as provided in the local bond law and with or without consideration and upon such terms and conditions as may be agreed to by and between the county or beneficiary county or the municipality and the authority, unconditionally guarantee the punctual payment of the principal and interest on any bonds of the authority. Any guaranty of bonds of an authority made pursuant to this section shall be evidenced by endorsement thereof on such bonds, executed in the name of the county or beneficiary county or the municipality and on its behalf by such

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**40:37A-83. Payments to municipalities or political subdivisions in lieu of taxes**

Every authority and every municipality in which any property of the authority is located are hereby authorized and empowered to enter into agreements with respect to the payment by the authority to such municipality of annual sums of money in lieu of taxes on such property in such amounts as may be agreed upon between the authority and the municipality, and each such authority is empowered to make such payments and each such municipality is empowered to accept such payments and to apply them in the manner in which taxes may be applied in such municipality; provided, however, that no such annual payment with respect to any parcel of such property shall exceed the amount to be derived by applying the current general tax rate for the taxing district in which such property is located to the assessed and taxable value of such property for the taxable year immediately prior to the time of its acquisition by the authority. In the case of a new facility constructed and owned by the authority, the authority is empowered to enter into an agreement with the municipality to make payments in lieu of taxes on such facility, so long as such payments do not exceed the amount derived by applying the current local purposes tax rate for such taxing district to the actual cost of construction of the facility; provided, however, that in the first through fourth years of such payments they shall not exceed 40% of the amount so derived, in the fifth through eighth years 50% of the amount so derived, in the ninth through twelfth years 65% of the amount so derived, and in the thirteenth through sixteenth years 80% of the amount so derived, until in the seventeenth year and all subsequent years the payments shall not exceed the amount derived as herein before described. Notwithstanding the aforesaid provisions of this section, whenever any person, pursuant to subsection c. 03, of section 11 of this act (C. 40:37A-54), shall occupy space within a public facility for a non governmental use which is not itself tax exempt, whether as lessee, vendee or otherwise, such person shall, as long as title thereto shall remain in the authority, pay to the political subdivision in which such facility is located a payment in lieu of taxes which shall equal the taxes on real and personal property, including water and sewer service charges or assessments, which such person would have been required to pay had it been the owner of such property or portion thereof during the period, and neither the authority nor its projects, properties, money or bonds and notes shall be obligated, liable or subject to lien of any kind for the enforcement, collection or payment thereof. Further, notwithstanding the aforesaid provisions of this section, during the time an authority is managing, operating and maintaining real property for a redevelopment project prior to actual rehabilitation, clearance, development, or redevelopment of such property or sale, lease or other disposal of such property pursuant to the provisions hereof, it may pay to the municipality in which the real property is situated out of the net income from the property, in lieu of taxes, an annual service charge for municipal services supplied to said property in an amount not exceeding the tax on the property for the year it was acquired by the authority. The amount of such annual service charge shall be as set forth in a written agreement to be entered into between the municipality and the authority.

P.L. 1960, c. 183, § 40, eff. Jan. 18, 1961. Amended by L. 1977, c. 80, § 3, eff. Mar. 2, 1977; P.L. 1977, c. 109, § 1, eff. June 1, 1977; L. 1979, c. 275, § 40, eff. Jan. 3, 1980; L. 1982, c. 113, § 12, eff. Aug. 14, 1982.

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40:37A-84. Bonds as legal investments

Notwithstanding any restriction contained in any other law, the State and all public officers, municipalities, counties, political subdivisions and public bodies, and agencies thereof, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued pursuant to this act, and such bonds shall be authorized security for any and all public deposits.

P.L. 1960, c. 183, § 41, eff. Jan. 18, 1961.

40:37A-85. Tax exemptions

All properties of an authority are hereby declared to be public property of a political subdivision of the State and those properties, and all public facilities, whether or not owned by the authority, are devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds issued pursuant to this act are hereby declared to be issued by a political subdivision of this State and for an essential public and governmental purpose and to be a public instrumentality and such bonds, and the interest thereon and the income therefrom, and all facility charges, funds, revenues and other moneys pledged or available to pay or secure the payment of such bonds, or interest thereon, shall at all times be exempt from taxation except for transfer inheritance and estate taxes.

P.L. 1960, c. 183, § 42, eff. Jan. 18, 1961. Amended by L. 1982, c. 113, § 13, eff. Aug. 14, 1982.

40:37A-86. Guarantee of vested rights of bondholders

The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds issued pursuant to a bond resolution of an authority adopted pursuant to this act that the State will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct, operate, sell, lease or dispose of any public facility or to fix, establish, charge and collect its facility charges or other moneys and to fulfill the terms of any agreement made with the holders of such bonds or other obligations, so as to in any way impair the rights or remedies of such holders, and will not modify in any way the exemptions from taxation provided for in this act, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged or provided for.

P.L. 1960, c. 183, § 43. Amended by L. 1962, c. 224, § 9, eff. Jan. 14, 1963.

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40:37A-90. Construction of act

This act shall be construed liberally to effectuate the legislative intent and as complete and independent authority for the performance of each and every act and thing herein authorized, and an authority shall not constitute or be deemed to be a county or municipality or agency or component of a municipality for the purposes of any other law; provided, however, that no authority, other than an authority created in or performing services for a county of the second class having a population in excess of 265,000, but less than 350,000 inhabitants, in a county of the third class having a population not in excess of 70,000 inhabitants, or in a county of the fifth class having a population in excess of 150,000, but less than 300,000 inhabitants, shall exercise the powers of a common carrier in any such county, and, except as herein above in this section set forth, nothing contained in this act shall in any way affect or limit the jurisdiction, rights, powers or duties of any State regulatory agencies.

P.L. 1960, c. 183, s. 47; amended 1968, c. 66, s. 6; 1977, c. 154; 1994, c. 76, s. 11.

40:37A-91. Severability

If any section, subsection, clause or provision of this act shall be adjudged unconstitutional or to be ineffective in whole or in part, to the extent that it is not adjudged unconstitutional or is not ineffective, it shall be valid and effective and no other section, subsection, clause or provision of this act shall on account thereof be deemed invalid or ineffective, and the inapplicability or invalidity of any section, subsection, clause or provision of this act in any 1 or more instances or under any 1 or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstance.

P.L. 1960, c. 183, p. 759, § 48, eff. Jan. 1, 1961.

40:37A-92. Public transportation facility; employees; self-organization

Employees of a public transportation facility operated by any county improvement authority shall have the right to self-organization, to form, join or assist labor organizations and to bargain collectively through representatives of their own choosing. It shall be the obligation of such authority to recognize and bargain exclusively with a labor organization representing a majority of its employees in an appropriate unit with respect to wages, salaries, hours, working conditions and welfare and pension and retirement provisions, and, upon reaching agreement with such labor organization, to enter into and execute a written contract incorporating therein the agreements so reached. No agreement relating to hours of employment shall require or permit employees to work a number of hours per day or per week in excess of such hours as may be provided by Federal or State laws relating to similar employment in private industry.

P.L. 1968, c. 66, § 7, eff. June 18, 1968.

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40:37A-87. Undertakings for deposits of authority

All banks, trust companies, savings banks, investment companies and other persons carrying on a banking business are hereby authorized to give to any authority a good and sufficient undertaking with such sureties as shall be approved by the authority to the effect that such bank or banking institution as herein before described shall faithfully keep and pay over to the order of or upon the warrant of the authority or its authorized agent all such funds as may be deposited with it by the authority and agreed interest thereon, at such times or upon such demands as may be agreed with the authority or in lieu of such sureties, deposit with the authority or its authorized agent or any trustee thereof or for the holders of any bonds, as collateral, such securities as the authority may approve. The deposits of the authority may be evidenced by a depository collateral agreement in such form and upon such terms and conditions as may be agreed upon by the authority and such bank or banking institution.

P.L. 1960, c. 183, § 44, eff. Jan. 18, 1961.

40:37A-88. Annual audit

Each authority shall cause an annual audit of its accounts to be made, and for this purpose it shall employ a registered municipal accountant of New Jersey or a certified public accountant of New Jersey. The audit shall be completed and filed with the authority within 4 months after the close of the fiscal year of the authority and a certified duplicate copy thereof shall be filed in the office of the Division of Local Government in the Department of the Treasury and in the office of the treasurer of the county within 5 days after the original report is filed with the authority.

P.L. 1960, c. 183, § 45, eff. Jan. 18, 1961.

40:37A-89. Filing of copy of bond resolution

Each authority shall file a certified copy of each bond resolution adopted by it in the office of the Division of Local Government in the Department of the Treasury, together with a certified summary of the dates, amounts, maturities and interest rates of all bonds to be issued pursuant thereto prior to the issuance of any such bonds. Upon the adoption of each annual budget of an authority or amendment thereof, a certified copy thereof shall be filed forthwith in the office of said Division of Local Government.

P.L. 1960, c. 183, § 46, eff. Jan. 18, 1961.

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40:37A-93. Representation of majority of employees; election

If there is a question whether a labor organization represents a majority of employees in the appropriate unit such question shall be submitted by either the county improvement authority operating the public transportation facility or the labor organization to an election conducted under the auspices of the New Jersey State Board of Mediation, which shall have authority to conduct such an election and to certify the result thereof. If there is a question as to whether the proposed unit is appropriate, that matter shall be referred to arbitration as hereinafter set forth. In determining the unit or units appropriate for the purposes of collective bargaining, the arbitrator shall be guided by the standards developed under the Federal labor laws in determining unit questions and applied to comparable industries.

P.L. 1968, c. 66, § 8, eff. June 18, 1968.

40:37A-94. Acquisition of privately-owned transportation system; transfer of employees

Whenever a county improvement authority shall acquire an existing privately-owned transportation system pursuant to authorization by the board of chosen freeholders, such acquisition may be subject to the assumption by the authority of all contracts and agreements of every kind and nature of the privately-owned transportation system acquired. All of the employees of such system except executive or supervisory officers and employees, shall be transferred to the employment of such authority with all employment rights, privileges and benefits which they previously enjoyed in such transportation system, including sick leave, seniority, vacation and pension credits. Such employees and former employees who are members or beneficiaries of any pension or other benefit plan or arrangement shall be entitled to a continuation of all benefits with respect to welfare, sickness, vacations, pension or retirement benefits as they previously enjoyed prior to the acquisition by such authority. The authority shall assume the obligations of any transportation system acquired by it with regard to wages, salary, hours, working conditions, sick leave, health and welfare and pension or retirement provisions or employees. It shall assume the provisions of any collective bargaining agreement between such acquired transportation system and the representatives of its employees. No employee of any acquired transportation system who is transferred to a position with such authority, shall, by reason of such transfer, be placed in any lesser or adverse position with respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health and welfare, insurance or any other benefits that he enjoyed as an employee of such acquired transportation system, unless the employee shall consent thereto in writing or that such conditions of employment, benefits or rights are incorporated in a collective bargaining agreement entered into between the authority and the labor organization representing a majority of its employees.

P.L. 1968, c. 66, § 9, eff. June 18, 1968.

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40:37A-95. Protective conditions and benefits for employees

No county improvement authority authorized to operate a public transportation facility shall acquire any existing transportation system or part thereof whether by purchase, lease, condemnation or otherwise, nor shall the authority dispose of or lease any transportation system or part thereof, nor merge, consolidate, or co-ordinate any transportation system or part thereof, nor substitute any type of equipment on any such system or part thereof for the then existing equipment, or reduce or limit the lines or service of any such existing system, or of its system, unless it shall first have made adequate provision for any employees who are or may be displaced, or whose wages, hours, place, or conditions of employment are or may be adversely affected. The terms and conditions of such provisions shall be a proper subject of collective bargaining with the labor organizations that represent such employees. In no event, however, shall such protective conditions and benefits for any employees be less than those established pursuant to section 16(c) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1609(c), 78 Stat. 307).

P.L. 1968, c. 66, § 10, eff. June 18, 1968.

40:37A-96. Labor disputes; arbitration

In the case of any labor dispute between a county improvement authority operating a public transportation facility and its employees where collective bargaining does not result in agreement, irrespective of whether such dispute relates to the making or maintaining of collective bargaining agreements, the terms to be included in such agreements, the interpretation or application of such agreements, the adjustment of any grievance or any difference or any question that may arise between the authority and the labor organization representing its employees concerning wages, salaries, hours, working conditions or benefits including health and welfare, sick leave, insurance, or pension or retirement provisions, the authority shall offer to submit such dispute to final and binding arbitration by a single arbitrator or by a tripartite board of arbitrators. Upon acceptance by the labor organization of such arbitration proposal, if the dispute is referred to a single arbitrator, such arbitrator shall be one who may be agreed upon by the authority and the labor organization involved, and, in the event that said parties cannot agree upon the identity of the arbitrator then such arbitrator shall be selected through the use of the New Jersey State Board of Mediation in accordance with its usual procedure and rules relating to the selection of arbitrators in labor disputes. Should the matter be referred to a tripartite board, the authority shall designate one such arbitrator, the labor organization shall designate one such arbitrator and the third, impartial arbitrator, who shall be the chairman of the board, shall be selected by the 2 arbitrators thus designated; in the event of their inability to select such third arbitrator they shall seek the appointment of the third arbitrator by use of the New Jersey State Board of Mediation which shall proceed to select such arbitrator in the manner provided by the rules and practices of said State Board of Mediation with respect to arbitrators of labor disputes. The cost of arbitration

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P.L. 1968, c. 66, s.13; amended 1994, c.76, s.12.

40:37A-99. Authority deemed a public utility; powers and operations

A county improvement authority engaged in the operation of a public transportation facility shall be deemed to be a public utility and its powers and operations shall be subject to the provisions of Title 48 of the Revised Statutes and the regulation and control of the Board of Public Utility Commissioners.

P.L. 1968, c. 66, § 14, eff. June 18, 1968.

40:37A-100. Solid waste disposal systems; applicability of Solid Waste Management Act

Any solid waste disposal system operated by a county improvement authority shall be subject to the provisions of the "Solid Waste Management Act (1970)" (P.L. 1970, c. 39, C. 13:1E-1 et seq.), and to any rules and regulations adopted thereunder by the State Department of Environmental Protection.

P.L. 1973, c. 330, § 3, eff. Dec. 27, 1973.

40:37A-101. Selection of site location for disposal system

Whenever any county improvement authority chooses to exercise the powers granted by P.L. 1973, c.330 (C.40:37A-100 et al.) with respect to the selection of a site location or locations for any facility of its garbage and solid waste disposal system, it shall so inform the Commissioner of Environmental Protection, and shall make or cause to be made, after consultation with the commissioner, such preliminary surveys, investigations, studies, borings, maps, plans, drawings and estimates of costs and revenues relating to the type and location of such garbage and solid waste disposal facilities, or any part thereof, which the authority may deem necessary to purchase or construct in order to protect the health, safety and welfare of the inhabitants of the county or any beneficiary county. In addition, the authority may make or cause to be made a study and a map of all existing garbage and solid waste disposal treatment and disposal facilities proposed for or already operating in the county or any beneficiary county. The undertaking of all such studies and surveys and the provision of the necessary maps, sketches, data and plans in connection therewith, shall be deemed a county purpose and the costs thereof may be paid out of general funds of the county or beneficiary county; but all such costs shall be reimbursed to the county or any beneficiary county by the county improvement authority.

P.L. 1973, c.330, s.4; amended 1994, c.76, s.13.

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shall be borne equally by both parties except that in the event that a tripartite board is sued, the services of the arbitrator designated by each party shall be paid for by such party. The arbitration proceeding shall take place in the manner provided by the rules of the New Jersey State Board of Mediation applicable to arbitration of labor disputes and the decision of the arbitrator or board of arbitrators shall be final and binding upon the parties.

P.L. 1968, c. 66, § 11, eff. June 18, 1968.

40:37A-97. Authority and power

County improvement authorities operating a public transportation facility shall have the following authority and power:

(1) To execute a collective bargaining agreement requiring, as a condition of employment on or after the thirtieth day following the beginning of employment or the effective date of the agreement, whichever is the later, membership in good standing of all employees within the bargaining unit in the labor organization representing a majority of the employees in such unit.

(2) To enter into a collective bargaining agreement under which it will withhold union dues, fees or assessments from the wages of the employees and pay the same on behalf of said employees to the labor organization.

(3) To agree to pay and to pay contributions for the establishment or maintenance of any health and welfare plan or any pension or retirement plan.

(4) To make deductions from wages of employees, upon authorization of such employees for any purposes for which any private employer may make such deductions.

P.L. 1968, c. 66, § 12, eff. June 18, 1968.

40:37A-98. Authorization to engage in public transportation within and beyond county limits

Any county improvement authority may engage in the business of operation of public transportation facilities for the transportation of passengers and property on scheduled routes, within and beyond the territorial limits of the county or any beneficiary county, with the consent of the governing bodies of the municipalities into which such operation is extended, and on nonscheduled routes, by contract. A copy of each contract for charter or operation on a nonscheduled route shall be maintained in the office of the authority as a public record available for inspection during normal business hours.

Any county improvement authority which establishes or acquires public transportation facilities may contract with any person or corporation for the operation thereof upon such terms and conditions as the authority shall determine.

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40:37A-102. Responsibility for selection of final site; approval required

Subject to an enabling resolution adopted by the governing body of the county which has created such an authority or by the governing body of any beneficiary county (hereinafter referred to as the host county) pursuant to P.L. 1960, c.183 (C.40:37A-44 et seq.), the county improvement authority shall have the responsibility for selecting a final site location or locations for any garbage and solid waste collection, treatment or disposal facilities to be operated by said authority. The governing body of such county shall not, however, adopt any such enabling resolution until the site location or locations tentatively designated by the improvement authority shall have been approved by:

a. The Commissioner of Environmental Protection after an evaluation of all studies, surveys and plans, and any accompanying maps and data, as may be required by the commissioner pursuant to section 4 of P.L. 1973, c.330 (C.40:37A-101);

b. The governing bodies of the several municipalities situate within such county, by the adoption of concurring resolutions by any combination of such municipalities with an aggregate population of at least 75% of the total population of said county, as determined by the last decennial census; and

c. The planning board of the host county, by a resolution affirming that such site location or locations are compatible with the host county's master plan, or such county planning policies as may exist.

P.L. 1973, c.330, s.5; amended 1994, c.76, s.14.

40:37A-103. Classification of solid waste facility as public utility

Any solid waste facilities owned or operated by a county improvement authority pursuant to the provisions of this amendatory and supplementary act, shall be deemed a public utility and shall be subject to such rules and regulations as may be adopted by the Board of Public Utilities in accordance with the provisions of the "Solid Waste Utility Control Act" (P.L. 1970, c.40, C.48:13A-1 et seq.). The improvement authority's application to operate any solid waste facility shall be considered at a public hearing by the Board of Public Utilities.

P.L. 1973, c.330, s.6; amended 1991, c.381, s.46.

40:37A-104. Municipalities; use of facilities

All facilities of a solid waste disposal system operated by a county improvement authority shall be open to use by any municipality or municipalities situate in the host county. Such facilities shall also be open to use by any municipality or municipalities situate in any county contiguous to the host county, provided that the population of said municipality, or the aggregate population of any several such municipalities, would not by itself or when added to the nonhost county population already using the improvement

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authority's facilities, be in excess of 10% of the total population of the host county. When the prospective nonhost county user population would exceed the foregoing 10% limit, the applications for use of the petitioning nonhost county municipalities shall require the prior approval of the governing bodies of the host county, and of any combination of municipalities situate therein, in accordance with the requirements and procedures set forth in section 5 of this amendatory and supplementary act.

P.L. 1973, c. 330, § 7, eff. Dec. 27, 1973.

**40:37A-105. Exclusion of alternate method of solid waste disposal by municipality with contract with county**

Upon contracting with a county improvement authority for the collection, treatment or disposal of garbage or solid waste as herein provided, no municipality shall, during the term of the contract, engage in, or grant, permit or enter into any new contract for the collection, treatment and disposal of garbage and solid waste that might be competitive with the facilities or services being provided under contract to that municipality by the improvement authority.

This section shall in no way be construed so as to prevent or prohibit any municipality from erecting, constructing, operating and maintaining an incinerator or garbage and solid waste disposal plant or other means for the disposition of garbage and solid wastes in any manner or by any means by which the same may be lawfully erected, constructed, operated or maintained.

P.L. 1973, c. 330, § 8, eff. Dec. 27, 1973.

**40:37A-106. Legislative findings and declarations**

The Legislature finds and declares that:

- a. The supply of decent and affordable housing, particularly for families of low and moderate income has become increasingly scarce, especially in certain areas of this State.
- b. In communities experiencing rapid development and the problems associated with the economic impact of land speculation, the cost of developing comprehensive housing programs is prohibitive, thus calling for action in the form of mortgage and housing finance assistance for the development of private housing programs by appropriate governmental agencies.
- c. The "county improvement authorities law," P.L. 1960, c. 183 (C. 40:37A-44 et seq.) provides for the creation of a county level agency which, with the cooperation and approval of the governing body of a municipality, may undertake certain improvement and development projects within that municipality. Such an agency, and county and municipal government interaction, are appropriate to provide a means of addressing the

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apertures to improve or enhance the housing project and the neighborhood or area in which the housing project is located.

g. "Municipality" means any municipality located within the county wherein the authority has been established or within any beneficiary county.

h. "Mutual housing" means a housing project operated or to be operated upon completion of construction or rehabilitation exclusively for the benefit of the families of moderate income who are entitled to occupancy by reason of ownership of stock in the qualified housing sponsor, or as a co-owner in a horizontal property regime pursuant to the "Horizontal Property Act," P.L. 1963, c. 168 (C.46:8A-1 et seq.) or as a condominium unit owner pursuant to the "Condominium Act," P.L. 1969, c.257 (C.46:8B-1 et seq.); provided, however, the authority may adopt rules and regulations permitting a reasonable percentage of space in such project to be rented for residential or for commercial use.

i. "Project cost" means the sum total of all costs incurred in the development of a housing project, which are approved by the authority as reasonable and necessary, less any and all net rents and other net revenues received from the operation of the real and personal property on the project site during construction. Costs shall include, but are not necessarily limited to: (1) cost of land acquisition and any buildings thereon, (2) cost of site preparation, demolition and development, (3) architect, engineer, legal, authority and other fees paid or payable in connection with the planning, execution and financing of the project, (4) cost of necessary studies, surveys, plans and permits, (5) insurance, interest, financing, tax and assessment costs and other operating and carrying costs during construction, (6) cost of construction, reconstruction, fixtures, and equipment related to the real property, (7) cost of land improvements, (8) necessary expenses in connection with initial occupancy of the project, (9) a reasonable profit or fee to the builder and developer, (10) an allowance established by the authority for working capital and contingency reserves, and reserves for any anticipated operating deficits during the first two years of occupancy, and (11) the cost of such other items, including tenant relocation, as the authority shall determine to be reasonable and necessary for the development of the project.

All project costs shall be subject to approval and audit by the authority. The authority may adopt rules and regulations specifying in detail the types and categories of costs which shall be allowable if actually incurred in the construction or reconstruction of a housing project.

j. "Qualified housing sponsor" means: (1) any housing corporation heretofore qualified under the provisions of the "Limited-Dividend Nonprofit Housing Corporations or Associations Law," P.L. 1949, c.184 (C.55:16-1 et seq.), repealed by P.L. 1991, c.431, (2) any urban renewal corporation or association heretofore qualified under the provisions of the "Urban Renewal Corporation and Association Law of 1961," P.L. 1961, c.40 (C.40:55C-40 et seq.), repealed by P.L. 1991, c.431, or any urban renewal nonprofit corporation or association heretofore qualified under the provisions of the "Urban Renewal Nonprofit Corporation Law of 1965," P.L. 1965, c.95 (C.40:55C-77 et seq.), repealed by P.L. 1991, c.431, which has as one of its purposes the construction, rehabilitation or operation of housing projects, (3) any general corporation formed under the provisions of Title 14 of the Revised Statutes or Title 14A of the New Jersey Statutes,

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need to create a supply of decent and affordable housing, based upon programs which, at the State level, have shown substantial success in providing new and rehabilitated housing units, particularly in urban areas.

P.L. 1979, c. 275, § 1, eff. Jan. 3, 1980.

**40:37A-107 Definitions**

As used in this act:

- a. "Authority" means any public body created pursuant to the "county improvement authorities law," P.L. 1960, c.183 (C.40:37A-44 et seq.).
- b. "Bonds, bond anticipation notes and other notes and obligations," or "bonds, bond anticipation notes or other notes or obligations" mean any bonds, notes, debentures or other evidences of financial indebtedness issued by the authority pursuant to this act.
- c. "Family" means two or more persons related by blood, marriage or adoption who live or expect to live together as a single household in the same dwelling unit; provided, however, that any individual who (1) has attained retirement age as defined in section 216a of the Federal Social Security Act, or (2) is under a disability as defined in section 223 of that act, or (3) is the surviving member of a family whose other members died during occupancy of a housing project, shall be considered as a family for purposes of permitting continued occupancy of the dwelling unit occupied by such family. The authority may provide by rule or regulation that any other individual not specified in this subsection shall be considered as a family for the purpose of this subsection.
- d. "Family of low and moderate income" means a family (1) whose income is too low to compete successfully in the normal rental or mutual housing market, and (2) whose gross aggregate family income does not exceed the limits established under this act.
- e. "Gross aggregate family income" means the total annual income of all members of a family, from whatever source derived, including, but not limited to, pension, annuity, retirement and social security benefits; except that the authority may, by rule or regulation, exclude therefrom: (1) such reasonable allowances for dependents, (2) such reasonable allowances for medical expenses, (3) all or any part of the earnings of any family members below the age of 18 years, or of any other family members, other than the chief wage earner, (4) such income as is not received regularly by any family member, or (5) any two or more such items.
- f. "Housing project" or "project" means any work or undertaking, whether new construction or rehabilitation, which is designed for the primary purpose of providing decent, safe and sanitary dwelling units for families of low and moderate income in need of housing, including any buildings, land, equipment, facilities, or other real or personal properties, such as streets, sewers, utilities, parks, site preparation, landscaping, stores, offices, and administrative, community, health, recreational, educational and welfare facilities, all as determined by the authority to be necessary, convenient or desirable

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which has as one of its purposes the construction, rehabilitation or operation of housing projects, (4) any corporation or association organized not for profit under the provisions of Title 15 of the Revised Statutes or any other law of this State, which has as one of its purposes the construction, rehabilitation or operation of housing projects, (5) any horizontal property regime formed under the "Horizontal Property Act," P.L. 1963, c.168 (C.46:8A-1 et seq.) or any condominium formed under the "Condominium Act," P.L. 1969, c.257 (C.46:8B-1 et seq.), which has as one of its purposes the construction, rehabilitation or operation of housing projects, and (6) any individual, partnership, limited partnership, joint venture or other association, including a partnership, limited partnership, joint venture or association in which the authority is a general or limited partner or participant, approved by the authority as qualified to own, construct, rehabilitate, operate, manage and maintain a housing project.

k. "Required minimum capital reserve" means the reserve amount required to be maintained in each housing finance fund under the provisions of this act.

l. "Amortized value" means for securities purchased at a premium above or a discount below par, the value as of any given date obtained by dividing the total amount of the premium or the discount at which such securities were purchased by the number of days remaining to maturity on such securities at the time of such purchase and by multiplying the amount so calculated by the number of days having passed from the date of such purchase; and (1) in the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and (2) in the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.

P.L. 1979, c.275, s.2, amended 1982, c.113, s.14; 1994, c.76, s.15.

**40:37A-108. Powers of authority**

- a. The authority, for the purpose of carrying out the purposes of this act, may:
  - (1) Accept from qualified housing sponsors applications for loans;
  - (2) Enter into agreements with qualified housing sponsors for permanent loans and temporary loans or advances in anticipation of such permanent loans for the construction or rehabilitation of housing projects;
  - (3) Make permanent loans and temporary loans or advances in anticipation of such permanent loans to qualified housing sponsors under the provisions of this act;
  - (4) Enter into lease, loan, mortgage, security or any other type of agreements with other agencies or instrumentalities of the State or any political subdivisions of the State for the purpose of providing loans and other financial assistance in order to promote housing projects in any municipality, including, without limitation, agreements to purchase bonds, notes or other debt obligations issued by municipalities and lease, loan, mortgage, security or any other type of agreements to be entered into by municipalities in order to finance a fair share housing obligation pursuant to P.L. 1985, c.222 (C.52:27D-301 et al.). The period of usefulness in which such municipal debt obligations or such

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agreements must mature shall, notwithstanding any provision of law to the contrary, be based on the reasonable life of such housing projects directly or indirectly financed with such municipal debt obligations or such agreements, but in no event shall the period of usefulness be less than the minimum established under the "Fair Housing Act," P.L. 1985, c.222 (C.52:27D-301 et al.); and

(5) Prepare, carry out, acquire, own, lease and operate housing projects and provide for the construction, reconstruction, improvement, alteration or repair of those housing projects, and to lease or rent any dwellings, accommodations, lands, buildings, structures or other facilities comprising a housing project, subject to the limitations of this act.

b. No application for a loan for the construction or rehabilitation of a housing project to be located in any municipality shall be processed unless there shall be filed with the secretary of the authority prior to such application a certified copy of a resolution adopted by said municipality reciting that there is a need for low and moderate income housing projects in said municipality.

P.L. 1979, c.275, s.3; amended 1982, c.113, s.15; 1994, c.31.

40:37A-109. Application for loan; forms; contents

Every application for a loan to a qualified housing sponsor shall be made on forms furnished by the authority and shall contain such information as the authority shall require.

P.L. 1979, c. 275, § 4, eff. Jan. 3, 1980.

40:37A-110. Priority in grant of loans; considerations

In considering any application for a loan, the authority shall give first priority to applications for loans for the construction or rehabilitation of housing projects, designed primarily to serve families whose incomes do not exceed the median for the standard metropolitan statistical area in which the project is located, and wherein 10% or more units will be subsidized by, or occupied by tenants whose rents will be subsidized by, any program of housing assistance, and which will be a part of, or constructed in connection with, an urban renewal program, and also shall give consideration to:

a. The comparative need of the area to be served by the proposed project for housing for families of low and moderate income, with particular emphasis on the needs of individuals and families displaced or caused to be displaced by public or private action;

b. The ability of the applicant to construct, operate, manage and maintain the proposed housing project;

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c. The existence of zoning or other regulations to protect adequately the proposed housing project against detrimental future uses which could cause undue depreciation in the value of the project;

d. The proximity of the proposed project to, and the accessibility of, adequate parks, recreational areas, utilities, schools, transportation and parking;

e. The proximity of the proposed project to, and the accessibility of, places of adequate employment opportunities and,

f. Where applicable, the eligibility of the applicant to make payments in lieu of taxes to the municipality in which the housing project is located.

P.L. 1979, c. 275, § 5, eff. Jan. 3, 1980.

40:37A-111. Terms and conditions of loans

Loans made by the authority shall be subject to the following terms and conditions:

a. The loan shall be for a period of time not in excess of 50 years as determined by the authority;

b. The amount of the loan shall not exceed 90% of the project cost as determined by the authority, except that in the case of projects to be owned, constructed, rehabilitated, operated, managed and maintained as mutual housing or by any corporation or association organized not for profit which has as one of its purposes the construction or rehabilitation of housing projects, the amount of the loan shall not exceed 100% of the project cost as determined by the authority; provided, however, that any such loan shall be subject to an agreement between the authority and any such corporation or association organized not for profit or for mutual housing, prohibiting the transfer of ownership or management responsibilities by said corporation or association at any time prior to repayment of at least 10% of the original loan, unless the transfer of ownership or management responsibilities is ordered by a court of competent jurisdiction to a qualified housing sponsor;

c. The interest rate on the loan shall be established by the authority at the lowest level consistent with the authority's cost of operation and its responsibilities to the holders of its bonds, bond anticipation notes and other obligations;

d. The loan shall be evidenced by a mortgage note or bond and by a mortgage which shall be a first lien on the project, except as provided in subsection i. of this section, and which shall contain such terms and provisions and be in such form, as approved by the authority. The authority shall require the qualified housing sponsor receiving a loan or its contractor to post labor and materials, and construction performance, surety bonds in amounts related to the project cost as established by rule or regulation, and to execute such other assurances and guarantees as the authority may deem necessary, and may require its principals or stockholders to also execute such other assurances and guarantees as the authority shall deem necessary;

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c. The loan shall be subject to an agreement between the authority and the qualified housing sponsor which will subject said qualified housing sponsor and its principals or stockholders to limitations established by the authority as to rentals and other charges, builders' and developers' profits and fees, and the disposition of its property and franchises, to the extent more restrictive limitations are not provided by the law under which the borrower is incorporated or organized;

f. The loan shall be subject to an agreement between the authority and the qualified housing sponsor limiting said qualified housing sponsor, and its principals or stockholders, to a return of 8% per annum of its investment in any housing project assisted with a loan from the authority. No qualified housing sponsor which is permitted by the provisions of the law under which it is organized or incorporated to earn a return on its investment, nor any of the principals or stockholders of such qualified housing sponsor, shall at any time earn, accept or receive a return greater than 8% per annum of its investment in any housing project assisted with a loan from the authority whether upon the completion of the construction or rehabilitation of such project, or upon the operation thereof, or upon the sale, assignment or lease of such project to any other person, association or corporation;

g. No loan shall be executed, except a loan made to a corporation or association organized not for profit which has as one of its purposes the construction or rehabilitation of housing projects or for mutual housing, unless the qualified housing sponsor agrees: (1) to certify upon completion of project construction or rehabilitation, subject to audit by the authority, either that the project cost as defined in this act exceeded the amount of the loan proceeds by 10% or more, or the amount by which the loan proceeds 90% of the project cost; and (2) to pay forthwith to the authority, to be applied to reduce the principal of the loan, the amount, if any, of such excess loan proceeds, subject to audit and determination by the authority. No loan shall be made to a corporation or association organized not for profit or for mutual housing unless it agrees to certify the project cost upon completion of the project, subject to audit and determination by the authority, and further agrees to pay forthwith to the authority, to be applied to reduce the principal of the loan, the amount, if any, by which the proceeds of the loan exceed the certified project cost, subject to audit and determination by the authority. Notwithstanding the provisions of this subsection, the authority may accept, in lieu of any certification of project cost as provided herein, such other assurances of the said project cost, in any form or manner whatsoever, as will enable the authority to determine with reasonable accuracy the amount of said project cost.

h. No loan shall be made for the construction or rehabilitation of a housing project for which tax exemption is granted by a municipality unless such tax exemption remains in effect during the entire term of the loan, unless a lesser period of tax exemption is approved by the authority; and

i. Notwithstanding any other provisions of this section to the contrary, the authority may, if it shall determine that the construction or rehabilitation of low and moderate income housing would be facilitated thereby and that financial benefits may as a result be obtained for families who would reside in the housing, make a loan to a qualified housing sponsor that shall be subordinated to one or more loans holding senior

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liens on the land on which the project is to be constructed, or on the building or buildings, the rehabilitation of which is to be financed in whole or in part by the authority.

P.L. 1979, c. 275, § 6, eff. Jan. 3, 1980. Amended by L.1982, c. 113, § 16, eff. Aug. 14, 1982.

40:37A-112. Additional conditions; powers of authority

As a condition of the loan, the authority shall have the power at all times during the construction and rehabilitation of a housing project and the operation thereof:

a. To enter upon and inspect without prior notice any project, including all parts thereof, for the purpose of investigating the physical and financial condition thereof, and its construction, rehabilitation, operation, management and maintenance, and to examine all books and records with respect to capitalization, income and other matters relating thereto and to make such charges as may be required to cover the cost of such inspections and examinations;

b. To order such alterations, changes or repairs as may be necessary to protect the security of its investment in a housing project or the health, safety, and welfare of the occupants thereof;

c. To order any managing agent, project manager or owner of a housing project to so such acts as may be necessary to comply with the provisions of all applicable laws or ordinances, or of any rule or regulation of the authority, or of the terms of any agreement concerning the said project, or to refrain from doing any acts in violation thereof, and in this regard the authority shall be a proper party to file a complaint and to prosecute thereon for any violations of laws or ordinances as set forth herein;

d. To require the adoption and continuous use of uniform systems of accounts and records for a project and to require all owners or managers of same to file annual reports containing such information and verified in such manner as the authority shall require, and to file at such times and on such forms as it may prescribe, reports and answers to specific inquiries required by the authority to determine the extent of compliance with any agreement, the terms of the loan, the provisions of this act, or any other applicable law; and,

e. To enforce, by court action if necessary, the terms and provisions of any agreement between the authority and the qualified housing sponsor and the terms of any agreement between the qualified housing sponsor and any municipality granting tax exemption, as to schedules of rental or carrying charges, income limits as applied to tenants or occupants, or any other limitation imposed upon the qualified housing sponsor concerning the finances, construction or operation of the project.

In the event of a violation by the qualified housing sponsor of the terms of any agreement between the authority and the qualified housing sponsor, or between the municipality granting tax exemption and the qualified housing sponsor, or in the event of a violation by the qualified housing sponsor of this act, or of the terms of the mortgage loan agreement or other loan agreement, or of any rules and regulations of the authority duly

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promulgated pursuant to this act, the authority may remove any or all of the existing officers and directors of such qualified housing sponsor and appoint such person or persons whom the authority in its sole discretion deems advisable, who may be officers or employees of the authority, as new officers or directors to serve in place of those removed. Officers or directors so appointed need not be stockholders or meet other qualifications which may be prescribed by the certificate of incorporation or bylaws of such qualified housing sponsor. In the absence of fraud or bad faith, officers or directors so appointed shall not be personally liable for debts, obligations or liabilities of such qualified housing sponsor. Officers or directors so appointed shall serve only for a period consistent with the duration of such violation or until the authority is satisfied that such violation, or violations of a similar nature, have not and will not reoccur. Officers or employees of the authority who are so appointed as officers or directors shall serve in such capacity without compensation, but shall be reimbursed, if and as the certificate of incorporation or bylaws of such qualified housing sponsor may provide, for all necessary expenses incurred in the discharge of their duties as officers or directors so appointed of such qualified housing sponsor and for such other necessary expenses incurred in the discharge of their duties as officers or directors of such qualified housing sponsor as determined by the authority.

P.L. 1979, c. 275, § 7, eff. Jan. 3, 1980.

**40:37A-113. Eligibility for admission to housing projects; periodic examination of income; removal due to excessive income**

a. Admission to housing projects constructed or rehabilitated under this act shall be limited to families of low and moderate income whose gross aggregate family income at the time of admission does not exceed six times the annual rental or carrying charges, including the value or cost of heat, light, water, sewerage, parking facilities and cooking fuel, of the dwellings that may be furnished to such families, or seven times said charges if there are three or more dependents. There may be included in the carrying charges to any family for residence in any mutual housing project constructed or rehabilitated with a loan from the authority an amount equal to 6% of the original cash investment of the family in said mutual housing project and, to the extent authorized by the authority where not included in said carrying charges, the value or cost of repainting the apartment and replacing any fixtures or appliances. Notwithstanding the provisions of this section, no family or individual shall be eligible for admission to any housing project constructed or rehabilitated with a loan from the authority whose gross aggregate family income exceeds \$32,100.00 as adjusted from time to time by the authority, by rules or regulations promulgated hereunder, so as to reflect changes in any wage or salary indices for this State as determined and prepared by any department, division, office or agency of this State; provided however, that with respect to any project financed by an authority mortgage insured or guaranteed by the United States of America or any agency or instrumentality thereof, the authority may adopt the admission standards for such projects then currently utilized or required by the guarantor or insurer.

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b. The authority shall by rules and regulations provide for the periodic examination of the income of any person or family residing in any housing project constructed or rehabilitated with a loan from the authority. In the event that the gross aggregate family income of a family residing in any such housing project increases, and the ratio of such family income to the current rental or carrying charges of the dwelling unit becomes greater than the ratio prescribed for admission in subsection a. of this section but does not exceed by more than 25% the maximum family income permitted for admission to the project specified in such subsection, the owner or managing agent of such housing project shall permit the family to continue to occupy the unit. The authority or, with the approval of the authority, the qualified housing sponsor of any housing project constructed or rehabilitated with a loan from the authority, may terminate the tenancy or interest of any family residing in such housing project whose gross aggregate family income continues to exceed by more than 25% the maximum family income so permitted for a period of 6 months or more; provided, that no tenancy or interest of any such family in any such housing project shall be terminated except upon reasonable notice and opportunity to obtain suitable alternate housing, in accordance with rules and regulations of the authority; provided further, that any such family, with the approval of the authority, may be permitted to continue to occupy the unit, subject to payment of a rent or carrying charge surcharge to the qualified housing sponsor in accordance with a schedule of surcharges fixed by the authority. Said qualified housing sponsor shall pay such surcharge to the municipality granting tax exemption, but only up to an amount that, together with payments made to the municipality in lieu of taxes and for any land taxes, equals 25% of the total rents or carrying charges of the housing project for the current and any prior years that the project has been in operation. Any remainder of the surcharge, or the total surcharge if tax exemption has not been granted, shall be paid to the authority.

c. Any family residing in a mutual housing project required to remove from the project because of excessive income as herein provided shall be discharged from liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed, in accordance with the rules of the agency, for all sums paid by such family to the qualified housing sponsor on account of the purchase of stock or debentures as a condition of occupancy or on account of the acquisition of title for such purpose.

P.L. 1979, c. 275, § 8, eff. Jan. 3, 1980.

**40:37A-114. Priorities in eligibility for admission**

The authority shall establish rules and regulations concerning admissions to any housing project financed in whole or in part by loans authorized hereunder which shall provide priority categories for persons displaced or caused to be displaced by public or private action or by urban renewal projects, highway programs or other public works, persons living in substandard housing, persons and families who, by reason of family income, family size or disabilities have special needs, elderly persons, and families living under conditions violative of minimum health and safety standards.

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P.L. 1979, c. 275, § 9, eff. Jan. 3, 1980.

**40:37A-115. Actions or proceedings; standing of authority; jurisdiction and venue; receiver; reorganizations**

The authority may institute any action or proceeding against any qualified housing sponsor receiving a loan under the provisions of this act, or owning any housing project hereunder, in any court of competent jurisdiction to enforce the provisions of this act, or to foreclose its mortgage, or to protect the public interest, the tenants, the stockholders or creditors of such sponsor. In connection with any such action or proceeding, the authority may apply for the appointment of a receiver to take over, manage, operate and maintain the affairs of such qualified housing sponsor, and the authority through such agent as it shall designate is hereby authorized to accept appointment as receiver of any such sponsor when so appointed by a court of competent jurisdiction.

The reorganization of any qualified housing sponsor shall be subject to the supervision and control of the authority and no such reorganization shall be had without the consent of the authority. Upon any such reorganization the amount of capitalization, including therein all stocks, income debentures and bonds and other evidence of indebtedness, shall be such as is authorized by the authority but not in excess of the fair value of the property received.

P.L. 1979, c. 275, § 10, eff. Jan. 3, 1980.

**40:37A-116. Foreclosure action; parties; powers of court; sales**

In any foreclosure action involving a qualified housing sponsor, other than a foreclosure action instituted by the authority, the authority and the municipality in which any tax exemption is provided shall, in addition to other necessary parties, be made parties defendant. The authority and the municipality shall take all steps in such action necessary to protect the interest of the public therein, and no costs shall be awarded against the authority or the municipality.

Subject to the terms of any applicable agreement, contract or other instrument entered into or obtained pursuant to section 23 of this act, judgment of foreclosure shall not be entered unless the court to which application therefor is made shall be satisfied that the interest of the lien holder or holders cannot be adequately secured or safeguarded except by the sale of the property; and in such proceeding the court shall be authorized to make an order increasing the rental or carrying charges to be charged for the housing accommodations in the housing project involved in such foreclosure, or appoint a member of the authority or any officer of the municipality in which any tax exemption with respect to the projects provided, as a receiver of the property, or grant such other and further relief as may be reasonable and proper; and in the event of a foreclosure or other judicial sale, the property shall be sold only to a qualified housing sponsor which will manage, operate and maintain the project subject to the provisions of this act, unless the

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court shall find that the interest and principal on the obligations secured by the lien which is the subject of foreclosure cannot be earned under the limitations imposed by the provisions of this act and that the proceeding was brought in good faith, in which event the property may be sold free of limitations imposed by this act or subject to such limitations as the court may deem advisable to protect the public interest.

P.L. 1979, c. 275, § 11, eff. Jan. 3, 1980.

**40:37A-117. Judgment against qualified housing sponsor not pertaining to foreclosure; written notice to authority**

In the event of a judgment against any qualified housing sponsor in any action not pertaining to the foreclosure of a mortgage, there shall be no sale of any of the real property included in any housing project of such qualified housing sponsor except upon 60 days' written notice to the authority. Upon receipt of such notice the authority shall take such steps as in its judgment may be necessary to protect the rights of all parties.

P.L. 1979, c. 275, § 12, eff. Jan. 3, 1980.

**40:37A-118. Bonds, bond anticipation notes and other notes and obligations**

a. The authority shall have the power and is hereby authorized to issue, from time to time, its bonds, bond anticipation notes and other notes and obligations in such principal amounts as in the opinion of the authority shall be necessary to provide sufficient funds for achieving any of its corporate purposes, including: the making of mortgage loans, the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, bond anticipation notes and other notes and obligations issued by it whether or not such have become due; the establishment or increase of reserves to secure or to pay such bonds, bond anticipation notes and other notes and obligations or interest thereon; and all costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

b. Except as may be otherwise expressly provided in this act or by resolution of the authority, every issue of bonds, bond anticipation notes or other notes or obligations shall be general obligations payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds, bond anticipation notes or other notes or obligations pledging any particular moneys or revenues. The authority may issue such types of bonds, bond anticipation notes or other notes or obligations as it may determine, including bonds, bond anticipation notes or other notes or obligations as to which the principal and interest are payable: (1) exclusively from the income and revenues of the authority resulting from projects financed with the proceeds of such bonds, bond anticipation notes or other notes or obligations; (2) exclusively from the income and revenues of the authority resulting from certain projects, whether or not such projects were financed in whole or in part from the proceeds of such bonds, bond anticipation notes or other notes or obligations; or, (3) from its revenues generally. Any such bonds, bond anticipation notes or other notes or obligations may be additionally:

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secured by a pledge of any grant, subsidy or contribution from the United States of America or an agency or instrumentality thereof or the State or any agency, instrumentality or political subdivision thereof, or any person, firm or corporation or a pledge of any income or revenues, funds or moneys of the authority from any source whatsoever.

c. Whether or not the bonds, bond anticipation notes and other notes and obligations issued pursuant to this act are of such form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, New Jersey Statutes, such bonds, bond anticipation notes and other notes and obligations and any coupon thereof are hereby made negotiable instruments within the meaning of and for all the purposes of said Title 12A, subject only to the provisions of the bonds and notes for registration.

d. Bonds, bond anticipation notes or other notes or obligations of the authority shall be authorized by resolution or resolutions of the authority and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates per annum or within such maximum rate, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without this State, and be subject to such terms of redemption (with or without premium) all as such resolution or resolutions may provide.

e. Bonds, bond anticipation notes or other notes or obligations of the authority may be sold at public or private sale at such price or prices and in such manner as the authority shall determine. Every bond shall mature and be paid not later from the date thereof than 50 years. Every note shall mature and be paid not later than 5 years from the date thereof.

f. Bonds, bond anticipation notes and other notes and obligations of the authority issued under the provisions of this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision, nor be or constitute a pledge of the faith and credit of the State or of any political subdivision; but all such bonds, bond anticipation notes and other notes and obligations, unless funded or refunded by bonds, bond anticipation notes or other notes or obligations of the authority shall be payable solely from revenues or funds pledged or available for their payment as authorized in this act. Each bond, bond anticipation note or other note or obligation shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof or the interest thereon only from the revenues or funds of the authority, and that neither the State nor any political subdivision thereof is obligated to pay such principal or interest, and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds, bond anticipation notes or other notes or obligations.

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proceeds to secure the payment of the bonds, bond anticipation notes, or other notes or obligations, or of any issue thereof;

g. Limitations on the issuance of additional bonds, bond anticipation notes or other notes or obligations, the terms upon which additional bonds, bond anticipation notes or other notes or obligations may be issued and secured, and on the refunding or purchase of outstanding bonds, bond anticipation notes or other notes or obligations of the authority;

h. The rank or priority of any such bonds, bond anticipation notes or other notes or obligations with respect to any lien or security or as to the acceleration of the maturity of any such bonds, bond anticipation notes or other notes or obligations;

i. The creation of special funds or moneys to be held in trust or otherwise for operating expenses, payment or redemption of bonds, bond anticipation notes or other notes or obligations, or for other purposes, and provisions for the use and disposition of the moneys held in such funds;

j. The procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of any bonds, bond anticipation notes or other notes or obligations of the authority may be amended or abrogated, the amount of bonds, bond anticipation notes or other notes or obligations the holders of which must consent thereto, and the manner in which such consent may be given;

k. The custody of any of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys;

l. The time or manner of enforcement or restraint from enforcement of any rights of the authority arising by reason of or with respect to nonpayment of principal or interest with respect to loans to qualified housing sponsors, mortgages securing such loans;

m. The definition of those acts or omissions to act which shall constitute a default in the obligations and duties of the authority and providing for the rights and remedies of the holders of bonds, bond anticipation notes or other notes or obligations in the event of such default; provided, however, that such rights and remedies shall not be inconsistent with the general laws of the State and other provisions of the act

n. The vesting in a trustee or trustees within or without the State of such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of any trustee appointed by the holders of any bonds, bond anticipation notes or other notes or obligations and limiting or abrogating the right of the holders of any bonds, bond anticipation notes or other notes or obligations of the authority to appoint a trustee under this act or limiting the rights, powers and duties of such trustee;

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g. All expenses incurred in carrying out the provisions of this act shall be payable solely from revenues or funds provided or to be provided under the provisions of this act, and nothing in this act shall be construed to authorize the authority to incur indebtedness or liability on behalf of or payable by this State or any political subdivision thereof.

P.L. 1979, c. 275, § 13, eff. Jan. 3, 1980.

40:37A-119. Resolution authorizing issuance; provisions; inclusion in contract

Any resolution or resolutions authorizing the issuance of bonds, bond anticipation notes or other notes or obligations or any issue thereof may contain provisions, except as expressly limited in this act, and except as otherwise limited by subsisting agreements with the holders of bonds, bond anticipation notes or other notes or obligations, which shall be a part of the contract with the holders thereof, as to the following:

a. The pledging of or creating a lien on, as security for the payment of the principal and redemption price of and interest on any bonds, bond anticipation notes, or other notes or obligations of the authority or of any issue thereof, all or any part of the revenues or assets of the authority to which its right then exists or may thereafter come into existence, and the moneys derived therefrom, including, but not limited to, loans to qualified housing sponsors, mortgages and other obligations securing same, the moneys received in payment of such loans and interest thereon, fees and charges payable from qualified housing sponsors, all or any part of any money, funds or property held in trust or otherwise by others for the payment of any bonds, bond anticipation notes or other notes or obligations of the authority, and all or any part of the proceeds of any bonds, bond anticipation notes or other notes or obligations, and covenanting against pledging all or any part of such revenues, assets, moneys, funds or property, or against permitting or suffering any lien thereon;

b. Other provisions for the custody, collection, securing, investment and payment of any revenues, assets, moneys, funds or property of the authority or with respect to which the authority may have any rights or interest;

c. The use and disposition of the gross income from, and the payments of principal or interest received by the authority with respect to loans to qualified housing sponsors, or any income or proceeds from investments held by the authority or other income, revenues or receipts of the authority;

d. The establishment and setting aside of reserves or sinking funds, the making of charges and fees to provide for the same, and the regulation and disposition thereof;

e. The custody, application and disposition of the proceeds of any bonds, bond anticipation notes or other notes or obligations;

f. Limitations on the purpose to which the proceeds of sale of bonds, bond anticipation notes or other notes or obligations may be applied and pledging such

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o. Provision for a trust agreement by and between the authority and a corporate trustee which may be any trust company or bank having the powers of a trust company within the State, which agreement may provide for the pledging or assigning of any assets or income from assets to which or in which the authority has any rights or interest, and may further provide for such other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of any bonds, bond anticipation notes or other notes or obligations of the authority and not otherwise in violation of law, and the said agreement may provide for the restriction of the rights of any individual holder of bonds, bond anticipation notes or other notes or obligations of the authority. All expenses incurred in carrying out the provisions of such trust agreement may be treated as a part of the cost of operation of the authority. The trust agreement may contain any further provisions which are reasonable to delineate further the respective rights, duties, safeguards, responsibilities and liabilities of authority, individual and collective holders of bonds, bond anticipation notes and other notes or obligations of the authority, and the trustees;

p. The appointment of and provisions for the duties and obligations of a paying agent or paying agents of such other fiduciaries within or without the State;

q. Covenants to do or refrain from doing such acts and things as may be necessary or convenient or desirable in order to better secure any bonds, bond anticipation notes, or other notes or obligations of the authority, or which, in the discretion of the authority, will tend to make any bonds, bond anticipation notes or other notes or obligations to be issued more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein;

r. Any other matters which in any way affect the security or protection of the bonds, bond anticipation notes or other notes or obligations.

P.L. 1979, c. 275, § 14, eff. Jan. 3, 1980.

40:37A-120. Pledge of revenues, moneys, funds or other property; validity; lien; recordation

Any pledge of revenues, moneys, funds or other property made by the authority shall be valid and binding from the time when the pledge is made: the revenues, moneys, funds or other property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded except in the records of the authority.

P.L. 1979, c. 275, § 15, eff. Jan. 3, 1980.

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**40:37A-121. Members of authority or persons executing; nonliability**

Neither the members of the authority nor any person executing bonds, bond anticipation notes or other notes or obligations issued pursuant to this act shall be liable personally on such bonds, bond anticipation notes or other notes or obligations by reason of the issuance thereof.

P.L. 1979, c. 275, § 16, eff. Jan. 3, 1980.

**40:37A-122. Purchase; power of authority**

The authority shall have power to purchase bonds, bond anticipation notes or other notes or obligations of the authority out of any funds available therefor. The authority may hold, cancel or resell such bonds, bond anticipation notes or other notes or obligations subject to and in accordance with agreements with holders of its bonds, bond anticipation notes and other notes or obligations.

P.L. 1979, c. 275, § 17, eff. Jan. 3, 1980.

**40:37A-123. Housing finance funds; limitations on issuance of bonds or other obligations**

a. The authority may create and establish one or more special funds to be known as housing finance funds and may pay into such housing finance funds: (1) any proceeds of the sale of the bonds, notes or other obligations to the extent provided in the resolution of the authority authorizing the issuance thereof; (2) the moneys directed to be transferred by the authority to such funds; and, (3) any other moneys which may be made available to the authority for the purposes of such funds from any other source or sources. The moneys held in or credited to any housing finance fund established under this act, except as hereinafter provided, shall be used solely for the payment of the principal of and interest on bonds or other obligations of the authority secured by such housing finance fund, as the same mature, required payments to any sinking fund established for the amortization of such bonds or other obligations (hereinafter referred to as "sinking fund payments"), the purchase or redemption of such bonds or other obligations of the authority or the payment of any redemption premium to be paid when such bonds or other obligations are redeemed prior to maturity; provided, however, that moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the amount of principal (including sinking fund payments) and interest maturing and becoming due in the succeeding calendar year on the bonds or other obligations of the authority then outstanding and secured by such housing finance fund (such amount being hereafter referred to as the "required minimum capital reserve"), except for the purpose of paying principal and interest on the bonds or other obligations of the authority secured by such housing finance fund maturing and becoming due and sinking fund payments for the payment of which other moneys of the authority are not available. Any income or interest earned by or increment to, any such

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housing finance fund due to the investment thereof may be transferred to any other fund or account of the authority to the extent it does not reduce the amount of such housing finance fund below the required minimum capital reserve. In computing the amount of any housing finance fund for the purposes of this section, securities in which all or a portion of such housing finance fund are invested shall be valued at par, if purchased at par, or, if purchased at other than par, at amortized value.

b. The authority shall not issue bonds or other obligations at any time when the maximum amount of principal (including sinking fund payments) and interest maturing and becoming due in the succeeding calendar year on the bonds or other obligations outstanding and then to be issued and secured by a housing finance fund will exceed the amount of such housing finance fund at the time of issuance, unless the authority, at the time of issuance of such bonds or other obligations, shall deposit in such housing finance fund, from the proceeds of the bonds or other obligations so to be issued or otherwise, an amount which, together with the amount then in such housing finance fund, will be not less than the required minimum capital reserve.

P.L. 1979, c. 275, § 18, eff. Jan. 3, 1980.

**40:37A-124. Pledge and agreement of state not to impair rights or remedies of bondholders**

The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds, bond anticipation notes or other notes or obligations issued pursuant to the authority of this act that the State will not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of any agreement made with the holders of such bonds, bond anticipation notes or other notes or obligations, or in any way impair the rights or remedies of such holders until such bonds, bond anticipation notes and other notes or obligations, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or in behalf of such holders, are fully met and discharged or provided for. The authority may include this pledge and agreement of the State in any agreement with the holders of bonds, bond anticipation notes and other notes or obligations issued by the authority.

P.L. 1979, c. 275, § 19, eff. Jan. 3, 1980.

**40:37A-125. Bonds as legal investment and authorized security for public deposits**

Notwithstanding any restriction contained in any other law, this State and all public officers, municipalities, counties, political subdivisions and public bodies and agencies thereof, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors,

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administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds, bond anticipation notes or other notes or obligations issued pursuant to this act, and such bonds, bond anticipation notes and other notes or obligations shall be authorized security for any and all public deposits.

P.L. 1979, c. 275, § 20, eff. Jan. 3, 1980.

**40:37A-126. Tax exemptions; property and revenues of authority; interest and income of bonds**

All property of the authority is hereby declared to be public property devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds, bond anticipation notes or other notes or obligations issued pursuant to this act are hereby declared to be issued by a body corporate and public of this State and for an essential public and governmental purpose and such bonds, bond anticipation notes and other notes or obligations, and the interest thereon and the income therefrom, and all fees, charges, funds, revenues, income and other moneys received or to be received by the authority and pledged or available to pay or secure the payment of such bonds, bond anticipation notes or other notes or obligations, or interest thereon, shall at all times be exempt from taxation except for transfer, inheritance and estate taxes.

P.L. 1979, c. 275, § 21, eff. Jan. 3, 1980.

**40:37A-127. Exemption from execution or other judicial process**

All property of the authority, except as otherwise provided herein, shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against the authority be a charge or lien upon its property; provided, that nothing herein shall apply to or limit the rights of the holder of any bonds, bond anticipation notes or other notes or obligations to pursue any remedy for the enforcement of any pledge or lien given by the authority on its revenues or other moneys; and provided, further, that nothing herein shall limit the authority's ability to enter into partnerships, limited partnerships, joint ventures or other associations as a general partner, limited partner or participant therein.

P.L. 1979, c. 275, § 22, eff. Jan. 3, 1980. Amended by L. 1982, c. 113, § 17, eff. Aug. 14, 1982.

**40:37A-128. Insurance or guarantee of loan; agreement with department or agency of federal government**

The authority is authorized and empowered to obtain, or aid in obtaining, from any department or agency of the United States any insurance or guarantee as to, or of or for

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the payment or repayment of interest or principal, or both, or any part thereof, on any loan or any instrument evidencing or securing the same, made or entered into pursuant to the provisions of this act, and notwithstanding any other provisions of this act to enter into any agreement, contract or any other instrument whatsoever with respect to any such insurance or guarantee, and except payment in such manner and form as provided therein in the event of default by the borrower.

P.L. 1979, c. 275, § 23, eff. Jan. 3, 1980.

**40:37A-129. Insurance or guarantee of bonds or other obligations; agreement with department or agency of federal government**

Authority is authorized and empowered to obtain from any department or agency of the United States any insurance or guarantee as to, or of or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds, bond anticipation notes or other notes or obligations issued by the authority pursuant to the provisions of this act; and notwithstanding any other provisions of this act to enter into any agreement, contract or any other instrument whatsoever with respect to any such insurance or guarantee except to the extent that such action would in any way impair or interfere with the agency's ability to perform and fulfill the terms of any agreement made with the holders of the bonds, bond anticipation notes or other notes or obligations of the authority.

P.L. 1979, c. 275, § 24, eff. Jan. 3, 1980.

**40:37A-130. Annual report; audit; contents**

On or before the last day of February in each year the authority shall make an annual report for the preceding calendar year to the governing body of the county and of each municipality and beneficiary county in which a housing project financed by the authority is located.

The annual audit pursuant to section 45 of the "county improvement authorities law," P.L. 1960, c. 183 (C.40:37A-88) shall include the activities of the authority pursuant to this act.

P.L. 1979, c. 275, s. 25; amended 1994, c. 76, s. 16.

**40:37A-131. Powers of authority**

In order to carry out the purposes and provisions of this act, the authority in addition to any powers granted to it elsewhere in this act or the "county improvement authorities law," P.L. 1960, c. 183 (C. 40:37A-44 et seq.), shall have the following powers:

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- a. To conduct examinations and hearings and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter material for its information and necessary to carry out the provisions of this act;
- b. To issue subpoenas requiring the attendance of witnesses and the production of books and papers pertinent to any hearing before such authority or before one or more of the members of the authority appointed by it to conduct such hearing;
- c. To apply to any court, having territorial jurisdiction of the offense, to have punished for contempt any witness who refuses to obey a subpoena, or who refuses to be sworn or affirmed to testify, or who is guilty of any contempt after summons to appear;
- d. To acquire by purchase, gift, foreclosure or condemnation any real or personal property, or any interest therein, to enter into any lease of property and to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage lien interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption, in property foreclosed by it and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law;
- e. To adopt such rules and regulations as shall be expressly authorized by this act and such additional rules and regulations as shall be necessary or desirable to carry out the purposes of this act;
- f. To borrow money or secure credit on a temporary, short-term, interim or on a long-term basis, and to issue negotiable bonds, bond anticipation notes or other notes or obligations and to provide for and secure the payment thereof and to provide for the rights of the holders thereof;
- g. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including contracts or agreements with qualified financial institutions for the servicing and processing of mortgage loans pursuant to this act;
- h. To do and perform any acts and things authorized by this act under, through, or by means of its officers, agents or employees or by contract with any person, firm or corporation;
- i. To finance by mortgage loans or otherwise the construction or rehabilitation of housing projects and to make temporary loans or advances in anticipation of permanent loans, and to make funds for mortgage and other loans available to appropriate and qualified entities as may be designated by the authority;
- j. To receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act, subject to such conditions upon which such grants and contributions may be made, including, but not limited to, gifts or grants from any department or agency of the United States or this State for payment of rent supplements or rental assistance to eligible families or for the payment in whole or in part of the interest expense for a housing project or for any other purpose consistent with this act;

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union, insurance company, trustee or fiduciary in a loan to a qualified housing sponsor secured by a single participating mortgage or by separate mortgages, the interest of each having equal priority as to lien in proportion to the amount of the loan so secured, but need not be equal as to interest rate, time or rate of amortization or otherwise and to undertake commitments to make such loans;

- k. To sell, at public or private sale, with or without bidding, any mortgage or other obligation securing a mortgage loan made by the authority;
- l. To make commitments to purchase, and to purchase, service and sell, mortgages insured by any department or agency of the United States, and to make loans directly upon the security of any such mortgage;
- m. To enter into partnerships, limited partnerships, joint ventures or other associations as a general partner, limited partner or participant therein with qualified housing sponsors to carry out the purposes of the authority;
- n. To provide qualified housing sponsors and other individuals and organizations with such advisory consultation, training and educational services as will increase the availability and supply of housing and increase housing opportunities for low and moderate income families, including but not limited to assistance in community development and organization, home management and advisory services for the residents of the housing projects, and to encourage community organizations to assist in developing such projects;
- o. To administer funds established for the provision of loans and grants, including but not limited to revolving loan funds established pursuant to P.L. 1947, c. 71 (C. 40-48-8.15 et seq.), to qualified housing sponsors and other individuals and organizations, for the purpose of increasing the availability and supply of housing for low and moderate income families;
- p. To encourage research in, and demonstration projects to develop, new and better techniques and methods for increasing the supply of housing for moderate income families and to engage in such research and demonstration projects and to receive and accept contributions, grants or aid, from any source, public or private, including, but not limited to the United States and this State, for carrying out this purpose;
- q. To provide to qualified housing sponsors through mortgage loans or otherwise, financing or refinancing of fully completed, as well as partially completed, projects which may or may not be occupied, provided that said projects meet all the requirements of the act; and
- aa. To provide to qualified housing sponsors through mortgage loans purposes and exercise the powers given and granted in the act.

P.L. 1979, c. 275, § 26, eff. Jan. 1, 1980. Amended by L. 1981, c. 460, § 3, eff. Jan. 8, 1982; P.L. 1982, c. 113, § 18, eff. Aug. 14, 1982.

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- k. To enter into agreements to pay annual sums in lieu of taxes to any political subdivision of the State with respect to any real property owned or operated directly by the authority for purposes of this act;
  - l. To procure insurance against any loss in connection with its property, operations and assets (including mortgages and loans) in such amounts and from such insurers as it deems desirable;
  - m. To the extent permitted under its contract with the holders of bonds, bond anticipation notes and other notes or obligations of the authority, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other term of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the authority is a party;
  - n. To the extent permitted under its contract with the holders of bonds, bond anticipation notes and other notes or obligations, to enter into contracts with any qualified housing sponsor containing provisions enabling the said qualified housing sponsor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where by reason of other income or payment from the authority, any department or agency of the United States or this State, such reductions can be made without jeopardizing the economic stability of the housing project;
  - o. To establish and revise from time to time and charge and collect such fees and charges including, but not limited to, payment for all costs of financing by the authority, services, mortgage insurance premiums, reserves against losses, reimbursement for advances made to the authority, as the authority shall determine are reasonable to enable the authority, to the extent feasible, to be self-sustaining;
  - p. Subject to any agreement with holders of bonds, bond anticipation notes or other notes or obligations, to invest and reinvest any moneys of the authority not required for immediate use or disbursement, including proceeds from the sale of any bonds, bond anticipation notes or other notes or obligations and any moneys held in the housing finance funds, reserve funds or sinking funds, in such obligations, securities and other investments as the authority shall deem prudent;
  - q. Subject to any agreement with the holders of bonds, bond anticipation notes or other notes or obligations, to purchase bonds, bond anticipation notes or other notes or obligations of the authority out of any funds or money of the authority available therefor, and to hold, cancel to resell such bonds, bond anticipation notes or other notes or obligations;
  - r. To provide, contract or arrange for, where by reason of the financing arrangement, review of the application and proposed construction of a project is required by or in behalf of any department or agency of the United States, consolidated processing of any such application or supervision to avoid duplication thereof by either undertaking the processing in whole or in part for any such department or agency or, in the alternative, delegating the processing in whole or in part to any such department or agency;
  - s. To make mortgage loans and to participate with any department or agency of the United States, this State, a municipality, or any banking institution, foundation, labor

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40:37A-131.1. Payment in lieu of taxes not to exceed 20% of annual gross revenue; determination of assumed assessed value

a. For the purposes of the "county improvement authorities law," P.L. 1960, c.183 (C.40:37A-44 et seq.), where by reason of the provisions of any other law a qualified housing sponsor has entered, or intends to enter, into any agreement with any municipality to make payments in lieu of taxes, or to obtain special tax treatment of any real property of the qualified housing sponsor to be financed by the authority, that agreement may, notwithstanding any provisions of any such other law to the contrary, require the qualified housing sponsor to pay to the municipality an amount not exceeding 20% of the annual gross revenue from each housing project situated on the real property for each year of the project's operation following its substantial completion. For the purpose of this section, "annual gross revenue" means the total annual gross rental or carrying charge and other income of a qualified housing sponsor from a housing project. Any agreement between any qualified housing sponsor and a municipality pursuant to this section shall be submitted to the authority for review in order to avoid duplicative or inconsistent regulations or provisions, and any municipality and any qualified housing sponsor may, with the approval of the authority, enter into any such agreement as is not inconsistent with P.L. 1960, c.183.

b. For the purposes of apportioning the amounts to be raised in the respective municipalities in each county pursuant to R.S. 54:4-49, the board of taxation for such county shall, for each municipality, include in the equalization table for such county the assumed assessed value of the property represented by the amount of payments in lieu of property taxes to any municipality pursuant to this section.

The assumed assessed value of such property in each municipality shall be determined by the county board of taxation in the following manner: (1) the amount of payments in lieu of real property taxes received by each municipality during the preceding tax year pursuant to this section shall be divided by the general tax rate of the municipality for such preceding tax year to obtain an assumed assessed value of such property; (2) this assumed assessed value shall be divided by the fraction produced by dividing the aggregate assessed value by the aggregate true value of the real property as determined by the county board of taxation for equalization purposes in the current tax year, exclusive of class II railroad property, in the municipality; (3) the resulting quotient shall be included in the net valuation of each municipality on which county taxes are apportioned.

For the first tax year during which any payments in lieu of real property taxes are made to any municipality pursuant to this section, there shall be included in the equalization table for such county the true value of the property as determined by the assessor in the tax year immediately prior to the tax year in which any payments in lieu of taxes are made pursuant to this section.

P.L. 1982, c.133, s.19; amended 1994, c.76, s.17.

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### 40:37A-132. Services to authority by units of state and county governments

All officers, departments, boards, agencies, divisions and commissions of the State and county are hereby authorized and empowered to render any and all of such services to the authority as may be within the area of their respective governmental functions as fixed or established by law, and as may be requested by the authority. The cost and expense of any such services shall be met and provided for by the authority.

P.L. 1979, c. 275, § 27, eff. Jan. 3, 1980.

### 40:37A-133. Discrimination; prohibition; violations; penalty

No person shall be discriminated against, because of race, religious principles, color, national origin or ancestry, by the authority or any qualified housing sponsor or any agent or employee thereof in connection with any housing project or mortgage loan. Any person who shall be found guilty of violating the provisions of this section shall be a disorderly person and subject to a fine of not less than \$500.00 or more than \$2,500.00.

P.L. 1979, c. 275, § 28, eff. Jan. 3, 1980.

### 40:37A-134. Broad construction of powers

The powers enumerated in this act shall be interpreted broadly to effectuate the purposes thereof and shall not be construed as a limitation of powers.

P.L. 1979, c. 275, § 29, eff. Jan. 3, 1980.

### 40:37A-135. Severability

If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

P.L. 1979, c. 275, § 30, eff. Jan. 3, 1980.

## LOCAL AUTHORITIES FISCAL CONTROL LAW

### 40A:5A-1. Short title

This act shall be known and may be cited as the "Local Authorities Fiscal Control Law."

P.L. 1983, c. 313, s. 1.

### 40A:5A-2. Legislative findings and declarations

The Legislature declares it to be in the public interest of the citizens of this State to maintain, support, foster, and promote the financial integrity and stability of local authorities in the State and of counties and municipalities served by these local authorities, by providing for State review of project financing of local authorities and for State supervision over the financial operations of local authorities.

The Legislature declares that it is the purpose and object of this act to implement this policy by providing that the creation of a local authority be subject to Local Finance Board approval, that project financing of a local authority be submitted to the Local Finance Board for hearing and review, that annual budgets of a local authority be submitted to the Division of Local Government Services in the Department of Community Affairs for approval, that financial reports be prepared and submitted by a local authority to the division in the form and at the time or times as shall be prescribed by rule or regulation of the Local Finance Board or of the Director of the Division of Local Government Services. In addition, the Local Finance Board may take remedial action to address an emergency situation with respect to the financial condition and operation of a local authority or to respond to an undue financial burden imposed by a local authority on residents of the State, including the power to order the dissolution of a local authority if it is in the public interest.

P.L. 1983, c. 313, s. 2.

### 40A:5A-3. Definitions

As used in this act:

a. "Authority" means a body, public and corporate, created by one or more municipalities or counties pursuant to any law authorizing that creation, which law provides that the public body so created has at least the following powers:

- (1) To adopt and use a corporate seal;
- (2) To sue and be sued;
- (3) To acquire and hold real or personal property for its purposes; and
- (4) To provide for and secure the payment of its bonds or other obligations, or to provide for the assessment of a tax on real property

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within its district, or to impose charges for the use of its facilities or any combination thereof.

- b. "Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.
- c. "Service contract" means an agreement of a local unit or units intended to provide security for an issue of obligations of an authority, including, but not limited to, a contract providing for payments by a local unit or units with respect to a project, facility, or public improvement of an authority or payments for debt service therefor.
- d. "Local Finance Board" means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs.
- e. "Local unit or units" means a county or municipality which created or joined in the creation of an authority, or which proposes to create or join in the creation thereof, or which proposes to enter into a service contract with an authority.
- f. "Project financing" means the financing by an authority of a public facility for the benefit of the inhabitants of a local unit or units and for which the financing costs will be paid, directly or indirectly, by those inhabitants and includes payment for the design and plan for the public facility.
- g. "Bond resolution" means a bond resolution of an authority, or a trust indenture to be executed by an authority, or other similar proceeding or document.

P.L. 1983,c.313,s.3; amended 1987,c.319,s.1; 1992,c.79,s.52.

### **40A:5A-4. Local authorities; creation; application for approval**

On and after the effective date of this act, no authority shall be created by any local unit or units without the prior approval of the Local Finance Board. Prior to the introduction of an ordinance or the adoption of a resolution to create an authority, the local unit or units proposing this creation shall make application to the Local Finance Board for its approval. The application shall contain:

- a. A copy of the proposed ordinance or resolution creating the authority;
- b. A statement, in brief and general terms, of the project or projects to be undertaken, the estimated project cost, the manner of project financing, and the area to be served by the project;
- c. A proposed budget for the first year of authority operation, including a table of organization, personnel requirements, the level of staff required for supervision of the operation of the authority and the proposed source or sources of the authority's funding; and

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d. A statement, in the form prescribed by the Local Finance Board, indicating that the local unit or units have considered alternative means of undertaking and financing the proposed project or projects and have determined that the creation of an authority is the most efficient and feasible means of providing and financing the project or projects.

The Local Finance Board may consider estimates, computations or calculations made in connection with an application, may require the production of papers, documents, witnesses or information, may make or cause to be made an audit or investigation, and may take any other appropriate action necessary to its consideration of whether or not to approve the creation of an authority.

P.L. 1983, c. 313, s. 4.

### **40A:5A-5. Approval or disapproval of application**

The Local Finance Board shall, within 60 days of its receipt of an application pursuant to section 4 of this act, approve in writing the creation of the proposed authority if it shall determine that the creation of the proposed authority is an efficient and feasible means of providing and financing this project or projects, given the needs of, and the financial burdens to be placed upon, the inhabitants of the local unit or units.

If the application is not disapproved within 60 days of its submission to the Local Finance Board, it shall be deemed to be approved, and the local unit or units may proceed to adopt the proposed ordinance or resolution. If the Local Finance Board shall not approve the creation of the authority, it shall specify in writing the reason or reasons therefor, and shall file its statement with the clerk or clerks of the local unit or units. A local unit shall not adopt any ordinance or resolution which is disapproved by the Local Finance Board within the 60 days, but may resubmit the application to the board with such changes as the local unit deems appropriate, and the review and approval of the resubmitted application shall be subject to the limitations set forth above.

P.L. 1983, c. 313, s. 5.

### **40A:5A-6. Review of financing**

Prior to the adoption of a bond resolution by an authority, or the adoption of an ordinance or resolution of a local unit or units authorizing a service contract that is part of a project financing, the proposed project financing shall be submitted to the Local Finance Board for its review. The Local Finance Board shall, in the course of its review, give consideration to:

- a. The nature, purpose, and scope of the proposed project financing;
- b. The engineering and feasibility studies prepared in connection therewith;

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c. The terms and provisions of the proposed service contracts, bond resolutions and, in the instance of a negotiated offering, the proposed or maximum terms and conditions of sale;

d. An estimate of the proposed or maximum schedule of debt service payments required, and the impact thereof on the budget and financial condition of the authority and of the local unit;

e. The estimate of the annual cost of operating and maintaining the project as set forth in the engineering report or feasibility studies; and

f. The initial rate, rent, fee, or charge schedule proposed by the authority, or any other proposed method of raising the amounts required to finance the operations and payments of debt service on the obligations of the authority.

The Local Finance Board may examine the estimates, computations or calculations made in connection with the submission, may require the production of papers, documents, witnesses or information, may make or cause to be made an audit or investigation and may take any other action which it may deem necessary to its review of the submission.

P.L. 1983,c.313; amended by L. 1987,c.319,s.2.

### **40A:5A-7. Hearings; findings**

At the time of submission of the proposed project financing to the Local Finance Board, the authority shall notify each participating local unit of that submission. The Local Finance Board shall, within 31 days of its receipt of the proposed project financing, hold a hearing at which any interested party may furnish additional information regarding the proposal. Within 10 days after the hearing, the board shall issue its findings on the proposed financing including therein its findings as to whether: (a) the project cost has been determined by reasonable and accepted methods; (b) the method proposed for the funding of the project cost, proposed or maximum terms and provisions of the financing and of a proposed service contract are not unreasonable nor impracticable, and would not impose an undue and unnecessary financial burden on the inhabitants of the local unit or units, which have created or have joined in the creation of the authority or which may enter into a service contract with the authority, or would not materially impair the ability of the local unit or units or the authority to pay promptly the principal of and interest on the outstanding indebtedness thereof or to provide essential public services to the inhabitants thereof; and (c) in the case of a negotiated offering, the proposed or maximum terms and conditions of sale are, in light of current market conditions for obligations of similar quality, reasonable. The findings shall be in writing and shall be filed with the clerk or clerks of the local unit or units and with the secretary of the authority.

The times set forth in this section may be extended by mutual agreement of the authority and the Local Finance Board.

The members of the governing body of the authority shall, within 45 days of receipt of the Local Finance Board's findings and recommendations on the proposed project

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financing, certify, by resolution to the Local Finance Board that each member thereof has personally reviewed the findings and recommendations and has evidenced same by group affidavit signed by a majority of the full membership of the authority in the form prescribed by the Local Finance Board.

Failure to comply with this paragraph may subject the members of the authority to the penalty provisions of section 52 of P.L. 1947, c. 151 (C. 52:27BB-52).

P.L. 1983,c.313; amended by L. 1987,c.319,s.3.

### **40A:5A-8. Recommendations**

The Local Finance Board may recommend in its findings with respect to a proposed project financing:

- a. That the debt service reserve fund in an amount established by the board be funded from the proceeds of the sale of the authority's bonds;
- b. The incurrence of indebtedness and the issuance of obligations by the local unit or units to finance a portion of the proposed project cost. Except as otherwise provided in this act, these obligations shall be authorized and issued in the manner provided for in Title 40 of the Revised Statutes or Title 40A of the New Jersey Statutes;
- c. That the local unit or units execute a service contract with the authority;
- d. That the local unit or units not execute a service contract with the authority, if the Local Finance Board determines that the contract would impose an inappropriate risk on the local unit;
- e. That an amount not to exceed the outstanding principal each year for the proposed financing of the authority be included in the net debt of a local unit, under N.J.S. 40A:2-1 et seq., if the local unit executes a service contract with the authority;
- f. In addition to the above, any other conditions that the Local Finance Board considers appropriate to provide sound financial support for the project financing.

P.L. 1983,c.313; amended by L. 1987,c.319,s.4.

### **40A:5A-9. Authorization for local units to incur indebtedness and issue obligations**

To the extent not otherwise provided for in Title 40 of the Revised Statutes or Title 40A of the New Jersey Statutes and in order to satisfy the provisions of section 8 of this act, any local unit or units having created or joined an authority, or which may hereafter join, create or join in the creation of an authority or which are now or hereafter under contract with an authority in connection with a project financing, are authorized and shall have the power to incur indebtedness and issue obligations for any purpose for which an authority

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may issue obligations and to donate the proceeds of those obligations to an authority to be expended for the purpose for which the funds were borrowed. Except as otherwise provided in this act, all obligations shall be authorized and issued in the manner provided for in Title 40 or Title 40A.

P.L. 1983, c. 313, s. 9.

### **40A:5A-10. Submission of budget**

a. Each authority shall submit a budget for each fiscal year to the director prior to its adoption thereof. The budget shall comply with the terms and provisions of any bond resolutions, and shall be in such form and detail as to items of revenue, expenditure and other content as shall be required by law or by rules and regulations of the Local Finance Board.

b. The Local Finance Board shall prescribe by rule or regulation the procedure for the adoption of budgets by authorities. The rules and regulations may include or be similar to any provisions of the "Local Budget Law" (N.J.S. 40A:4-1 et seq.) which the Local Finance Board shall deem to be practicable or necessary, and may further include any other provisions and requirements which the Local Finance Board shall deem appropriate or necessary. The rules and regulations shall provide for approval or disapproval of a budget within 45 days of the director's receipt thereof.

c. The Local Finance Board shall also prescribe by rule or regulation the procedures and requirements for execution of any budget after adoption, and for the administration of financial affairs of authorities. The rules and regulations may include, without limitation, any provisions of the "Local Budget Law" (N.J.S. 40A:4-1 et seq.), and the "Local Fiscal Affairs Law" (N.J.S. 40A:5-1 et seq.), which the Local Finance Board shall deem to be practicable and necessary.

P.L. 1983,c.313; amended by L. 1987,c.319,s.5.

### **40A:5A-11. Approval of budget**

No authority budget shall be finally adopted until the director shall have approved same. In granting the approval, the director shall consider whether or not:

- a. All estimates of revenue are reasonable, accurate and correctly stated;
- b. Items of appropriation are properly set forth;
- c. In itemization, form and content, the budget will permit the exercise of the comptroller function within the authority;
- d. The schedule of rates, fees and charges then in effect will produce sufficient revenues, together with all other anticipated revenues, to satisfy all obligations to the holders of bonds of the authority, to meet operating expenses, capital outlays, debt

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service requirements, and to provide for such reserves, all as may be required by law, regulation or terms of contracts and agreements.

The director may require such documentation, records and other information, and undertake any audit or investigation, as he may deem necessary in connection with his review.

If the director finds that all requirements of law and the rules and regulations of the Local Finance Board have been met, he shall, within 45 days of his receipt of the budget, approve it; otherwise he shall within that time refuse to approve it. The director, in refusing to approve the budget, shall not substitute his discretion with respect to the amount of an appropriation when that amount is not made mandatory by law or regulation.

Any decision of the director in the course of budget review under this section may be appealed to the Local Finance Board in the manner generally provided by law.

P.L. 1983, c. 313, s. 11.

### **40A:5A-12. Funding of deficit**

The Local Finance Board shall have the power, in the case of a service contract between an authority and a local unit or units, to enforce, by appropriate order, the terms and provisions thereof with respect to the funding of a deficit, whether in existence or anticipated. If the Local Finance Board has reason to believe that an authority is faced with financial difficulty, it shall have the power to order an increase in rents, rates, fees or other charges of the authority, and this order shall be valid and enforceable, notwithstanding any provisions to the contrary in R.S. 48:2-1 et seq. The Local Finance Board, before issuing this order, shall first hold a hearing consistent with section 18 of this act. The Local Finance Board also shall have authority to provide that a requirement that a local unit or units pay a deficit under a service contract be funded through the issuance of notes as provided in section 14 of this act (C. 40A:5A-14). Any order so issued shall be deemed conclusive and final, and upon receipt of this order all persons shall be estopped from contesting the order or the provisions thereof. Any authority or local unit or units affected by the order shall promptly take the action necessary to comply with this order.

P.L. 1983,c.313; amended by L. 1987,c.319,s.6.

### **40A:5A-13. Authority temporary funding notes**

To the extent not otherwise provided for by law, an authority is authorized and shall have the power to issue obligations to be designated "Authority Temporary Funding Notes" in an amount not exceeding the realized deficit in revenues for the preceding fiscal year and an estimated deficit in revenues for the current fiscal year. The notes may be renewed

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from time to time. All notes and any renewals thereof shall mature not later than the close of the succeeding fiscal year and shall be payable in that fiscal year. Payment shall, however, be subordinate to the payment of principal and interest on, or sinking fund payments with respect to, bonds or other obligations (other than "Authority Temporary Funding Notes" ) of the authority.

The proceeds of the sale of "Authority Temporary Funding Notes" shall be deposited in the fund or funds in which a deficiency exists, or is expected to exist, as set forth in the resolution under which the notes are issued.

An authority shall notify the Local Finance Board in writing of its intention to issue "Authority Temporary Funding Notes" pursuant to this section, including therein a statement of the deficits which the proceeds of the notes are intended to fund, and a statement of the manner in which the authority plans to either retire or refinance the notes on or before the close of the succeeding fiscal year. The notification shall be made at least 30 days prior to issuance, or within such lesser time period as the Local Finance Board shall permit.

P.L. 1983, c. 313, s. 13.

### **40A:5A-14. Deficit funding notes**

If the issuance of "Authority Temporary Funding Notes" is not permitted by the terms of a bond resolution, then the local unit or units, if obligated to make payments on account of a deficiency in revenues under the terms of a service contract, may issue emergency notes pursuant to the provisions of sections 40A:4-46 through 40A:4-50 of the New Jersey Statutes to fund this payment or portions thereof. These obligations shall be general obligations of the issuer. Each note shall be authorized by resolution of the governing body and may be renewed from time to time. All notes and the renewals thereof shall mature not later than the last day of the fiscal year next succeeding the fiscal year in which these notes were issued and the emergency appropriations authorized.

A local unit shall notify the Local Finance Board in writing of its intention to issue notes pursuant to this section at least 30 days prior to the issuance, or within such lesser time period as the Local Finance Board shall permit, including therein a statement of the deficit which the proceeds of the notes are intended to fund, and a statement of the manner in which the local unit plans to either retire or refinance the notes on or before the close of the succeeding fiscal year.

P.L. 1983,c.313; amended by L. 1987,c.319,s.7.

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### **40A:5A-15. Annual audit**

Notwithstanding the provisions of N.J.S. 40A:5-1 et seq., each authority shall cause an annual audit of its accounts to be made, and for this purpose it shall contract with the Division of Local Government Services or employ a registered municipal accountant of New Jersey or a certified public accountant of New Jersey. The audit shall be completed and filed with the authority within four months after the close of the fiscal year of the authority. A certified duplicate copy thereof shall be filed with the governing body of each local unit having created the authority and with the director within five days after the original report is filed with the authority. The Local Finance Board shall by rule or regulation prescribe the accounting principles and policies, auditing procedures, and financial reporting practices applicable to authorities and authority audits conducted pursuant to this section. The rules and regulations may include or be similar to any provisions of the "Local Fiscal Affairs Law" , (N.J.S. 40A:5-1 et seq.,) which the Local Finance Board shall deem to be practicable or necessary.

P.L. 1983, c. 313, s. 15.

### **40A:5A-16. Synopsis of audit; publication**

A synopsis of the annual audit shall be prepared by the chairman of the authority and published at least once in a newspaper circulating in the district of the authority. A copy of the synopsis shall be filed with the director within 10 days after publication.

P.L. 1983, c. 313, s. 16.

### **40A:5A-17. Certification of review of audit**

The members of the governing body of each authority shall, within 45 days of receipt of the annual audit, certify by resolution to the Local Finance Board that each member thereof has personally reviewed the annual audit report, and specifically the sections of the audit report entitled General Comments and Recommendations, and has evidenced same by group affidavit signed by a majority of the full membership of the authority in the form prescribed by the Local Finance Board. Failure to comply with this provision may subject the members of the authority to the penalty provisions of section 52 of P.L.1947, c. 151 (C. 52:27BB-52).

P.L. 1983,c.313; amended by L. 1987,c.319,s.8.

### **40A:5A-18. Financial difficulty of authority; hearing; audit or investigation**

If at any time, as a result of exercising his responsibilities under this act, the director has reason to believe that an authority is faced with financial difficulty, the director shall summon appropriate officials of the authority and the local unit or units or either of the

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aforesaid to a hearing before the Local Finance Board. The Local Finance Board may require the production of papers, documents, witnesses or information and may make or cause to be made an audit or investigation of the circumstances with respect to which the hearing was called.

P.L. 1983, c. 313, s. 18.

### **40A:5A-19. Order implementing financial plan to alleviate financial difficulties**

If the Local Finance Board determines that financial difficulties exist which (1) jeopardize the payment of operating expenses and debt service on obligations of the authority or either of the aforesaid; or place an undue financial burden on the inhabitants of the local unit or units or the users of the system or facilities of an authority; and (2) that these difficulties are likely to recur and, if they continue, will impair the credit of the authority and local unit or units or either of the aforesaid to the detriment of the inhabitants thereof; and (3) no financial plan designed to prevent a recurrence of these conditions and which is deemed to be practicable and feasible by the director has been undertaken by the authority or the local unit or units, the Local Finance Board shall order the implementation of a financial plan which will assure the payment of debt service on obligations of the authority, or provide relief from undue financial burden. The order shall be deemed conclusive and final and upon receipt of the order all persons shall be estopped from contesting the order or the provisions thereof and the authority or local unit or units affected thereby shall take the action to comply with the order.

P.L. 1983, c. 313, s. 19.

### **40A:5A-20. Dissolution of authority**

Notwithstanding the provisions of any other law to the contrary, the governing body of a local unit which has established an authority shall have the power and is authorized by ordinance in the case of a municipality, and ordinance or resolution, as appropriate, in the case of a county, to dissolve the authority, except that the ordinance or resolution, as the case may be, shall be approved by the Local Finance Board prior to adoption. Any authority established by more than one municipality or county may be dissolved by the adoption of parallel ordinances or resolutions, as appropriate. The Local Finance Board shall approve the dissolution if it finds that the ordinance or resolution makes adequate provision in accordance with a bond resolution or otherwise for the payment of all creditors or obligees of the authority and that adequate provision is made for the assumption of those services provided by the authority which are necessary for the health, safety and welfare of the recipients of those services. The ordinance or resolution shall be introduced and adopted in the manner provided by law, shall take effect immediately after final adoption, and shall not be subject to referendum. A copy of the ordinance or resolution as adopted shall be filed immediately with the Local Finance Board and with the Secretary of State. In the event that an authority has obligations outstanding at the time of the taking effect of the ordinance or resolution to dissolve the authority, the local

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unit or units dissolving the authority are authorized to issue obligations in furtherance of the dissolution, and the obligations shall have a period of usefulness not exceeding 40 years from the date of issuance. The bonds shall be authorized by a bond ordinance to be introduced and adopted in accordance with the provisions of the "Local Bond Law," N.J.S. 40A:2-1 et seq.), except for the provisions of sections 40A:2-11, 40A:2-26, 40A:2-27 and 40A:2-31 of the New Jersey Statutes, and except that the bond ordinance shall take effect immediately after final adoption and shall not be subject to referendum. The bonds may be deducted from the gross debt of the local unit by action of the Local Finance Board in accordance with subsection d. of N.J.S. 40A:2-7. Bonds issued for this purpose shall be sold under the direction and supervision of the Local Finance Board, and may be sold at either public or private sale as the board shall prescribe.

Nothing contained in this section or in this act shall limit the powers accorded under any other law to any county or municipality to dissolve any authority which it has created or of which it has joined in the creation, nor limit any general reorganization powers accorded under law to any county or municipality to alter or abolish its agencies, but the provisions of this section and this act shall be supplementary to the powers accorded under any other law.

P.L. 1983,c.313; amended by L. 1987,c.319,s.9.

### **40A:5A-21. Ordering of dissolution**

The Local Finance Board may order the dissolution of a local authority if, after holding a hearing consistent with section 18 of this act, it determines that, due to financial difficulties or mismanagement, the dissolution of an authority will be in the public interest and will serve the health, welfare, or convenience of the inhabitants of the local unit or units, and the dissolution will achieve a more efficient means for providing and financing local public facilities, except that an order dissolving an authority shall assure adequate provision in accordance with a bond resolution or otherwise for all creditors or obligees of the authority. Any order so adopted by the Local Finance Board to provide for the dissolution of an authority shall take effect only upon its approval by the Commissioner of the Department of Community Affairs, the State Treasurer and the Attorney General. Upon approval, the order shall be immediately transmitted to the authority, to the clerk of the governing body of the local unit or units, and to the Secretary of State.

P.L. 1983,c.313; amended by L. 1987,c.319,s.10.

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### **40A:5A-22. Papers connected with, used or filed with authority considered public records**

Records of minutes, accounts, bills, vouchers, contracts or other papers connected with or used or filed with any authority or with any officer or employee acting for or in its behalf are declared to be public records, and shall be open to public inspection in accordance with P.L. 1963, c. 73 (C. 47:1A-1 et seq.) and regulations of the authority

P.L. 1983, c. 313, s. 22.

### **40A:5A-23. Examination of accounts and books by state auditor**

Notwithstanding the provisions of any law to the contrary, the State Auditor or his legally authorized representative may examine the accounts and books of any authority subject to the provisions of this act.

P.L. 1983, c. 313, s. 23.

### **40A:5A-24. Temporary obligations**

Notwithstanding any other law to the contrary, any authority, in anticipation of the issuance of bonds, may borrow money and issue temporary obligations if the bond resolution so provides. A temporary obligation shall be designated "bond anticipation note" or "project note" and shall contain a recital that it is issued in anticipation of the issuance of bonds. At any time within three years of the date of the original note issue, the authority may renew the notes, provided that a form prescribed by the director listing the terms and conditions of the renewals is submitted to the director and the director fails to disapprove the renewal in writing within 10 days of the date of its receipt. If the renewal is disapproved by the director, the Local Finance Board shall hold a hearing as set forth in section 7 of P.L.1983, c. 313 (C. 40A:5A-7). Any application for a renewal after three years from the date of the original issue shall be submitted and subject to the approval and conditions of the Local Finance Board.

P.L. 1983,c.313; amended by L. 1987,c.319,s.11.

### **40A:5A-25. Increases in charges of utility when faced with financial difficulties; hearing**

If the Local Finance Board has reason to believe that a municipal public utility is faced with financial difficulty, it shall have the power to order an increase in rents, rates, fees or other charges of the utility, and this order shall be valid and enforceable notwithstanding any provisions of the contrary in R.S. 48:2-1 et seq., but the Local Finance Board, before issuing this order, shall first hold a hearing to which the Director of the Division of Local Government Services shall summon appropriate officials of the municipality. The Local

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Finance Board may require the production of papers, documents, witnesses or information and may make or cause to be made an audit or investigation of the circumstances with respect to which the hearing was called.

The Local Finance Board may except municipal and county funding for a deficit of a municipal public utility or authority from the expenditure limitations of P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.).

P.L. 1983, c. 313, s. 25.

### **40A:5A-26. Rules and regulations; inapplicability of act to powers of local finance board under P.L. 1947, c. 151**

a. The Local Finance Board is authorized to adopt, amend and repeal rules and regulations to effectuate the purposes of this act.

b. This act shall not limit the powers of the Local Finance Board or the director to regulate the financial affairs of authorities in the manner authorized by P.L. 1947, c. 151 (C. 52:27BB-1 et seq.).

P.L. 1983, c. 313, s. 26.

### **40A:5A-27. Actions to be consistent with bond resolution, service contract**

The Local Finance Board, the director, and local units and local authorities shall not act under this act in a manner inconsistent with a bond resolution or service contract in effect at the time of the action.

P.L. 1983,c.313; amended by L. 1987,c.319,s.12.

# New Jersey

## Local Public Contracts Law

### N.J.S.A. 40A:11-1 et seq.

*Current as of March 29, 2010*

*Including P.L. 2009, c.166,*

*Qualified Purchasing Agent Amendments, effective January 1, 2011*

New Jersey Division of Local Government Services  
[www.nj.gov/dca/lgs](http://www.nj.gov/dca/lgs)

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## Local Public Contracts Law

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#### 40A:11-1. Short title; citation

This act shall be known and may be cited as the "Local Public Contracts Law."

L.1971, c. 198, s. 1, eff. July 1, 1971.

#### 40A:11-2. Definitions

As used herein the following words have the following definitions, unless the context otherwise indicates:

(1) "Contracting unit" means:

- (a) Any county; or  
(b) Any municipality; or

(c) Any board, commission, committee, authority or agency, which is not a State board, commission, committee, authority or agency, and which has administrative jurisdiction over any district other than a school district, project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts awarded by a contracting agent for the provision or performance of goods or services.

The term shall not include a private firm that has entered into a contract with a public entity for the provision of water supply services pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

"Contracting unit" shall not include a private firm or public authority that has entered into a contract with a public entity for the provision of wastewater treatment services pursuant to P.L.1995, c.216 (C.58:27-19 et al.).

"Contracting unit" shall not include a duly incorporated nonprofit association that has entered into a contract with the governing body of a city of the first class for the provision of water supply services or wastewater treatment services pursuant to section 2 of P.L.2002, c.47 (C.40A:11-5.1).

"Contracting unit" shall not include a duly incorporated nonprofit entity that has entered into a contract for management and operation services with a municipal hospital authority established pursuant to P.L.2006, c.46 (C.30:9-23.15 et al.).

(2) "Governing body" means:

- (a) The governing body of the county, when the purchase is to be made or the contract or agreement is to be entered into by, or in behalf of, a county; or  
(b) The governing body of the municipality, when the purchase is to be made or the contract or agreement is to be entered into by, or on behalf of, a municipality; or  
(c) Any board, commission, committee, authority or agency of the character described in subsection (1) (c) of this section.

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(3) "Contracting agent" means the governing body of a contracting unit, or its authorized designee, which has the power to prepare the advertisements, to advertise for and receive bids and, as permitted by this act, to make awards for the contracting unit in connection with purchases, contracts or agreements.

(4) "Purchase" means a transaction, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein.

(5) (Deleted by amendment, P.L.1999, c.440.)

(6) "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the provision or performance of goods or services that are original and creative in character in a recognized field of artistic endeavor.

(7) "Extraordinary unspecifiable services" means services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor.

(8) (Deleted by amendment, P.L.1999, c.440.)

(9) "Work" includes services and any other activity of a tangible or intangible nature performed or assumed pursuant to a contract or agreement with a contracting unit.

(10) "Homemaker-home health services" means at-home personal care and home management provided to an individual or members of the individual's family who reside with the individual, or both, necessitated by the individual's illness or incapacity. "Homemaker-home health services" includes, but is not limited to, the services of a trained homemaker.

(11) "Recyclable material" means those materials which would otherwise become municipal solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(12) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(13) "Marketing" means the sale, disposition, assignment, or placement of designated recyclable materials with, or the granting of a concession to, a reseller, processor, materials recovery facility, or end-user of recyclable material, in accordance with a district solid waste management plan adopted pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) and shall not include the collection of such recyclable material when collected through a system of routes by local government unit employees or under a contract administered by a local government unit.

(14) "Municipal solid waste" means, as appropriate to the circumstances, all residential, commercial and institutional solid waste generated within the boundaries of a municipality; or the formal collection of such solid wastes or recyclable material in any combination thereof when collected through a system of routes by local government unit employees or under a contract administered by a local government unit.

(15) "Distribution" (when used in relation to electricity) means the process of conveying electricity from a contracting unit that is a generator of electricity or a wholesale purchaser of electricity to retail customers or other end users of electricity.

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(16) "Transmission" (when used in relation to electricity) means the conveyance of electricity from its point of generation to a contracting unit that purchases it on a wholesale basis for resale.

(17) "Disposition" means the transportation, placement, reuse, sale, donation, transfer or temporary storage of recyclable materials for all possible uses except for disposal as municipal solid waste.

(18) "Cooperative marketing" means the joint marketing by two or more contracting units of the source separated recyclable materials designated in a district recycling plan required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written cooperative agreement entered into by the participating contracting units thereof.

(19) "Aggregate" means the sums expended or to be expended for the provision or performance of any goods or services in connection with the same immediate purpose or task, or the furnishing of similar goods or services, during the same contract year through a contract awarded by a contracting agent.

(20) "Bid threshold" means the dollar amount set in section 3 of P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall advertise for and receive sealed bids in accordance with procedures set forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

(21) "Contract" means any agreement, including but not limited to a purchase order or a formal agreement, which is a legally binding relationship enforceable by law, between a vendor who agrees to provide or perform goods or services and a contracting unit which agrees to compensate a vendor, as defined by and subject to the terms and conditions of the agreement. A contract also may include an arrangement whereby a vendor compensates a contracting unit for the vendor's right to perform a service, such as, but not limited to, operating a concession.

(22) "Contract year" means the period of 12 consecutive months following the award of a contract.

(23) "Competitive contracting" means the method described in sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 thru 40A:11-4.5) of contracting for specialized goods and services in which formal proposals are solicited from vendors; formal proposals are evaluated by the purchasing agent or counsel or administrator; and the governing body awards a contract to a vendor or vendors from among the formal proposals received.

(24) "Goods and services" or "goods or services" means any work, labor, commodities, equipment, materials, or supplies of any tangible or intangible nature, except real property or any interest therein, provided or performed through a contract awarded by a contracting agent, including goods and property subject to N.J.S.12A:2-101 et seq.

(25) "Library and educational goods and services" means textbooks, copyrighted materials, student produced publications and services incidental thereto, including but not limited to books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials, and specialized computer software used as a supplement or in lieu of textbooks or reference material.

(26) "Lowest price" means the least possible amount that meets all requirements of the request of a contracting agent.

(27) "Lowest responsible bidder or vendor" means the bidder or vendor: (a) whose response to a request for bids offers the lowest price and is responsive; and (b) who is responsible.

(28) "Official newspaper" means any newspaper designated by the contracting unit pursuant to R.S.35:1-1 et seq.

(29) "Purchase order" means a document issued by the contracting agent authorizing a purchase transaction with a vendor to provide or perform goods or services to the contracting unit, which, when fulfilled in accordance with the terms and conditions of a request of a contracting agent and other provisions and procedures that may be established by the contracting unit, will result in payment by the contracting unit.

(30) "Purchasing agent" means the individual duly assigned the authority, responsibility, and accountability for the purchasing activity of the contracting unit, and who has such duties as are defined by an authority appropriate to the form and structure of the contracting unit, and P.L.1971, c.198 (C.40A:11-1 et seq.).

(31) "Quotation" means the response to a formal or informal request made by a contracting agent by a vendor for provision or performance of goods or services, when the aggregate cost is less than the bid threshold. Quotations may be in writing, or taken verbally if a record is kept by the contracting agent.

(32) "Responsible" means able to complete the contract in accordance with its requirements, including but not limited to requirements pertaining to experience, moral integrity, operating capacity, financial capacity, credit and workforce, equipment, and facilities availability.

(33) "Responsive" means conforming in all material respects to the terms and conditions, specifications, legal requirements, and other provisions of the request.

(34) "Public works" means building, altering, repairing, improving or demolishing any public structure or facility constructed or acquired by a contracting unit to house local government functions or provide water, waste disposal, power, transportation, and other public infrastructures.

(35) "Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

(36) "Administrator" means a municipal administrator appointed pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business administrator, a municipal manager or a municipal administrator appointed pursuant to the "Optional Municipal Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager appointed pursuant to "the municipal manager form of government law," R.S.40:79-1 et seq.; or the person holding responsibility for the overall operations of an authority that falls under the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

(37) "Concession" means the granting of a license or right to act for or on behalf of the contracting unit, or to provide a service requiring the approval or endorsement of the contracting unit, and which may or may not involve a payment or exchange, or provision of services by or to the contracting unit.

(38) "Index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis.

(39) "Proprietary" means goods or services of a specialized nature, that may be made or marketed by a person or persons having the exclusive right to make or sell them, when the need

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for such goods or services has been certified in writing by the governing body of the contracting unit to be necessary for the conduct of its affairs.

(40) "Service or services" means the performance of work, or the furnishing of labor, time, or effort, or any combination thereof, not involving or connected to the delivery or ownership of a specified end product or goods or a manufacturing process. Service or services may also include an arrangement in which a vendor compensates the contracting unit for the vendor's right to operate a concession.

L.1971, c. 198, s. 2; amended 1975, c. 353, s. 1; 1983, c. 331, s. 1; 1987, c. 102, s. 30; 1991, c. 143, s. 7; 1992, c. 98, s. 1; 1995, c. 101, s. 11; 1995, c. 103, s. 3; 1995, c. 216, s. 10; 1999, c. 440, s. 6; 2002, c. 47, s. 7; 2006, c. 46, s. 11.

40A:11-3. Bid threshold; period of contracts<sup>1</sup>

a. When the cost or price of any contract awarded by the contracting agent in the aggregate does not exceed in a contract year the total sum of \$17,500, the contract may be awarded by a purchasing agent when so authorized by ordinance or resolution, as appropriate to the contracting unit, of the governing body of the contracting unit without public advertising for bids, except that the governing body of any contracting unit may adopt an ordinance or resolution to set a lower threshold for the receipt of public bids or the solicitation of competitive quotations. If the purchasing agent is qualified pursuant to subsection b. of section 9 of P.L.1971, c.198 (C.40A:11-9), the governing body of the contracting unit may establish that the bid threshold may be up to \$25,000. Such authorization may be granted for each contract or by a general delegation of the power to negotiate and award such contracts pursuant to this section.

b. Any contract made pursuant to this section may be awarded for a period of 24 consecutive months, except that contracts for professional services pursuant to subparagraph (f) of paragraph (a) of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) may be awarded for a period not exceeding 12 consecutive months. The Division of Local Government Services shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the contracting unit's fiscal year.

c. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of every fifth year beginning in the fifth year after the year in which P.L.1999, c.440 takes effect, adjust the threshold amount and the higher threshold amount which the governing body is permitted to establish, as set forth in subsection a. of this section, or the threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise or fall of the index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest \$1,000. The Governor shall, no later than June 1 of every fifth year, notify each governing body of the adjustment. The adjustment shall become effective on July 1 of the year in which it is made.

L.1971, c. 198, s. 3; amended 1975, c. 353, s. 2; 1977, c. 53, s. 1; 1979, c. 350, s. 1; 1985, c. 60, s. 1; 1985, c. 469, s. 6; 1991, c. 143, s. 1; 1996, c. 113, s. 18; 1999, c. 440, s. 7.

40A:11-4. Contracts required to be advertised, disqualification of bidder

a. Every contract awarded by the contracting agent for the provision or performance of any goods or services, the cost of which in the aggregate exceeds the bid threshold, shall be awarded only by resolution of the governing body of the contracting unit to the lowest responsible bidder after public advertising for bids and bidding therefor, except as is provided otherwise in this act or specifically by any other law. The governing body of a contracting unit may, by resolution approved by a majority of the governing body and subject to subsections b. and c. of this section, disqualify a

<sup>1</sup> A table of current and prior bid thresholds is at the end of this document.

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bidder who would otherwise be determined to be the lowest responsible bidder, if the governing body finds that it has had prior negative experience with the bidder.

b. As used in this section, "prior negative experience" means any of the following:

- (1) the bidder has been found, through either court adjudication, arbitration, mediation, or other contractually stipulated alternate dispute resolution mechanism, to have failed to provide or perform goods or services; or failed to complete the contract in a timely manner; or otherwise performed unsatisfactorily under a prior contract with the contracting unit;
- (2) the bidder defaulted on a contract, thereby requiring the local unit to utilize the services of another contractor to provide the goods or perform the services or to correct or complete the contract;
- (3) the bidder defaulted on a contract, thereby requiring the local unit to look to the bidder's surety for completion of the contract or tender of the costs of completion; or
- (4) the bidder is debarred or suspended from contracting with any of the agencies or departments of the executive branch of the State of New Jersey at the time of the contract award, whether or not the action was based on experience with the contracting unit.

c. The following conditions apply if the governing body of a contracting unit is contemplating a disqualification based on prior negative experience:

- (1) The existence of any of the indicators of prior negative experience set forth in this section shall not require that a bidder be disqualified. In each instance, the decision to disqualify shall be made within the discretion of the governing body and shall be rendered in the best interests of the contracting unit.
- (2) All mitigating factors shall be considered in determining the seriousness of the prior negative experience and in deciding whether disqualification is warranted.
- (3) The bidder shall be furnished by the governing body with a written notice (a) stating that a disqualification is being considered; (b) setting forth the reason for the disqualification; and (c) indicating that the bidder shall be accorded an opportunity for a hearing before the governing body if the bidder so requests within a stated period of time. At the hearing, the bidder shall show good cause why the bidder should not be disqualified by presenting documents and testimony. If the governing body determines that good cause has not been shown by the bidder, it may vote to find the bidder lacking in responsibility and, thus, disqualified.
- (4) Disqualification shall be for a reasonable, defined period of time which shall not exceed five years.
- (5) A disqualification, other than a disqualification pursuant to which a governing body is prohibited by law from entering into a contract with a bidder, may be voided or the period thereof may be reduced, in the discretion of the governing body, upon the submission of a good faith application under oath, supported by documentary evidence, setting forth substantial and appropriate grounds for the granting of relief, such as reversal of a judgment, or actual change of ownership, management or control of the bidder.
- (6) An opportunity for a hearing need not be offered to a bidder whose disqualification is based on its suspension or debarment by an agency or department of the executive branch of the State of New Jersey. The term of such a disqualification shall be concurrent with the term of the suspension or debarment by the State agency or department.

L.1971, c. 198, s. 4; amended 1975, c. 353, s. 3; 1979, c. 350, s. 2; 1985, c. 60, s. 2; 1985, c. 469, s. 7; 1999, c. 440, s. 8.

**40A:11-4.1. Purposes for which competitive contracting may be used by local units**

Notwithstanding the provisions of any law, rule or regulation to the contrary, competitive contracting may be used by local contracting units in lieu of public bidding for procurement of specialized goods and services the price of which exceeds the bid threshold, for the following purposes:

- a. The purchase or licensing of proprietary computer software designed for contracting unit purposes, which may include hardware intended for use with the proprietary software. This subsection shall not be utilized for the purpose of acquiring general purpose computer hardware or software;
- b. The hiring of a for-profit entity or a not-for-profit entity incorporated under Title 15A of the New Jersey Statutes for the purpose of:
  - (1) the operation and management of a wastewater treatment system or a water supply or distribution facility of the type described in subsection (37) of section 15 of P.L.1971, c.198 (C.40A:11-15), provided that competitive contracting shall not be used as a means of awarding contracts pursuant to P.L.1985, c.37 [C.58:26-1 et al.] and P.L.1985, c.72 [C.58:27-1 et al.];
  - (2) the operation, management or administration of recreation or social service facilities or programs, which shall not include the administration of benefits under the Work First New Jersey program established pursuant to P.L.1997, c.38 [C.44:10-55 et seq.], or under General Assistance; or
  - (3) the operation, management or administration of data processing services;
- c. (Deleted by amendment, P.L.2009, c.4).
- d. Homemaker--home health services;
- e. Laboratory testing services;
- f. Emergency medical services;
- g. Contracted food services;
- h. Performance of patient care services by contracted medical staff at county hospitals, correctional facilities and long-term care facilities;
- i. At the option of the governing body of the contracting unit, any good or service that is exempt from bidding pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);
- j. Concessions;
- k. The operation, management or administration of other services, with the approval of the Director of the Division of Local Government Services.

Any purpose included herein shall not be considered by a contracting unit as an extraordinary unspecifiable service pursuant to paragraph (a)(ii) of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5).

L.1999, c. 440, s. 1; amended 2009, c. 4, s. 7.

**40A:11-4.2. Term of contract; exceptions**

Unless an exception is provided for under section 15 of P.L.1971, c.198 (C.40A:11-15) permitting a longer contract duration, contracts awarded pursuant to section 5 of P.L.1999, c.440 (C.40A:11-4.5) may be for a term not to exceed five years.

L.1999, c. 440, s. 2.

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a. A notice of the availability of request for proposal documentation shall be published in an official newspaper of the contracting unit at least 20 days prior to the date established for the submission of proposals. The contracting unit shall promptly reply to any request by an interested vendor by providing a copy of the request for proposals. The contracting unit may charge a fee for the proposal documentation that shall not exceed \$50.00 or the cost of reproducing the documentation, whichever is greater.

b. Each interested vendor shall submit a proposal which shall include all the information required by the request for proposals. Failure to meet the requirements of the request for proposals may result in the contracting unit disqualifying the vendor from further consideration. Under no circumstances shall the provisions of a proposal be subject to negotiation by the contracting unit.

c. If the contracting unit, at the time of solicitation, utilizes its own employees to provide the goods or perform the services, or both, considered for competitive contracting, the governing body shall, at any time prior to, but no later than the time of solicitation for competitive contracting proposals, notify affected employees of the governing body's intention to solicit competitive contracting proposals. Employees or their representatives shall be permitted to submit recommendations and proposals affecting wages, hours, and terms and conditions of employment in such a manner as to meet the goals of the competitive contract. If employees are represented by an organization that has negotiated a contract with the contracting unit, only the bargaining unit shall be authorized to submit such recommendations or proposals. When requested by such employees, the governing body shall provide such information regarding budgets and the costs of performing the services by such employees as may be available. Nothing shall prevent such employees from making recommendations that may include modifications to existing labor agreements in order to reduce such costs in lieu of award of a competitive contract, and agreements implementing such recommendations may be considered as cause for rejecting all other proposals.

d. The purchasing agent or counsel or administrator shall evaluate all proposals only in accordance with the methodology described in the request for proposals. After proposals have been evaluated, the purchasing agent or counsel or administrator shall prepare a report evaluating and recommending the award of a contract or contracts. The report shall list the names of all potential vendors who submitted a proposal and shall summarize the proposals of each vendor. The report shall rank vendors in order of evaluation, shall recommend the selection of a vendor or vendors, as appropriate, for a contract, shall be clear in the reasons why the vendor or vendors have been selected among others considered, and shall detail the terms, conditions, scope of services, fees, and other matters to be incorporated into a contract. The report shall be made available to the public at least 48 hours prior to the awarding of the contract, or when made available to the governing body, whichever is sooner. The governing body shall have the right to reject all proposals for any of the reasons set forth in section 21 of P.L.1999, c.440 (C.40A:11-13.2).

e. Award of a contract shall be made by resolution of the governing body of the contracting unit within 60 days of the receipt of the proposals, except that the proposals of any vendors who consent thereto, may, at the request of the contracting unit, be held for consideration for such longer period as may be agreed.

f. The report prepared pursuant to subsection d. of this section shall become part of the public record and shall reflect the final action of the governing body. Contracts shall be executed pursuant to section 14 of P.L.1971, c.198 (C.40A:11-14).

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**40A:11-4.3. Competitive contracting process; resolution, administration**

a. In order to initiate competitive contracting, the governing body shall pass a resolution authorizing the use of competitive contracting each time specialized goods or services enumerated in section 1 of P.L.1999, c.440 (C.40A:11-4.1) are desired to be contracted. If the desired goods or services have previously been contracted for using the competitive contracting process then the original resolution of the governing body shall suffice.

b. The competitive contracting process shall be administered by a purchasing agent qualified pursuant to subsection b. of section 9 of P.L.1971, c.198 (C.40A:11-9), or, by legal counsel of the contracting unit, or by an administrator of the contracting unit. Any contracts awarded under this process shall be made by resolution of the governing body of the contracting unit, subject to the provisions of subsection e. of section 5 of P.L.1999, c.440 (C.40A:11-4.5).

L.1999, c. 440, s. 3.

**40A:11-4.4. Request for proposals; documentation; provisions**

The competitive contracting process shall utilize request for proposals documentation in accordance with the following provisions:

- a. The purchasing agent or counsel or administrator shall prepare or have prepared a request for proposal documentation, which shall include: all requirements deemed appropriate and necessary to allow for full and free competition between vendors; information necessary for potential vendors to submit a proposal; and a methodology by which the contracting unit will evaluate and rank proposals received from vendors.
- b. The methodology for the awarding of competitive contracts shall be based on an evaluation and ranking, which shall include technical, management, and cost related criteria, and may include a weighting of criteria, all developed in a way that is intended to meet the specific needs of the contracting unit, and where such criteria shall not unfairly or illegally discriminate against or exclude otherwise capable vendors. When an evaluation methodology uses a weighting of criteria, at the option of the contracting unit the weighting to be accorded to each criterion may be disclosed to vendors prior to receipt of the proposals. The methodology for awarding competitive contracts shall comply with such rules and regulations as the director may adopt, after consultation with the Commissioner of Education, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
- c. At no time during the proposal solicitation process shall the purchasing agent or counsel or administrator convey information, including price, to any potential vendor which could confer an unfair advantage upon that vendor over any other potential vendor. If a purchasing agent or counsel or administrator desires to change proposal documentation, the purchasing agent or counsel or administrator shall notify only those potential vendors who received the proposal documentation of any and all changes in writing and all existing documentation shall be changed appropriately.
- d. All proposals and contracts shall be subject to the provisions of section 1 of P.L.1977, c.33 (C.52:25-24.2) requiring submission of a statement of corporate ownership and the provisions of P.L.1975, c.127 [C.10:5-31 et seq.] concerning equal employment opportunity and affirmative action.

L.1999, c. 440, s. 4.

**40A:11-4.5. Competitive contracting proposal solicitation**

Competitive contracting proposals shall be solicited in the following manner:

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g. The clerk or secretary of the contracting unit shall publish a notice in the official newspaper of the contracting unit summarizing the award of a contract, which shall include but not be limited to, the nature, duration, and amount of the contract, the name of the vendor and a statement that the resolution and contract are on file and available for public inspection in the office of the clerk or secretary of the municipality, county, local public authority or special district of the governing body.

h. All contract awards shall be subject to rules concerning certification of availability of funds adopted pursuant to section 3 of P.L.1971, c.198 (C.40A:11-3) and section 15 of P.L.1971, c.198 (C.40A:11-15).

i. The director, after consultation with the Commissioner of Education, may adopt additional rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to effectuate the provisions of sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 through C.40A:11-4.5).

L.1999, c. 440, s. 5.

**40A:11-4.6. Implementation of energy savings improvement program by contracting unit; definitions**

a. A contracting unit, as defined in P.L.1971, c.198 (C.40A:11-1 et seq.), may implement an energy savings improvement program in the manner provided by this section whenever it determines that the savings generated from reduced energy use from the program will be sufficient to cover the cost of the program's energy conservation measures as set forth in an energy savings plan. Under such a program, a contracting unit may enter into an energy savings services contract with an energy services company to implement the program or the contracting unit may authorize separate contracts to implement the program. The provisions of P.L.1971, c.198 (C.40A:11-1 et seq.) shall apply to any contracts awarded pursuant to this section to the extent that the provisions of such law are not inconsistent with any provision of this section.

b. (1) To be eligible to enter into an energy savings services contract, an energy services company shall be a commercial entity that is qualified to provide energy savings services in accordance with the provisions of this section. A contracting unit may determine to enter into an energy savings services contract either through public advertising for bids and the receipt of bids therefor or through competitive contracting in lieu of public bidding in the manner provided by sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 et seq.).

(2) (a) Public works activities performed under an energy savings improvement program shall be subject to all requirements regarding public bidding, bid security, performance guarantees, insurance and other public contracting requirements that are applicable to public works contracts, to the extent not inconsistent with this section. A general contractor, energy services company serving as general contractor, or any subcontractor hired for the furnishing of plumbing and gas fitting and all kindred work, and of steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, shall be classified by the Division of Property Management and Construction in the Department of the Treasury in order to perform public works activities under an energy savings improvement program.

(b) Individuals or organizations performing energy audits, acting as commissioning agents, or conducting verification of energy savings plans, implementation of energy conservation measures, or verifying guarantees shall be prequalified by the Division of Property Management and Construction in the Department of the Treasury to perform their work under an energy savings improvement program.

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(3) An energy services company may be designated as the general contractor for improvements to be made pursuant to an energy savings plan, provided that the hiring of subcontractors that are required to be classified pursuant to subparagraph (a) of paragraph (2) of this subsection shall be performed pursuant to the public bidding requirements of the contracting unit. A contract with an energy savings company shall include, but not be limited to: preparation of an energy savings plan; the responsibilities of the parties for project schedules, installations, performance and quality, payment of subcontractors, project completion, commissioning, savings implementation; a requirement that the savings to be achieved by energy conservation measures be verified upon commissioning of the improvements; allocation of State and federal rebates and tax credits; and any other provisions deemed necessary by the parties.

(4) Except as provided in paragraph (5) of this subsection, a subsidiary or wholly-owned or partially-owned affiliate of the energy services company shall not be an eligible contractor or subcontractor under an energy savings services contract.

(5) When the energy services company is the manufacturer of direct digital control systems and contracts with the contracting unit to provide a guaranteed energy savings option pursuant to subsection f. of this section, the specification of such direct digital control systems may be treated as proprietary goods and if so treated, the bid specification shall set forth an allowance price for its supply by the energy services company which shall be used by all bidders in the public bidding process. Direct digital controls shall be open protocol format and shall meet the interoperability guidelines established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

c. An energy savings improvement program may be financed through a lease-purchase agreement or through the issuance of energy savings obligations pursuant to this subsection.

(1) An energy savings improvement program may be financed through a lease-purchase agreement between a contracting unit and an energy services company or other public or private entity. Under a lease-purchase agreement, ownership of the energy savings equipment or improved facilities shall pass to the contracting unit when all lease payments have been made. Notwithstanding the provisions of any other law to the contrary, the duration of such a lease-purchase agreement shall not exceed 15 years, except that the duration of a lease purchase agreement for a combined heat and power or cogeneration project shall not exceed 20 years.

(2) Any lease-purchase agreement entered into pursuant to this subsection, may contain: a clause making it subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation; and a non-substitution clause maintaining that if the agreement is terminated for non-appropriation, the contracting unit may not replace the leased equipment or facilities with equipment or facilities that perform the same or similar functions.

(3) A contracting unit may arrange for incurring energy savings obligations to finance an energy savings improvement program. Energy savings obligations may be funded through appropriations for utility services in the annual budget of the contracting unit and may be issued as refunding bonds pursuant to N.J.S.A.40A:2-52 et seq., including the issuance of bond anticipation notes as may be necessary, provided that all such bonds and notes mature within the periods authorized for such energy savings obligations. Energy savings obligations may be issued either through the contracting unit or another public agency authorized to undertake financing on behalf of the unit.

(4) Lease-purchase agreements and energy savings obligations shall not be used to finance maintenance, guarantees, or verification of guarantees of energy conservation measures.

Lease-purchase agreements and energy savings obligations may be used to finance the cost of an energy audit or the cost of verification of energy savings as part of adopting an energy savings plan. Notwithstanding any law to the contrary, lease-purchase agreements and energy savings certificates shall not be excepted from any budget or tax levy limitation otherwise provided by law. Maturity schedules of lease-purchase agreements or energy savings obligations must exceed the estimated useful life of the individual energy conservation measures.

d. (1) The energy audit component of an energy savings improvement program shall be conducted either by the contracting unit or by a qualified independent third party retained by the governing body for that purpose. It shall not be conducted by an energy services company subsequently hired to develop an energy savings improvement program. The energy audit shall identify the current energy use of any or all facilities and energy conservation measures that can be implemented in which the energy savings and energy efficiency could be realized and maximized.

(2) To implement an energy savings improvement program, a contracting unit shall develop a plan that consists of one or more energy conservation measures. The plan shall:

- contain the results of an energy audit;
- describe the energy conservation measures that will comprise the program;
- estimate greenhouse gas reductions resulting from those energy savings;
- identify all design and compliance issues that require the professional services of an architect or engineer and identify who will provide these services;
- include an assessment of risks involved in the successful implementation of the plan;
- identify the eligibility for, and costs and revenues associated with the PJM Independent System Operator for demand response and curtailable service activities;
- include schedules showing calculations of all costs of implementing the proposed energy conservation measures and the projected energy savings;
- identify maintenance requirements necessary to ensure continued energy savings, and describe how they will be fulfilled; and
- if developed by an energy services company, a description of, and cost estimates of an energy savings guarantee.

All professionals providing engineering services under the plan shall have errors and omissions insurance.

(3) Prior to the adoption of the plan, the contracting unit shall contract with a qualified third party to verify the projected energy savings to be realized from the proposed program have been calculated as required by subsection e. of this section.

(4) Upon adoption, the plan shall be submitted to the Board of Public Utilities, which shall post it on the Internet on a public webpage maintained for such purpose. If the contracting unit maintains its own website, it shall also post the plan on that site. The board may require periodic reporting concerning the implementation of the plan.

(5) Verification by a qualified third party shall be required when energy conservation measures are placed in service or commissioned, to ensure the savings projected in the energy savings plan shall be achieved.

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(6) Energy-related capital improvements that do not reduce energy usage may be included in an energy savings improvement program but the cost of such improvements shall not be financed as a lease-purchase or through energy savings obligations authorized by subsection c. of this section. Nothing herein is intended to prevent financing of such capital improvements through otherwise authorized means.

(7) A qualified third party when required by this subsection may include an employee of the contracting unit who is properly trained and qualified to perform such work.

e. (1) The calculation of energy savings for the purposes of determining that the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures, as provided in subsection a. of this section, shall involve determination of the dollar amount saved through implementation of an energy savings improvement program using the guidelines of the International Performance Measurement and Verification Protocol or other protocols approved by the Board of Public Utilities and standards adopted by the Board of Public Utilities pursuant to this section. The calculation shall include all applicable State and federal rebates and tax credits, but shall not include the cost of an energy audit and the cost of verifying energy savings. The calculation shall state which party has made application for rebates and credits and how these applications translate into energy savings.

(2) For the purposes of this section, the Board of Public Utilities shall adopt standards and uniform values for interest rates and escalation of labor, electricity, oil, and gas, as well as standards for presenting these costs in a life cycle and net present value format, standards for the presentation of obligations for carbon reductions, and other standards that the board may determine necessary.

f. (1) When an energy services company is awarded an energy savings services contract, it shall offer the contracting unit the option to purchase, for an additional amount, an energy savings guarantee. The guarantee, if accepted by a separate vote of the governing body of the contracting unit, shall insure that the energy savings resulting from the energy savings improvement program, determined periodically over the duration of the guarantee, will be sufficient to defray all payments required to be made pursuant to the lease-purchase agreement or energy savings obligation, and if the savings are not sufficient, the energy services company will reimburse the contracting unit for any additional amounts. Annual costs of a guarantee shall not be financed or included as costs in an energy savings plan but shall be fully disclosed in an energy savings plan.

(2) When a guaranteed energy savings option is purchased, the contract shall require a qualified third party to verify the energy savings at intervals established by the parties.

g. As used in this section:

"direct digital control systems" means the devices and computerized control equipment that contain software and computer interfaces that perform the logic that control a building's heating, ventilating, and air conditioning system. Direct digital controls shall be open protocol format and shall meet the interoperability guidelines established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers;

"energy conservation measure" means an improvement that results in reduced energy use, including, but not limited to, installation of energy efficient equipment; demand response equipment; combined heat and power systems; facilities for the production of renewable energy; water conservation measures, fixtures or facilities; building envelope improvements that are part of an energy savings improvement program; and related control systems for each of the foregoing;

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"energy related capital improvement" means a capital improvement that uses energy but does not result in a reduction of energy use;

"energy saving obligation" means a bond, note or other agreement evidencing the obligation to repay borrowed funds incurred in order to finance energy saving improvements;

"energy savings" means a measured reduction in fuel, energy, operating or maintenance costs resulting from the implementation of one or more energy conservation measures services when compared with an established baseline of previous fuel, energy, operating or maintenance costs, including, but not limited to, future capital replacement expenditures avoided as a result of equipment installed or services performed as part of an energy savings plan;

"energy savings improvement program" means an initiative of a contracting unit to implement energy conservation measures in existing facilities, provided that the value of the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures;

"energy savings plan" means the document that describes the actions to be taken to implement the energy savings improvement program;

"energy savings services contract" means a contract with an energy savings company to develop an energy savings plan, prepare bid specifications, manage the performance, provision, construction, and installation of energy conservation measures by subcontractors, to offer a guarantee of energy savings derived from the implementation of an energy savings plan, and may include a provision to manage the bidding process;

"energy services company" means a commercial entity that is qualified to develop and implement an energy savings plan in accordance with the provisions of this section;

"public works activities" means any work subject to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.); and

"water conservation measure" means an alteration to a facility or equipment that reduces water consumption, maximizes the efficiency of water use, or reduces water loss.

h. (1) The Director of the Division of Local Government Services in the Department of Community Affairs, the State Treasurer, and the Board of Public Utilities may take such action as is deemed necessary and consistent with the intent of this section to implement its provisions.

(2) The Director of the Division of Local Government Services in the Department of Community Affairs, the State Treasurer, and the Board of Public Utilities may adopt implementation guidelines or directives, and adopt such administrative rules, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary for the implementation of those agencies' respective responsibilities under this section, except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Director of the Division of Local Government Services in the Department of Community Affairs, the State Treasurer, and the Board of Public Utilities may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as deemed necessary to implement the provisions of this act which shall be effective for a period not to exceed 12 months and shall thereafter be amended, adopted or re-adopted in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

L.2009, c. 4, s. 6.

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**40A:11-5. Exceptions**

Any contract the amount of which exceeds the bid threshold, may be negotiated and awarded by the governing body without public advertising for bids and bidding therefor and shall be awarded by resolution of the governing body if:

(1) The subject matter thereof consists of:

- (a) (i) Professional services. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed once, in the official newspaper, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and contract are on file and available for public inspection in the office of the clerk of the county or municipality, or, in the case of a contracting unit created by more than one county or municipality, of the counties or municipalities creating such contracting unit; or (ii) Extraordinary unspesifiable services. The application of this exception shall be construed narrowly in favor of open competitive bidding, whenever possible, and the Division of Local Government Services is authorized to adopt and promulgate rules and regulations after consultation with the Commissioner of Education limiting the use of this exception in accordance with the intention herein expressed. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed, in the manner set forth in subsection (1) (a) (i) of this section, a brief notice of the award of such contract;
- (b) The doing of any work by employees of the contracting unit;
- (c) The printing of legal briefs, records and appendices to be used in any legal proceeding in which the contracting unit may be a party;
- (d) The furnishing of a tax map or maps for the contracting unit;
- (e) The purchase of perishable foods as a subsistence supply;
- (f) The supplying of any product or the rendering of any service by a public utility, which is subject to the jurisdiction of the Board of Public Utilities or the Federal Energy Regulatory Commission or its successor, in accordance with tariffs and schedules of charges made, charged or exacted, filed with the board or commission;
- (g) The acquisition, subject to prior approval of the Attorney General, of special equipment for confidential investigation;
- (h) The printing of bonds and documents necessary to the issuance and sale thereof by a contracting unit;
- (i) Equipment repair service if in the nature of an extraordinary unspesifiable service and necessary parts furnished in connection with such service, which exception shall be in accordance with the requirements for extraordinary unspesifiable services;
- (j) The publishing of legal notices in newspapers as required by law;
- (k) The acquisition of artifacts or other items of unique intrinsic, artistic or historical character;
- (l) Those goods and services necessary or required to prepare and conduct an election;
- (m) Insurance, including the purchase of insurance coverage and consultant services, which exception shall be in accordance with the requirements for extraordinary unspesifiable services;

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utilized to acquire or upgrade non-proprietary hardware or to acquire or update non-proprietary software;

(ee) The management or operation of an airport owned by the contracting unit pursuant to R.S.40:8-1 et seq.;

(ff) Purchases of goods and services at rates set by the Universal Service Fund administered by the Federal Communications Commission;

(gg) A contract for the provision of water supply services or wastewater treatment services entered into pursuant to section 2 of P.L.2002, c.47 (C.40A:11-5.1), or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15) or a wastewater treatment system as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), or any component part or parts thereof, including a water filtration system as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15);

(hh) The purchase of electricity generated from a power production facility that is fueled by methane gas extracted from a landfill in the county of the contracting unit.

(2) It is to be made or entered into with the United States of America, the State of New Jersey, county or municipality or any board, body, officer, agency or authority thereof or any other state or subdivision thereof.

(3) Bids have been advertised pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4) on two occasions and (a) no bids have been received on both occasions in response to the advertisement, or (b) the governing body has rejected such bids on two occasions because it has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the contracting agent prior to the advertising therefor, or have not been independently arrived at in open competition, or (c) on one occasion no bids were received pursuant to (a) and on one occasion all bids were rejected pursuant to (b). In whatever sequence; any such contract may then be negotiated and may be awarded upon adoption of a resolution by a two-thirds affirmative vote of the authorized membership of the governing body authorizing such contract; provided, however, that:

(i) A reasonable effort is first made by the contracting agent to determine that the same or equivalent goods or services, at a cost which is lower than the negotiated price, are not available from an agency or authority of the United States, the State of New Jersey or of the county in which the contracting unit is located, or any municipality in close proximity to the contracting unit;

(ii) The terms, conditions, restrictions and specifications set forth in the negotiated contract are not substantially different from those which were the subject of competitive bidding pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4); and

(iii) Any minor amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4), shall be stated in the resolution awarding such contract; provided further, however, that if on the second occasion the bids received are rejected as unreasonable as to price, the contracting agent shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate, and afford each bidder a reasonable opportunity to negotiate, but the governing body shall not award such contract unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any responsible vendor, and is a reasonable price for such goods or services.

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(n) The doing of any work by handicapped persons employed by a sheltered workshop;

(o) The provision of any goods or services including those of a commercial nature, attendant upon the operation of a restaurant by any nonprofit, duly incorporated, historical society at or on any historical preservation site;

(p) (Deleted by amendment, P.L.1999, c.440.)

(q) Library and educational goods and services;

(r) (Deleted by amendment, P.L.2005, c.212).

(s) The marketing of recyclable materials recovered through a recycling program, or the marketing of any product intentionally produced or derived from solid waste received at a resource recovery facility or recovered through a resource recovery program, including, but not limited to, refuse-derived fuel, compost materials, methane gas, and other similar products;

(t) (Deleted by amendment, P.L.1999, c.440.)

(u) Contracting unit towing and storage contracts, provided that all such contracts shall be pursuant to reasonable non-exclusionary and non-discriminatory terms and conditions, which may include the provision of such services on a rotating basis, at the rates and charges set by the municipality pursuant to section 1 of P.L.1979, c.101 (C.40:48-2.49). All contracting unit towing and storage contracts for services to be provided at rates and charges other than those established pursuant to the terms of this paragraph shall only be awarded to the lowest responsible bidder in accordance with the provisions of the "Local Public Contracts Law" and without regard for the value of the contract therefor;

(v) The purchase of steam or electricity from, or the rendering of services directly related to the purchase of such steam or electricity from a qualifying small power production facility or a qualifying cogeneration facility as defined pursuant to 16 U.S.C.s.796;

(w) The purchase of electricity or administrative or dispatching services directly related to the transmission of such purchased electricity by a contracting unit engaged in the generation of electricity;

(x) The printing of municipal ordinances or other services necessarily incurred in connection with the revision and codification of municipal ordinances;

(y) An agreement for the purchase of an equitable interest in a water supply facility or for the provision of water supply services entered into pursuant to section 2 of P.L.1993, c.381 (C.58:26-2), or an agreement entered into pursuant to P.L.1989, c.109 (N.J.S.40A:31-1 et al.), so long as such agreement is entered into no later than six months after the effective date of P.L.1993, c.381;

(z) A contract for the provision of water supply services entered into pursuant to P.L.1995, c.101 (C.58:26-19 et al.);

(aa) The cooperative marketing of recyclable materials recovered through a recycling program;

(bb) A contract for the provision of wastewater treatment services entered into pursuant to P.L.1995, c.216 (C.58:27-19 et al.);

(cc) Expenses for travel and conferences;

(dd) The provision or performance of goods or services for the support or maintenance of proprietary computer hardware and software, except that this provision shall not be

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Whenever a contracting unit shall determine that a bid was not arrived at independently in open competition pursuant to subsection (3) of this section it shall thereupon notify the county prosecutor of the county in which the contracting unit is located and the Attorney General of the facts upon which its determination is based, and when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

(4) The contracting unit has solicited and received at least three quotations on materials, supplies or equipment for which a State contract has been issued pursuant to section 12 of P.L.1971, c.198 (C.40A:11-12), and the lowest responsible quotation is at least 10% less than the price the contracting unit would be charged for the identical materials, supplies or equipment, in the same quantities, under the State contract. Any such contract entered into pursuant to this subsection may be awarded only upon adoption of a resolution by the affirmative vote of two-thirds of the full membership of the governing body of the contracting unit at a meeting thereof authorizing such a contract. A copy of the purchase order relating to any such contract, the requisition for purchase order, if applicable, and documentation identifying the price of the materials, supplies or equipment under the State contract and the State contract number shall be filed with the director within five working days of the award of any such contract by the contracting unit. The director shall notify the contracting unit of receipt of the material and shall make the material available to the State Treasurer. The contracting unit shall make available to the director upon request any other documents relating to the solicitation and award of the contract, including, but not limited to, quotations, requests for quotations, and resolutions. The director periodically shall review material submitted by contracting units to determine the impact of such contracts on local contracting and shall consult with the State Treasurer on the impact of such contracts on the State procurement process. The director may, after consultation with the State Treasurer, adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.S.2:14B-1 et seq.) to limit the use of this subsection, after considering the impact of contracts awarded under this subsection on State and local contracting, or after considering the extent to which the award of contracts pursuant to this subsection is consistent with and in furtherance of the purposes of the public contracting laws.

(5) Notwithstanding any provision of law, rule or regulation to the contrary, the subject matter consists of the combined collection and marketing, or the cooperative combined collection and marketing of recycled material recovered through a recycling program, or any product intentionally produced or derived from solid waste received at a resource recovery facility or recovered through a resource recovery program including, but not limited to, refuse-derived fuel, compost materials, methane gas, and other similar products, provided that in lieu of engaging in such public advertising for bids and the bidding therefor, the contracting unit shall, prior to commencing the procurement process, submit for approval to the Director of the Division of Local Government Services, a written detailed description of the process to be followed in securing said services. Within 30 days after receipt of the written description the director shall, if the director finds that the process provides for fair competition and integrity in the negotiation process, approve, in writing, the description submitted by the contracting unit. If the director finds that the process does not provide for fair competition and integrity in the negotiation process, the director shall advise the contracting unit of the deficiencies that must be remedied. If the director fails to respond in writing to the contracting unit within 30 days, the procurement process as described shall be deemed approved. As used in this section,

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"collection" means the physical removal of recyclable materials from curbside or any other location selected by the contracting unit.

(6) Notwithstanding any provision of law, rule or regulation to the contrary, the contract is for the provision of electricity by a contracting unit engaged in the distribution of electricity for retail sale, or for the provision of administrative or dispatching services related to the transmission of such electricity, provided that in lieu of engaging in public advertising for bids and the bidding therefor, the contracting unit shall, prior to commencing the procurement process, submit for approval to the Director of the Division of Local Government Services, a written detailed description of the process to be followed in securing such services. Such process shall be designed in a way that is appropriate to and commensurate with industry practices, and the integrity of the government contracting process. Within 30 days after receipt of the written description, the director shall, if the director finds that the process provides for fair competition and integrity in the negotiation process, approve, in writing, the description submitted by the contracting unit. If the director finds that the process does not provide for fair competition and integrity in the negotiation process, the director shall advise the contracting unit of the deficiencies that must be remedied. If the director fails to respond in writing to the contracting unit within 30 days, the procurement process, as submitted to the director pursuant to this section, shall be deemed approved.

L.1971, c. 198, s. 5; amended 1975, c. 353, s. 4; 1976, c. 20; 1977, c. 53, s. 2; 1982, c. 208; 1983, c. 209; 1983, c. 331, s. 2; 1985, c. 436; 1986, c. 61; 1987, c. 102, s. 32; 1989, c. 92; 1989, c. 159, s. 1; 1991, c. 142, s. 1; 1991, c. 143, s. 2; 1991, c. 366; 1993, c. 381, s. 4; 1995, c. 101, s. 12; 1995, c. 103, s. 4; 1995, c. 216, s. 11; 1997, c. 387, s. 2; 1999, c. 440, s. 9; 2002, c. 47, s. 8; 2003, c. 150, s. 2; 2005, c. 212, s. 2; 2005, c. 296, s. 1.

#### 40A:11-5.1. Authority of city of first class to contract for water supply, wastewater treatment services

The Legislature finds and declares it to be in the public interest and to be the public policy of the State to foster and promote by all reasonable means the collection, storage and distribution of an adequate supply of water for the inhabitants and businesses of the counties and municipalities of this State and to foster and promote the public health by providing for the collection and treatment of sewerage through adequate sewerage facilities.

To further promote these interests, and notwithstanding the provisions of any other law, rule or regulation to the contrary, the governing body of a city of the first class may enter into a contract with a duly incorporated nonprofit association for the provision of water supply services as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), or for the provision of wastewater treatment services as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), or both, as the case may be.

The governing body of a city of the first class that has entered into a contract with a duly incorporated nonprofit association pursuant to this section shall obtain the written opinion of bond counsel as to the effect of the contract on the tax exempt status of existing and future financing instruments executed by the parties given the terms of the contract and the federal laws or regulations concerning this matter.

Any concession fee or monetary benefit paid by a duly incorporated nonprofit association to the governing body of a city of the first class shall be used for the purposes of reducing or off-setting property taxes, reducing water supply services or wastewater treatment services charges, rates or fees, one-time nonrecurring expenses or capital asset expenditures related to water supply facilities or wastewater treatment systems.

Upon executing such contract, the duly incorporated nonprofit association shall be deemed to be providing essential government functions on behalf of the city of the first class and, to the extent

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#### 40A:11-6.1. Award of contracts

All contracts enumerated in this section shall be awarded as follows:

a. For all contracts that in the aggregate are less than the bid threshold but 15 percent or more of that amount, and for those contracts that are for subject matter enumerated in subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5), except for paragraph (a) of that subsection concerning professional services and paragraph (b) of that subsection concerning work by employees of the contracting unit, the contracting agent shall award the contract after soliciting at least two competitive quotations, if practicable. The award shall be made to a vendor whose response is most advantageous, price and other factors considered. The contracting agent shall retain the record of the quotation solicitation and shall include a copy of the record with the voucher used to pay the vendor.

b. When in excess of the bid threshold, and after documented effort by the contracting agent to secure competitive quotations, a contract for extraordinary unscalable services may be awarded upon a determination in writing by the contracting agent that the solicitation of competitive quotations is impracticable. Any such contract shall be awarded by resolution of the governing body.

c. If authorized by the governing body by resolution or ordinance, all contracts that are in the aggregate less than 15 percent of the bid threshold may be awarded by the contracting agent without soliciting competitive quotations.

d. Whenever two or more responses to a request of a contracting agent offer equal prices and are the lowest responsible bids or proposals, the contracting unit may award the contract to the vendor whose response, in the discretion of the contracting unit, is the most advantageous, price and other factors considered. In such a case, the award resolution or purchase order documentation shall explain why the vendor selected is the most advantageous.

L.1975, c. 353, s. 6; amended 1977, c. 53, s. 4; 1983, c. 418; 1999, c. 440, s. 11.

#### 40A:11-7. Contracts not to be divided

a. No contract in the aggregate which is single in character or which necessarily or by reason of the quantities required to effectuate the purpose of the contract includes the provision or performance of additional goods or services, shall be divided, so as to bring it or any of the parts thereof under the bid threshold, for the purpose of dispensing with the requirement of public advertising and bidding therefor.

b. In contracting for the provision or performance of any goods or services included in or incidental to the provision or performance of any work which is single in character or inclusive of the provision or performance of additional goods or services, all of the goods or services requisite for the completion of such contract shall be included in one contract.

L.1971, c. 198, s. 7; amended 1975, c. 353, s. 7; 1979, c. 350, s. 4; 1985, c. 60, s. 4; 1985, c. 469, s. 9; 1999, c. 440, s. 12.

#### 40A:11-7.1. Rules concerning determinations of aggregation

For the purpose of ensuring consistency between the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), and the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., the Director of the Division of Local Government Services in the Department of Community Affairs, after consultation with the Commissioner of Education and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules concerning determinations of aggregation for the purposes of whether a contract is subject to public bidding as set forth in sections 3, 4 and 7 of P.L.1971, c.198 (C.40A:11-3, 40A:11-4 and 40A:11-7) and N.J.S.18A:18A-3, N.J.S.18A:18A-4, and N.J.S.18A:18A-8.

L.1999, c. 440, s. 13.

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permitted in the contract, shall exercise all powers and responsibilities of the city of the first class related to the provision of water supply services and wastewater treatment services now or hereinafter provided under law.

The authorization provided in this section shall be subject to the provisions of sections 3 through 6 of P.L.2002, c.47 (C.58:28-4 through 58:28-7).

L.2002, c. 47, s. 2.

#### 40A:11-5.2. Applicability of C.40A:11-1 et seq. to certain contracts by city of first degree

Notwithstanding the provisions of P.L.2002, c.47 (C.40A:12-17.1 et al.) to the contrary, any expenditure of funds by a duly incorporated nonprofit association that has entered into a contract with the governing body of a city of the first class pursuant to sections 1 and 2 of P.L.2002, c.47 (C.40A:12-17.1 and 40A:11-5.1) for any capital improvements to, or construction of, water supply facilities or wastewater treatment systems shall be subject to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) whenever the funds have been derived from the proceeds of obligations or other available public moneys of any public entity including, but not limited to, debt issued by the New Jersey Environmental Infrastructure Trust established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224, or a city of the first class.

L.2002, c. 47, s. 12.

#### 40A:11-6. Emergency contracts

Any contract may be negotiated or awarded for a contracting unit without public advertising for bids and bidding therefor, notwithstanding that the contract price will exceed the bid threshold, when an emergency affecting the public health, safety or welfare requires the immediate delivery of goods or the performance of services; provided that the awarding of such contracts is made in the following manner:

a. The official in charge of the agency wherein the emergency occurred, or such other officer or employee as may be authorized to act in place of that official, shall notify the purchasing agent, a supervisor of the purchasing agent, or a designated representative of the governing body, as may be appropriate to the form of government, of the need for the performance of a contract, the nature of the emergency, the time of its occurrence and the need for invoking this section. If that person is satisfied that an emergency exists, that person shall be authorized to award a contract or contracts for such purposes as may be necessary to respond to the emergent needs. Such notification shall be reduced to writing and filed with the purchasing agent as soon as practicable.

b. Upon the furnishing of such goods or services, in accordance with the terms of the contract, the contractor furnishing such goods or services shall be entitled to be paid therefor and the contracting unit shall be obligated for said payment. The governing body of the contracting unit shall take such action as shall be required to provide for the payment of the contract price.

c. The Director of the Division of Local Government Services in the Department of Community Affairs shall prescribe rules and procedures to implement the requirements of this section.

d. The governing body of the contracting unit may prescribe additional rules and procedures to implement the requirements of this section.

L.1971, c. 198, s. 6; amended 1975, c. 353, s. 5; 1977, c. 53, s. 3; 1979, c. 350, s. 3; 1985, c. 60, s. 3; 1985, c. 469, s. 8; 1999, c. 440, s. 10.

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#### 40A:11-8. Bids for provision or performance of goods or services

Every contracting agent shall, at intervals to be fixed by the governing body, solicit by public advertisement the submission of bids for the provision or performance of goods or services which are and which under section 4 of P.L.1971, c.198 (C.40A:11-4) can be contracted to be provided or performed only after public advertisement for bids and bidding therefor and all contracts for the provision or performance of such goods or services shall be awarded only in that manner.

L.1971, c. 198, s. 8; amended 1999, c. 440, s. 14.

#### 40A:11-9. Purchasing agent, department or board; establishment; powers; criteria for authorization; "green product" defined

a. The governing body of any contracting unit may by ordinance, in the case of a municipality, by ordinance or resolution, as the case may be, in the case of a county, or by resolution in all other cases, establish the office of purchasing agent, or a purchasing department or a purchasing board, with the authority, responsibility, and accountability as its contracting agent, for the purchasing activity for the contracting unit, to prepare public advertising for bids and to receive bids for the provision or performance of goods or services on behalf of the contracting unit and to award contracts permitted pursuant to subsection a. of section 3 of P.L.1971, c.198 (C.40A:11-3) in the name of the contracting unit, and conduct any activities as may be necessary or appropriate to the purchasing function of the contracting unit.

b. The Director of the Division of Local Government Services, after consultation with the Commissioner of Education, shall establish criteria to qualify individuals who have completed appropriate training and possess such purchasing experience as deemed necessary to exercise such supplemental authority as may be set forth in subsection a. of section 3 of P.L.1971, c.198 (C.40A:11-3). These criteria also shall authorize county purchasing agents certified pursuant to P.L.1981, c.380 (C.40A-9-30.1 et seq.) to exercise such supplemental authority.

c. The criteria established by the director to authorize purchasing agents, pursuant to subsection b. of this section, shall include, but are not limited to, completion of a course in green product purchasing, as established by the director pursuant to regulation. Any person qualified pursuant to subsection b. of this section prior to the establishment of the course in green product purchasing, shall in order to continue to be qualified, take and successfully complete the course within four years from the date the course is established. For the purposes of P.L.2007, c.332 (C.40A:11-9.1 et al.), "green product" means any commodity or service that has a lesser or reduced negative effect on human health and the environment when compared with competing commodities or services. Items considered in this comparison may include, but are not limited to: raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, disposal, energy efficiency, recycled content resource use, transportation, and durability.

L.1971, c. 198, s. 9; amended 1975, c. 353, s. 8; 1977, c. 53, s. 5; 1999, c. 440, s. 15; 2007, c. 332, s. 1.

#### 40A:11-9.1. List of sources for green product purchasing

The State Treasurer, through the Division of Purchase and Property, in consultation with the Department of Environmental Protection and any other appropriate State agencies, shall develop a list of sources for green product purchasing by contracting units, and provide regular revisions of the list, on the Internet web page of the Department of the Treasury and shall have the authority to specify appropriate and reasonable standards for the identification of a list of sources for green products.

L.2007, c. 332, s. 2.

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**40A:11-10. Joint agreements for provision and performance of goods and services; cooperative marketing; authorization**

- (a) (1) The governing bodies of two or more contracting units may provide by joint agreement for the provision and performance of goods and services for use by their respective jurisdictions.
- (2) The governing bodies of two or more contracting units providing sewerage services pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), R.S.58:14-1 et seq. or R.S.40:63-68 et seq. may provide by joint agreement for the purchase of goods and services related to sewage sludge disposal.
- (3) The governing body of two or more contracting units providing electrical distribution services pursuant to and in accordance with R.S.40:62-12 through R.S.40:62-25, may provide by joint agreement for the provision or performance of goods or services related to the distribution of electricity.
- (4) The governing bodies of two or more contracting units may provide for the cooperative marketing of recyclable materials recovered through a recycling program.
- (5) The governing bodies of two or more contracting units may provide by joint agreement for the purchase of the services of a private aggregator for the purpose of facilitating the joint action of two or more municipalities in granting municipal consent for the provision of cable television service pursuant to R.S.40:48-1 et seq. and the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended and supplemented.

(b) The governing body of any contracting unit may provide by joint agreement with the board of education of any school district for the provision and performance of goods and services for use by their respective jurisdictions.

(c) Such agreement shall be entered into by resolution adopted by each of the participating bodies and boards, which shall set forth the categories of goods or services to be provided or performed, the manner of advertising for bids and of awarding of contracts, the method of payment by each participating body and board, and other matters deemed necessary to carry out the purposes of the agreement.

(d) Each participating body's and board's share of expenditures for purchases under any such agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as for other expenses of the participating body and board.

L.1971, c. 198, s. 10; amended 1977, c. 182; 1985, c. 452, s. 1; 1991, c. 143, s. 3; 1995, c. 103, s. 5; 1995, c. 356, s. 7; 1999, c. 440, s. 16; 2003, c. 30, s. 2.

**40A:11-11. Additional matters regarding contracts for the provision and performance of goods and services**

- (1) The contracting units entering into a joint agreement pursuant to section 10 of P.L.1971, c.198 (C.40A:11-10) may designate a joint contracting agent.
- (2) Contracts made pursuant to a joint purchasing agreement shall be subject to all of the terms and conditions of this act.
- (3) Any contracting unit serving as a joint contracting agent pursuant to this section, may make an appropriation to enable it to perform any such contract and may anticipate as revenue payments to be made and received by it from any other party to the agreement. Any items so included in a local budget shall be subject to the approval of the Director, Division of Local Government Services, who shall consider the matter in conjunction with the requirements of chapter 4 of Title 40A of the New Jersey

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**40A:11-12. Contracting unit purchases through State agency; procedure**

a. Any contracting unit under this act may without advertising for bids, or having rejected all bids obtained pursuant to advertising therefor, purchase any goods or services under any contract or contracts for such goods or services entered into on behalf of the State by the Division of Purchase and Property in the Department of the Treasury.

b. A contracting unit may also use, without advertising for bids, or having rejected all bids obtained pursuant to advertising, the Federal Supply Schedules of the General Services Administration or schedules from other federal procurement programs promulgated by the Director of the Division of Purchase and Property in the Department of the Treasury pursuant to section 1 of P.L.1996, c.16 (C.52:34-6.1), subject to the following conditions:

- (1) the price of the goods or services being procured is no greater than the price offered to federal agencies;
- (2) Deleted by amendment, P.L.2006, c.10;
- (3) the contracting unit receives the benefit of federally mandated price reductions during the term of the contract;
- (4) the price of the goods or services being procured is no greater than the price of the same or equivalent goods or services under the State contract, unless the contracting unit determines that because of factors other than price, selection of a vendor from the Federal Supply Schedules or schedules from other federal procurement programs would be more advantageous to the contracting unit;
- (5) a copy of the purchase order relating to any such contract, the requisition or request for purchase order, if applicable, and documentation identifying the price of the goods or services under the Federal Supply Schedules or schedules from other federal procurement programs shall be filed with the Director of the Division of Purchase and Property in the Department of the Treasury within five working days of the award of any such contract by the contracting unit.

c. Whenever a purchase is made, the contracting unit shall place its order with the vendor offering the lowest price, including delivery charges, that best meets the requirements of the contracting unit. Prior to placing such an order, the contracting unit shall document with specificity that the goods or services selected best meet the requirements of the contracting unit.

L.1971, c. 198, s. 12; amended 1996, c. 16, s. 3; 1999, c. 440, s. 18; 2006, c. 10, s. 4.

**40A:11-13. Specifications**

Any specifications for the provision or performance of goods or services under this act shall be drafted in a manner to encourage free, open and competitive bidding. In particular, no specifications under this act may:

- (a) Require any standard, restriction, condition or limitation not directly related to the purpose, function or activity for which the contract is awarded; or
- (b) Require that any bidder be a resident of, or that the bidder's place of business be located in, the county or municipality in which the contract will be awarded or performed, unless the physical proximity of the bidder is requisite to the efficient and economical performance of the contract; except that no specification for a contract for the collection and disposal of municipal solid waste shall require any bidder to be a resident of, or that the bidder's place of business be located in, the county or municipality in which the contract will be performed; or

Statutes. The agreement and any subsequent amendment or revisions thereto shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs.

- (4) Any joint contracting agent so designated pursuant to a joint purchasing agreement shall have the sole responsibility to comply with the provisions of section 23 of P.L.1971, c.198 (C.40A:11-23).
- (5) The governing bodies of two or more contracting units or boards of education or for purposes related to the distribution of electricity, the governing bodies of two or more contracting units providing electrical distribution services pursuant to R.S.40:62-12 through R.S.40:62-25, may by resolution establish a cooperative pricing system as hereinafter provided. Any such resolution shall establish procedures whereby one participating contracting unit in the cooperative pricing system shall be empowered to advertise and receive bids to provide prices for all other participating contracting units in such system for the provision or performance of goods or services; provided, however, that no contract shall be awarded by any participating contracting unit for a price which exceeds any other price available to the participating contracting unit, or for a purchase of goods or services in deviation from the specifications, price or quality set forth by the participating contracting unit.
- (6) The governing body of a county government may establish a cooperative pricing system for the voluntary use of contracting units within the county.

No vendor shall be required or permitted to extend bid prices to participating contracting units in a cooperative pricing system unless so specified in the bids.

No cooperative pricing system and agreements entered into pursuant to such system, or joint purchase agreements established pursuant to this act, the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) or any other provision of law, shall become effective without prior approval of the Director of the Division of Local Government Services and said approval shall be valid for a period not to exceed five years.

The director's approval shall be based on the following:

- (a) Provision for maintaining adequate records and orderly procedures to facilitate audit and efficient administration, and
- (b) Adequacy of public disclosure of such actions as are taken by the participants, and
- (c) Adequacy of procedures to facilitate compliance with all provisions of the "Local Public Contracts Law" and corresponding regulations, and
- (d) Clarity of provisions to assure that the responsibilities of the respective parties are understood.

Failure of the Director of the Division of Local Government Services to approve or disapprove a properly executed and completed application to establish a cooperative pricing system and agreements entered into pursuant to such system or other joint purchase agreement within 45 days from the date of receipt of said application by the director shall constitute approval of said application, which shall be valid for a period of five years, commencing from the date of receipt of said application by the director.

The Director of the Division of Local Government Services is hereby authorized to promulgate rules and regulations specifying procedures pertaining to cooperative pricing systems and joint purchase agreements entered into pursuant to this act, the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) and any other provision of law.

L.1971, c. 198, s. 11; amended 1975, c. 353, s. 9; 1977, c. 53, s. 6; 1979, c. 420; 1991, c. 143, s. 4; 1995, c. 356, s. 8; 1999, c. 440, s. 17.

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(c) Discriminate on the basis of race, religion, sex, national origin, creed, color, ancestry, age, marital status, affectional or sexual orientation, familial status, liability for service in the Armed Forces of the United States, or nationality; or

(d) Require, with regard to any contract, the furnishing of any "brand name," but may in all cases require "brand name or equivalent," except that if the goods or services to be provided or performed are proprietary, such goods or services may be purchased by stipulating the proprietary goods or services in the bid specification in any case in which the resolution authorizing the contract so indicates, and the special need for such proprietary goods or services is directly related to the performance, completion or undertaking of the purpose for which the contract is awarded; or

(e) Fail to include any option for renewal, extension, or release which the contracting unit may intend to exercise or require; or any terms and conditions necessary for the performance of any extra work; or fail to disclose any matter necessary to the substantial performance of the contract.

Any specification which knowingly excludes prospective bidders by reason of the impossibility of performance, bidding or qualification by any but one bidder, except as provided herein, shall be null and void and of no effect and shall be readvertised for receipt of new bids, and the original contract shall be set aside by the governing body.

Any specification for a contract for the collection and disposal of municipal solid waste shall conform to the uniform bid specifications for municipal solid waste collection contracts established pursuant to section 22 of P.L.1991, c.381 (C.48:13A-7.22).

Any specification may include an item for the cost, which shall be paid by the contractor, of creating a file to maintain the notices of the delivery of labor or materials required by N.J.S.2A:44-128.

Any prospective bidder who wishes to challenge a bid specification shall file such challenges in writing with the contracting agent no less than three business days prior to the opening of the bids. Challenges filed after that time shall be considered void and having no impact on the contracting unit or the award of a contract.

L.1971, c. 198, s. 13; amended 1991, c. 381, s. 48; 1996, c. 81, s. 7; 1999, c. 440, s. 19.

**40A:11-13.1. Payment from bequest, legacy or gift; conditions**

Goods or services, the payment for which utilizes only funds received by a contracting unit from a bequest, legacy or gift, shall be subject to the provisions of P.L.1971, c.198 (C.40A:11-1 et seq.), except that if such bequest, legacy or gift contains written instructions as to the specifications, manufacturer or vendor, or source of supply of the goods or services to be provided or performed, such instructions shall be honored, provided that the bequest, legacy or gift is used in a manner consistent with N.J.S.40A:5-29.

L.1999, c. 440, s. 20.

**40A:11-13.2. Rejection of bids; reasons**

A contracting unit may reject all bids for any of the following reasons:

- a. The lowest bid substantially exceeds the cost estimates for the goods or services;
- b. The lowest bid substantially exceeds the contracting unit's appropriation for the goods or services;
- c. The governing body of the contracting unit decides to abandon the project for provision or performance of the goods or services;

- d. The contracting unit wants to substantially revise the specifications for the goods or services;
- e. The purposes or provisions or both of P.L.1971, c.198 (C.40A:11-1 et seq.) are being violated;
- f. The governing body of the contracting unit decides to use the State authorized contract pursuant to section 12 of P.L.1971, c.198 (C.40A:11-12).

L.1999, c. 440, s. 21.

**40A:11-14. Form of contracts**

All contracts for the provision or performance of goods or services shall be in writing. The governing body of any contracting unit may, subject to the requirements of law, prescribe the form and manner in which contracts shall be made and executed, and the form and manner of execution and approval of all guarantee, indemnity, fidelity and other bonds.

L.1971, c. 198, s. 14; amended 1975, c. 353, s. 10; 1999, c. 440, s. 22.

**40A:11-15. Duration of certain contracts**

All contracts for the provision or performance of goods or services shall be awarded for a period not to exceed 24 consecutive months, except that contracts for professional services pursuant to subparagraph (f) of paragraph (a) of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) shall be awarded for a period not to exceed 12 consecutive months. Contracts may be awarded for longer periods of time as follows:

- (1) Supplying of:
  - (a) Deleted by amendment, P.L.1996, c.113.
  - (b) Deleted by amendment, P.L.1996, c.113.
  - (c) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 40 years, when the contract is approved by the Board of Public Utilities. For the purposes of this paragraph, "cogeneration" means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam;
- (2) Deleted by amendment, P.L.1977, c.53.
- (3) The collection and disposal of municipal solid waste, the collection and disposition of recyclable material, or the disposal of sewage sludge, for any term not exceeding in the aggregate, five years;
- (4) The collection and recycling of methane gas from a sanitary landfill facility, for any term not exceeding 25 years, when such contract is in conformance with a district solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and with the approval of the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection. The contracting unit shall award the contract to the highest responsible bidder, notwithstanding that the contract price may be in excess of the amount of any necessarily related administrative expenses; except that if the contract requires the contracting unit to expend funds only, the contracting unit shall award the contract to the lowest responsible bidder. The approval by the Division of Local Government Services of public bidding requirements shall not be required for those contracts exempted therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);
- (5) Data processing service, for any term of not more than seven years;
- (6) Insurance, including the purchase of insurance coverages, insurance consulting or administrative services, claims administration services and including participation in a joint

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self-insurance fund, risk management program or related services provided by a contracting unit insurance group, or participation in an insurance fund established by a local unit pursuant to N.J.S.40A:10-6, or a joint insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more than three years;

- (7) Leasing or servicing of automobiles, motor vehicles, machinery and equipment of every nature and kind, for a period not to exceed five years; provided, however, such contracts shall be awarded only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services in the Department of Community Affairs;
- (8) The supplying of any product or the rendering of any service by a company providing voice, data, transmission or switching services for a term not exceeding five years;
- (9) Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction;
- (10) The providing of food services for any term not exceeding three years;
- (11) On-site inspections and plan review services undertaken by private agencies pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not more than three years;
- (12) Deleted by amendment, P.L.2009, c.4.
- (13) Deleted by amendment, P.L.1999, c.440.
- (14) Deleted by amendment, P.L.1999, c.440.
- (15) Leasing of motor vehicles, machinery and other equipment primarily used to fight fires, for a term not to exceed ten years, when the contract includes an option to purchase, subject to and in accordance with rules and regulations promulgated by the Director of the Division of Local Government Services in the Department of Community Affairs;
- (16) The provision of water supply services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility, or any component part or parts thereof, including a water filtration system, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et al.), except that no such approvals shall be required for those contracts otherwise exempted pursuant to subsection (30), (31), (34), (35) or (43) of this section. For the purposes of this subsection, "water supply services" means any service provided by a water supply facility; "water filtration system" means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, rehabilitated, or operated for the collection, impoundment, storage, improvement, filtration, or other treatment of drinking water for the purposes of purifying and enhancing water quality and insuring its portability prior to the distribution of the drinking water to the general public for human consumption, including plants and works, and other personal property and appurtenances necessary for their use or operation; and "water supply facility" means and refers to the real property and the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, real, personal and mixed, acquired, constructed or operated, or to be acquired, constructed or operated, in whole or in part by or on behalf of a political subdivision of the State or any agency thereof, for the purpose of augmenting the natural water resources of the State

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and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving or transmitting of water and for the preservation and protection of these resources and facilities and providing for the conservation and development of future water supply resources;

- (17) The provision of resource recovery services by a qualified vendor, the disposal of the solid waste delivered for disposal which cannot be processed by a resource recovery facility or the residual ash generated at a resource recovery facility, including hazardous waste and recovered metals and other materials for reuse, or the design, financing, construction, operation or maintenance of a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Division of Local Government Services in the Department of Community Affairs, and the Department of Environmental Protection pursuant to P.L.1985, c.38 (C.13:1E-136 et al.); and when the resource recovery facility is in conformance with a district solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production; and "residual ash" means the bottom ash, fly ash, or any combination thereof, resulting from the combustion of solid waste at a resource recovery facility;
- (18) The sale of electricity or thermal energy, or both, produced by a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Board of Public Utilities, and when the resource recovery facility is in conformance with a district solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;
- (19) The provision of wastewater treatment services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a wastewater treatment system, or any component part or parts thereof, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection pursuant to P.L.1985, c.72 (C.58:27-1 et al.), except that no such approvals shall be required for those contracts otherwise exempted pursuant to subsection (36) or (43) of this section. For the purposes of this subsection, "wastewater treatment services" means any services provided by a wastewater treatment system, and "wastewater treatment system" means equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, facilities, plants and works, connections, outfall sewers, interceptors, trunk lines, and other personal property and appurtenances necessary for their operation;
- (20) The supplying of goods or services for the purpose of lighting public streets, for a term not to exceed five years;
- (21) The provision of emergency medical services for a term not to exceed five years;

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- (22) Towing and storage contracts, awarded pursuant to paragraph u. of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) for any term not exceeding three years;
- (23) Fuel for the purpose of generating electricity for a term not to exceed eight years;
- (24) The purchase of electricity or administrative or dispatching services related to the transmission of such electricity, from a supplier of electricity subject to the jurisdiction of a federal regulatory agency, from a qualifying small power producing facility or qualifying cogeneration facility, as defined by 16 U.S.C.s.796, or from any supplier of electricity within any regional transmission organization or independent system operator or from such organization or operator or their successors, by a contracting unit engaged in the generation of electricity for retail sale, as of May 24, 1991, for a term not to exceed 40 years, or by a contracting unit engaged solely in the distribution of electricity for retail sale for a term not to exceed ten years, except that a contract with a contracting unit, engaged solely in the distribution of electricity for retail sale, in excess of ten years, shall require the written approval of the Director of the Division of Local Government Services. If the director fails to respond in writing to the contracting unit within 10 business days, the contract shall be deemed approved;
- (25) Basic life support services, for a period not to exceed five years. For the purposes of this subsection, "basic life support" means a basic level of prehospital care, which includes but need not be limited to patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization;
- (26) Deleted by amendment, P.L.1999, c.440.
- (27) The provision of transportation services to elderly, disabled or indigent persons for any term of not more than three years. For the purposes of this subsection, "elderly persons" means persons who are 60 years of age or older. "Disabled persons" means persons of any age who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, are unable, without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected. "Indigent persons" means persons of any age whose income does not exceed 100 percent of the poverty level, adjusted for family size, established and adjusted under section 673(2) of subtitle B, the "Community Services Block Grant Act," Pub.L.97-35 (42 U.S.C.9902 (2));
- (28) The supplying of liquid oxygen or other chemicals, for a term not to exceed five years, when the contract includes the installation of tanks or other storage facilities by the supplier, on or near the premises of the contracting unit;
- (29) The performance of patient care services by contracted medical staff at county hospitals, correction facilities and long term care facilities, for any term of not more than three years;
- (30) The acquisition of an equitable interest in a water supply facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or a contract entered into pursuant to the "County and Municipal Water Supply Act," N.J.S.40A:31-1 et seq., if the contract is entered into no later than January 7, 1995, for any term of not more than forty years;
- (31) The provision of water supply services or the financing, construction, operation or maintenance or any combination thereof, of a water supply facility or any component part or parts thereof, by a partnership or copartnership established pursuant to a contract authorized under section 2 of P.L.1993, c.381 (C.58:28-2), for a period not to exceed 40 years;
- (32) Laundry service and the rental, supply and cleaning of uniforms for any term of not more than three years;

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- (33) The supplying of any product or the rendering of any service, including consulting services, by a cemetery management company for the maintenance and preservation of a municipal cemetery operating pursuant to the "New Jersey Cemetery Act," N.J.S.A.1-1 et seq., for a term not exceeding 15 years;
- (34) A contract between a public entity and a private firm pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of water supply services may be entered into for any term which, when all optional extension periods are added, may not exceed 40 years;
- (35) A contract for the purchase of a supply of water from a public utility company subject to the jurisdiction of the Board of Public Utilities in accordance with tariffs and schedules of charges made, charged or exacted or contracts filed with the Board of Public Utilities, for any term of not more than 40 years;
- (36) A contract between a public entity and a private firm or public authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for the provision of wastewater treatment services may be entered into for any term of not more than 40 years, including all optional extension periods;
- (37) The operation and management of a facility under a license issued or permit approved by the Department of Environmental Protection, including a wastewater treatment system or a water supply or distribution facility, as the case may be, for any term of not more than ten years. For the purposes of this subsection, "wastewater treatment system" refers to facilities operated or maintained for the storage, collection, reduction, disposal, or other treatment of wastewater or sewage sludge, remediation of groundwater contamination, stormwater runoff, or the final disposal of residues resulting from the treatment of wastewater; and "water supply or distribution facility" refers to facilities operated or maintained for augmenting the natural water resources of the State, increasing the supply of water, conserving existing water resources, or distributing water to users;
- (38) Municipal solid waste collection from facilities owned by a contracting unit, for any term of not more than three years;
- (39) Fuel for heating purposes, for any term of not more than three years;
- (40) Fuel or oil for use in motor vehicles for any term of not more than three years;
- (41) Plowing and removal of snow and ice for any term of not more than three years;
- (42) Purchases made under a contract awarded by the Director of the Division of Purchase and Property in the Department of the Treasury for use by counties, municipalities or other contracting units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a term not to exceed the term of that contract;
- (43) A contract between the governing body of a city of the first class and a duly incorporated nonprofit association for the provision of water supply services as defined in subsection (16) of this section, or wastewater treatment services as defined in subsection (19) of this section, may be entered into for a period not to exceed 40 years;
- (44) The purchase of electricity generated through class I renewable energy or from a power production facility that is fueled by methane gas extracted from a landfill in the county of the contracting unit for any term not exceeding 25 years;
- (45) The provision or performance of goods or services for the purpose of producing class I renewable energy or class II renewable energy, as those terms are defined in section 3 of P.L.1999, c.23 (C.48:3-51), at or adjacent to, buildings owned by, or operations conducted by, the contracting unit, the entire price of which is to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years; provided, however, that

such contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings and energy generation costs.

Any contract for services other than professional services, the statutory length of which contract is for three years or less, may include provisions for no more than one two-year, or two one-year, extensions, subject to the following limitations: a. The contract shall be awarded by resolution of the governing body upon a finding by the governing body that the services are being performed in an effective and efficient manner; b. No such contract shall be extended so that it runs for more than a total of five consecutive years; c. Any price change included as part of an extension shall be based upon the price of the original contract as cumulatively adjusted pursuant to any previous adjustment or extension and shall not exceed the change in the index rate for the 12 months preceding the most recent quarterly calculation available at the time the contract is renewed; and d. The terms and conditions of the contract remain substantially the same.

All multi-year leases and contracts entered into pursuant to this section, including any two-year or one-year extensions, except contracts involving the supplying of electricity for the purpose of lighting public streets and contracts for thermal energy authorized pursuant to subsection (1) above, construction contracts authorized pursuant to subsection (9) above, contracts for the provision or performance of goods or services or the supplying of equipment to promote energy conservation through the production of class I renewable energy or class II renewable energy authorized pursuant to subsection (45) above, contracts for water supply services or for a water supply facility, or any component part or parts thereof authorized pursuant to subsection (16), (30), (31), (34), (35), (37) or (43) above, contracts for resource recovery services or a resource recovery facility authorized pursuant to subsection (17) above, contracts for the sale of energy produced by a resource recovery facility authorized pursuant to subsection (18) above, contracts for wastewater treatment services or for a wastewater treatment system or any component part or parts thereof authorized pursuant to subsection (19), (36), (37) or (43) above, and contracts for the purchase of electricity or administrative or dispatching services related to the transmission of such electricity authorized pursuant to subsection (24) above and contracts for the purchase of electricity generated from a power production facility that is fueled by methane gas authorized pursuant to subsection (44) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

The Division of Local Government Services in the Department of Community Affairs shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the fiscal year.

All contracts shall cease to have effect at the end of the contracted period and shall not be extended by any mechanism or provision, unless in conformance with the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract may be extended by mutual agreement of the parties to the contract when a contracting unit has commenced rebidding prior to the time the contract expires or when the awarding of a contract is pending at the time the contract expires.

L.1971, c. 198, s. 15; amended 1975, c. 326, s. 33; 1975, c. 353, s. 11; 1977, c. 53, s. 7; 1978, c. 154; 1981, c. 2, s. 1; 1981, c. 551, s. 1; 1982, c. 67, s. 1; 1983, c. 176; 1983, c. 195; 1983, c. 398; 1983, c. 426; 1985, c. 37, s. 19; 1985, c. 38, s. 37; 1985, c. 72, s. 19; 1985, c. 452, s. 2; 1986, c. 47; 1986, c. 177; 1987, c. 102, s. 31; 1989, c. 159, s. 2; 1991, c. 142, s. 2; 1991, c. 143, s. 5; 1991, c. 312; 1991, c. 356; 1991, c. 381, s. 49; 1991, c. 407; 1991, c. 451; 1992, c. 63; 1992, c. 98, s. 2; 1993, c. 381, s. 5; 1994, c. 71; 1995, c. 3; 1995, c. 41, s. 2; 1995, c. 101, s. 13; 1995, c. 216, s. 12; 1995, c. 371; 1996, c. 113, s. 19; 1997, c. 288; 1999, c. 23, s. 64; 1999, c. 440, s. 23; 2002, c. 47, s. 9; 2003, c. 150, s. 3; 2005, c. 296, s. 2; 2006, c. 83, s. 3; 2009, c. 4, s. 8.

**40A:11-15.1. Insurance contract to fund actuarial liability**

Notwithstanding the provisions of subsection (6) of section 15 of P.L.1971, c.198 (C.40A:11-15) to the contrary, a county or a municipality in which a pension fund has been established pursuant to P.L.1943, c.160 (C.43:10-18.1 et seq.), R.S.43:10-1 through R.S.43:10-18, P.L.1948, c.310 (C.43:10-18.50 et seq.), or P.L.1954, c.218 (C.43:13-22.3 et seq.), may enter into an insurance contract to fund the actuarial liability of its pension system, for a term which may not exceed the term of the actuarial liability covered by the contract.

L.1985, c. 68, s. 1; amended 1994, c. 185, s. 2.

**40A:11-15.2. Contracts for purchase of electricity for new county correction facility**

In the case of construction of a new county correction facility, in addition to the purchase of thermal energy, contracts for the purchase of electricity shall be permitted pursuant to subsection (1)(c) of section 15 of P.L.1971, c.198 (C.40A:11-15).

L.1998, c. 23, s. 63.

**40A:11-15.3. Contract for marketing of recyclable materials**

Notwithstanding the provisions of section 15 of P.L.1971, c.198 (C.40A:11-15) to the contrary, a county government contracting unit may enter into or extend a contract for the marketing of recyclable materials recovered through a recycling program subject to the following conditions:

- (1) The program includes one or more interlocal services agreements with municipalities in that county for the delivery of recyclable materials to a contractor; and
- (2) The contract for the marketing of recyclable material includes fixed or formula based fees for the marketing services so provided and the contractor owns the buildings and equipment necessary to perform the contract.

b. Whenever an existing contract satisfies the conditions contained in subsection a. of this section, the contract may be extended for a period of up to 10 years; however, the length of the existing contract together with any extension thereof shall not exceed a total of 12 years. A new contract for the marketing of recyclable materials shall not exceed 10 years. Notwithstanding the provisions of section 5 of P.L.1971, c.198 (C.40A:11-5) to the contrary, a new contract for the marketing of recyclable materials for a term exceeding five years shall be entered into pursuant to public bidding or competitive contracting.

L.2003, c. 150, s. 1.

**40A:11-16. Separate plans for various types of work; bids; contracts**

a. In the preparation of plans and specifications for the construction, alteration or repair of any public building by any contracting unit, when the entire cost of the work will exceed the bid threshold, the architect, engineer or other person preparing the plans and specifications may prepare separate plans and specifications for

- (1) The plumbing and gas fitting and all kindred work;
- (2) Steam power plants, steam and hot water heating and ventilating apparatus and all kindred work;
- (3) Electrical work;
- (4) Structural steel and ornamental iron work; and
- (5) All other work required for the completion of the project.

The contracting agent shall advertise for and receive, in the manner provided by law, either (a) separate bids for each of said branches of work, or (b) bids for all the work, goods and services required to complete the building to be included in a single overall contract, or (c) both. In the case of a single bid under (b) or (c), there shall be set forth in the bid the name or names of all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting, and all kindred work, and of the steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, each of which subcontractors shall be qualified in accordance with P.L.1971, c.198 (C.40A:11-1 et seq.). The contracting unit shall require evidence of performance security to be submitted simultaneously with the list of the subcontractors. Evidence of performance security may be supplied by the bidder on behalf of himself and any or all subcontractors, or by each respective subcontractor, or by any combination thereof which results in evidence of performance security equaling, but in no event exceeding, the total amount bid.

b. Whenever a bid sets forth more than one subcontractor for any of the specialty trade categories (1) through (4) specified in subsection a. of this section, the bidder shall submit to the contracting unit a certificate signed by the bidder listing each subcontractor named in the bid for that category. The certificate shall set forth the scope of work, goods and services for which the subcontractor has submitted a price quote and which the bidder has agreed to award to each subcontractor should the bidder be awarded the contract. The certificate shall be submitted to the contracting unit simultaneously with the list of the subcontractors. The certificate may take the form of a single certificate listing all subcontractors or, alternatively, a separate certificate may be submitted for each subcontractor. If a bidder does not submit a certificate or certificates to the contracting unit, the contracting unit shall award the contract to the next lowest responsible bidder.

c. Contracts shall be awarded to the lowest responsible bidder. In the event that a contract is advertised for both separate bids for each branch of work and for bids for all work, goods, and services, said contract shall be awarded in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all the work, goods and services, the contracting unit shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amounts bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work, goods and services, the contracting unit shall award a single overall contract to the lowest responsible bidder for all of such work, goods and services. In every case in which a contract is awarded for a single overall contract, all payments required to be made under such contract for work, goods and services supplied by a subcontractor shall, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor.

d. Any bid specification prepared pursuant to this section that includes the use of 1,000 or more tons of hot mix asphalt, shall include a pay item for any asphalt price adjustment reflecting changes in the cost of asphalt cement. Any bid specification prepared pursuant to this section that includes the use of less than 1,000 tons of hot mix asphalt, shall include a pay item for an asphalt price adjustment for any quantity of hot mix asphalt exceeding 1,000 tons that maybe used in the work in the event that performance of the work, including change orders, requires more than 1,000 tons of hot mix asphalt.

The asphalt price adjustment shall be calculated in accordance with the formula and relevant instructions published in the most recent edition of the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction as revised by the "Standard Inputs" periodically issued by the department. All invoices for payment shall be

accompanied by the calculation of any asphalt price adjustment and a showing of the current month's Asphalt Price Index, the Basic Asphalt Price Index.

e. (1) Every bid specification prepared pursuant to this section may be eligible for a fuel price adjustment. Fuel that is eligible for a fuel price adjustment shall be the sum of the quantities of the eligible pay items in the contract times the fuel usage factors as determined by the Department of Transportation. The types of fuel furnished shall be at the option of the contractor.

(2) The fuel requirement for items not determined by the Department of Transportation to be eligible, and for pay items in the bid specifications calling for less than 500 gallons of fuel, shall not be eligible for a fuel price adjustment. If more than one pay item has the same nomenclature but with different thicknesses, depths, or types, each individual pay item must require 500 gallons or more of fuel to be eligible for a fuel price adjustment. If more than one pay item has the exact same nomenclature, similar pay items shall be combined and the this combination must require 500 gallons or more of fuel to be eligible for the fuel price adjustment.

(3) Fuel price adjustments shall not be made in those months for which the monthly fuel price index has changed by less than five percent from the basic fuel price.

f. As used in subsections d. and e. of this section:

"Asphalt Price Index" means the Asphalt Price Index as determined and published by the New Jersey Department of Transportation.

"Basic Asphalt Price Index" means the Basic Asphalt Price Index as published by the New Jersey Department of Transportation in its "Standard Specifications for Road and Bridge Construction," as revised by the "Standard Inputs" periodically issued by the New Jersey Department of Transportation.

"Fuel Price Index" means the Fuel Price Index as determined and published by the New Jersey Department of Transportation.

"Pay Item" means a specifically described item of work for which the bidder provides a per unit or lump sum price in a bid specification as determined and published by the New Jersey Department of Transportation.

L.1979, c. 464, s. 2; amended 1991, c. 434, s. 2; 1999, c. 440, s. 26.

#### 40A:11-16.1. \$100,000 contracts for improvements to real property; retainage, security

Whenever any contract, the total price of which exceeds \$100,000.00, entered into by a contracting unit, for the construction, reconstruction, alteration or repair of any building, structure, facility or other improvement to real property, requires the withholding of payment of a percentage of the amount of the contract, the contractor may agree to the withholding of payments in the manner prescribed in the contract, or may deposit with the contracting unit registered book bonds, entry municipal bonds, State bonds or other appropriate bonds of the State of New Jersey, or negotiable bearer bonds or notes of any political subdivision of the State, the value of which is equal to the amount necessary to satisfy the amount that otherwise would be withheld pursuant to the terms of the contract. The nature and amount of the bonds or notes to be deposited shall be subject to approval by the contracting unit. For purposes of this section, "value" shall mean par value or current market value, whichever is lower.

If the contractor agrees to the withholding of payments, the amount withheld shall be deposited, with a banking institution or savings and loan association insured by an agency of the Federal government, in an account bearing interest at the rate currently paid by such institutions or

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associations on time or savings deposits. The amount withheld, or the bonds or notes deposited, and any interest accruing on such bonds or notes, shall be returned to the contractor upon fulfillment of the terms of the contract relating to such withholding. Any interest accruing on cash payments withheld shall be credited to the contracting unit.

L.1979, c. 152, s. 1; amended 1991, c. 434, s. 1.

#### 40A:11-16.2. Partial payments; deposit bonds

Any contract, the total price of which exceeds \$100,000.00, entered into by a contracting unit involving the construction, reconstruction, alteration, repair or maintenance of any building, structure, facility or other improvement to real property, shall provide for partial payments to be made at least once each month as the work progresses, unless the contractor shall agree to deposit bonds with the contracting unit pursuant to P.L.1979, c.152 (C.40A:11-16.1).

L.1979, c. 464, s. 1; amended 1999, c. 440, s. 25.

#### 40A:11-16.3. Withholding of payments

a. With respect to any contract entered into by a contracting unit pursuant to section 1 of P.L.1979, c.464 (C.40A:11-16.2) for which the contractor shall agree to the withholding of payments pursuant to P.L.1979, c.152 (C.40A:11-16.1), 2% of the amount due on each partial payment shall be withheld by the contracting unit pending completion of the contract.

b. Upon acceptance of the work performed pursuant to the contract for which the contractor has agreed to the withholding of payments pursuant to subsection a. of this section, all amounts being withheld by the contracting unit shall be released and paid in full to the contractor within 45 days of the final acceptance date agreed upon by the contractor and the contracting unit, without further withholding of any amounts for any purpose whatsoever, provided that the contract has been completed as indicated. If the contracting unit requires maintenance security after acceptance of the work performed pursuant to the contract, such security shall be obtained in the form of a maintenance bond. The maintenance bond shall be no longer than two years and shall be no more than 100% of the project costs.

L.1979, c. 464, s. 2; amended 1991, c. 434, s. 2; 1999, c. 440, s. 26.

#### 40A:11-16.4. Partial payments for materials

Any contract entered into by a contracting unit pursuant to section 1 of P.L.1979, c.464 (C.40A:11-16.2) may also provide for partial payments at least once in each month with respect to all materials placed along or upon the site, or stored at secured locations, which are suitable for use in the execution of the contract, if the person providing the materials furnishes releases of liens for the materials at the time each estimate of work is submitted for payment. The total of all the partial payments shall not exceed the cost of the materials.

L.1979, c. 464, s. 3; amended 1999, c. 440, s. 27.

#### 40A:11-16.5. Renegotiation of contract to reflect increase in solid waste disposal costs

Any person entering into a contract with a contracting unit pursuant to the provisions of P.L.1971, c.198 (C.40A:11-1 et seq.), which contract requires the contractor to provide for the disposal of solid waste, shall have the right to renegotiate the contract to reflect any increase in solid waste disposal costs whenever:

a. the increase occurred as a result of compliance with an order issued by the Department of Environmental Protection, in conjunction with the Board of Public Utilities, directing the solid waste be disposed at a solid waste facility other than the facility previously utilized by the person to whom the contract has been awarded; or

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b. the increase in solid waste disposal costs occurred as a result of lawful increases in the rates, fees or charges imposed on the disposal of solid waste at the solid waste facility utilized by the person to whom the contract has been awarded.

L.1989, c. 236, s. 1.

#### 40A:11-16.6. Definitions relative to value engineering change orders; requirement for certain contracts

a. For the purpose of this act:

"Construction" means the construction, reconstruction, demolition, erection, alteration, or repair of a structure or other improvement to real property, other than the construction, reconstruction, demolition, or renovation of a public building.

"Value engineering construction change order" means a change order that results in cost reductions to a project or any portion of the work from the original bid specifications after a construction contract is awarded.

"Value engineering construction proposal" means a cost reduction proposal based on analysis by a contractor of the functions, systems, equipment, facilities, services, supplies, means and methods of construction, and any other item needed for the completion of the contract consistent with the required performance, quality, reliability, and safety.

b. All construction contracts issued by a contracting unit when the total price of the originally awarded contract equals or exceeds \$5,000,000, shall allow for value engineering construction change orders to be approved after the award of the contract.

c. Value engineering construction change orders shall be subject to the following provisions:

(1) Value engineering construction change orders shall not be used to impair any of the essential functions, or characteristics of the project, or any portion of the work involved.

(2) The contractor shall submit a value engineering construction proposal that completely describes the changes to the original specifications or proposal, impact on other project components, advantages and disadvantages of the proposed change, cost estimates and calculations on which they are based, any impact on the contract time schedule, and any other relevant information that the contracting unit may require in order to review the value engineering construction proposal. The contractor's cost for developing the value engineering construction proposal shall not be eligible for reimbursement by the contracting unit.

(3) The contractor shall be liable for all reasonable costs incurred by the contracting unit for the technical evaluation and engineering review of a value engineering construction proposal presented by the contractor.

(4) The contracting unit's engineer shall prepare a written report for the governing body that shall evaluate the value engineering construction proposal, make a recommendation on whether or not it should be accepted, rejected, or modified, and state to the contracting unit and contractor the amount of any projected cost savings.

(5) The proposal shall not be approved unless the engineer reports to the governing body that the proposal appears consistent with the required performance, quality, reliability, and safety of the project and does not impair any of the essential functions, or characteristics of the project, or any portion of the work involved.

(6) The contracting unit shall have the sole discretion to approve or disapprove a value engineering construction proposal.

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(7) The contractor and the contracting unit shall equally share in the cost savings generated on the contract as a result of an approved value engineering construction change order. Once the project is completed, the contracting unit's engineer shall verify the cost savings to reflect the actual cost of the work, and such verified cost saving shall be the basis for the savings shared equally with the contractor.

(8) The contractor shall have no claim against the contracting unit as a result of the contracting unit's disapproval of a value engineering construction proposal.

(9) A contracting unit shall include in its bid specifications and contract documents procedures to regulate the value engineering construction change order process. Such procedures shall be based on procedures established by the New Jersey Department of Transportation, or any other appropriate State agency, or rules adopted by the director of the Division of Local Government Services.

d. This section shall not invalidate or impair rules regarding change orders adopted by the director of the Division of Local Government Services prior to the effective date of this act. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the director deems necessary to implement the provisions of P.L.2005, c.67 (C.40A:11-16.6) which shall be effective for a period not to exceed 12 months. The regulations shall thereafter be amended, adopted or readopted in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

L.2005, c. 67, s. 1.

#### 40A:11-17. Number of working days specified

All specifications for the doing of any public work for a contracting unit shall fix the date before which the work shall be completed, or the number of working days to be allowed for its completion; and every such contract shall contain a provision for a deduction, from the contract price, or any wages paid by the contracting unit to any inspector or inspectors necessarily employed by it on the work, for any number of days in excess of the number allowed in the specifications.

L.1971, c. 198, s. 17, eff. July 1, 1971.

#### 40A:11-18. American goods and products to be used where possible

Each local unit shall provide, in the specifications for all contracts for county or municipal work or for work for which it will pay any part of the cost, or work which by contract or ordinance it will ultimately own and maintain, that only manufactured and farm products of the United States, wherever available, be used in such work.

L.1971, c. 198, s. 18, eff. July 1, 1971. Amended by L.1982, c. 107, s. 1.

#### 40A:11-19. Liquidated damages; void provisions as to contractor's remedies

Any contract made pursuant to P.L.1971, c.198 (C.40A:11-1 et seq.) may include liquidated damages for the violation of any of the terms and conditions thereof or the failure to perform said contract in accordance with its terms and conditions, or the terms and conditions of P.L.1971, c.198 (C.40A:11-1 et seq.). Notwithstanding any other provision of law to the contrary, it shall be void, unenforceable and against public policy for a provision in a contract entered into under P.L.1971, c.198 (C.40A:11-1 et seq.) to limit a contractor's remedy for the contracting unit's negligence, bad faith, active interference, tortious conduct, or other reasons un contemplated by the parties that delay the contractor's performance, to giving the contractor an extension of time for performance under the contract. For the purposes of this section, "contractor" means a person, his assignees or legal representatives with whom a contract with a contracting unit is made.

L.1971, c. 198, s. 19; amended 1999, c. 440, s. 28; 2001, c. 206, s. 1.

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40A:11-20. Certificate of bidder showing ability to perform contract

There may be required from any bidder submitting a bid on public work to any contracting unit, duly advertised for in accordance with law, a certificate showing that he owns, leases, or controls all the necessary equipment required by the plans, specifications and advertisements under which bids are asked for and if the bidder is not the actual owner or lessee of any such equipment, his certificate shall state the source from which the equipment will be obtained, and shall be accompanied by a certificate from the owner or person in control of the equipment definitely granting to the bidder the control of the equipment required during such time as may be necessary for the completion of that portion of the contract for which it is necessary.

L.1971, c. 198, s. 20, eff. July 1, 1971.

40A:11-21. Guarantee to be furnished with bid

A person bidding on a contract for the erection, alteration or repair of a public building, structure, facility or other improvement to real property, the total price of which exceeds \$100,000, shall furnish a guarantee as provided for herein. A contracting unit may provide that a person bidding on any other contract, advertised in accordance with law, shall furnish a guarantee as provided for herein. The guarantee shall be payable to the contracting unit so that if the contract is awarded to the bidder, the bidder will enter into a contract therefor and will furnish any performance bond or other security required as a guarantee or indemnification. The guarantee shall be in the amount of 10% of the bid, but not in excess of \$20,000.00, except as otherwise provided herein, and may be given, at the option of the bidder, by certified check, cashier's check or bid bond. In the event that any law or regulation of the United States imposes any condition upon the awarding of a monetary grant to any contracting unit, which condition requires the depositing of a guarantee in an amount other than 10% of the bid or in excess of \$20,000.00 the provisions of this section shall not apply and the requirements of the law or regulation of the United States shall govern.

L.1971, c. 198, s. 21; amended 1974, c. 189; 1999, c. 39, s. 3; 1999, c. 440, s. 29.

40A:11-22. Surety company certificate

a. A person bidding on a contract for the erection, alteration or repair of a building, structure, facility or other improvement to real property, the total price of which exceeds \$100,000, shall furnish a certificate from a surety company, as provided for herein. A contracting unit may provide that a person bidding on any other contract shall furnish a certificate from a surety company, as provided for herein.

b. When a surety company bond is required in the advertisement or specifications for a contract, every contracting unit shall require from any bidder submitting a bid in accordance with plans, specifications and advertisements, as provided for by law, a certificate from a surety company stating that it will provide the contractor with a bond in such sum as is required in the advertisement or in the specifications.

This certificate shall be obtained from a bond—

- (1) For the faithful performance of all provisions of the specifications or for all matters which may be contained in the notice to bidders, relating to the performance of the contract, and
(2) If any be required, for a guarantee bond for the faithful performance of the contract provisions relating to the repair and maintenance of any work, project or facility and its appurtenances and keeping the same in good and serviceable condition during the term of the bond as provided for in the notice to bidders or in the specifications, or
(3) In such other form as may be provided in the notice to bidders or in the specifications.

If a bidder desires to offer the bond of an individual instead of that of a surety company, the bidder shall submit with the bid a certificate signed by such individual similar to that required of a surety company.

The contracting unit may reject any such bid if it is not satisfied with the sufficiency of the individual surety offered.

L.1971, c. 198, s. 22; amended 1999, c. 39, s. 4; 1999, c. 440, s. 30.

40A:11-23. Advertisements for bids; bids; general requirements

a. All advertisements for bids shall be published in an official newspaper of the contracting unit sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but in no event less than 10 days prior to such date; except that all advertisements for bids on contracts for the collection and disposal of municipal solid waste shall be published in an official newspaper of the contracting unit circulating in the county or municipality, and in at least one newspaper of general circulation published in the State, sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but not less than 60 days prior to that date. For all contracts, the date fixed for receiving the bids shall not fall on a Monday, or any day directly following a State or federal holiday.

b. The advertisement shall designate the manner of submitting and the method of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the contracting unit shall be sealed and shall only be opened for examination at such time and place as all bids received are unsealed and announced. At such time and place the contracting agent of the contracting unit shall publicly receive the bids, and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents, who are then and there present, and shall also make proper record of the prices and terms, upon the minutes of the governing body, if the award is to be made by the governing body of the contracting unit, or in a book kept for that purpose, if the award is to be made by other than the governing body, and in such latter case it shall be reported to the governing body of the contracting unit for its action thereon, when such action thereon is required. No bids shall be received after the time designated in the advertisement.

c. Notice of revisions or addenda to advertisements or bid documents shall be provided as follows:

- 1) For all contracts except those for construction work and municipal solid waste collection and disposal service, notice shall be published no later than seven days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids, in an official newspaper of the contracting unit and be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.
2) For all contracts for construction work, notice shall be provided no later than seven days, Saturdays, Sundays, or holidays excepted, prior to the date for acceptance of bids, to any person who has submitted a bid or who has received a bid package in any of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.

3) For municipal solid waste collection and disposal contracts, notice shall be published in an official newspaper of the contracting unit and in at least one newspaper of general circulation published in the State no later than seven days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids.

d. Failure of the contracting unit to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the contracting unit from accepting the bids and require the readvertisement for bids pursuant to subsection a. of this section. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the contracting unit shall not be considered failure by the contracting unit to provide notice.

L.1971, c. 198, s. 23; amended 1975, c. 353, s. 13; 1983, c. 174; 1985, c. 429; 1991, c. 381, s. 50; 1997, c. 243; 1999, c. 440, s. 31; 2005, c. 191, s. 5; 2007, c. 4, s. 1.

40A:11-23.1. Plans, specifications, bid proposal documents; required contents

All plans, specifications and bid proposal documents for the erection, alteration, or repair of a building, structure, facility or other improvement to real property, the total price of which exceeds the amount set forth in, or the amount calculated by the Governor pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall include:

- a. a document for the bidder to acknowledge the bidder's receipt of any notice or revisions or addenda to the advertisement or bid documents; and
b. a form listing those documentary and informational forms, certifications, and other documents that the contracting agent requires each bidder to submit with the bid. The form shall list each of the items to be submitted with the bid proposal and a place for the bidder to indicate, by initialing each entry, that the bidder has included those required items with the completed bid proposal. Each bidder shall complete this form and submit it with the bid proposal in addition to those documentary and informational forms, certifications, and other documents that are listed on the form; and
c. a statement indicating whether uniformed law enforcement officers will be required for the project. The statement shall include a line item allowance, which shall be a good faith effort on the part of the contracting unit, to reasonably estimate the total cost of traffic control personnel, vehicles, equipment, administrative, or any other costs associated with additional traffic control requirements required by the contracting unit, or any other public entity affected by the project, above and beyond the bidder's traffic control personnel, vehicles, equipment, and administrative costs. The individuals responsible for the assignment of uniformed law enforcement officers for any municipalities affected by a project shall be required to determine where traffic safety control is needed for a project, and calculate the number and placement of all necessary personnel, equipment, and the costs associated with these, including hourly rates, and submit this information to the contracting unit.

The contracting unit shall not be responsible for additional traffic control costs beyond the number of working days specified in the construction contract in accordance with section 17 of P.L.1971, c.198 (C.40A:11-17), when such a delay is caused by the contractor and liquidated damages have been assessed.

The statement prescribed under this subsection shall not be required if the contracting unit will provide for the direct payment of uniformed law enforcement officers and any additional costs directly associated with the provision of those officers; and

d. at the option of the contracting unit, specified alternate proposals in addition to a base specification. When the contracting unit specifies alternate proposals, the determination of which bidder's response to a request for bids offers the lowest price shall be made on the basis of the price of: (i) the base specification plus the price of any selected specified alternate proposals; or (ii) a choice of specified alternative proposals within the limit of funds that may be made available for a project. If a contracting unit provides for more than one specified alternate proposal, the contracting unit shall specify in the bid specification the criteria or ranked order by which specified alternate proposals shall be selected and included in the award of the contract by the governing body, provided that this requirement shall only apply to a project with a total estimated cost, including specified alternate proposals, of greater than \$500,000. The aggregate dollar value of accepted specified alternate proposals shall not exceed 50 percent of the base bid. If a contracting unit is found in a court of law to have chosen specific alternative proposals in a manner intended to award a contract to a specific vendor, the bids shall be voided, the contracting unit shall rebid the project, and a plaintiff who prevails in any proceeding shall be entitled to a reasonable attorney's fee.

For the purposes of this subsection:

- "Specified alternate proposal" means a requirement of the bid specification for bidders to submit prices for reduced, modified or supplemental work in addition to the base proposal which may include, but not be limited to, a change in project scope or the use of alternative materials or methods of construction;
"Base specification" means the plans and specifications for the erection, alteration or repair of the building, structure, facility or other improvement to real property that are required to be met by all bidders without exception.

L.1999, c. 39, s. 1; amended 2006, c. 9.

40A:11-23.2. Required mandatory items for bid plans, specification

When required by the bid plans and specifications, the following requirements shall be considered mandatory items to be submitted at the time specified by the contracting unit for the receipt of the bids; the failure to submit any one of the mandatory items shall be deemed a fatal defect that shall render the bid proposal unresponsive and that cannot be cured by the governing body:

- a. A guarantee to accompany the bid pursuant to section 21 of P.L.1971, c.198 (C.40A:11-21);
b. A certificate from a surety company pursuant to section 22 of P.L.1971, c.198 (C.40A:11-22);
c. A statement of corporate ownership pursuant to section 1 of P.L.1977, c.33 (C.52:25-24.2);
d. A listing of subcontractors pursuant to section 16 of P.L.1971, c.198 (C.40A:11-16);
e. A document provided by the contracting agent in the bid plans, specifications, or bid proposal documents for the bidder to acknowledge the bidder's receipt of any notice or revisions or addenda to the advertisement or bid documents; and
f. (Deleted by amendment P.L.2009, c. )

L.1999, c. 39, s. 2; amended 2004, c. 57, s. 1.

40A:11-24. Time for making awards; deposits returned

a. The contracting unit shall award the contract or reject all bids within such time as may be specified in the invitation to bid, but in no case more than 60 days, except that the bids of any bidders who consent thereto may, at the request of the contracting unit, be held for consideration

for such longer period as may be agreed. All bid security, except the security of the three apparent lowest responsible bidders, shall be returned, unless otherwise requested by the bidder, within 10 days after the opening of the bids, Sundays and holidays excepted, and the bids of such bidders shall be considered as withdrawn. Within three days, Sundays and holidays excepted, after the awarding and signing of the contract and the approval of the contractor's performance bond, the bid security of the remaining unsuccessful bidders shall be returned to them.

h. The contract shall be signed by all parties within the time limit set forth in the specifications, which shall not exceed 21 days, Sundays and holidays excepted, after the making of the award; provided, however, that all parties to the contract may agree to extend the limit set forth in the specifications beyond the 21 day limit required in this subsection. The contractor, upon written request to the contracting unit, is entitled to receive, within seven days of the request, an authorization to proceed pursuant to the terms of the contract on the date set forth in the contract for work to commence, or, if no date is set forth in the contract, upon receipt of authorization. If for any reason the contract is not awarded and the bidders have paid for or paid a deposit for the plans and specifications to the contracting unit, the payment or deposit shall immediately be returned to the bidders when the plans and specifications are returned in reasonable condition within 90 days of notice that the contract has not been awarded.

L.1971, c. 198, s. 24; amended by L. 1975, c. 353, s. 14; 1977, c. 53, s. 8; 1983, c. 175; 1987, c. 48, s. 2.

**40A:11-25. General power to provide qualification for bidders**

The governing body of any contracting unit may establish reasonable regulations appropriate for controlling the qualifications of prospective bidders upon contracts to be awarded on behalf of the contracting unit, by the class or category of goods or services to be provided or performed, which may fix the qualifications required according to the financial ability and experience of the bidders and the capital and equipment available to them pertinent to and reasonably related to the class or category of goods or services to be provided or performed in the performance of any such contract, and may require each bidder to furnish a statement thereof; and if such governing body is not satisfied with the qualifications of any bidder as founded upon such statement, it may refuse to furnish the bidder with any plans or specifications for any public contract or consider any bid made by the bidder for any contract.

Prior to the adoption of any such regulations, a contracting unit shall submit them to a public hearing. Notice of the hearing and a general description of the subject matter of the regulations to be adopted shall be published in not less than two newspapers circulating in the county or municipality in which the contracting unit is located. Publication shall precede by at least 20 days the date set in the notice for the hearing. The clerk or secretary of the governing body of the contracting unit shall keep a record of the proceedings and of the testimony of any citizen or prospective bidder. Within 10 days after the completion of the hearings, the proposed regulations and a true copy of the hearings shall be forwarded to the Director of the Division of Local Government Services for the director's approval. This approval shall be indicated by a letter from the director to the governing body of the contracting unit. If the director fails to approve or disapprove the regulations within 30 days of their receipt by the director, they shall take effect without the director's approval. The director may disapprove such proposed regulations only if the director finds that:

- (a) They are written in a manner which will unnecessarily discourage full, free and open competition; or
- (b) They unnecessarily restrict the participation of small businesses in the public bidding process; or
- (c) They create undue preferences; or

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(d) They violate any other provision of this act, or any other law.

If the director disapproves such proposed regulations within the 30-day period prescribed, they shall be of no force and effect and may not be required as a condition to the acceptance of a bid on any public contract by the contracting unit. Any appeal from a decision of the director to the Local Finance Board shall be subject to the provisions of the "Local Government Supervision Act (1947)", P.L.1947, c.151. (C.52:27BB-1 et seq.).

No qualification rating of any bidder shall be influenced by the bidder's race, religion, sex, national origin, nationality or place of residence or business.

Nothing contained in this act shall limit the right of any court to review a refusal to furnish any such plans or specifications or to consider any bid on any contract advertised.

Any such governing body may adopt a standard form of statement or questionnaire for bidders on public works contracts, and in such case their action shall be governed as provided herein.

L.1971, c. 198, s. 25; amended 1999, c. 440, s. 32.

**40A:11-26. Standard questionnaire; effect of unsatisfactory answers**

The governing body of any contracting unit may adopt a standard form of statement or questionnaire for bidders and may require from any person proposing to bid upon any such contract a statement or answers showing the bidder's financial ability and experience in performing public sector work and describing the equipment available to such bidder in the performance of such contract, and if not satisfied with the sufficiency of this statement or answers may refuse to furnish plans and specifications to the bidder.

L.1971, c. 198, s. 26; amended 1999, c. 440, s. 33.

**40A:11-27. Standard statements and questionnaires; prospective bidders; responses**

Such statements and questionnaires shall be standardized for like classes of goods or services to be submitted to prospective bidders who may be required to respond to questions under oath. The statement or answer shall disclose fully the financial ability, adequacy of plant and equipment, organization and prior experience of the prospective bidder, and such other pertinent and material facts as may be required.

L.1971, c. 198, s. 27; amended 1999, c. 440, s. 34.

**40A:11-28. Classification of prospective bidders; notice**

Prospective bidders shall be classified as to the character and amount of goods or services contracts as to which they shall be qualified to submit bids, and bids shall be accepted only from persons so qualified. The classification shall be made and an immediate notice thereof shall be sent to the prospective bidders by certified or registered mail within eight days after the date of receipt of the responsive statement or answers.

L.1971, c. 198, s. 28; amended 1999, c. 440, s. 35.

**40A:11-29. Reclassification of prospective bidders; request for; time limit**

If any person, after being notified of a classification, shall be dissatisfied therewith or with the classification of other bidders, that person may request in writing a hearing before such governing body, and may present such further evidence with respect to the financial responsibility, organization, plant and equipment, or experience of that person or other prospective bidders as might tend to justify a different classification.

Where a request is made for the change of classification of another prospective bidder, the applicant therefor shall notify such other bidder by certified or registered mail of the time and place

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of hearing, as fixed by the governing body, and at the hearing shall present satisfactory evidence that the notice was served as herein required, before any matters pertaining to a change of classification of such other bidder shall be taken up. After hearing such evidence the governing body may, in its discretion, by appropriate action, change or retain the classification of any bidder.

No change in classification to be effective for any contract where bidding therefor has been duly advertised, shall be made unless the written request therefor shall have been received at least 20 days before the final day for submission of bids.

All requests for change in classification and notice of any action sent by certified or registered mail to the parties directly affected thereby, shall be acted upon by the governing body concerned at least eight days prior to the date fixed for the next opening of bids on any contract or contracts for which such persons might be qualified to bid as a result of the reclassification.

L.1971, c. 198, s. 29; amended 1999, c. 440, s. 36.

**40A:11-30. Board of review upon classification; membership, et cetera**

There is hereby established a board of review upon classification and reclassification of prospective bidders. This board shall consist of one member of the governing body of the contracting unit concerned and two citizens of the county or municipality to be designated by such governing body. In all counties having a county supervisor, he shall be a member of the board of review instead of one of the citizens. The clerk of the contracting unit shall be the secretary of the board of review and shall keep a complete record of its proceedings and decisions. The members of the board shall serve without compensation.

L.1971, c. 198, s. 30, eff. July 1, 1971.

**40A:11-31. Reconsideration by board of review; request for; time limit**

Any prospective bidder who is dissatisfied with an original classification or reclassification may upon receipt of notice thereof, request in writing a hearing of the matter before the board of review. The request shall be filed with the contracting agent and the secretary of the board.

The board shall hold a hearing at which the prospective bidder shall be entitled to be heard and to submit additional information.

The board shall review the responsibility of all prospective bidders who have filed statements or answers, considering both the statement, answers and any additional information given at the hearing, and shall certify to the contracting unit concerned, its decision as to the original classifications or reclassifications, if any. The decisions shall be made by a majority vote.

In order for any change in classification by the board to be effective for a contract previously advertised, the request shall be filed not less than five days prior to the final day for submission of bids, and the board shall hold a hearing and act upon the request not less than two days prior to the date fixed for the next opening of bids on any public works contract for which such prospective bidders might be qualified to bid as a result of the reclassification.

L.1971, c. 198, s. 31; amended 1999, c. 440, s. 37.

**40A:11-32. Rejection of bids after qualification of bidder; hearing**

Nothing herein contained shall be construed as depriving any governing body of the right to reject a bid at any time prior to the actual award of a contract, where the circumstances of the prospective bidder have changed subsequent to the qualification and classification of the bidder, which in the opinion of the awarding contracting unit would adversely affect the responsibility of the bidder. Before taking final action on any such bid, the contracting agent concerned shall notify the bidder and afford the bidder an opportunity to present any additional information which might tend to sustain the existing classification.

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No person shall be qualified to bid on any contract unless that person shall have submitted a statement or answers as herein required within a period of six months preceding the date of opening of bids for the contract, if the bidders thereon are required to be classified hereunder. In any case where the contracting unit shall require classification of the bidders in compliance with these sections, each bidder on any contract shall be required to submit a statement listing the changes in the statement or answers herein required as part of the bidder's bid submission.

L.1971, c. 198, s. 32; amended 1999, c. 440, s. 38.

**40A:11-33. Forfeiture of deposit in certain cases**

A deposit made by any person who makes or causes to be made a false, deceptive or fraudulent statement or answers in response to a questionnaire or in the course of a hearing hereunder may be caused to be forfeited, as liquidated damages by and to the contracting unit.

L.1971, c. 198, s. 33, eff. July 1, 1971.

**40A:11-34. Penalties for false statements**

Any person who makes or causes to be made, a false, deceptive or fraudulent statement in the statement or answers in response to the questionnaire, or in the course of any hearing hereunder, shall be guilty of a misdemeanor, and upon conviction shall be punishable by a fine of not less than \$100.00 nor more than \$1,000.00, and shall be permanently disqualified from bidding on all public work or contracts of the contracting unit which submitted the questionnaire; or, in the case of an individual or an officer or employee charged with the duty of responding to the questionnaire for a person, firm, copartnership, association or corporation, by such fine or by imprisonment, not exceeding 6 months, or both.

L.1971, c. 198, s. 34, eff. July 1, 1971.

**40A:11-35. Indemnity agreements; Federal projects for benefit of municipality**

Any contracting unit may enter into an agreement indemnifying the United States of America, or any board, body, officer or agency thereof, from loss or damage to the property of others resulting from the furtherance of any project, undertaken or to be undertaken by the Federal Government for the benefit of such contracting unit where the cost or any part thereof is to be paid out of Federal funds.

L.1971, c. 198, s. 35, eff. July 1, 1971.

**40A:11-36. Sale or other disposition of personal property**

Any contracting unit by resolution of its governing body may authorize by sealed bid or public auction the sale of its personal property not needed for public use.

(1) If the estimated fair value of the property to be sold exceeds 15 percent of the bid threshold in any one sale and it is neither livestock nor perishable goods, it shall be sold at public sale to the highest bidder.

(2) The contracting unit need not advertise for bids when it makes any such sale to the United States, the State of New Jersey, another contracting unit, any body politic to which it contributes tax raised funds, any foreign nation which has diplomatic relations with the United States, or any governmental unit in the United States.

(3) Notice of the date, time and place of the public sale together with a description of the items to be sold and the conditions of sale shall be published in an official newspaper. Such sale shall be held not less than seven nor more than 14 days after the latest publication of the notice thereof.

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(4) If no bids are received the property may then be sold at private sale without further publication or notice thereof, but in no event at less than the estimated fair value; or the contracting unit may if it so elects reoffer the property at public sale. As used herein, "estimated fair value" means the market value of the property between a willing seller and a willing buyer less the cost to the contracting unit to continue storage or maintenance of any personal property not needed for public use to be sold pursuant to this section.

(5) A contracting unit may reject all bids if it determines such rejection to be in the public interest. In any case in which the contracting unit has rejected all bids, it may readvertise such personal property for a subsequent public sale. If it elects to reject all bids at a second public sale, pursuant to this section, it may then sell such personal property without further publication or notice thereof at private sale, provided that in no event shall the negotiated price at private sale be less than the highest price of any bid rejected at the preceding two public sales and provided further that in no event shall the terms or conditions of sale be changed or amended.

(6) If the estimated fair value of the property to be sold does not exceed the applicable bid threshold in any one sale or is either livestock or perishable goods, it may be sold at private sale without advertising for bids.

(7) Notwithstanding the provisions of this section, by resolution of the governing body, a contracting agent may include the sale of personal property no longer needed for public use as part of specifications to offset the price of a new purchase.

L.1971, c. 198, s. 36; amended 1999, c. 440, s. 39.

**40A:11-37. Division of Local Government Services to assist contracting units**

The Division of Local Government Services in the Department of Community Affairs is hereby authorized to assist contracting units in all matters affecting the administration of this law.

L.1971, c. 198, s. 37; amended 1999, c. 440, s. 40.

**40A:11-37.1. Rules**

Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Director of the Division of Local Government Services after consultation with the Commissioner of Education may adopt rules implementing the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) and the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.

L.1999, c. 440, s. 44.

**40A:11-38. Statutes repealed**

The following sections, chapter and acts, together with all amendments and supplements thereto, are hereby repealed:

Chapter 25 of Title 40 of the Revised Statutes;

Sections 40:9-3; 40:15-1; 40:50-1 to 40:50-5 inclusive and 40:50-7, of the Revised Statutes;

Laws of 1943, c. 198 (C. 40:50-5.1 to C. 40:50-5.4 inclusive);

Laws of 1945, c. 158 (C. 40:50-5.5);

Laws of 1945, c. 160 (C. 40:50-5.6);

Laws of 1949, c. 67 (C. 40:50-6);

Laws of 1962, c. 168 (C. 40:50-5.7);

Laws of 1953, c. 395 (C. 40:25-1.1);

Laws of 1964, c. 245 (C. 40:50-7.1 to C. 40:50-7.3 inclusive);

Laws of 1967, c. 228 (C. 40:23-6.34 to C. 40:23-6.37 inclusive);

L.1969, c. 104, s. 1 (C. 40:25-4.5).

L.1971, c. 198, s. 38, eff. July 1, 1971.

**40A:11-39. Effective date**

This act shall take effect July 1, 1971 but any action, purchase, sale, contract or agreement taken, made or entered into prior to this date pursuant to any of the acts, amendments and supplements hereby repealed are hereby validated and confirmed, provided that in no event shall a lease entered into prior to the effective date of this act be renewed or extended, except in accordance with the terms and provisions of this act.

L.1971, c. 198, s. 39, eff. July 1, 1971.

**40A:11-40. Authorization to purchase specific materials at auction; procedure**

Notwithstanding any provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), to the contrary, the governing body may by resolution authorize the purchasing agent of the contracting unit to purchase specific materials at auction for a price not to exceed 85% of the price of equivalent materials as determined pursuant to this section. Such resolution shall be adopted at least 10 days prior to the auction and shall be filed with the Director of the Division of Local Government Services within 3 days of its adoption. Any such auction shall be open to any person to attend and bid on such materials, shall be conducted pursuant to N.J.S.12A:2-328, and shall be conducted by a licensed auctioneer. Prior to adoption of the resolution, the purchasing agent shall solicit at least three written quotations of prices for which new materials equivalent to those to be purchased at auction were actually sold within the previous year. The lowest of the three prices so quoted shall be the determining price quotation for the authorization to purchase at auction for a price not to exceed 85% thereof. The authorizing resolution adopted by the governing body shall set forth the three price quotations so quoted and the sources thereof, and shall state that the expenditure of money for the purchase is not made in violation of N.J.S.40A:4-57, and has been properly certified by the chief finance officer of the local unit.

Any purchasing agent who shall purchase materials at auction pursuant to this section shall, within 14 days of the occurrence of such auction, file a report with the clerk of the governing body and the director, setting forth: the nature, quantity and price of the materials so purchased; the three price quotations solicited prior to such auction, and the sources thereof; and, the name and license number of the auctioneer who conducted such auction.

L.1979, c. 222, s. 1; amended 1994, c. 114, s. 10.

**40A:11-41. Definitions**

As used in this act:

a. "County or municipal contracting agency" shall mean the governing body of a county or municipality or any department, board, commission, committee, authority or agency of a county or municipality but shall not include school districts;

b. "Minority group members" shall mean persons who are black, Hispanic, Portuguese, Asian-American, American Indian or Alaskan natives;

c. "Qualified women's business enterprise" shall mean a business which has its principal place of business in this State, is independently owned and operated, is at least 51% owned and controlled by women and is qualified pursuant to section 25 of P.L. 1971, c. 198 (C. 40A:11-25);

d. "Qualified minority business enterprise" shall mean a business which has its principal place of business in this State, is independently owned and operated, is at least 51% owned and controlled by minority group members and is qualified pursuant to section 25 of P.L. 1971, c. 198 (C. 40A:11-25);

e. "Qualified small business enterprise" shall mean a business which has its principal place of business in this State, is independently owned and operated and meets all other qualifications as may be established in accordance with P.L. 1981, c. 283 (C. 52:27H-21.1 et seq.);

f. "Set-aside contracts" shall mean (1) a contract for goods, equipment, construction, or services which is designated as a contract for which bids are invited and accepted only from qualified small business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate, (2) a portion of a contract when that portion has been so designated, or (3) any other purchase or procurement so designated; and

g. "Total procurements" shall mean all purchases, contracts or acquisitions of a county or municipal contracting agency, whether by competitive bidding, single source contracting, or other method of procurement, as prescribed or permitted by law.

L. 1985, c. 482, s. 1, eff. Jan. 17, 1986.

**40A:11-42. Set-aside programs authorized**

a. The governing body of a county or municipality may, by ordinance or resolution, as appropriate, establish a qualified minority business enterprise set-aside program. In authorizing such a program, the governing body of a county or municipality shall establish a goal for its contracting agencies of setting aside a certain percentage of the dollar value of total procurements to be awarded as set-aside contracts to qualified minority business enterprises.

b. The governing body of a county or municipality may, by ordinance or resolution, as appropriate, establish a qualified women's business enterprise set-aside program. In authorizing such a program, the governing body of a county or municipality shall establish a goal for its contracting agencies of setting aside a certain percentage of the dollar value of total procurements to be awarded as set-aside contracts to qualified women's business enterprises.

c. The governing body of a county or municipality may, by ordinance or resolution, as appropriate, establish a qualified small business enterprise set-aside program. In authorizing such a program, the governing body of a county or municipality shall establish a goal for its contracting agencies of setting aside a certain percentage of the dollar value of total procurements to be awarded as set-aside contracts to qualified small business enterprises.

L. 1985, c. 482, s. 2, eff. Jan. 17, 1986.

**40A:11-43. Attainment of goals**

a. Any goal established pursuant to section 2 of this act may be attained by requiring that a portion of a contract be subcontracted to a qualified small business enterprise, qualified minority business enterprise or qualified women's business enterprise, in addition to designating entire contracts to these enterprises.

b. Each contracting agency shall make a good faith effort to attain any goal established by its governing body. The governing body shall evaluate each contracting agency's efforts by comparing the percentage of the dollar value of a contracting agency's total procurements awarded to qualified

small business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate, to the percentage of the dollar value of the county's or municipality's total procurements awarded to qualified small business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate.

L. 1985, c. 482, s. 3, eff. Jan. 17, 1986.

**40A:11-44. "Local Public Contracts Law" applicable**

All provisions of the "Local Public Contracts Law," P.L. 1971, c. 198 (C. 40A:11-1 et seq.) and any supplements thereto, shall apply to purchases, contracts and agreements made pursuant to this act unless otherwise superseded by the provisions of this act.

L. 1985, c. 482, s. 4, eff. Jan. 17, 1986.

**40A:11-45. Designation as set-aside**

Notwithstanding the provisions of any law to the contrary, a contracting agency of a county or municipality which has established a qualified small business enterprise set-aside program, a qualified minority business enterprise set-aside program or a qualified women's business enterprise set-aside program shall designate that a contract, subcontract or other means of procurement of goods, services, equipment, or construction be awarded to a qualified small business enterprise, a qualified minority business enterprise or a qualified women's business enterprise, if a contracting agency is likely to receive bids from at least two qualified small business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate, at a fair and reasonable price.

Such designations shall be made prior to any advertisement for bids, if required. Once designated, the advertisement for bids, if necessary, shall indicate that the contract to be awarded is a qualified small business enterprise set-aside contract, a qualified minority business enterprise set-aside contract or a qualified women's business enterprise set-aside contract, as appropriate. All advertisements for bids shall be published in at least one newspaper which will best provide notice thereof to qualified small business enterprises, qualified minority business enterprises or to qualified women's business enterprises, as appropriate, sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but shall not be published less than 10 days prior to that date.

L. 1985, c. 482, s. 5, eff. Jan. 17, 1986.

**40A:11-46. Set-aside cancellation**

a. If the contracting agency determines that two bids from qualified small, qualified minority or qualified women's businesses cannot be obtained, the contracting agency may withdraw the designation of the set-aside contract and resolicit bids on an unrestricted basis pursuant to the provisions of P.L. 1971, c. 198 (C. 40A:11-1 et seq.). The cancelled designation shall not be considered in determining the percentage of contracts awarded pursuant to subsection b. of section 3 of this act.

b. If the contracting agency determines that the acceptance of the lowest responsible bid will result in the payment of an unreasonable price, the contracting agency shall reject all bids and withdraw the designation of the set-aside contract. Qualified small business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate, shall be notified in writing of the set-aside cancellation, the reasons for the rejection and the agency's intent to resolicit bids on an unrestricted basis pursuant to the provisions of P.L. 1971, c. 198 (C. 40A:11-1 et seq.). The cancelled bid solicitation shall not be considered in determining the percentage of contracts awarded pursuant to subsection b. of section 3 of this act.

L. 1985, c. 482, s. 6, eff. Jan. 17, 1986.

Where the governing body of a county or municipality determines that a business has been classified as a qualified small business enterprise, qualified minority business enterprise or qualified women's business enterprise on the basis of false information knowingly supplied by the business and has been awarded a contract to which it would not otherwise have been entitled under this act, the governing body shall have the authority to:

- a. Assess against the business any difference between the contract and what the governing body's cost would have been if the contract had not been awarded in accordance with the provisions of this act;
b. In addition to the amount due under subsection a., assess against the business a penalty in an amount of not more than 10% of the amount of the contract involved; and
c. Order the business ineligible to transact any business with the governing body or contracting agency of the governing body for a period to be determined by the governing body.

Prior to any final determination, assessment or order under this section, the governing body shall afford the business an opportunity for a hearing on the reasons for the imposition of the penalties set forth in subsection a., b. or c. of this section.

L. 1985, c. 482, s. 7, eff. Jan. 17, 1986.

40A:11-48. Annual agency report

Each contracting agency of a county or municipality which has established a qualified small business enterprise set-aside program, a qualified minority business enterprise set-aside program or a qualified women's business enterprise set-aside program shall submit a report to its governing body by January 31 of each year describing the agency's efforts in attaining the set-aside goals and the percentage of the dollar value of total procurements awarded pursuant to subsection b. of section 3 of this act.

L. 1985, c. 482, s. 8, eff. Jan. 17, 1986.

40A:11-49. Rules, regulations

The Director of the Division of Local Government Services in the Department of Community Affairs may adopt rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) as he may deem necessary to effectuate the purposes of this act.

L. 1985, c. 482, s. 9, eff. Jan. 17, 1986.

40A:11-50. Process of resolution for construction contract disputes

All construction contract documents entered into in accordance with the provisions of P.L.1971, c.198 (C.40A:11-1 et seq.) after the effective date of P.L.1997, c.371 (C.40A:11-50) shall provide that disputes arising under the contract shall be submitted to a process of resolution pursuant to alternative dispute resolution practices, such as mediation, binding arbitration or non-binding arbitration pursuant to industry standards, prior to being submitted to a court for adjudication.

Notwithstanding industry rules or any provision of law to the contrary, whenever a dispute concerns more than one contract, such as when a dispute in a contract involving construction

relates to a contract involving design, architecture, engineering or management, upon the demand of a contracting party, other interested parties to the dispute shall be joined unless the arbitrator or person appointed to resolve the dispute determines that such joinder is inappropriate.

For the purposes of this section, the term "construction contract" means a contract involving construction, or a contract related thereto concerning architecture, engineering or construction management.

L.1997, c. 371.

40A:11-51. Limitations on awarding public contracts to entities that made political contributions; authority of local units, nonpreemption by State law

a. A county, municipality, independent authority, board of education, or fire district is hereby authorized to establish by ordinance, resolution or regulation, as may be appropriate, measures limiting the awarding of public contracts therefrom to business entities that have made a contribution pursuant to P.L.1973, c.83 (C.19:44A-1 et seq.) and limiting the contributions that the holders of a contract can make during the term of a contract, notwithstanding the provisions and parameters of sections 1 through 12 of P.L.2004, c.19 (C.19:44A-20.2 et al.) and section 22 of P.L.1973, c.83 (C.19:44A-22).

b. The provisions of P.L.2004, c.19 shall not be construed to supersede or preempt any ordinance, resolution or regulation of a unit of local government that limits political contributions by business entities performing or seeking to perform government contracts.

c. An ordinance, resolution or regulation adopted or promulgated as provided in this section shall be filed with the Secretary of State.

L.2005, c. 271, s. 1.

Local Public Contract Law

Qualified Purchasing Agent Amendments - P.L.2009, c.166

Effective January 1, 2011

The underlined text in the following sections amends the current law and takes effect January 1, 2011.

40A:11-2. Definitions

As used herein the following words have the following definitions, unless the context otherwise indicates:

(No Changes; 1-29)

(30) "Purchasing agent" means the individual duly assigned the authority, responsibility, and accountability for the purchasing activity of the contracting unit, and who has such duties as are defined by an authority appropriate to the form and structure of the contracting unit, pursuant to P.L.1971, c.198 (C.40A:11-1 et seq.) and who possesses a qualified purchasing agent certificate.

(No Changes; 31-40)

(41) "Qualified purchasing agent certificate" means a certificate granted by the director pursuant to section 9 of P.L.1971, c.198 (C.40A:11-9).

40A:11-3. Bid threshold; period of contracts

a. When the cost or price of any contract awarded by the contracting agent in the aggregate does not exceed in a contract year the total sum of \$17,500 the contract may be awarded by a purchasing agent or other employee so designated by the governing body when so authorized by ordinance or resolution, as appropriate to the contracting unit, without public advertising for bids, except that the governing body of any contracting unit may adopt an ordinance or resolution to set a lower threshold for the receipt of public bids or the solicitation of competitive quotations.

b. Any contract made pursuant to this section may be awarded for a period of 24 consecutive months, except that contracts for professional services pursuant to subparagraph (j) of paragraph (a) of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) may be awarded for a period not exceeding 12 consecutive months.

Local Public Contract Law
Qualified Purchasing Agent Amendments

P.L.2009, c.166

c. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of every fifth year beginning in the fifth year after the year in which P.L.1999, c.440 takes effect, adjust the threshold amount, in direct proportion to the rise or fall of the index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest \$1,000.

40A:11-9. Purchasing agent, department or board; establishment; powers; criteria for authorization; "green product" defined

a. The governing body of any contracting unit may by ordinance, in the case of a municipality, by ordinance or resolution, as the case may be, in the case of a county, or by resolution in all other cases, designate an individual to serve as the contracting unit's purchasing agent.

b. The Director of the Division of Local Government Services, after consultation with the Commissioner of Education, shall establish criteria to qualify individuals who have completed appropriate training and possess such purchasing experience as deemed necessary to serve as a purchasing agent, and when determined to be necessary by the director, have passed an examination administered by the director pursuant to this section.

- (1) is a citizen of the United States;
(2) is of good moral character;
(3) is a high school graduate or equivalent;
(4) has at least two years of higher education and two years of full time governmental experience performing duties relative to those of public procurement provided, however, that additional years of experience may be substituted for years of higher education on a one to one basis;
(5) has successfully received certificates indicating satisfactory completion of a series of training courses in public procurement as determined by the director and provided by either the Division of Local Government Services, or with the approval of the director by a county college or Rutgers, The State University of New Jersey, all under the supervision of instructors who meet criteria established by the director.

(6) has submitted completed application forms, including proof of education and experience, as set forth in this subsection, accompanied by a fee in the amount of \$150 payable to the State Treasurer, to the Director of the Division of Local Government Services at least 30 days prior to the administration of a State examination;

(2) An individual who has been certified by the Department of Education as a school business administrator and has performed duties relative to public procurement for at least three years shall be exempt from taking the courses required pursuant to paragraph (5) of subsection b. of this section and the state qualifying examination, and upon application to the director and the payment of the fee imposed pursuant to subsection b. of this section, shall be issued a qualified purchasing agent certificate.

(7) has successfully passed a State examination for a qualified purchasing agent certificate. The director shall hold examinations semi-annually or at such times as the director may deem appropriate. An individual shall be eligible to take the State examination for a qualified purchasing agent without having taken the courses required pursuant to paragraph (5) of this subsection if the individual has been certified by the division as a certified municipal finance officer, a certified county finance officer, or a certified county purchasing officer.

f. Those persons who have been performing the duties of a purchasing agent for a contracting unit pursuant to P.L.1971, c.198 (C.40A:11-1 et seq.) or school board pursuant to P.L.1977, c.114 (C.18A:18A-1 et seq.) for at least three continuous years, prior to the first day of the sixth month following the promulgation of rules and regulations to effectuate the purposes of P.L.2009, c.166 (C.40A:11-1 et seq.) and did not possess a qualified purchasing agent certificate at that time, may take the State qualifying examination, if not otherwise exempt under subsection e. of this section, without the courses required in subsection b. of this section.

The director shall issue a qualified purchasing agent certificate to an individual who passes the examination upon payment to the director of a fee of \$25 which shall be payable to the State Treasurer.

g. Following the appointment of a purchasing agent for a contracting unit pursuant to subsection a. of this section, if the person appointed no longer performs such duties, the governing body or chief executive officer, as appropriate to the form of government, may appoint, for a period not to exceed one year commencing from the date of the vacancy, a person who does not possess a qualified purchasing agent certificate to serve as a temporary purchasing agent. Any person so appointed may, with the approval of the director, be reappointed as a temporary purchasing agent for a maximum of one additional year following the end of the first temporary appointment. No contracting unit shall employ a temporary purchasing agent for more than two consecutive years.

c. The criteria established by the director to authorize purchasing agents, pursuant to subsection b. of this section, shall include, but are not limited to, completion of a course in green product purchasing, as established by the director pursuant to regulation. Any person qualified pursuant to subsection b. of this section prior to the establishment of the course in green product purchasing, shall in order to continue to be qualified, take and successfully complete the course within four years from the date the course is established. For the purposes of this subsection and section 2 of P.L.2007, c.332 (C.40A:11-9.1), "green product" means any commodity or service that has a lesser or reduced negative effect on human health and the environment when compared with competing commodities or services. Items considered in this comparison may include, but are not limited to: raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, disposal, energy efficiency, recycled content resource use, transportation, and durability.

h. The director may revoke or suspend a qualified purchasing agent certificate for dishonest practices or willful or intentional failure, neglect or refusal to comply with the laws relating to procurement, or for other good cause. The governing body, together with the chief executive officer of any contracting unit, or a board of education, may request the director to review the behavior or practices of a person holding a qualified purchasing agent certificate. Prior to taking any adverse action against a person, the director or the director's designee shall convene a hearing, upon due notice, affording the person an opportunity to be heard. If the qualified purchasing agent certificate held by a person serving as a purchasing agent is revoked, the director shall order that person to no longer perform the duties of purchasing agent, and the person shall not be eligible to serve as a purchasing agent or to make application for recertification for a period of five years from the date of revocation.

d. (1) Renewal of the qualified purchasing agent certification shall be required every three years, subject to the applicant's fulfillment of continuing education requirements, the submission of an application for renewal, and the payment of a renewal fee, all as determined by the director.

i. The director may adopt and promulgate rules and regulations to effectuate the purposes of this act. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, any such regulations shall be effective immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 365 days and may thereafter be amended, adopted or readopted by the director in accordance with the requirements of P.L.1968, c.410. In order to better manage the workload of implementing the provisions of this act, the director may establish a transition process for administering an examination for individuals serving as purchasing agents on the effective date of this act, issuing and renewing qualified purchasing agent certificates to eligible individuals, prescribing a schedule by which such certificates will be issued and renewed, and such other matters as the director determines to be necessary to the implementation of this act.

(2) In the event that an individual holding a qualified purchasing agent certificate allows the certificate to lapse by failing to renew the certificate, the individual shall be required to apply to take the qualifying examination required pursuant to subsection b. of this section and pay a fee as determined by the director, except that when an individual applies within six months of the expiration of the certificate, the application may be made in the same manner as renewal.

e. (1) An individual who obtained a qualified purchasing agent certificate prior to enactment of P.L.2009, c.166 (C.40A:11-1 et seq.) shall be exempt from taking the State qualifying examination, but shall adhere to all requirements for renewal pursuant to subsection d. of this section. If such a qualified purchasing agent certificate expires due to the failure of the holder to renew the certificate as prescribed in subsection d. of this section, that individual shall be required to pass the qualifying examination as provided pursuant to subsection b. of this section in order to be issued a new qualified purchasing agent certificate.

40A:11-9(a). Current purchasing agent, lower bid threshold

An individual who is the duly authorized purchasing agent of a contracting unit and does not possess a qualified purchasing agent certificate on the date of enactment of P.L.2009, c.166 may continue to be referred to as the purchasing agent, but the bid threshold for that contracting unit shall be set at \$17,500 until such time as that individual obtains a qualified purchasing agent certificate. A contracting unit exercising this authority shall file a letter to this effect with the director.

Appendix A

Table of Local Public Contract Law Bid Thresholds  
 N.J.S.A. 40A:11-3(a) and (c)

40A:9-140.1. Definitions

As used in this act:

- a. "Director" means the Director of the Division of Local Government Services.
- b. "Municipal finance officer" means a municipal director of finance, assistant director of finance, fiscal officer, municipal comptroller, assistant comptroller, municipal treasurer, assistant municipal treasurer or deputy treasurer who is not a member of the governing body of a municipality.
- c. "Local unit" means a municipality or a utility owned by a single municipality or owned jointly by one or more municipalities, which together do not comprise a county.
- d. "Chief financial officer" means the official appointed pursuant to section 5 of P.L.1986, c.110 (C.40A:9-140.10) to be responsible for the proper financial administration of the municipality under the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.); the "Local Bond Law," (N.J.S.40A:2-1 et seq.); the "Local Budget Law," (N.J.S.40A:4-1 et seq.); the "Local Fiscal Affairs Law," (N.J.S.40A:5-1 et seq.); and the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) in those municipalities that have not appointed a purchasing agent pursuant to that law; and such other statutes, and such rules and regulations promulgated by the Director of the Division of Local Government Services, the Local Finance Board, or any other State agency, as may pertain to the financial administration of the municipality.

Bid Threshold	As of April 17, 2000	As of July 1, 2005
"Lower" Bid Threshold	\$17,500	\$21,000
15% of Lower Bid Threshold (Quotation limit)	\$2,625	\$3,150
"Higher" Bid Threshold	\$25,000	\$29,000
15% of Higher Bid Threshold (Quotation limit)	\$3,750	\$4,350

LFN 2008-20

December 3, 2008

# Local Finance Notice

Jon S. Corzine  
Governor

Joseph V. Doria  
Commissioner

Susan Jacobucci  
Director

## Contact Information

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08625-0803

## Distribution

Municipal and Freeholder Clerks

Municipal and County Chief  
Financial Officers

School Business Officials

Local Authority and Fire District  
Boards of Commissioners

Local Procurement Officials

## Contracting for Renewable Energy Services P.L. 2008, c. 83

The recently enacted P.L. 2008, c. 83 amended provisions of the Local Public Contracts Law, the Public School Contracts Law, and the County College Contracts Law. The amendments grant those contracting units improved procedures to contract: 1) for energy improvements to public facilities (commonly known as "ESCO" contracts); and, 2) for installation of renewable energy programs owned by third parties (renewable); both changes permit contracts for up to 15 years.

The laws also require that whenever either of the projects are executed through a lease, the lease agreement must contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

Chapter 83 makes similar amendments to the three laws, and in the case of the Local Public and Public School Contracts Laws, permits the use of competitive contracting to enter into the contracts. The changes are as follows:

First, even with the adoption and immediate effective date of the law, **its provisions do not allow immediate action** by any of the covered contracting units. For both ESCO and renewable contracting, the law requires the Board of Public Utilities to promulgate guidelines to implement methodologies for computing the energy savings and generation costs.

Second, the revised the use of ESCO contracts for making energy improvements to public facilities that are paid for by energy savings. The law now permits the process to be used for "energy efficiency equipment or demand response equipment, including combined heat and power facilities."

From the time the proposal was passed by the Legislature and then enacted by the Governor, discussions with the Board of Public Utilities, the Governor's Office, and the Division of Local Government Services considered how the goals of the legislation would best be implemented and the benefits made available to contracting units.

At this time, the following actions are being taken:

1. The Board of Public Utilities is being asked to expedite the promulgation of guidelines that will implement the provisions of authorizing 15 year contracts for the installation of renewable energy production facilities. Commonly known as "power purchase agreements," it is expected that these guidelines will take 2-3 months to authorize. **Until that time contracting units cannot use the provisions of the new law.** It is also anticipated that by the time the Board promulgates guidelines additional information on contracting for these services will be provided by State agencies.
2. It is expected that the Legislature will soon consider legislation to reform ESCO related laws. The changes should provide an improved process for all contracting units to take advantage of the principle of implementing energy conservation measures and paying for them with the savings from reduced energy use permitted by the improvements. It is hoped that these changes will be made by early next year. If this effort is not successful, regulatory action will be taken to clarify the types of projects that are eligible under the law.

### **Contracting for Renewable Energy Services, Energy Audits and BPU Grants**

With the adoption of these laws and increasing interest in renewable energy, many contracting units are approaching, or may be approached by vendors offering their services to install solar panels or other improvements "at no cost" to the contracting unit. **Contracting officials should know that there is no circumstance under which these contracts can be entered into without a competitive process: competitive contracting or formal public bidding.** The Local Public and Public Schools Contracts Laws already allow competitive contracting for these services.

Officials should also be aware that when it comes to contracting for solar panels under power purchase agreements, there are a myriad of different circumstances, minimum standards, and pricing options that must be considered, as well the use of federal tax credits. Federal tax credits cannot be used by a government agency, but a private company granted a concession to install solar on a government facility, can use them to lower the cost of the installation below the cost that could be obtained if the government pays for the improvement by itself.

Other issues include the fact that the installation of solar panels by the government directly or through a vendor is considered a "public works activity" under state law, and thus requires prevailing wages and other public works related requirements to be followed for their installation. In many cases, the economics of installations may limit their use to facilities that can generate a minimum amount of energy.

Many local units want to implement energy savings practices. In most cases, the most prudent first step will be to conduct an energy audit to identify areas where and how energy can be saved. The BPU recently announced the Local Government Energy Audit Program a financial incentive program to encourage local units to conduct energy audits, including the use of a recently issued State contract for firms to conduct the audits.

Notwithstanding the BPU Local Government Energy Audit Program, local units should be aware that hiring energy audit firms requires competition. Energy audits do not fall under the professional services exception for bidding. Though they may be used, the performance of an energy audit does not require the use of a licensed engineer, architect or other professional that meets the definition of a professional service.

Energy auditing requires individuals with experience and knowledge of energy management, conservation, technology, and economics and, while an engineering license may be useful, the subject does not require the type of skills authorized as a professional service. Thus, while some of these individuals may be qualified by experience and training to conduct audits, energy audit contracts are not exempt from public bidding laws.

**Recognizing that experience and expertise counts in contracting for energy audits, the Division is authorizing Competitive Contracting as a way to contract for energy audits under the Local Public Contracts Law and the Public School Contracts Law.** Contracting agencies may want to review the State contract for energy audits as a starting point for audits conducted outside of the BPU program.

Consideration of energy conservation contracts must be thoughtful and deliberate. Entering into contracts under unwarranted pressure or an unnecessarily heightened sense of urgency may result in unanticipated long-term costs or unfavorable cost contracts. Over the next few months, local units will see additional initiatives from State government that will recognize and enhance the use of new contracting models and provide the necessary guidance to ensure contract integrity, reduced energy use, and cost savings that accrue from those actions.

Recipients of this Notice are asked to share it with appropriate local officials.

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Approved: Susan Jacobucci, Director

### Table of Web Links

Page	Shortcut text	Internet Address
1	P.L. 2008, c.83	<a href="http://www.nileg.state.nj.us/2008/Bills/PL08/83.PDF">http://www.nileg.state.nj.us/2008/Bills/PL08/83.PDF</a>
2	Local Government Energy Audit Program	<a href="http://www.njcleanenergy.com/commercial-industrial/programs/local-government-energy-audit/local-government-energy-audit">http://www.njcleanenergy.com/commercial-industrial/programs/local-government-energy-audit/local-government-energy-audit</a>
2	State contract	<a href="http://www.state.nj.us/treasury/purchase/nea/contracts/t2545.shtml">http://www.state.nj.us/treasury/purchase/nea/contracts/t2545.shtml</a>
3	State contract	<a href="http://www.state.nj.us/treasury/purchase/nea/contracts/t2545.shtml">http://www.state.nj.us/treasury/purchase/nea/contracts/t2545.shtml</a>

**P.L. 2008, c. 83****Changes to the Text of the Laws**

The Chapter Law made identical statutory changes to the Public School Contracts Law, the County College Contracts Law, and the Local Public Contracts Law. Existing sections relating to energy contracting were amended, and a new subsection for renewables was added. All three laws were also amended to add those sections to existing requirements for leasing at the end of each section.

The new sections read as follow:

N.J.S.A. 18A:18A-42(j); 18A:64A-25.28(i); and 40A:11-15(12):

The provision or performance of goods or services for the purpose of conserving energy through energy efficiency equipment or demand response equipment, including combined heat and power facilities, in, at, or adjacent to, buildings owned by any local board of education, the entire price of which shall be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years; except that these contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings. As used in this subsection, "combined heat and power facilities" means facilities designed to produce both heat and electricity from a single heat source;

The following sub-paragraph was added as 18A:18A-42(o); 18A:64A-25.28(q); and 40A:11-15(45)

The provision or performance of goods or services for the purpose of producing class I renewable energy {for LPCL only: "and class II renewable energy"}, as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent to, buildings owned by any local board of education, the entire price of which is to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years; provided, however, that these contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings and energy generation costs.



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

CLEAN ENERGY

IN THE MATTER OF COMPREHENSIVE ENERGY )  
EFFICIENCY AND RENEWABLE ENERGY RESOURCE )  
ANALYSIS FOR THE 2009 -2012: GUIDELINES FOR )  
CALCULATING ENERGY SAVINGS )

ORDER

DOCKET NO. EO09020128

(SERVICE LIST ATTACHED)

BY THE BOARD:

*Background and Procedural History*

P.L. 2008, Chapter 83, enacted on September 10, 2008, amends N.J.S.A. 18A:18A-42; 18A:64A-25.28 and 40A:11-15. (the Legislation) to allow local boards of education, county colleges and local government entities to enter into contracts for a term not to exceed 15 years for the provision of energy conservation and renewable energy. The Legislation mandates that "these contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings. In this Order the Board will consider proposed guidelines required by the Legislation.

*Proposed Guidelines*

Several standard cost benefits tests have been used historically in both New Jersey and by many other states across the country. The tests that have become standard practice across the country are set out in the *California Standard Practice Manual, Economic Analysis of Demand Side Programs and Projects*. These tests include the Participant Cost Test which assesses the costs and benefits of energy efficiency and renewable energy projects from the perspective of the customer.

By Order dated January 18, 2008, Docket No. EO07120961, the Board approved Protocols to Measure Energy Savings (the Protocols). The Protocols estimate energy savings in units of energy such as kilowatt hours or therms. The intent of the guidelines under discussion herein is

to monetize the estimated energy savings or renewable energy generation and to compare the savings in dollars to the costs.

The Participant Cost Test compares the net cost to a customer, including capital costs, financing costs and ongoing operation and maintenance (O&M) costs, less any rebates, tax credits or other incentives, to the savings realized from installation of the measures including the cost of avoided purchases of electricity and natural gas and O&M savings. A result greater than 1.0 demonstrates that the savings exceed the costs.

The Legislation allows school boards, county colleges and local government entities to enter into long-term contracts for the purchase of energy efficiency or renewable energy services. The Participant Cost Test will provide school boards with the information needed to make informed decisions regarding the benefits of proposed energy efficiency and renewable energy projects and will provide a basis for comparing competing proposals.

Subsequent to the enactment of the Legislation, the Office of Clean Energy (OCE) engaged Rutgers University Center for Energy, Economic and Environmental Policy (CEEPP) to develop draft guidelines for computing energy cost savings for energy efficiency and renewable energy systems. CEEPP proposed that the Participant Cost Test be used to determine the cost-effectiveness of energy efficiency projects. The Participant Cost Test estimates both the participant's costs and benefits to determine the overall cost-effectiveness of the project. The general form of the equation is:

**Participant Net Benefit = Total Participant Benefits – Participant Costs**

The proposed guidelines included algorithms for calculating energy savings incorporating the concepts set out above and recommend standard values for certain inputs.

The proposed guideline for renewable energy projects is based on algorithms that determine the energy cost savings from a negotiated power purchase agreement. Calculating the relative difference in rates and multiplying by the total renewable energy purchased will show the resulting savings. Input is based on fixed assumptions and data supplied from the renewable energy contract application form.

At the January 21, 2009 Energy Efficiency (EE) Committee meeting OCE alerted meeting participants that it would be circulating draft guidelines for comment. On January 23, 2009, the OCE circulated draft guidelines prepared by CEEPP to the Clean Energy Council<sup>1</sup> and the EE and Renewable Energy (RE) committees and requested comments on the proposal. CEEPP also requested comment on a number of cost benefit input values.

#### *Summary of Comments*

The only comments submitted were from Nautilus Solar Energy (Nautilus). Nautilus recommended adding language that would exempt PPA's from the statutory requirement that multiyear contracts include a clause making such contracts subject to the availability and appropriation annually of sufficient funds. Nautilus recommended that the term participant be clarified to mean the utility ratepayer; that the language be clarified to confirm that the Participant Cost Test includes tax incentives; and that for renewable energy contracts that the calculation should not include any discount rate with respect to savings.

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<sup>1</sup> The Clean Energy Council is open to any member of the public and functions as a public stakeholder group.

Response: The Board has no authority to exempt PPA's from the statutory requirement that multiyear contracts include a clause making such contracts subject to the availability and appropriation annually of sufficient funds. The proposed guidelines have been modified to clarify that the participant is the utility ratepayer and that the Participant Cost Test includes tax incentives.

The OCE disagrees with the recommendation that for renewable energy contracts the calculation should not include any discount rate with respect to savings. Renewable energy contracts could include payment streams where prices exceed alternative costs in some years and are lower than alternative costs in other years. In these situations it is necessary to discount the savings to determine if the contract produces overall savings over its term.

Subsequent to the receipt of comments and further discussions with the OCE, CEEEP submitted revised proposed guidelines that incorporated the clarifications discussed above. OCE has reviewed the revised proposed guidelines for calculating energy cost savings and believes they represent a reasonable approach to meeting the requirements of the legislation and will allow for public school, county colleges and local government entities to develop energy efficiency and renewable energy projects as anticipated by the Legislation.

OCE has also reviewed the input values proposed by CEEEP. Some input values, such as the estimated annual increase in electric or natural gas prices, use established, well known forecasts prepared by the US Department of Energy, Energy Information Administration (EIA) which are published on the EIA website. Others, such as the appropriate discount rate, were recommended by CEEEP utilizing its best judgment. OCE notes that although comments were requested regarding specific input values, no comments were received regarding the input values. OCE has reviewed the proposed input values and believes they are reasonable. Based on the above, OCE recommends approval of the guidelines for calculating energy cost savings.

### *Discussion and Findings*

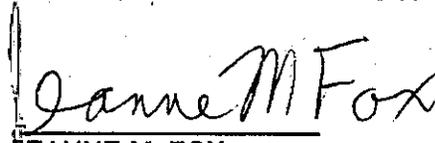
Public schools, county colleges and local government entities face significant obstacles to developing energy efficiency and renewable energy projects, primarily difficulty in obtaining the upfront capital needed to finance such projects. The Board supports the goal of this Legislation of increasing opportunities for public schools, county colleges and local government entities to participate in energy efficiency and renewable energy by allowing schools to enter into long term contracts for the purchase of energy efficiency and renewable energy, thereby foregoing the need to raise the upfront capital. The proposed guidelines are intended to allow public schools, county colleges and local government entities to proceed to enter into long term contracts for energy efficiency and renewable energy while ensuring that the contracts result in energy cost savings to the schools.

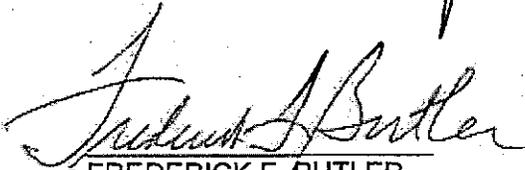
As noted above by the OCE, the Participant Cost Test proposed by CEEEP has been utilized in New Jersey and other states in the past and is included in the *California Standard Practice Manual, Economic Analysis of Demand Side Programs and Projects*. The test is a straightforward assessment of the costs and benefits of proposed energy efficiency and renewable energy projects that will provide school boards, county colleges and local government entities with the information needed to make informed decisions regarding the benefits of proposed energy efficiency and renewable energy projects and will provide a basis for comparing competing proposals. The Board has also reviewed the input values proposed by CEEEP and concurs with the OCE that they are reasonable as discussed above.

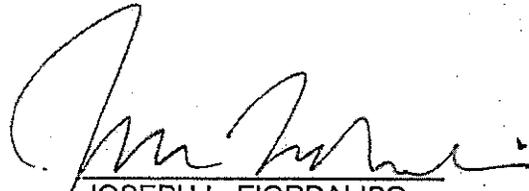
Therefore, the Board **HEREBY APPROVES** the proposed guidelines entitled *Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines* appended to this Order and directs the OCE to work with CEEEP to develop a workbook that will be posted on the Board's website and made available to school boards, county colleges and local government entities to assist them with complying with the requirements of the Legislation.

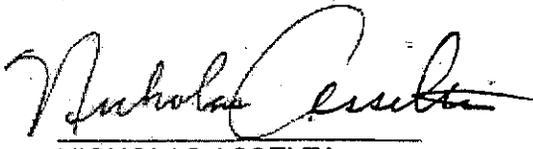
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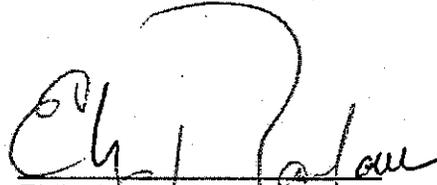
BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

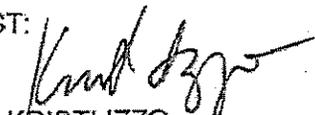
  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

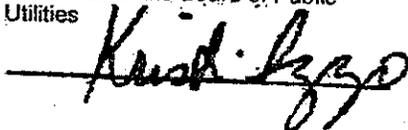
  
NICHOLAS ASSELTA  
COMMISSIONER

  
ELIZABETH RANDALL  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



# Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines

February 20, 2009

## Protocols

The New Jersey State Legislature passed Assembly Bill No. 844 which allows certain local public entities to enter into contracts of up to 15 years for energy conservation or provisions of renewable energy production at buildings owned by such entities. As part of Bill No. 844 the Board of Public Utilities was tasked with establishing a methodology for computing energy cost savings and energy generation costs for these projects.<sup>1</sup>

## Energy Efficiency Contracts (If the Public Entity invests capital)

### Protocols

The Participant Cost Test will be used to determine the cost-effectiveness of energy efficiency projects where the entity invests their own capital on the project.<sup>2</sup> The Participant Cost Test includes both the participant's costs and benefits to determine the overall cost-effectiveness of the project. The general form of the equation is:

$$\text{Participant Net Benefit} = \text{Total Participant Benefits} - \text{Participant Costs}$$

To determine participant benefits, the net present value of the incentives paid to the participant, tax credits, the yearly electricity bill reductions, and the yearly natural gas bill reductions are summed.<sup>3</sup> The yearly electricity bill reductions and yearly natural gas bill reductions are dependent on the annual savings from each component and the retail price projection for each component. Annual savings are dependent on the energy efficiency measure being installed. These savings can be calculated using the equations in this document using the measure's specific equation. Retail price projections are variable and dependent on the specific customer and the utility that services them.

To determine participant costs, the net present value of the capital incremental costs and yearly incremental costs are summed. Capital and yearly incremental costs are dependent on the measure.

The Participant Cost Test is the measure of the quantifiable benefits and costs to the customer attributed to participation in a program.<sup>4</sup> The benefits to the participant are

<sup>1</sup> NJ State Legislature (2008). Assembly Bill No. 844.

<sup>2</sup> Note: The participant is from the perspective of the utility ratepayer.

<sup>3</sup> Net present value is defined as the total present value of a time series of cash flows. It is the standard method for using the time value of money to appraise long term projects.

<sup>4</sup> All cost test definitions are from *California Standard Practice Manual*, Economic Analysis of Demand-Side Programs and Projects, October 2001.

equal to the sum of any participant incentives paid, any reductions in bills, and any federal or state tax deductions or credits. Participant costs include any out-of-pocket costs associated with the program.

Algorithms<sup>5</sup>

Participant Cost Test = (Participant Benefits + Natural Gas Costs) – Participant Costs

$$PCT = \left[ \left( \sum_t^M \left[ \frac{(TC * M_T) + (IP * M_T) + (BR * M_T)}{(1+i)^n} \right] \right) + \left( \sum_t^M \left[ \frac{(P_g * G_c) * M_T}{(1+i)^n} \right] \right) \right] - \left( PC_y * M_T + \sum_t^M \frac{PC_c * M_T}{(1+i)^n} \right)$$

- TC = Tax Credits
- IP = Incentives Paid
- BR = Bill Reductions
- PC<sub>c</sub> = Capital Participant Costs
- PC<sub>y</sub> = Yearly Participant Costs
- P<sub>g</sub> = Retail Natural Gas Price
- G<sub>c</sub> = Incremental Gas Savings
- M<sub>t</sub> = Total Number of Measures
- i = Discount Rate
- n = Years

Definition of Terms

- TC = Tax Credits and Incentives<sup>6</sup>
- IP = Incentives Paid
- BR = Bill Reductions
- M<sub>t</sub> = Total Number of Measures
- P<sub>g</sub> = Retail Natural Gas Rate
- P<sub>e</sub> = Retail Electricity Rate
- G<sub>c</sub> = Incremental Gas Savings
- PC<sub>c</sub> = Capital Participant Costs
- PC<sub>y</sub> = Yearly Participant Costs
- E<sub>g</sub> = Yearly Natural Gas Price Escalation Rate
- E<sub>e</sub> = Yearly Electricity Price Escalation Rate
- i = Discount Rate

<sup>5</sup> Note: This equation is an example for the Participant Cost Test using gas savings. If there are electric savings you must substitute the gas price and incremental savings for the measure with electric prices and incremental savings.

<sup>6</sup> Note: Depending on the negotiated contract, the Tax Credits and/or Incentives may be paid to the ESCo or the public entity. The Participant Cost Test takes the point of view of the public entity, so Tax Credits and Incentives may not be included in the calculation.

n = Years

Component	Type	Value	Sources
TC	Variable		Application
IP	Variable		Application
BR	Variable		Application
M <sub>t</sub>	Variable		Application
P <sub>g</sub>	Variable		Application
P <sub>e</sub>	Variable		Application
E <sub>g</sub>	Fixed	2.4% per year	Energy Information Administration
E <sub>e</sub>	Fixed	2.2% per year	Energy Information Administration
G <sub>c</sub>	Variable	Calculated by New Jersey Protocols to Measure Resource Savings	New Jersey Protocols to Measure Resource Savings <sup>8</sup>
PC <sub>c</sub>	Variable		Application
PC <sub>v</sub>	Variable		Application
i	Fixed	8%	New Jersey Bond Rating
n	Variable		Application

### Energy Efficiency Contracts (If the Public Entity does not invest capital)

#### Protocols

The measurement plan for energy efficiency contracts where the entity does not invest their own capital is based on the algorithms that determine the energy cost savings from a negotiated power purchase agreement energy efficiency contract. Savings are calculated by calculating the relative difference in rates and multiplying by the total amount of energy purchased through the power purchase agreement. Input is based on fixed assumptions and data supplied from the renewable energy contract application form.

#### Algorithms

$$\text{Energy Cost Savings (\$)} = (\text{Rate}_{\text{cu}} - \text{Rate}_{\text{ppa}}) * \text{Elec}_{\text{ppa}}$$

#### Definition of Terms

<sup>7</sup> Retail natural gas and electricity rates are either the utility tariff rate if the commodity is supplied by the utility or a negotiated contract rate if the customer is served by a third party supplier. Retail rates will be escalated at the commodity's escalation rate.

<sup>8</sup> New Jersey Board of Public Utilities (2007). *New Jersey Clean Energy Program Protocols to Measure Resource Savings*. Trenton, NJ.

Rate<sub>eu</sub> = Electric Utility Retail Electricity Rate

Rate<sub>ppa</sub> = Negotiated Power Purchase Agreement Electricity Rate

Elec<sub>ppa</sub> = Electricity Purchased Through Power Purchase Agreement

Component	Type	Value	Sources
Rate <sub>eu</sub>	Variable		Application
Rate <sub>ppa</sub>	Variable		Application
Elec <sub>ppa</sub>	Variable		Application

## Renewable Energy Contracts

### Protocols

The measurement plan for renewable energy contracts is based on the algorithms that determine the energy cost savings from a negotiated power purchase agreement renewable energy contract. Savings are calculated by calculating the relative difference in rates and multiplying by the total amount of renewable energy purchased. Input is based in fixed assumptions and data supplied from the renewable energy contract application form.

### Algorithms

$$\text{Energy Cost Savings (\$)} = (\text{Rate}_{\text{eu}} - \text{Rate}_{\text{ppa}}) * \text{Elec}_{\text{ppa}}$$

### Definition of Terms

Rate<sub>eu</sub> = Electric Utility Retail Electricity Rate

Rate<sub>ppa</sub> = Negotiated Power Purchase Agreement Electricity Rate

Elec<sub>ppa</sub> = Electricity Purchased Through Power Purchase Agreement

Component	Type	Value	Sources
Rate <sub>eu</sub>	Variable		Application
Rate <sub>ppa</sub>	Variable		Application
Elec <sub>ppa</sub>	Variable		Application

**LFN 2009-10**

**June 12, 2009**

# Local Finance Notice

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## Contracting for Renewable Energy Services: Update on Power Purchase Agreements

Since Local Finance Notice 2008-20 was issued in December of 2008, there have been several changes regarding the contracting for renewable energy through power purchase agreements (PPA). One of the important actions is the release of the Board of Public Utilities (BPU) Guidelines for Public Entity Energy Efficiency & Renewable Energy Cost Savings Guidelines.

This Notice covers the newly released BPU Power Purchase Guidelines, PPA procurement procedures, a review of issues that must be addressed in preparing renewable energy RFPs, and issues specifically related to boards of education and PPAs.

### Power Purchase Agreements Generally

P.L. 2008, c.83 made amendments to the length of contracts sections of the Local Public Contracts Law (LPCL), the Public School Contracts Law (PSCL), and the County College Contracts Law by providing the following length of contracts provisions:

The provision or performance of goods or services for the purpose of producing class I renewable energy, as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent to, buildings owned by any *<type of contracting unit>*, the entire price of which is to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years; provided, however, that these contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings and energy generation costs.

This section authorizes contracts of up to 15 years with private vendors for "power purchase agreements." These are programs where the contracting unit procures a contract for, in most cases, a private vendor to install, maintain, and own solar panels, in exchange for the contracting unit purchasing the power generated by the solar panels at agreed upon formula driven rates. The same principle can be applied to other Class I renewable energy sources, such as windmills, geothermal systems, and similar renewable power sources.

This provision does not apply when a contracting unit authorizes debt or uses other capital resources to directly procure the renewable system that it will own outright. In those cases, the contracting unit's procurement law will dictate procurement and financing policies.

Government agencies fall under the incentive programs of the BPU's Clean Energy Commercial/Industrial Program, that may also provide other incentives that can result in lower costs or improved energy efficiency. All local initiatives to use renewable energy or improve energy efficiency should carefully review and evaluate options available under the program.

### **BPU Power Purchase Guidelines**

The law also requires that PPA contracts are subject to "guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings and energy generation costs." Adopted on February 27, 2009 (and subject to periodic modification), the Board Order and Guidelines for Public Entity Energy Efficiency & Renewable Energy Cost Savings Guidelines are posted online and included with the distribution of this Notice. The Guidelines include a document and an Excel worksheet to assist in the calculations. The technical nature of the material warrants review and implementation by individuals familiar with energy savings calculations.

To further assist local units, the Board and Division of Local Government Services are developing model documents that can be used as a Request for Proposals and a summary of elements to be considered in a RFP. Copies of presentations from recent seminars are also online on the Office of Clean Energy website.

### **Power Purchase Agreement Contracting Procedures**

For many years, the LPCL and PSCL provided that power purchase type agreements were entered into through competitive contracting, although authorized under what became obsolete language authorizing energy savings contracts.

The recent adoption of P.L. 2009, c.4, Energy Savings Improvement Programs (ESIP), in addition to reforming the way energy contracts that "pay for themselves" (See Local Finance Notice 2009-11), repealed the obsolete LPCL and PSCL language noted above. In doing so, the ESIP law unintentionally eliminated the basis for competitive contracting for power purchase agreements.

Pursuant to the competitive contracting laws under the LPCL [N.J.S.A. 40A:11-4.1(k)] and PSCL [N.J.S.A. 18A:18A-4.1(k)], the Director of the Division of Local Government Services is authorized to allow competitive contracting for "the operation, management or administration of other services." The contracting laws also allow concessions to be awarded through the competitive contracting process (subsection j of those sections). Power Purchase Agreements can be considered as service contracts or as a concession: a private contractor using the contracting unit's facilities – the roof – to place its panels, provides a benefit to the local unit (reduced electricity rates), and provides private gain to the contractor.

**Given the nature of power purchase agreements, the Director is authorizing contracts that meet the following definition to be procured and entered into pursuant to competitive contracting (subsections j or k as appropriate) pursuant to the LPCL and PSCL:**

The provision or performance of goods or services for the purpose of producing class I renewable energy, as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent to, buildings owned by any < type of contracting unit >, **the entire price of which is to**

**be established as a percentage of the resultant savings in energy costs;** provided, however, that these contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings and energy generation costs. [emphasis added]

This language replicates the statutory authorization for 15 year renewable energy contracts.

Contracting units shall comply with the competitive contracting process. That process requires that contracts be based on firm proposals submitted by vendors, with an evaluation process guiding the contracting unit's determination of the proposal that is "most advantageous, price and other factors considered." The competitive contracting process does not permit contracts to be negotiated.

Contracting officials and industry vendors may not be familiar with competitive contracting and therefore contracting officials should carefully review the relevant statutes (N.J.S.A. 40A:11-4.1 through 4.5 and N.J.S.A. 18A:18A-4.1 through 4.5) and regulations (N.J.A.C. 5:34-4.1 et seq.) as appropriate to their organization. The nature of PPAs also warrants including an engineer or architect familiar with renewable energy systems in the planning process.

In considering the criteria to evaluate PPA vendor proposals, the following examples may be useful, given individual circumstances and RFP requirements:

- The structure and financial terms of the Power Purchase Agreement and responsiveness to RFP financial requirements or considerations
- History and financial strength of the design/installation firm
- History and financial strength of the financial/Power Purchase Agreement provider firm
- Experience of the design/installation firm in completing similar projects
- Experience of the financial/Power Purchase Agreement provider firm in completing similar projects
- Knowledge of New Jersey regulations for permitting and construction of renewable energy projects
- Knowledge of New Jersey renewable energy programs, requirements, regulations, and financial incentives
- Clarity and conciseness of the submittal
- Responsiveness and understanding of the scope of work, management of site conditions

Renewable energy industry vendors must recognize that renewable energy projects fall under State public works contracting laws, i.e., prevailing wages and Public Works Contractor Registration laws, among others. In addition, as these systems connect to building power systems or the electric grid, laws and regulations concerning electrical contractors also apply. Subcontractors may also fall under these requirements. RFP documents should make it clear that public works contracting laws and rules apply to the work and that contractors are responsible for complying with the appropriate construction trade practices and laws.

### **Renewable Energy Contract Variables**

Officials should also be aware that when it comes to contracting for renewable energy systems (i.e., solar panels, windmills) through power purchase agreements, there are different circumstances, building and environmental conditions, and pricing options that must be considered.

Depending on the specific project, pricing options may be affected by federal tax credits and five-year accelerated depreciation provisions that are available to private businesses. A private company granted a concession to install solar on a government facility can use them to lower the cost of the installation below the cost that could be obtained if the government paid for the improvement itself. In some cases, a PPA vendor may be a company that specializes in financing renewable installations who subcontracts the physical installation work to another company.

Further, BPU authorized Renewable Energy Credits (REC) and Solar Renewable Energy Credits (S-REC) are financial instruments that may be available and can be sold to offset energy or construction costs.

**Other considerations that may be part of a renewable energy power purchase agreement include:**

- Sale of the renewable energy generator (i.e., solar panels) at fair market value or removal of the equipment
- Calculation of the price for energy and its basis for escalation
- Maintenance of and any repair of the facility
- Termination and removal provisions (including potential abandonment or sale of property)
- Assignment of or change in vendor, including but not limited to considerations for system resale prior to start-up
- Security and personnel (especially for school projects)
- Insurance (who covers fires, or other unanticipated circumstances)

There are also a variety of technical issues to be considered on a site-by-site basis that can affect the cost (and ultimately the rates) of the work.

- Utility interface, metering, and power quality reliability
- Existing capability of the facility's power system and any upgrades that may be necessary, including meeting current electrical code compliance
- Roof conditions, warranties, and repairs and renovations

Of critical importance is the condition of a roof when a PPA involves the placement of solar panels on a contracting unit's roofs. Current and future roofing conditions must be taken into account when planning a solar project. Analysis of structural integrity, condition of roofing material, and impact of any existing roofing warranties must be investigated prior to issuing a PPA RFP and impact results reflected in, or provided as part of the RFP process. For example, a RFP may require the PPA contractor be held responsible for ensuring that any existing roof warranty is not violated by the construction. Some roofs may need to be replaced prior to installation of solar panels. Projects may also require an engineering certification on roof loadings and roof warranty.

In many cases, roof repairs or renovations are needed prior to the installation of solar panels. In some cases, a PPA may include roof improvements. For example, an RFP response may require the contractor perform roof repairs or maintenance to support the addition of solar panels. This requires that those costs must be built in to the cost of electricity paid to the contractor.

In this case, the PPA works only when the roofing related costs result in pricing to the local unit that does not exceed what the projected cost of energy otherwise available from the grid. If the cost of PPA

power, including any roof work exceeds the projected grid rate (i.e., no savings in electricity cost), the roof work must be performed separately from the PPA under normal public works contracting procedures. The competitive contracting process for PPAs **does not** provide a mechanism to avoid public works contracting requirements or to build long term roof renovation or replacement costs into the cost of electricity so that the cost of energy exceeds what would otherwise be available from the local utility company.

To summarize, a PPA may include roof improvements only when the projected cost of the energy otherwise available from the grid is not exceeded by the cost of the PPA power and any roof work. The BPU Guidelines for Public Entity Energy Efficiency & Renewable Energy Cost Savings Guidelines must be used to calculate energy savings.

To address these and other variables that can be part of a power purchase agreement, RFPs should be carefully researched by the local unit, and the RFP should encourage vendors to submit alternative proposals that can address the contracting unit's needs. Careful evaluation, including application of the BPU Guidelines, is critical to the success of the project.

### **Boards of Education and Power Purchase Agreements**

In addition to the foregoing issues, because of the oversight of school construction activities by the State Department of Education, the following additional conditions apply to schools entering into PPAs:

1. All plans for PPAs that affect a school building must be incorporated into the school's Long Range Facility Plan and the appropriate filing made with the Department of Education for approval.
2. PPA applications require an engineering certification on roof loadings and roof warranty filed with the application.
3. School debt service aid is not provided for a PPA. Solar panel projects are eligible for debt service aid if the school district purchases and installs the panel through an approved bond referendum.

Entering into a PPA for installation of solar panels on a roof does not trigger the requirement that a Board of Education obtain the approval of the Department of Education to "lease" or "rent" a school facility.

### **Conclusion and Additional Information**

Issues concerning contracting for energy related services are continuing to evolve and will pose challenges to contracting unit officials as the details of the new laws are finalized. The Division continues to partner with the Board of Public Utilities' Office of Clean Energy to work through the issues and provide guidance.

Questions concerning contracting issues can be e-mailed to [lpcl@dca.state.nj.us](mailto:lpcl@dca.state.nj.us). Information and answers to questions concerning BPU Commercial/Industrial programs are best answered through the Office of Clean Energy's contact website. In addition, the Board's Office of the Business Ombudsman may be of assistance.

---

Approved: Susan Jacobucci, Director

## CERTIFICATE AS TO AUTHORITY BOND RESOLUTION

I, ELLEN M. SANDMAN, Secretary of The Morris County Improvement Authority (the “*Authority*”), a public body corporate and politic of the State of New Jersey (the “*State*”) organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A. 40:37A-44 et seq.*, the “*Act*”) and other applicable law, and in connection with the issuance this day by the Authority of its \$26,715,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated the date hereof (the “*Series 2011A Bonds*”) and the \$985,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)” dated the date hereof (the “*Series 2011B Note*” and together with the Series 2011A Bonds, the “*Series 2011 Bonds*”), **DO HEREBY CERTIFY** on behalf of the Authority as follows:

1. Attached hereto as **Exhibit A** is a true and complete copy of the certificate of the Authority’s Chairman issued pursuant to Section 2.02(1)(e) of the hereinafter defined Authority Bond Resolution, which certificate amends and supplements the Authority Bond Resolution, and which certificate was duly executed by the Chairman of the Authority on December 14, 2011.

2. Attached hereto as **Appendix A to Exhibit A** is a true and complete copy of resolution number 11-39 entitled “RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY” adopted by the governing body of the Authority at a meeting duly called and held on September 28, 2011, and at which a quorum existed and acted throughout, as amended and supplemented in accordance with Section 1 hereof (the “*Authority Bond Resolution*”), and, as such, remains in full force and effect.

3. As of the date hereof, and except as set forth in Section 1 hereof, the Authority Bond Resolution has not been altered, amended, supplemented, or repealed since the date of its adoption, and, as such, remains in full force and effect.

4. Copies of the Authority Bond Resolution were duly filed with the Clerk of the Board of Chosen Freeholders of the County of Morris, New Jersey and in the offices of the Authority for public inspection.

5. In accordance with the provisions of Section 19 of the Act (*N.J.S.A. 40:37A-62*), the notice of adoption of the Authority Bond Resolution was delivered to the *Daily Record*, such newspaper being an official newspaper of the Authority, for publication therein, and such notice was first published on September 30, 2011. Such publication is evidenced by an Affidavit of Publication, a copy of which is attached hereto as **Exhibit B** and by this reference is made a part

hereof as if set forth in full herein.

6. The notice of adoption described in Section 5 above stated (a) the places at which the Authority Bond Resolution has been filed for public inspection, (b) the date of the first publication of such notice, and (c) that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of the bonds provided for by the Authority Bond Resolution, or the validity of any covenants, agreements or contracts provided for by the Authority Bond Resolution, shall be commenced within twenty (20) days after the first publication of such notice, and accordingly I have been advised by counsel that such notice conforms to the requirements of Section 19 of the Act (*N.J.S.A. 40:37A-62*).

7. To my knowledge, no such action or proceeding of any kind or nature was commenced or instituted in any court questioning the validity or proper authorization of the Series 2011 Bonds provided for by the Authority Bond Resolution or the validity of any covenants, agreements or contracts provided for by the Authority Bond Resolution, either within the twenty (20) day period immediately succeeding the date of the publication of such notice, or as of the date hereof.

**[Remainder of page intentionally left blank]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Authority this 14th day of December, 2011.

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By:   
\_\_\_\_\_  
**Ellen M. Sandman**  
Secretary

**EXHIBIT A**

**[Attach Chairman Section 2.02(1)(e) Certificate]**

**CERTIFICATE OF CHAIRMAN PURSUANT TO  
SECTION 2.02(1)(e) OF THE AUTHORITY BOND RESOLUTION**

I, JOHN BONANNI, Chairman of The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A.* 40:37A-44 *et seq.*, the "*Act*") and other applicable law, and in connection with the issuance this day by the Authority of its \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds"), **DO HEREBY CERTIFY** on behalf of the Authority as follows:

1. Pursuant to Section 2.02(1)(e) of resolution number 11-39 entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September, 28, 2011 (the "*Authority Bond Resolution*"), attached hereto as **Appendix A** is a true and complete copy of the Authority Bond Resolution, as hereby further amended and supplemented to date in accordance with Section 2.02(1)(e) of the Authority Bond Resolution, with all of the terms included therein relating to the Series 2011 Bonds authorized thereunder as are authorized to be so included under the provisions of Section 2.02(1)(e) thereof.

IN WITNESS WHEREOF, on behalf of the Authority, I have hereunto set my hand on behalf of the Authority this 14th day of December, 2011.

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By:  \_\_\_\_\_  
**John Bonanni**  
**Chairman**

**RESOLUTION NO. 11-39**

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

---

***TITLE:***

**RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX  
GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE  
NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF  
THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

Adopted: September 28, 2011  
as amended and supplemented by  
a Certificate of an Authorized Officer of the Authority  
dated December 14, 2011

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**RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX  
GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND  
BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act,

constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the “*Shared Services Act*”), and all other applicable law, the terms of which agreement has been set forth in that certain “Service Agreement (Sussex County Renewable Energy Program)” dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the “*Service Agreement*”) between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority’s energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the “*Authority Consultants*”) and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the “*Sussex County Consultants*”, if any, and together with the Authority Consultants, the “*Consultants*”; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the “*Local Unit Facilities*”);

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement

Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "*Series 2011A Bonds*") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "*Series 2011A Bonds*"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*", and together with the Series 2011A Bonds, "*Series 2011 Bonds*"), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful

implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units). under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit

License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among

other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for

the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above (i) reduce the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market

disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain “County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the “*County Continuing Disclosure Agreement*” and together with the Company Continuing Disclosure Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “County Documents”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and (ii) the execution and delivery of a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County “*Sale Documents*”);

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a

detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program Documents*"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE, BE IT RESOLVED** by the governing body of the Morris County Improvement Authority as follows:

## ARTICLE I

### DEFINITIONS

#### SECTION 1.01. Definitions.

1. The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

**Act**  
**Additional Bonds**  
**Authority**  
**Board of Education Series 2011 Local Units**  
**Board of Freeholders**  
**Bond Purchase Agreement**  
**Bond Resolution**  
**Bonds**  
**BPU**  
**Capital Improvement Projects\***  
**Cash Equity Contribution**  
**Company**  
**Company Continuing Disclosure Agreement**  
**Company Documents**  
**Company Lease Agreement**  
**Company Pledge Agreement**  
**Company Proposal**  
**Company RFP**  
**Continuing Disclosure Agreements**  
**County**  
**County Continuing Disclosure Agreement**  
**County Documents**  
**County Guaranty**  
**County Guaranty Agreement**  
**County Reserve**  
**County Security**  
**County Security Agreement**  
**County Security Provider**  
**County Series 2011 Local Units**  
**Dissemination Agent**  
**EPC Contract**  
**EPC Contract MOU**  
**EPC Contractor**  
**Equity Contribution**  
**Initial Tranche**

**In-Kind Equity Contribution**  
**Lessee**  
**Local Finance Board**  
**Local Finance Board Application**  
**Local Units**  
**Local Unit Facilities\***  
**Local Unit License**  
**Local Unit License Agreement**  
**Local Unit License Agreements**  
**Municipal Series 2011 Local Units**  
**Nonprofit Corporation Series 2011 Local Units**  
**Preliminary Official Statement**  
**Preliminary Program Costs**  
**Power Purchase Agreement**  
**Preliminary Program Costs**  
**Program Documents**  
**Projects\***  
**Official Statement**  
**Renewable Energy Program**  
**Renewable Energy Projects\***  
**Rule 15c2-12**  
**Sale Documents**  
**Second Tranche**  
**Section 13**  
**Section 37**  
**Section 1603 Grant**  
**Series 2011 Bonds**  
**Series 2011A Bonds**  
**Series 2011B Note**  
**Series 2011 Local Unit\***  
**Series 2011 Local Units\***  
**Series 2011 Project**  
**Shared Services Act**  
**SRECs**  
**State**

\*as such defined terms may be amended or supplemented pursuant to Sections 4.6 and 4.7 of the Power Purchase Agreement.

2. The following terms, initially defined in the preambles hereof, shall include the additional terms set forth below.

**Reserved.**

3. The following defined terms shall, for all purposes of this Bond Resolution, have the following meanings:

**“Acceptance Certificates”** shall mean, individually or collectively, as the case may be, the CIP Acceptance Certificates and the REP Acceptance Certificates.

**“Accounts”** shall mean any account established in any of the Funds established by Article V hereof.

**“Additional Bonds”** means all Bonds authenticated and delivered pursuant to Section 2.04 hereof.

**“Additional Lease Payment** shall mean any amount payable by the Company at the times and under the other terms of the Company Lease Agreement, other than Basic Lease Payments, including without limitation, (i) Administrative Expenses not otherwise provided from a portion of the proceeds of the Bonds, including the second and succeeding Bond Year Administrative Fee, (ii) interest on any past due Lease Payments payable at the Overdue Rate (but not any such past due Basic Lease Payment), (iii) to the extent Company funds are available, after payment of all reasonable Company expenses and prior to any member distributions, replenishment of any deficiency in the County Security Fund Requirement, (iv) the Purchase Option Price in accordance with Section 701 of the Company Lease Agreement, (v) the Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement, (vi) the Restoration Security Fund deposits up to the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and **Exhibit C** to the Bond Resolution, and (vii) a one-time payment of \$1,500,000 payable on or before the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 for deposit in the County Security Fund to satisfy the County Security Fund Requirement.

**“Administrative Expense Account”** shall mean the Account within the Administrative Fund so designated and established by Article V hereof.

**“Administrative Expenses”** shall mean the fees and expenses which are incurred from time to time by or on behalf of the Authority, the County, the County Security Provider, or the Series 2011 Local Units, including the Administrative Fee, if any, in carrying out their respective rights and duties under the terms of the Program Documents, including, without limitation the Preliminary Program Costs, accounting, administrative, financial advisory, and legal expenses, the Consulting Energy Engineering Services, the fees and expenses of the Trustee, any paying agents or any other fiduciaries or agents acting on behalf of the Authority, the County, or the Series 2011 Local Units, under or pursuant to the terms of the Program Documents, which amounts shall be due and payable by the Company as an Additional Lease Payment at the times set forth in the Program Documents, or, as applicable, upon presentation of an invoice for payment; provided, however, that to the extent an Administrative Expense is incurred solely due to the action or inaction of a Series 2011 Local Unit not caused by or otherwise resulting from any action, inaction or request of the Company, such Administrative

Expense shall be paid by such Series 2011 Local Unit upon presentation of an invoice for payment. Other than the Series 2011 Bond proceeds deposited in the Administrative Fund in accordance with Section 2.03(7)(a) of the Bond Resolution and earmarked for certain costs and expenses, including certain Administrative Expenses, and other than the Authority's annual Administrative Fee and the Trustee's annual fee to be paid as an Additional Lease Payment by the Company, the Company and the Series 2011 Local Units shall only be responsible for the reasonable amount of Administrative Expenses caused by the action or inaction of the Company or the Series 2011 Local Unit, as applicable, to the extent any such Administrative Expenses arise in the course of the implementation of the Renewable Energy Projects and/or the performance by the Authority, County, and/or Series 2011 Local Unit of their rights, duties and obligations under the Program Documents.

**"Administrative Fee"** shall mean the sum of the following, payable by the Company to the Authority at the times and the amounts as set forth below:

(i) With respect to the Series 2011 Bonds for the first Bond Year upon initial issuance thereof, the Authority's fee for the Renewable Energy Program in the amount of \$120,000, consisting of the sum of (a) \$100,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Costs of Issuance Account of the Administrative Fund pursuant to Section 2.03(7)(a)(i) of the Bond Resolution and (b) \$20,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Administrative Expense Account of the Administrative Fund pursuant to Section 2.03(7)(a)(ii)(A) of the Bond Resolution; plus

(ii) For all Bond Years with respect to the Series 2011 Bonds thereafter (commencing June 15, 2013), a sum of money payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund payable on the Basic Lease Payment Date immediately preceding the first day of any such Bond Year, equal to \$20,000, which amount may be referred to as the Authority's annual Administrative Fee; plus

(iii) For all Bond Years with respect to the Series 2011 Bonds commencing December 15, 2017 and thereafter, a sum or sums of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(c) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(iv) For all Bond Years with respect to the Series 2011 Bonds, a sum of money, if any, payable by the Company as an Additional Lease Payment for deposit by the

Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(b) and/or Section 6.3(d) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(v) With respect to any Series of Bonds, interest on any past due Basic Lease Payments payable at the Overdue Rate in accordance with the Company Lease Agreement (but not any such past due Basic Lease Payment); plus

(vi) For all Bond Years with respect to any Series of Additional Bonds, such amounts as may be set forth in a Supplemental Resolution, including without limitation, for any Series of Additional Bonds that refund the Series 2011 Bonds or any other Series of Outstanding Bonds, (a) a financing fee payable upon the issuance of any such Series of Additional Bonds (from the proceeds thereof, from the Company, or otherwise) in the amount of two percent (2%) of the aggregate principal amount of any such Series of Additional Bonds, or such different amount as shall be agreed to by the Company and the Authority, plus (b) all reasonable Administrative Expenses of the Authority and any other Renewable Energy Program Interested Party involved in any such refunding payable upon the issuance of any such Series of Additional Bonds, plus (c) an annual financing fee of one percent (1%) of the aggregate principal amount of any such Series of Additional Bonds Outstanding and payable by the Company as of the first day of each Bond Year until final maturity (stated or otherwise) thereof, plus (d) the amounts, if any, payable to the Authority pursuant to Section 6.3(d) of the Power Purchase Agreement, except as any such amounts may be modified in any such Supplemental Resolution authorizing the issuance of any such Series of Additional Bonds.

**"Administrative Fund"** means the Fund so designated and established by Article V hereof, consisting of a Costs of Issuance Account and an Administrative Expense Account.

**"Aged Account"** shall mean the Account within the Revenue Fund so designated and established by Article V hereof.

**"Applicable"** shall mean (i) with reference to any Series 2011 Local Unit, the Series 2011 Local Unit intended to be benefited or obligated thereby, (ii) with reference to any Renewable Energy Project, the Renewable Energy Project for the intended Series 2011 Local Unit, (iii) with reference to any Local Unit Facilities, the Local Unit Facilities for the intended Series 2011 Local Unit, and (iv) with reference to any Local Unit License Agreement, the Local Unit License Agreement executed for the benefit of the intended Series 2011 Local Unit.

**"Architect"** shall mean individually or collectively, as the case may be, the individual or entity appointed or caused to be appointed or employed by the Applicable Series

2011 Local Unit, the Authority, or the Company, as applicable, with respect to the provision of architectural services relating to the Renewable Energy Projects or the Capital Improvement Projects on, in, affixed or adjacent to, or otherwise for the benefit of the Local Unit Facilities for such Applicable Series 2011 Local Unit, all in accordance with applicable law, which may include the Local Public Contracts Law or the Public Schools Contracts Law, including any rules and regulations relating thereto and to which such Applicable Series 2011 Local Unit, the Authority, or the Company is subject, including without limitation any architect of record with respect to such Projects and/or Local Unit Facilities. The Architect may be a Contractor providing services pursuant to a Development Contract.

**“Authority Bondholder,” “Authority Bond Holder,” “Holder of Authority Bonds,” “Holder” or “holder”** shall mean the registered owner of any Series of Bonds of the Authority, including the Authority’s Series 2011 Bonds.

**“Authority Series 2011 Bondholder,” “Authority Series 2011 Bond Holder,” “Holder of Authority Series 2011 Bonds,”** shall mean the registered owner of any Authority’s Series 2011 Bonds.

**“Authorized Newspapers”** shall mean (i) one newspaper which is customarily published and generally circulated at least once in each calendar week in the County, and (ii) one newspaper which is customarily published in the Borough of Manhattan, City and State of New York, at least once a day for a least five days (other than legal holidays) in each calendar week, each of which newspapers is printed in the English language; *provided however* that with respect to the redemption of Bonds, “Authorized Newspapers” shall refer only to the newspaper which is described in clause (ii) of this definition.

**“Authorized Officer” or “Authorized Representative”** shall mean, (i) with respect to the Authority: the Chairman, the Vice Chairman, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairman or by the Vice Chairman of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to any Series 2011 Local Unit: the person designated as an Authorized Officer in the Applicable Local Unit License Agreement of any such Series 2011 Local Unit or any other person or persons who shall be authorized to act on behalf of such Series 2011 Local Unit by virtue of a resolution of the governing body of such Series 2011 Local Unit, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the

County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

**“Base Rate”** shall mean the rate of interest established by the Trustee from time to time as its reference rate in making loans but does not reflect the rate of interest charged to any particular class of borrowers, and is not tied to any external rate of interest or index. The applicable rate will change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any party. If no other rate shall be so established by the Trustee, the Base Rate shall be the Trustee’s prime rate as determined from time to time.

**“Basic Lease Payment”** shall mean, as of each Basic Lease Payment Date, the amount set forth in Exhibit A-3 to the Company Lease Agreement corresponding to such Basic Lease Payment Date and designated as a Basic Lease Payment. The Basic Lease Payment as of any Basic Lease Payment Date is equal to the payment of the Principal Portion and Interest Portion due on such Basic Lease Payment Date, and shall be established as the amount set forth in Exhibit A-3 to the Company Lease Agreement for such date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments), and interest on the Outstanding Bonds on the next occurring (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) Principal Payment Date and Interest Payment Date respectively, of the Outstanding Bonds, including without limitation the credits available under (i) Section 302(a)(i) and (ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701 of the Company Lease Agreement with respect to prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

**“Basic Lease Payment Date”** shall mean any date set forth in Exhibit A-3 to the Company Lease Agreement and designated as a Basic Lease Payment Date, which for the Interest Portion (January 15 and July 15, commencing January 15, 2013) and Principal Portion (January

15, commencing January 15, 2013) of any Basic Lease Payment, shall be a day five (5) months prior to any (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) regularly scheduled Interest Payment Date and any regularly scheduled Principal Payment Date, respectively, or if either of such days is not a Business Day, the first Business Day prior to such date.

**"Board"** shall mean the governing body of the Authority, or if said Board shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or to whom the powers and duties granted or imposed by the Bond Resolution shall be given by law.

**"Bond"** or **"Bonds"** shall mean any of the Bonds of any Series issued pursuant to the terms of this Bond Resolution, including the Series 2011 Bonds and any Additional Bonds, or any Bonds that are thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Section 4.07 or 11.10 hereof.

**"Bond Counsel"** shall mean Inglesino, Pearlman, Wyciskala & Taylor, LLC, or any other attorney at law, or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exclusion of interest on bonds or other obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state.

**"Bond Year"** shall mean (i) with respect to any Series of Outstanding Bonds, including the Series 2011 Bonds, a period of twelve (12) consecutive months beginning on June 15 of any calendar year and ending on June 14 of the immediately succeeding calendar year except that (ii) the first Bond Year with respect to the Series 2011 Bonds shall be a period commencing on the date of issuance of the Series 2011 Bonds and ending on June 14, 2012 and (iii) the first Bond Year with respect to any other Series of Bonds shall be a period commencing on the date of issuance of such Series of Bonds and ending on the succeeding 14<sup>th</sup> day of June.

**"Bondholder," "Bond Holder," "Holder" or "Holder of Bonds"** shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds, which by its terms, upon original issuance of the Series 2011 Bonds, shall mean the respective registered owners of the Series 2011A Bonds and with respect to the Series 2011B Note, the County.

**"Business Day"** shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or the Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

**"Capitalized Interest Account"** shall mean the Account within the Debt Service Fund so designated and established by Article V hereof, or by Supplemental Resolution.

**“Certificate”** shall mean a written certificate signed in the name of the Authority, any Series 2011 Local Unit, the County, the Company or the Trustee. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the instruments so combined shall be read and construed as a single instrument.

**“CIP Acceptance Certificates”** shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Capital Improvement Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Capital Improvement Projects for each such Series 2011 Local Unit has been completed in accordance with the Plans and Specifications therefore, and has been accepted by such Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution. The Authority and the Company acknowledge and agree that the Company shall not be responsible for the construction of any Capital Improvement Projects under the Program Documents and any references in such Program Documents to the Capital Improvement Projects shall be of no further force and effect.

**“Code”** shall mean the Internal Revenue Code of 1986, as amended and supplemented, and the Treasury regulations promulgated pursuant thereto.

**“Company Development Fees and Expenses”** shall mean the development fees and expenses incurred by the Company in responding to the Company RFP, and in developing the Projects for the Series 2011 Local Units at the Local Unit Facilities, all in accordance with the terms of the Company Documents, and which amount may include a development fee paid to or on behalf of the Company and or its affiliates, and so long as the aggregate of all such fees and expenses paid or payable from the Project Fund shall not exceed \$800,000 without the express written consent of the Authority, and which amounts shall be payable in accordance with the provisions of Section 5.02(2)(b) of the Bond Resolution and 509(d) of the Company Lease Agreement.

**“Completion Conditions”** shall have the meaning set forth in Section 3.6(a) of the Power Purchase Agreement.

**“Completion Project”** shall mean any completion, additions, enlargements, improvements, expansions, repairs, restorations or reconstructions of the Renewable Energy Projects or the Capital Improvement Projects, if any, for the Series 2011 Local Units at their Local Unit Facilities, including to the extent any prior Completion Project shall, for whatever reason, be insufficient for the Local Unit’s purposes, for use by the Local Unit pursuant to any amendment or supplement to the Local Unit License Agreement, including, without limitation, all real and personal property and rights therein and any appurtenances that are necessary or

useful and convenient therefor, which shall be funded through any combination of the issuance of Additional Bonds, the application of excess proceeds pursuant to Section 5.02 hereof, any grant or subsidized funding from the Federal, State or local government or other source, the equity contribution of any Renewable Energy Program Interested Party, or otherwise. To the extent such Completion Project shall be funded in whole or in part by Additional Bonds of the Authority, such Completion Project shall not be paid for by or on behalf of the Company unless the Company Lease Agreement is amended and supplemented (with the Company's consent), including as applicable the Basic Lease Payment schedule, to reflect any increased principal of and interest due on any Series of Additional Bonds issued to fund all or a portion of such Completion Project. The Authority may, at its sole discretion, issue Additional Bonds for any Completion Project, but it is under no obligation to do so, and accordingly, the Authority may make the execution and delivery by the Company of an amendment or supplement to the Company Lease Agreement regarding the payment of additional Basic Lease Payments a condition precedent to the issuance of any such Series of Additional Bonds.

**“Construction Manager”** shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or any Series 2011 Local Unit with the consent of the Authority, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for any Series 2011 Local Unit, or the oversight of the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, if any, by the Lessee for any Series 2011 Local Unit. The Consulting Energy Engineer may act as Construction Manager.

**“Contractor”** shall mean the Company, the EPC Contractor, or to the extent subsequently designated by the Company or the EPC Contractor, any subcontractor or other third-party designated by the Company through a Development Contract or otherwise (no subcontractor or such third-parties have been designated upon the issuance of the Series 2011A Bonds), in any such case as the entity obligated to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

**“Consulting Energy Engineer”** shall mean individually or collectively, as the case may be, Birdsell Services Group, Inc. and Gabel Associates, and any other consulting energy and/or engineer that performs Consulting Energy Engineering Services.

**“Consulting Energy Engineering Services”** shall mean those services performed by or on behalf of the Consulting Energy Engineer that the Authority deems necessary, desirable or convenient in order to implement the Renewable Energy Program, including without limitation review of Local Unit Facilities for feasible inclusion in the Renewable Energy Program and the particular tranche, formulation of the Series 2011 Local Units, assistance in

connection with the Company RFP and review of all proposals, including the Company Proposal and issuance of the report required by applicable law as a pre-condition to the selection of the Company as the successful respondent, assistance with the terms and conditions of the Program Documents, and all services of Construction Manager in overseeing the development of the Renewable Energy Projects for the Series 2011 Local Units.

**“Cost”, “Costs”, “Costs of the Project”, “Costs of the Projects”, “Project Cost”** or **“Project Costs”** shall mean and be deemed to include, with respect to any Project, together with any other proper item of cost not specifically mentioned herein, whether incurred prior to or after the date of any Program Document, (i) Preliminary Program Costs and the Company Development Fees and Expenses, (ii) costs of and expenses related to the design, permitting, acquisition, construction, installation, operation, maintenance, and financing of the Renewable Energy Projects for the Series 2011 Local Units, and (iii) costs of and expenses related to the design, permitting, acquisition, construction, renovation, installation, and financing of the Capital Improvement Projects for the Series 2011 Local Units; including, without limitation, costs and expenses related to any Architect, Construction Manager or Contractor, the Plans and Specifications, and/or any other costs and expenses related to any Development Contract, the costs of payment of, or reimbursement for, advances, deposits, down-payments or progress payments, administrative costs, insurance costs, costs of surety, construction or performance or payment bonds, financing payments, sales taxes, excise taxes, costs of feasibility, environmental and other reports, inspection costs, permit fees, filing and recording costs, printing costs, reproduction and binding costs, Administrative Expenses, costs of Rating Agencies, credit ratings or credit enhancement, fees for the printing, execution, transportation and safekeeping of the Bonds and charges and fees in connection with the foregoing; the cost of insurance; (iv) any sums required to reimburse the Renewable Energy Program Interested Parties for advances made for any of the above items, or for any other costs incurred and for work done, which is properly chargeable to any Project thereof; (v) deposits in any Fund or Account under the Bond Resolution, all as shall be provided in the Bond Resolution; and (vi) such other expenses not specified herein as may be necessary or incidental to the implementation of the Renewable Energy Program, including those incurred by the Renewable Energy Program Interested Parties and including costs and expenses related to the placing of the Projects in use and operation.

**“Costs of Issuance”** shall mean all items of expense directly or indirectly payable by or reimbursable to any Renewable Energy Program Interested Parties (other than the Company Development Fees and Expenses payable to the Company) and related to the authorization, execution, sale and delivery of the Bonds of any Series, including the Series 2011 Bonds, including, but not limited to, bond insurance costs or costs of other credit enhancement, Rating Agency fees, advertising and printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of any such Renewable Energy Program Interested Parties, the fees and expenses to be paid to the underwriters of a particular Series of Bonds (which fees and expenses, including their counsel, may be paid as a discount from Bond proceeds, rather than from the Costs of Issuance Account), including the Series 2011 Bonds, legal and financial advisory fees and expenses of such Renewable Energy Program Interested

Parties, Consulting Energy Engineering Services, and initial charges, and all other initial fees and disbursements contemplated by the Program Documents.

**"Costs of Issuance Account"** shall mean the Account within the Administrative Fund so designated and established by Article V hereof.

**"Counsel"** shall mean an attorney at law or firm of attorneys at law (who may be, without limitation, of counsel to, or an employee of any Renewable Energy Program Interested Party) duly admitted to practice law before the highest court of any state.

**"County Security Fund"** shall mean the Fund so designated and established by Article V hereof.

**"County Security Fund Requirement"** shall initially mean \$1,500,000, which amount shall be wholly funded on or before (i) the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, by the Company as an Additional Lease Payment as set forth in clause (vii) of the definition thereof, which amount is the minimum initial amount on deposit in the County Security Fund in the amounts, as of the dates, specified on **Exhibit B** to the Bond Resolution, to be held as security for the County in the event of a payment or payments to be made by the County under its County Guaranty, and otherwise to be applied in accordance with the terms of the Program Documents; provided, however, that **Exhibit B** may be modified at any time by a new **Exhibit B** delivered by the Authority to the Trustee attached to a Certificate of an Authorized Officer of the Authority directing the Trustee to replace such **Exhibit B**, without the need for an amendment or supplement hereto (and without the need for Bondholder consent), which Certificate shall only be delivered by the Authority to the extent the Company and the County agree to such revised **Exhibit B**, as evidenced by their acknowledgment in writing to any such Authority Certificate. Such Certificate shall also set forth and direct the Trustee regarding the transfer or disposition of excess funds in the County Security Fund, if such Certificate shall cause same.

**"Debt Service Fund"** means the Fund so designated and established by Article V hereof, consisting of an Interest Account, and a Principal Account.

**"Default"** shall mean an event or condition, the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default with respect to the Bonds, including the Series 2011 Bonds.

**"Developer"** shall mean an Affiliate of the Company to be designated at the time of execution of the Development Agreement.

**"Development Agreement"** means the Development Agreement to be entered into by and between the Company and the Developer for development services related to the Projects.

**“Development Contract”** shall mean (i) in the case of the Company, the Company Lease Agreement, (ii) in the case of the EPC Contractor, the EPC Contract, and (iii) in the case of any other Contractor, that certain contract obligating any such other subcontractor or other third-party, as Contractor and on behalf of the Company, to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units. Nothing in any Development Contract shall relieve the Company from its obligations under the Company Lease Agreement and the other Company Documents, which obligations shall include the Company’s continual obligation to design, permit, acquire, construct, install, operate and/or maintain all of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, and to design, permit, acquire, construct, renovate and/or install all of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

**“Development Fee”** means the fee payable to the Developer for services provided under the Development Agreement.

**“Draw Date”** shall have the meaning ascribed to such term in Section 510(b) of the Company Lease Agreement, and shall not be a regularly scheduled set of dates, but shall occur no more frequently than twice a month.

**“Draw Paper Ratio”** shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

**“Draw Papers”** shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

**“DTC”** shall mean The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, in its capacity as securities depository for the Bonds, including the Series 2011 Bonds.

**“Event of Default”** shall mean any occurrence or event designated as such in Section 9.01 of the Bond Resolution.

**“Excess Power Purchase Price Payments”** shall have the meaning ascribed to such term in Section 311(a) of the Company Lease Agreement.

**“Fiduciary”** or **“Fiduciaries”** shall mean individually or collectively, as the case may be, the Trustee or the Paying Agent under the Bond Resolution.

**“Funds”** shall mean any of the funds established by Article V of the Bond Resolution.

**“General Account”** shall mean the Account within the General Fund so designated and established by Article V of the Bond Resolution.

**“General Fund”** shall mean the Fund so designated and established by Article V of the Bond Resolution, which shall consist of a General Account.

**“Gross Substitute Power Purchase Price”** shall have the meaning ascribed to such term in Section 5.2(a)(i) of the Local Unit License Agreements for the Series 2011 Local Units.

**“Initial Basic Lease Payment Date”** shall mean January 15, 2013, the first Basic Lease Payment Date.

**“Interconnection Agreement”** shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Applicable Series 2011 Local Unit and/or the Authority, with respect to the interconnection of the completed Renewable Energy Projects for such Series 2011 Local Unit to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

**“Interest Account”** shall mean the Account within the Debt Service Fund so designated and established by Article V of the Bond Resolution.

**“Interest Payment Date”** shall mean, the date on which interest on the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June and December until final maturity of the Bonds, including the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Interest Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

**“Interest Portion”** shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the interest due and owing on the Outstanding Bonds, including the Series 2011 Bonds, on the immediately succeeding Interest Payment Date, as set forth in Exhibit A-3 to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Interest Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the interest on the Bonds on the next occurring Interest Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(i) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess

amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

**“Investment Securities”** shall mean and include any of the following securities, if and to the extent the same are at the time legal for investment of the Authority’s funds:

(i) Cash, direct non-callable obligations of the United States of America, and securities fully and unconditionally guaranteed as to the timely payment of principal of and interest by the United States of America, to which direct obligation or guarantee the full faith and credit of the United States of America has been pledged, Refcorp interest strips, CATS, TIGRS, STRPS or defeased municipal notes or bonds rated in the highest rating category by at least one of the Rating Agencies;

(ii) Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state or of any agency or instrumentality of any such local governmental unit (a) that are not callable prior to maturity or as to which irrevocable instructions have been given to the Trustee of such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds or other obligations for redemption on the date or dates specified in such instructions, (b) that are secured as to principal, interest and redemption premium, if any, by a fund consisting only of cash or bonds or other obligations of the character described in clause (i) above, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the redemption date or dates specified in the irrevocable instructions referred to in subclause (a) of this clause (ii), as appropriate, and (c) as to which the principal of and interest on the bonds and obligations of the character in clause (i) above that have been deposited in such fund, along with any cash on deposit in such fund, are sufficient to pay the principal of and interest and redemption premium, if any, on the bonds or other obligations described in this clause (ii) on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in subclause (a) of this clause (ii), as appropriate;

(iii) Bonds, debentures or other evidences of indebtedness issued or guaranteed by any agency or corporation that has been or may hereafter

be created pursuant to an Act of Congress as an agency or instrumentality of the United States of America; provided, however, that at the time of their purchase hereunder such obligations are rated in either of the two highest rating categories by the Rating Agencies;

(iv) New housing authority bonds issued by public agencies or municipalities that are fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or project notes issued by public agencies or municipalities that are fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(v) Direct, general obligations of any state of the United States of America, the payment of the principal of and interest on which the full faith and credit of such state is pledged; provided, however, that at the time of their purchase hereunder such obligations are rated in either of the two highest rating categories by the Rating Agencies;

(vi) Obligations of any state of the United States of America or any political subdivision thereof or of any agency or instrumentality of any such state or political subdivision that shall be rated in the highest short- or long-term rating category by the Rating Agencies;

(vii) Direct and general obligations of the State, the payment of the principal of and interest on which the full faith and credit of the State is pledged; or any bonds or other obligations the payment of the principal of and interest on which are unconditionally guaranteed by the State;

(viii) Certificates or other instruments that evidence ownership of the right to payments of principal of or interest on obligations of any state of the United States of America or any political subdivision thereof or of any agency or instrumentality of any such state or political subdivision; provided, however, that such obligations shall be held in trust by a bank or trust company or a national banking association meeting the requirements for a successor Trustee under Section 10.09 hereof; and provided, further, that the payments of all principal of and interest on such obligations shall be fully insured or unconditionally guaranteed by, or otherwise unconditionally payable pursuant to a credit support arrangement provided by, one or more financial institutions or insurance companies or associations that shall be rated in the highest short- or long-term rating category by the Rating Agencies, or, in the case of an insurer providing municipal bond insurance policies insuring the payment, when due, of the principal of and interest on municipal bonds, such insurance policy shall result in

such municipal bonds being rated in the highest rating category by the Rating Agencies;

(ix) Certificates that evidence ownership of the right to payments of principal of or interest on obligations described in clause (i) above; provided, however, that such obligations shall be held in trust by a bank or trust company or a national banking association meeting the requirements for a successor Trustee under Section 10.09 hereof;

(x) Certificates of deposit, whether negotiable or non-negotiable, demand deposits, and banker's acceptances of any of the fifty (50) largest banks by measure of total assets, which banks may include the Trustee, that are rated not lower than the second highest rating category by the Rating Agencies;

(xi) Commercial paper rated at the date of investment in the highest rating category by the Rating Agencies;

(xii) Any repurchase agreement that, by its terms, matures not later than one (1) year from its date of execution with any bank or trust company organized under the laws of any state of the United States of America or any national banking association, including the Trustee, or any government bond dealer reporting to, trading with and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in clause (i), (iii), (iv), (x) or (xi) above and which securities shall at all times have a market value (exclusive of accrued interest) of not less than one hundred two percent (102%) of the full amount of the repurchase agreement, have dates of maturity not in excess of seven (7) years, and be delivered to another bank or trust company organized under the laws of any state of the United States of America or national banking association, as custodian;

(xiii) Shares of an investment company organized under the Investment Company Act of 1940, as amended, including any investment company for which the Trustee is investment advisor, that invests its assets substantially in obligations of the type described in clause (ii), (vii), (xi) or (xii) above;

(xiv) Interests in the State of New Jersey Cash Management Fund or other similar common trust fund for which the State Treasurer is the custodian;

(xv) Local government investment pools;

(xvi) Money market funds which seek to maintain a constant net asset value per share and are rated in the highest short term rating categories of such funds, by at least two Rating Agencies;

(xvii) With respect to the County Security Fund only, any other investment for which funds of the County may be legally invested at such time; and

(xviii) Any other investments permitted under N.J.S.A. 40A:5-15.1, or any such successor statute.

**“Lease Payments”** shall mean all amounts due and payable by the Company pursuant to the terms of the Company Lease Agreement, and shall consist of Basic Lease Payments and the Additional Lease Payments.

**“Letter of Instructions”** shall mean the letter of instructions attached to any Tax Certificate as an exhibit thereto provided by Inglesino, Pearlman, Wyciskala & Taylor, LLC or other Bond Counsel on the date of issuance and delivery of the Series of Bonds to which it applies, as such letter may be amended from time to time, as a source of guidance for compliance with the Code. There shall be no Letter of Instructions with respect to the Series 2011 Bonds.

**“Mandatory Purchase Price”** shall have the meaning ascribed to such term in Section 702 of the Company Lease Agreement relating to the acceleration of the Bonds of any Series, including the Series 2011 Bonds.

**“Net Proceeds”** shall mean any insurance, condemnation, performance bond, or any other financial guaranty proceeds paid with respect to any portion of the Projects, remaining after payment therefrom of all expenses incurred in the collection thereof; and, with respect to insurance, if and at such time as the Company elects to provide self-insurance under Section 614 of the Company Lease Agreement, any moneys payable from any self-insurance fund of the Company which may lawfully be expended for the purposes for which such self-insurance is provided.

**“Net Substitute Power Purchase Price”** shall have the meaning ascribed to such term in Section 5.2(a)(i) of the Local Unit License Agreements for the Series 2011 Local Units.

**“Outstanding”** or **“outstanding”** shall mean, when used with reference to Bonds of any Series, including the Series 2011 Bonds, as of any particular date (subject to the provisions of Section 13.08 hereof), all Bonds of such Series theretofore, or thereupon being, authenticated and delivered by the Trustee under this Bond Resolution, except: (i) Bonds of such Series theretofore or thereupon canceled by the Trustee or surrendered to the Trustee for cancellation; (ii) Bonds of such Series with respect to which all liability of the Authority shall have been defeased or discharged in accordance with Article XII of the Bond Resolution; and (iii) Bonds of such Series in lieu of or in substitution for which other Bonds of such Series shall

have been authenticated and delivered by the Trustee pursuant to any provision of this Bond Resolution.

**“Overdue Rate”** shall mean two percent (2%) per annum over the Base Rate, which rate shall change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any Renewable Energy Program Interested Parties; *provided, however,* that notwithstanding the foregoing, to the extent the County Security, if any, shall have been drawn upon to reimburse the County in full for any County payments under the County Guaranty, the Overdue Rate with respect to interest to be paid on past due Basic Lease Payments (such payment of interest constituting an Additional Lease Payment under the Company Lease Agreement) shall have such different meaning, if any, as may be set forth in the County Security Agreement, if any.

**“Owner”** or **“Registered Owner”** of a Bond shall mean the registered owner of any Series of Bonds of the Authority, including the Authority’s Series 2011 Bonds, as shown on the register kept by the Trustee pursuant to Section 3.04 of the Bond Resolution.

**“Paying Agent”** means the Paying Agent appointed pursuant to Section 10.02 of the Bond Resolution, and its successors.

**“Plans and Specifications”** shall mean the architectural and engineering drawings and specifications prepared by the Architect or other Contractor (through a Development Contract or otherwise) describing the Renewable Energy Projects or the Capital Improvement Projects (if any), including any Completion Project, as the case may be, as agreed to among the Company and the Applicable Series 2011 Local Unit pursuant to Section 501 of the Company Lease Agreement.

**“Power Purchase Price Payments”** shall mean the payments made by the respective Series 2011 Local Units for the purchase of electricity to the Trustee, at the direction of the Authority and on behalf of the Company, all in accordance with Section 5.1(c)(i) of the Local Unit License Agreements.

**“Principal Account”** shall mean the Account within the Debt Service Fund so designated and established by Article V of this Bond Resolution.

**“Principal Office”** shall mean, when used with reference to the Authority, the Trustee or the Paying Agent, the respective addresses of such parties as set forth in Section 13.07 hereof, and any further or different addresses as such parties may designate pursuant to Section 13.07 hereof, and with reference to the Series 2011 Local Units, the addresses set forth in Exhibit A-2 to the Company Lease Agreement, as any such party may update from time to time in accordance with the terms of the Company Lease Agreement.

**“Principal Payment Date”** shall mean, the date on which principal (including Sinking Fund Installments, if any) of the Bonds, including the Series 2011 Bonds, is required to

be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15th) day of each June until final maturity of the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Principal Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

**“Principal Portion”** shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the principal (including Sinking Fund Installments) of the Outstanding Bonds, including the Series 2011 Bonds, due and owing on the immediately succeeding Principal Payment Date, as set forth in Exhibit A-3 attached to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Principal Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments) the Bonds on the next occurring Principal Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

**“Purchase Option Price”** shall have the meaning ascribed to such term in Section 701 of the Company Lease Agreement relating to the optional redemption of the Bonds of any Series, including the Series 2011 Bonds.

**“Project Account”** shall mean the Account within the Project Fund so designated and established by Article V of the Bond Resolution.

**“Project Fund”** shall mean the Fund so designated and established by Article V hereof, consisting of a Project Account.

**“Rating Agency”** shall mean individually or collectively, as the case may be, Moody’s Investors Service, Standard & Poor’s, or any other nationally recognized rating agency that has rated the Bonds, including the Series 2011 Bonds, or any Series of Additional Bonds, which rating was sought and/or purchased by the Authority.

**“Record Date”** shall mean with respect to an Interest Payment Date for a particular Series of Bonds, including the Series 2011 Bonds, unless otherwise provided by this Bond Resolution or a Supplemental Resolution authorizing such Series, the first (1<sup>st</sup>) day (whether or not such day shall be a Business Day) of the month in which such Interest Payment Date occurs.

**“Redemption Price”** shall mean, when used with reference to any Series of Bonds, including the Series 2011 Bonds or any portion thereof, the principal amount of such Bonds or such portion thereof and any premium thereon payable upon redemption thereof pursuant to the provisions of such Bonds and this Bond Resolution.

**“Reimbursement Collateral”** shall mean, to the extent a County Security Agreement shall be delivered to the Authority and the Trustee in accordance with the provisions of Section 5.07(6) of the Bond Resolution, (i) the SRECs, (ii) the Net Substitute Power Purchase Price, and (iii) any past due Basic Lease Payments, together with any Additional Lease Payments constituting interest payable on such past due Basic Lease Payments at the Overdue Rate, all of which shall have been pledged and assigned by the Authority to the County Security Provider under the County Security Agreement, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security. If no County Security Agreement shall be so delivered, which shall be the case upon original issuance of the Series 2011A Bonds, this term shall mean the County Reserve and any other monies and securities on deposit in the County Security Fund at any time, if any, that shall be available to the Company, in such case as County Security Provider, after and to the extent the County has been fully paid under its County Guaranty; provided that no such monies shall be made available to the Company until the County has completed all of its payment obligations under the County Guaranty and been fully reimbursed therefor, from the County Security Fund or otherwise.

**“Renewable Energy Program Interested Parties”** shall mean individually or collectively, as the case may be, the Authority, the County, the Series 2011 Local Units, the Company, the Construction Manager, the County Security Provider, the Trustee or any other fiduciary under the Program Documents, or any other interested party with a right, duty or obligation under the Program Documents, including any agents (including professional advisors) of any of the foregoing.

**“REP Acceptance Certificates”** shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Renewable Energy Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as **Exhibit B-1** to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among

other things, that all of the Renewable Energy Projects for each such Series 2011 Local Unit have been completed in accordance with the Plans and Specifications therefor, and have been accepted by the Company and the Applicable Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution.

**“Reserved Rights”** shall mean the Authority’s right to retain the following under the Company Lease Agreement, which shall not be part of the Trust Estate pledged to the Trustee under Section 1.04 of the Bond Resolution:

(i) Receive the Additional Lease Payments earmarked for purposes other than the Purchase Option Price or the Mandatory Purchase Price (which Purchase Option Price or the Mandatory Purchase Price Additional Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), including without limitation (a) the Administrative Fee, if any, and any other Administrative Expenses, which the Authority shall be obligated to pay or cause to be paid to the Renewable Energy Program Interested Parties due such Administrative Expenses, and (b) interest payable on past due Lease Payments at the Overdue Rate (but not the Basic Lease Payments that may be paid together with any payment at the Overdue Rate, which Basic Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), provided, further, that the portion of which interest that is attributable to past due Basic Lease Payments may be assigned by the Authority to the County and/or the County Security Provider, if any, as part of the Reimbursement Collateral;

(ii) The payments set forth in Section 5.2(a)(ii) and (iii) of the Local Unit License Agreements for the Series 2011 Local Units that reflect the difference between the Gross Substitute Power Purchase Price and the Net Substitute Power Purchase Price, which includes the Administrative Fee;

(iii) Receive notices provided for in the Company Lease Agreement or any other Program Document;

(iv) Appoint, replace or remove such parties as shall be appointed, replaced or removed under the Company Lease Agreement or any other Program Document at the direction of the Authority; and

(v) The right to give or withhold consents, including consents to amendments, permitted or required of the Authority under the Company Lease Agreement or any other Program Documents, to the extent that any such consent or amendment would diminish the rights or enlarge the responsibilities or adversely affect the ability of the Authority to realize or perform same, respectively, or which would increase the Authority’s potential liability or exposure to any party to any Program Document or to any third party as a result

thereof. All such notices, appointments or consents under any other Program Document (i.e., other than the Company Lease Agreement) shall be unaffected by these rights, as the Authority's rights under the other Program Documents are not subject to the pledge of the Trust Estate under Section 1.04 of the Bond Resolution, and are either retained by the Authority, or assigned pursuant to the terms of the Program Documents, but in any event, shall not constitute a Revenue or other part of the Trust Estate for purposes of the Bond Resolution.

**"Restoration Security Fund"** shall mean the Fund so designated and established by Article V hereof.

**"Restoration Security Fund Requirement"** shall mean \$75,000 on deposit in the Restoration Security Fund as of the eleventh (11<sup>th</sup>) anniversary of the first Commencement Date under the Power Purchase Agreement, plus an additional \$75,000 for each year thereafter until the end of the Initial Term under the Power Purchase Agreement (for a total of \$375,000); provided, however, the Company shall be required to pay to the Restoration Security Fund any amount to bring the balance therein to the Restoration Security Fund Requirement from time to time only if the Company has sufficient available cash flow to fund the same after making all other payments payable by the Company during such year but in no event shall cash flow distributions be made to the members of the Company in any year in which the Restoration Security Fund is required to be funded to the extent the Restoration Security Fund is not funded in such year to the level required by the Restoration Security Fund Requirement. Such amount shall be funded by the Company as an Additional Lease Payment to be made on each such anniversary date, all as specified on **Exhibit C** to the Bond Resolution, to be held as security for the Series 2011 Local Units to ensure that the Company restores their Local Unit Facilities in the manner required by Section 3.7(b) of the Power Purchase Agreement. Notwithstanding the foregoing, **Exhibit C** to the Bond Resolution may be modified at any time by a new **Exhibit C** delivered by the Authority to the Trustee attached to a Certificate of an Authorized Officer of the Authority directing the Trustee to replace such **Exhibit C**, without the need for an amendment or supplement hereto (and without the need for Bondholder consent), which Certificate shall only be delivered by the Authority to the extent the Company and the County agree to such revised **Exhibit C**, as evidenced by their acknowledgment in writing to any such Authority Certificate. Such Certificate shall also set forth and direct the Trustee regarding the transfer or disposition of excess funds in the Restoration Security Fund, if such Certificate shall cause same.

**"Revenue Account"** shall mean the Account within the Revenue Fund so designated and established by Article V hereof.

**"Revenue Fund"** shall mean the Fund so designated and established by Article V of the Bond Resolution.

**"Revenues"** shall mean (i) all Basic Lease Payments made by the Company under the Company Lease Agreement, together with all Power Purchase Price Payments made by the Series 2011 Local Units to the Trustee, (ii) those Additional Lease Payments related to the

Purchase Option Price or the Mandatory Purchase Price made by the Company under the Company Lease Agreement, (iii) any investment income which is derived from the investment of any funds which are held by the Trustee pursuant to the terms of the Bond Resolution and which are deposited in the Funds and Accounts established under the Bond Resolution; provided, however, that Revenues shall not include the investment income on moneys or securities held in (a) the Administrative Expense Account or the Costs of Issuance Account of the Administrative Expense Fund, nor (b) the County Security Fund, and (iv) any other amounts received from any other source by or on behalf of the Authority, the Company, the County, the Series 2011 Local Units, the Trustee or the Paying Agent, whereby such amounts are directed or permitted to be applied to the payment of the principal of, Redemption Price, and interest on the Bonds, including the Series 2011 Bonds.

“**Series**” shall mean all of the Bonds, including the Series 2011 Bonds, authenticated and delivered on original issuance and identified pursuant to this Bond Resolution or any Supplemental Resolution authorizing such Bonds as a separate Series of Bonds, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Sections 4.07 or 11.10 hereof, regardless of variations in maturity, interest rate or other provisions.

“**Series 2011B Bonds**” shall have the meaning ascribed to such term in Section 311(b) of the Company Lease Agreement.

“**Sinking Fund Installments**”, with respect to any Series of Bonds, shall have the meaning, if any, specified in either this Bond Resolution, including, without limitation and with respect to the Series 2011A Bonds, Section 2.03(6)(a) hereof, or the Applicable Supplemental Resolution.

“**Supplemental Resolution**” shall mean the certificate or certificates of an Authorized Officer of the Authority referred to in Section 2.02(1)(d) hereof and/or any resolution or resolutions of the Authority amending, modifying or supplementing this Bond Resolution, authorizing the issuance of a Series of Additional Bonds, or any other Supplemental Resolution adopted by the Authority pursuant to the provisions of this Bond Resolution.

“**Tax Certificate**”, with respect to any Series of Bonds other than the Series 2011 Bonds (there shall be no Tax Certificate with respect to the Series 2011 Bonds), means the “Tax Certificate as to Arbitrage and Instructions as to Compliance with the Provisions of Section 103(a) of the Internal Revenue Code of 1986, as amended” or similar document executed and delivered by an Authorized Officer of the Authority on the date of issuance of such Series of Bonds, as the same may be supplemented and amended from time to time, but only to the extent the interest on such Series of Bonds is excludable from the gross income of the Holders thereof for Federal income tax purposes.

“**Tax-exempt Bonds**” shall mean any Series of Additional Bonds with respect to which an opinion of Bond Counsel is delivered to the effect that interest on such Series of Bonds

is excluded from gross income pursuant to Section 103 of the Code. The Series 2011 Bonds shall not be considered Tax-exempt Bonds.

“Trustee” shall mean the Trustee appointed pursuant to Section 10.01 of the Bond Resolution, and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the provisions of the Bond Resolution.

“Trust Estate” shall mean all right, title and interest of the Authority in, to and under (i) the Revenues, (ii) all moneys payable by the County under the County Guaranty, but only with respect to the Series 2011 Bonds unless extended to any Series of Additional Bonds, (iii) all moneys and securities held in any Funds and Accounts established under the Bond Resolution, except for moneys or securities held in (A) the Administrative Expense Account or the Costs of Issuance Account of the Administrative Fund or (B) the County Security Fund, if any, (iv) the Company Lease Agreement, but only to the extent necessary to enforce the payment of Revenues owed by the Company thereunder, which excludes all of the Authority’s obligations thereunder, the Reserved Rights, and the Authority’s rights to the Renewable Energy Projects for the Series 2011 Local Units or the Capital Improvement Projects for the Series 2011 Local Units, which (non-reserved) interests shall be assigned by the Authority (A) to the County Security Provider pursuant to the terms of the County Security Agreement, but only if such County Security Agreement shall be delivered to the Authority and the Trustee upon or prior to the issuance of the Series 2011 Bonds, and/or (B) to the County pursuant to the terms of the County Guaranty Agreement, and (v) any other amounts received from any other source by or on behalf of the Authority and pledged by the Authority as security for the payment of the Bonds, including the Series 2011 Bonds, all of which as shall have been pledged by the Authority to the Trustee pursuant to Section 1.04 of the Bond Resolution as security for the payment of the principal, redemption premium, if any, and interest on the Bonds, including the Series 2011 Bonds. None of the Renewable Energy Projects for the Series 2011 Local Units, the Capital Improvement Projects for the Series 2011 Local Units, or the County Security shall be part of the Trust Estate.

**SECTION 1.02. Rules of Interpretation.** For all purposes of this Bond Resolution, except as otherwise expressly provided or unless the context otherwise requires:

1. “This Bond Resolution” means this instrument as originally adopted and as it may be supplemented, modified or amended from time to time by any Certificate of an Authorized Officer in accordance with Article II hereof, or in accordance with any Supplemental Resolution, unless in the case of any one or more Certificates or Supplemental Resolutions, the context requires otherwise.

2. All reference in this Bond Resolution to designated “Articles”, “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of this Bond Resolution. The words “herein”, “hereof”, “hereunder” and “herewith” and other words of similar import refer to this Bond Resolution as a whole and not to any particular Article, Section or other subdivision hereof.

3. The terms defined in this Bond Resolution include the plural as well as the singular.

4. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

5. The table of contents and the headings or captions used in this Bond Resolution are for convenience of reference only and shall not define, limit or prescribe any of the provisions hereof or the scope or intent hereof.

**SECTION 1.03. Authority for this Bond Resolution; Appropriation.** This Bond Resolution is adopted pursuant to the provisions of the Act and constitutes a resolution authorizing bonds pursuant to the Act. Promptly after the initial adoption of this Bond Resolution, an Authorized Officer of the Authority shall cause the estoppel notice contemplated by Section 19 of the Act (N.J.S.A. 40:37A-62) to be published in an Authorized Newspaper. The adoption of this Bond Resolution by the governing body of the Authority shall provide an initial appropriation in the amount of \$50,000,000, which appropriation, upon issuance of a Series of Bonds, shall automatically be reduced (without any further action of the Authority) to the aggregate principal amount of Bonds issued and Outstanding (but not in excess of such maximum appropriation amount of \$50,000,000) in the amount of \$27,700,000. Accordingly, the Authority shall be, and hereby is, authorized by applicable law to contract for and spend money on the Projects, and other matters related to the Renewable Energy Program, including through the Program Documents, in an aggregate amount not to exceed such maximum appropriation.

**SECTION 1.04. Bond Resolution and Bonds Constitute a Contract; Pledge of Trust Estate.**

With respect to the Bonds, in consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued under this Bond Resolution by those who shall hold the same from time to time: (i) this Bond Resolution and the Bonds issued hereunder shall be deemed to be and shall constitute a contract by and among the Authority, the Trustee and the Holders, from time to time, of such Bonds; (ii) the pledge made herein to the Trustee to pay its fees and expenses shall in every respect be subordinate to the pledge made herein to the Trustee for the benefit of the Holders of the Bonds, except that Bondholders shall have no interest in and shall not be secured by (A) the Administrative Fund and (B) the County Security Fund; (iii) the pledge made herein and the duties, covenants, obligations and agreements set forth herein to be observed and performed by or on behalf of the Authority shall be for the equal and ratable benefit, protection and security of the Holders of any and all of such Bonds, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction as to lien or otherwise, except as expressly provided herein or permitted hereby; (iv) the Authority, as security for the payment of the principal and Redemption Price, if any, of and the interest on the Bonds and as security for the observance and performance of any other duty, covenant, obligation or agreement of the Authority under this Bond

Resolution, all in accordance with the provisions thereof and hereof, does hereby grant a security interest in and further does grant, bargain, sell, convey, pledge, assign and confirm to the Trustee the Trust Estate; (v) notwithstanding any other provision to the contrary herein, that portion of the pledge made in clause (iv) of this Section 1.04 to secure the payment of any redemption premium payable hereunder shall not include clause (ii) of the definition of "Trust Estate"; (vi) the pledge made hereby is valid and binding from the time when the pledge is made, and the Trust Estate shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and regardless of whether held by the Trustee, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof; and (vii) the Bonds shall be special and limited obligations of the Authority payable from and secured solely by a pledge of the Trust Estate as provided hereby.

## ARTICLE II

### AUTHORIZATION AND ISSUANCE OF BONDS

#### **SECTION 2.01. Authorization of Bonds; Designation of Bonds of Series.**

1. This Bond Resolution authorizes Bonds of the Authority to be designated as "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011", which may be issued in one or more Series. The aggregate principal amount of the Bonds that may be executed, authenticated and delivered under this Bond Resolution is not limited except as may hereafter be provided in this Bond Resolution or as may be limited by law.

2. The Bonds may, if and when authorized by the Authority pursuant hereto or pursuant to one or more Supplemental Resolutions, be issued in one or more Series, and the designation thereof, in addition to the name "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 20\_\_", shall include such further appropriate particular designation added to or incorporated in such title for the Bonds of any particular Series as the Authority may determine. Each Bond shall bear upon its face the designation so determined for the Series to which it belongs.

3. Neither the State, the Series 2011 Local Units, the County (except to the extent of the County Guaranty) nor any political subdivision thereof, other than the Authority (but solely to the extent of the Trust Estate), is obligated to pay the principal or Redemption Price, if any, of or the interest on the Bonds, and neither the full faith and credit nor the taxing power of the State, the Series 2011 Local Units, the County (except to the extent of the County Guaranty) or any political subdivision thereof, including the Authority (which has no taxing power), is pledged to the payment of the principal or Redemption Price, if any, of or the interest on the Bonds. The County Guaranty does not secure redemption premium, if any.

#### **SECTION 2.02. General Provisions for Issuance of Bonds.**

1. All (but not less than all) of the Bonds of each Series shall be executed by the Authority for issuance under this Bond Resolution and delivered to the Trustee, and thereupon shall be authenticated by the Trustee and by it delivered to the Authority or upon its order, but only upon the receipt by the Trustee of:

(a) A copy of this Bond Resolution, certified by an Authorized Officer of the Authority.

(b) In the case of each Series of Additional Bonds, (1) a copy of the Supplemental Resolution authorizing such Series of Additional Bonds, certified by an Authorized Officer of the Authority, which shall, among other provisions, specify: (i) the authorized principal amount, designation and Series of such Additional Bonds; (ii) the purposes for which such Series of Additional Bonds are being issued, which shall be one of the purposes

set forth in Section 2.04 hereof; (iii) the dated date and the maturity date or dates of such Series of Additional Bonds; (iv) the interest rate or rates of such Series of Additional Bonds and the initial Interest Payment Date therefor, provided that the interest rate shall be identical for all such Additional Bonds of like maturity; (v) the denominations of and the manner of dating, numbering and lettering such Series of Additional Bonds, provided that such Additional Bonds shall be in denominations of \$5,000 or any integral multiple thereof as authorized by such Supplemental Resolution; (vi) the Paying Agent or Paying Agents and the place or places of payment of the principal and Redemption Price, if any, of and the interest on such Series of Additional Bonds; (vii) the Redemption Price or Prices, if any, and, subject to Article IV hereof, the redemption terms for such Series of Additional Bonds; (viii) the amount and due date of each Sinking Fund Installment, if any, for such Series of Additional Bonds of like maturity; (ix) the form of such Series of Additional Bonds and the Trustee's certificate of authentication, which shall be substantially in the form set forth in Section 14.01 hereof for the Series 2011 Bonds, with such variations, insertions or omissions as are appropriate and not inconsistent therewith; and (x) the provisions for the application of the proceeds of such Series of Additional Bonds; and (2) such other items required pursuant to the provisions of Section 2.05 hereof.

(c) An opinion of Bond Counsel to the effect that (i) the Authority has the right and power under the Act, as amended to the date of such opinion, to adopt this Bond Resolution; this Bond Resolution has been duly and lawfully adopted by the Authority, is in full force and effect, and constitutes a valid and binding agreement of the Authority, enforceable against the Authority in accordance with its terms; and no other authorization for this Bond Resolution is required; (ii) this Bond Resolution creates the valid pledge that it purports to create of the Trust Estate, subject only to the provisions of this Bond Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in this Bond Resolution; and (iii) the Authority is duly authorized and entitled to issue the Bonds of such Series; such Bonds have been duly and validly authorized and issued by the Authority in accordance with all applicable law, including the Act, as amended to the date of such opinion, and this Bond Resolution; and such Bonds constitute the valid and binding obligations of the Authority as provided in this Bond Resolution, enforceable against the Authority in accordance with their terms and the terms of this Bond Resolution, and are entitled to the benefits of the Act, as amended to the date of such opinion, and this Bond Resolution. Such opinion may take exception as to the effect of, or for restrictions or limitations imposed by or resulting from, bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws affecting creditors' rights generally and judicial discretion, and may state that no opinion is being rendered as to the availability of any particular remedy.

(d) A written order to the Trustee as to the delivery of such Bonds, signed by an Authorized Officer of the Authority.

(e) Notwithstanding any other provision to the contrary herein, in the case of the issuance of each Series of Series 2011 Bonds and where contemplated thereafter in accordance with the terms hereof, a Certificate of an Authorized Officer of the Authority setting forth (i) all of the items applicable to the Series 2011 Bonds that are detailed in subsection (b)

above with respect to a Series of Additional Bonds, (ii) whether the Series 2011 Bonds will be issued in one or more Series, including the Series 2011A Bonds and the Series 2011B Note as contemplated by Section 2.03(1)(a) hereof, and as notes or bonds, and if in note form, such specific terms required to issue, secure and repay such notes not specifically set forth in this Bond Resolution as originally adopted on September 28, 2011, and at private or public sale and the final form of the Sale Documents, all within the parameters of the Local Finance Board Application, (iii) the final pricing terms, including interest rates, principal amortization and Sinking Fund Installments, payment dates and terms of redemption of the Series 2011 Bonds, provided however that the Series 2011B Note shall bear interest at the same rates as the Series 2011A Bonds, (iv) the entities that shall constitute the Company (as selected pursuant to the Company RFP), the County Security Provider, if any, the Trustee, and the Paying Agent, (v) the final terms of the Program Documents within the parameters of the Local Finance Board Application, the Company RFP and the Company Proposal, and (vi) subject to the parameters set forth in the definition of Series 2011 Bonds and the terms set forth in the Local Finance Board Application, and upon the advice of the Authority's Counsel and professional advisors, the addition to, deletion from or modification of any provision of this Bond Resolution as originally adopted on September 28, 2011, the contents of which Certificate may be incorporated in this Bond Resolution without compliance with any other provision herein, including, without limitation, Article XI hereof. The Authorized Officer executing any such Certificate shall report the substance of such Certificate to the Board at the Board's next public meeting.

(f) Such further documents, moneys and securities as are required by the provisions of Section 2.03 or 2.04 or Article XI hereof or by any Supplemental Resolution adopted pursuant to Article XI hereof.

2. All the Bonds of each such Series of like maturity shall be identical in all respects, except as to denominations, numbers and letters. After the original issuance of Bonds of any Series, no Bonds of such Series shall be issued except in lieu of or in substitution for other Bonds of such Series pursuant to Article III or Section 4.07 or 11.10 hereof.

### **SECTION 2.03. Series 2011 Bonds.**

1. One or more Series of Bonds entitled to the benefit, protection and security of this Bond Resolution is hereby authorized in the aggregate principal amount of not to exceed \$50,000,000 for the purpose of acquiring, constructing, renovating, installing, operating and maintaining the Projects as set forth in and in accordance with the terms of the Company Lease Agreement and the Local Unit License Agreements for the Series 2011 Local Units. Such Series of Bonds shall be designated as, and shall be distinguished from the Bonds of all other Series by the title, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011".

(a) To the extent contemplated by the Certificates of an Authorized Officer of the Authority executed pursuant to Section 2.02(1)(e) hereof, the Series 2011 Bonds may be issued in two (2) or more Series, (i) a Series further designated as "Series 2011A Bonds" in an

aggregate principal amount of \$26,715,000, (ii) a Series further designated as "Series 2011B Note" in an aggregate principal amount of \$985,000 and (iii) any other one (1) or more Series further designated and issued for one of the purposes set forth in Section 2.04(1) hereof, as shall be set forth in any such Certificate of an Authorized Officer, but only to the extent the Outstanding aggregate principal amount of Series 2011A Bonds, Series 2011B Note and any such other Outstanding Series of Series 2011 Bonds shall not exceed \$50,000,000.

(b) The Series 2011 Bonds shall be sold in accordance with the provisions of Section 6.04 hereof and all applicable law.

2. The Series 2011 Bonds shall be dated, and shall bear interest from, their date of issuance, on the basis of a 360-day year consisting of twelve 30-day months, and shall otherwise be payable as provided in Section 3.01 hereof.

(a) The Series 2011 Bonds (consisting of (i) the Series 2011A Bonds in the aggregate principal amount of \$27,700,000 maturing on June 15 in the years, and bearing interest payable on June 15, 2012 and on each June 15 and December 15 thereafter until maturity, all as set forth in subsection (b) below, and (ii) the \$26,715,000 par amount of the Series 2011B Note maturing and bearing interest payable on January 15, 2013 as set forth in subsection (c) below) in the aggregate par amount of \$985,000 shall mature on the dates and in the principal amounts, and shall bear interest payable semiannually on June 15 and December 15 in each year until maturity, at the respective rates per annum, shown below:

June 15*	Amount Maturing	Interest Rate and Yield	June 15	Amount Maturing	Interest Rate and Yield
2013	\$1,850,000	1.138%	2018	\$1,845,000	3.210%
2014	1,850,000	1.562	2019	1,845,000	3.388
2015	1,850,000	2.136	2020	1,845,000	3.588
2016	1,850,000	2.486	2021	1,845,000	3.688
2017	1,850,000	2.910	2027	11,070,000	4.938
<b>Total</b>					

\*The principal payment due on the Series 2011 Bonds in 2012 is due on January 15, 2013, not June 15, 2013, and is comprised entirely of the Series 2011B Note.

(b) The Series 2011A Bonds shall mature on the dates and in the principal amounts, and shall bear interest payable semiannually on June 15 and December 15 in each year, commencing June 15, 2013, at the respective rates per annum, shown below:

June 15*	Amount Maturing	Interest Rate and Yield	June 15	Amount Maturing	Interest Rate and Yield
2013	\$ 865,000	1.138%	2018	\$1,845,000	3.210%
2014	1,850,000	1.562	2019	1,845,000	3.388
2015	1,850,000	2.136	2020	1,845,000	3.588
2016	1,850,000	2.486	2021	1,845,000	3.688
2017	1,850,000	2.910	2027	11,070,000	4.938
<b>Total</b>					

(c) The \$985,000 par amount of Series 2011B Note shall mature on January 15, 2013, bearing interest at 1.5% per annum, which interest shall also be payable on January 15, 2013.

3. The Series 2011 Bonds shall be issued in denominations of \$5,000 or any integral multiple thereof. Unless the Authority shall otherwise direct, the Series 2011 Bonds shall be lettered and numbered from one upward in order of their maturity preceded by the letter "R" and such other letter as determined by the Trustee prefixed to the number. Subject to the provisions of this Bond Resolution, the form of the Series 2011 Bonds and the Trustee's certificate of authentication shall be substantially in the form set forth in Section 14.01 hereof.

(a) To the extent contemplated by the Certificate of an Authorized Officer of the Authority executed pursuant to Section 2.02(1)(e) hereof, the Series 2011A Bonds shall be

lettered and numbered from one upward in order of their maturity preceded by the letters "R-A" and such other letter as determined by the Trustee prefixed to the number.

(b) To the extent contemplated by the Certificate of an Authorized Officer of the Authority executed pursuant to Section 2.02(1)(e) hereof, the Series 2011B Note shall be lettered and numbered "R-B-1".

4. The principal and Redemption Price, if any, of the Series 2011 Bonds shall be payable at the Principal Office of U.S. Bank National Association, as Paying Agent. The principal and Redemption Price, if any, of all Series 2011 Bonds shall also be payable at any other place that may be provided for such payment by the appointment of any other Paying Agent or Paying Agents as permitted by this Bond Resolution. Interest on the Series 2011 Bonds shall be payable by check or draft of the Paying Agent mailed or transmitted to the Holders thereof as the same appear as of the Record Date on the books of the Authority maintained by the Trustee. However, so long as the Series 2011 Bonds are held in book-entry form pursuant to Section 2.06 hereof, the provisions of said Section 2.06 shall govern payment of the principal and Redemption Price, if any, of and the interest on the Series 2011 Bonds.

5. (a) The Series 2011A Bonds maturing on or before June 15, 2021 shall not be subject to redemption prior to their respective maturity dates. The Series 2011A Bonds maturing on and after June 15, 2022 shall be subject to optional redemption by the Authority prior to their respective maturity dates, on or after June 15, 2021, upon notice as herein described, either in whole or in part at any time in any order of maturity as the Authority shall determine and within a single maturity by lot, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

(b) Pursuant to the terms of the County Guaranty Agreement, under certain circumstances, the County may direct the Authority to utilize this otherwise discretionary optional redemption feature set forth above. To the extent the Company causes an Event of Default, as defined under the Company Lease Agreement, to occur and such Event of Default requires the County to make a payment of the principal of and interest on the Series 2011A Bonds under the County Guaranty, so long as the County is not in default under the County Guaranty Agreement, the County has the right to cause the Authority to refund all or a portion of the Series 2011A Bonds. To the extent the County were to exercise this right prior to the first optional call date of June 15, 2021, the County would be required to cause the Authority to defease the Series 2011A Bonds in accordance with Article XII of the Bond Resolution, in which case the Series 2011A Bonds would not be called for redemption until such first optional call date of June 15, 2021. Any such redemption shall be made on the earliest practicable date at a Redemption Price of 100% of the principal amount to be redeemed, plus accrued interest to the date of redemption.

(c) The Series 2011A Bonds shall not be subject to extraordinary optional redemption prior to its stated maturities.

6. (a) The Series 2011A Bonds maturing June 15, 2027 are subject to mandatory redemption prior to their stated maturities, through selection by the Trustee and upon the giving of notice as provided by the Bond Resolution, by payment of the following “Sinking Fund Installments” on June 15 of each year set forth in the table below, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

\$11,070,000 4.938% Term Bond Due June 15, 2027, Yield 4.938%

Year	Sinking Fund Installment
2022	\$1,845,000
2023	1,845,000
2024	1,845,000
2025	1,845,000
2026	1,845,000
2027	1,845,000

\* Final Maturity

(b) The Series 2011B Note shall not be subject to mandatory sinking fund redemption prior to its stated maturity.

7. Proceeds to be derived from the sale of the Series 2011 Bonds, upon delivery of same to the Underwriter on the date hereof of (i) \$26,593,392.74 (the “Series 2011A Bond Proceeds”) consisting of (par amount of \$26,715,000, less an Underwriter’s discount in the amount of \$121,607.26) (the “Series 2011A Proceeds”) and (ii) \$980,516.26 (the “Series 2011B Bond Proceeds”) consisting of (par amount of 985,000, less an Underwriter’s discount in the amount of \$4,483.74) (the “Series 2011B Proceeds”) and together with the Series 2011A Proceeds, the “Proceeds”) shall be applied as set forth below. In addition, the balance of the Project costs shall be payable from the In-Kind Equity Contribution in the estimated amount of \$7,818,860 in accordance with Section 510(c) of the Lease Agreement. The Trustee shall apply the Proceeds in the amount of \$27,573,909 as follows:

(a) There shall be deposited in the Administrative Fund the amount of \$1,090,490.25, \$1,088,909.00 of which shall be sourced from the Series 2011A Bonds and \$1,581.25 of which shall be sourced from the Series 2011B Note, (i) \$359,499.25 of which shall be deposited in the Costs of Issuance Account in the Administrative Fund for application to the payment of certain Costs of Issuance incurred in connection with the issuance of the Series 2011 Bonds, including, without limitation, the Authority’s initial Administrative Fee of \$100,000.00 and fees for the Trustee and Trustee’s counsel, and (ii) \$730,991.00 of which shall be deposited

in the Administrative Expense Account in the Administrative Fund, (A) \$20,000.00 of which shall be applied to the payment of the Authority's initial annual Administrative Fee, and (B) the balance of which in the amount of \$710,991.00 shall be applied to the payment of, or reimbursement for, the balance of the Preliminary Program Costs and Administrative Expenses, including without limitation fees for a Construction Manager, if any, upon the Trustee's receipt of a proper invoice or evidence of payment therefore; provided that a Certificate of an Authorized Officer of the Authority delivered to the Trustee may adjust and/or add to the payment categories within the Administrative Fund set forth above.

(b) Upon the issuance of the Series 2011B Note, \$983,418.75 (all from the Series 2011B Note) shall be deposited in the Capitalized Interest Account of the Debt Service Fund, which amount, together with interest earned thereon, if any, shall be sufficient to pay the interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

(c) Upon the earlier of (i) ninety (90) days after completion of the Series 2011 Local Unit Projects or (ii) March 15, 2013, \$1,500,000, the Cash Equity Contribution, shall be deposited in the County Security Fund as the County Security Fund Requirement which shall be funded by the Company for the County Reserve as an Additional Lease Payment as required by clause (vii) of the definition thereof upon the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013.

(d) There shall be no Series 2011 Bond proceeds deposited in the General Fund.

(e) The remaining balance of the proceeds of the Series 2011 Bonds in the amount of \$25,500,000 (consisting of \$25,500,000 of the Series 2011A Bonds), shall be deposited in the Project Fund, (i) \$24,700,000 of which shall be deposited in the Project Account and applied to the payment of the Renewable Energy Projects for the balance of Renewable Energy Projects for the Series 2011 Local Units, (ii) none of which shall be applied to the payment of the Capital Improvement Projects for the Series 2011 Local Units and (iii) \$800,000 of which shall be applied to the payment of the Company Development Fees and Expenses, all in accordance with Section 5.02(2) hereof; provided that a Certificate of an Authorized Officer of the Company, as consented to by an Authorized Officer of the Authority, delivered to the Trustee may adjust the payment categories within the Project Fund set forth above.

8. Upon the authentication and delivery of the Series 2011 Bonds, the Authority shall furnish to the Trustee:

(a) An opinion of Bond Counsel to the effect that, under existing law, interest on the Series 2011 Bonds and any gain on the sale thereof are excluded from gross income for purposes of the New Jersey Gross Income Tax Act.

(b) Opinions of Counsel to the effect that each of the Authority and the Company has the right and power under the Act, as amended to the date of such opinion, and any

other applicable law to enter into the Company Lease Agreement; the Company Lease Agreement has been duly and lawfully authorized and executed by the Authority and the Company, is in full force and effect, and is valid and binding upon the Authority and the Company, enforceable against the Authority and the Company in accordance with its terms; and no other authorization for the Company Lease Agreement is required. Opinions of Counsel to the effect that each of the Authority and the County has the right and power under the Act, as amended to the date of such opinion, and any other applicable law to enter into the County Guaranty Agreement; the County Guaranty Agreement has been duly and lawfully authorized and executed by the Authority and the County, is in full force and effect, and is valid and binding upon the Authority and the County, enforceable against the Authority and the County in accordance with its terms; and no other authorization for the County Guaranty Agreement is required. Such opinions may take exception as to the effect of, or for restrictions or limitations imposed by or resulting from, bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws affecting creditors' rights generally and judicial discretion, and may state that no opinion is being rendered as to the availability of any particular remedy, but that such limitations do not make the rights and remedies of the Bondholders, taken as a whole, inadequate for the practical realization of the benefits of the Company Lease Agreement and the County Guaranty Agreement.

(c) The fully executed and delivered Company Documents and County Documents, along with all of the Local Unit License Agreements.

#### **SECTION 2.04. Purposes, Authorization and Description of Additional Bonds.**

1. After the execution, authentication and delivery of the Series 2011 Bonds, Additional Bonds of the Authority may be authorized to be issued pursuant to and in accordance with the terms of the Act either (a) reserved, (b) to refund any Bonds (including Additional Bonds) of the Authority, (c) to raise funds to pay the cost of the acquisition, construction, renovation or installation of part or parts of a Completion Project, including any deposit or increase into any Fund or Account that has been established by the terms of this Bond Resolution and that is incidental thereto or is deemed by the Authority to be necessary in connection therewith.

2. Any Series of Additional Bonds of the Authority shall be issued only after the authorization thereof by a Supplemental Resolution of the Authority duly adopted prior to the authentication and delivery of such Series of Additional Bonds. Such Supplemental Resolution shall state the purpose or purposes for which such Additional Bonds are being issued and shall direct the application of the proceeds that are to be derived from the sale of such Additional Bonds to such purpose or purposes and the execution and authentication thereof. Such Supplemental Resolution shall fix and determine the date, principal amounts, denominations, designation and numbers thereof, the rate or rates of interest or maximum rate of interest to be borne thereby, the place or places of payment therefor, the redemption privileges of the Authority, if any, with respect thereto, the amount and date of each Sinking Fund Installment, if any, for the retirement of any Bonds and any other provisions thereof, all in accordance with the

terms of this Bond Resolution. Upon such authorization, such Additional Bonds may, upon initial issuance, at one time or from time to time, be executed by or on behalf of the Authority and delivered to the Trustee for authentication by the Trustee as provided in this Bond Resolution, and thereafter such Additional Bonds shall be authenticated by the Trustee upon original issuance and, upon fulfillment of the applicable conditions set forth in Section 2.05 hereof, shall be delivered by the Trustee to the Authority or upon its order.

3. All Additional Bonds shall be substantially in the form and tenor of Bonds as provided in Section 14.01 hereof, except that, notwithstanding any other provision contained in this Bond Resolution to the contrary, such Bonds shall be issued in such principal amounts, shall be of such denominations, shall bear such dated date and such maturity dates, shall bear such designation as to Series, numbers or symbols prefixed to their numbers distinguishing them from each other Bond, shall be subject to redemption prior to their maturity on such terms and conditions that are consistent with the provisions of this Bond Resolution, shall bear interest at such rate or such different or varying rates of interest per annum, and shall be payable at such time or times as may be fixed by the Supplemental Resolution of the Authority authorizing the issuance of such Additional Bonds or by a Supplemental Resolution of the Authority duly adopted prior to the authentication and delivery of such Additional Bonds, as the case may be.

4. All Additional Bonds that are authorized by any Supplemental Resolution of the Authority shall constitute Bonds of a single Series. No bonds, notes or other obligations of the Authority shall constitute Additional Bonds unless they are authenticated by the Trustee as provided in this Bond Resolution, nor shall such Additional Bonds be entitled to any right or benefit under the terms of this Bond Resolution unless they are so authenticated, and no Additional Bond shall be valid and obligatory for any purpose of this Bond Resolution unless said Additional Bond shall have been so authenticated.

5. After their authentication and delivery by the Trustee upon original issuance, all Additional Bonds shall for all purposes hereof be deemed to constitute Bonds, shall be entitled to the pledge of the Trust Estate provided by this Bond Resolution, and shall have equal rank with the Outstanding Series 2011 Bonds and any Outstanding Additional Bonds previously authenticated and delivered, and such Additional Bonds shall be entitled to the security and benefit of such pledge and of the provisions of this Bond Resolution.

6. If Additional Bonds are issued that pay interest on dates different from the Interest Payment Dates of Bonds then Outstanding, there shall be no requirement that, on an Interest Payment Date of any Bond, the Trustee establish reserves for the benefit of the Holder of any other Bond on which interest is not then being paid unless provided herein or under the terms of any Supplemental Resolution.

#### **SECTION 2.05. Conditions Precedent to Issuance of Additional Bonds.**

1. The Trustee shall not authenticate or deliver upon original issuance any Additional Bonds to the Authority or upon its order, unless theretofore or simultaneously

therewith there shall have been delivered or paid to the Trustee, among other things, the following:

(a) Copies of this Bond Resolution and the Supplemental Resolution of the Authority, certified by an Authorized Officer of the Authority and only to the extent adversely affecting the rights, duties and obligations of the Company, then additionally consented to in writing by an Authorized Officer of the Company, authorizing the issuance of such Additional Bonds, stating the purpose or purposes for the issuance of such Additional Bonds and otherwise conforming with the provisions of Section 2.04 hereof; and if such Additional Bonds are authorized for any purpose other than the refunding of Bonds, such Supplemental Resolution shall describe in brief and general terms the Completion Project to be financed by the issuance of such Additional Bonds.

(b) A copy of any Supplemental Resolution that has been duly adopted by the Authority, if required, certified by an Authorized Officer of the Authority, fixing the rate or rates of interest on such Additional Bonds and all other terms and provisions thereof that are not fixed by the terms of the Supplemental Resolution referred to in subparagraph (a) above or in this Bond Resolution.

(c) Reserved.

(d) If such Additional Bonds are authorized for the purpose described in clause (b) or (c) of paragraph (1) of Section 2.04 hereof, (i) a certificate of an Authorized Officer of each of the Authority and the Company to the effect that the Company Lease Agreement has been amended to cover the issuance of the Additional Bonds, but only to the extent Basic Lease Payments, and with respect to the Purchase Option Price or Mandatory Purchase Price, Additional Lease Payments, shall be adjusted to provide a source of payment of the principal of, redemption premium, if any, and interest on Outstanding Bonds, (ii) a copy of such amended Company Lease Agreement, and (iii) a Certificate of an Authorized Officer of the Company, dated the date of issuance of such Additional Bonds, to the effect that all of the representations, warranties and covenants of the Company contained in the Company Lease Agreement are, as of such date, true, accurate and complete. If no such amendment to the Company Lease Agreement is required, a Counsel's opinion stating same shall be delivered to the Trustee.

(e) The written order of the Authority as to the delivery of such Additional Bonds signed by an Authorized Officer and stating the amount of the proceeds derived from the sale of such Additional Bonds.

(f) The amount, if any, stated in said written order as the amount of such proceeds that will be paid by the Authority to the Trustee for deposit in the Debt Service Fund, which amount shall be held by the Trustee in the Debt Service Fund.

(g) The amounts, if any, stated in said written order as the amounts of such proceeds that will be paid by the Authority to the Trustee for deposit in the Project Fund or in the

Costs of Issuance Account or Administrative Expense Account in the Administrative Fund, as the case may be, which amounts shall be held by the Trustee in the Project Fund or in the Costs of Issuance Account or Administrative Expense Account in the Administrative Fund, as the case may be.

(h) Reserved.

(i) If such Additional Bonds are authorized for the purpose described in clause (b) of paragraph (1) of Section 2.04 hereof, the amount of such proceeds that will remain after deducting the amounts, if any, to be paid to the Trustee in accordance with the terms of subparagraphs (f) and (g) above.

(j) If such Additional Bonds are authorized for the purpose described in clause (c) of paragraph (1) of Section 2.04 hereof, a Certificate of the Architect or a Certificate of an Authorized Officer of each of the Authority and the Local Unit stating (i) the opinion that the improvement described in such Supplemental Resolution constitutes a Completion Project, (ii) that the improvement for which Additional Bonds are to be issued is part of a Project for which Bonds had theretofore been issued, (iii) the amount of proceeds to be deposited in the Project Fund, if any, and (iv) that such proceeds, together with any other funds of the Authority or otherwise that are then available or are expected to be available therefor, will be sufficient, in his opinion, to pay the Costs of the completion of the acquisition, construction, renovation or installation of said improvement.

(k) An opinion of Bond Counsel approving the form of the Supplemental Resolution authorizing the issuance of the Additional Bonds and stating that (i) its terms and provisions conform to the requirements of the Act and this Bond Resolution, (ii) the order, certificates and amounts of money to be delivered or paid to the Trustee in accordance with the provisions of this Section 2.05 constitute compliance with the conditions hereinabove stated for the authentication and delivery of such Additional Bonds, (iii) all of the conditions precedent to the authentication and delivery of the Additional Bonds have been satisfied, and (iv) the Trustee may lawfully authenticate the Additional Bonds upon their original issuance.

(i) If the Additional Bonds are insured, a copy of any municipal bond insurance policy issued with respect to such Additional Bonds.

(m) Any additional documents that are required to be executed and delivered pursuant to the terms of any contract executed by or on behalf of the Authority in connection with the sale of Additional Bonds, unless the execution and delivery of such additional documents have been waived by the purchaser of such Additional Bonds.

(n) Such other documents as may be required by a Supplemental Resolution of the Authority duly adopted prior to the authentication and delivery of the Additional Bonds, or as may be required by a Certificate of an Authorized Officer of the Authority executed in connection with the sale of such Additional Bonds.

2. If such Additional Bonds are authorized for the purpose described in clause (c) of paragraph (1) of Section 2.04 hereof, the Trustee shall deposit in the Project Fund the proceeds derived from the sale of such Additional Bonds issued for the Completion Project. The moneys so deposited shall be applied by the Authority and the Trustee to pay the Costs of the improvements described in the Supplemental Resolution of the Authority authorizing the issuance of such Additional Bonds.

3. If such Additional Bonds are authorized for the purpose described in clause (b) of paragraph (1) of Section 2.04 hereof, the Trustee shall deposit, at the direction of the Authority, (i) in the Costs of Issuance Account in the Administrative Fund an amount sufficient to pay the Costs of Issuance of such Additional Bonds, (ii) such other amounts not to be used for the refunding of such Bonds, if any, in such Funds and Accounts in accordance with the terms of the Supplemental Resolution, and (iii) the remaining proceeds derived from the sale of such Additional Bonds to the refunding of such Bonds in accordance with the terms of the Supplemental Resolution of the Authority authorizing the issuance of such Additional Bonds.

## **SECTION 2.06. Book-Entry System.**

1. Except as provided in subparagraph (3) of this Section 2.06, the Registered Owner of all of the Series 2011 Bonds shall be, and the Series 2011 Bonds shall be registered in the name of, Cede & Co., as nominee for DTC. Payment of interest on any Series 2011 Bond shall be made by wire transfer to the account of Cede & Co. on the Interest Payment Dates for the Series 2011 Bonds at the address indicated for Cede & Co. in the registry books of the Authority kept by the Trustee.

2. The Series 2011 Bonds shall be issued initially in the form of a separate, single, fully-registered Bond in the amount of each stated maturity of the Series 2011 Bonds. Upon initial issuance, the ownership of each such Series 2011 Bond shall be registered in the registry books of the Authority kept by the Trustee in the name of Cede & Co., as nominee for DTC. With respect to Series 2011 Bonds registered in the registry books of the Authority kept by the Trustee in the name of Cede & Co., as nominee for DTC, the Authority and any Fiduciary shall have no responsibility or obligation to any participant or to any beneficial owner of such Series 2011 Bonds. Without limiting the immediately preceding sentence, the Authority and any Fiduciary shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any participant with respect to any beneficial ownership interest in the Series 2011 Bonds, (ii) the delivery to any participant, any beneficial owner or any other person, other than DTC, of any notice with respect to the Series 2011 Bonds, including any notice of redemption, or (iii) the payment to any participant, any beneficial owner or any other person, other than DTC, of any amount with respect to the principal or Redemption Price, if any, of or the interest on the Series 2011 Bonds. The Authority and any Fiduciary may treat DTC as, and deem DTC to be, the absolute Owner of each Series 2011 Bond for the purpose of payment of the principal or Redemption Price, if any, of and the interest on each such Series 2011 Bond, for the purpose of giving notices of redemption and other matters with respect to such Series 2011 Bonds, for the purpose of registering transfers with respect to such Series 2011 Bonds and for all other purposes whatsoever. The Paying Agent shall pay all principal or Redemption Price, if any, of and all interest on the Series 2011 Bonds only to or upon the order of DTC, and all such payments shall be valid and effective to satisfy and discharge fully the Authority's obligations with respect to the principal or Redemption Price, if any, of and the interest on the Series 2011 Bonds to the extent of the sum or sums so paid. No person other than DTC shall receive a Series 2011 Bond evidencing the obligation of the Authority to make payments of principal or Redemption Price, if any, of and interest on the Series 2011 Bonds pursuant to this Bond Resolution. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the transfer provisions hereof, the term "Cede & Co." in this Bond Resolution shall refer to such new nominee of DTC.

3. (a) DTC may determine to discontinue providing its services with respect to the Series 2011 Bonds at any time by giving written notice to the Authority and the Fiduciaries and discharging its responsibilities with respect thereto under applicable law.

(b) The Authority, in its sole discretion and without the consent of any other person, may terminate the services of DTC with respect to the Series 2011 Bonds if the Authority so determines, and shall terminate the services of DTC with respect to the Series 2011 Bonds upon receipt by the Authority and the Fiduciaries of written notice from DTC to the effect that DTC has received written notice from participants having interests, as shown in the records of DTC, in an aggregate principal amount of not less than fifty percent (50%) of the aggregate principal amount of the then Outstanding Series 2011 Bonds and further to the effect that: (i) DTC is unable to discharge its responsibilities with respect to the Series 2011 Bonds; or (ii) a continuation of the requirement that all of the Outstanding Series 2011 Bonds be registered in the registration books of the Authority kept by the Trustee in the name of Cede & Co., as nominee for DTC, is not in the best interests of the beneficial owners of the Series 2011 Bonds.

(c) Upon the termination of the services of DTC with respect to the Series 2011 Bonds pursuant to subsection 2.06(3)(b)(ii) hereof, or upon the discontinuance or termination of the services of DTC with respect to the Series 2011 Bonds pursuant to subsection 2.06(3)(a) or subsection 2.06(3)(b)(i) hereof, after which no substitute securities depository willing to undertake the functions of DTC hereunder can be found that, in the opinion of the Authority, is willing and able to undertake such functions upon reasonable and customary terms, the Series 2011 Bonds shall no longer be restricted to being registered in the registration books of the Authority kept by the Trustee in the name of Cede & Co., as nominee for DTC, but may be registered in whatever name or names Bondholders transferring or exchanging Series 2011 Bonds shall so designate, all in accordance with the provisions of Article II hereof.

4. Notwithstanding any other provision of this Bond Resolution to the contrary, so long as any Series 2011 Bond is registered in the name of Cede & Co., as nominee for DTC, all payments with respect to the principal or Redemption Price, if any, of and the interest on such Series 2011 Bond and all notices with respect thereto shall be made and given, respectively, to DTC as provided in the representation letter of the Authority addressed to DTC with respect to the Series 2011 Bonds.

5. In connection with any notice or other communication to be provided to Bondholders by the Authority or the Trustee pursuant to this Bond Resolution with respect to any consent or other action to be taken by Bondholders, the Authority or the Trustee, as the case may be, shall establish a record date for such consent or other action and shall give DTC notice of such record date not less than fifteen (15) calendar days in advance of such record date, to the extent possible.

## ARTICLE III

### GENERAL TERMS AND PROVISIONS OF BONDS

#### SECTION 3.01. Medium of Payment; Form and Date; Letters and Numbers.

1. The Bonds shall be payable, with respect to principal, Redemption Price, if any, and interest, in any coin or currency of the United States of America that at the time of payment is legal tender for the payment of public and private debts.

2. The Bonds of each Series shall be issued only in the form of fully registered Bonds without coupons in denominations of \$5,000 or any integral multiple thereof. The Bonds of each Series shall be in substantially the form set forth in Section 14.01 hereof or substantially in the form set forth in a Supplemental Resolution authorizing such Series.

3. Each Bond shall be lettered and numbered as provided in this Bond Resolution or in a Supplemental Resolution providing for the issuance of the Series of which such Bond is a part and so as to be distinguished from every other Bond.

Bonds of each Series issued on the date of original issuance shall be dated and bear interest from the date set forth in this Bond Resolution or in a Supplemental Resolution authorizing such Series of Bonds. Bonds of each Series issued after the date of original issuance shall be dated as of the date of authentication thereof by the Trustee. Interest on each Bond shall be payable from the most recent Interest Payment Date next preceding the date of such Bond to which interest has been paid, unless the date of such Bond is an Interest Payment Date to which interest has been paid, in which case interest shall be payable from such date, or unless the date of such Bond is prior to the first Interest Payment Date on the Bonds, in which case interest shall be payable from the earliest date on which interest shall have accrued on such Series of Bonds, or unless the date of such Bond is between the Record Date and the next succeeding Interest Payment Date, in which case interest shall be payable from such Interest Payment Date.

4. The principal and Redemption Price, if any, of and the interest on each Series of Bonds shall be payable as provided in this Bond Resolution or in a Supplemental Resolution relating to such Series of Bonds.

#### SECTION 3.02. Legends.

The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Bond Resolution as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission or brokerage board, the Act or otherwise, as may be determined by the Authority prior to the authentication and delivery thereof.

### **SECTION 3.03. Execution and Authentication.**

1. The Bonds shall be executed in the name of the Authority by the manual or facsimile signature of the Chairman or other Authorized Officer of the Authority, and its corporate seal (or a facsimile thereof) shall be impressed, imprinted, engraved or otherwise reproduced thereon and attested by the manual or facsimile signature of the Secretary, Assistant Secretary or other Authorized Officer of the Authority, or in such other manner as may be required or permitted by law. In case any one or more of the Authorized Officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall have been authenticated and delivered by the Trustee, such Bonds may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond of a Series may be signed and sealed on behalf of the Authority by such persons who, at the time of the execution of such Bonds, shall be duly authorized or shall hold the proper office in the Authority, although at the date borne by the Bonds of such Series such persons may not have been so authorized or have held such office.

2. The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in this Bond Resolution or in a Supplemental Resolution authorizing such Series of Bonds, executed manually by the Trustee. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under this Bond Resolution, and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. Such certificate of the Trustee upon any Bond executed on behalf of the Authority shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under this Bond Resolution and that the Holder thereof is entitled to the benefits of this Bond Resolution.

### **SECTION 3.04. Transfer and Registry.**

1. Each Bond shall be transferable only upon the books of the Authority, which shall be kept for that purpose at the Principal Office of the Trustee, by the Holder thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Trustee duly executed by the Holder or his duly authorized attorney. Upon the transfer of any such Bond, the Authority shall issue in the name of the transferee a new Bond or Bonds of the same aggregate principal amount, Series and maturity as the surrendered Bond.

2. The Authority and each Fiduciary may deem and treat the person in whose name any Bond shall be registered upon the books of the Authority as the absolute Owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price, if any, of and the interest on such Bond and for all other purposes, and all such payments so made to any such Holder or upon his order shall be

valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Authority nor any Fiduciary shall be affected by any notice to the contrary.

### **SECTION 3.05. Regulations With Respect to Exchanges and Transfers.**

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the Authority shall execute, and the Trustee shall authenticate and deliver, Bonds in accordance with the provisions of this Bond Resolution. All Bonds surrendered in any such exchange or transfer shall forthwith be canceled by the Trustee. For every such exchange or transfer of Bonds, whether temporary or definitive, the Authority or the Trustee may make a charge sufficient to reimburse it for any administrative costs associated with any exchange or transfer and for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. Neither the Authority nor the Trustee shall be required (a) to transfer or exchange Bonds for a period beginning on the Record Date next preceding an Interest Payment Date for the Bonds and ending on such Interest Payment Date, or for a period of fifteen (15) days (or such lesser period as may be specified in a Supplemental Resolution for a particular Series of Bonds) next preceding the date of any selection of Bonds to be redeemed or thereafter until after the mailing of any notice of redemption, or (b) to transfer or exchange any Bonds called or tendered for redemption.

### **SECTION 3.06. Bonds Mutilated, Destroyed, Stolen or Lost.**

In case any Bond shall become mutilated or be destroyed, stolen or lost, the Authority shall execute, and thereupon the Trustee shall authenticate and deliver, a new Bond of like Series, maturity and principal amount as the Bond so mutilated, destroyed, stolen or lost (i) in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond or (ii) in lieu of and in substitution for the Bond so destroyed, stolen or lost upon filing with the Trustee evidence satisfactory to the Authority that such Bond has been destroyed, stolen or lost and proof of ownership thereof, and upon furnishing the Authority and the Trustee with indemnity satisfactory to them and complying with such other reasonable regulations as the Authority may prescribe and paying such expenses as the Authority and the Trustee may incur. All mutilated Bonds so surrendered to the Trustee shall be canceled by it. Any such new Bonds issued pursuant to this Section 3.06 in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Authority, whether or not the Bonds so alleged to be destroyed, stolen or lost be at any time enforceable by anyone, and such Bonds shall be equally secured by, and entitled to equal and proportionate benefits with all other Bonds issued under this Bond Resolution in, any moneys or securities held by the Authority or any Fiduciary for the benefit of the Bondholders.

### **SECTION 3.07. Temporary Bonds.**

1. Until the definitive Bonds of any Series are prepared in the form required by the Authority, the Authority may execute, in the same manner as is provided in Section 3.03 hereof,

and the Trustee shall authenticate and deliver, in lieu of definitive Bonds but subject to the same provisions, limitations and conditions as the definitive Bonds, one or more temporary Bonds substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The Authority, at its own expense, shall prepare and execute, and upon the surrender of such temporary Bonds for exchange and the cancellation of such surrendered temporary Bonds, the Trustee shall authenticate and, without charge to the Holder thereof (but at the expense of the Authority), deliver in exchange therefor, definitive Bonds of the same aggregate principal amount, Series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds authenticated and issued pursuant to this Bond Resolution.

2. All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith canceled by the Trustee.

### **SECTION 3.08. Cancellation and Destruction of Bonds.**

All Bonds paid or redeemed, either at or before maturity, shall be delivered to the Trustee when such payment or redemption is made, and such Bonds, together with all Bonds purchased by the Trustee, shall thereupon be promptly canceled. Bonds so canceled may at any time be destroyed by the Trustee, which shall execute a certificate of destruction in duplicate by the signature of one of its Authorized Officers describing the Bonds so destroyed, and one executed certificate shall be filed with the Authority and the other executed certificate shall be retained by the Trustee.

### **SECTION 3.09. Parties Interested Herein.**

Nothing in this Bond Resolution expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Authority, the Trustee, the Paying Agent and the Registered Owners of the Bonds, any right, remedy or claim under or by reason of this Bond Resolution or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Bond Resolution contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Trustee, the Paying Agent and the Registered Owners of the Bonds. Accordingly, nothing in this Bond Resolution expressed or implied is intended or shall be construed to confer upon, or to give to any other Renewable Energy Program Interested Party any right, remedy or claim under or by reason of this Bond Resolution or any covenant, condition or stipulation hereof.

## ARTICLE IV

### REDEMPTION OF BONDS PRIOR TO MATURITY

#### SECTION 4.01. Privilege of Redemption and Redemption Price.

Bonds subject to redemption prior to maturity pursuant to this Bond Resolution shall be redeemable, upon notice as provided in this Article IV, at such times, at such Redemption Prices and upon such terms in addition to the terms contained in this Article IV as may be specified in this Bond Resolution, the Certificate of an Authorized Officer of the Authority referred to in Section 2.02(1)(e) hereof or any Supplemental Resolution authorizing such Series of Bonds.

#### SECTION 4.02. Optional Redemption.

1. The Series 2011 Bonds shall be subject to optional redemption in accordance with the provisions of this Bond Resolution, including, without limitation, Section 2.03(5) hereof, and any other Series of Bonds may be subject to optional redemption in accordance with the terms of a Supplemental Resolution and this Article IV.

2. In the case of any redemption of Bonds at the election of the Authority, the Authority shall give written notice to the Trustee of its election or direction to so redeem, of the redemption date and of the principal amounts of the Bonds of each maturity to be redeemed (which maturities and principal amounts thereof to be redeemed shall be determined by the Authority in its sole discretion, subject to any limitations with respect thereto contained in this Bond Resolution).

3. (a) In the case of any redemption of Bonds at the election of the Authority at the direction of the Company pursuant to the terms of the Company Lease Agreement (including without limitation the payment by the Company of the Purchase Option Price as an Additional Lease Payment thereunder), the Company shall give written notice to the Authority of its direction to so redeem, of the redemption date and of the principal amounts of the Bonds of each maturity to be redeemed (which maturities and principal amounts thereof to be redeemed shall be determined by the Company in its sole discretion, subject to any limitations with respect thereto contained in this Bond Resolution).

(b) In the case of any redemption of Series 2011B Note or any Additional Bonds at the election of the Authority at the direction of the County pursuant to the terms of the County Guaranty, the County shall give written notice to the Authority, with a copy to the Trustee, of the County's direction to so redeem, of the redemption date and of the principal amounts of such Bonds of each maturity to be redeemed (which maturities and principal amounts thereof to be redeemed shall be determined by the County in its sole discretion, subject to any limitations with respect thereto contained in this Bond Resolution and the County Guaranty Agreement).

4. Such notice required under subsection (2) or (3)(a) of this Section 4.02 shall be given at least forty-five (45) days prior to the redemption date or such shorter period as shall be agreed to in writing by the Trustee or the Authority, as the case may be. In the event notice of redemption shall have been given as provided in Section 4.05 hereof, the Authority shall pay or require the Company to pay (in accordance with the terms of the Company Lease Agreement) to the Trustee on or prior to the redemption date an amount in cash that, in addition to other moneys, if any, available therefor held by the Trustee, will be sufficient to redeem on the redemption date at the Redemption Price thereof, plus interest accrued and unpaid to the redemption date, all of the Bonds to be redeemed.

#### **SECTION 4.03. Redemption by Trustee.**

Whenever, by the terms of this Bond Resolution, the Trustee is required to redeem Bonds otherwise than at the election or direction of the Authority or the Company or the County, the Trustee shall select the Bonds to be redeemed, give the notice of redemption as provided in Section 4.05 hereof and pay the Redemption Price thereof out of moneys available therefor, plus interest accrued and unpaid to the redemption date, to the Paying Agent in accordance with the terms of this Article IV and, to the extent applicable, Article V hereof.

#### **SECTION 4.04. Selection of Bonds to be Redeemed.**

1. If less than all of the Bonds of like maturity shall be called for redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected at random by the Trustee in such manner as the Trustee in its discretion may deem fair and appropriate; provided, however, that the portion of any Bond of a denomination of more than \$5,000 to be redeemed shall be in the principal amount of \$5,000 or any integral multiple thereof, and that, in selecting Bonds for redemption, the Trustee shall treat each Bond as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by the minimum denomination in which Bonds of such Series are authorized to be Outstanding after the redemption date.

2. If less than all of the Outstanding Bonds that are stated to mature on different dates are called for redemption at one time on any given redemption date occasioned by the payment of the Purchase Option Price by the Company in accordance with the terms of the Company Lease Agreement, an Authorized Officer of the Company shall designate, by maturity, those Bonds that are to be redeemed on any such redemption date by delivering to the Trustee not earlier than sixty (60) days and not later than forty-five (45) days prior to any such redemption date a Certificate detailing such maturities and the amounts to be redeemed within each such maturity. If the Trustee has not received the Company's Certificate by such forty-fifth (45th) day, or if the redemption is occurring other than by payment of the Purchase Option Price by the Company in accordance with the terms of the Company Lease Agreement, the Trustee shall select the Bonds to be redeemed in the same manner as those Bonds selected in accordance with Section 4.04(1) hereof.

#### **SECTION 4.05. Notice of Redemption.**

When Bonds of a Series (other than the redemption of the Series 2011B Note pursuant to the provisions of Section 4.02(3)(b) hereof; the redemption terms and notice for which shall be as set forth in the County Guaranty Agreement) have been selected for redemption pursuant to any provision of this Bond Resolution, the Trustee shall give written notice of the redemption of such Bonds in the name of the Authority at the times specified in the second paragraph of this Section 4.05, which notice shall set forth: (i) the Series of Bonds to be redeemed, (ii) the date fixed for redemption, (iii) the Redemption Price to be paid, (iv) that such Bonds will be redeemed at the Principal Office of the Paying Agent, (v) if less than all of such Bonds shall be called for redemption, the distinctive numbers and letters, if any, of such Bonds to be redeemed, and (vi) in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed. Such notice shall further state that on the redemption date there shall become due and payable the Redemption Price of all Bonds to be redeemed, together with interest accrued to the redemption date, and that, from and after such date, interest thereon shall cease to accrue and be payable. In case any Bond is to be redeemed in part only, the notice of redemption that relates to such Bond shall also state that on or after the redemption date, upon surrender of such Bond, the Holder thereof shall be entitled to a new Bond or Bonds of the same Series bearing interest at the same rate and in the aggregate principal amount equal to the unredeemed portion of such Bond.

The notice required to be given by the Trustee pursuant to this Section 4.05 shall be sent by first-class mail to the Registered Owners of the Bonds to be redeemed, at their addresses as they appear on the registration books of the Authority, not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date. The failure to give notice of the redemption of any Bond or portion thereof to the Registered Owner of such Bond as herein provided or as provided in Section 4.06(2) hereof shall not affect the validity of the proceedings for the redemption of any Bonds for which notice of redemption has been given in accordance with the provisions of this Section 4.05.

#### **SECTION 4.06. Payment of Redeemed Bonds.**

1. On the date designated for redemption, notice having been given in the manner and under the conditions hereinabove provided, the Bonds or the portions thereof called for redemption shall become and be due and payable at the Redemption Price provided for redemption of such Bonds or such portions thereof on such date. If moneys for the payment of the Redemption Price and the accrued interest to the redemption date are held in a separate account by the Trustee in trust for the Holders of such Bonds, interest on such Bonds or such portions thereof so called for redemption shall cease to accrue and be payable, such Bonds or such portions thereof shall cease to be entitled to any benefit or security under this Bond Resolution, and the Holders of such Bonds or such portions thereof shall have no rights in respect thereof, except to receive payment of the Redemption Price thereof and the accrued interest thereon and, to the extent provided in Section 4.07 hereof, to receive Bonds for any unredeemed portions of Bonds.

2. With respect to any Bonds to be redeemed that have not been presented for redemption within sixty (60) days after the redemption date, the Trustee, at the expense of the Company for any redemption occasioned by the payment of the Purchase Option Price by the Company in accordance with the terms of the Company Lease Agreement, and at the expense of the Authority, if otherwise, shall give a second notice of redemption by registered mail to the Registered Owners of any such Bonds not presented for redemption.

#### **SECTION 4.07. Redemption of Portions of Bonds.**

In case part but not all of an Outstanding Bond shall be selected for redemption, upon presentation and surrender of such Bond to the Paying Agent on or after the redemption date for payment of the principal amount thereof so called for redemption and accrued interest thereon, the Authority shall execute and the Trustee shall authenticate and deliver to or upon the order of the Registered Owner thereof or his attorney or legal representative, without charge therefor, a new Bond or Bonds of the same Series, bearing interest at the same rate and in any denomination or denominations authorized by this Bond Resolution in the aggregate principal amount equal to the unredeemed portion of such Bond.

## ARTICLE V

### REVENUES AND FUNDS

#### SECTION 5.01. Creation of Funds and Accounts.

1. Project Fund, to be held by the Trustee, which shall consist of a Project Account.
2. Administrative Fund, to be held by the Trustee, which shall consist of a Costs of Issuance Account and an Administrative Expense Account, and which Fund and Accounts are not subject to the pledge of the Trust Estate to the Trustee for the benefit of the Bondholders.
3. Revenue Fund, to be held by the Trustee, which shall consist of a Revenue Account, and an Aged Account.
4. Debt Service Fund, to be held by the Trustee, which shall consist of a Capitalized Interest Account, an Interest Account and a Principal Account. A Supplemental Resolution may establish an Account or subaccount for capitalized interest for any Series of Bonds other than the Series 2011 Bonds, if applicable.
5. (a) County Security Fund, to be held by the Trustee, which Fund shall not be subject to the pledge of the Trust Estate, by the Authority to the Trustee, for the benefit of the Bondholders.  
(b) Restoration Security Fund, to be held by the Trustee, which Fund shall not be subject to the pledge of the Trust Estate, by the Authority to the Trustee, for the benefit of the Bondholders.
6. General Fund, to be held by the Trustee, which shall consist of a General Account.
7. There shall be no other Fund or Account established under the Bond Resolution, including without limitation a rebate fund or account, unless created by Supplemental Resolution.

Each of the Funds and Accounts created by this Bond Resolution, other than the Administrative Fund and the County Security Fund, if any, is hereby pledged to, and charged with, the payment of the principal or Redemption Price, if any, of and the interest on the Bonds as the same shall become due.

#### SECTION 5.02. Project Fund.

1. (a) There shall be deposited in the Project Account of the Project Fund, (i) from the proceeds of the Series 2011A Bonds, the amounts set forth in Section 2.03(7)(e)(i) and Section 2.03(7)(e)(iii) hereof, and (ii) from the proceeds of each Series of Additional Bonds for

a Completion Project, the amounts set forth for deposit therein pursuant to the Supplemental Resolutions authorizing the issuance of each such Series of Additional Bonds.

(b) The Company shall pay for the balance of all Project Costs not otherwise provided for in the Project Fund through the In-Kind Equity Contribution or in accordance with Section 5.09(c) of the Company Lease Agreement. All draws on the Project Account of the Project Fund shall be paid subject to, and in accordance with, the Draw Paper Ratio.

2. (a) Subject to the Draw Paper Ratio, and Section 510(c) of the Company Lease Agreement, the Trustee shall make payments, if any, from the Project Account of the Project Fund for Costs of the Renewable Energy Projects and the Capital Improvement Projects for the Series 2011 Local Units in the amounts, at the times on each Draw Date, in the manner and on the other terms and conditions set forth in this Section 5.02(2)(a) and Section 510 and 511 of the Company Lease Agreement. Before any such payment shall be made, the Company shall file with the Trustee the Draw Papers therefor (executed by the Company, acknowledged by the Applicable Series 2011 Local Unit that the Renewable Energy Project Cost or Capital Improvement Project Cost has been incurred in accordance with the Plans and Specifications therefore, and acknowledged as to form only by the Authority), which Draw Papers shall be in substantially the form set forth as Exhibit C to the Company Lease Agreement, including the Draw Paper Ratio. The Trustee shall issue a copy of such Draw Papers to the Authority and the Applicable Series 2011 Local Unit at the address set forth in the Applicable Local Unit License Agreement, and thereupon promptly issue the Trustee's check for each payment required by such Draw Papers to or on behalf of the Company, or the Trustee shall, by interbank transfer or other method, arrange to make and promptly make the payment required by such Draw Papers to or on behalf of the Company.

(b) The Trustee shall also make payments, if any, from the Project Fund for Company Development Fees and Expenses in an aggregate amount not to exceed \$800,000, unless a higher ceiling is specifically authorized by a Certificate of an Authorized Officer of the Authority (which may be provided in the Company Lease Agreement, Exhibit D, Authority acknowledgment as to form only), upon the Trustee's receipt of a duly authorized and executed Certificate of an Authorized Officer of the Company in substantially the form set forth in Exhibit D to the Company Lease Agreement, in the manner and on the other terms and conditions set forth in this Section 5.02(2)(b) and Section 509(d) of the Company Lease Agreement. Such Certificate of an Authorized Officer of the Company may be executed and delivered to the Trustee upon issuance of the Series 2011 Bonds, or thereafter, as the Company shall determine, so long as it is acknowledged by an Authorized Officer of the Authority as to form only in the form set forth on Exhibit D to the Company Lease Agreement, and further, so long as it, together with all prior such Certificates, does not exceed the ceiling noted above (absent specific authorization from the Authority). The Trustee shall promptly issue the Trustee's check for each payment required by such Certificate to or on behalf of the Company, or the Trustee shall, by interbank transfer or other method, arrange to make and promptly make the payment required by such Certificate to or on behalf of the Company.

3. (a) From time to time, in accordance with the terms of the Company Lease Agreement, the Local Unit License Agreements with respect to the Series 2011 Local Units, and this Bond Resolution, the Company shall file with the Trustee, Acceptance Certificates at the following times and with respect to the following matters, and upon receipt thereof, the Trustee shall take the following actions:

(i) The Company shall file with the Trustee the REP Acceptance Certificates in the form set forth as Exhibit B-1 to the Company Lease Agreement, one for each Series 2011 Local Unit, signed by an Authorized Officer of the Company with respect to the Renewable Energy Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Units, when (A) the Company has submitted all Draw Papers respecting Costs of such Renewable Energy Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (B) all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed and installed in accordance with the Plans and Specifications therefor, (C) all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by the Company and such Series 2011 Local Unit, and (D) there are remaining funds on deposit in the Project Fund earmarked for any such Renewable Energy Projects, if any, all in accordance with subsection (b) below. Each such REP Acceptance Certificate shall not be filed by the Company with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, until each such Certificate shall be further acknowledged by an Authorized Officer of the Authority as to form only, and until accompanied by one or more Interconnection Agreements with respect to all such Renewable Energy Projects or Completion Projects related thereto;

(ii) The Company shall file with the Trustee the CIP Acceptance Certificates in the form set forth as Exhibit B-2 to the Company Lease Agreement, one for each Series 2011 Local Unit that is financing Capital Improvement Projects with a portion of the proceeds of the Bonds, signed by an Authorized Officer of the Company with respect to such Capital Improvement Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Units, when (A) the Company has submitted all Draw Papers respecting Costs of such Capital Improvement Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (B) all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed, renovated and installed in accordance with the Plans and Specifications therefor, (C) all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit

have been accepted by such Series 2011 Local Unit, and (D) when there are funds remaining on deposit in the Project Fund earmarked for any such Capital Improvement Projects, if any, all in accordance with subsection (b) below. Each such CIP Acceptance Certificate shall not be filed by the Company with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, and until each such Certificate shall be further acknowledged by an Authorized Officer of the Authority as to form only; and

(b) Prior to the filing of the last Acceptance Certificate for the last Series 2011 Local Unit that is funding a Project, any remaining moneys, including interest, earmarked for a Project for which an Acceptance Certificate shall have been filed, shall remain in the Project Fund. Upon the filing by the Company, as duly acknowledged by the Series 2011 Local Units and the Authority, all in accordance with the terms hereof, of the Company Lease Agreement, and of the Local Unit License Agreements for the Series 2011 Local Units, of the final Acceptance Certificate for all of the Series 2011 Local Units on or prior to December 14, 2012, unless extended in accordance with the terms of the Company Lease Agreement, regardless of which Project, any such Acceptance Certificate shall additionally provide that the Trustee shall transfer any funds remaining on deposit in the Project Fund as follows, and upon the Trustee's receipt of same, without any further authorization, the Trustee shall so apply any such remaining funds: (i) the Trustee shall transfer any such remaining funds to the Debt Service Fund and apply such funds as a credit to the next due Interest Portion of Basic Lease Payments due from the Company, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Company, and if still not fully applied, then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments due from the Company, until fully applied, but only so long as the Company shall not have caused an Event of Default under the Company Lease Agreement or any other Company Document, in which latter case (ii) the Trustee shall transfer any such remaining funds as set forth in a Certificate of an Authorized Officer of the Authority accompanying any such Acceptance Certificate, as applicable, or subsequently delivered to the Trustee, as applicable. To the extent the final Acceptance Certificate for all of the Series 2011 Local Units shall not have been filed by the Company, as duly acknowledged by the Series 2011 Local Units and the Authority, all in accordance with the terms hereof, of the Company Lease Agreement, and of the Local Unit License Agreements for the Series 2011 Local Units, on or prior to December 14, 2012 (thereby causing an Event of Default under, and as defined in, the Company Lease Agreement, but not under this Bond Resolution), the Trustee shall transfer any funds remaining on deposit in the Project Fund as set forth in a Certificate of an Authorized Officer of the Authority.

4. To the extent a Series of Additional Bonds are issued as Tax-exempt Bonds, the Authority shall cause the Company to issue any Draw Papers and Acceptance Certificates on such terms additional to the requirements of this Section 5.02 as shall be required by Bond Counsel as set forth in the provisions of the Tax Certificate for such Series of Additional Bonds.

### **SECTION 5.03. Administrative Fund.**

1. There shall be established within the Administrative Fund a Costs of Issuance Account and an Administrative Expense Account.

2. In addition to the amounts deposited in the Costs of Issuance Account from the proceeds of the Series 2011 Bonds pursuant to Section 2.03(7)(a)(i) hereof and in the Administrative Expense Account from the proceeds of the Series 2011 Bonds pursuant to Section 2.03(7)(a)(ii) hereof, there shall be deposited in the Administrative Fund from the proceeds of each Series of Additional Bonds the amounts set forth for deposit therein pursuant to the Supplemental Resolutions authorizing the issuance of each such Series of Additional Bonds.

3. (a) The Authority shall direct the Trustee, in writing, to make payments from the Costs of Issuance Account in the manner and on the terms and conditions as the Authority shall determine to be fair and reasonable in the payment of the particular items of the Costs of Issuance relating to a particular Series of Bonds and, with respect to any Series of Additional Bonds that constitute Tax-exempt Bonds, in accordance with the provisions of the Tax Certificate. With respect to Costs of Issuance incurred on behalf of a Series 2011 Local Unit for which either direct payment or reimbursement is being sought, such terms and conditions shall include, at a minimum, a Certificate of an Authorized Officer of such Series 2011 Local Unit in the form of Exhibit F to the Local Unit License Agreement, as applicable, to the effect that any such Cost of Issuance for which payment is sought (i) constitutes a Cost of Issuance hereunder, (ii) has been properly incurred in accordance with all applicable law, and (iii) is evidenced by a proper invoice attached to said Certificate. Costs of issuance to be paid by or on behalf of the Company shall not be deemed a Costs of Issuance for purposes of any Program Document, and may be paid or reimbursed as a Company Development Fee and Expense, payable from the Project Fund, in accordance with the terms of Section 5.02(2)(b) hereof and Section 509(d) of the Company Lease Agreement.

(b) Upon the payment of all Costs of Issuance as evidenced by a Certificate of an Authorized Officer of the Authority to such effect, the amounts remaining in the Costs of Issuance Account, if any, shall be transferred according to the direction of any such Certificate of an Authorized Officer of the Authority, to any of the following: (i) to the Administrative Expense Account for payment of Administrative Expenses, (ii) to the Debt Service Fund and applied to pay the interest on and, to the extent available therefor, the principal of the Bonds due and owing on the immediately succeeding Interest Payment Date, (iii) to the Project Fund and applied to the Costs of Projects in accordance with Section 5.02 hereof, (iv) to the General Account of the General Fund and applied as set forth in Section 5.08 hereof or (iv) as otherwise set forth in such Certificate of an Authorized Officer of the Authority.

4. (a) The Trustee shall invoice the Company (i) for the annual Administrative Fee not provided for from a portion of the proceeds of a Series of Bonds, if any, at least sixty (60) days prior to the dates such amounts become due, and (ii) for any other Administrative Expense not provided for from a portion of the proceeds of a Series of Bonds, if any, and that is

approved by the Authority, promptly after the receipt by the Trustee of a Certificate of an Authorized Officer of the Authority delivered to the Trustee to such effect.

(b) The Company shall pay to the Trustee as Additional Lease Payments under the Company Lease Agreement for deposit in the Administrative Expense Account (i) the Administrative Fee when due in accordance with the definition thereof, if any, not otherwise provided for from a portion of the proceeds of a Series of Bonds, and (ii) any other amounts due as Administrative Expenses, including without limitation interest payable at the Overdue Rate at the times set forth herein or in the Company Lease Agreement, as the case may be.

(c) Upon receipt of such Bond proceeds or Additional Lease Payments, as the case may be, the Trustee shall promptly forward the Administrative Fee including, subject to the following sentence, any amounts payable at the Overdue Rate to the Authority and the other amounts due as Administrative Expenses to the party on whose behalf such payments were made. To the extent the Trustee has made an advance of a payment due and owing by the Company under this Bond Resolution, the Company Lease Agreement or any other Program Document and the Company has paid to the Authority moneys at the Overdue Rate, the Authority shall first reimburse the Trustee from any such Overdue Rate receipts to the extent of any such advances made by the Trustee.

(d) The Administrative Fee may be retained or applied by the Authority in its sole discretion for any corporate purpose allowable under the Act as such funds are not subject to the pledge of the Trust Estate unless and until deposited in any Fund or Account under the Bond Resolution, which purposes may include, without limitation, the application to any Fund or Account under the Bond Resolution at the written direction of a Certificate of an Authorized Officer of the Authority filed with the Trustee, which Certificate for all Series of Tax-exempt Bonds, must also comply with the Tax Certificate or otherwise be subject to an opinion of Bond Counsel filed with the Trustee that such application won't adversely affect exclusion from gross income of the holders of any such Series of Tax-exempt Bonds for Federal income tax purposes.

(e) Upon the payment of all Administrative Expenses funded from the Series 2011 Bonds, as evidenced by a Certificate of an Authorized Officer of the Authority to such effect, the amounts remaining in the Administrative Expense Account and allocable to such Series 2011 Bond proceeds, together with interest earned thereon and retained therein, if any, shall be transferred according to the direction of any such Certificate of an Authorized Officer of the Authority, to any of the following: (i) to the Debt Service Fund and applied to pay the interest on and, to the extent available therefor, the principal of the Bonds due and owing on the immediately succeeding Interest Payment Date, (ii) to the Project Fund and applied to the Costs of Projects in accordance with Section 5.02 hereof, (iii) to the General Account of the General Fund and applied as set forth in Section 5.08 hereof or (iv) as otherwise set forth in such Certificate of an Authorized Officer of the Authority.

#### **SECTION 5.04. Revenues.**

All Revenues shall be promptly deposited to the credit of Revenue Account within the Revenue Fund, and all transfers from such Fund shall be made only in accordance with this Article V.

#### **SECTION 5.05. Revenue Fund.**

1. (a) On each Basic Lease Payment Date or any other date on which the Trustee receives Basic Lease Payments from the Company or Power Purchase Price Payments made by the Series 2011 Local Units on behalf of the Company, the Trustee shall deposit each Basic Lease Payment made by the Company pursuant to the terms of the Company Lease Agreement, and any Power Purchase Price Payments made by the Series 2011 Local Units on behalf of the Company, for immediate credit in the Revenue Account within Revenue Fund. The Trustee shall notify the Company, with a copy to the Authority, of the circumstances and amounts providing credits to Basic Lease Payments due from the Company, all at the times and as otherwise required by Sections 302(a)(iii), 305(b), 306(b), and 310(b) of the Company Lease Agreement.

(b) On each date on which the Trustee receives Additional Lease Payments from the Company allocable to the Purchase Option Price or the Mandatory Purchase Price, the Trustee shall deposit each such Additional Lease Payment made by the Company pursuant to the terms of the Company Lease Agreement for immediate credit in the Revenue Account within Revenue Fund.

(c) After any such funds deposited in the Revenue Account within the Revenue Fund in accordance with subsections (a) or (b) above have been on deposit for one hundred twenty-three (123) consecutive days in the Revenue Account within the Revenue Fund, and have not been recaptured by or on behalf of the Company or its other creditors, the Trustee shall transfer such funds to the Aged Account within the Revenue Fund on the first day of the following month (unless the first day of the following month is an Interest Payment Date, in which case the money should be transferred to the Aged Account on the fifteenth (15<sup>th</sup>) day of such present month, or if the transfer date is after such fifteenth (15<sup>th</sup>) day of such present month preceding an Interest Payment Date, transferred immediately).

2. On or prior to each Interest Payment Date, the Trustee shall transfer from moneys on deposit in the Aged Account within the Revenue Fund to the Interest Account in the Debt Service Fund the amount that, together with the amounts, if any, already on deposit in the Interest Account and the amounts, if any, on deposit in the Capitalized Interest Account and designated for use on such Interest Payment Date pursuant to this Bond Resolution or a Supplemental Resolution, is equal in the aggregate to the interest due and payable on the Outstanding Bonds on such Interest Payment Date.

3. On or prior to each Principal Payment Date, the Trustee shall transfer from moneys on deposit in the Aged Account within the Revenue Fund to the Principal Account in the

Debt Service Fund the amount that, together with the amounts, if any, already on deposit in the Principal Account, is equal in the aggregate to the principal, Sinking Fund Installment or Redemption Price due and payable on the Outstanding Bonds on such Principal Payment Date.

4. (a) To the extent the County has made payment of a portion of the principal of and interest on the Bonds under the County Guaranty, on the Business Day following each Interest Payment Date or Principal Payment Date, the Trustee shall immediately pay over to the County any monies on deposit in the Aged Account within the Revenue Fund in satisfaction of and up to the amount of any such County Guaranty payments in the aggregate.

(b) To the extent any funds remain in the Aged Account within the Revenue Fund as of such Business Day following each Interest Payment Date or Principal Payment Date and after accounting for any transfer required by clause (a) above, including in the situation where the County Guaranty has not been drawn, the Trustee shall transfer any such amounts remaining on deposit in the Aged Account within the Revenue Fund (i) first to the Interest Account of the Debt Service Fund up to the amount of the next scheduled interest payment due on the Bonds on the next scheduled Interest Payment Date and (ii) second to the Principal Account of the Debt Service Fund, for which the Company shall receive a credit in the amount of any such monies so transferred first against the Interest Portion and second the Principal Portion of its Basic Lease Payments due on the next scheduled Basic Lease Payment Date, and to the extent any amounts so transferred remain on deposit in the Debt Service Fund, against the next occurring Interest Portion and then Principal Portion of Basic Lease Payments due until fully expended. The Trustee shall promptly notify in writing the Company, the Authority and the County of any transfers made pursuant to this subsection (4).

5. The Trustee shall keep records and accounts with respect to the Revenue Fund so that all amounts received by the Trustee from the Company under the Company Lease Agreement can be properly designated as (i) the Interest Portion of Basic Lease Payments or the Principal Portion of Basic Lease Payments and (ii) other amounts payable under the Company Lease Agreement as Additional Lease Payments (including those attributable to the Purchase Option Price or Mandatory Purchase Price) or investment earnings attributable to such amounts, provided that Basic Lease Payments shall be applied to the Interest Portion prior to the Principal Portion.

#### **SECTION 5.06. Debt Service Fund.**

1. (a) On each Interest Payment Date of the Outstanding Bonds of any Series, the Trustee shall withdraw from the Capitalized Interest Account, if so designated, and the Interest Account in the Debt Service Fund amounts equal in the aggregate to the interest due on such Bonds on such Interest Payment Date. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment of such interest to the Holders as of the Record Date, all in accordance with the terms of this Bond Resolution.

(b) If, by 9:00 a.m. Eastern Standard Time or Eastern Daylight Time, as applicable (“EST”) thirty (30) days’ prior to any Interest Payment Date, the Trustee has determined that there are insufficient funds in the Interest Account in the Debt Service Fund (after taking into account any moneys earmarked for transfer therein from the Revenue Fund and all other amounts available hereunder for transfer into the Interest Account in the Debt Service Fund, including but not limited to all amounts in the County Security Fund) to pay the full amount of interest due and owing on such Bonds on such Interest Payment Date, the Trustee shall immediately notify the Authority, the Company, the County and the Paying Agent of such deficiency. The Trustee shall continue to notify such entities of any continuing deficiency on a weekly basis, with the final notification being 9:00 a.m. EST on any such Interest Payment Date.

(c) The County shall timely satisfy any such deficiency remaining as of 10 a.m. on any such Interest Payment Date, by immediately making a payment under the County Guaranty (in accordance with the terms of the County Guaranty Agreement) in the amount of any continuing deficiency in immediately available funds to the Trustee for deposit in the Interest Account in the Debt Service Fund. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment to Holders as of the Record Date of such interest due on such Bonds on such Interest Payment Date in accordance with this Bond Resolution. The Authority and the Trustee shall enforce the provisions of the County Guaranty to the extent the County fails, for whatever reason, to promptly act in accordance with the terms thereof.

2. (a) On each Principal Payment Date of the Outstanding Bonds of any Series, the Trustee shall withdraw from the Principal Account in the Debt Service Fund amounts equal in the aggregate to the principal (including any Sinking Fund Installment) or Redemption Price, as applicable, due on such Bonds on such Principal Payment Date. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment of such principal (including any Sinking Fund Installment) or Redemption Price, as applicable, to the Holders as of the Record Date, all in accordance with the terms of this Bond Resolution.

(b) If, by 9:00 a.m. EST one (1) month prior to any Principal Payment Date, the Trustee has determined that there are insufficient funds in the Principal Account in the Debt Service Fund (after taking into account any moneys earmarked for transfer therein from the Revenue Fund and all other amounts available hereunder for transfer into the Principal Account in the Debt Service Fund) to pay the full amount of principal (including any Sinking Fund Installment) or Redemption Price, as applicable, due and owing on such Bonds on such Principal Payment Date, the Trustee shall immediately notify the Authority, the Company, the County and the Paying Agent of such deficiency. The Trustee shall continue to notify such entities of any continuing deficiency on a weekly basis, with the final notification being 9:00 a.m. EST on any such Principal Payment Date.

(c) The County shall timely satisfy any such deficiency remaining as of 10 a.m. on any such Principal Payment Date, by immediately making a payment under the County Guaranty (in accordance with the terms of the County Guaranty Agreement) in the amount of any

continuing deficiency in immediately available funds to the Trustee for deposit in the Principal Account in the Debt Service Fund. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment to Holders as of the Record Date of such principal (including any Sinking Fund Installment) or Redemption Price, as applicable, due on such Bonds on such Principal Payment Date in accordance with this Bond Resolution. The Authority and the Trustee shall enforce the provisions of the County Guaranty to the extent the County fails, for whatever reason, to promptly act in accordance with the terms thereof.

3. To the extent moneys on deposit and earned in the Capitalized Interest Account are insufficient to pay interest on any Series of Bonds on any Interest Payment Date through and including the date set forth in the Bond Resolution, including any Supplemental Resolution for that Series of Bonds, the Trustee shall, upon receipt of a Certificate of an Authorized Officer of the Authority to such effect, transfer to the Capitalized Interest Account from moneys on deposit in the Project Fund an amount not exceeding such deficiency at the times set forth in any such Certificate.

#### **SECTION 5.07. County Security Fund/Restoration Security Fund.**

1. The County Security Fund shall be funded as follows:

(a) On or before the Initial Basic Lease Payment Date, the County Security Fund Requirement shall be initially funded with the County Reserve being deposited in the County Security Fund pursuant to the provisions of Section 2.03(7)(c) hereof and **Exhibit B** to the Bond Resolution. Upon the issuance of any Series of Additional Bonds (other than the Series 2011B Note), the designated portion of the proceeds of any such Additional Bonds, or such other funds, as applicable, if deemed necessary, convenient or desirable by the Authority (after consultation with the County), shall be deposited in the County Security Fund at the times, in the amounts, and otherwise in conformity with the terms of any Supplemental Resolution authorizing any such Additional Bonds. To the extent the balance in the County Reserve shall drop below the County Security Fund Requirement from time to time and there is available cash flow to do so after payment of all other Company's expenses, the Company shall be obligated to replenish the County Reserve to an amount equal to the then applicable County Security Fund Requirement to the extent the funds on deposit in the County Security Fund shall have been drawn upon for any reason under the Program Documents, except as set forth in subsection 3(b) below regarding final payment of all Outstanding Bonds. As security for the Company's obligation, among other things, to replenish the County Security Fund as described above, the Company has assigned to the Trustee a portion of, and caused the Pledgor (as defined in the Company Pledge Agreement) to assign to the Trustee the balance of, the Pledged Collateral under the Company Pledge Agreement.

(b) To the extent the Company has caused an Event of Default under the Company Lease Agreement or any other Program Document and the County has made payments under its County Guaranty, the Authority may, and upon the direction of the County, the Authority shall, direct the Trustee, to the maximum extent practicable, to deposit all or a portion

of (i) the Leased Property (including without limitation any product therefrom, including the SRECs, but excluding the Renewable Energy Projects, but only to the extent the Series 2011 Local Units are making their Net Substitute Power Purchase Price payments) or the proceeds therefrom and/or (ii) the Net Substitute Power Purchase Price payments received from time to time, in the County Security Fund, until the County has been reimbursed in full for any such payments. Upon the reimbursement in full of the County for any of its payments under its County Guaranty in accordance with subsection 2 below, in accordance with any County Security Agreement delivered in accordance with subsection 6 below, or otherwise, amounts remaining on deposit in the County Security Fund, shall be distributed in accordance with the County Security Agreement, if any, as Reimbursement Collateral.

2. Upon the Trustee's issuance of a continuing deficiency notice with respect to either or both of the Interest Payment Account or the Principal Payment Account of the Debt Service Fund as of 9:00 a.m. EST on any Interest Payment Date or Principal Payment Date, as the case may be, pursuant to Sections 5.06(1)(b) or 5.06(2)(b), hereof, and upon the Trustee's drawing on the County Guaranty to satisfy any such deficiency in accordance with Sections 5.06(1)(c) or 5.06(2)(c) hereof, as the case may be, the Trustee shall immediately (a) pay over to the County, in immediately available funds, the lesser of (i) the amount of the draw on the County Guaranty or (ii) the entire amount on deposit in the County Security Fund, if any (including after any transfer of amounts pursuant to Section 5.06 hereof) and (b) promptly notify the Authority, and to the extent the Company Lease Agreement has not been terminated, the Company, of the occurrence and amount of such event.

3. (a) Whenever the amount on deposit in the County Security Fund equals or exceeds the principal amount, plus interest due and owing on the next occurring Interest Payment Date and Principal Payment Date, of all Outstanding Series 2011 Bonds plus any Series of Outstanding Additional Bonds so designated by a Supplemental Resolution, the Trustee shall (i) notify the County, the Authority, and the Company of such occurrence, amount, and supporting computations, and (ii) ten (10) Business Days' after such notification, to the extent such computations have been verified by the Authority, promptly transfer any such excess to the Aged Account of the Revenue Fund.

(b) When there are no Series 2011 Bonds Outstanding (and if so designated by a Supplemental Resolution, plus any Series of Outstanding Additional Bonds), whether at final stated maturity, upon redemption of all of such Bonds, or upon acceleration and payment of all of such Bonds, and to the extent the County has been fully reimbursed for all payments it has made under the County Guaranty, the Trustee shall promptly pay over to the Company the entire amount remaining on deposit in the County Security Fund, with notice of such occurrence and amount to be provided by the Trustee to the Authority and the County. To the extent there are funds on deposit in the County Reserve in excess of the County Security Fund Requirement from time to time, such excess shall be promptly released from the County Reserve and be remitted to the Company.

4. Except to the extent expressly permitted in Section 5.06 or this Section 5.07 or in accordance with Section 701 of the Company Lease Agreement, which direction the Trustee shall promptly follow upon receipt of the Company notice detailed therein, and notwithstanding anything to the contrary in this Bond Resolution, unless accompanied by a notice of direction issued to the Trustee, signed by an Authorized Officer of each of the County and the Authority, amounts in the County Security Fund shall not be applied (a) directly, or transferred by the Trustee to any Fund or Account herein, in either case whereby such funds shall be used to pay any portion of the principal of, redemption premium, or interest on the Series 2011 Bonds or any other Series of Additional Bonds or (b) except as expressly set forth in this Bond Resolution. To the extent the Trustee receives any such properly executed notice of direction, the Trustee shall promptly follow such instructions, and simultaneously or promptly thereafter, notify the County, the Authority, and the Company of any such occurrence. Notwithstanding anything to the contrary in this Bond Resolution, as the County Security Fund is excepted from the pledge of the Trust Estate, this Section 5.07 may be amended by the Authority subsequent to the issuance of the Series 2011 Bonds without the consent of the Trustee or the Holders of any Outstanding Bonds.

5. (a) The Trustee shall accept the pledge and assignment of all right, title and interest in and to the Pledged Collateral under the terms of, and as defined in, the Company Pledge Agreement, which shall not be part of the Trust Estate, and therefore shall not be available to Holders of any Series of Outstanding Bonds, including the Series 2011 Bonds. The Trustee shall not exercise any rights and remedies, or take any other action pursuant to the Company Pledge Agreement, without the express written consent of the Authority. Pursuant to Section 4.08 of the Company Pledge Agreement, the Trustee shall be under no obligation to exercise any such rights or take any such action. Any moneys realized by the Trustee from such pledge (or realized by the Authority shall be promptly paid over to the Trustee, and then) shall be promptly deposited by the Trustee in the County Security Fund. In the case of the occurrence of an Event of Default as defined in the Company Pledge Agreement, the Authority may direct the Trustee, through a duly authorized and executed Certificate of an Authorized Officer of the Authority delivered to the Trustee, to further assign all or a portion of the Trustee's right, title and interest in and to the Collateral under the Company Pledge Agreement to the person or entity specified in such Certificate, including without limitation such person or entity undertaking all or a portion of the Company's responsibilities with respect to the Projects as set forth in the Program Documents, and/or to take such further action as set forth in such Certificate.

(b) Should no such Event of Default under the Company Pledge Agreement occur prior to or as of the end of the recapture period relating to the investment tax credit (or the Section 1603 Grant, as defined in the Company Pledge Agreement, in lieu of such credit) available to the Company under Sections 38, 46 and 48 of the Code in connection with the Renewable Energy Projects, as certified to the Trustee by an Authorized Officer of the Company in a Certificate to such effect delivered by or on behalf of the Company to the Trustee and the Authority, the Trustee shall promptly take all actions to release and/or terminate the pledge under the Company Pledge Agreement, including without limitation returning any Certificated

Securities, received pursuant to and as defined under the Company Pledge Agreement, to the Company.

6. Notwithstanding any provision to the contrary herein or in any other Program Document, to the extent the Company has not caused an Event of Default under any Program Document (or any shall have been cured by such time), and the Company delivers to the County, County Security and a fully executed County Security Agreement providing such County Security in an amount greater than or equal to the County Security Fund Requirement applicable at such time, all in a form and substance acceptable, in the County's sole discretion, to the County, then upon the Company's delivery to the Trustee and the Authority of a Certificate of an Authorized Officer of the Company to such effect, such Certificate to be acknowledged in writing by the County, the Trustee shall promptly release all funds (principal, interest and/or any securities or other investments) on deposit in the County Security Fund to the Company.

7. Funds on deposit in the County Security Fund in excess of the County Security Fund Requirement shall remain therein, including any interest earned in accordance with Section 5.11(3) hereof, unless such monies are specifically required to be transferred pursuant to the provisions of Section 5.06 or this Section 5.07 or elsewhere in this Bond Resolution.

8. Upon the Trustee's receipt of a Certificate of an Authorized Officer of the County and the Authority directing the Trustee to transfer funds on deposit in the County Security Fund to any other Fund or Account under this Bond Resolution, including the Revenue Fund or the Debt Service Fund, the Trustee shall make such transfer at the times and in the amounts as set forth in such Certificate. To the extent there would otherwise be insufficient funds in the Interest Account in the Debt Service Fund as provided in Section 5.06(1)(b) hereof, the Trustee shall transfer funds from the County Security Fund in order to eliminate such shortfall. To the extent the Company is not in default under any Company Document, the Company must acknowledge any such Certificate in writing before the Trustee shall transfer any such funds.

9. The Restoration Security Fund shall be funded in accordance with the terms of the Restoration Security Fund Requirement. Funds may be withdrawn from the Restoration Security Fund by the Company upon their submission to the Trustee of a Certificate of an Authorized Officer of the Company to the effect that such funds shall be utilized for the purposes contemplated by Section 3.7 of the Power Purchase Agreement toward restoration of Local Unit Facilities. Pending such withdrawal, funds on deposit in the Restoration Security Fund shall be invested in accordance with the provisions of Section 5.11 of the Bond Resolution, and any investment earnings shall be credited to such Fund until disbursed pursuant to the Certificate noted above.

(a) Alternatively, the funds in the Restoration Security Fund may be transferred by the Trustee in accordance with a Certificate of an Authorized Officer of the Company, so long as such Certificate is acknowledged in writing by the Authority and the affected Series 2011 Local Units, and such transfer shall occur without Bondholder consent.

### **SECTION 5.08. General Fund.**

1. On the first day of each Bond Year beginning December 15, 2016, provided, however, that all transfers from the Revenue Fund required pursuant to subsections (2) and (3) of Section 5.05 hereof shall have been made, any remaining amounts in the General Account of the General Fund may be retained therein or applied by the Authority in its sole discretion for any corporate purpose allowable under the Act.

2. Any such funds, upon withdrawal from the General Account of the General Fund, are not subject to the pledge of the Trust Estate unless and until deposited in any Fund or Account under the Bond Resolution, which purposes may include, without limitation, the application to any Fund or Account under the Bond Resolution at the written direction of a Certificate of an Authorized Officer of the Authority filed with the Trustee, which Certificate for all Series of Tax-exempt Bonds, must also comply with the Tax Certificate or otherwise be subject to an opinion of Bond Counsel filed with the Trustee that such application won't adversely affect exclusion from gross income of the holders of any such Series of Tax-exempt Bonds for Federal income tax purposes.

3. Pending withdrawal, funds on deposit in the General Funds shall be invested in accordance with the provisions of Section 5.11 of the Bond Resolution, and any investment earnings shall be credited to such Fund until disbursed pursuant to the provisions noted above in this Section 5.08.

### **SECTION 5.09. Additional Bonds as a Series of Tax-exempt Bonds.**

The Supplemental Resolution for any Series of Additional Bonds constituting Tax-exempt Bonds shall contain such provisions regarding a rebate fund, rebatable arbitrage, notice, records and other matters as may be required by a Tax Certificate or otherwise required to allow Bond Counsel to issue an opinion that the interest on the gross income of any such Series of Tax-exempt Bonds shall be excludable from the gross income of the Holders thereof for Federal income tax purposes.

### **SECTION 5.10. Moneys to Be Held in Trust.**

All moneys required to be deposited with or paid to the Trustee or the Paying Agent for the account of any Fund or Account established under any provision of this Bond Resolution for the Bonds in accordance with this Bond Resolution, other than the Administrative Fund, shall be held by the Trustee or the Paying Agent, as the case may be, in trust for the Holders of the Bonds and shall constitute part of the Trust Estate while held by the Trustee or the Paying Agent; provided, however, that moneys deposited with or held by the Trustee or the Paying Agent for the redemption of Bonds on or after the redemption date of such Bonds, or for the payment of the principal of, Redemption Price, if any, or the interest on Bonds on or after the date on which such amounts shall have become due, shall be held and applied solely for the redemption or payment of such Bonds or the payment of such interest.

## **SECTION 5.11. Investments.**

1. All moneys in any of the Funds and Accounts created under this Bond Resolution shall be invested by the Trustee (a) with respect to the Project Fund and the Restoration Security Fund, as and if directed by the Company in accordance with Section 310(a) of the Company Lease Agreement, (b) with respect to the County Security Fund, as and if directed by the County, in any Investment Securities, or (c) if clause (a) or (b) are not applicable, either because such provisions do not apply to the other Funds or Accounts contemplated by this Bond Resolution, or the Company and/or the County does not exercise their rights to direct such investments, then as directed by the Authority in writing, subject to the further provisions of this Section 5.11. The Trustee may conclusively rely upon such written direction of the Authority as to any and all investments.

2. Moneys in all Funds and Accounts created under this Bond Resolution, other than the Debt Service Fund and the Accounts established therein, shall be invested in Investment Securities, the principal of and the interest on which are payable not later than the dates on which it is estimated, by the Authority, that such moneys will be required hereunder. Moneys in the Debt Service Fund shall only be invested in such securities as are described in clause (i) of the definition of "Investment Securities" in Section 1.01 hereof, the principal of and the interest on which are payable not later than the dates on which it is estimated, by the Authority, that such moneys will be required hereunder. Moneys on deposit in the Revenue Fund and the Debt Service Fund shall be invested in such Investment Securities as to mature or otherwise become available for payment no later than any Interest Payment Date or Principal Payment Date.

3. Investment Securities as an investment of moneys in any Fund or Account created under this Bond Resolution shall be credited to such Fund or Account, except that any interest earned on monies in the Revenue Account of the Revenue Fund shall be transferred by the Trustee, no less frequently than once a month, to the Aged Account of the Revenue Fund. For the purpose of determining the amount in any Fund or Account at any time in accordance with this Bond Resolution, all Investment Securities credited to such Fund or Account shall be valued annually on the first day of any Bond Year at the lesser of amortized cost (exclusive of accrued interest) or fair market value, and any deficiency resulting therefrom shall be payable by the Company as an Additional Lease Payment under the Company Lease Agreement ratably every month over a period not to exceed five (5) months from such valuation date; provided, however, that any deficiency with respect to the County Security Fund shall only be payable to the extent of available cash flow after payment of all Company expenses.

4. All interest, profits and other income earned and received by the Trustee and the Authority, as appropriate, net of any losses suffered (herein called the "net earnings"), from the investment of moneys in any Fund or Account shall be retained in and treated as part of such Fund or Account and applied in accordance with the applicable Sections of this Bond Resolution governing such Fund or Account, except that any interest earned on monies in the Revenue Account of the Revenue Fund shall be transferred by the Trustee, no less frequently than once a

month, to the Aged Account of the Revenue Fund, and applied in accordance with the applicable Sections of this Bond Resolution governing such Fund or Account

5. The Trustee may act as principal or agent in the acquisition or disposition of any Investment Securities. The Trustee shall exercise its best efforts to sell at market price obtainable, or present for redemption, any Investment Securities to the credit of any Fund or Account created under this Bond Resolution and the Accounts established therein whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from such Fund or Account, and the Trustee shall not be liable for any loss resulting from such necessary sale so made of such investments.

## ARTICLE VI

### PROGRAM DOCUMENTS, BOND PURCHASE AGREEMENT AND OFFICIAL STATEMENTS

#### SECTION 6.01. Terms and Conditions of Program Documents.

The Authority hereby authorizes the Trustee to disburse funds from the Project Fund in accordance with the terms set forth herein and in the Program Documents for the purpose of acquiring, constructing, renovating and installing the Projects. Consequently, the Authority shall enter into or adopt, as the case may be, the Program Documents in the manner, on the terms and conditions and upon submission of the documents required by this Article VI, and not otherwise.

#### SECTION 6.02. Form of Program Documents.

The Authority hereby severally authorizes its Authorized Officers to enter into the Program Documents to be executed or acknowledged by the Authority (a) other than with respect to the Power Purchase Agreement, in the forms thereof attached hereto as **Exhibit A** upon original adoption of this Bond Resolution on September 28, 2011, with such immaterial changes thereto as shall be within the parameters set forth herein and the terms of the Local Finance Board Application, (b) with respect to the Power Purchase Agreement, in the form thereof attached hereto as **Exhibit A** upon original adoption of this Bond Resolution on September 28, 2011, with such immaterial changes thereto as shall be within the parameters set forth herein, in the Local Finance Board Application, and the Company RFP, and (c) to the extent not attached hereto, in such forms as shall be consistent with this Bond Resolution and the terms of the Local Finance Board Application, in both cases, as shall be determined exclusively by any such Authorized Officer, after consultation with Counsel, which determination shall be conclusively evidenced by any such Authorized Officer's execution and delivery thereof. To the extent the final forms of the Program Documents attached hereto shall be materially changed from that attached hereto as **Exhibit A** prior to the issuance of the Series 2011 Bonds, such Program Documents may be authorized by a subsequent authorizing resolution of the Authority without compliance with the provisions of Article XI hereof. The Chairman and any other Authorized Officer shall also take all other actions and execute any other documents, agreements, certificates or other instruments deemed necessary, convenient or desirable by the Chairman or any such other Authorized Officer to consummate the transactions contemplated hereby and by such Program Documents, including without limitation the issuance of the Company RFP; provided, however, that such Program Documents shall in any event conform in all material respects to the provisions of this Article VI.

#### SECTION 6.03. Lease Payments.

The Authority shall establish Basic Lease Payments under the Company Lease Agreement in such amounts that, together with any amounts available and required to be treated as credits

thereunder or under this Bond Resolution, shall be sufficient to pay the principal and prepayment premium, if any, of and the interest on all Series of Bonds as the same become due and payable.

#### **SECTION 6.04. Bond Purchase Agreement or Notice of Sale.**

The Authority hereby severally authorizes its Authorized Officers to either (a) negotiate with an Underwriter selected in accordance with the terms of applicable Authority resolutions for the sale of all of the Series 2011 Bonds and any Series of Additional Bonds upon terms and conditions to be set forth in a bond purchase agreement, which may include the Bond Purchase Agreement, or (b) sell the Series 2011 Bonds to an Underwriter pursuant to the terms of a Notice of Sale or other competitive process, and if applicable, a bond purchase agreement, including the Bond Purchase Agreement, in either case which terms and conditions shall be within the constraints set forth herein, in the Local Finance Board Application, and in such other Authority resolutions pertaining thereto and shall be determined exclusively by any Authorized Officer, after consultation with Counsel, which determination shall be conclusively evidenced by the Authorized Officer's execution and delivery thereof. The Chairman and any other Authorized Officer shall also take all other actions and execute any other documents, agreements, certificates or other instruments deemed necessary or desirable by the Chair or any such other Authorized Officer to consummate the transactions contemplated hereby and by such bond purchase agreement, including the Bond Purchase Agreement.

#### **SECTION 6.05. Preliminary Official Statement.**

1. The Authorized Officers of the Authority are hereby severally authorized and directed, upon satisfaction of all of the legal conditions precedent to the delivery of the preliminary official statement relating to the Series 2011 Bonds and any Series of Additional Bonds by the Authority, as determined by an Authorized Officer of the Authority in consultation with the Chair of and Counsel to the Authority, to deliver the Preliminary Official Statement "deemed final" within the meaning and for the purposes of Rule 15c2-12, and otherwise in the form and with such provisions as such Authorized Officer, after consultation with the Chair of and Counsel to the Authority, deems in their sole discretion to be necessary or desirable for the delivery thereof, which delivery thereof by such Authorized Officer shall conclusively evidence his consent to the provisions thereof.

2. The Authorized Officers of the Authority are hereby severally authorized and directed to execute any certificate or document relating to any statutes, rules or other procedures of the Securities and Exchange Commission, the Municipal Securities Rulemaking Board or any state securities entity that such Authorized Officer, after consultation with the Chair of and Counsel to the Authority, deems necessary or desirable to effect the issuance of the Series 2011 Bonds and any Series of Additional Bonds and the transactions contemplated by the Preliminary Official Statement.

## **SECTION 6.06. Official Statement.**

The Authorized Officers of the Authority are hereby severally authorized and directed to execute and deliver a final Official Statement in substantially similar form to the Preliminary Official Statement, with such changes to reflect the final pricing as set forth in the bond purchase agreement, including the Bond Purchase Agreement as such Authorized Officers, after consultation with the Chair of and Counsel to the Authority, deems necessary or desirable to effect the issuance of the Series 2011 Bonds and any Series of Additional Bonds and the transactions contemplated by the final Official Statement.

## **SECTION 6.07. Continuing Disclosure.**

1. Prior to issuance of the Series 2011 Bonds and any Series of Additional Bonds, the Authority, pursuant to the sole discretion of the Chairman or any other Authorized Officer of the Authority, in consultation with Bond Counsel, general counsel and any other applicable advisors to the Authority, all as may be set forth in the Certificate of an Authorized Officer pursuant to Section 2.02(1)(e) hereof, shall determine if the Company is a materially "obligated person" within the meaning and for the purposes of Rule 15c2-12. If the Company is determined to be a materially "obligated person", it shall be required to enter into the Company Continuing Disclosure Agreement, in such form as set forth in **Exhibit A** hereto as a Program Document authorized thereby.

2. (a) The Authority hereby determines (i) that the County is a "materially obligated person" and (ii) that the Authority is not an "obligated person" within the meaning and for the purposes of Rule 15c2-12.

(b) Accordingly, (i) the Authority and the County shall be required to enter into the County Continuing Disclosure Agreement, in such form as set forth in **Exhibit A** hereto as a Program Document authorized thereby, and together with the Company Continuing Disclosure Agreement, (ii) the Authority hereby covenants to provide notice of Bond Disclosure Events (as defined in each of the respective Continuing Disclosure Agreements), if material, with respect to the Series 2011 Bonds and any Series of Additional Bonds to EMMA (as defined within the definition of MSRB in the Continuing Disclosure Agreements), which is recognized by the SEC and any other governmental authorities with jurisdiction, all as shall be set forth in any such Continuing Disclosure Agreements.

3. Notwithstanding any provision to the contrary in Article XI hereof, the Authority may amend or supplement this Section 6.07 and the corresponding provisions of the Continuing Disclosure Agreements to comply with any amendment, supplement, modification, termination or other change to Rule 15c2-12 without the consent of any other Renewable Energy Program Interested Party or any Bondholder.

## ARTICLE VII

### SERVICING OF LEASE PAYMENTS

#### **SECTION 7.01. Defaults.**

The Trustee shall notify the Authority of its failure to receive any Lease Payment of the Company, if any, due under the Company Lease Agreement, or of any other Event of Default under the Company Lease Agreement known to the Trustee.

Upon the occurrence of an Event of Default under the Company Lease Agreement, the Trustee shall diligently enforce, and take all reasonable steps, actions and proceedings necessary for the enforcement of, all of the terms and conditions of the Company Lease Agreement, including (without limitation) the prompt payment of all Lease Payments and all other amounts due the Authority and the observance and performance of all duties, covenants, obligations and agreements thereunder; provided, however, that the Trustee shall not accelerate the payment of amounts due under the Company Lease Agreement following any Event of Default thereunder (other than any Event of Default that shall automatically accelerate such payment under the Company Lease Agreement).

Except as otherwise provided in the Company Lease Agreement or in this Bond Resolution, the Trustee shall not release the duties, covenants, obligations or agreements of the Company under the Company Lease Agreement, and shall at all times, to the extent permitted by law, defend, enforce, preserve and protect the rights and privileges of the Authority and the Holders under or with respect to the Company Lease Agreement; provided, however, that this provision shall not be construed to prevent the Trustee (with the consent of the Authority) from settling a default under the Company Lease Agreement on such terms as the Trustee shall determine to be in the best interests of the Authority and the Holders. The Authority hereby appoints the Trustee as its agent and attorney-in-fact for the purpose of enforcing all rights, title and interests of the Authority on behalf of the Holders under the Company Lease Agreement, except for the Authority's Reserved Rights.

#### **SECTION 7.02. Termination of Company Lease Agreement.**

Upon the payment in full of all amounts due under the Company Lease Agreement, the Authority shall cancel the obligation of the Company evidenced by the Company Lease Agreement and shall terminate and release all security interests and liens created under the Company Lease Agreement, and the Authority and the Trustee shall take any and all other action required of the Authority or the Trustee thereunder in connection with such cancellation and termination, including (without limitation) the execution of all relevant documents in connection with such actions.

**SECTION 7.03. Files.**

The Trustee shall keep a file for all records and other documents pertaining to disbursements of the Project Fund in accordance with this Bond Resolution, the Company Lease Agreement and the Local Unit License Agreements for the Series 2011 Local Units, and pertaining to all Lease Payments and other amounts received by the Trustee under the Company Lease Agreement, and all communications from or received by the Trustee with respect to the Projects. Such file shall be kept at the Principal Office of the Trustee and shall be available for inspection by the Authority, the Series 2011 Local Units, the County, and the Company and their respective agents at reasonable times and under reasonable circumstances.

**SECTION 7.04. Trustee's Obligations.**

The Trustee shall observe and perform all duties, covenants, obligations and agreements of the Authority under the Company Lease Agreement to the extent specified herein and therein. If an inconsistency arises between the Company Lease Agreement and this Bond Resolution, the Trustee shall rely on this Bond Resolution. Notwithstanding the preceding sentence, the Trustee shall have no duty to acquire, construct, renovate or install the Projects.

## ARTICLE VIII

### GENERAL COVENANTS

#### **SECTION 8.01. Payment of Bonds; Special and Limited Obligations of Authority.**

The Authority shall pay or cause to be paid the principal or Redemption Price, if any, of and the interest on every Bond of each Series on the date, at the place and in the manner provided herein, in the Applicable Supplemental Resolution and in such Bonds according to the true intent and meaning thereof; provided, however, that the Bonds of each Series are special and limited obligations of the Authority, the principal or Redemption Price, if any, of and the interest on which are payable solely from the Trust Estate.

The Bonds of each Series shall not be payable from the general funds of the Authority, and shall not constitute a legal or equitable pledge of, or lien or encumbrance upon, any of the assets or property of the Authority (other than the Trust Estate) or upon any of its income, receipts or revenues, except as provided in this Bond Resolution. The full faith and credit of the Authority are not pledged, either expressly or by implication, to the payment of the Bonds. The Authority has no taxing power, and has no claim on any revenues or receipts of the State or any agency or political subdivision thereof or of the Series 2011 Local Units or the County (except as expressly provided in the County Guaranty).

#### **SECTION 8.02. Observance and Performance of Duties, Covenants, Obligations and Agreements; Representations as to Authorization and Validity of Bonds.**

The Authority shall faithfully observe and perform at all times all of its duties, covenants, obligations and agreements contained in the Company Lease Agreement, this Bond Resolution, any Supplemental Resolution or any Bond executed, authenticated and delivered under this Bond Resolution or under any Supplemental Resolution or in any proceedings of the Authority pertaining thereto.

The Authority represents and covenants that: (i) it is duly authorized under the Constitution and laws of the State, particularly the Act, to issue the Bonds of each Series, to enter into the Company Lease Agreement, and to pledge the Trust Estate in the manner and to the extent set forth in this Bond Resolution and as shall be set forth in any Supplemental Resolution; (ii) all action on its part for the issuance of the Bonds of each Series will be duly and effectively taken; and (iii) the Bonds of each Series in the hands of the Holders thereof will be valid and binding special and limited obligations of the Authority, enforceable against the Authority in accordance with their terms.

#### **SECTION 8.03. Liens, Encumbrances and Charges.**

The Authority shall not create or cause to be created and shall not suffer to exist any lien, encumbrance or charge upon the Trust Estate, except the pledge, lien and charge created for the

security of the Holders of the Bonds. To the extent Revenues are received, the Authority will pay or cause to be discharged, or will make adequate provision to satisfy and discharge, within sixty (60) days after the same shall accrue, all lawful claims and demands that if unpaid might by law become a lien upon the Trust Estate; provided, however, that nothing contained in this Section 8.03 shall require the Authority to pay or cause to be discharged, or to make provision for, any such lien, encumbrance or charge so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

So long as Bonds of any Series shall be Outstanding, the Authority shall not issue any bonds, notes or other evidences of indebtedness, other than such Bonds, secured by any pledge of or other lien or charge on the Trust Estate. Nothing in this Bond Resolution is intended to or shall affect the right of the Authority to issue bonds, notes and other obligations under other resolutions or indentures for any of its other purposes.

#### **SECTION 8.04. Accounts and Audits.**

The Authority shall keep, or cause to be kept, proper books of records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Projects, this Bond Resolution and any Supplemental Resolution, which books and accounts (at reasonable hours and subject to the reasonable rules and regulations of the Authority) shall be subject to the inspection of the Trustee, the Series 2011 Local Units, the County, the Company, any Holder of any Bonds or their agents or representatives duly authorized in writing. The Authority shall have the right to cause such books and accounts to be audited annually within ninety (90) days after the end of its fiscal year by an Independent Public Accountant selected by the Authority. Annually, within thirty (30) days after the receipt by the Authority of the report of such audit, a signed copy of such report shall be furnished to the Trustee. Such report shall include at least: (i) a statement of all Funds and Accounts (including investments thereof) held by the Trustee pursuant to the provisions of this Bond Resolution; (ii) a statement of the Revenues collected in connection with this Bond Resolution; and (iii) a statement that, in making such audit, no knowledge of any payment default in the fulfillment of any of the terms, covenants or provisions of this Bond Resolution was obtained or, if knowledge of any such default was obtained, a statement thereof.

#### **SECTION 8.05. Further Assurances.**

The Authority will pass, make, do, execute, acknowledge and deliver any and all such further resolutions, indentures, actions, instruments and assurances as may be reasonably necessary or proper to carry out the intention, or to facilitate the performance, of this Bond Resolution and for the better assuring and confirming unto the Holders of Bonds the rights and benefits provided in this Bond Resolution.

#### **SECTION 8.06. Tax Covenants.**

In connection with the issuance of any Series of Additional Bonds issued as Tax-exempt Bonds, an Authorized Officer of the Authority is hereby authorized to execute on behalf of the Authority (i) the Tax Certificate and (ii) any similar documents relating to the characterization of such Series of Bonds as not being "arbitrage bonds" within the meaning of Sections 103(a)(2) and 148 of the Code. Any further provisions relating thereto shall be as set forth in the Supplemental Resolution authorizing any such Series of Additional Bonds.

#### **SECTION 8.07. Prepayment of Basic Lease Payments Through the Application of Additional Lease Payments for Purchase Option Price.**

Upon the repayment, in whole or in part, of Basic Lease Payments due and owing under the Company Lease Agreement through the payment of Additional Lease Payments at the then applicable Purchase Option Price, the Authority shall elect to apply such prepayment proceeds (i) to the purchase of Bonds in the secondary market, (ii) to the redemption of Bonds in accordance with Article IV hereof, or (iii) to the payment of Bonds in accordance with Section 12.01 hereof. The Authority may only consent to such partial prepayment pursuant to the Company Lease Agreement if it simultaneously delivers to the Trustee (i) a certificate of an Independent Public Accountant demonstrating that the aggregate Basic Lease Payments due pursuant to the Company Lease Agreement after such prepayment shall be sufficient to pay, when due, the principal of and the interest on all Bonds Outstanding after giving effect to the Authority's election required in the immediately preceding sentence, and (ii) irrevocable instructions to effectuate such election regarding the application of prepayment proceeds, including, without limitation, delivering any documents required under the Company Lease Agreement.

## ARTICLE IX

### DEFAULT PROVISIONS; REMEDIES OF TRUSTEE AND BONDHOLDERS

#### SECTION 9.01. Defaults; Events of Default.

If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "Event of Default" for the Bonds of all Series then Outstanding:

- (a) default in the due and punctual payment of any interest on any Bond; or
- (b) default in the due and punctual payment of the principal, Sinking Fund Installment or Redemption Price of any Bond whether at the stated maturity thereof or on any date fixed for the redemption of such Bond; or
- (c) if (i) the Authority shall be adjudicated a bankrupt or become subject to an order for relief under federal bankruptcy law, (ii) the Authority shall institute a proceeding seeking an order for relief under federal bankruptcy law or seeking to be adjudicated a bankrupt or insolvent or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or all of its debts under New Jersey bankruptcy or insolvency law, (iii) with the consent of the Authority, there shall be appointed a receiver, liquidator or similar official for the Authority under federal bankruptcy law or under New Jersey bankruptcy or insolvency law, or (iv) without the application, approval or consent of the Authority, a receiver, trustee, liquidator or similar official shall be appointed for the Authority under federal bankruptcy law or under New Jersey bankruptcy or insolvency law or a proceeding described in clause (i) above shall be instituted against the Authority, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of sixty (60) consecutive days; or
- (d) if (i) the Authority shall make an assignment for the benefit of creditors, (ii) the Authority shall apply for or seek the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its property, (iii) the Authority shall fail to file an answer or other pleading denying the material allegations of any proceeding filed against it described under clause (iv) of paragraph (c) of this Section 9.01, (iv) the Authority shall take any action to authorize or effect any of the actions set forth in paragraph (c) or (d) of this Section 9.01, (v) the Authority shall fail to contest in good faith any appointment or proceeding described in paragraph (c) or (d) of this Section 9.01, or (vi) without the application, approval or consent of the Authority, a receiver, trustee, examiner, liquidator or similar official shall be appointed for any substantial part of the Authority's property, and such appointment shall continue undischarged or such proceeding shall continue undismissed or unstayed for a period of thirty (30) consecutive days; or
- (e) the Authority shall default in the performance or observance of any other of the duties, covenants, obligations, agreements or conditions on the part of the Authority to be

performed or observed under this Bond Resolution or under the Bonds of each Series, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Trustee or the Bondholders in accordance with Section 9.09 hereof.

**SECTION 9.02. Acceleration of Bonds; Remedies.**

If an Event of Default described in Section 9.01 hereof shall occur for any Series of Bonds, the Trustee shall give written notice thereof to Holders, and at the written request of the Holders of not less than 25% in aggregate principal amount of the Bonds then Outstanding shall, by telephonic notice to the Authority (promptly confirmed in writing), declare the principal of all Bonds then Outstanding to be due and payable; provided, however, that before making such declaration, the Trustee shall give thirty (30) days' notice to the Authority and the Company during which time the Authority shall be able to cure such default. Upon any such declaration, the Trustee shall forthwith give notice thereof to the Company, each Local Unit and the Paying Agent.

At any time after the principal of the Bonds shall have been so declared to be due and payable and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such Event of Default, or before the completion of the enforcement of any other remedy under this Bond Resolution, the Trustee, by written notice to the Authority, may annul such declaration and its consequences if: (i) moneys shall have accumulated in the Interest Account and the Principal Account in the Debt Service Fund sufficient to pay all arrears of interest, if any, upon all of the Outstanding Bonds (except the interest accrued on such Bonds since the last Interest Payment Date) and the principal then due on all Bonds (except the principal on any such Bonds due solely as a result of any such declaration of acceleration); (ii) moneys shall have accumulated and be available sufficient to pay the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee; and (iii) every other default known to the Trustee in the observance or performance of any duty, covenant, obligation, condition or agreement contained in the Bonds or in this Bond Resolution shall have been remedied to the satisfaction of the Trustee; provided, however, that such declaration may be annulled only with the written consent of the Holders of not less than 25% in aggregate principal amount of the Bonds Outstanding and not then due by their terms. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

Upon the occurrence of an Event of Default, the Trustee shall also have the following rights and remedies:

(a) The Trustee may pursue any available remedy at law or in equity or by statute to enforce the payment of the principal of and the interest on the Bonds then Outstanding, including (without limitation) enforcement of any rights of the Authority or the Trustee under the Company Lease Agreement;

(b) The Trustee by action or suit in equity may require the Authority to account as if it were the trustee of an express trust for the Holders of Bonds, and may take such action with respect to the Company Lease Agreement as the Trustee deems necessary or appropriate and in the best interests of the Holders of Bonds, subject to the terms of the Company Lease Agreement; and

(c) Upon the filing of a suit or other commencement of judicial proceedings to enforce any rights of the Trustee and of the Holders of Bonds under this Bond Resolution, the Trustee will be entitled as a matter of right to the appointment of a receiver or receivers of the Trust Estate and the issues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

If an Event of Default shall have occurred with respect to any Bonds, and if requested so to do by the Holders of a majority in aggregate principal amount of the Bonds then Outstanding, and upon being indemnified to its reasonable satisfaction therefor, the Trustee shall be obligated to exercise such one or more of the rights, remedies and powers conferred by this Section 9.02 as directed by such Holders of Bonds.

No right or remedy by the terms of this Bond Resolution conferred upon or reserved to the Trustee (or to the Holders of Bonds) is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to the Trustee or to such Holders hereunder or now or hereafter existing at law or in equity or by statute other than pursuant to the Act. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

No waiver of any Event of Default hereunder, whether by the Trustee or by the Holders of any Bonds in default, shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

### **SECTION 9.03. Right of Holders of Bonds to Direct Proceedings.**

Anything in this Bond Resolution to the contrary notwithstanding, the Holders of a majority in aggregate principal amount of Bonds in default then Outstanding shall have the right at any time during the continuance of an Event of Default of such Bonds, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Bond Resolution or for the appointment of a receiver or any other proceedings

hereunder; provided, however, that such direction shall not be otherwise than in accordance with the provisions of law and of this Bond Resolution.

#### **SECTION 9.04. Application of Moneys.**

All moneys received by the Trustee pursuant to any right or remedy given or action taken under the provisions of this Article IX upon any acceleration of the due date for the payment of the principal of and the interest on the Bonds in default (including, without limitation, moneys received by virtue of action taken under provisions of the Company Lease Agreement, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee and any other moneys owed to the Trustee in connection with such Bonds hereunder) shall be applied, first, to the payment of the principal and the interest then due and unpaid upon the Bonds in default, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto, without any discrimination or privilege.

Whenever moneys are to be applied pursuant to the provisions of this Section 9.04, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard for the amount of such moneys available for application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date, unless the Trustee shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Holder of any Bond in default until such obligation shall be presented to the Trustee for appropriate endorsement or for cancellation, as the case may be.

#### **SECTION 9.05. Remedies Vested in Trustee.**

All rights of action (including, without limitation, the right to file proofs of claims) under this Bond Resolution or under any of the Bonds in default may be enforced by the Trustee without possession of any of the Bonds or the production thereof in any trial or other proceeding related thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee for the equal and ratable benefit of the Holders of all the Outstanding Bonds without the necessity of joining as plaintiffs or defendants any Holders of such Bonds.

#### **SECTION 9.06. Rights and Remedies of Holders of Bonds.**

No Holder of Bonds then Outstanding in default shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of this Bond Resolution or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless (a) an Event of Default shall have occurred, (b) the Holders of not less than 25% in

aggregate principal amount of the Bonds then Outstanding shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the remedies hereinbefore granted or to institute such action, suit or proceeding in its own name, (c) the Holders shall have offered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request, and (d) the Trustee shall have refused, or for sixty (60) days after receipt of such request and offer of indemnification shall have failed, to exercise the remedies hereinbefore granted or to institute such action, suit or proceeding in its own name, and such request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Bond Resolution and to any action or cause of action for the enforcement of this Bond Resolution or for the appointment of a receiver or for any other remedy hereunder. It is understood and intended that no one or more Holders of Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Bond Resolution by his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal and ratable benefit of the Holders of all Bonds then Outstanding; provided, however, that nothing contained in this Bond Resolution shall affect or impair the right of the Holder of any Bond to enforce the payment of the principal or Redemption Price of and the interest on such Bond at and after the maturity thereof, or the obligation of the Authority to pay the principal or Redemption Price of and the interest on each of the Bonds issued hereunder to the respective Holders thereof, at the time and place, from the source and in the manner expressed in the Bonds and in this Bond Resolution and the Applicable Supplemental Resolution.

#### **SECTION 9.07. Termination of Proceedings.**

In case the Trustee or a Holder of a Bond in default shall have proceeded to enforce any right under this Bond Resolution by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or such Holder, then and in every such case the Authority, the Trustee and the Holders of Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee and the Holders shall continue as if no such proceedings had been taken.

#### **SECTION 9.08. Waivers of Events of Default.**

The Trustee may, and upon the written request of the Holders of 50% in aggregate principal amount of all Bonds in default then Outstanding shall, waive any Event of Default that shall have been remedied before the completion of the enforcement of any remedy under this Bond Resolution; but no such waiver shall extend to any subsequent or other Event of Default or impair any rights consequent thereon.

**SECTION 9.09. Notice of Certain Defaults; Opportunity of Authority to Cure Defaults.**

Anything herein to the contrary notwithstanding, no Default under Section 9.01(e) hereof shall constitute an Event of Default until actual notice of such Default shall be given to the Authority, by registered or certified mail, by the Trustee or the Holders of not less than 25% in aggregate principal amount of all Bonds then Outstanding, and the Authority shall not have corrected the Default or caused the Default to be corrected within thirty (30) days following the giving of such notice; provided, however, that if the Default be such that it is correctable but cannot be so corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the Authority within the applicable period and diligently pursued until the Default is corrected.

The Authority hereby grants to the Trustee full authority for the account of the Authority (but the Trustee shall have no obligation) to observe or perform any duty, covenant, obligation or agreement in any alleged Default concerning which notice is given to the Authority under the provisions of this Section 9.09 in the name and stead of the Authority, with full power to do any and all things and acts to the same extent that the Authority could do and to perform any such things and acts and with full power of substitution.

## ARTICLE X

### THE FIDUCIARIES

#### **SECTION 10.01. Appointments, Duties, Immunities and Liabilities of Trustee.**

U.S. Bank National Association, a national banking institution authorized and acting under the laws of the United States of America and further authorized to conduct business in the State, where such bank acts as trustee (the "Trustee"), has been appointed as Trustee hereunder by the Authority. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Bond Resolution, the Company Lease Agreement, the County Guaranty Agreement, and all other Program Documents by executing and delivering to the Authority a written acceptance thereof, and, by executing such acceptance, the Trustee shall be deemed to have accepted such duties and obligations with respect to all the Bonds thereafter to be validly issued, but only, however, upon the terms and conditions set forth in this Bond Resolution and in such other Program Documents.

#### **SECTION 10.02. Paying Agents; Appointments.**

1. The Trustee is hereby appointed Paying Agent for the Series 2011 Bonds. The Authority shall appoint one or more Paying Agents for the Bonds of each additional Series, and may at any time or from time to time appoint one or more other Paying Agents having the qualifications set forth in Section 10.13 hereof for a successor Paying Agent.

2. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Bond Resolution by executing and delivering to the Authority and to the Trustee a written acceptance thereof.

3. Unless otherwise provided, the principal corporate trust offices of the Paying Agents are designated as the respective offices or agencies of the Authority for the payment of the principal or Redemption Price, if any, of and the interest on the Bonds.

4. The Authority may enter into agreements with any Paying Agent providing for the payment to the Authority of amounts in respect of interest earned on moneys held by such Paying Agent for the payment of principal or Redemption Price, if any, of and the interest on the Bonds. Any such payments to the Authority shall be deposited in the Revenue Fund and applied as Revenues.

#### **SECTION 10.03. Responsibilities of Fiduciaries.**

1. The recitals of fact contained herein and in the Bonds shall be taken as the statements of the Authority, and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representation as to the validity or sufficiency of this Bond Resolution or of any Bonds issued hereunder or as to the security afforded hereby, and no

Fiduciary shall incur any liability in respect thereof. The Trustee shall, however, be responsible for its representation contained in its certificate on the Bonds. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid to the Authority or to any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act that would involve it in expense or liability or to institute or defend any suit in respect thereof or to advance any of its own moneys, unless properly indemnified by the Authority or the Local Unit. Subject to the provisions of subsection (2) of this Section 10.03, no Fiduciary shall be liable in connection with the observance and performance of its duties and obligations hereunder except for its own negligence or willful misconduct.

2. The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default that may have occurred, undertakes to perform such duties and obligations and only such duties and obligations as are specifically set forth in this Bond Resolution. In case an Event of Default has occurred (which has not been cured), the Trustee shall exercise such of the rights and powers invested in it by this Bond Resolution, and use the same degree of care and skill in its exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs. Any provision of this Bond Resolution relating to action taken or to be taken by the Trustee or to evidence upon which the Trustee may conclusively rely shall be subject to the provisions of this Section 10.03.

#### **SECTION 10.04. Evidence Upon Which Fiduciaries May Act.**

1. Each Fiduciary, upon receipt of any written notice, Supplemental Resolution, written request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it pursuant to any provision of this Bond Resolution, shall examine such instrument to determine whether it conforms to the requirements of this Bond Resolution and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with Counsel, who may or may not be counsel to the Authority, and the opinion of such Counsel shall be full and complete authorization and protection in respect of any action taken or suffered by any Fiduciary under this Bond Resolution in good faith and in accordance therewith.

2. Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Bond Resolution, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate of an Authorized Officer of the Authority, and such Certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Bond Resolution upon the faith thereof.

3. Except as otherwise expressly provided in this Bond Resolution, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof by the Authority to any Fiduciary shall be sufficiently executed in the name of the Authority by an Authorized Officer of the Authority.

4. Whenever any Fiduciary shall receive any written notice, Supplemental Resolution, written request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it via telecopy pursuant to any provision of this Bond Resolution, the Fiduciary shall accept same; provided, however, that the original of any notice, Supplemental Resolution, request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it pursuant to any provision of this Bond Resolution be shall be forwarded to the Fiduciary immediately thereafter.

#### **SECTION 10.05. Compensation.**

The Authority shall pay each Fiduciary from time to time reasonable compensation for all services rendered under this Bond Resolution, including, without limitation, the services rendered pursuant to Section 12.01 hereof, and also all reasonable expenses incurred in and about the performance of their powers and duties under this Bond Resolution, and each Fiduciary shall have a lien therefor on any and all Funds and Accounts at any time held by it under this Bond Resolution. Subject to the provisions of Section 10.03 hereof, each of the Authority and the Company further agrees to indemnify and save each Fiduciary harmless against any losses, liabilities or expenses (including legal fees) that it may incur in the exercise and performance of its powers, duties and obligations hereunder that are not due to its negligence or willful misconduct, and such indemnity shall survive the payment of the Bonds and the discharge of this Bond Resolution and the resignation or removal of the Trustee.

#### **SECTION 10.06. Certain Permitted Acts.**

Any Fiduciary may become the Holder of any Bonds with the same rights that it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depositary for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Bond Resolution, whether or not any such committee shall represent the Holders of a majority in aggregate principal amount of the Bonds then Outstanding.

#### **SECTION 10.07. Resignation of Trustee.**

The Trustee may at any time resign and be discharged of the duties and obligations created by this Bond Resolution by giving not less than sixty (60) days' written notice to the Authority, and mailing notice thereof to the Holders of the Bonds then Outstanding, specifying the date when such resignation shall take effect, and such resignation shall take effect upon the day specified in such notice unless previously a successor shall have been appointed by the Authority or the Bondholders as provided in Section 10.09 hereof, in which event such resignation shall take effect immediately upon the appointment of such successor, or unless a successor shall not have been appointed by the Authority or the Bondholders as provided in Section 10.09 hereof on that date, in which event such resignation shall not take effect until a successor is appointed.

### **SECTION 10.08. Removal of Trustee.**

The Trustee may be removed at any time by an instrument or concurrent instruments in writing, filed with the Trustee and signed by the Holders of a majority in aggregate principal amount of the Bonds then Outstanding or their attorneys-in-fact duly authorized, excluding any Bonds held by or for the account of the Authority. So long as no Event of Default or any event that, with notice or passage of time or both, would become an Event of Default shall have occurred and be continuing, the Trustee may be removed at any time for just cause (as determined in the sole judgment of the Authority) by a resolution of the Authority filed with the Trustee.

### **SECTION 10.09. Appointment of Successor Trustee.**

1. In case at any time the Trustee shall resign, be removed or become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, a successor Trustee may be appointed by the Authority by a duly executed written instrument signed by an Authorized Officer of the Authority. However, if the Authority does not appoint a successor Trustee within forty-five (45) days, the Holders of a majority in aggregate principal amount of the Bonds then Outstanding, excluding any Bonds held by or for the account of the Authority, may appoint a successor Trustee by an instrument or concurrent instruments in writing signed and acknowledged by such Bondholders or their attorneys-in-fact duly authorized and delivered to such successor Trustee, notification thereof being given to the Authority and the predecessor Trustee. After such appointment of a successor Trustee, the Authority shall mail notice of any such appointment made by it or the Bondholders to the Holders of all Bonds then Outstanding.

2. If in a proper case no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section 10.09 within forty-five (45) days after the Trustee shall have given to the Authority written notice as provided in Section 10.07 hereof or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, the Trustee or the Holder of any Bond may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

3. Any Trustee appointed pursuant to the provisions of this Section 10.09 in succession to the Trustee shall be a bank or trust company or national banking association doing business and having its principal office in the City and State of New York or the State and having capital stock and surplus aggregating at least \$50,000,000, if there be such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all of the duties imposed upon it by this Bond Resolution.

#### **SECTION 10.10. Transfer of Rights and Property to Successor Trustee.**

Any successor Trustee appointed under this Bond Resolution shall execute, acknowledge and deliver to its predecessor Trustee and to the Authority an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all of the moneys, estates, properties, rights, powers, duties and obligations of such predecessor Trustee, with like effect as if originally named as Trustee hereunder; but the Trustee ceasing to act shall nevertheless, on the written request of the Authority or the successor Trustee, execute, acknowledge and deliver such instrument of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all of the right, title and interest of the predecessor Trustee in and to any property held by it under this Bond Resolution, and such predecessor Trustee shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the Authority be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such estates, rights, powers and duties, any and all such deeds, conveyances and instruments in writing shall, on request and so far as may be authorized by law, be executed, acknowledged and delivered by the Authority. Any such successor Trustee shall promptly notify the Paying Agent of its appointment as Trustee.

#### **SECTION 10.11. Merger or Consolidation.**

Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or substantially all of its corporate trust business, provided such company (i) shall be a bank or trust company organized under the laws of any state of the United States of America or a national banking association and (ii) shall be authorized by law to perform all of the duties imposed upon it by this Bond Resolution, shall be the successor to such Fiduciary without the execution or filing of any paper or the performance of any further act.

#### **SECTION 10.12. Adoption of Authentication.**

In case any of the Bonds contemplated to be issued under this Bond Resolution shall have been authenticated but not delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee so authenticating such Bonds and deliver such Bonds so authenticated; and in case any of the said Bonds shall not have been authenticated, any successor Trustee may authenticate such Bonds in the name of the predecessor Trustee or in the name of the successor Trustee, and in all such cases such certificate of authentication shall have the same force and effect that it is anywhere in said Bonds or in this Bond Resolution.

**SECTION 10.13. Resignation or Removal of Paying Agent; Appointment of Successor.**

1. Any Paying Agent may at any time resign and be discharged of the duties and obligations created by this Bond Resolution by giving at least sixty (60) days' written notice to the Authority, the Trustee and the other Paying Agents. Any Paying Agent may be removed at any time by an instrument filed with such Paying Agent and the Trustee and signed by an Authorized Officer of the Authority. Any successor Paying Agent shall be appointed by the Authority with the approval of the Trustee, and shall be a bank or trust company organized under the laws of any state of the United States of America or a national banking association and having capital stock and surplus aggregating at least \$20,000,000, and be willing and able to accept the office on reasonable and customary terms and authorized by law to perform all of the duties imposed upon it by this Bond Resolution.

2. In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent to its successor or, if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Paying Agent, the Trustee shall act as such Paying Agent.

## ARTICLE XI

### AMENDMENTS

#### **SECTION 11.01. Supplemental Resolutions Effective Upon Filing With Trustee.**

For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution of the Authority may be adopted, which, upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority, shall be fully effective in accordance with its terms:

1. To close this Bond Resolution against, or provide limitations and restrictions contained in this Bond Resolution on, the authentication and delivery of Bonds;
2. To add to the duties, covenants, obligations and agreements of the Authority in this Bond Resolution, other duties, covenants, obligations and agreements to be observed and performed by the Authority that are not contrary to or inconsistent with this Bond Resolution as theretofore in effect;
3. To add to the limitations and restrictions in this Bond Resolution, other limitations and restrictions to be observed by the Authority that are not contrary to or inconsistent with this Bond Resolution as theretofore in effect;
4. To authorize Bonds of a Series and, in connection therewith, to specify and determine the matters and things referred to in Article II hereof and any other matters and things relative to such Bonds, including whether to issue Bonds in book-entry form, that are not contrary to or inconsistent with this Bond Resolution as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination contained in Article II hereof at any time prior to the first authentication and delivery of such Series of Bonds;
5. To confirm, as further assurance, any security interest, pledge or assignment under this Bond Resolution and the subjection of the Revenues or of any other moneys, securities or funds to any security interest, pledge or assignment created or to be created by this Bond Resolution;
6. To modify any of the provisions of this Bond Resolution in any other respect whatsoever; provided, however, that (i) such modification shall be, and be expressed to be, effective only after all Bonds of each Series Outstanding at the date of adoption of such Supplemental Resolution shall cease to be Outstanding, and (ii) such Supplemental Resolution shall be specifically referred to in the text of all Bonds of any Series authenticated and delivered after the date of the adoption of such Supplemental Resolution and of Bonds issued in exchange therefor or in place thereof;

7. To modify any of the provisions of this Bond Resolution in any respect provided that the modifications affect only Bonds issued subsequent to the date of such modifications;

8. To comply with the provisions of any federal or state securities law, including, without limitation, the Trust Indenture Act of 1939, as amended, or to comply with Section 103 of the Code, as amended, replaced or substituted, with respect to any Series of Additional Bonds constituting Tax-exempt Bonds;

9. To modify any provision of this Bond Resolution relating to the County Security Fund and the County Security Fund Requirement, including without limitation Section 5.07 hereof and Exhibit B hereto; provided, however, the County Security Fund Requirement shall not be increased without having received the consent of the Company with respect thereto;

10. To implement one or more replacement Local Unit Facilities and Projects for the Series 2011 Local Units, all in accordance with the provisions of Section 4.6 of the Power Purchase Agreement; or

Any Rating Agency rating the Series 2011 Bonds must receive notice of each Supplemental Resolution and a copy thereof at least fifteen (15) days in advance of its execution or adoption.

#### **SECTION 11.02. Supplemental Resolutions Effective Upon Consent of Trustee.**

For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution may be adopted, which, upon (i) the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority, and (ii) the filing with the Authority of an instrument in writing made by the Trustee consenting thereto, shall be fully effective in accordance with its terms:

1. To cure any ambiguity, supply any omission or cure or correct any defect or inconsistent provision in this Bond Resolution;

2. To insert such provisions clarifying matters or questions arising under this Bond Resolution as are necessary or desirable and are not contrary to or inconsistent with this Bond Resolution as theretofore in effect; or

3. To make any other modification or amendment of this Bond Resolution that will not have a material adverse effect on the interests of Bondholders.

In making any determination under this Section 11.02, the Trustee may conclusively rely upon an opinion of Counsel.

#### **SECTION 11.03. Supplemental Resolutions Effective With Consent of Bondholders.**

At any time or from time to time, a Supplemental Resolution may be adopted subject to consent by the Bondholders in accordance with and subject to the provisions of Sections 11.06 and 11.07 hereof, which Supplemental Resolution, upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority and upon compliance with the provisions of Sections 11.06 and 11.07 hereof, shall become fully effective in accordance with its terms as provided in Section 11.07 hereof; provided, however, any Supplemental Resolution that, by its terms, only affects one or more Series of Bonds may be adopted subject solely to the consent of the Holders of such Series of Bonds so affected.

#### **SECTION 11.04. General Provisions.**

1. This Bond Resolution shall not be modified or amended in any respect except by a Supplemental Resolution as provided in, in accordance with and subject to the provisions of this Article XI. Nothing contained in this Article XI shall affect or limit the right or obligation of the Authority to adopt, make, do, execute, acknowledge or deliver any resolution, act or other instrument pursuant to the provisions of this Bond Resolution or the right or obligation of the Authority to execute and deliver to any Trustee any instrument that it is elsewhere provided in this Bond Resolution shall be delivered to said Trustee.

2. Any Supplemental Resolution referred to in and permitted or authorized by Section 11.01 or 11.02 hereof may be adopted by the Authority without the consent of any Bondholder, but shall become effective only on the conditions, to the extent and at the times provided in Section 11.01 or 11.02, respectively. Every Supplemental Resolution filed with the Trustee shall be accompanied by an opinion of Counsel stating that such Supplemental Resolution has been duly and lawfully adopted by the Authority in accordance with the terms and provisions of this Bond Resolution, is authorized or permitted by this Bond Resolution, and is valid and binding upon the Authority in accordance with its terms.

3. The Trustee is hereby authorized to accept the delivery of a certified copy of any Supplemental Resolution referred to in and permitted or authorized by Section 11.01, 11.02 or 11.03 hereof and to make all further agreements and stipulations that may be therein contained, and the Trustee, in taking such action, shall be fully protected in relying upon an opinion of Counsel that such Supplemental Resolution is authorized or permitted by the terms and provisions of this Bond Resolution.

4. No Supplemental Resolution shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto.

#### **SECTION 11.05. Mailing.**

Any provision in this Article XI for the mailing of a notice or other paper to Holders of Bonds shall be fully complied with if it is mailed, postage prepaid only, to each Registered Owner of Bonds then Outstanding at his address, if any, appearing upon the registry books of the Authority.

#### **SECTION 11.06. Powers of Amendment by Supplemental Resolution.**

Unless otherwise permitted under Section 11.01 or 11.02 hereof, any modification or amendment of this Bond Resolution and of the rights and obligations of the Authority and the Holders of Bonds hereunder, in any particular, may be made only by a Supplemental Resolution with the written consent (i) of the Holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds Outstanding at the time such consent is given, (ii) in case less than all of the several Series of Bonds then Outstanding are affected by the modification or amendment, of the Holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds of each Series so affected and Outstanding at the time such consent is given, and (iii) in case the modification or amendment changes the terms of any Sinking Fund Installment, of the Holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds of the particular Series and maturity entitled to such Sinking Fund Installment and Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding, the consent of the Holders of such Bonds shall not be required, and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section 11.06. No such modification or amendment shall (i) permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such obligation, (ii) reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or (iii) change or modify any of the rights or obligations of any Trustee without its written assent thereto. For the purposes of this Section 11.06, a Series shall be deemed to be affected by a modification or amendment of this Bond Resolution if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series. The Trustee may, in its discretion, determine whether or not, in accordance with the foregoing powers of amendment, Bonds of any particular Series or maturity would be affected by any modification or amendment of this Bond Resolution, and any such determination shall be binding and conclusive upon the Authority and all Holders of Bonds. For purposes of this Section 11.06, the Holders of any Bonds may include the initial Holders thereof, regardless of whether or not such Bonds are being held for resale.

#### **SECTION 11.07. Consent of Bondholders.**

The Authority may at any time adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of Section 11.06 hereof to take effect when and as

provided in this Section 11.07. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto in form approved by the Trustee), together with a request to Holders of Bonds for their consent thereto in form satisfactory to the Trustee, shall be mailed by the Authority to Holders of Bonds (but failure to mail such copy and request shall not affect the validity of the Supplemental Resolution when consented to as in this Section 11.07 provided). Such Supplemental Resolution shall not be effective unless and until there shall have been filed with the Trustee (a) the written consent of the Holders of the percentages of Outstanding Bonds specified in Section 11.06 hereof and (b) an opinion of Counsel stating that such Supplemental Resolution has been duly and lawfully adopted and filed by the Authority in accordance with the terms and provisions of this Bond Resolution, is authorized or permitted by this Bond Resolution, and is valid and binding upon the Authority in accordance with its terms. It shall not be necessary that the consents of the Holders of Bonds approve the particular form of wording of the proposed modification or amendment or of the proposed Supplemental Resolution effecting such modification or amendment, but it shall be sufficient if such consents approve the substance of the proposed amendment or modification. Each such consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 12.02 hereof. A certificate or certificates executed by the Trustee and filed with the Authority stating that the Trustee has examined such proof and that such proof is sufficient in accordance with Section 12.02 hereof shall be conclusive evidence that the consents have been given by the Holders of the Bonds described in such certificate or certificates. Any such consent shall be binding upon the Holder of the Bonds giving such consent and, anything in Section 12.02 hereof to the contrary notwithstanding, upon any subsequent Holder of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Holder has notice thereof), unless such consent is revoked in writing by the Holder of such Bonds giving such consent or by a subsequent Holder thereof by filing with the Trustee, prior to the time when the written statement of the Trustee is filed (as hereinafter provided for in this Section 11.07), such revocation and proof that such Bonds are held by the signer of such revocation in the manner permitted by Section 12.02 hereof. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Authority to the effect that no revocation thereof is on file with the Trustee.

At any time after the Holders of the required percentages of Bonds shall have filed their consents to the Supplemental Resolution as hereinabove provided, the Trustee shall make and file with the Authority a written statement that the Holders of such required percentages of such Bonds have filed such consents. Such written statements shall be conclusive that such consents have been so filed. At any time thereafter, notice stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Authority on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of Bonds and will become effective as provided in this Section 11.07 may be given to Bondholders by the Authority by mailing such notice to Bondholders (but failure to mail such notice shall not prevent such Supplemental Resolution from becoming effective and binding as in this Section 11.07 provided). The Authority shall file with the Trustee proof of the mailing thereof. A record, consisting of the certificates or statements required or permitted by

this Section 11.07 to be made by the Trustee, shall be proof of the matters therein stated. Such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the Authority, the Fiduciaries and the Holders of all Bonds at the expiration of forty (40) days after the filing with the Trustee of proof of the mailings of such last-mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Resolution in a legal action or equitable proceeding for such purpose commenced within such forty (40) day period; provided, however, that the Authority and any Fiduciary during such forty (40) day period and any such further period during which any such action or proceeding may be pending shall be entitled in its absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Resolution as it may deem expedient.

#### **SECTION 11.08. Modifications or Amendments by Unanimous Consent.**

The terms and provisions of this Bond Resolution and the rights and obligations of the Authority and of the Holders of Bonds hereunder may be modified or amended in any respect upon the adoption and filing by the Authority of a Supplemental Resolution and the consent of the Holders of all Bonds then Outstanding, such consent to be given as provided in Section 11.07 hereof, except that no notice to Holders of Bonds either by mail or publication shall be required; provided, however, that no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary without the filing with the Trustee of the written assent thereto of such Fiduciary in addition to the consent of the Holders of Bonds.

#### **SECTION 11.09. Exclusion of Bonds.**

Bonds owned or held by or for the account of the Authority shall not be deemed Outstanding for the purpose of consent or other action or for any calculation of Outstanding Bonds provided for in this Article XI, and the Authority shall not be entitled with respect to such Bonds to give any consent or to take any other action provided for in this Article XI. At the time of any consent or other action taken under this Article XI, the Authority shall furnish the Trustee a Certificate of an Authorized Officer of the Authority, upon which the Trustee may conclusively rely, describing all Bonds to be so excluded.

#### **SECTION 11.10. Notation on Bonds.**

Bonds authenticated and delivered after the effective date of any Supplemental Resolution adopted pursuant to this Article XI may, and, if the Authority so determines, shall, bear a notation by endorsement or otherwise in form approved by the Authority as to any modification or amendment provided for in such Supplemental Resolution, and, in that case, upon demand of the Holder of any Bond then Outstanding and upon presentation of any Bond for such purpose at the Principal Office of the Trustee, a suitable notation shall be made on such Bond. If the Authority shall so determine, new Bonds so modified as to conform, in the opinion of the Authority, to any modification or amendment contained in such Supplemental Resolution shall be prepared, authenticated and delivered and, upon demand of the Holder of any Bond then

Outstanding, shall be exchanged upon surrender of such Bonds, without cost to such Holder, for Bonds of the same Series, principal amount, maturity and interest rate then Outstanding. Any action taken as provided in Article X hereof or in this Article XI shall be effective and binding upon all Holders of Bonds notwithstanding that the notation is not endorsed on all Bonds.

**SECTION 11.11. Effect of Supplemental Resolutions.**

Upon the effective date of any Supplemental Resolution, this Bond Resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, covenants, obligations and agreements under this Bond Resolution of the Authority, the Trustee and all Holders of Bonds then Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all of the terms and conditions of any such Supplemental Resolution shall be deemed to be part of the terms and conditions of this Bond Resolution for any and all purposes.

**SECTION 11.12. Notice of Amendments.**

Promptly after the adoption by the Authority of any Supplemental Resolution, the Trustee shall mail a notice, setting forth in general terms the substance of such amendment or modification, to the Holders of any Series of Bonds so affected thereby, and to the other Renewable Energy Program Interested Parties. However, any failure to give such notice, or any defect therein, shall not in any way impair or affect the validity of any such Supplemental Resolution.

## ARTICLE XII

### DEFEASANCE

#### SECTION 12.01. Defeasance of Bonds.

1. If the Authority shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Bonds of any Series the principal or Redemption Price, if applicable, thereof and the interest due or to become due thereon at the times and in the manner stipulated therein and in this Bond Resolution, then the pledge of the Trust Estate and all duties, covenants, agreements and other obligations of the Authority to the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall cause an accounting for such period or periods as shall be requested by the Authority to be prepared and filed with the Authority, and, upon the request of the Authority, shall execute and deliver to the Authority all such instruments as may be desirable to evidence such discharge and satisfaction, and the Trustee shall pay over or deliver to the Authority, or, to the extent provided for in Section 5.07 the County Security Fund to the Company, all moneys or securities held by it pursuant to this Bond Resolution that are not required for the payment of the principal or Redemption Price, if applicable, of and the interest due or to become due on the Bonds of any Series not theretofore surrendered for such payment or redemption. If the Authority shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of any Outstanding Bonds of any Series the principal or Redemption Price, if applicable, thereof and the interest due or to become due thereon at the times and in the manner stipulated therein and in this Bond Resolution, such Bonds shall cease to be entitled to any lien, benefit or security under this Bond Resolution, and all duties, covenants, agreements and other obligations of the Authority to the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. Notwithstanding any other provision in this Article XII, all duties, covenants, agreements and other obligations of the Authority to the Holders of Bonds relating to the exclusion of interest from gross income of the Holders thereof for federal income tax purposes shall survive the defeasance of the Bonds.

2. Bonds or interest installments for the payment or redemption of which moneys shall have been set aside and held in trust by the Paying Agent (through deposit by the Authority of funds for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in subsection (1) of this Section 12.01. Subject to the provisions of subsections (3), (4) and (5) of this Section 12.01, Outstanding Bonds of any Series or Outstanding Bonds of any maturity within any Series shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect expressed in subsection (1) of this Section 12.01 if (a) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Authority shall have given to the Trustee instructions in writing accepted by the Trustee to mail notice of redemption of such Bonds (other than Bonds of a Series that have been purchased by the Trustee at the written direction of the Authority or purchased or otherwise acquired by the Authority and delivered to the Trustee as hereinafter provided prior to the mailing of such notice of redemption)

on said date, (b) there shall have been deposited with the Trustee either moneys in an amount that shall be sufficient or Investment Securities (including any Investment Securities issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) the principal of and the interest on which, when due, will provide moneys that, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest due and to become due on such Series of Bonds on or prior to the redemption date or maturity date thereof, as the case may be, and (c) in the event such Series of Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Authority shall have given the Trustee, in form satisfactory to it, instructions to mail, as soon as practicable, a notice to the Holders of such Bonds at their last addresses appearing upon the registry books at the close of business on the last Business Day of the month preceding the month for which notice is mailed that the deposit required by clause (b) above has been made with the Trustee and that such Series of Bonds are deemed to have been paid in accordance with this Section 12.01 and stating such maturity or redemption date upon which moneys are expected, subject to the provisions of subsection (5) of this Section 12.01, to be available for the payment of the principal or Redemption Price, if applicable, of and the interest due and to become due on such Series of Bonds (other than Bonds that have been purchased by the Trustee at the written direction of the Authority or purchased or otherwise acquired by the Authority and delivered to the Trustee as hereinafter provided prior to the mailing of the notice of redemption referred to in clause (a) hereof). Any notice of redemption mailed pursuant to the preceding sentence with respect to any Series of Bonds, which notice relates to a redemption contemplating less than all of the Outstanding Bonds of any maturity within a Series being redeemed, shall specify the letter and number or other distinguishing mark of each such Bond to be so redeemed. The Trustee shall, as and to the extent necessary, apply moneys held by it pursuant to this Section 12.01 to the retirement of said Bonds in amounts equal to the unsatisfied balances of any Sinking Fund Installments with respect to such Bonds, all in the manner provided in this Bond Resolution.

The Trustee shall, if so directed in writing by the Authority (i) prior to the maturity date of Bonds deemed to have been paid in accordance with this Section 12.01 that are not to be redeemed prior to their maturity or (ii) prior to the mailing of the notice of redemption referred to in clause (a) above with respect to any Bonds deemed to have been paid in accordance with this Section 12.01 that are to be redeemed on any date prior to their maturity, apply moneys deposited with the Trustee with respect to such Bonds and redeem or sell Investment Securities so deposited with the Trustee and apply the proceeds thereof to the purchase of such Bonds, and the Trustee shall immediately thereafter cancel all such Bonds so purchased; provided, however, that the moneys and Investment Securities remaining on deposit with the Trustee after the purchase and cancellation of such Bonds shall be sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest due or to become due on all Bonds with respect to which such moneys and Investment Securities are being held by the Trustee on or prior to the redemption date or maturity date thereof, as the case may be. If, at any time (i) prior to the maturity date of Bonds deemed to have been paid in accordance with this Section 12.01 that are not to be redeemed prior to their maturity or (ii) prior to the mailing of the notice of redemption referred to in clause (a) above with respect to any Bonds deemed to have been paid in accordance

with this Section 12.01 that are to be redeemed on any date prior to their maturity, the Authority shall purchase or otherwise acquire any such Bonds and deliver such Bonds to the Trustee prior to their maturity date or redemption date, as the case may be, the Trustee shall immediately cancel all such Bonds so delivered; such delivery of Bonds to the Trustee shall be accompanied by directions from the Authority to the Trustee as to the manner in which such Bonds are to be applied against the obligation of the Trustee to pay or redeem Bonds deemed paid in accordance with this Section 12.01. The directions given by the Authority to the Trustee referred to in the preceding sentence shall also specify (i) the portion, if any, of such Bonds so purchased or delivered and canceled to be applied against the obligation of the Trustee to pay Bonds deemed paid in accordance with this Section 12.01 upon their maturity date or dates and (ii) the portion, if any, of such Bonds so purchased or delivered and canceled to be applied against the obligation of the Trustee to redeem Bonds deemed paid in accordance with this Section 12.01 on any date or dates prior to their maturity. In the event that on any date, as a result of any purchases, acquisitions and cancellations of Bonds as provided in this Section 12.01, the total amount of moneys and Investment Securities remaining on deposit with the Trustee under this Section 12.01 is in excess of the total amount that would have been required to be deposited with the Trustee on such date with respect to the remaining Bonds of such Series in order to satisfy clause (b) of this subsection (2) of Section 12.01, the Trustee shall, if requested by the Authority, pay the amount of such excess to the Authority free and clear of any trust, lien, security interest, pledge or assignment securing said Bonds or otherwise existing under this Bond Resolution. Except as otherwise provided in this subsection (2) and in subsections (3), (4) and (5) of this Section 12.01, neither moneys nor Investment Securities deposited with the Trustee pursuant to this Section 12.01 nor principal or interest payments on any such Investment Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal or Redemption Price, if applicable, of and the interest on said Bonds; provided, however, that any cash received from such principal or interest payments on such Investment Securities deposited with the Trustee, (A) to the extent such cash will not be required at any time for such purpose, shall be paid over to the Authority, as received by the Trustee, free and clear of any trust, lien or pledge securing said Bonds or otherwise existing under this Bond Resolution, and (B) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in Investment Securities maturing at times and in amounts sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest to become due on said Bonds on or prior to the redemption date or maturity date thereof, as the case may be, and any interest earned from such reinvestments shall be paid over to the Authority, as received by the Trustee, free and clear of any trust, lien, security interest, pledge or assignment securing said Bonds or otherwise existing under this Bond Resolution.

For the purposes of this Section 12.01, Investment Securities shall mean and include only (y) such securities as are described in clause (i) of the definition of "Investment Securities" in Section 1.01 hereof and that are not subject to redemption prior to their maturity other than at the option of the issuer thereof, or (z) upon compliance with the provisions of subsection (3) of this Section 12.01, such securities as are described in clause (i) of the definition of "Investment Securities" and that are subject to redemption prior to their maturity at the option of the issuer

thereof on a specified date or dates. In the event of an advance refunding, the Authority shall cause to be delivered a verification report of an Independent Public Accountant.

3. Investment Securities described in clause (z) of subsection (2) of this Section 12.01 may be included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01 if and only if, in making the determination as to whether the moneys and Investment Securities to be deposited with the Trustee would be sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest due and to become due on the Bonds that will be deemed to have been paid as provided in subsection (2) of this Section 12.01, such determination is made both (i) on the assumption that the Investment Securities described in said clause (z) were not redeemed at the option of the issuer thereof prior to their maturity date and (ii) on the assumption that such Investment Securities were redeemed by the issuer thereof at its option on each date on which such option could be exercised, that as of such date or dates interest ceased to accrue on such Investment Securities, and that the proceeds of such redemption were not reinvested by the Trustee.

4. In the event that, after compliance with the provisions of subsection (3) of this Section 12.01, the Investment Securities described in clause (z) of subsection (2) of this Section 12.01 are included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01 and any such Investment Securities are actually redeemed by the issuer thereof prior to their maturity date, then the Trustee, at the written direction of the Authority, shall reinvest the proceeds of such redemption in Investment Securities; provided, however, that the aggregate of the moneys and Investment Securities to be held by the Trustee, taking into account any changes in redemption dates or instructions to give notice of redemption given to the Trustee by the Authority in accordance with subsection (5) of this Section 12.01, shall at all times be sufficient to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01.

5. In the event that, after compliance with the provisions of subsection (3) of this Section 12.01, the Investment Securities described in clause (z) of subsection (2) of this Section 12.01 are included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01, then any notice of redemption to be mailed by the Trustee and any set of instructions relating to a notice of redemption given to the Trustee may provide, at the option of the Authority, that (i) any redemption date or dates with respect to all or any portion of the Bonds to be redeemed on such date or dates may, at the option of the Authority, be changed to any other permissible redemption date or dates, and (ii) redemption dates may be established for any Bonds deemed to have been paid in accordance with this Section 12.01 upon their maturity date or dates at any time prior to the actual mailing of any applicable notice of redemption in the event that all or any portion of any Investment Securities described in clause (z) of subsection (2) of this Section 12.01 have been called for redemption pursuant to an irrevocable notice of redemption or have been redeemed by the issuer thereof prior to their maturity date. No such change of redemption dates or establishment of redemption dates may be made unless, taking into account such changed redemption dates or newly established

redemption dates, the moneys and Investment Securities on deposit with the Trustee (including any Investment Securities deposited with the Trustee in connection with any reinvestment of redemption proceeds in accordance with subsection (4) of this Section 12.01) pursuant to clause (b) of subsection (2) of this Section 12.01 would be sufficient to pay, when due, the principal and Redemption Price, if applicable, of and the interest on all Bonds deemed to have been paid in accordance with subsection (2) of this Section 12.01.

6. Anything in this Bond Resolution to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the payment and discharge of any Bonds that remain unclaimed after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the fiduciaries at such date, or after the date of deposit of such moneys if deposited with the fiduciaries after the said date when such Bonds became due and payable, shall, be applied, when and as provided in the Uniform Unclaimed Property Act, *N.J.S.A. 46:30B-1 et seq.*, and the fiduciary shall thereupon be released and discharged with respect thereto and the Bondholders shall have such rights as are provided in said Uniform Unclaimed Property Act.

#### **SECTION 12.02. Evidence of Signatures and Ownership of Bonds.**

1. Any request, consent, revocation of consent or other instrument that this Bond Resolution or any Supplemental Resolution may require or permit to be signed and executed by the Holders of Bonds of any Series may be in one or more instruments of similar tenor, and shall be signed or executed by such Holders of Bonds in person or by their attorneys duly appointed in writing. Proof of the execution of any such instrument, or of any instrument appointing any such attorney, shall be sufficient for any purpose of this Bond Resolution or any Supplemental Resolution (except as otherwise expressly provided therein) if made in the following manner, or in any other manner satisfactory to the Trustee, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable. The fact and date of the execution of such instruments by any Holder of any Bond or his attorney may be proved by a guarantee of the signature thereon by a bank or trust company or at the discretion of the Trustee, by a certificate of any notary public or other officer authorized to take acknowledgments of deeds that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or by a member of a partnership on behalf of such corporation, association or partnership, such signature guarantee, certificate or affidavit shall also constitute sufficient proof of his authority.

2. The ownership of Bonds and the amount, numbers, other identification and date of holding the same shall be proved by the registry books maintained by the Authority and kept by the Trustee.

3. Any request or consent by the Holder of any Bond shall be binding on all future Owners of such Bond with respect to anything done or suffered to be done by the Authority or any Trustee in accordance therewith.

**SECTION 12.03. Moneys Held for Particular Bonds.**

The amounts held by any Fiduciary for the payment of the interest, principal or Redemption Price due on any date with respect to particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Holders of the Bonds entitled thereto.

## ARTICLE XIII

### MISCELLANEOUS

#### **SECTION 13.01. Liability of Authority Limited to Trust Estate.**

Notwithstanding anything to the contrary contained in this Bond Resolution or in the Bonds, the Authority shall not be required to advance any moneys derived from any source other than the Trust Estate for any of the purposes in this Bond Resolution, whether for the payment of the principal or Redemption Price, if any, of or the interest on the Bonds or for any other purpose hereof. Nevertheless, the Authority may, but shall not be required to, advance for any of the purposes hereof any funds of the Authority that may be made available to it for such purposes.

#### **SECTION 13.02. Successor Is Deemed Included in All References to Predecessor.**

Whenever in this Bond Resolution either the Authority or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all of the duties, covenants, obligations and agreements contained in this Bond Resolution by or on behalf of the Authority or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof, whether so expressed or not.

#### **SECTION 13.03. Limitation of Rights to Parties.**

Nothing expressed or implied in this Bond Resolution or in the Bonds is intended or shall be construed to give to any person, other than the Authority, the Trustee, the Paying Agent and the Holders of Bonds, any legal or equitable right, remedy or claim under or with respect to this Bond Resolution or any duty, covenant, obligation, agreement, condition or provision herein or therein contained; and all of such duties, covenants, obligations, agreements, conditions and provisions are and shall be for the sole and exclusive benefit of the Authority, the Trustee, the Paying Agent and the Holders of Bonds.

#### **SECTION 13.04. Waiver of Notice.**

Whenever in this Bond Resolution the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice, and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

#### **SECTION 13.05. Destruction of Bonds.**

Whenever in this Bond Resolution provision is made for the cancellation of any Bonds by the Trustee and the delivery thereof to the Authority, unless otherwise requested in writing by the Authority, in lieu of such cancellation and delivery, the Trustee shall destroy such Bonds (in the

presence of an officer of the Authority, if the Authority shall so require) and deliver a certificate of such destruction to the Authority.

**SECTION 13.06. Severability of Invalid Provisions.**

If any one or more of the provisions contained in this Bond Resolution shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained herein, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Bond Resolution shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. The Authority hereby declares that it would have entered into this Bond Resolution and each and every section, paragraph, sentence, clause or phrase hereof, and authorized the issuance of the Bonds pursuant hereto, irrespective of the fact that any one or more of the sections, paragraphs, sentences, clauses or phrases of this Bond Resolution may be held illegal, invalid or unenforceable.

**SECTION 13.07. Notices.**

1. Any notices, certificates or other communications required or permitted to be given herein shall be in writing (unless otherwise specifically required or permitted herein) and shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Authority, the County, the County of Morris, the Company, the Series 2011 Local Units, the Trustee, the Paying Agent and the Rating Agency at the addresses set forth below:

(a) Authority: Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: Chairman

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, NJ 07054

(b) County: County of Sussex, New Jersey  
One Spring Street  
Newton, NJ 07860  
Attention: County Administrator

(b) Morris: County of Morris, New Jersey  
County P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: County Administrator

(c) Company: Sunlight General Sussex Solar, LLC  
Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email: principals@sunlightgeneral.com

With a copy to: James F. Duffy, Esq.  
Nixon Peabody, LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com

(d) Series 2011 Local Units: See Exhibit A-4 to the Company Lease Agreement

(e) County Security Provider: None

(f) Trustee and Paying Agent: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconcilio@mdmc-law.com](mailto:nconcilio@mdmc-law.com)

(g) Rating Agency: Moody's Investor Service  
99 Church Street  
New York, New York 10007-2796

The Authority, the County, the Company, the Series 2011 Local Units, the County Security Provider, the Trustee, the Paying Agent and the Rating Agency may designate any further or different address to which subsequent notices and communications shall be sent by giving notice thereof to the other parties hereto.

2. Whenever any provision hereof requires that notice be sent to the Authority or the Series 2011 Local Unit or the Company, a copy of such notice shall also be sent to the County at the address set forth in Section 13.07(1)(b) hereof.

### **SECTION 13.08. Disqualified Bonds.**

In determining whether the Holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Bond Resolution, Bonds that are owned or held by or for the account of the Authority, the Company, or any other primary or secondary obligor on the Company Lease Agreement, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority, the Company or any other primary or secondary obligor on the Company Lease Agreement, shall be disregarded and deemed not to be Outstanding for the purpose of any such determination. Bonds so owned that have been pledged in good faith may be regarded as Outstanding for the purpose of this Section 13.08 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority, the Company or any other primary or secondary obligor on the Company Lease Agreement. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of Counsel shall be full protection to the Trustee.

### **SECTION 13.09. Funds and Accounts.**

Any Fund, Account or subaccount required by this Bond Resolution to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee either as a fund, an account or a subaccount, and, for the purposes of such records, any audits thereof and any reports or statements with respect thereto may be treated either as a fund, an account or a subaccount; but all such records with respect to all such Funds, Accounts or subaccounts shall at all times be maintained in accordance with generally accepted accounting principles to the extent practicable.

### **SECTION 13.10. Waiver of Personal Liability.**

No member, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the principal or Redemption Price, if any, of or the interest on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof, all such liability, if any, being expressly waived and released by each Holder of Bonds by the acceptance of such Bonds, but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by this Bond Resolution or by law.

### **SECTION 13.11. Authority Protected in Acting in Good Faith.**

In the exercise of the powers of the Authority and its members, officers, agents and employees under this Bond Resolution, the Company Lease Agreement or any other document executed in connection with the Bonds, the Authority shall not be accountable to the Company, the Trustee, the Paying Agent, any Bondholder or any other Renewable Energy Program

Interested Party for any action taken or omitted in good faith by it or its members, officers, agents and employees and believed by it or them to be authorized or within the discretion or rights or powers conferred thereon.

**SECTION 13.12. Business Days.**

Except as otherwise specifically provided in this Bond Resolution, if any date specified herein for the payment of any Bond or the performance of any act shall not be a Business Day at the place of payment or performance, such payment or performance shall be made on the next succeeding Business Day with the same effect as if made on such date, and in case any payment of the principal or Redemption Price, if any, of or the interest on any Bond shall be due on a date that is not a Business Day, interest on such principal amount shall cease to accrue on the date on which such payment was due if such payment is made on the immediately succeeding Business Day.

## ARTICLE XIV

### BOND FORM AND EFFECTIVE DATE

#### **SECTION 14.01. Form of Bonds, Trustee's Certificate of Authentication and County Guaranty Certificate.**

Subject to the provisions of this Bond Resolution, the form of the Series 2011 Bonds and any other Series of Bonds designated by Supplemental Resolution, with any appropriate changes as set forth in any such Supplemental Resolution, the Trustee's certificate of authentication and the County Guaranty Certificate, shall be in substantially the following form:

[FORM OF BOND]

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF MORRIS

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED  
RENEWABLE ENERGY PROGRAM LEASE REVENUE [BONDS, SERIES 2011A]  
[NOTE, SERIES 2011B]

No. R[A/B]-\_\_

CUSIP: [ ]

Interest Rate	Maturity Date	Dated Date	Authentication Date
%	June 15, 20__	December 14, 2011	December 14, 2011

Registered Owner: CEDE & CO.

Principal Sum: [ ] DOLLARS (\$[ ])

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Act"), acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner stated hereon or its registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged therefor, upon presentation and surrender of this bond at the principal corporate trust office of U.S. Bank National Association (such bank and any successors thereto being herein called the "Trustee" and "Paying Agent"), the Principal Sum stated hereon in any coin or currency of the United States of America that at the time of such payment is legal tender for the payment of public and private debts, and to pay from such pledged funds on [June 15 and December 15 in each year, commencing June 15, 2012] [January 15, 2013], until the Authority's obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date stated hereon on such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However, so long as the Series [2011A Bonds] [2011B Note] as hereinafter defined) are held in book-entry form pursuant to the Bond Resolution (as hereinafter defined), the provisions

of the Bond Resolution governing such book-entry form shall govern the repayment of the principal or Redemption Price of and the interest on the Series [2011A Bonds] [2011B Note].

This bond is one of a duly authorized Series of Bonds of the Authority designated "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Bonds, Series 2011A] [Note, Series 2011B]" (herein called the "*Series [2011A Bonds] [2011B Note]*"), in the aggregate principal amount of [\$26,715,000/\$985,000 (not exceeding \$50,000,000 in the aggregate)] issued under and in full compliance with the Constitution and statutes of the State of New Jersey, including the Act, and under and pursuant to a resolution of the Authority authorizing the Series 2011 Bonds (as hereinafter defined) adopted on September 28, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended by a Certificate of an Authorized Officer of the Authority dated December 14, 2011, executed in connection with Section 2.02(1)(e) of said resolution (together with any further amendments thereof or supplements thereto, the "*Bond Resolution*"). [Simultaneously herewith, on December 14, 2011, the Authority issued its "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A" in the aggregate principal amount of [\$26,715,000] (the "*Series 2011A Bonds*" and together with the Series 2011B Note, the "*Series 2011 Bonds*").]. Simultaneously herewith, on December 14, 2011, the Authority issued its "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B" in the aggregate principal amount of [\$985,000] (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*").].

All capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Bond Resolution.

As provided in the Bond Resolution, the Series 2011 Bonds, and all other bonds issued on a parity with the Series 2011 Bonds under the Bond Resolution (herein collectively called the "*Bonds*"), are special and limited obligations of the Authority payable solely from, and secured as to the payment of the principal or Redemption Price thereof and the interest thereon in accordance with their terms and the provisions of the Bond Resolution solely by, the Trust Estate, subject only to the provisions of the Bond Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Bond Resolution.

The Trust Estate under the Bond Resolution includes (i) certain of the Authority's right, title and interest in and to that certain Company Lease Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of December 1, 2011 (the "*Company Lease Agreement*") by and between the Authority and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "*Company*"), including, without limitation, the Basic Lease Payments and certain Additional Lease Payments earmarked for the Purchase Option Price or the Mandatory Purchase Price (collectively the "*Lease Payments*") by the Company as defined in and contemplated by the Company Lease Agreement, (ii) with respect to the payment of the principal of and the interest on the Series 2011 Bonds only, payments made by the County under its guaranty ordinance finally adopted on August 17, 2011, as amended and supplemented, all in

accordance with Section 37 of the Act (N.J.S.A. 40:37A-80) and other applicable law, the guaranty certificate executed by an Authorized Officer of the County on the face of each Series 2011 Bond, and that certain County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of December 1, 2011 (the "*County Guaranty Agreement*") between the Authority and the County (collectively, the "*County Guaranty*"), and (iii) all other Funds and Accounts established under the Bond Resolution (other than the Administrative Fund, and the County Security Fund), including Investment Securities held in any such Fund thereunder, together with all of the proceeds and revenues of the foregoing, and (iv) all other moneys, securities or funds pledged for the payment of the principal or Redemption Price of and the interest on the Series 2011 Bonds in accordance with the terms and provisions of the Bond Resolution.

Copies of the Bond Resolution are on file at the office of the Authority and at the above-mentioned office of the Trustee, and reference is hereby made to the Act and to the Bond Resolution (including any and all supplements thereto and modifications and amendments thereof) for a description of the pledge, assignment and covenants securing the Bonds, the nature, extent and manner of enforcement of such pledge, the rights and remedies of the Bondholders with respect thereto, the terms and conditions upon which the Bonds are issued and may be issued thereunder, the terms and provisions upon which this bond shall cease to be entitled to any lien, benefit or security thereunder and for the other terms and provisions thereof. All duties, covenants, agreements and obligations of the Authority under the Bond Resolution may be discharged and satisfied at or prior to the maturity or redemption of this bond if moneys or certain specified securities shall have been deposited with the Trustee.

As provided in the Bond Resolution, Bonds may be issued from time to time pursuant to Supplemental Resolutions in one or more Series in various principal amounts, may mature at different times, may bear interest at different rates and may otherwise vary as in the Bond Resolution provided. The aggregate principal amount of Bonds that may be issued under the Bond Resolution is not limited, and all Bonds issued and to be issued under the Bond Resolution are and will be equally secured by the pledge and covenants made therein, except as otherwise expressly provided or permitted in the Bond Resolution.

To the extent and in the manner permitted by the terms of the Bond Resolution, the provisions of the Bond Resolution (including any resolution amendatory thereof or supplemental thereto) may be modified or amended by the Authority, (i) without the consent of the Bondholders as provided in the Bond Resolution or (ii) with the written consent of the Holders of at least two-thirds (2/3) in aggregate principal amount of the Bonds Outstanding under the Bond Resolution at the time such consent is given, and, in case less than all of the several Series of Bonds then Outstanding are affected thereby, with such consent of at least two-thirds (2/3) in aggregate principal amount of the Bonds of each Series so affected and Outstanding; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding under the Bond Resolution, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of the calculation of Outstanding Bonds. No such

modification or amendment shall permit a change in the terms of redemption (including Sinking Fund Installments) or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of the Trustee or of the Paying Agent without its written assent thereto.

This bond is transferable, as provided in the Bond Resolution, only upon the books of the Authority kept for that purpose at the above-mentioned office of the Trustee, as bond registrar, by the Registered Owner hereof in person or such Registered Owner's duly authorized attorney in writing, upon surrender of this bond together with a written instrument of transfer satisfactory to the Trustee, as bond registrar, duly executed by the Registered Owner or such Registered Owner's duly authorized attorney, and thereupon a new fully registered bond or bonds in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Bond Resolution and upon payment of the charges therein prescribed. The Authority, the Trustee and the Paying Agent may deem and treat the Registered Owner as the absolute Owner hereof for the purpose of receiving payment of, or on account of, the principal or Redemption Price hereof and the interest due hereon and for all other purposes.

[The Series 2011A Bonds maturing on or before June 15, 2021 shall not be subject to redemption prior to their respective maturity dates. The Series 2011A Bonds maturing on and after June 15, 2022 shall be subject to optional redemption by the Authority prior to their respective maturity dates, on or after June 15, 2021, upon notice as herein described, either in whole or in part at any time in any order of maturity as the Authority shall determine and within a single maturity by lot, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.] [The Series 2011B Note shall not subject to optional redemption prior to its stated maturity.]

[The Series 2011A Bonds maturing on June 15, 2027 are subject to mandatory redemption prior to their stated maturities, through selection by the Trustee and upon the giving of notice as provided by the Bond Resolution, by payment of the following "Sinking Fund Installments" on June 15 of each year set forth in the table below, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

<u>Date</u>	<u>Principal Amount</u>
June 15, 2022	\$1,845,000
June 15, 2023	1,845,000
June 15, 2024	1,845,000
June 15, 2025	1,845,000
June 15, 2026	1,845,000
June 15, 2027 <sup>†</sup>	1,845,000

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† Final Maturity.

The Bond Resolution contains additional provisions regarding certain other rights to redemption of one or more Series of the Series 2011 Bonds prior to their stated maturities thereof.

The Series 2011 Bonds are payable upon redemption at the above-mentioned office of the Paying Agent. Notice of redemption, setting forth the place of payment, shall be mailed by the Trustee, postage prepaid, not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date, to the Registered Owners of any Series 2011 Bonds or portions thereof to be redeemed at their last addresses, if any, appearing upon the registry books, all in the manner and upon the terms and conditions set forth in the Bond Resolution. If notice of redemption shall have been mailed as aforesaid, the Series 2011 Bonds or portions thereof specified in said notice shall become due and payable on the redemption date therein fixed, and if, on the redemption date, moneys for the redemption of all of the Series 2011 Bonds or portions thereof to be redeemed, together with interest to the redemption date, shall be available for such payment on said date, then from and after the redemption date interest on such Series 2011 Bonds or portions thereof so called for redemption shall cease to accrue and be payable. Failure of the Registered Owner of any Series 2011 Bonds to be redeemed to receive any such notice shall not affect the validity of the proceedings for the redemption of Series 2011 Bonds.

The principal or Redemption Price of and the interest on the Series 2011 Bonds are payable by the Authority solely from the Trust Estate, and neither the State of New Jersey, the County (except to the extent of payments under the County Guaranty, which shall not secure the payment of any redemption premium), the Series 2011 Local Units, nor any political subdivision thereof, other than the Authority (but solely to the extent of the Trust Estate), is obligated to pay the principal or Redemption Price of or the interest on this bond and the issue of which it is one, and neither the full faith and credit nor the taxing power of the State of New Jersey, the Series 2011 Local Units, the County (except to the extent of the payments under the County Guaranty, which guaranty shall not secure the payment of any redemption premium) or any political subdivision thereof, including the Authority (which has no taxing power), is pledged to the payment of the principal or Redemption Price of or the interest on this bond and the issue of which it is one.

It is hereby certified and recited that all conditions, acts and things required by law and the Bond Resolution to exist, to have happened and to have been performed precedent to and in the issuance of this bond, exist, have happened and have been performed, and that the Series of Bonds of which this is one, together with all other indebtedness of the Authority, complies in all respects with the applicable laws of the State of New Jersey, including, particularly, the Act.

This bond shall not be entitled to any benefit under the Bond Resolution or be valid or become obligatory for any purpose until this bond shall have been authenticated by the execution by the Trustee of the Trustee's Certificate of Authentication hereon.

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**IN WITNESS WHEREOF, THE MORRIS COUNTY IMPROVEMENT AUTHORITY** has caused this bond to be executed in its name and on its behalf by the manual or facsimile signature of its Chairman or Vice Chairman, and its seal to be impressed, imprinted, engraved or otherwise reproduced hereon and attested by the manual or facsimile signature of its Secretary or Assistant Secretary, all as of the Dated Date hereof.

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

By: \_\_\_\_\_  
Chairman or Vice Chairman

[SEAL]

Attest:

\_\_\_\_\_  
Secretary or Assistant Secretary

**[FORM OF CERTIFICATE OF AUTHENTICATION ON BONDS]**

**TRUSTEE'S CERTIFICATE OF AUTHENTICATION**

This Bond is one of the Series [2011A Bonds] [2011B Note] delivered pursuant to the within-mentioned Bond Resolution.

U.S. Bank National Association,  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

**[FORM OF COUNTY GUARANTY CERTIFICATE]**

**GUARANTY OF THE COUNTY OF SUSSEX, NEW JERSEY**

The payment of the principal of and the interest on this Series [2011A Bond] [2011B Note] shall be fully, irrevocably and unconditionally guaranteed by the County of Sussex, New Jersey (the "County"), in accordance with the provisions of N.J.S.A. 40:37A-80, the guaranty ordinance of the County finally adopted pursuant thereto, and that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 15, 2011, between the County and The Morris County Improvement Authority, and accordingly, the County is fully, irrevocably and unconditionally liable for the payment, when due (whether at stated maturity or earlier on any date of redemption or acceleration), of the principal of and the interest on this Series [2011A Bond] [2011B Note], and, if necessary, the County shall levy *ad valorem* taxes upon all the taxable property within the County, without limitation as to rate or amount, in order to make such payments.

**IN WITNESS WHEREOF**, the County has caused this Guaranty Certificate to be executed by the manual or facsimile signature of its Freeholder-Director.

**COUNTY OF SUSSEX,  
NEW JERSEY**

By: \_\_\_\_\_  
Freeholder - Director

The following abbreviations, when used in the inscription on this bond, shall be construed as though they were written out in full according to applicable laws or regulations (additional abbreviations may also be used though not in the following list):

TEN COM - as tenants in common  
TEN ENT - as tenants by the  
entireties  
JT TEN - as joint tenants with  
right of survivorship  
and not as tenants in  
common

UNIF GIFT MIN ACT  
\_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)  
under Uniform Gifts to  
Minors Act  
  
(State)

### ASSIGNMENT

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER  
OF ASSIGNEE (FOR COMPUTER RECORD ONLY): \_\_\_\_\_

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

(Please Print or Typewrite Name and Address of Transferee)

\_\_\_\_\_ the within bond, and all rights thereunder and hereby irrevocably constitutes and appoints

\_\_\_\_\_, Attorney, to transfer the  
within bond on the books kept for the registration thereof, with full power of substitution in the  
premises.

Dated:

Signature Guaranty:

Signature:

NOTICE: Signature(s) must  
be guaranteed by a member  
firm of the New York Stock  
Exchange or a commercial  
bank, trust company,  
national bank association  
or other banking institution  
incorporated under the laws of  
the United States or a state  
of the United States.

NOTICE: The signature of this  
Assignment must correspond with the  
name that appears upon the first  
page of the within bond in every  
particular, without alteration or  
enlargement or any change whatever.

**SECTION 14.02. Effective Date.**

This Bond Resolution shall take effect immediately. Notwithstanding the prior sentence, in accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Board of Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Board of Freeholders a certification from the Clerk stating that the minutes of this meeting have not been vetoed by the Director of the Board of Freeholders.

**MOVED/SECONDED:**

Resolution moved by Commissioner Roe.

Resolution seconded by Commissioner Sandman.

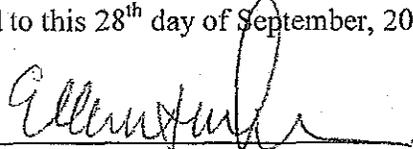
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez	X			
Roe	X			
Sandman	X			
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on September 28, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

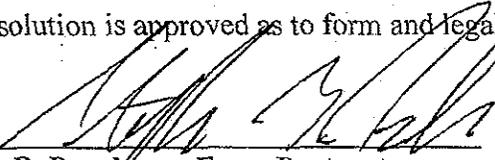
Attested to this 28<sup>th</sup> day of September, 2011.

By: 

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of September 28, 2011

By: 

Stephen B. Pearlman, Esq., Partner  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Counsel to the Authority

**EXHIBIT A**

**FORM OF PROGRAM DOCUMENTS**

## **EXHIBIT B**

### **County Security Fund Requirement**

Initially \$1,500,000 which shall remain on deposit in the County Security Fund until the earlier of (i) the final maturity of all Outstanding Bonds, (ii) until such funds shall be applied to the payment of all Outstanding Bonds in accordance with Section 5.06 or Section 5.07 of the Bond Resolution, or (iii) the date such funds are drawn or otherwise transferred or applied in accordance with the provisions of Section 5.06 or Section 5.07 of the Bond Resolution. Notwithstanding the foregoing, however, the County Security Fund Requirement, initially \$1,500,000 shall be reduced from time to time proportionately with the amortization of the Series 2011 Bonds pursuant to a Certificate of an Authorized Officer of the Authority filed with the Trustee.

**EXHIBIT C**

**RESTORATION SECURITY FUND REQUIREMENT**

Date Funded	Amount to be funded	Restoration Security Fund Amount on Deposit, after Funding, Less Interest Earned
Eleventh (11 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$75,000
Twelfth (12 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$150,000
Thirteenth (13 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$225,000
Fourteenth (14 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$300,000
Fifteenth (15 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$375,000

**PUBLIC NOTICE** is hereby given that the following bond resolution entitled: "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY", was adopted by the Morris County Improvement Authority on September 28, 2011; that copies of such resolution has been filed with and are available for public inspection in the office of the Authority, in the office of the Clerk of the Board of Chosen Freeholders of the County of Morris, New Jersey and in the office of the Clerk of the Board of Chosen Freeholders of the County of Sussex, New Jersey; and that any action or proceeding of any kind or nature in any court questioning the validity or the proper authorization of the bonds authorized by such resolution or the validity of any covenants, agreements or contracts provided for by such resolution must be commenced within twenty (20) days after the first publication of this Notice, then all residents and taxpayers and owners of property in the County of Morris, New Jersey, the County of Sussex, New Jersey and all other persons shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court, or from pleading any defense to any action or proceeding, questioning the validity or proper authorization of such bonds, or the validity of such covenants, agreements or contracts and said bonds, covenants, agreements and contracts shall be deemed to be valid and binding obligations in accordance with their terms and tenor.

**THIS NOTICE** is published pursuant to said bond resolution and the county improvement authorities law (N.J.S.A. 40:37A-62), constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey, as amended and supplemented.

The date of first publication of this notice is September 30, 2011.

Published by the Order of  
Morris County Improvement Authority  
JOHN BONANNI  
Chairperson

## GENERAL CERTIFICATE OF THE AUTHORITY

WE, JOHN BONANNI and ELLEN M. SANDMAN, Chairman and Secretary, respectively, of The Morris County Improvement Authority (the "Authority"), a public body corporate and politic of the State of New Jersey (the "State") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A. 40:37A-44 et seq.*, the "Act") and other applicable law, and in connection with the issuance this day by the Authority of its \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds"), DO HEREBY CERTIFY on behalf of the Authority as follows:

1. Each of the representations, warranties and covenants of the Authority set forth in that certain "Bond Purchase Agreement" dated December 7, 2011 (the "*Purchase Agreement*") among the Authority, RBC Capital Markets LLC, as underwriter relating to the Series 2011 Bonds, and SunLight General Sussex Solar, LLC (the "Company") a copy of which is attached hereto as **Exhibit A**, is true, accurate and complete as of the date hereof. Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Purchase Agreement.

2. The duly adopted certified copy the Authority Bond Resolution held in the corporate minute books of the Authority by the Secretary of the Authority and the executed copies of the Authority Financing Documents are true, correct and complete copies of such documents, and such documents have not been modified, amended, superseded or rescinded (except with respect to the certificate(s) of the Chairman of the Authority dated the date hereof and executed and delivered in accordance with Section 2.02(1)(e) of the Authority Bond Resolution), and, as such, are in full force and effect as of the date hereof.

3. The Authority approved the authorization, execution and delivery of the Series 2011 Bonds on the terms and conditions set forth in the Authority Bond Resolution, which Series 2011 Bonds have been duly authorized, executed, and delivered by the Authority, and authenticated by the Trustee.

4. The Authority Financing Documents, the Authority Bond Resolution, the Official Statement and any and all other agreements and documents required to be executed and delivered by the Authority in order to carry out, give effect to and consummate the transactions contemplated by the Purchase Agreement and as described in the Official Statement have each been duly authorized, executed and delivered by the Authority, and as of the date hereof, each is in full force and effect.

5. The names of the members and officers of the Authority, their titles and the respective dates of expiration of their present terms of office are as follows:

<b>MEMBER</b>	<b>TITLE</b>	<b>EXPIRATION OF CURRENT TERM</b>
John Bonanni	Chairman	February 1, 2012
Christina Ramirez	Vice Chairperson	February 1, 2013
Glenn Roe	Treasurer	February 1, 2016
Ellen Sandman	Secretary	February 1, 2014
Frank T. Pinto, Jr.	Assistant Secretary	February 1, 2015

All of the said members and officers are duly qualified in accordance with the Act and other applicable law, are residents of the County of Morris, New Jersey (the "County"), and are the acting members and officers of the Authority.

6. The regular meetings of the Authority are held at its offices located at Administration and Records Building, Court Street, 5th Floor, Morristown, New Jersey, or some other properly designated site, all as set forth in a resolution of the Authority adopted at its annual meeting or as further authorized under the By-laws of the Authority, which By-laws were adopted at a meeting duly called and held by the Authority on August 18, 2002 by the Authority's Resolution No. 02-13, as amended, a copy of which is attached hereto as **Exhibit B**.

7. In accordance with the provisions of *N.J.S.A. 40:37A-46* of the Act, the Authority was created by virtue of a resolution of the Board of Chosen Freeholders of the County, duly adopted on April 10, 2002. In accordance with the provisions of the Act, a certified copy of such resolution has been duly filed in the office of the Secretary of State of the State and in the office of the Division of Local Government Services in the Department of Community Affairs of the State. Certified copies of the resolutions of the Board of Chosen Freeholders of the County appointing members to the Authority have also been duly filed in the office of the Secretary of State of the State.

8. All notices published or required to be published by the Authority are customarily published in *The Daily Record* or in *The Star Ledger*, which newspapers are published and circulated in the district of the Authority.

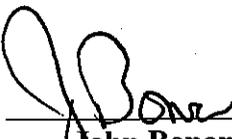
9. Publication of a notice of the regular meeting schedule of the Authority was made in accordance with the Open Public Meetings Act of New Jersey. The meetings of the Authority that were held in connection with the authorization of the Series 2011 Bonds were conducted in conformance with the provisions of said Act.

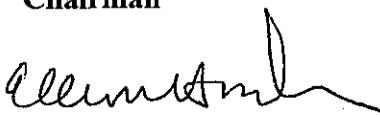
10. Pursuant to *N.J.S.A. 19:44A-20.1 et seq.* (the “*Pay to Play Law*”), the Authority may not award a contract with a value in excess of \$17,500.00 to a business entity which has made reportable contributions in excess of \$300.00, in the aggregate, to the member municipality’s political parties or to any candidate’s committee of any person serving in an elective public office of the member municipality when such contract was awarded, unless said business entity is awarded a contract under a “fair and open process” pursuant to *N.J.S.A. 19:44A-20.1 et seq.* (the “*Fair and Open Process*”). In the absence of a Fair and Open Process, the Authority may obtain certifications required by the Pay to Play Law that state no reportable contributions have been made in excess of \$300.00 and a business entity disclosure pursuant to *N.J.S.A. 40A:11-51* (collectively, the “*Certifications*”). All contracts entered into in connection with the Series 2011 Bonds have been either awarded pursuant to a Fair and Open Process or the appropriate Certifications have been received.

11. The insurance required by Article VI of the Company Lease Agreement can be delivered (i) for all parties except the Series 2011 Local Units, from and after the date the Company accesses the first Local Unit Facility and (ii) with respect to the Series 2011 Local Units, from and after the Company accesses the Applicable Series 2011 Local Facility.

IN WITNESS WHEREOF, we have hereunto set our hands this 14th day of December, 2011.

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By:  \_\_\_\_\_  
**John Bonanni**  
**Chairman**

By:  \_\_\_\_\_  
**Ellen M. Sandman**  
**Secretary**

**EXHIBIT A**

**[Attach copy of Purchase Agreement]**

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
(Morris County, New Jersey)**

**\$26,715,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue  
Bonds, Series 2011A (Federally Taxable)**

**\$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note,  
Series 2011B (Federally Taxable)**

**BOND PURCHASE AGREEMENT**

December 7, 2011

The Morris County Improvement Authority  
Morris County Administration & Records Building  
Court Street  
P.O. Box 900  
Morristown, New Jersey 07960-0900

SunLight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, New York 10017

Ladies and Gentlemen:

The undersigned, a duly authorized representative of RBC Capital Markets, LLC (the "Representative"), on behalf of itself (the "Underwriter"), hereby offers to enter into this Bond Purchase Agreement (the "Purchase Agreement") with The Morris County Improvement Authority (the "Authority") and SunLight General Sussex Solar, LLC (the "Company") for the purchase by the Underwriter and sale by the Authority of the Series 2011A Bonds and the Series 2011B Note specified below. Upon your acceptance of this offer and upon execution hereof by you and the Company this Purchase Agreement will be binding upon the Authority, the Company and the Underwriter. This offer is made subject to acceptance by the Authority and the Company prior to 8:00 p.m., New York City time, on the date hereof, and upon such acceptance this Purchase Agreement shall be in full force and effect in accordance with its terms and shall be binding upon the Authority, the Company and the Underwriter. Each capitalized term used in this Purchase Agreement and not otherwise defined herein shall have the meaning given to such term in the hereinafter defined Authority Bond Resolution.

Inasmuch as this purchase and sale represents a negotiated transaction, the Authority acknowledges and agrees that: (i) the transaction contemplated by this Purchase Agreement is an arm's length, commercial transaction between the Authority and the Underwriter in which the Underwriter is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to the Authority; (ii) the Underwriter has not assumed any advisory or fiduciary responsibility to the Authority with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or is currently providing other services to the Authority on other matters); (iii) the Underwriter is acting solely in its capacity as underwriter for its own

accounts, (iv) the only obligations the Underwriter has to the Authority with respect to the transaction contemplated hereby expressly are set forth in this Purchase Agreement; and (v) the Authority has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

1. **Purchase and Sale.** Upon the terms and conditions and upon the basis of the representations, warranties and covenants herein set forth, the Underwriter hereby agrees to purchase from the Authority, and the Authority hereby agrees to sell and deliver to the Underwriter, all of the Authority's (i) \$26,715,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) (the "Series 2011A Bonds") and (ii) \$985,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Series 2011 Bonds").

The purchase price of the Series 2011A Bonds is \$26,593,392.74 (representing the principal amount of the Series 2011A Bonds, less an Underwriter's discount in the amount of \$121,607.26). The purchase price of the Series 2011B Note is \$980,516.26 (representing the principal amount of the Series 2011B Note, less an Underwriter's discount in the amount of \$4,483.74).

The proceeds of the Series 2011 Bonds will be applied by U.S. Bank National Association, Morristown, New Jersey, as trustee for the holders from time to time of the Series 2011 Bonds (the "Trustee"). The Series 2011 Bonds are to be issued pursuant to: (i) the County Improvement Authorities Law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey, as amended and supplemented (the "Act"); and (ii) a bond resolution of the Authority entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted on September 28, 2011, as amended and supplemented by certificates of an Authorized Officer of the Authority to be executed in connection with the issuance of the Series 2011 Bonds (collectively, the "Authority Bond Resolution"). The Series 2011A Bonds shall be dated and will bear interest from their date of delivery, payable semi-annually on June 15 and December 15 in each year, commencing June 15, 2012, until final maturity or earlier redemption at the rates as set forth in Exhibit A hereto. The Series 2011A Bonds are subject to redemption prior to their stated maturities as set forth in Exhibit A hereto. The Series 2011B Note shall be dated and will bear interest from its date of delivery and will be payable as to principal and interest on its maturity date, January 15, 2013, at the rate as set forth in Exhibit A hereto. The Series 2011B Note shall not be subject to optional redemption prior to its stated maturity as set forth in Exhibit A hereto.

The proceeds of the Series 2011A Bonds will be used to (i) finance a portion of the cost of the Renewable Energy Projects for each of the Series 2011 Local Units, (ii) reimburse certain Renewable Energy Program development costs paid by the County of Sussex, New Jersey (the "County") and the Authority, (iii) pay certain fees and costs incurred by or for the Company in connection with the Renewable Energy Program, and (iv) pay the various costs of issuing the Series 2011 Bonds, all in accordance with and pursuant to the Authority Bond Resolution and a

Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of December 1, 2011 (the "Lease Agreement") between the Authority and the Company. The proceeds of the Series 2011B Note will be used to pay capitalized interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012. A portion of the costs of the Renewable Energy Projects will be provided from certain deferred equity contributed by the Company.

The Series 2011B Note shall have equal rank with the Series 2011A Bonds and any other series of Additional Bonds with regard to the receipt of the pledge of Revenues and other amounts under the Authority Bond Resolution and the security and benefit of such pledge and other provisions of the Authority Bond Resolution. The County Guaranty shall be for the benefit of both series of Series 2011 Bonds.

Pursuant to the terms of the Lease Agreement, the Company will be obligated to make lease payments ("Basic Lease Payments") to the Authority sufficient to pay the principal of and interest on the Series 2011 Bonds and, as applicable, Additional Lease Payments (as defined in the Lease Agreement) as and when the same become due and payable upon demand. The payment of the principal of (including Sinking Fund Installments, if any) and interest on the Series 2011 Bonds (but not any redemption premium) shall be guaranteed by the County pursuant to the County Guaranty, as hereinafter defined. The County has the right, power and obligation to cause the levy of *ad valorem* taxes upon all the taxable property within the County, without limitation as to rate or amount, if necessary, in order to meet its payment obligations under the County Guaranty.

On the date of the Closing (as hereinafter defined): (i) the County will have (a) finally adopted a guaranty ordinance relating to the Series 2011 Bonds in accordance with *N.J.S.A. 40:37A-80* of the Act in order to fully and unconditionally guarantee the payment, when due, of the principal of (including sinking fund installments, if any) and interest on the Series 2011 Bonds (the "Guaranty Ordinance"), (b) executed a certificate evidencing such guaranty within each of the Series 2011 Bonds, and (c) executed a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement" and collectively with clauses (a) and (b) herein, the "County Guaranty") by and between the County and the Authority; (ii) the County, the Trustee and the Authority shall have executed a Continuing Disclosure Agreement dated as of December 1, 2011 (the "County Disclosure Agreement") with the Trustee, as dissemination agent; and (iv) the County shall have adopted the resolution of the County consenting to the issuance by the Authority of the Series 2011 Bonds (the "Consent Resolution"). The Consent Resolution, the County Guaranty, the County Disclosure Agreement of the County and the County Letter of Representation (as hereinafter defined) are collectively referred to herein as the "County Documents".

## 2. Delivery of Official Statement and Other Documents.

(a) The Authority has previously delivered to the Underwriter the Preliminary Official Statement with respect to the Series 2011 Bonds dated December 1, 2011, which, based in part on certain representations made by the Authority in this Purchase Agreement, the County

in the County Letter of Representation as set forth in Exhibit B hereto (the "County Letter of Representation"), and the Company in the Company Letter of Representation as set forth in Exhibit E hereto (the "Company Letter of Representation" and with the County Letter of Representation, the "Letters of Representation"), the Authority, the Company and the County have "deemed final" as of its date for purposes of Rule 15c2-12 ("Rule 15c2-12") promulgated by the Securities and Exchange Commission of the United States (the "SEC") under the Securities Exchange Act of 1934, as amended (the "Exchange Act") except for the omission of such information as is specified in Rule 15c2-12(b)(1) and except for changes permitted by other applicable law (such Preliminary Official Statement, including all the appendices thereto, shall be referred to as the "Preliminary Official Statement"). Such Preliminary Official Statement, with only such material changes therein as shall have been approved by the Underwriter and the Authority, and including the cover page and all appendices attached thereto, together with such amendments or supplements thereto as are required to be made in accordance herewith subsequent to the date hereof, and which is delivered to the Underwriter, and is complete as of the date of such delivery, is herein called for purposes of this paragraph the "Official Statement." The Authority shall deliver, or cause to be delivered, to the Underwriter within seven (7) business days after the Authority's acceptance of this Purchase Agreement or within such shorter period as may be required by the Underwriter in order to comply with Rule 15c2-12 and other applicable securities laws, rules or regulations and in sufficient time to accompany confirmation that requests payment from any customer, copies of the Official Statement, executed on behalf of the Authority by the Chairperson, in sufficient quantity to comply with the rules of the Securities and Exchange Commission. The Authority shall prepare the Official Statement, including any amendments thereto, in word-searchable PDF format as described in the MSRB's Rule G-32 and shall provide the electronic copy of the word-searchable PDF format of the Official Statement to the Underwriter no later than one (1) business day prior to the December 14, 2011 to enable the Underwriter to comply with MSRB Rule G-32. The Official Statement shall be a "final official statement" for purposes of the Securities and Exchange Commission Rule 15c2-12(e)(3).

(b) The Underwriter agrees that it shall deliver the Official Statement to the Municipal Securities Rulemaking Board (the "MSRB") or its designee and file the Official Statement with EMMA as soon as practicable but in no event later than five (5) business days following receipt thereof.

(c) From the date hereof and for a period of twenty-five (25) days following the end of the underwriting period for the Series 2011 Bonds, if any event shall occur that might cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and if in joint opinion of the Underwriter and the Authority, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Authority will cause the Official Statement to be amended or supplemented in a form approved by the Underwriter at the sole cost and expense of the Authority and will furnish to the Underwriter a reasonable number of copies of such supplement or amendment.

(d) Prior to or simultaneously with the execution of this Purchase Agreement:  
(i) Nisivoccia & Company, LLP, Mt. Arlington, New Jersey will have delivered to the County and Authority, respectively, and made available to the Underwriter a letter in form and substance

satisfactory to the Underwriter setting forth their consent to the use of such firm's audited financial statements in the Preliminary Official Statement and Official Statement and the conclusions and findings of said firm with respect to certain financial information and other matters relating to the County contained in the Official Statement; (ii) the County will have executed and delivered its County Letter of Representation substantially in the form attached hereto as Exhibit B; and (iii) the Company will have executed and delivered its Company Letter of Representation substantially in the form attached hereto as Exhibit E.

3. **Public Offering.** The Underwriter agrees to make a *bona fide* public offering of the Series 2011 Bonds at a price or prices not in excess and yields no lower than the initial public offering price or prices or yields set forth on the inside front cover of the Official Statement. The Underwriter reserves the right to change such initial public offering price or prices (or yields), whenever the Underwriter deems it necessary in connection with the marketing of the Series 2011 Bonds, and to offer and sell the Series 2011 Bonds to certain dealers (including dealers depositing the Series 2011 Bonds into investment trusts) and certain dealer banks and banks acting as agents at prices lower than such initial public offering price or prices. The Authority hereby authorizes the Underwriter to use the Official Statement and the information contained therein, and ratifies and confirms its authorization of the use by the Underwriter prior to and after the date hereof of the Preliminary Official Statement in connection with such public offering and sale. The Underwriter, at or prior to the Closing, shall deliver to the Authority a certificate or certificates stating the "issue price" and "yield" of the Series 2011 Bonds.

4. **Authority's Representations, Warranties and Covenants.** By its acceptance hereof, the Authority represents and warrants to and covenants with the Underwriter (and it shall be a condition of the obligation of the Underwriter to purchase and to accept delivery of the Series 2011 Bonds that the Authority shall so represent, warrant and covenant as of the date of the Closing) that, as of the date hereof:

(a) The Authority is a public body politic and corporate created by the County and governed by the Constitution and the laws of the State of New Jersey (the "State"), including without limitation, the County Improvement Authorities Law (*N.J.S.A. 40:37A44 et seq.*), as amended and supplemented, and the Authority was duly organized under and is presently existing under the Act, with the powers, among others, and authority set forth therein.

(b) The acting members of the Authority have been duly appointed and qualified in accordance with the terms of the Act.

(c) The Authority has complied with all provisions of the Constitution and the laws of the State of New Jersey relating to the transactions contemplated hereby and by the Official Statement and, therefore, has full power and authority to enter into and perform its obligations under this Purchase Agreement, the Lease Agreement, the Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of December 1, 2011 among the Authority and the Company (the "Power Purchase Agreement"), the County Guaranty Agreement, the Local Unit License Agreements with each Series 2011 Local Unit (the "Local Unit License Agreements"), the County Disclosure Agreement and a Continuing Disclosure Agreement dated as of December 1, 2011 among the Company, the Trustee and the Authority (the "Company Disclosure Agreement" and collectively with the Purchase Agreement,

the Lease Agreement, the Power Purchase Agreement, the County Guaranty Agreement, the Local Unit License Agreements and the County Disclosure Agreement, the "Authority Financing Documents"), has full power and authority to adopt the Authority Bond Resolution and has full power and authority to issue, offer, sell and deliver the Series 2011 Bonds to the Underwriter as provided herein and to carry out the transactions contemplated hereby and by the Authority Financing Documents and the Official Statement.

(d) By official action of the Authority taken prior to or concurrent with the acceptance hereof, the Authority has duly authorized, approved, and consented to all necessary action to be taken by the Authority for: (i) the execution, delivery and performance of each of the Authority Financing Documents and the transactions contemplated hereby and by the Authority Financing Documents and the Official Statement, and the adoption of the Authority Bond Resolution and the transactions contemplated thereby; (ii) the issuance of the Series 2011 Bonds upon the terms set forth herein, in the Authority Bond Resolution and in the Official Statement; (iii) the approval of the Official Statement and the execution of the Official Statement and any amendment thereof or supplement thereto; (iv) the execution, the delivery and the due performance of any and all other agreements and instruments that may be required to be executed, delivered and received by the Authority to which it is a party in order to carry out, to give effect to and to consummate the transactions contemplated by any of the Authority Financing Documents, the Authority Bond Resolution and the Official Statement; and (v) the designation of the Preliminary Official Statement as "deemed final" for purposes of Rule 15c2-12(b)(2) of the SEC and the Official Statement as a "final official statement" for purposes of Rule 15c2-12(e)(3).

(e) Each of the Authority Financing Documents, when executed by the Authority, and upon the valid execution and delivery by the other parties thereto, will be, and the Authority Bond Resolution, is duly authorized and delivered and constitutes the legal, valid and binding obligations of the Authority enforceable in accordance with its terms, except as the enforcement thereof may be affected by bankruptcy, moratorium, insolvency, or other laws or the application by a court of legal or equitable principles affecting creditors' rights ("Creditors' Rights Limitations"), and the Authority has duly authorized and approved the consummation by it of all other transactions contemplated by the Official Statement, any of the Authority Financing Documents and the Authority Bond Resolution to be performed or consummated by it at or prior to the date of the Closing.

(f) The execution and delivery by the Authority of the Official Statement and any of the Authority's Financing Documents and compliance with the obligations on the Authority's part contained herein and therein and the adoption of the Authority Bond Resolution and compliance with the obligations on the Authority's part contained therein, will not conflict with or constitute a breach of or default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Authority is a party or to which the Authority or any of its properties or other assets is otherwise subject or to the establishment or existence of the Authority or its affairs, nor will any such execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or other assets of the Authority under the terms of any

such law, regulation or instrument, except as provided or permitted by the aforementioned documents.

(g) All approvals, consents and orders of any governmental authority, legislative body, board, agency, or commission having jurisdiction in any matter which constitutes a condition precedent to or the absence of which would materially adversely affect the due performance by the Authority of its obligations under any of the Authority Financing Documents, the Authority Bond Resolution and the Series 2011 Bonds and the transactions contemplated hereby and thereby have been, or prior to the Closing will have been, duly obtained, including, but not limited to the findings of the Local Finance Board of the Department of Community Affairs in the Division of Local Government Services of the State (the "Local Finance Board").

(h) The Series 2011 Bonds, when issued and delivered in accordance with the Authority Bond Resolution and sold to the Underwriter as provided herein, will be valid and legally enforceable obligations of the Authority in accordance with their terms and the terms of the Authority Bond Resolution, and the Authority Bond Resolution will provide, for the benefit of the holders from time to time of the Series 2011 Bonds, a valid and legally binding pledge of the Trust Estate (as defined in the Authority Bond Resolution), applicable to such Authority Bond Resolution, to the Trustee, in accordance with and subject to the terms of such Authority Bond Resolution, and further subject to Creditors' Rights Limitations.

(i) The description and information contained in the Preliminary Official Statement and the Official Statement relating to the Authority, its operations, and the transactions contemplated hereby and otherwise by any of the Authority Financing Documents, the Authority Bond Resolution and the Official Statement and other information therein pertaining to the Authority is true and correct in all material respects and does not contain any untrue or incorrect statement or misleading statement of a material fact and does not and will not omit to state a material fact which is necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(j) Except as otherwise disclosed in the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity before or by any court, governmental agency or public board or body, pending or, to the knowledge of the Authority, threatened against the Authority or affecting the Authority (or, to the Authority's knowledge, any basis therefore), (i) wherein an unfavorable decision would materially adversely affect the existence of the Authority or the entitlement of its officers or members to their respective offices or (ii) wherein an unfavorable decision would materially adversely affect the transactions contemplated by any of the Authority's Financing Documents, the Authority Bond Resolution or the Official Statement or (iii) wherein an unfavorable decision would materially adversely affect the financial stability of the Authority or (iv) which in any way contests or materially adversely affects the validity, enforceability, execution or delivery of any of the Authority Financing Documents or the Series 2011 Bonds or the validity, enforceability and adoption of the Authority Bond Resolution or (v) which contests the completeness or accuracy of the Official Statement or (vi) which contests the powers of the Authority or any authority or proceedings for the execution, approval and delivery of any of the Authority Financing Documents or the Series 2011 Bonds or the adoption of the Authority Bond Resolution.

(k) The Authority will furnish such information, execute such instruments and take such other action not inconsistent with law in cooperation with the Underwriter as the Underwriter may reasonably request in order: (i) to qualify the Series 2011 Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate; and (ii) to determine the eligibility of the Series 2011 Bonds for investment under the laws of such states and other jurisdictions and will use its best efforts to continue such qualification in effect so long as required for the distribution of the Series 2011 Bonds provided, however, that the Authority will not be required to qualify as a foreign corporation or to file any general or special consents to service of process under the laws of any state. The Authority consents to the use of the Preliminary Official Statement by the Underwriter in obtaining such qualifications. If consent to service of process or written consent to suit by the Authority is required in order to successfully qualify the Series 2011 Bonds and, in the judgment of the Underwriter, lack of qualification would adversely affect the ability of the Underwriter to successfully market the Series 2011 Bonds, the Underwriter may, at its option, be relieved of its obligation to purchase the Series 2011 Bonds under this Purchase Agreement unless the Authority agrees to file written consent to suit or service of process.

(l) At the time of the Authority's approval of this Purchase Agreement, there has not been any material adverse change in the financial condition or the operations of the Authority since the date of the Preliminary Official Statement that has not been brought to the attention of the Underwriter in writing prior to the date of this Purchase Agreement.

(m) The Authority is not in violation of or in default (or with the lapse of time and/or the receipt of appropriate notice would be in default) under any existing applicable law, court or administrative regulation, judgment, decree, order, agreement, indenture, mortgage, lease or sublease to which the Authority, any of its officers or members of the Authority or any of its properties is a party or is otherwise bound, that would have a material and adverse effect upon the operations or the financial condition of the Authority.

(n) If, between the date of this Purchase Agreement and the Closing, the Authority issues or otherwise participates in the offering of any bonds, notes or other debt obligations of the Authority, the Authority will promptly notify the Underwriter thereof.

(o) Neither the Authority nor anyone acting on its behalf has, directly or indirectly, authorized any person or entity, other than the Underwriter, to offer the Series 2011 Bonds for resale to the general public, or to solicit any offer to buy the Series 2011 Bonds from the general public.

(p) The Authority will not knowingly take or omit to take any action that will in any way cause the proceeds derived from the sale of the Series 2011 Bonds to be applied in a manner contrary to that which is provided in any of the Authority Financing Documents, or the Authority Bond Resolution or the transactions contemplated thereby.

(q) Any certificate signed by any member of the Authority or authorized officer of the Authority and delivered to the Underwriter shall be deemed a representation and warranty of the Authority to the Underwriter as to the truth of the statements made therein.

(r) The Authority has never been and is not now in default in the payment of principal of or interest on, or otherwise is or has been in default with respect to, any of its bonds, notes, or other debt obligations or lease purchase agreements which it has issued or entered into and the Authority has not entered into any contract or arrangement of any kind which might give rise to any lien or encumbrance on the assets, funds and interests pledged pursuant to, or subject to the lien of, the Authority Bond Resolution.

(s) The Authority has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the Authority is a bond issuer whose arbitrage certifications may not be relied upon.

5. **Representations and Warranties of the Underwriter.** By execution and delivery of this Purchase Agreement by the Underwriter, the Underwriter represents and warrants that as of the date hereof:

(a) The Underwriter has full power and authority to execute and deliver this Purchase Agreement and to comply with the provisions hereof;

(b) Assuming the due authorization of the Purchase Agreement by the Authority and approval by the Company, this Purchase Agreement will constitute a legal, valid and binding obligation of the Underwriter, in accordance with the terms hereof except to the extent that enforcement hereof may be limited by Creditors' Rights Limitations;

(c) The Underwriter has and expects in the future to comply with the requirements of Rule 15c2-12 and the requirements and rules of the MSRB and all other regulatory agencies; and

(d) The Underwriter has not entered into any undisclosed financial or business relationship, arrangement or practice required to be disclosed in the Preliminary Official Statement or Official Statement in connection with the initial primary offering of the Series 2011A Bonds, pursuant to Federal Securities and Exchange Commission Release No. 33-7049; 34-33741; FR 42; File No. S74-94 (March 9, 1994) or required to be disclosed in the Preliminary Official Statement or Official Statement pursuant to MSRB rules.

6. **The Closing.** At 10:00 a.m., New York City time, on December 14, 2011, or at such later time or on such later date as may be mutually agreed upon by the Authority, the Company and the Underwriter, the Authority will, subject to the terms and conditions hereof, deliver: (i) the Series 2011 Bonds to the Trustee, as agent of The Depository Trust Company ("DTC") for the account of the Underwriter, pursuant to the DTC FAST procedures, duly executed and authenticated; and (ii) at the offices of Inglesino, Pearlman, Wyciskala & Taylor, LLC ("Bond Counsel"), in Parsippany, New Jersey, the other documents hereinafter mentioned. Subject to the terms and conditions hereof and satisfaction of conditions precedent hereinbefore and hereinafter mentioned, the Underwriter will accept such delivery and pay the purchase price of the Series 2011 Bonds (as set forth in Paragraph 1 hereof) in immediately available funds by check or wire transfer to or upon the order of the Authority or the order of such person as the Authority shall direct. Such delivery of and payment for the Series 2011 Bonds is herein called the "Closing."

The Series 2011 Bonds shall be prepared in fully registered form acceptable to DTC and delivered in denominations of one (1) Series 2011A Bond per maturity thereof and one (1) Series 2011B Note as set forth in Exhibit A hereto, and shall be made available for inspection at such place as the Authority, and the Underwriter may mutually agree upon twenty four (24) hours prior to the Closing.

It is anticipated that Committee on Uniform Security Identification Procedures ("CUSIP") identification numbers will be printed on the Series 2011 Bonds, but neither the failure to print such number on any Series 2011 Bond nor any error with respect to such number shall constitute cause for a failure or refusal by the Underwriter to accept delivery of and pay for the Series 2011 Bonds in accordance with the terms of this Purchase Agreement. All expenses related to the printing of CUSIP numbers on the Series 2011 Bonds and the CUSIP Service Bureau charge for the assignment of said numbers shall be paid for by the Underwriter.

7. **Closing Conditions.** The Underwriter is entering into this Purchase Agreement in reliance upon the representations, warranties, covenants and agreements of the Authority and Company contained herein, in reliance upon the representations, warranties, covenants and agreements to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Authority and Company of its covenants and agreements hereunder, both as of the date hereof and as of the date of the Closing. Accordingly, the Underwriter's obligation under this Purchase Agreement to purchase, to accept delivery of and to pay for the Series 2011 Bonds shall be conditioned upon the performance by the Authority and Company of its covenants and agreements to be performed hereunder and under such documents and instruments at or prior to the Closing, and shall also be subject to the following additional conditions:

(a) At the time of the Closing, the Authority Financing Documents shall be in force and effect; the Authority Bond Resolution shall be in full force and effect and shall not have been amended, modified, supplemented or rescinded since the date hereof, (except for pricing and sale information or information permitted and contemplated by Section 2.02 (1) (e) of the Authority Bond Resolution), and the Official Statement as delivered to the Underwriter in accordance with the terms of Paragraph 2 hereof shall not have been supplemented or amended without the consent of the Underwriter and no event or circumstance shall have occurred which, in the reasonable opinion of the Underwriter, would require such amendment or supplement.

(b) All official actions of the Authority relating to: (i) the approval, execution and delivery of each of the Authority Financing Documents, the Official Statement and the Series 2011 Bonds; (ii) the approval and adoption of the Authority Bond Resolution; and (iii) the approval of the distribution of the Preliminary Official Statement and the Official Statement shall be in full force and effect.

(c) (i) All official actions of the County relating to the approval, execution and delivery of the County Disclosure Agreement and the final adoption and execution of the County Guaranty shall be in full force and effect, (ii) all official actions of the County relating to the approval and adoption of the County Guaranty and any documents related thereto, to the extent applicable, shall be in full force and effect.

(d) At or prior to the date of the Closing, the Trustee shall have: (i) duly authenticated the Series 2011 Bonds; (ii) accepted, and shall be able to perform, the duties and the obligations of Trustee, Bond Registrar and Paying Agent under the Authority Bond Resolution; (iii) as dissemination agent, executed and delivered the County Disclosure Agreement and the Company Disclosure Agreement; and (iv) received all approvals, consents and orders of any governmental authority or agency having jurisdiction in any matter that would constitute a condition precedent to the performance by the Trustee of its duties and obligations as Trustee, Bond Registrar and Paying Agent under the Authority Bond Resolution.

(e) At or prior to the Closing, the Authority, the Company and the County shall have performed all of their respective obligations required under or specified in the Official Statement, the Authority Financing Documents, the Authority Bond Resolution, the County Documents, and the Letters of Representation to be performed at or prior to the date of the Closing, and the Underwriter shall have received each of the following documents:

(1) an executed original of the Official Statement, the Authority Financing Documents, certified copies of the Authority Bond Resolution, the County Documents and all other documents or instruments contemplated therein;

(2) the approving opinion of Bond Counsel, dated the date of the Closing and addressed to the Authority, in substantially the form of APPENDIX E to the Official Statement;

(3) a letter of Bond Counsel, dated the date of the Closing and addressed to the Underwriter, the County, the Company and the Trustee, to the effect that the opinion referred to in Paragraph 7(e)(2) above may be relied upon by the Underwriter, the County, the Company and the Trustee to the same extent as if such opinion were addressed to the Underwriter, the County, the Company and the Trustee;

(4) a supplemental opinion of Bond Counsel with respect to the Series 2011 Bonds, dated the date of the Closing and addressed to the Authority, the Underwriter, the Company and the Trustee, in substantially the form of Exhibit C hereto;

(5) an opinion of Inglesino, Pearlman, Wyciskala & Taylor, LLC, general counsel to the Authority (the "Authority Counsel"), dated the date of the Closing, and addressed to the Authority, the Underwriter, the County, the Company and the Trustee to the effect that: (a) the Authority has been duly created and is validly existing under the Constitution and laws of the State of New Jersey (the "State"), including the Act, and has full power and authority to carry out and consummate all transactions contemplated by the Authority Financing Documents and the Authority Bond Resolution; (b) all action taken by the Authority in connection with the authorization, execution and delivery of each of the Authority Financing Documents, and the Official Statement, and in connection with the authorization and adoption of the Authority Bond Resolution have been in compliance in all respects with the provisions of the State Constitution and applicable laws, including, *inter alia*, Chapter 231 of the Laws of the State of New Jersey, 1975, as amended, the New Jersey Open Public Meetings Law; (c) the adoption and the performance of the terms of the Authority Bond Resolution and the execution, delivery and performance by the Authority of the Authority Financing Documents and the Series 2011

Bonds will not violate any provision of any law of the State or any applicable judgment, order or regulation of any court or of any public or governmental agency or authority of the State having jurisdiction over the Authority and will not conflict with or result in any breach in any of the provisions of, or constitute a default under, any agreement or instrument to which the Authority is a party or by which it or any of its property is or may be bound, nor will such action result in violation of the by-laws of the Authority; (d) there is no controversy or litigation of any nature now pending or to my knowledge threatened, restraining or enjoining the authorization, issuance, sale, execution or delivery of the Series 2011 Bonds or the security pledged therefor or the authorization or adoption of the Authority Financing Documents or the Authority Bond Resolution, or in any way questioning or affecting the validity of the Series 2011 Bonds or the validity of the Authority Financing Documents or any proceedings of the Authority taken with respect to the authorization, issuance or sale thereof, or the pledge or application of any moneys or security provided for the payment of the Series 2011 Bonds, or in any way questioning or affecting the creation, organization, corporate existence or powers of the Authority, or the title of any of the present officers thereof to their respective titles. In addition, there is no controversy or litigation of any nature now pending or to our knowledge threatened that would materially adversely affect the financial position of the Authority or the enforceability of the Authority Financing Documents or the Authority Bond Resolution; and (e) the information contained in the Official Statement under the headings "THE AUTHORITY" and "LITIGATION - The Authority" is true and correct and based upon their participation in the preparation of the Official Statement as Counsel to the Authority and without having undertaken to determine independently the accuracy, completeness or fairness of the statements contained in the Official Statement, except as set forth above, they have no reason to believe that the Official Statement (except for the financial statements and other financial and statistical data included therein, as to which no view is expressed) contained or contains any untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, except that we make no representation as to the initial public offering prices (or yields) of the Series 2011 Bonds on the inside front cover thereto or the information contained in the Official Statement under the headings "THE COMPANY", "DESCRIPTION OF THE SERIES 2011 BONDS - Book-Entry Only System," "DEBT SERVICE SCHEDULE," "BANKRUPTCY", "LITIGATION - The Company, - The Series 2011 Local Units, - The County," "TAX MATTERS", "APPENDIX A - Certain Information Concerning the County," "APPENDIX B - Audited Financial Statements of the County," "APPENDIX C - Certain Information Concerning the Company", "APPENDIX E-Proposed Form of Approving Legal Opinion", and "APPENDIX F-Forms of Continuing Disclosure Agreements;"

(6) an opinion of Dennis R. McConnell, Esq., County Counsel, dated the date of the Closing, and addressed to the County, the Underwriter, the Company, the Authority and the Trustee in the form attached as Exhibit D hereto;

(7) an opinion of McElroy, Deutsch, Mulvaney & Carpenter, LLP, counsel to the Trustee, dated the date of the Closing, and addressed to the Authority, the County, the Company and the Underwriter to the effect that: (a) the Trustee is a national banking association duly organized and existing under the laws of the United States of America with trust and fiduciary powers in the State; (b) the Trustee has duly accepted its appointment as Trustee, Bond Registrar and Paying Agent under the Authority Bond Resolution and is duly authorized

and empowered to discharge and perform all duties imposed upon it as Trustee, Bond Registrar and Paying Agent thereunder; (c) the Trustee has duly authorized, executed and delivered the County Disclosure Agreement and the Company Disclosure Agreement and is duly authorized and empowered to discharge and perform all duties imposed on it as dissemination agent thereunder; (d) the acceptance and performance by the Trustee of its duties and obligations as Trustee, Bond Registrar and Paying Agent under the Authority Bond Resolution and under the Lease Agreement, and its duties and obligations as dissemination agent under the County Disclosure Agreement and Company Disclosure Agreement have been duly authorized by all necessary corporate actions on the part of the Trustee, and do not require any approval, consent or review of any court or public or governmental body or regulatory authority or any stockholder approval, or such required approvals and consents have heretofore been duly obtained; (e) the acceptance and performance by the Trustee of its duties and obligations as Trustee, Bond Registrar and Paying Agent under the Authority Bond Resolution and under the Lease Agreement, and its duties and obligations as dissemination agent under the County Disclosure Agreement and Company Disclosure Agreement do not and will not contravene or cause a breach or violation of or default under any provisions of the Articles, Charter or Bylaws of the Trustee, or any existing law or regulation to which the Trustee is or may be subject and (f) the duties and obligations of the Trustee as Trustee, Bond Registrar and Paying Agent under the Authority Bond Resolution and under the Lease Agreement, and its duties and obligations as dissemination agent under the County Disclosure Agreement and Company Disclosure Agreement constitute the legal, valid and binding obligations of the Trustee, enforceable against the Trustee in accordance with their respective terms, subject to bankruptcy, insolvency or other laws or the application by a court of legal or equitable principles affecting creditors' rights generally;

(8) an opinion of Gibbons P.C., counsel for the Underwriter ("Underwriter's Counsel"), dated the date of the Closing and addressed to the Underwriter, in form and substance satisfactory to the Underwriter;

(9) a certificate, dated the date of Closing, signed by the Secretary of the Authority to the effect that: (a) the notice referred to in Section 19 of the Act concerning the adoption of the Authority Bond Resolution has been published in a newspaper published or circulated within the County; (b) the form of such notice is in compliance with the requirements set forth in Section 19 of the Act; (c) the twenty (20) day estoppel period during which any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of the Series 2011 Bonds provided for by the Authority Bond Resolution or the validity of any covenants, agreements or contracts provided for by the Authority Bond Resolution can be commenced has expired; and (d) no such action or proceeding has been commenced as of the date of Closing;

(10) a certificate or certificates of the Authority's Chairperson and Secretary, dated the date of the Closing, satisfactory in form and substance to counsel for the Underwriter, to the effect that: (a) each of the representations and warranties of the Authority set forth in this Purchase Agreement are true, accurate and complete as of the date of Closing; (b) the executed copies of the Authority Financing Documents and certified copies of the Authority Bond Resolution, are true, correct and complete copies of such documents and the same have not been further modified, amended, superseded or rescinded and remain in full force and effect as

of the date of Closing; (c) the Series 2011 Bonds have been duly authorized, executed and delivered by the Authority and authenticated by the Trustee; (d) the Authority Financing Documents, and any and all other agreements and documents required to be executed and delivered by the Authority in order to carry out, give effect to and consummate the transactions contemplated hereby and as described in the Official Statement have each been duly authorized, executed and delivered by the Authority and, as of the date of Closing, each is in full force and effect;

(11) copies of all resolutions of the Authority and all resolutions and ordinances of the County relating to the issuance of the Series 2011 Bonds, certified as of the date of the Closing by the Authority's Secretary and by the Clerk of the Board of Chosen Freeholders of the County, as appropriate;

(12) evidence of incumbency and signing authority of the members and officers of the Authority and the officers and officials of the County;

(13) (a) the County Letter of Representation, duly executed and dated the date of the Purchase Agreement, and in the form attached hereto as Exhibit B, and (b) a certificate dated the date of the Closing duly executed and delivered by the County to the effect that the representations and warranties of the County in the County Letter of Representation have not changed since the date thereof and are true and correct in all material respects as of the date of the Closing;

(14) a certificate, dated the date of the Closing, which shall be true and correct as of such date, signed by an authorized officer of the Trustee in form and substance satisfactory to counsel for the Underwriter, to the effect that: (a) the duties and obligations under the Authority Bond Resolution and under the Lease Agreement of the Trustee, Bond Registrar and Paying Agent for the Series 2011 Bonds have been duly accepted by the Trustee, and both the County Disclosure Agreement and Company Disclosure Agreement have been authorized, executed and delivered by the Trustee, as dissemination agent; (b) the acceptance by the Trustee of its duties and obligations under the Authority Bond Resolution and under the Lease Agreement relating to the Trustee, Bond Registrar and Paying Agent and compliance with the provisions thereof, and the performance by the Trustee, as dissemination agent, of its duties and obligations under both the County Disclosure Agreement and Company Disclosure Agreement and compliance with the provisions thereof, will not conflict with or constitute a breach of or default under any law, administrative regulation, consent decree or any agreement or other instrument to which it is subject; (c) the Trustee is in compliance in all respects with the applicable covenants and agreements contained in the Authority Bond Resolution and in the Lease Agreement relating to the Trustee, Bond Registrar and Paying Agent; (d) no litigation is pending or, to the knowledge of such officer, threatened against or affecting the Trustee (or, to such officer's knowledge, is there any basis therefor) in any way contesting or affecting the existence or trust powers of the Trustee or the existence or fiduciary powers of the Bond Registrar and Paying Agent; (e) the Series 2011 Bonds have been duly authenticated and delivered by the Trustee, and any and all other agreements and documents required to be executed and delivered by the Trustee in order to carry out, to give effect to and to consummate the transactions contemplated by this Purchase Agreement, the Authority Bond Resolution, the Lease Agreement, both the County Disclosure Agreement and Company Disclosure Agreement

and the Official Statement have each been duly authorized, executed and delivered by the Trustee as of the date of the Closing; and each is in full force and effect; (f) the acceptance of the duties and obligations of the Trustee, Bond Registrar and Paying Agent under the Authority Bond Resolution and under the Lease Agreement and the authorization, execution and delivery of both the County Disclosure Agreement and Company Disclosure Agreement and any other agreement or instrument to which the Trustee is a party and which is used in consummation of the transactions contemplated by the Authority Financing Documents, the Authority Bond Resolution, and the Official Statement and fulfillment of the terms and the provisions of such agreements and instruments by the Trustee will not (i) conflict with, violate or result in a breach of any law or any administrative regulation or decree applicable to the Trustee, or (ii) conflict with, or result in a breach of, or constitute a default under, any indenture, mortgage, deed of trust, agreement or other instrument to which the Trustee is a party, or by which it is bound, or any order, rule or regulation applicable to the Trustee of any court or other governmental body; (g) the duties and obligations of the Trustee as Trustee, Bond Registrar and Paying Agent under the Authority Bond Resolution and under the Lease Agreement, and its duties and obligations as dissemination agent under both the County Disclosure Agreement and Company Disclosure Agreement constitute the legal, valid and binding obligations of the Trustee, enforceable against the Trustee in accordance with their respective terms, subject to bankruptcy, insolvency or other laws or the application by a court of legal or equitable principles affecting creditors' rights generally and (h) all approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to the performance by the Trustee of its obligations under the Authority Bond Resolution or under both the County Disclosure Agreement and Company Disclosure Agreement have been obtained and are in full force and effect;

(15) a certificate of the Trustee, dated the date of the Closing, acknowledging receipt by the Trustee of the net proceeds of the sale of the Series 2011 Bonds;

(16) evidence of trust powers and signing authority of the Trustee;

(17) a letter of Nissivocia & Company, LLP, Mt. Arlington, New Jersey, auditor to the County, dated the date of the Closing and addressed to the Underwriter consenting to the use of its reports appearing in APPENDIX B to the Preliminary Official Statement and the Official Statement and the information supplied by them in APPENDIX B to the Preliminary Official Statement and the Official Statement;

(18) copies of all: (i) the Local Finance Board application; (ii) the findings of the Local Finance Board relating to the financing; and (iii) the resolution of and group affidavit executed by the members of the Authority to the effect that they have reviewed such findings and evidence that such group affidavit has been timely filed with the Local Finance Board;

(19) written notification from Moody's Investors Service, Inc. stating that, as of the Closing, the Series 2011A Bonds have been assigned the rating "Aa2" (negative outlook);

(20) a certificate that the executed "Turnkey Design, Engineering, Procurement and Construction Contract" between the Company and Power Partners MasTec, LLC (the "EPC Contract") is in effect;

(21) the Company Letter of Representation, duly executed and dated the date of the Purchase Agreement, and in the form attached hereto as Exhibit E;

(22) on the date hereof, a certificate of the authorized signatory of the Manager of the Company attached as Exhibit F;

(23) an opinion of counsel to the Company, dated the date of the Closing, and addressed to the Authority, the County and the Underwriter, satisfactory in form and substance to Bond Counsel and Underwriter's Counsel;

(24) a certificate of NW Financial Group, LLC, financial advisor to the Authority;

(25) an opinion of Wilentz, Goldman & Spitzer, P.A., County Bond Counsel, dated the date of the Closing, and addressed to the County, the Underwriter, the Company, the Authority and the Trustee, to the effect that: (a) the County is a political subdivision of the State duly organized and existing under the laws of the State; (b) the County has full legal right, power and authority to authorize, enter into, execute and deliver the County Documents and to perform its duties, covenants, obligations and agreements thereunder; (c) the County Documents have each been duly and lawfully authorized, executed and delivered (as the case may be) on behalf of the County by all necessary official action required on the part of the County; (d) each of the County Documents is in full force and effect and constitutes a legal, valid and binding obligation of the County, enforceable against the County in accordance with its terms, subject, however, to the effect of, and to restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization or other similar laws or legal or equitable principles affecting creditors' rights generally (no opinion is rendered as to the availability of any particular remedy); (e) for the payment of its obligations under the County Guaranty, the County has the power and is fully, unconditionally and irrevocably obligated, to the extent that funds are not otherwise available, to levy ad valorem taxes upon all taxable property within the County, to pay principal of (including sinking fund installments, if any, but not redemption premium, on the Series 2011 Bonds) without limitation as to rate or amount; (f) resolution adopted by the Board of Freeholders on September 28, 2011 and entitled "RESOLUTION PROVIDING SUSSEX COUNTY'S CONSENT TO THE ISSUANCE BY THE MORRIS COUNTY IMPROVEMENT AUTHORITY OF THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND RELATED DOCUMENTS", and the County Guaranty Ordinance have each been duly and lawfully adopted by the County and are in full force and effect, and the covenants of the County therein are valid and binding obligations of the County enforceable in accordance with their terms; and (g) the description and information in the Preliminary Official Statement and the Official Statement set forth under the heading "SECURITY FOR THE SERIES 2011 BONDS - County Guaranty" is true and correct in all material respects; and

(26) such additional legal opinions, certificates, instruments and other documents as the Underwriter may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the date of the Closing, of the representations, warranties and covenants of the Authority contained herein and in the Authority Certificate in item (10) of this Section, and in the Letters of Representation and of the statements and information contained in the Official Statement, the due performance by the Authority, Company or the County on or prior to the date of the Closing of all the respective agreements then to be performed by them and the satisfaction on or prior to the date of the Closing of all the conditions to the Closing prescribed herein.

All of the evidence, opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Purchase Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance reasonably satisfactory to the Underwriter.

If the conditions to the obligation of the Underwriter to purchase, to accept delivery of and to pay for the Series 2011 Bonds contained in this Purchase Agreement are not satisfied (and the Underwriter has not waived any such conditions), or if the obligation of the Underwriter to purchase, to accept delivery of and to pay for the Series 2011 Bonds shall be terminated for any reasons permitted by this Purchase Agreement, this Purchase Agreement shall terminate and neither the Underwriter nor the Authority or the Company shall be under any further obligation hereunder, except as set forth in Paragraphs 9 and 12 hereof.

8. **Termination.** The Underwriter may terminate this Purchase Agreement if between the date hereof and the Closing the Underwriter notifies the Authority, the Company and the County that (a) there shall exist any event which, in the Underwriter's reasonable judgment, either (i) makes untrue or incorrect in any material respect as of such time any statement or information contained in the Official Statement, or (ii) is not reflected in the Official Statement but should be reflected therein in order to make the statements and information contained therein not misleading in any material respect, (b) there shall have occurred any new outbreak of hostilities or other local, national or international calamity or crisis, the effect of such outbreak, calamity or crisis on the financial markets of the United States being such as, in the Underwriter's reasonable judgment, would make it impractical for it to market the Series 2011 Bonds or enforce contracts for the sale of the Series 2011 Bonds, (c) there shall be in force a general suspension of trading on the New York Stock Exchange or minimum or maximum prices for trading shall have been fixed and be in force, or maximum ranges for prices for securities shall have been required and be in force on the New York Stock Exchange, whether by virtue of a determination by the New York Stock Exchange or by order of the Securities and Exchange Commission or any other governmental authority having jurisdiction, (d) a general banking moratorium shall have been declared by either federal, State or State of New York authorities and remains in full force and effect, (e) legislation shall be enacted or any action shall be taken by the SEC which, in the judgment of the Underwriter, has the effect of requiring the contemplated distribution of the Series 2011 Bonds to be registered under the Securities Act of 1933, as amended, or the Authority Bond Resolution to be qualified under the Trust Indenture Act of 1939, as amended, (f) a stop order, ruling, regulation or official statement by or on behalf of the Securities and Exchange Commission shall be issued or made to the effect that the

issuance, offering or sale of the Series 2011 Bonds, or of obligations of the general character of the Series 2011 Bonds, is in violation of any provision of the Securities Act of 1933, as amended, the Exchange Act, of the Trust Indenture Act of 1939, as amended, (g) any state "Blue Sky" or Securities commission shall have withheld registration, exemption or clearance of the offering and, in the judgment of the Underwriter, the market for the Series 2011 Bonds is materially and adversely affected thereby, (h) there shall have occurred any materially adverse change in the affairs or financial condition of the Authority, the Company or the County, (i) there shall have occurred or any notice shall have been given of any intended review, downgrading, suspension, withdrawal, or negative change in credit watch status by any national rating service to the Series 2011 Bonds, (j) a supplement or amendment shall have been made to the Official Statement subsequent to the date hereof which, in the judgment of the Underwriter, materially and adversely affects the marketability of the Series 2011 Bonds or the market price thereof, or (k) any suit, action or other legal proceeding shall have been filed against the County challenging the validity or effectiveness of, or the ability of the County to adopt, the County Guaranty.

## 9. Expenses

(a) The Underwriter shall be under no obligation to pay, and the Authority shall pay or cause to be paid but solely from a portion of the proceeds of the Series 2011 Bonds, all expenses incident to the performance of the Authority's obligations hereunder, including but not limited to: (i) the cost of the preparation and printing or other reproduction of the Authority Financing Documents and the Authority Bond Resolution; (ii) the cost of the preparation and printing of the Series 2011 Bonds; (iii) the fees and disbursements of Bond Counsel; (iv) the fees and disbursements of the Authority Counsel, its Auditor (if any) and advisers, and of any other experts or consultants retained by the Authority; (v) the fees and disbursements of the County's general counsel (if any), the County's auditor, and all other accountants, auditors, advisors, consulting engineers and any other experts or consultants retained by the County; (vi) the fees and disbursements of the Trustee for the Series 2011 Bonds and its counsel; (vii) the fees of the rating agencies; and (viii) the cost of the preparation, printing and delivery of the Preliminary Official Statement and the Official Statement and additions or supplements thereto; and (ix) all fees and expenses in connection with obtaining bond ratings fees or premiums. The Authority shall also pay for any expenses (included in the expense component of the Underwriter's discount) incurred by the Underwriter which are incidental to implementing this Purchase Agreement and the issuance of the Series 2011 Bonds, but payment for such expenses shall be made solely from proceeds of the Series 2011 Bonds. The payment obligations of the Authority pursuant to this Paragraph 9(a) shall survive any termination of this Purchase Agreement.

(b) The Authority acknowledges that it has had an opportunity, in consultation with such advisors as it may deem appropriate, if any, to evaluate and consider the fees and expenses being incurred as part of the issuance of the Series 2011 Bonds.

(c) The Underwriter shall pay costs related to: (i) the qualification of each of the Series 2011 Bonds for sale in connection with the public offering and distribution of the Series 2011 Bonds; (ii) the cost of the preparation of this Purchase Agreement; (iii) the cost of the preparation and printing of the Blue Sky Survey and Legal Investment Survey, if any; (iv) all expenses related to the assignment of CUSIP numbers from the CUSIP Service Bureau; (v) Underwriter's Counsel; and (vi) all other expenses incurred by the Underwriter for the

preparation of the Blue Sky Survey and Legal Investment Survey, if any, and the qualification of the Series 2011 Bonds for sale in connection with the public offering and distribution of the Series 2011 Bonds. The payment obligations of the Underwriter pursuant to this Paragraph 9(b) shall survive any termination of this Purchase Agreement.

10. **Notices.** Any notice or other communication to be given to the Authority under this Purchase Agreement may be given by delivering the same in writing to the Authority at the address set forth above, Attention: John Bonanni, Chairman of The Morris County Improvement Authority; and any notice or other communication to be given to the Company may be given by delivering the same in writing to SunLight General Sussex Solar, LLC, 501 Fifth Avenue, Suite 602, New York, New York, 10017, Attn: Stacey L. Hughes; and any notice or other communication to be given to the Underwriter may be given by delivering the same in writing to RBC Capital Markets, LLC, 25 Hanover Road, Florham Park, New Jersey, 07932, Attn: Brian Burke, Managing Director. The approval of the Underwriter when required hereunder or the determination of its satisfaction as to any document referred to herein shall be in writing signed by an authorized officer of the Underwriter and delivered to the Authority.

11. **Parties in Interest.** This Purchase Agreement is made solely for the benefit of the Authority, the Company and the Underwriter (including the successors or assigns of the Underwriter) and no other person shall acquire or have any right hereunder or by virtue hereof.

12. **Survival of Representations, Warranties and Agreements.** All representations, warranties, covenants and agreements of the Authority and the Company contained in this Purchase Agreement shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the Authority, the Company or the Underwriter and shall survive: (i) delivery of the Series 2011 Bonds to the Underwriter and payment by the Underwriter therefor pursuant to this Purchase Agreement; or (ii) termination of this Purchase Agreement.

13. **Effectiveness.** This Purchase Agreement shall become effective upon (i) the execution of the acceptance hereof on behalf of the Authority by the Authority's Chairman, Authority's Treasurer, Authority's Secretary or an authorized member of the Authority and (ii) upon the execution of the acceptance hereof on behalf of the Company by the Company's Authorized Signatory or other authorized officer of the Company.

14. **Counterparts.** This Purchase Agreement may be executed in several counterparts, which together shall constitute one and the same instrument.

15. **New Jersey Law Governs.** The validity, interpretation and performance of this Purchase Agreement shall be governed by the laws of the State of New Jersey.

16. **Entire Agreement.** This Purchase Agreement when accepted by the Authority in writing as heretofore specified shall constitute the entire agreement among us and is made solely for the benefit of the Authority, the Company and the Underwriter (including the successors or assigns of the Underwriter).

17. **Headings.** The headings of the paragraphs of this Purchase Agreement are inserted for convenience only and shall not be deemed to be a part hereof.

18. **Severability.** If any provision of this Purchase Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable, such a determination shall apply only to the subject provision and the remainder of this Purchase Agreement shall remain in full force and effect.

19. **Amendments.** This Purchase Agreement shall not be amended, nor shall any provision hereof be waived by any party hereto, without the prior written consent of the Authority, the Company and the Underwriter.

20. **Successors.** This Purchase Agreement will inure to the benefit of and be binding upon the parties and their successors and will not confer any rights upon any other person. No purchaser of the Series 2011 Bonds from the Underwriter shall be deemed to be a successor by reason merely of such purchase.

21. **No Advisory or Fiduciary Role.** The Authority acknowledges and agrees that: (i) the transactions contemplated by this Purchase Agreement are arm's length, commercial transactions between the Authority and RBC Capital Markets, LLC in which RBC Capital Markets, LLC is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to the Authority; (ii) RBC Capital Markets, LLC has not assumed any advisory or fiduciary responsibility to the Authority with respect to the transactions contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether RBC Capital Markets, LLC or its affiliates have provided other services or is currently providing other services to the Authority on other matters); (iii) the only obligations RBC Capital Markets, LLC has to the Authority with respect to the transaction contemplated hereby expressly are set forth in this Purchase Agreement; and (iv) the Authority has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

If the foregoing terms are in accordance with your understanding, please execute this agreement in the space provided below, whereupon this document will constitute a binding agreement.

**RBC CAPITAL MARKETS, LLC**

By: Brian Burke  
Name: Brian Burke  
Title: Managing Director

Accepted as of the date herein written:

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By: \_\_\_\_\_  
Name: John Bonanni  
Title: Chairman

Acknowledged and Accepted only as to the maturity schedule and pricing information in Exhibit A, as of the date herein written:

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

By: Sunlight General Capital Management, LLC,  
its Manager

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

If the foregoing terms are in accordance with your understanding, please execute this agreement in the space provided below, whereupon this document will constitute a binding agreement.

**RBC CAPITAL MARKETS, LLC**

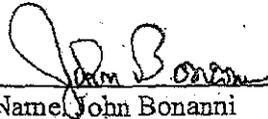
By: \_\_\_\_\_

Name: Brian Burke

Title: Managing Director

Accepted as of the date herein written:

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By:  \_\_\_\_\_

Name: John Bonanni

Title: Chairman

Acknowledged and Accepted only as to the maturity schedule and pricing information in Exhibit A, as of the date herein written:

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

By: Sunlight General Capital Management, LLC,  
its Manager

By: \_\_\_\_\_

Name: Stacey L. Hughes

Title: Authorized Signatory

If the foregoing terms are in accordance with your understanding, please execute this agreement in the space provided below, whereupon this document will constitute a binding agreement.

**RBC CAPITAL MARKETS, LLC**

By: \_\_\_\_\_

Name: Brian Burke  
Title: Managing Director

Accepted as of the date herein written:

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

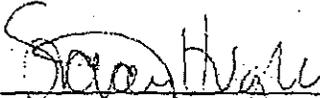
By: \_\_\_\_\_

Name: John Bonanni  
Title: Chairman

Acknowledged and Accepted only as to the maturity schedule and pricing information in Exhibit A, as of the date herein written:

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

By: Sunlight General Capital Management, LLC,  
its Manager

By:  \_\_\_\_\_

Name: Stacey L. Hughes  
Title: Authorized Signatory

**EXHIBIT A**

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
(MORRIS COUNTY, NEW JERSEY)**

**\$26,715,000**

**County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A  
(Federally Taxable)**

**\$15,645,000 Serial Bonds**

<u>Maturity (June 15)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP</u>
2013	\$ 865,000	1.138%	1.138%	618027BM7
2014	1,850,000	1.562	1.562	618027BN5
2015	1,850,000	2.136	2.136	618027BP0
2016	1,850,000	2.486	2.486	618027BQ8
2017	1,850,000	2.910	2.910	618027BR6
2018	1,845,000	3.210	3.210	618027BS4
2019	1,845,000	3.388	3.388	618027BT2
2020	1,845,000	3.588	3.588	618027BU9
2021	1,845,000	3.688	3.688	618027BV7

**\$11,070,000 4.938% Term Bond Due June 15, 2027 Priced at 100% - CUSIP - 618027BW5**

**\$985,000**

**County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B  
(Federally Taxable)**

<u>Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP</u>
January 15, 2013	\$985,000	1.50%	1.50%	618027BX3

**REDEMPTION PROVISIONS**

**Optional Redemption**

The Series 2011A Bonds maturing on or before June 15, 2021 shall not be subject to redemption prior to their respective maturity dates. The Series 2011A Bonds maturing on and after June 15, 2022 shall be subject to optional redemption by the Authority prior to their respective maturity dates, on or after June 15, 2021, upon notice as herein described, either in whole or in part at any time in any order of maturity as the Authority shall determine and within a single maturity by lot, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

Pursuant to the terms of the County Guaranty Agreement, under certain circumstances, the County may direct the Authority to utilize this otherwise discretionary optional redemption feature set forth above. To the extent the Company causes an Event of Default, as defined under the Company Lease Agreement, to occur and such Event of Default requires the County to make

a payment of the principal of and interest on the Series 2011A Bonds under the County Guaranty, so long as the County is not in default under the County Guaranty Agreement, the County has the right to cause the Authority to refund all or a portion of the Series 2011A Bonds. To the extent the County were to exercise this right prior to the first optional call date of June 15, 2021, the County would be required to cause the Authority to defease the Series 2011A Bonds in accordance with Article XII of the Bond Resolution, in which case the Series 2011A Bonds would not be called for redemption until such first optional call date of June 15, 2021. See "TAX MATTERS - Defeasance of the Series 2011A Bonds" herein for a discussion of the tax implications in the event of a defeasance of the Series 2011A Bonds.

The Series 2011B Note shall not be subject to optional redemption prior to its maturity date.

**Mandatory Sinking Fund Redemption**

The Series 2011A Bonds maturing on June 15, 2027 are subject to mandatory redemption prior to their stated maturities, through selection by the Trustee and upon the giving of notice as provided by the Bond Resolution, by payment of the following "Sinking Fund Installments" on June 15 of each year set forth in the table below, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

<u>Date</u>	<u>Principal Amount</u>
June 15, 2022	\$1,845,000
June 15, 2023	1,845,000
June 15, 2024	1,845,000
June 15, 2025	1,845,000
June 15, 2026	1,845,000
June 15, 2027 <sup>†</sup>	1,845,000

<sup>†</sup> Final Maturity.

**No Extraordinary Optional Redemption**

The Series 2011 Bonds shall not be subject to extraordinary optional redemption in whole or in part, prior to their respective maturity dates.

**Notice of Redemption**

When the Series 2011A Bonds have been selected for redemption pursuant to any provision of the Bond Resolution, the Trustee shall give written notice of the redemption of such Series 2011A Bonds in the name of the Authority, which notice shall set forth: (i) the date fixed for redemption, (ii) the Redemption Price to be paid, (iii) the designated office of the Paying Agent at which redemption will occur, (iv) the CUSIP numbers on the Series 2011A Bonds to be redeemed, (v) if less than all of such Series 2011A Bonds shall be called for redemption, the

distinctive numbers and letters, if any, of such Series 2011A Bonds to be redeemed, (vi) in the case of Series 2011A Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed, and (vii) except with respect to a mandatory sinking fund redemption, that such redemption is conditioned upon there being on deposit with the Trustee on the date designated for redemption moneys sufficient for the payment of the Redemption Price and the accrued interest to the redemption date. Such notice shall further state that on the redemption date there shall become due and payable the Redemption Price of all Series 2011A Bonds to be redeemed, together with interest accrued thereon to the redemption date, and that, from and after such date, interest thereon shall cease to accrue. If any Series 2011A Bond is to be redeemed in part only, the notice of redemption that relates to such Series 2011A Bond shall state also that on or after the redemption date, upon surrender of such Series 2011A Bond, the Holder thereof shall be entitled to a new Series 2011A Bond or Series 2011A Bonds, bearing interest at the same rate and in aggregate principal amount equal to the unredeemed portion of such Series 2011A Bond.

The notice required to be given by the Trustee shall be sent by first class mail to the registered Holders of the Series 2011A Bonds to be redeemed, at their addresses as they appear on the Bond registration books of the Authority, not less than thirty (30) nor more than forty-five (45) days prior to the redemption date. The failure to give notice of the redemption of any Series 2011A Bond or portion thereof to the registered Holder of such Series 2011A Bonds shall not affect the validity of the proceedings for the redemption of any Series 2011A Bonds for which notice of redemption has been given in accordance with the provisions of the Bond Resolution.

**EXHIBIT B**

**FORM OF COUNTY LETTER OF REPRESENTATION**

December 7, 2011

The Morris County Improvement Authority  
Morristown, New Jersey

RBC Capital Markets, LLC  
Florham Park, New Jersey

Ladies and Gentlemen:

In order to induce (i) The Morris County Improvement Authority (the "Authority") to issue and deliver its County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) (the "Series 2011A Bonds") and its County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Series 2011 Bonds"), and (ii) the Underwriter to accept delivery of and pay for the Series 2011 Bonds pursuant to the provisions of the Bond Purchase Agreement, dated December 7, 2011 between the Authority, the Company and the Underwriter named therein (the "Purchase Agreement"; all capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Purchase Agreement), the undersigned acting in its own capacity (the "County"), hereby represents and warrants that, as of the date hereof:

(a) The County is a body politic and corporate of the State of New Jersey (the "State") duly organized and existing under the laws of the State.

(b) The County has full power and authority to (i) finally adopt the Guaranty Ordinance pursuant to *N.J.S.A. 40:37A-80*, (ii) evidence such Guaranty Ordinance by a guaranty certificate to be executed by an authorized officer of the County on the face of each Series 2011 Bond (collectively, the "County Guaranty"), (iii) execute and deliver a Continuing Disclosure Agreement relating to the Series 2011 Bonds (the "County Disclosure Agreement"), a "County Guaranty Agreement (Sussex County Renewable Energy Program; Series 2011)" dated as of December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") and this letter of representation (the "Letter of Representation," and collectively with the County Guaranty, the County Disclosure Agreement and the County Guaranty Agreement, the "County Documents"), (iv) finally adopt the resolution of the County consenting to the issuance by the Authority of the Series 2011 Bonds (the "Consent Resolution" and together with the Guaranty Ordinance, the "County Proceedings") and (v) to perform the transactions contemplated thereby.

(c) By official action of the County taken prior to or concurrent with the date hereof, the County has duly authorized, approved, and consented to all necessary action to be

taken by the County for: (i) the execution, delivery and performance of the County Documents, and the transactions contemplated thereby; (ii) the approval of the use of information relating to and provided by the County if any, in the Preliminary Official Statement and the Official Statement under the sections "INTRODUCTION", "THE RENEWABLE ENERGY PROGRAM", "SECURITY FOR THE SERIES 2011 BONDS - The County Guaranty" and "LITIGATION - The County" and APPENDICES A and B thereto; (iii) the execution, the delivery and the due performance of any and all other agreements and instruments that may be required to be executed, delivered and performed by the County to which it is a party in order to carry out, to give effect to and to consummate the transactions contemplated by the County Documents and the Official Statement; and (iv) the designation of the portion of the Preliminary Official Statement relating to the County set forth in "INTRODUCTION", "THE RENEWABLE ENERGY PROGRAM", "SECURITY FOR THE SERIES 2011 BONDS - County Guaranty" and "LITIGATION - The County" and APPENDICES A and B; thereto, as "deemed final" for purposes of Rule 15c2-12(b)(1) of the Securities and Exchange Commission and such portion of the Official Statement as a "final official statement" for purposes of Rule 15c2-12(e)(3).

(d) Each of the County Documents has been duly authorized, and each constitutes or will constitute a legal, valid and binding obligation of the County enforceable in accordance with its respective terms, except as the enforcement thereof may be affected by any applicable bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws relating to the enforcement of creditors' rights generally; and the County has duly authorized and approved the consummation by it of all other transactions contemplated by the Official Statement and the Purchase Agreement to be performed or consummated by it at or prior to the date of the Closing.

(e) The execution and delivery by the County of the County Documents and compliance with the obligations on the County's part contained therein will not conflict with or constitute a breach of or default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the County is a party or to which the County or any of its properties or other assets is otherwise subject or to the establishment or existence of the County or its affairs, nor will any such execution, delivery, final adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or other assets of the County under the terms of any such law, regulation or instrument, except as provided or permitted by the aforementioned documents.

(f) All approvals, consents and orders of any governmental authority, legislative body, board, agency, or commission having jurisdiction in any manner which constitutes a condition precedent to or the absence of which would materially adversely affect the due performance by the County of its obligations under the County Documents and the transactions contemplated thereby have been duly obtained or will be obtained by the Closing.

(g) The descriptions and information contained in the Official Statement relating to the County and its operations as set forth in the sections of the Official Statement captioned "INTRODUCTION", "THE RENEWABLE ENERGY PROGRAM", "SECURITY FOR THE SERIES 2011 BONDS - County Guaranty;" and "LITIGATION - The County" and

APPENDICES A and B; of the Official Statement is true and correct in all material respects and does not contain any untrue statement of a material fact or omit to state a material fact which is necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. Without having undertaken to determine independently the accuracy, completeness or adequacy of the statements contained in the Official Statement (other than as to the information above), the Official Statement (except as to financial, statistical and tabular information as to which no opinion is expressed) does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(h) Except as otherwise disclosed in the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity before or by any court, governmental agency or public board or body, pending, or to the knowledge of the County, threatened against the County or affecting the County (or, to the County's knowledge, any basis therefor), (i) wherein an unfavorable decision would adversely affect the existence of the County or the entitlement of its officers or members of its governing body to their respective offices, or (ii) wherein an unfavorable decision would adversely affect the transactions contemplated by the County Documents or the Official Statement or (iii) wherein an unfavorable decision would adversely affect the financial stability of the County or (iv) which in any way contests or adversely affects the validity, enforceability, execution, delivery or final adoption, as the case may be, of any of the County Documents, or (v) which contests the completeness or accuracy of the Official Statement or (vi) which contests the powers of the County or any authority or proceedings for the approval, execution and delivery by the County of the County Documents.

(i) If between the date hereof and the later of (i) the date of the Closing or (ii) the period necessary to enable the Underwriter to comply with the requirements of Rule 15c2-12, any event shall occur to the knowledge of the County which would or might cause the material relating to the County contained in the sections of the Official Statement captioned "INTRODUCTION", "THE RENEWABLE ENERGY PROGRAM", "SECURITY FOR THE SERIES 2011 BONDS - County Guaranty" "LITIGATION - The County", "APPENDIX A - Certain Information Concerning the County", and "APPENDIX B - Audited Financial Statements of the County" of the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the County shall notify the Authority and the Underwriter thereof, and if in the opinion of the Authority or the Underwriter such event requires the preparation and publication of a supplement or an amendment to the Official Statement, the County will fully cooperate with the Underwriter in supplementing or amending the Official Statement, in form and in content which is reasonably satisfactory to the Underwriter and the Authority.

(j) As of the date hereof, there has not been any material adverse change in the financial condition or the operations of the County since the date of the financial statements set forth in the Official Statement.

(k) The County is not in violation of or in default (or with the lapse of time and/or the receipt of appropriate notice would be in default) under any existing applicable law,

court or administrative regulation, judgment, decree, order, agreement, indenture, mortgage, lease or sublease to which the County, any of its officers or members of the County or any of its properties is a party or is otherwise bound, that would have a material and adverse effect upon the operations or the financial condition of the County.

(1) The County is not in default in the payment of principal of or interest on any of its bonds, notes, debt obligations, lease purchase agreements or guarantees.

COUNTY OF SUSSEX, NEW JERSEY

By: Bernard A. Re  
Name: Bernard A. Re  
Title: County Treasurer / CFO

**EXHIBIT C**

**FORM OF SUPPLEMENTAL OPINION OF AUTHORITY BOND COUNSEL**

December 14, 2011

The Morris County Improvement Authority  
Morristown, New Jersey

RBC Capital Markets, LLC  
Florham Park, New Jersey

U.S. Bank National Association  
Morristown, New Jersey

SunLight General Sussex Solar, LLC  
New York, New York

**Re: \$26,715,000 The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue  
Bonds, Series 2011A (Federally Taxable) and  
\$985,000 The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue  
Note, Series 2011B (Federally Taxable)**

Ladies and Gentlemen:

In connection with the issuance of (i) \$26,715,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) (the "Series 2011A Bonds") and (ii) \$985,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Bonds") of The Morris County Improvement Authority (the "Authority") issued pursuant to a resolution entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY", adopted by the Authority (the "Bond Resolution"), we advise you that in our opinion:

1. The Bond Purchase Agreement dated December 7, 2011, between the Authority, the Company and the Underwriter set forth therein (the "Purchase Agreement") has been duly authorized, executed and delivered, and the Bond Resolution has been duly adopted by the Authority and constitutes a valid, binding and enforceable agreement of the Authority in accordance with its respective terms, except to the extent that the enforceability thereof may be limited by Creditors' Rights Limitations. In rendering the foregoing opinion with respect to the

enforceability of the Purchase Agreement against the Authority and the Company, we have assumed the due authorization, execution and delivery of such documents by the other respective parties thereto. Terms not defined herein shall have the meaning ascribed to such terms in the Purchase Agreement.

2. The Authority has duly authorized the distribution of the Preliminary Official Statement, dated December 1, 2011, (the "Preliminary Official Statement") and duly authorized the distribution of the Official Statement dated December 7, 2011 (the "Official Statement").

3. The description and information in the Preliminary Official Statement and Official Statement set forth under the headings "INTRODUCTION" (except as to the extent as such description and information relates to the County and the Company), "THE RENEWABLE ENERGY PROGRAM", "DESCRIPTION OF THE SERIES 2011 BONDS (except as to "Book-Entry Only System")", "SECURITY FOR THE SERIES 2011 BONDS", "PLEDGE OF THE STATE NOT TO LIMIT POWER OF AUTHORITY OR RIGHTS OF BONDHOLDERS", "LEGALITY FOR INVESTMENT", "BANKRUPTCY - Municipal Bankruptcy", "APPROVAL OF LEGALITY", "TAX MATTERS" and "SECONDARY MARKET DISCLOSURE", and in "APPENDIX D - Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement", "APPENDIX E - Proposed Form of Approving Legal Opinion", and "APPENDIX F - Forms of Continuing Disclosure Agreements" is true and correct in all material respects.

4. Based solely upon our participation as Bond Counsel in the preparation of the Official Statement and without having undertaken to determine independently the accuracy, completeness or adequacy of the statements contained in the Official Statement (other than as to the information under the heading set forth in Paragraph 3 above), we have no reason to believe that, as of the date hereof, the information contained in the Official Statement (except for the financing and statistical data included therein, and the statements contained in the Official Statement under the captions "THE COMPANY", "DESCRIPTION OF THE SERIES 2011 BONDS-Book-Entry Only System", "SOURCES AND USES OF SERIES 2011A BONDS AND SERIES 2011B NOTE PROCEEDS", "BANKRUPTCY-Company Bankruptcy", "LITIGATION", "APPENDIX A - Certain Information Concerning the County", "APPENDIX B - Audited Financial Statements of the County" and "APPENDIX C - Certain Information Concerning the Company", as to which we express no view) contains any untrue statement of a material fact or omits to state a material fact required or necessary to be stated therein in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading in any material respect.

5. The Bonds are exempt securities within the meaning of Section 3(a)(2) of the Securities Act of 1933, as amended, and Section 304(a)(4) of the Trust Indenture Act of 1939, as amended, and it is not necessary in connection with the sale of the Bonds to the public to register the Bonds under the Securities Act of 1933, as amended, or to qualify the Bond Resolution under the Trust Indenture Act of 1939, as amended.

6. All consents, approvals, permits or other actions by or filings with any governmental authority required for the execution by the Authority of the Purchase Agreement,

and the delivery by the Authority of the Purchase Agreement, the Bond Resolution, the Bonds, the Disclosure Agreements, the Lease Agreement and for the performance by the Authority of the transactions contemplated thereby, have been duly obtained or made and are in full force and effect.

The above opinions are limited to and based upon the laws and judicial decisions of the State of New Jersey and the federal laws and judicial decisions of the United States of America as of the date hereof, and are subject to any amendment, repeal or other modification of the applicable laws or judicial decisions that served as the basis for our opinions or to any laws or judicial decisions hereafter enacted or rendered. We assume no obligation to update our opinions after the date hereof to reflect any future action, fact or circumstance, or change in law or interpretation, or otherwise. We express no opinion on the effect of any action taken after the date hereof or not taken in reliance upon an opinion of other counsel on the exclusion from gross income for federal income tax purposes of interest on the Bonds. No opinion is expressed regarding other federal tax consequences or other federal taxes arising with respect to the Bonds.

We note, in connection with the opinions expressed herein, that the enforceability of rights or remedies with respect to the Authority Bond Resolution, the Bonds, the Authority Financing Documents and the County Guaranty may be limited, however, by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or remedies heretofore or hereafter enacted and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases. We express no opinion as to the availability of any particular remedy.

This opinion is being delivered to you at your request. Our engagement by you with respect to the opinions expressed herein does not require, and shall not be construed to constitute, a continuing obligation on our part to notify or otherwise inform you or the reliance parties hereof of the amendment, repeal or other modification of the applicable laws or judicial decisions that served as the basis for this opinion letter or of laws or judicial decisions hereafter enacted or rendered which impact on this opinion letter.

We have examined one of the Bonds as executed by the Authority and as authenticated by the Trustee, and, in our opinion, the form, execution and authentication of said Bonds are regular and proper.

Very truly yours,

EXHIBIT D

FORM OF APPROVING OPINION OF COUNTY COUNSEL

December 14, 2011

Board of Chosen Freeholders  
County of Sussex  
Newton, New Jersey

RBC Capital Markets, LLC  
Florham Park, New Jersey

The Morris County Improvement  
Authority  
Morristown, New Jersey

U.S. Bank National Association  
Morristown, New Jersey

Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Parsippany, New Jersey

SunLight General Sussex Solar, LLC  
New York, New York

Dear Ladies and Gentlemen:

In my capacity as County Counsel to the County of Sussex, New Jersey (the "County"), I have reviewed certain documents and instruments relative to the issuance of (i) \$26,715,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) (the "Series 2011A Bonds") and (ii) \$985,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Bonds") by The Morris County Improvement Authority (the "Authority"). Capitalized terms used herein but not otherwise defined shall have the same meanings ascribed to them in the Bond Purchase Agreement dated December 7, 2011 ("Purchase Agreement") between the Underwriter set forth therein and the Authority and Company, and the letter of representation of the County dated December 7, 2011 (the "Letter of Representation").

Based on my examination of an ordinance entitled, "GUARANTY ORDINANCE OF THE COUNTY OF SUSSEX, NEW JERSEY SECURING THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000" (the "Guaranty Ordinance"), evidenced by (i) the execution by the Director of the Board of Chosen Freeholders of the County of a certificate on the Bonds (the "Guaranty Certificate") and (ii) the executed "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement" and collectively with the Guaranty Certificate, the "County Guaranty"), the Preliminary Official Statement, the Official Statement of the Morris County Improvement

Authority; and other records of the County as I have deemed necessary, I hereby render the opinion hereinafter set forth.

1. The County is a body corporate and politic of the State duly organized and existing under the laws of the State. The County has full legal right and power and is authorized to adopt, execute, enter into and perform its obligations under the Guaranty Ordinance, the County Guaranty, the County Disclosure Agreement and the Letter of Representation (collectively, the "County Documents") and all such documents have in all respects been duly and lawfully authorized, approved, executed, delivered and published, as applicable by the County as required by law. The County has the legal right to authorize the use of information related to the County in the Preliminary Official Statement and the Official Statement. The County has duly authorized all necessary action to be taken by it for the approval of the use of information related to the County in the Preliminary Official Statement and the Official Statement.

2. The final adoption, execution and performance of the County Documents does not and will not contravene any provision of existing law or regulation and, to the best of my knowledge after due inquiry, will not conflict with, or result in the breach of the terms, conditions or provisions of any agreement of the County, or constitute a default under or result in or permit the creation or imposition of any lien, change or encumbrance upon any of the properties of the County pursuant to any indenture, mortgage or other agreement or instrument to which the County is a party or by which its assets are bound.

3. Each of the County Documents is in full force and effect and constitutes a legal, valid and binding obligation of the County enforceable against the County in accordance with its terms, except as such enforceability may be limited by any applicable bankruptcy, moratorium or similar laws affecting creditors' rights generally ("Creditors' Rights Limitations"), and the obligation of the County to make payments under the County Guaranty is irrevocable, unconditional and a direct and general obligation of the County payable, unless paid by some other source, from the levy of ad valorem taxes upon all the taxable property within jurisdiction of the County without limitation as to the rate or amount.

4. The County Proceedings have not been modified, amended, superseded or rescinded and will remain in full force and effect so long as the Bonds remain outstanding.

5. All consents, approvals or authorizations of any governmental authority required on the part of the County in connection with the final adoption and execution of the County Proceedings and the execution and delivery of the County Documents have been duly obtained, and the County has complied with all applicable provisions of law requiring any designation, declaration, filing, registration and/or qualification with any governmental authority in connection with such adoption, execution and delivery.

6. The County is in compliance with all provisions of all constitutions, statutes, rules, regulations and orders and all governmental and nongovernmental bodies, all governmental approvals and all orders, judgments and decrees of all courts and arbitrators with

respect to the performance of its obligations under, and the execution and delivery of the County Documents.

7. To the best of my knowledge after due inquiry, the County is not in violation of any provision of, or in default under any agreement or instrument which would materially and adversely affect the financial condition of the County.

8. Except as otherwise disclosed in the Official Statement, there is no action, suit, proceeding, inquiry or investigation at law or in equity or by or before any governmental instrumentality or other agency, pending or, to my knowledge, after due inquiry, now threatened against or affecting the County (or, to my knowledge any basis therefor), or to which the County is or may be a party or to which the property of the County is or may be subject; questioning or challenging the validity of any proceeding taken or to be taken by the County in connection with the final adoption of the County Proceedings or authorization, execution and delivery of the County Documents or seeking to prohibit, restrain or enjoin the authorization and final adoption of the County Proceedings, or the execution and delivery of the County Documents, or wherein an unfavorable decision, ruling or finding would adversely affect, financially or otherwise, (a) the existence or organization of the County or the title to office of any member of the Board of Chosen Freeholders of the County or any power of the County, (b) the validity or enforceability of the proceedings taken by the County for the authorization and final adoption of the County Proceedings, the execution and delivery of the County Documents or for the approval of the Official statement, or (c) the ability of the County to perform its obligations under the County Documents.

9. The County has duly authorized all necessary action to be taken by it for the use of the information related to the County in the Preliminary Official Statement and the Official Statement.

10. The information and descriptions in the Official Statement and Preliminary Official Statement set forth under headings "LITIGATION - The County" and APPENDIX A (except for financial and statistical data included therein as to which no opinion is expressed) is accurate and fairly presents the information intended to be shown with respect thereto and does not contain any untrue statement of a material fact or omit to state any material fact required or necessary to be stated therein in order to make the statements made therein, in light of the circumstances under which they were made, not misleading, and without having undertaken to determine independently the accuracy, completeness or fairness of the statements contained in the Official Statement, except as set forth above, I have no reason to believe that information and descriptions set forth in the Preliminary Official Statement and Official Statement under the headings "SECURITY FOR THE SERIES 2011 BONDS - County Guaranty", and "SECONDARY MARKET DISCLOSURE" contained or contains any untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

11. All actions taken by the County in connection with the authorization of the County Disclosure Agreement and authorization and final adoption of the Guaranty Ordinance

have been in compliance in all respects with the provisions of the State Constitution and applicable laws, including, inter alia, Chapter 231 of the Laws of the State of 1975, as amended, the New Jersey Open Public Meetings Act.

12. The resolution entitled "RESOLUTION PROVIDING SUSSEX COUNTY'S CONSENT TO THE ISSUANCE BY THE MORRIS COUNTY IMPROVEMENT AUTHORITY OF THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND RELATED DOCUMENTS" and the Guaranty Ordinance have each been duly and lawfully adopted by the County and are in full force and effect, and the covenants of the County therein are valid and binding obligations of the County enforceable in accordance with their terms.

This opinion only may be relied upon by the parties to whom it is addressed. Reliance hereon by any other person requires my written consent.

Very truly yours,

Dennis R. McConnell, Esq.  
County Counsel

**EXHIBIT E**

**FORM OF COMPANY LETTER OF REPRESENTATION**

December 7, 2011

The Morris County Improvement Authority  
Morristown, New Jersey

RBC Capital Markets, LLC  
Florham Park, New Jersey

Ladies and Gentlemen:

1. In order to induce (i) The Morris County Improvement Authority (the "Authority") to issue and deliver its \$26,715,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) (the "Series 2011A Bonds") and \$985,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Series 2011 Bonds") , and (ii) the Underwriter to accept delivery of and pay for the Series 2011 Bonds pursuant to the provisions of the Bond Purchase Agreement, dated December 7, 2011 between the Authority, and the Underwriter named therein (the "Purchase Agreement"; all capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Purchase Agreement) which Purchase Agreement has been acknowledged and accepted by the undersigned as to the maturity schedule and pricing information in Exhibit A thereto, the undersigned acting its own capacity (the "Company"), hereby represents and warrants that, as of the date hereof that:

(a) The Company is duly organized and validly existing under the law of New Jersey and in good standing under the laws of the State. The Company has all necessary licenses and permits, if any, required to carry on its business. The Company has not received any notice of an alleged violation and, to the best knowledge of the Company is not in violation of any law or regulation which could materially adversely affect the operations or financial condition of the Company.

(b) The Company has complied, in all material respects, with all applicable laws of the State and has full power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Official Statement, the Lease Agreement, the Pledge and Security Agreement, the Power Purchase Agreement (Sussex County Renewal Energy Program, Series 2011) dated as of December 1, 2011 (the "Power Purchase Agreement"), the Company Disclosure Agreement, the Purchase Agreement, the Authority Bond Resolution and any and all other agreements relating hereto and thereto.

(c) The acknowledgment and acceptance by the Company of the Purchase Agreement and the other documents contemplated herein and as described in the Official Statement, the execution and delivery of the Lease Agreement, the Pledge and Security

Agreement, the Power Purchase Agreement, the Company Disclosure Agreement, the acknowledgment and consent to the Local Unit License Agreements, and the approval by the Company of the portions of the Preliminary Official Statement, and the Official Statement described in paragraph (g) below, and the compliance with the provisions of any and all of the foregoing documents and the Authority Bond Resolution and the application of the proceeds of the Series 2011 Bonds, together with certain other moneys, for the purposes described in the Official Statement, do not and will not constitute a default under any agreement or instrument to which the Company is a party or by which the Company or any of its properties is bound, nor will such action result in any violation of the Certificate of Formation or Operating Agreement of the Company, any statute, order, rule or regulation applicable to the Company, or any order of any federal, State or other regulatory agency or other governmental body having jurisdiction over the Company, and, except for governmental approvals and permits required to construct, interconnect and operate the Projects, all consents, approvals, authorizations and orders of any governmental or regulatory agency that are required for the consummation of the transactions contemplated hereby, insofar as they may relate to the Company, have been obtained or will be obtained prior to the delivery of the Series 2011 Bonds and are or will be in full force and effect at the Closing.

(d) No default, event of default or event which, with notice or lapse of time, or both, would constitute a default or an event of default under any material agreement or material instrument to which the Company is a party or by which the Company is bound, has occurred and is continuing.

(e) The materials in Appendix C to the Official Statement relating to the Company are accurate and complete and not misleading in any material respect and there has been no material adverse change in the condition, financial or otherwise, of the Company as of this date.

(f) By official action of the Company taken prior to or concurrent with the acceptance hereof, the Company has duly authorized all necessary action to be taken by it for: (i) the approval of the Purchase Agreement, the Lease Agreement, the Pledge and Security Agreement, the Power Purchase Agreement, the Company Disclosure Agreement, the Official Statement and the acknowledgment and the approval of the Purchase Agreement and Local Unit License Agreements, the execution of the Lease Agreement, the Power Purchase Agreement, the Company Disclosure Agreement, and any amendment thereof or supplement thereto, as permitted hereby, by an authorized officer of the Company; (ii) the execution, the delivery and the due performance by the Company of the obligations contained in the Purchase Agreement, the Lease Agreement, the Pledge and Security Agreement, the Power Purchase Agreement, the Company Disclosure Agreement, and any and all other agreements and instruments that may be required to be executed, delivered and performed by the Company in order to carry out, give effect to and consummate the transactions contemplated by each of such documents and the Official Statement; and the Company has duly authorized and approved the performance by the Company of its obligations contained in each of such documents or agreements.

(g) The descriptions and information contained in the Official Statement under the headings "THE COMPANY", "LITIGATION – The Company" and in APPENDIX C are, as of its date, and, will be, as of the Closing Date, true and correct in all material respects; and, based on the Company's participation in the preparation of the Official Statement but

without having independently verified the information contained therein, other than as stated above, nothing has come to the Company's attention that would cause the Company to believe that the Official Statement as of its date, and the Official Statement as of the Closing Date, as it relates to the Company, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(h) Except as may be described in the Official Statement, there is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company (or, to the best of the Company's knowledge, any basis therefor) wherein an unfavorable decision, ruling or finding would have a material adverse effect on (i) the title of the Company's officers to their respective offices, (ii) the existence or the organization of the Company or any power of the Company, (iii) the validity of the proceedings for the adoption, authorization, execution and repayment of the Series 2011 Bonds or its performance in connection with the Purchase Agreement, the Lease Agreement, the Pledge and Security Agreement, the Power Purchase Agreement, the Company Disclosure Agreement, the Official Statement, or the acknowledgment and consent to the Local Unit License Agreements, or (iv) the validity or the enforceability of the Series 2011 Bonds, the Authority Bond Resolution, the Purchase Agreement, the Lease Agreement, the Pledge and Security Agreement, the Power Purchase Agreement, the Company Disclosure Agreement, or of any agreement or instrument to which the Company is a party and which is used or contemplated for use in consummation of the transactions contemplated by the Purchase Agreement, the Lease Agreement, the Pledge and Security Agreement, the Power Purchase Agreement, the Company Disclosure Agreement, or by the Official Statement.

(i) The Purchase Agreement, the Lease Agreement, the Pledge and Security Agreement, the Power Purchase Agreement, the Company Disclosure Agreement and the acknowledgment and consent to the Local Unit License Agreements, have each been duly authorized, and upon their execution and delivery by the Company, will be the legal, valid and binding general obligations of the Company enforceable in accordance with their respective terms, except as the same may be limited by (a) applicable insolvency, reorganization, liquidation, moratorium, receivership, readjustment of debt or other similar laws affecting the enforcement of creditors' rights generally, as such laws may be applied in the event of an insolvency, reorganization, liquidation, moratorium, receivership, readjustment of debt or other similar proceedings, and (b) equitable principles (whether in a proceeding in equity or at law).

(j) Any certificate signed by an authorized officer of the Company delivered to the Authority and the Underwriter shall be deemed a representation and warranty by the Company to the Authority and the Underwriter as to the statements made therein with the same effect as if such representation or warranty was set forth herein. The Company shall cause SunLight General Sussex Holdings, LLC ("Holdco") to provide a certificate at or prior to the Closing, that Holdco shall have performed all of their respective obligations required under or specified in the Pledge Agreement.

(k) The Company agrees to cooperate reasonably with the Underwriter and their Counsel in any endeavor to qualify the Series 2011 Bonds for offering and sale under the

securities or "Blue Sky" laws of such jurisdictions of the United States of America as the Underwriter may reasonably request, provided that the Company shall not be required to qualify to do business in any jurisdiction where it is not now so qualified, or to take any action which would subject it to general service of process in any jurisdiction where it is not now so subject, and will assist, if necessary, in continuing the effectiveness of such qualifications so long as reasonably required for the distribution of the Series 2011 Bonds. The Company ratifies and consents to the use of the Preliminary Official Statement by the Underwriter in obtaining such qualifications.

(l) Neither the Company nor anyone acting on its behalf has, directly or indirectly, offered the Series 2011 Bonds for sale to, or solicited any offer to buy the same from, anyone other than the Underwriter.

(m) The Company certifies that, from the date of the Preliminary Official Statement to the date of Closing, any amendments or modifications to the forms of Lease Agreement or the Company Disclosure Agreement contained in the Preliminary Official Statement are not material.

(n) The Company is in compliance with all of its prior continuing disclosure undertakings entered into pursuant to Rule 15c2-12, to the extent any prior continuing disclosure undertakings have been made.

(o) The Company hereby ratifies and consents to the use by the Underwriter, prior to the date hereof, of the Preliminary Official Statement in connection with the public offering of the Series 2011 Bonds and confirms that it deems the Preliminary Official Statement to be "final" as of its date for purposes of the Rule, except for the information not required to be included therein under the Rule.

(p) The Company hereby authorizes the use and distribution of the Official Statement by the Underwriter in connection with the public offering and sale of the Series 2011 Bonds.

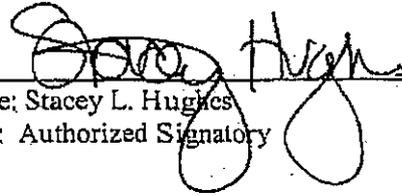
SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC,  
its Manager

By: \_\_\_\_\_

Name: Stacey L. Hughes

Title: Authorized Signatory

A handwritten signature in black ink, appearing to read "Stacey Hughes", is written over a horizontal line. The signature is stylized and cursive.

**EXHIBIT F**

**CERTIFICATE OF THE COMPANY AUTHORIZED SIGNATORY**

I, Stacey L. Hughes, the authorized signatory of the Manager of SunLight General Sussex Solar, LLC (the "Company"), HEREBY CERTIFY as follows:

1. I am authorized to execute the Bond Purchase Agreement (the "Purchase Agreement") dated December 7, 2011 on behalf of the Company relating to the sale of the (i) \$26,715,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) (the "Series 2011A Bonds") and (ii) \$985,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Bonds") solely to acknowledge and accept the maturity schedule and pricing information set forth in Exhibit A to the Purchase Agreement.

2. On behalf of the Company, I agree to a PPA Price (as such term is defined in the Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of December 1, 2011 by and between the Company and The Morris County Improvement Authority as set forth in Schedule A hereto.

3. On behalf of the Company, I agree that the County Security Fund Requirement (as such term is defined in the "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted on September 28, 2011, as amended and supplemented, is initially \$1,500,000.

IN WITNESS WHEREOF, I have hereunto set my hand as Authorized Signatory this

7th day of December, 2011.

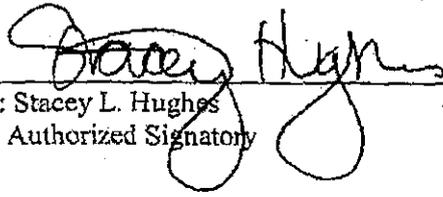
SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC,  
its Manager

By: \_\_\_\_\_

Name: Stacey L. Hughes

Title: Authorized Signatory

A handwritten signature in black ink, appearing to read "Stacey L. Hughes", is written over a horizontal line. The signature is stylized and cursive.

**Schedule A**

The PPA Price is \$0.0935/kWh subject to the terms of the Power Purchase Agreement.

**EXHIBIT B**

**[Attach copy of Authority By-laws]**

# MORRIS COUNTY IMPROVEMENT AUTHORITY

## BY-LAWS

**as originally adopted August 14, 2002,  
as amended June 9, 2004 and October 12, 2005,  
and as further amended on July 21, 2010**

The objects, aims and purposes of the Morris County Improvement Authority (the "Authority"), a public body politic and corporate created by the County of Morris (the "County") in the State of New Jersey (the "State") by resolution of the County's Board of Chosen Freeholders (the "Freeholder Board") adopted under and pursuant to the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State (codified at N.J.S.A. 40:37A-44 et seq., and as the same may be amended and supplemented from time to time, the "Act") and all other applicable law, shall be as set forth in the Act, other applicable law, and in the following By-Laws, which are adopted by the Authority to guide and facilitate the performance of its rights, powers and duties thereunder.

### ARTICLE I – THE AUTHORITY

**Section 1.1.** Name of Authority. The official name of the Authority shall be the "Morris County Improvement Authority."

**Section 1.2.** Seal of Authority. The official seal of the Authority shall be in the form of a circle and shall bear the name of the Authority.

**Section 1.3. Office of the Authority.** The principal corporate office of the Authority shall be located at:

Morris County Improvement Authority  
Administration & Records Building,  
P.O. Box 900,  
Morristown, New Jersey 07960-0900,

or such other place in Morris County, as the Authority may, from time to time designate.

**Section 1.4. Members.** There shall be five (5) members of the Board of Commissioners, whose terms shall be designated by the Freeholder Board in accordance with the terms of the Act, and who, for all purposes of the Authority, may be referred to interchangeably as Members, Authority Members, Board Members, Authority Board Members, Commissioners or Authority Commissioners, and who collectively, may be referred to interchangeably as the Board, the Authority Board, the Board Members, the Authority Board Members, the Commissioners, the Authority Commissioners, the Board of Commissioners or the Authority Board of Commissioners.

**Section 1.5. Management Employees.** There shall be no management employees of the Authority.

**Section 1.6. Indemnification.** The Authority, from the County's Self-Insurance Fund ("SIF") and/or such other source or sources as set forth in a resolution of the Authority, shall indemnify any past, present or future member of this Authority and all past, present and future management employees for claims arising from an alleged act or omission of such member within the scope of the performance of such individual's duties with the Authority. Such indemnification shall include reasonable costs and expenses, including reasonable attorney's fees, incurred in defending such claims. Covered

individuals shall not be entitled to a defense or indemnification from the Authority unless:

(a) Within thirty (30) calendar days of the time he/she is served with the summons, complaint, process, notice or pleading, he/she delivers the original or exact copy to legal counsel selected by the Authority to handle such matters and requests that the Authority provide for his/her defense;

(b) He/she cooperates in the preparation and presentation of the defenses with the legal counsel selected by said authority to defend the case;

The foregoing right of indemnification shall not be exclusive of any other rights to which any person may be entitled as a matter of law or which may be lawfully granted to him/her; and the right to indemnification or reimbursement of Authority members and/or employees; except that in no event shall covered individual receive compensation in excess of the full amount of a claim and the reasonable costs and expenses incurred in defending such claim.

Expenses incurred by any covered individual in defending an action, suit or proceeding shall be paid by the Authority from the sources set forth in this Section 1.6 above upon final determination of such action, suit or proceeding. Certification of said expenses is to be submitted to the Authority by the covered individual and will be reviewed and approved by legal counsel to the Authority. Payment of said expenses will not be made until authorized by resolution of the Authority. There shall be no coverage pursuant to this Indemnification provision for conduct resulting in the payment by the Authority of punitive damages or exemplary damages arising from the commission of a

crime by a covered individual or from an act or omission which constitutes actual fraud, actual malice, willful misconduct or an intentional wrong.

## ARTICLE II – OFFICERS

**Section 2.1. Officers.** The officers of the Authority shall include a Chairperson, a Vice Chairperson, a Treasurer, a Secretary, an Assistant Treasurer and an Assistant Secretary, and such other officers designated by resolution of the Authority. Except as otherwise authorized by these By-Laws or by resolution of the Authority, any Officer may sign and execute all contracts, deeds, bonds, notes, other obligations, certificates and other instruments authorized for execution by resolution of the Authority.

**Section 2.2. Chairperson.** The Chairperson shall preside at all meetings of the Authority. Except as otherwise authorized by these By-Laws or by resolution of the Authority, the Chairperson may negotiate all contracts, deeds, bonds, notes, other obligations, certificates and other instruments authorized for negotiation or execution, as the case may be, by resolution of the Authority. At each meeting, the Chairperson shall submit such recommendations and information as he/she may consider proper concerning the business affairs and policies of the Authority. The Chairperson shall perform such duties as are further described in the following articles of the By-Laws.

**Section 2.3. Vice-Chairperson.** The Vice-Chairperson shall perform the duties of the Chairperson in the absence or incapacity of the Chairperson; and in case of the resignation or death of the Chairperson, the Vice-Chairperson shall perform such duties as are imposed on the Chairperson until such time as the Authority shall select a new Chairperson. In the event neither the Chairperson nor Vice-Chairperson are in attendance at an Authority meeting, then, a quorum being present, a temporary Chairperson shall be elected to preside over such meeting.

**Section 2.4. Treasurer.** The Treasurer shall have the care and custody, including responsibilities for investment in accordance with a cash management plan, of all funds of the Authority. Unless otherwise required by applicable law, the proceeds and investment earnings on any bonds, notes or other obligations of the Authority issued on a conduit basis for which the Authority has no independent obligation of repayment shall be considered funds of the conduit borrower or other party in interest, as the case may be, and in any case shall not be considered funds of the Authority. Accordingly, the investment, care and custody of such conduit funds shall be governed by the appropriate bond, note or other obligation documents.

To the extent the Treasurer also acts as treasurer for the County, the Treasurer may make such use of County personnel and County policies to assist the Treasurer in his/her rights and responsibilities as the Treasurer deems necessary, convenient or desirable to discharge such rights and responsibilities, provided, however, that funds of the County and the Authority shall not be commingled for any reason without the express consent of the County and the Authority as evidenced by resolutions of the Freeholder Board and the Authority.

**Section 2.5. Assistant Treasurer.** The Assistant Treasurer shall perform the duties of the Treasurer in the absence of incapacity of the Treasurer. In the case of the resignation or death of the Treasurer, the Assistant Treasurer shall perform the duties of the Treasurer until such time as the Authority shall select a new Treasurer. In the event that neither the Treasurer or the Assistant Treasurer are in attendance at an Authority meeting, then, a quorum being present, a Temporary Treasurer shall be selected to

discharge the duties of the Treasurer for that meeting. The Authority need not select an Assistant Treasurer.

**Section 2.6. Secretary.** The Secretary shall perform the duties which are common to this office, and such duties as may be assigned to him/her from time to time by the Chairperson of the Authority, including without limitation the execution of an attestation to any document of the Authority, the fixing of the corporate seal of the Authority to any document, the keeping of the corporate books of the Authority and the certification of resolutions and other instruments or documents of the Authority as to their continued effectiveness or authenticity on behalf of the Authority.

**Section 2.7. Assistant Secretary.** The Assistant Secretary shall perform the duties of the Secretary in the absence or incapacity of the Secretary; and in the case of resignation or death of the Secretary, the Assistant Secretary shall perform such duties as are imposed on the Secretary until such time as the Authority shall select a new Secretary. In the event that neither the Secretary nor the Assistant Secretary are in attendance at an Authority meeting, then, a quorum being present, a Temporary Secretary shall be elected to discharge the duties of the Secretary for such meeting. The Authority need not select an Assistant Secretary.

**Section 2.8. Additional Duties.** The Officers of the Authority shall perform such other duties and functions as may, from time to time, be required by the Authority or the By-Laws or policies of the Authority, the Statutes of the State of New Jersey or other applicable law.

**Section 2.9. Election or Appointment.** Except for the first year of the Authority, in which cases the Officers of the Authority shall be selected at any meeting as

soon as practicable from among the Commissioners of the Authority and shall hold office until the next annual meeting, the Officers of the Authority shall be elected at the annual meeting of the Authority from among the Commissioners of the Authority, and shall hold office for one year or until their successors are elected and qualified.

**Section 2.10. Vacancies.** Should any office of the Authority become vacant, the Authority shall elect a successor from its membership at the next regular meeting, and such election shall be for the unexpired term of said office.

### ARTICLE III – PERSONNEL

**Section 3.1.** Use of County Personnel/Chairperson. To the maximum extent possible, County employees shall be used for such administrative and managerial and operational duties as are required to be performed on behalf of the Authority. The Chairperson shall have such duties as the Authority shall delegate and shall have general supervision over the administration of its business and affairs, subject to the direction of the Commissioners. Except as otherwise authorized by resolution of the Authority, the Chairperson shall sign all authorized deeds, contracts, leases and other instruments authorized for execution by resolution of the Authority. The Chairperson shall keep in safe custody the seal of the Authority and shall have the power to affix such seal to all contract and instruments authorized to be executed by the Authority.

The Chairperson shall serve as Clerk to the Board of Commissioners and to each of the Board's committees. As Clerk, the Chairperson shall prepare or cause the preparation of all agendas, shall present all materials and issues for consideration by the body, shall cause records to be kept of the proceedings, and shall take, or cause to be taken the actions directed by the Board.

The Chairperson shall be the chief operating officer and chief financial officer of the Authority and shall have the authority and responsibility normally assigned to such positions. The Chairperson, when authorized under applicable law, and pending same, such person properly authorized under applicable law as the Chairperson shall designate in writing on behalf of the Chairperson, shall also be the contracting agent or purchasing agent of the Authority, as such terms are used in the Contracts Law (hereinafter defined)

and any resolutions of the Authority, and shall have such powers and duties as are permitted therein to be delegated by the Board.

The Chairperson shall have the right to supervise and direct all employees, advisors, consultants, including legal counsel, and contractors engaged through any means by the Authority and, if authorized by resolution of the Authority, shall have the right to impose disciplinary measures, including termination of services, upon them for cause. Within the constraints imposed by the available appropriations within the operating budget, and subject to such maximum salary limits established by resolution of the Authority, the Chairperson, if authorized by resolution of the Authority, shall have the right to hire or promote personnel into any position except those for management employees. In the case of management employees, the Chairperson shall be responsible to seek qualified candidates for such positions when available, and to recommend persons to the Board for hire, which shall be done by resolution of the Authority.

The Chairperson, by resolution of the Authority including bond resolution, may also be designated, pursuant to N.J.S.A. 40:37A-60, as the agent of the Authority who has been delegated the power to determine the time and manner for the sale of bonds, the maturities and rates of interest, whether fixed or variable, redemption and defeasance provisions, and such other terms and conditions as the Chairperson deems appropriate. Such power shall in all cases be limited to the extent explicitly prescribed by the Authority in its authorization to issue such bonds, including as applicable maximum interest rates and maximum principal amounts.

The Chairperson shall be appointed by resolution of the Authority and shall have no compensation, except for the right to reimbursement for reasonable expenses incurred

in connection with the affairs of the Authority, all of which may be limited by resolution of the Authority. Any person appointed to fill the office of Chairperson or any vacancy therein, shall have such term as the as the Authority fixes, but no Commissioner of the Authority shall be eligible for this office except as a temporary appointee, and such temporary appointment shall be without compensation.

**Section 3.2.** Additional Personnel. The Authority may, from time to time, authorize the employ of such additional personnel as it deems necessary to exercise its powers, duties, and functions as prescribed by the Authority and all other laws of the State of New Jersey applicable thereto. The maximum compensation of such personnel shall be determined by the Commissioners by resolution of the Authority.

## ARTICLE IV - CONTRACTS AND PAYMENTS

**Section 4.1. Prevailing Law.** When applicable, the Authority shall be subject to the requirements of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq) and to the rules promulgated pursuant thereto (collectively the "Contracts Law"). Nothing in this Article shall be deemed to limit the Authority's power to contract with the County, other local governments and certain persons (as defined in the Act) under applicable provisions of the Act not governed by the Contracts Law. This Article shall apply when the Authority is subject to the Contracts Law. In addition, nothing in this article shall affect the making of contracts or the disbursement of monies not deemed funds of the Authority as determined by Section 2.4 hereof, which shall be governed by the applicable bond documentation.

**Section 4.2. Delegation of Powers.** To the extent permitted by the Contracts Law, the Chairperson is delegated the powers to act as the "Contracting Agent" of the Authority. Such delegation shall include, but not be limited to the authority to:

- a) advertise for or otherwise solicit quotations, proposals or bids for the provision of goods and/or services;
- b) receive, open and evaluate quotations, proposals and bids;
- c) make, negotiate and, subject to resolution of the Authority, award contracts, agreements or purchases for any purpose, the cost or price of which does not exceed the limit set by the Governor pursuant to N.J.S.A. 40A:11-3(b), which limit was the amount of \$17,500 as of January 1, 2002. No contract shall be awarded by the Chairperson pursuant to this section unless sufficient funds are available to pay for the goods or services which are the subject thereof.

**Section 4.3. Form of Contracts.** All contracts shall be in writing. Contracts for amounts less than the limit referred to in Article IV, Section 2 (c) above may be in the form as determined to be adequate by legal counsel to the Authority.

Regardless of the form thereof, all contracts shall clearly outline the goods and/or services to be provided, the amount to be paid therefore, and in the case of unit price or hourly rate contracts, the maximum amount which may be paid pursuant to that contract.

**Section 4.4. Payments.** Contracts for goods or services shall be paid by the Chairperson, the Treasurer or their designee on behalf of the Authority upon approval by authorizing resolution of the Authority, which may include the use of a bill list. In the event the Chairperson or Treasurer determines that it is necessary, desirable or convenient to make one or more payments prior to the adoption of an authorizing resolution of the Authority, the Chairperson or Treasurer may cause any such payments to be made without the need for adoption of an authorizing resolution of the Authority, so long as the Chairperson or Treasurer, as applicable, receives the consent in writing of one Authority Board Member other than themselves to so make such payments, which consent may be evidenced by co-signing the voucher presented for payment, and provided that the Chairperson or Treasurer, as applicable, shall report to the Authority Board at the Authority's next meeting any and all payments so made without an authorizing resolution. All payments shall be made by check, wire, other immediate funds transfer that produces a record of transfer or other means approved by resolution of the Authority. Checks, wire authorizations or other funds transfer authorizations shall be signed by both the Chairperson and the Treasurer, unless otherwise set forth in any policy adopted by resolution of the Authority. In the absence of either the Chairperson or the

Treasurer, due to a vacancy in the position or due to vacation or sick leave use, a member of the Authority Board may sign on behalf of the absent party. A complete check and funds transfer register, showing all payments to third parties for all purposes, shall be accumulated by the Treasurer each month. All payments shall be recorded by the Treasurer and reflected in the monthly financial reports provided to all members of the Board.

## **ARTICLE V- MEETINGS**

**Section 5.1.** Annual Meeting. The annual meeting of the Authority shall be held during the regular meeting in February.

**Section 5.2.** Regular Meetings. Regular Meetings of the Authority shall be held once each month. The date, time and place of each regular meeting shall be fixed by a resolution of the Authority, to be adopted at its annual meeting each year. Should it thereafter be necessary to change the date, time or place of such meetings, the Chairperson will be authorized to do so by notifying all of the members of the Authority in writing of the change at least 48 hours prior to the time at which the meeting will be convened. Notice of any change shall also be given to the general public, in a manner which conforms to the requirements of the Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.).

**Section 5.3.** Special Meetings. The Chairperson shall also have the power to call a Special Meeting of the Authority for the purposes of transacting any business designated in the call. It shall be the duty of the Chairperson to call a Special Meeting when requested by any Commissioner. The call for a Special Meeting shall be delivered to each member of the Authority or mailed to arrive at the business or home address of each member at last 48 hours prior to the time of such Special Meeting. Notice of a Special Meeting shall be posted and published in conformity with the provisions of the Open Public Meetings Act. Actions taken in a Special Meeting shall require the same quorum and affirmative vote as specified in Article V, Section 6.

**Section 5.4. Emergency Meetings.** Emergency meetings may be called without notice in accordance with exceptions set forth in the Open Public Meetings Act by an affirmative vote of three-quarters of the members present or by a determination that the matter be considered is of such urgency and importance that delay would likely result in substantial harm to the public interest. In such a case, the Emergency meeting must be limited to the discussions of such matters. At such Emergency meeting, no business shall be considered other than that designated in the call.

**Section 5.5. Public.** All meetings shall be open to the public. The Authority, upon motion, has the right to close the meeting to the public for discussion of any action or matter falling within the exceptions contained in the Open Public Meetings Act.

**Section 5.6. Quorum.** The powers of the Authority shall be vested in the Commissioners thereof in office from time to time. A majority of the sworn Commissioners shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, but a smaller number may adjourn from time to time, until a quorum is obtained. All actions of the Authority shall be taken by resolution of the Authority requiring an affirmative vote of a simple majority of the members of the Authority present at the time of motion for adoption. The Minutes of prior meetings may also be approved by a simple majority of the members present at the time of the motion to approve the minutes who were also present for all or part of the meeting described in those minutes.

Members may participate in any meeting, be considered as part of a quorum and vote on any matter by the use of telephone equipment or such other medium not requiring the physical presence of a Commissioner as authorized by resolution of the Authority,

provided that such participation permits the public to hear the comments and votes of any member so included.

**Section 5.7. Order of Business.** Unless changed by the Chairperson, the following shall be the order of business:

- I. Open Public Meetings Notice
- II. Roll Call
- III. Approval of Minutes
- IV. Public Comment
- V. Executive Session

Executive Session will include the consideration of the report of legal counsel and consideration of personnel issues. In addition, any topical matter falling within the exceptions permitted by the Open Public Meetings Act rules will be discussed.

- VI. Official Action

This portion of the meeting will be exclusively for the formal consideration of resolutions and motions, with the Chairperson authorized to prevent discussion of any other issue.

- VII. Information Meeting

In this portion of the meeting, the Board will receive reports and hear presentations and commentary that do not require action. This portion will have the following general format:

- A. Receipt of Correspondence
- B. Receipt of General Financial Reports

- C. Receipt of Reports of Outside Financial Advisors
- D. Receipt of Reports of Outside Engineers and Architects
- E. Receipt of Reports of other Consultants and Advisors
- VII. Further Official Action – Resolutions of Commissioners
- VIII. Additional Reports from Consultants
- IX. Adjournment

All resolutions of the Authority shall be in writing and be incorporated in the minutes of the proceedings of the Authority by reference to the date and resolution number. All business shall be conducted under the regulations in Robert's Rules of Order, unless otherwise specified in these By-Laws.

**Section 5.8.** Manner of Voting. The voting on all questions, except committee reports and correspondence coming before the Authority, shall be by roll call, and the yeas and nays shall be entered upon the minutes of such meetings. The roll call shall be called in alphabetical order, except that the Chairperson shall vote last.

**Section 5.9.** Agenda. The formal agenda for meetings shall be prepared by the Chairperson in consultation with legal counsel to the Authority. The formal agenda and proposed resolutions shall be delivered to the home or offices of the Commissioners at least two (2) days prior to the meeting. Prior to the issuance of the formal agenda, any Commissioner may add items to the formal agenda by providing sufficient advance notification to the Chairperson. Subsequent to such delivery of the agenda, any Commissioner may add additional items to the agenda, upon notice to the Chairperson, at any time up to and including the meeting. A late starter procedure for such agenda items

may be adopted by resolution of the Authority, but such procedure need not comply with the two (2) day advance notice requirement set forth above.

**Section 5.10. Public Participation in Agenda.** The agenda for Authority meetings shall be made public, according to statutes. The public shall be given the opportunity to participate in the Authority meetings.

## ARTICLE VI – COMMITTEES

**Section 6.1.** Standing Committees. There shall be no standing committees..

**Section 6.2.** Special Committees. As necessary, the Chairperson may appoint such committees as are deemed necessary for the efficient conduct of the business of the Authority. Such committees shall be given such powers and duties as necessary to their purposes, save that no special committee shall be given powers or duties which are assigned by statute or these By-Laws to the Board as a whole, or to any standing committee, any Officer, or the Chairperson.

**Section 6.3.** Appointment. Except where specified by these By-Laws, the determination and appointment of members of a committee and its chairperson shall be made by the Chairperson of the Authority.

## ARTICLE VII – AMENDMENTS

**Section 7.1.** Amendments. These By-Laws which incorporate legislative directives as embodied in the Revised Statutes may not be altered, amended, or repealed. All other By-Laws may be altered, amended, repealed or expanded by an affirmative vote of at least four (4) members of the Authority for the purpose of amending the By-Laws, provided written and/or e-mail notice shall have been delivered to the home or office of each member at least ten (10) days before the date set for any such meeting, at which time it is proposed that the By-Laws be altered, amended, repealed or expanded. The notice shall state the alterations, amendments or changes which are proposed to be made in the By-Laws.

## CERTIFICATE OF AUTHORITY AS TO LOCAL FINANCE BOARD

I, ELLEN M. SANDMAN, Secretary of The Morris County Improvement Authority (the “*Authority*”), a public body corporate and politic of the State of New Jersey (the “*State*”) organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A. 40:37A-44 et seq.*, the “*Act*”) and other applicable law, and in connection with the issuance this day by the Authority of its \$26,715,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated the date hereof (the “*Series 2011A Bonds*”) and the \$985,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)” dated the date hereof (the “*Series 2011B Note*” and together with the Series 2011A Bonds, the “*Series 2011 Bonds*”), **DO HEREBY CERTIFY** on behalf of the Authority as follows:

1. On July 20, 2011 the Authority adopted resolution number 11-29 entitled “RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE PREPARATION AND SUBMISSION OF AN APPLICATION TO THE LOCAL FINANCE BOARD PURSUANT TO LOCAL AUTHORITIES FISCAL CONTROL LAW AND OTHER APPLICABLE LAW AND SEEKING CERTAIN OFFICIAL ACTIONS OF THE COUNTY OF MORRIS, NEW JERSEY, ALL IN CONNECTION WITH THE AUTHORITY’S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000” (the “*Local Finance Board Authorizing Resolution*”) a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Authority at a meeting duly called and held on July 20, 2011 and at which a quorum existed and acted throughout.

2. Attached hereto as **Exhibit B** is a true and complete copy of the Authority’s Local Finance Board Application dated July 19, 2011 (the “*Local Finance Board Application*”) relating to the Series 2011 Bonds.

3. On October 19, 2011, the Authority adopted resolution number 11-47 entitled “RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY CONCERNING THE REVIEW OF FINDINGS AND RECOMMENDATIONS OF THE LOCAL FINANCE BOARD PURSUANT TO LOCAL AUTHORITIES FISCAL CONTROL LAW AND OTHER APPLICABLE LAW, ALL IN CONNECTION WITH THE AUTHORITY’S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000” (the “*Local Finance Board Findings Resolution*”) a copy of which is attached hereto as **Exhibit C**, which resolution was duly adopted by the Authority at a meeting duly called and held on October 19, 2011 and at which a quorum existed and acted throughout.

Attached to the Local Finance Board Findings Resolution are the findings of the Local Finance Board, along with the group affidavit, all as required under the Local Authorities Fiscal Control Law.

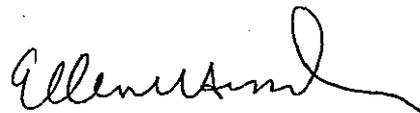
4. As of the date hereof, the Local Finance Board Authorizing Resolution and the Local Finance Board Findings Resolution, each set forth above and attached hereto, have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect.

5. Attached hereto as **Exhibit D** is a true and complete copy of the letter of counsel to the Authority dated December 7, 2011 (the "*Findings Transmittal Letter*") transmitting the Local Finance Board Findings Resolution to the Local Finance Board.

**[Remainder of this page intentionally left blank.]**

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the Authority this  
14th day of December, 2011.

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By:   
\_\_\_\_\_  
**Ellen M. Sandman**  
**Secretary**

**EXHIBIT A**

**[Attach copy of Original Local Finance Board Authorizing Resolutions]**

RESOLUTION NO. 11-29

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

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**TITLE:**

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
AUTHORIZING THE PREPARATION AND SUBMISSION OF AN  
APPLICATION TO THE LOCAL FINANCE BOARD PURSUANT TO LOCAL  
AUTHORITIES FISCAL CONTROL LAW AND OTHER APPLICABLE LAW  
AND SEEKING CERTAIN OFFICIAL ACTIONS OF THE COUNTY OF  
MORRIS, NEW JERSEY AND THE COUNTY OF SUSSEX, NEW JERSEY, ALL  
IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX  
GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE  
BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY  
TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED  
\$50,000,000**

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

WHEREAS, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the

Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "*Series 2011B Notes*", and together with the Series 2011A Bonds, the previously defined "*Series 2011 Bonds*"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000;

**WHEREAS**, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

**WHEREAS**, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the "*Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES

AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY” to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the “*Bond Resolution*”), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a “*Local Unit License Agreement*”, and collectively, the “*Local Unit License Agreements*”) with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the “*Local Unit License*”), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that (the “*Company Proposal*”) of

the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Lease Agreement*") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "*BPU*"), whereby, among other things,
  - (I) The Company shall establish a power purchase price based, in part, on the Authority's

covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "*Company Documents*";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase

Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be

dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

**WHEREAS**, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

**WHEREAS**, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company

Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County,

the State or State affiliate, or other third party, either directly, or through a private placement agent ("*Private Placement Agent*"), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*");
- (b) If the Series 2011 Bonds shall be sold by:
  - (I) Competitive sale, authorize the distribution of a notice of sale ("*Notice of Sale*"), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the "*Underwriter*"), or
  - (II) Negotiated sale, enter into a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds; and
- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*"), and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (i) above, the "*Sale Documents*");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("*Section 13*") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "*Sussex County Board of Freeholders*") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program Documents*"), and which report and amended

report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13; and

**WHEREAS**, the Authority believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Series 2011 Local Units; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Series 2011 Local Units and will not create an undue financial burden to be placed upon the Authority or the Series 2011 Local Units.

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The Chairman and the other Commissioners of the Authority (including their designees, each an "*Authorized Officer*") are each hereby severally authorized to prepare and submit the Local Finance Board Application for the purpose of financing the Series 2011 Project through the issuance of the Series 2011 Bonds. The Authorized Officer shall act in consultation with the Authority's Counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, hereby confirmed to act as bond counsel to the Authority for this financing, NW Financial Group, LLC, hereby confirmed as Financial Advisor to the Authority for this financing and Birdsall Services Group and Gabel Associates, co-energy consultants to the Authority for the Renewable Energy Program (collectively, the "*Consultants*"), in the preparation and submission of the Local Finance Board Application, which shall include the selection of the Series 2011 Local Units. All actions taken to date by such parties in connection with the Local Finance Board Application are hereby ratified and approved. All of such parties are hereby authorized and directed to represent the Authority in matters pertaining thereto, including without limitation, the hearing to be held by the Local Finance Board relating to the Program Documents, including the County Guaranty, and the Series 2011 Project financed thereby required by N.J.S.A. 40A:5A-6.

**Section 2.** The Authorized Officers are each hereby severally authorized and directed to deliver or cause to be delivered to the governing bodies of the County and the County of Morris a detailed report describing the applicable Program Documents and the Series 2011 Project financed thereby, all in accordance with Section 13.

**Section 3.** Each Authorized Officer is hereby further authorized and directed to take all actions deemed necessary, convenient or desirable by any such Authorized Officer, in consultation with the Consultants, to obtain the resolutions of the governing body of the County and the County of Morris contemplated by Section 13 relating to the Program Documents and the Series 2011 Project financed thereby.

**Section 4.** Each Authorized Officer is hereby further authorized and directed to take all actions deemed necessary, convenient or desirable by any such Authorized

Officer, in consultation with the Consultants, to obtain the County Guaranty to be given by the County pursuant to Section 37.

**Section 5.** The Secretary of the Authority is hereby directed to prepare and cause counsel to the Authority to file a copy of this resolution with the Local Finance Board as part of the Local Finance Board Application.

**Section 6.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application and to record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

**Section 7.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 8.** All actions of the Authorized Officers and the Consultants taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Series 2011 Project or any of the foregoing transactions contemplated by this resolution are hereby ratified and approved.

**Section 9.** Upon the adoption hereof, the Clerk of the Board of Freeholders shall forward certified copies of this resolution to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority.

**Section 10.** In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Board of Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Board of Freeholders a certification from the respective Clerks stating that the minutes of this meeting have not been vetoed by the Director of the Board of Freeholders.

**Section 11.** This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

**MOVED/SECONDED:**

Resolution moved by Commissioner Pinto.

Resolution seconded by Commissioner Roe.

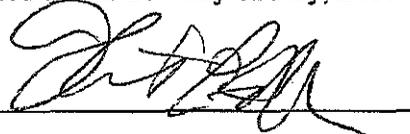
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez				X
Roe	X			
Sandman				X
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on July 20, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

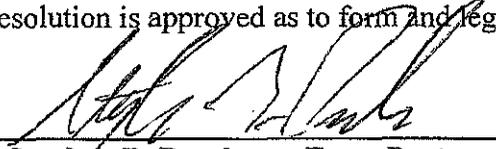
Attested to this 20<sup>th</sup> day of July, 2011

By: 

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of July 20, 2011

By: 

Stephen B. Pearlman, Esq., Partner  
 Inglesino, Pearlman, Wyciskala & Taylor, LLC  
 Counsel to the Authority

**EXHIBIT B**

**[Attach copy of Local Finance Board Application]**

**STATE OF NEW JERSEY**  
**DEPARTMENT OF COMMUNITY AFFAIRS**  
**DIVISION OF LOCAL GOVERNMENT SERVICES**  
**LOCAL FINANCE BOARD**

**APPLICATION**

**Volume I of II**

**Morris County Improvement Authority**

Not to Exceed \$50,000,000 aggregate principal amount of the Authority's  
To be issued in 2 Series

Consisting of

"County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
(County of Sussex Program) Series 2011A (Federally Taxable)"

and

"County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds or Notes,  
(County of Sussex Program) Series 2011B (Federally Taxable)"

For Submission To The

**NEW JERSEY LOCAL FINANCE BOARD**

Thomas Neff, Chairperson

Patricia McNamara, Executive Secretary

Application Date: July 19, 2011  
Scheduled Hearing Date: August 10, 2011

## TABLE OF CONTENTS

Morris County Improvement Authority

Not to Exceed \$50,000,000 aggregate principal amount of the Authority's  
To be issued in 2 Series

Consisting of

"County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
(County of Sussex Program) Series 2011A (Federally Taxable)"

and

"County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds or Notes,  
(County of Sussex Program) Series 2011B (Federally Taxable)"

Application to the Local Finance Board

Application Date: July 19, 2011

Scheduled Hearing Date: August 10, 2011

### Tab

1. Application Data
2. Resolution Service List
3. Executive Summary - Detailed Description of Application

Exhibit A. List of Renewable Energy Projects (21 in number, 9.37 MW projected) for the  
Local Unit Facilities (21) of the Series 2011 Local Units (15).

### 4. Part I

- (a) Application Certification
- (b)(i) LFB Authorizing Resolution of the Authority to be adopted at its regularly scheduled monthly meeting of July 20, 2011 authorizing this Application to the Local Finance Board and seeking (A) the N.J.S.A. 40:37A-56(1) Approval from the County of Morris and the County of Sussex and (B) the County of Sussex N.J.S.A. 40:37A-80 Guaranty of the Series 2011 Bonds.
- (b)(ii) Form of LFB Authorizing Resolution for each participating Series 2011 Local Unit. (Certified copies to filed upon adoption on or prior to August 3, 2011)

### 5. Part II

**EXHIBIT II-A** – See number runs from Authority Financial Advisor

### 6. Part III

7. Part V

(a)(i) Authority Bond Resolution (form): "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of the Morris County Improvement Authority"  
[See Volume II of LFB Application]

(b)(i) Sussex County Resolution: N.J.S.A. 40:37A-56(1) Approval (adopted on July 27, 2011)

Exhibits A-G: Forms of Company Lease Agreement, Power Purchase Agreement, Company Pledge Agreement, County Guaranty Agreement, Company and County Continuing Disclosure Agreements, master Local Unit License Agreement for each Series 2011 Local Unit, and the Authority Bond Resolution [See Volume II of LFB Application]

(b)(ii) Sussex County Guaranty Ordinance re Series 2011 Bonds: N.J.S.A. 40:37A-80 (first reading on July 27, 2011; final reading scheduled for August 10, 2011)

(b)(iii) Morris County Resolution: N.J.S.A. 40:37A-56(1) Approval (scheduled for adoption on July 13, 2011)

Exhibits A-G: Forms of Company Lease Agreement, Power Purchase Agreement, Company Pledge Agreement, County Guaranty Agreement, Company and County Continuing Disclosure Agreements, master Local Unit License Agreement for each Series 2011 Local Unit, and the Authority Bond Resolution [See Volume II of LFB Application]

(b)(iv) Form of RFP for Solar Developer [See Volume II of LFB Application]

(c) Statement of Impact on Sussex County and the Series 2011 Local Units.

# TAB 1

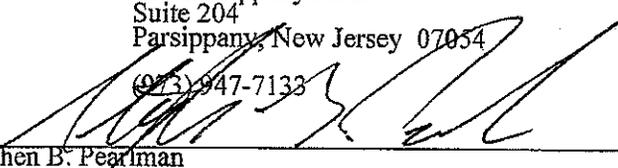
STATE OF NEW JERSEY  
DEPARTMENT OF COMMUNITY AFFAIRS  
DIVISION OF LOCAL GOVERNMENT SERVICES  
LOCAL FINANCE BOARD  
APPLICATION DATA

APPLICANTS  
NAME: Morris County Improvement Authority  
ADDRESS: Administration and Records Building  
P.O. Box 900  
Morristown, New Jersey 07963

COUNTY Morris/Sussex  
ID # 22-6002462  
YEAR 2011

APPLICABLE STATUTE TO WHICH APPLICATION IS BEING SUBMITTED: N.J.S.A. 40A:5A-6.  
AMOUNT FOR WHICH APPLICATION IS BEING SUBMITTED:

Not to Exceed \$50,000,000 aggregate principal amount of the Authority's  
To be issued in 2 Series  
Consisting of  
"County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
(County of Sussex Program) Series 2011A (Federally Taxable)"  
and  
"County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds or Notes,  
(County of Sussex Program) Series 2011B (Federally Taxable)"

CONTACT PERSON: Stephen B. Pearlman  
TITLE: Partner  
ORGANIZATION/FIRM: Inglesino, Pearlman, Wyciskala & Taylor, LLC  
ADDRESS: 600 Parsippany Road  
Suite 204  
Parsippany, New Jersey 07054  
PHONE NUMBER: (973) 947-7133  
SIGNATURE:   
\_\_\_\_\_  
Stephen B. Pearlman  
DATE: July 19, 2011

FOR DIVISION USE ONLY

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*****
*   DATE OF HEARING _____ *
*   SCHEDULED TIME   _____ *
*   REFERENCE FILE   _____ *
*   LFB ACTION       _____ *
*   WP DOC. #        _____ *
*****

```

**TAB 2**

## RESOLUTION SERVICE LIST

### AUTHORITY SECRETARY

NAME: Christina Ramirez, Secretary  
ADDRESS: Morris County Improvement Authority  
Administration and Records Building  
P.O. Box 900  
Morristown, New Jersey 07963  
[Cramire257@aol.com](mailto:Cramire257@aol.com)

### AUTHORITY EXECUTIVE OFFICER

NAME: John Bonanni, Chairperson  
ADDRESS: Morris County Improvement Authority  
Administration and Records Building  
P.O. Box 900  
Morristown, New Jersey 07963  
[jbbonanni@co.morris.nj.us](mailto:jbbonanni@co.morris.nj.us)

### COUNTY

NAME: John Eskilson, County Administrator  
ADDRESS: Sussex County  
Sussex County Administrative Center  
One Spring Street  
Newton, New Jersey  
[jeskilson@co.sussex.nj.us](mailto:jeskilson@co.sussex.nj.us)

NAME: Glenn Roe, County Treasurer  
ADDRESS: Morris County  
Administration and Records Building  
P.O. Box 900  
Morristown, New Jersey 07963  
[groe@co.morris.nj.us](mailto:groe@co.morris.nj.us)

### BOND COUNSEL

NAME: Stephen B. Pearlman, Esq.  
ADDRESS: Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road  
Parsippany, New Jersey 07054  
[spearlman@iandplaw.com](mailto:spearlman@iandplaw.com)

### FINANCIAL ADVISOR

NAME: Douglas Bacher, Managing Director  
ADDRESS: NW Financial Group  
3000 Atrium Way  
Mt. Laurel, New Jersey 08054  
[dbacher@nwfinancial.com](mailto:dbacher@nwfinancial.com)

**AUDITOR**

NAME: Thomas Ferry

ADDRESS: Ferraioli, Wielkotz, Cerullo and Cuva, P.A.  
401 Wanaque Avenue  
Pompton Lakes, New Jersey 07442  
[tomcparma@nac.net](mailto:tomcparma@nac.net)

**TAB 3**

## EXECUTIVE SUMMARY

### DETAILED DESCRIPTION OF APPLICATION

This application (the "**Application**") has been submitted to the Local Finance Board ("**Board**") for the Board's review and findings related to the issuance by The Morris County Improvement Authority (the "**Authority**") of its not to exceed \$50,000,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds (County of Sussex Program), Series 2011A" [federally taxable] (the "**Series 2011A Bonds**") and one or more series of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bond or Notes, Series 2011B" [federally taxable] (collectively, the "**Series 2011B Notes**" and together with the Series 2011A Bonds, the "**Series 2011 Bonds**"). Specifically, the Authority is seeking favorable findings from the Board with respect to the following documents defined later in this Executive Summary:

1. Review and findings with respect to the Authority's Bond Resolution ("**RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY**") scheduled for adoption by the Authority at its September, 2011 board meeting, the "**Bond Resolution**") in an aggregate principal amount not to exceed \$50,000,000, as a "Bond resolution" for purposes of the Local Authorities Fiscal Control Law.

2. Review and findings with respect to the Sussex County Guaranty and County Guaranty Agreement in an aggregate principal amount not to exceed \$50,000,000, and the License Agreements, each as a "Service contract" under the Local Authorities Fiscal Control Law.

The Series 2011 Bonds are the third series of bonds being issued by the Authority pursuant to the Renewable Energy Program (the "**Program**") developed by the County of Morris, New Jersey (the "**County**") and the Authority. On February 18, 2010 the Authority closed its first tranche of the Program ("**Tranche I**"). Due to the overwhelming success of Tranche I and the further success of a similar program in other Counties, Sussex County contacted the Authority after being contacted by several local units all anxious to participate in the Program. The Authority is currently in the RFP process for a Solar Developer for its second tranche. This tranche of the Program is solely for local units in and including the County of Sussex.

Under the Program, the Authority shall finance solar projects ("**Renewable Energy Projects**"), and related capital improvements (e.g. roofing improvements and electrical upgrades, "**Capital Improvement Projects**" – none in this tranche, and together with Renewable Energy Projects, "**Projects**") for participating municipalities, boards of education and local authorities within and including the County of Sussex ("**Local Units**"), through the issuance of taxable, County guaranteed bonds of the Authority, 100% of the debt service on which is to be repaid by the one or more (depending on tranche size) competitively selected solar developer(s) (collectively, "**Company**") through one or more request(s) for proposals (collectively, "**RFP**") process in accordance with the competitive contracting provisions of the Local Public Contracts Law. There is no recourse to the Local Unit participants in the Program, as such Local Units shall have no obligation to pay debt service on such Authority bonds.

The Authority intends to issue the Series 2011 Bonds to fund this third tranche of solar projects for 15 Local Units, including the County of Sussex, as set forth on **Exhibit A** to this Executive Summary (the "**Series 2011 Local Units**"). There are 21 solar projects to be developed on 21 Local Unit Facilities for these 15 Series 2011 Local Units (some Local Units have multiple projects, roof and ground/parking,

at a single site). The Authority reserves the right to add to, subtract from, or modify this Local Unit and Local Unit facility list set forth as **Exhibit A**, so long as the Program structure does not change, and the aggregate principal amount of Series 2011 Bonds does not exceed \$50M. The Company RFP provides an accommodation to the Company to self finance all or a portion of the Local Unit Projects if less expensive than financing through the MCIA Bonds. Therefore the Projects can be financed through all public funds, all private funds or a combination of both.

The Series 2011 Local Units were selected through a lengthy process. The Authority and its advisors initially sent out surveys requesting interest in our program and based upon the responses to the surveys site visits were undertaken to determine viability. Through the course of a 2 month period we have had several discussions and meetings with each of the local units and determined the best set of facilities and projects for the Program. We are still in contact with each of the Series 2011 Local Units in order to fine tune the project descriptions and obtain the necessary approvals. Although this list is somewhat final, a Series 2011 Local Unit or an individual project may still be added or eliminated. If any local unit or project is eliminated, we would decrease the size of our bond issue accordingly.

The Authority intends to issue the Series 2011 Bonds in 2 series in the aggregate not to exceed amount of \$50,000,000. Series 2011A Bonds, in approximately \$47,600,000 is scheduled to be issued in November, 2011. Series 2011B Notes, in the amount of approximately 1 year's worth of capitalized interest on the Series 2011A Bonds, is scheduled to be issued no earlier than January, 2012, and repaid in the next year when the first Company Basic Lease Payments are due from the solar developer in late 2013. The Authority respectfully reserves the right to issue either one or two series of Series 2011B/C Notes after consultation with its advisors as to the best economic impact on the Program. Notwithstanding these approximate series breakdown amounts, which were sized to allow the short term Series 2011B Notes to fund the 1 year of Series 2011A capitalized interest, and which Series 2011B Notes will either be sold to an Underwriter (to be held or re-offered) or be bought directly by Sussex County, the Authority reserves the right to issue additional Series 2011B Notes beyond these allocations up to any amount such that the aggregate principal amount of the Series 2011 Bonds (all series) does not exceed \$50M.

The Authority has not yet determined whether Series 2011A Bonds shall be issued to the public through a public offering document at public competitive sale with interest rates to be established by a competitive public bid or through a public offering document with a negotiated sale to an underwriter, selected through a request for proposal process. Given the complexity of the Program, the Authority, together with its financial advisor and bond counsel need to undertake the proper diligence to determine which method of sale will yield the lowest interest rate on the Series 2011A Bonds. The Series 2011B Notes shall be sold to an Underwriter (to be held or re-offered) or privately placed with Sussex County. If Sussex County is the purchaser, Sussex County will sign a "big boy" letter in connection with the private placement of the Series 2011B Notes. If Sussex County is the purchaser of the Series 2011B Notes (only) the Authority will be allowed to call the Notes at any time, without penalty, for \$1, thereby effectively extinguishing the Series 2011B Notes. This would be done should the County Guaranty ever be called upon to pay the Series 2011B Notes, to avoid Sussex County paying itself. This call feature will not exist if the Series 2011B Notes are sold to the Underwriter and, likewise, this call feature would automatically go away (by the terms of the bond documents) should Sussex County ever sell the Series 2011B Notes in the open market to a third-party buyer. None of this should affect the County Security Fund (i.e., the delta, the deficiency), that would be funded by the Solar Developer and in such case would be tapped by Sussex County to reimburse itself from the fact that it invested/bought all or a portion of the Series 2011B Notes, and received \$1 in payment.

Sussex County is placing its full faith and credit guaranty on the entire Series 2011 Bonds in an aggregate principal amount not to exceed \$50,000,000. This lower cost of capital should result in a lower PPA price for the participating local units. Tranche I of the Authority's Program produced a 35% plus

savings for municipal and other local government participants over the life of the 15 year (max permissible under Local Public Contracts Law) Power Purchase Agreement (“PPA”), while the Somerset County Improvement Authority program (for which IPW&T was bond counsel) produced a 60% savings.

Although the County of Sussex is guarantying the entirety of the Series 2011 Bonds in order to achieve the lower cost of capital, resulting in lower PPA pricing, which in turn funds renewable energy projects to the Series 2011 Local Units and will provide a direct budgetary savings on their electricity costs, the County of Sussex anticipates that it will be reimbursed for draws on the County Guaranty, if any, through either (i) the establishment under the Bond Resolution of a County Security Fund that is funded by the Company at closing, or (ii) an initial amortization of Series 2011A Bonds of such size that any remaining debt service payments, after such first year (post capitalized interest period) amortization, are sized such that debt service coverage in years 2 through final maturity exceeds 100% of the Series 2011 Bond debt service after accounting for the remaining Local Unit PPA payments and SRECs that would still be available to pay Series 2011 Bond debt service, should the Company default and walk away from the transaction prior to the 15<sup>th</sup> year maturity, or (iii) an equity contribution from the Company would eliminate or minimize any County of Sussex potential deficiency. The 2<sup>nd</sup> structure was the result of the successful proposal in the SCIA Tranche I, where the initial bond amortization payment was of such large size and linked to a sole condition precedent to payment (i.e., the construction of the Projects, which was virtually assured due to the Authority’s securing of a payment and performance bond in the full amount of the Projects at closing from a third party provided by the Company, beyond the Company’s obligation to develop the Projects), that the County of Sussex perceives only nominal risk that its County Guaranty, if ever called upon, would fail to be reimbursed. The latter structure was the successful proposal in SCIA Tranche II, where an equity contribution of over 25% eliminated any potential county deficiency, taking into account minimum SREC values and fixed PPA payments.

Cheaper PPA pricing through the model is achieved, in part, by having the Renewable Energy Projects (i.e., the solar projects) owned by the Authority under State law, which finances these projects through the low cost Series 2011 Bonds, but which ownership is transferred for federal tax purposes to the Company under a financing lease structure recognized by the IRS (by transferring tax ownership, the Authority is precluded from issuing tax-exempt bonds, although the Authority reserves the right to issue tax exempt bonds, which of course would enhance savings, should circumstances allow for tax exempt financing, not available at the time of submission of this Application). In particular, the Authority leases the Renewable Energy Projects to the Company through a Lease Purchase Agreement, that is intended to transfer all benefits and burdens of ownership to the Company, thereby allowing the Company to be the owner for Federal tax law purposes. This transfer entitles the private Company to a 30% investment tax credit (and prior to December 31, 2012, a Section 1603 Grant from the Treasury in lieu of the credit), accelerated depreciation on a 20 plus year asset (i.e., the solar panels), both of which Federal tax benefits are not available to governments should they issue bonds directly for their own purposes and take true (as opposed to nominal) ownership of these projects. These tax benefits, combined with State law and BPU imposed subsidies through the Solar Renewable Energy Certificate (“SREC”) market (SRECs are available to any person or entity that produces renewable energy in New Jersey, and can be sold or otherwise monetized to provide real economic value), provide the subsidy that makes New Jersey an attractive market for solar developers.

Since the Company shall own the Renewable Energy Projects for tax purposes under the Lease Purchase Agreement with the Authority (the Company is a lessee under State law for the 15 year term of this transaction), the Company is entitled to sell the renewable energy produced from the solar panels to the Authority under the PPA at a fixed 15 year price, plus a fixed escalation, at rates competitively secured through the RFP procurement of the Company. The Authority, a conduit, passes on the obligation and benefit to pay for the cheaper electricity to the Series 2011 Local Units through a License and Access Agreement (“License Agreement”), which also allows the Company to construct the solar

projects on the roofs, grounds and parking facilities of the Series 2011 Local Units. In this third tranche of the Program, a total of approximately 9.37 MW of renewable energy at 21 facilities for 15 Series 2011 Local Units is expected to be produced, unless Exhibit A is adjusted. Although the Company is selling the energy from the solar panels, the electricity physically never leaves the buildings, grounds and parking lots of the Series 2011 Local Units, and therefore these systems are known as on-site generation facilities, generally exempt from utility laws, property taxes and sales taxes.

The lease payments made by the Company under the Lease Purchase Agreement are sized to pay debt service on the Series 2011 Bonds. The Company can afford these payments due to the aforementioned tax benefits, SRECs, and the fact that they receive the benefit of the PPA payments from the Series 2011 Local Units (i.e., as a credit to lease payments owed by the Company), the four primary revenue streams of the Program.

Should the Company walk away from the transaction however, resulting in an insufficiency of lease payments, which would absent some other action, at some point, result in a Series 2011 Bond default, the County Guaranty kicks in to avoid such a default and the Series 2011 Bondholders would be paid. That would leave the County of Sussex out of pocket for the amount of its County Guaranty payment were it not for the fact that the Program is structured to continue to operate, even in a Company default situation. Since the Authority retains ownership in the solar projects, with a lease default, the Company forfeits all rights to the solar projects, the PPA payments, and the SRECs, all of which are now available to reimburse the County of Sussex.

Since the sum of these amounts is less than the County Guaranty, the resulting deficiency, or delta, is known under the Request for solar developer proposals ("RFP") that selects the Company as the County Deficiency Amount, and must be funded by the successful respondent Company to the RFP, through cash, a letter of credit, a parental guarantee, or some form of security acceptable to the County of Sussex. The Authority will look closely at the funding of this County Deficiency Amount to secure this gap in selecting the winning Company under the RFP process. Alternatively, the Authority will also accept proposals that essentially eliminate the County Deficiency Amount through an equally/more favorably secured alternate structure, such as the accelerated amortization/payment and performance bond structure achieved described above.

Further, the Authority will take a pledge of the membership interests (the functional equivalent of a pledge of the stock of a corporation) of any special purpose limited liability company created by the successful Company to develop this transaction in case of any such Company default under a Pledge and Security Agreement, in which case the LLC will be held in trust by the Series 2011 Bond trustee until the Authority can select a replacement solar developer. In total, the County of Sussex has taken several actions to minimize, if not practically eliminate the risk of its County Guaranty.

At the end of the 15 year Company Lease Agreement (term coincident with the Series 2011 Bonds and the PPA), the Company is entitled to purchase the solar panels for nominal consideration. Thereupon, the panels are removed by the Company, at the Company's cost, unless the PPA and Local Unit License Agreement are extended, if permissible under applicable law, or unless the Series 2011 Local Units determine to purchase the panels at fair market value (a requirement of the tax law). The exercise of these various options will depend, in large part, upon the then existing technology upon the 15 year final maturity.

Although the Authority is the conduit bond issuer, notwithstanding anything to the contrary in this LFB Application, Morris County is not securing the Series 2011 Bonds, but Sussex County will be providing that County Guaranty.

The Program has been structured in compliance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, including the county improvement authority enabling act.

Drafts of the Bond Resolution, the master Local Unit License Agreement, the Company Lease Agreement, the County Guaranty Agreement, the RFP, the PPA, the Pledge and Security Agreement, the Company and County Continuing Disclosure Agreements have all been provided in Part V of this Application. These documents shall have been approved by the County of Morris and the County of Sussex pursuant to Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), a form of which resolution to be adopted by each County on July 13, 2011 and July 27, 2011, respectively, shall also be included in Part V of this Application. The first reading of the County Guaranty ordinance (also included in Part V of this Application) and the Section 13 (-56) resolution are scheduled for adoption by Sussex County on July 27, 2011, copies of which shall be promptly forwarded to the Board upon such action (final reading of the County Guaranty ordinance is scheduled to be finally adopted July 27). The Section 13 (-56) resolution is scheduled for adoption by Morris County on July 13, 2011, a copy of which shall be promptly forwarded to the Board upon such action

We have requested that each of the Series 2011 Local Units adopt their LFB authorizing resolution prior to August 3, 2011. However, we have been advised that, due to summer schedules, some of the Series 2011 Local Units may not be able to make that deadline. As we have been working with Series 2011 Local Units closely regarding their projects (as mentioned above) they are well aware of our submission of this application and our deadlines for final approval prior to the issuance of any bonds. Each of the Series 2011 Local Unit LFB Resolutions shall be forwarded upon receipt even if after they are adopted after the date of the hearing. Please note that the Series 2011 Local Units are not responsible for the payment of debt service on the Series 2011 Bonds. As noted, the Authority reserves the right to add or subtract Series 2011 Local Units in order to retain the integrity of this pooled financing.

In consideration of the foregoing, the Authority respectfully requests a hearing scheduled for August 10, 2011, and the favorable findings and approval outlined above.

**EXHIBIT A**

**[Attach Series 2011 Local Unit List of Local Unit Facilities and Renewable Energy Projects]**

Local Unit	LU Facility	Local Unit	Facility	System Size (KW)
1	1	Franklin Borough BOE	Franklin Elementary School	371.45
2	2	Lafayette Township BOE	Lafayette Township School	392.80
3	3	Newton BOE	Merriam Avenue School	256.45
	4		Newton High School	305.21
4	5	Sussex County Technical School	Sussex County Tech. School	1,180.00
5	6	Fredon Township	Civic Center	61.18
6	7	Lenape Valley BOE	Lenape Valley High School	1,170.70
7	8	Town of Newton	DPW Complex	88.78
	9		Wastewater Treatment Plant	151.80
8	10	Byram Township School District	Byram Lakes Elementary School	654.12
	11		Byram Intermediate School	493.81
9	12	Green Township	Green Hills School	157.09
10	13	Hardyston BOE	Hardyston Middle School	821.00
11	14	High Point Regional BOE	High Point Regional High School	1,380.84
12	15	Kittatinny Regional SD	Kittatinny Regional High School	359.49
13	16	County of Sussex	SC Parking Deck/Jail	468.05
	17		Juvenile Detention Center	146.28
	18		Wheatworth Facility	245.64
	19		Main Library	100.28
14	20	Frankford BOE	Frankford Township School	451.00
15	21	Sussex County MUA	SCMUA admin parking area	113.60
		<b>TOTAL</b>	<b>TOTAL</b>	<b>9,369.57</b>

**TAB 4**

**PART I**

STATE OF NEW JERSEY  
DEPARTMENT OF COMMUNITY AFFAIRS  
DIVISION OF LOCAL GOVERNMENT SERVICES  
LOCAL FINANCE BOARD  
APPLICATION CERTIFICATION

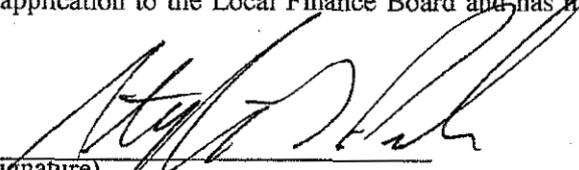
APPLICANTS  
NAME: MORRIS COUNTY IMPROVEMENT AUTHORITY

I, STEPHEN B. PEARLMAN, on behalf of the MORRIS COUNTY IMPROVEMENT AUTHORITY, DO HEREBY DECLARE:

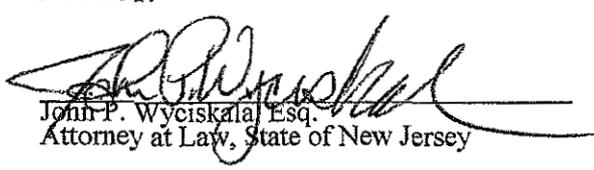
That the documents submitted herewith and the statements contained herein are true to the best of my knowledge and belief; and

That this application will be considered at the Authority's regularly scheduled meeting on July 20, 2011, and the approval of its submission to the Local Finance Board by the governing body of the Morris County Improvement Authority will be forwarded to the Local Finance Board prior to hearing; and

That the governing body of the Morris County Improvement Authority has notified each participating Local Unit of its submission of this application to the Local Finance Board and has made available to each a true copy of this application.

  
(signature)  
Stephen B. Pearlman  
Partner, Inglesino, Pearlman, Wyciskala & Taylor, LLC

ATTEST:

  
John P. Wyciskala Esq.  
Attorney at Law, State of New Jersey

July 19, 2011

Attach form of Local Finance Board Authorizing Resolution to be adopted by the Authority on July 20,  
2011

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

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**TITLE:**

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
AUTHORIZING THE PREPARATION AND SUBMISSION OF AN  
APPLICATION TO THE LOCAL FINANCE BOARD PURSUANT TO LOCAL  
AUTHORITIES FISCAL CONTROL LAW AND OTHER APPLICABLE LAW  
AND SEEKING CERTAIN OFFICIAL ACTIONS OF THE COUNTY OF  
MORRIS, NEW JERSEY AND THE COUNTY OF SUSSEX, NEW JERSEY, ALL  
IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX  
GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE  
BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY  
TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED  
\$50,000,000**

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

WHEREAS, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof

and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “Act”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, “Section 11”), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the “Shared Services Act”), and all other applicable law, the terms of which agreement has been set forth in that certain “Service Agreement (Sussex County Renewable Energy Program)” dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the “Service Agreement”) between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority’s energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the “Authority Consultants”) and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the “Sussex County Consultants”, if any, and together with the Authority Consultants, the “Consultants”; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the

County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy

Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "*Series 2011B Notes*", and together with the Series 2011A Bonds, the previously defined "*Series 2011 Bonds*"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000;

**WHEREAS**, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

**WHEREAS**, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the "*Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that

certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer

proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Lease Agreement*") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "*BPU*"), whereby, among other things,

(I) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase

Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust

Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

**WHEREAS**, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

**WHEREAS**, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations

by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent ("*Private Placement Agent*"), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*");
- (b) If the Series 2011 Bonds shall be sold by:
  - (I) Competitive sale, authorize the distribution of a notice of sale ("*Notice of Sale*"), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the "*Underwriter*"), or
  - (II) Negotiated sale, enter into a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds; and
- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*"), and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (i) above, the "*Sale Documents*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("*Section 13*") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "*Sussex County Board of Freeholders*") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure

Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program Documents*"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13; and

**WHEREAS**, the Authority believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Series 2011 Local Units; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Series 2011 Local Units and will not create an undue financial burden to be placed upon the Authority or the Series 2011 Local Units.

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The Chairman and the other Commissioners of the Authority (including their designees, each an "*Authorized Officer*") are each hereby severally authorized to prepare and submit the Local Finance Board Application for the purpose of financing the Series 2011 Project through the issuance of the Series 2011 Bonds. The Authorized Officer shall act in consultation with the Authority's Counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, hereby confirmed to act as bond counsel to the Authority for this financing, NW Financial Group, LLC, hereby confirmed as Financial Advisor to the Authority for this financing and Birdsall Services Group and Gabel Associates, co-energy consultants to the Authority for the Renewable Energy Program (collectively, the "*Consultants*"), in the preparation and submission of the Local Finance Board Application, which shall include the selection of the Series 2011 Local Units. All actions taken to date by such parties in connection with the Local Finance Board Application are hereby ratified and approved. All of such parties are hereby authorized and directed to represent the Authority in matters pertaining thereto, including without limitation, the hearing to be held by the Local Finance Board relating to the Program Documents, including the County Guaranty, and the Series 2011 Project financed thereby required by N.J.S.A. 40A:5A-6.

**Section 2.** The Authorized Officers are each hereby severally authorized and directed to deliver or cause to be delivered to the governing bodies of the County and the County of Morris a detailed report describing the applicable Program Documents and the Series 2011 Project financed thereby, all in accordance with Section 13.

**Section 3.** Each Authorized Officer is hereby further authorized and directed to take all actions deemed necessary, convenient or desirable by any such Authorized Officer, in consultation with the Consultants, to obtain the resolutions of the governing body of the County and the County of Morris contemplated by Section 13 relating to the Program Documents and the Series 2011 Project financed thereby.

**Section 4.** Each Authorized Officer is hereby further authorized and directed to take all actions deemed necessary, convenient or desirable by any such Authorized Officer, in consultation with the Consultants, to obtain the County Guaranty to be given by the County pursuant to Section 37.

**Section 5.** The Secretary of the Authority is hereby directed to prepare and cause counsel to the Authority to file a copy of this resolution with the Local Finance Board as part of the Local Finance Board Application.

**Section 6.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application and to record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

**Section 7.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 8.** All actions of the Authorized Officers and the Consultants taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Series 2011 Project or any of the foregoing transactions contemplated by this resolution are hereby ratified and approved.

**Section 9.** Upon the adoption hereof, the Clerk of the Board of Freeholders shall forward certified copies of this resolution to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority.

**Section 10.** In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Board of Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Board of Freeholders a certification from the respective Clerks stating that the minutes of this meeting have not been vetoed by the Director of the Board of Freeholders.

**Section 11.** This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

***MOVED/SECONDED:***

Resolution moved by Commissioner \_\_\_\_\_.

Resolution seconded by Commissioner \_\_\_\_\_.

***VOTE:***

Commissioner	Yes	No	Abstain	Absent
Pinto				
Ramirez				
Roe				
Sandman				
Bonanni				

***ATTESTATION:***

This Resolution was acted upon at the Regular Meeting of the Authority held on July 20, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

Attested to this 20<sup>th</sup> day of July, 2011

By: \_\_\_\_\_

**Secretary of the Authority**

***FORM and LEGALITY:***

This Resolution is approved as to form and legality as of July 20, 2011

By: \_\_\_\_\_

**Stephen B. Pearlman, Esq., Partner  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Counsel to the Authority**

Insert form of local unit lfb authorizing resolution

**RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities,

including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A:54(I) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local*

*Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, the governing body of the Series 2011 Local Unit adopting this resolution (the "*Participant*") desires to authorize the Authority and its consultants to submit the Local Finance Board Application on their behalf to finance the proposed Renewable Energy Project(s) for the Participant (the "*Participant Project*") set forth in Schedule A to **Exhibit A** attached hereto (it being understood that the Participant is taking no action in connection with the other Renewable Energy Projects of the other Series 2011 Local Units as set forth on **Schedule A** to **Exhibit A** hereto and further that a final detailed Participant Project list will be sent to each Series 2011 Local Unit prior to their signing the certificate attached hereto as Exhibit A);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

**WHEREAS**, the pricing terms for the purchase of renewable energy generated electricity produced from the Participant Project and sold through the Authority to the Participant, and bought by the Participant at an agreed upon price lower than that presently being paid by the Participant for electricity from its local utility, which pricing terms shall be competitively procured through the Company RFP process and the Company Proposal, shall be established under the Authority's Series 2011 Local Unit Renewable Energy Program for an initial term no greater than 15 years, simultaneously with, or prior to the issuance of the Series 2011 Bonds;

**WHEREAS**, the Participant understands and acknowledges that by taking this official action, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project, and that the Authority is taking several actions in reliance upon such action, including without limitation seeking

the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds; and

**WHEREAS**, the Participant believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Participant as follows:

**Section 1.** The Participant believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**Section 2.** The \_\_\_\_\_, \_\_\_\_\_, and the \_\_\_\_\_ of the Participant (including their designees in writing, each an "*Authorized Officer*") are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Participant Project through the issuance of the Series 2011 Bonds, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the Participant at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

**Section 3.** Upon a date to be selected by the Authority and upon receipt of a finalized Participant Project, but in no event later than the sale date of the Series 2011 Bonds, the Authorized Officers shall deliver to the Authority a fully executed certificate, substantially in the form attached hereto as **Exhibit A**, evidencing the proper officials approval of the substance and scope of the Participant Project.

**Section 4.** The Participant understands and acknowledges that by adopting this resolution, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project through a portion of the proceeds of the Authority's Series 2011 Bonds, and that the Authority is taking several actions in reliance upon this action by the Participant, including without limitation

seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds, all for the benefit of the Participant and the other Series 2011 Local Units. Therefore, the Participant covenants to the Authority that: (i) except for extraordinary circumstances not presently contemplated, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program, so long as the Company Proposal results in a savings to the Participant, and further, this official action authorizes the Authority to take all such actions contemplated above in order to develop the Participant Project and to provide the Participant with such savings and (ii) prior to the sale of the Series 2011 Bonds, the Series 2011 Local Unit shall (a), if the Participant is a board of education, obtain any and all approvals from the State Department of Education with respect to the Participant Project, and (b) adopt a resolution authorizing, among other things, the Series 2011 Local Unit to enter into that certain "License and Access Agreement (Morris County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds in such form as shall be presented to the Series 2011 Local Unit prior to adoption of the supplemental resolution (the "Local Unit License Agreement").

**Section 5.** The Authorized Officer shall direct the Participant official in charge of the officially adopted resolutions of the governing body of the Participant to (a) prepare an official, certified copy of this resolution, as adopted, and (b) deliver such certified copy in accordance with Section 10 below. Further, the Participant hereby consents to such certified copy of the resolution, and any further information regarding the Participant and/or the Participant Project, as the Authorized Officer shall determine to be necessary, desirable or convenient in connection with the Local Finance Board Application, to be submitted as part of, or pursuant to the Local Finance Board Application.

**Section 6.** The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Participant Project, producing the contemplated energy savings for the Participant, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Series 2011 Local Units.

**Section 7.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Participant Project and record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

**Section 8.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 9.** All actions of the Authorized Officers or Participant consultants taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Participant Project or any of the foregoing transactions contemplated by this resolution, are hereby ratified and approved.

**Section 10.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

**Section 11.** This resolution shall take effect immediately.

[remainder of this page left intentionally blank]

**EXHIBIT A**

**[Attach Form of Local Unit Facility Acceptance Certificate]**

## LOCAL UNIT FACILITY ACCEPTANCE CERTIFICATE

On behalf of the [ \_\_\_\_\_ ] (the "Local Unit"), and as a duly authorized officer of the Local Unit, I hereby represent, warrant and covenant as follows:

1. The Local Unit understands that it has been preliminarily selected by the Morris County Improvement Authority (the "Authority") as one of the local government participants in the Authority's 2011 Renewable Energy Program (Sussex County Program) (the "Program"). The Local Unit further understands that although there is no legal agreement between the Authority and the Local Unit until such parties execute that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" (a form of which "License Agreement" shall be supplied to the Local Unit by the Authority when the Program is closer to implementation), the information being provided to the Authority in this Certificate enables the Authority to draft the License Agreement, seek the necessary approvals, and otherwise implement the Program.

2. The License Agreement shall refer to the building(s) or ground(s) (each "Local Unit Facility"), location, size and scope (and if applicable, style) of the solar project (the "Renewable Energy Project") to be implemented on behalf of the Local Unit by the Authority and its various contract parties, including a competitively selected solar developer (the "Company"). Various consultants to the Authority, based on site visits and past information supplied by the Local Unit to the Authority, have identified the Local Unit Facility(ies) and Renewable Energy Project(s) (which include solar overlays prepared by Authority consultants) set forth on Schedule A to this certificate for inclusion in the License Agreement, for selection of the Company, and for financing and implementation under the Authority's Renewable Energy Program.

a. The Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate has been reviewed on behalf of the Local Unit, at a minimum, by the Local Unit official responsible for managing the day to day affairs of the Local Unit (which may include the undersigned), and at least by an in-house facilities director or consulting engineer and/or architect. Based on such review, and the review of such other in-house officers or employees or outside consultants of the Local Unit's choosing (including council, board, legal or technical review), if deemed necessary by the Local Unit, the description of the Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate is materially accurate, and can be used by the Authority in drafting the various Program documents, selecting the Company, and seeking the various Program approvals.

b. The Local Unit understands that any changes desired by the Local Unit to the Local Unit Facility and Renewable Energy Project from that set forth on Schedule A to this certificate (i) are the responsibility of the Local Unit to inform the Authority and its consultants, and (ii) may or may not be accepted by the Authority, depending on the timing of any such proposed change. The Local Unit may contact County Administrator and Authority Chairman, John Bonanni, (973) 285-6047, [jbonanni@co.morris.nj.us](mailto:jbonanni@co.morris.nj.us), the Sussex County Administrator, John Eskilson, (973) 579 - 0250, [jeskilson@sussex.nj.us](mailto:jeskilson@sussex.nj.us), or the Authority's engineering consultant for the Program, Daniel Swayze of Birdsall Services Group, Inc. at (908) 497-8900, [dswayze@birdsall.com](mailto:dswayze@birdsall.com), with any subsequent changes. To the extent the Company proposes other changes acceptable to the Authority, the Authority shall seek the consent of the Local Unit.

\_\_\_\_\_  
Local Unit Authorized Officer

Dated: July \_\_, 2011

**SCHEDULE A**

[Attach Local Unit's Local Unit Facility(ies) and Renewable Energy Project(s)]

**TAB 5**

**PART II**

**PROPOSED ISSUANCE OF OBLIGATIONS**

- 1) Type of Obligation
- General Obligation Bond
  - Revenue Bond
  - Special Obligation Bond
  - Qualified Bond
  - School Qualified Bond
  - Project Note (BAN)
  - Grant Anticipation Note
  - Other: (describe)

\* The Series 2011 Bonds of the Authority are secured, in part, by the Company from payments under the Company Lease Agreement. In addition, the Authority's Series 2011 Bonds are secured under N.J.S.A. 40:37A-80, in full, by the general obligation guaranty of the County of Sussex. Repayments under the Company Lease Agreement will be established five months prior to the Series 2011 Bond payment dates), thereby allowing sufficient time under the County Guaranty, if ever needed, to timely pay the Authority Series 2011 Bonds. Typically, the rating agencies will not require a debt service reserve fund with such timing structure.

2) Purpose of Proposed Financing

- Temporarily finance the construction, improvement or acquisition of facilities, infrastructure, equipment, etc.
- Permanently finance the construction, improvement or acquisition of facilities, infrastructure, equipment, etc.
- Renew outstanding temporary obligations
- Advance refund outstanding permanent obligations
- Current Refunding Issue

3) Amount of Proposed Financing

\$ \$50,000,000\*\* Proposed to be issued  
 \$ \$50,000,000 Maximum to be authorized

\*\*As described in the Executive Summary, the Authority cannot lower the amount of the maximum authorization until the RFP responses from the solar vendors are received and reviewed. Accordingly, the Authority respectfully requests the authorization up to the maximum amount authorized. To the extent responses to the RFP exceed such maximum authorization amount, the Authority will either drop one or more Local Unit Facility from this initial Program or seek supplemental authorization from the local Finance Board. The Series 2011A Bonds and the one or more series of Series 2011B Notes will be issued in the aggregate not to exceed amount of \$50,000,000. The Authority reserves the right to change the par amounts between the 2 series so long as the overall amount does not exceed \$50,000,000. The Authority further reserves the right to issue the Series 2011B Notes in one or more series.

Reservations aside, the Authority anticipates that \$6 per watt (the basis for the project cost estimate) should be sufficient to allow the Authority to issue the Series 2011 Bonds under the \$50M maximum cap of this LFB Application. The amounts funded in this LFB Application will allow for proposals to come in as high as approximately \$6.50 per watt. Although the Authority anticipates the market will be substantially less than \$6 per watt, so many factors go into that number, beyond the control of the

Authority, the Authority did not want to leave too little room for higher solar development costs. All that said, should the solar development costs come in so high that electricity savings will not be generated, the Authority will not proceed with the financing, both as a policy matter and under applicable law in that the Authority under Local Public Contracts Law for 15 year PPA contracts does not exist unless savings are generated.

(part II)

4) Tax Implications:

- No Is issue Tax exempt?\*
- Yes Is issue Taxable?\*
- No Is issue mixed?
- No Are Private Activity Bonds utilized?
- No Is volume cap allocation necessary?

If yes: has volume cap allocation been received? N/A

(yes) \_\_\_\_\_ (no) \_\_\_\_\_

From whom: \_\_\_\_\_  
\_\_\_\_\_

For how much: \$ \_\_\_\_\_

Will the 1986 Tax Reform Act or any proposed changes to the Act impose restrictions as to the type of financing and/or limitation on debt structuring? No.

If yes, Describe:

\* As described in the Executive Summary, the Series 2011 Bonds cannot presently be issued on a tax exempt basis and still allow the private solar vendor (Company) to obtain the federal tax benefits available under the Program, which in turn inure to the benefit of the Series 2011 Local Units with a lower PPA price, unless the Federal income tax code is changed. The Authority reserves the right to issue tax exempt financing should circumstances and law allow.

(part II)

5) Description of Obligations: **PLEASE SEE DEBT SERVICE SCHEDULE ON EXHIBIT II A**

(A) Short Term Obligations (if applicable)

Proposed Interest Rate: \_\_\_\_\_% (see below)

Maximum Interest Rate: 3.5%/3.75%

(B) Permanent Bonds - Fixed Rate (if applicable)

Serial Coupons\*

Proposed Interest Rates                      Maximum Net Interest Cost

From 4.00% To \_\_\_\_\_% From \_\_\_\_\_% To 8.00% (taxable rates)

The Authority will not undertake this financing if the net interest cost exceeds 8% as at such rates, the Authority does not anticipate energy savings for the participating Series 2011 Local Units. Beyond that restriction, the Authority reserves the right to receive the best interest rates, either through a competitive or negotiated sale, for the purchase of all of the Series 2011A Bonds. The Series 2011B Notes will either be sold to an Underwriter or be privately placed directly with the County of Sussex. The maximum interest rate on the one or more series of Series 2011B Notes will not exceed 3.5% for the first series of notes anticipated to be issued in early, 2012. Note that these rates are not to exceed rates as it is extremely difficult to anticipate the market 1-1/2 years from now.

Term Bonds \*

Proposed Interest Rates                      Maximum Interest Rates

Year	Rate	%	Year	Rate	%
Year	Rate	%	Year	Rate	%
Year	Rate	%	Year	Rate	%
Year	Rate	%	Year	Rate	%
Year	Rate	%	Year	Rate	%
Year	Rate	%	Year	Rate	%
Year	Rate	%	Year	Rate	%
Year	Rate	%	Year	Rate	%
Year	Rate	%	Year	Rate	%
Year	Rate	%	Year	Rate	%

Attach additional sheets if necessary.

(C) Maturity(ies)

Serial Maturities from                      2013 to 2027

Sinking Fund Payments from

Term Maturity

(D) Amortization (check one)

\_\_\_\_\_ Bullet Maturity

X\*\* Level Principal

\_\_\_\_\_ Level Debt Service

\_\_\_\_\_ Other

\* See Exhibit II-A to Part II for estimated debt service schedule and interest rates. The Authority along with its financial advisor and bond counsel will determine, based upon market reception, whether to

issue on a negotiated or competitive basis. The Series 2011B interest rate will be determined by the Underwriter RFP. The Authority reserves the right to alter serial and include term maturities in order to achieve the lowest possible cost to the Local Units. The Authority reserves the right to issue premium or discount bonds if it results in lower interest costs.

\*\* As discussed in the Executive Summary, the Authority is proposing level principal, however, the solar developer RFP provides for the option to amortize or prepay the bonds earlier than the scheduled level principal amortization that is set forth in the RFP. Again, the final determination will be made through the competitive contracting solar developer RFP process with the market, all in the effort to achieve the greatest energy savings for the participating Series 2011 Local Units, while minimizing any risk to the County of Sussex under its County Guaranty. Under a similar transaction, roughly half of the principal amount was repaid in the first post capitalized interest period amortization due to the proposal of the successful respondent Company. Should the Authority receive a similar proposal from a solar developer the Authority reserves the right to alter the debt service schedule.

(part II)

5) (Cont.)

(E) If the obligations will have a variable interest rate, answer the following questions: N/A

(1) Explain the benefit in issuing variable rate bonds.

(2) What are the administrative costs anticipated from the issuance and renewal of the variable rate bonds?

(3) Under what circumstances can the variable rate be converted to a fixed rate and what is the conversion fee?

(part II)

5.) (Cont.)

F) Security pledge for Repayment of Obligations:

<u>TYPE</u>	<u>Jurisdiction Providing Security</u>
<input type="checkbox"/> Ad Valorem Taxation	
<input type="checkbox"/> Revenue/Charges	
<input type="checkbox"/> Service Agreement	
<input checked="" type="checkbox"/> Lease/Purchase Agreement	General Obligation Basic Lease Payments from the Company under the Company Lease Agreement will secure the Series 2011 Bonds. Payment will be made by the Company to the Series 2011 Bond trustee 5 months prior to the Series 2011 Bond Payment dates in order to ensure timely payment of the Series 2011 Bonds, and protect bondholders from bankruptcy risk of the Company.
<input type="checkbox"/> County Deficiency Agree.	
<input checked="" type="checkbox"/> Unconditional Guaranty	Sussex County's N.J.S.A. 40:37A-80 general obligation guaranty will secure the Authority's Series 2011 Bonds
<input type="checkbox"/> Other (describe):	

6) Credit & Rating Matters

a) Ratings:

<input type="checkbox"/> Moodys	<input type="checkbox"/> Confirmed	<input type="checkbox"/> Applied For <input checked="" type="checkbox"/> Expected
<input type="checkbox"/> S&P	<input type="checkbox"/> Confirmed	<input type="checkbox"/> Applied For <input checked="" type="checkbox"/> Expected

b) Bond Insurance  Yes  No  Pending

If Yes - Provider \_\_\_\_\_  
Amount \_\_\_\_\_

c) Letter of Credit  Yes  No  Pending.

If Yes - Provider \_\_\_\_\_  
Amount \$ \_\_\_\_\_  
Confirmed  Yes  No

d) Other Credit or Liquidity Support. N/A \*

Provider \_\_\_\_\_  
Amount \_\_\_\_\_  
Confirmed  Yes  No  
Attach Description: \_\_\_\_\_

\* Sussex County is rated "Aa2"; no need for credit enhancement, which is essentially provided by the County of Sussex for free through the County Guaranty. In the event of a default (e.g., the solar developer fails to make its general obligation Basic Lease Payments under the lease), the Series 2011 Bonds are secured primarily by the County Guaranty, and therefore Series 2011 Bondholders do not require additional security.

In the event that the County of Sussex initially owns all of the Series 2011B Notes, the County of Sussex has the option, instead of paying itself under the County Guaranty, of causing all of the Series 2011B Notes to be called for redemption and defeasance for \$1. The economic result to the County of Sussex is

the same, in that it will be out the par amount of the Series 2011B Notes, plus accrued interest (see below for how the County of Sussex shall be repaid), but this option allows the County of Sussex to forego the cost and expense of raising funds to pay itself under the County Guaranty (but this provision applies solely to the Series 2011B Notes, and only if and so long as the County of Sussex remains 100% bondholder of the Series 2011B Notes).

If the County of Sussex makes a payment under their County Guaranty (and/or defeases the Series 2011B Notes for \$1), the County of Sussex shall be reimbursed from a combination of the following: (i) PPA payments (the solar projects shall be owned by the Authority for State law purposes, but leased to the solar developer under the lease purchase agreement to convey federal tax ownership to the solar developer – in the event of a solar developer default, the lease goes away, and the Authority's ownership rights are no longer subject to the lien of the lease with the solar developer. In this instance, the panels will not be removed from the Series 2011 Local Unit roofs, and the Series 2011 Local Units shall continue to make PPA payments under their respective license agreements. Since the Solar developer has defaulted, the bond holders will have been paid by the County guaranty, at that point, the Bond Resolution and related documents provide that the PPA payments by the Series 2011 Local Units made under their still in existence License Agreement go to reimburse the County of Sussex for draws under the County Guaranty, (ii) SRECs (similar analysis to (i) above), and (iii) a County Deficiency Amount posted by the Solar Developer, if any. The County Deficiency Amount is established by the winning solar developer under the competitive contracting RFP process as the difference between the amount of the County Guaranty, and the sum of the future PPA payments ((i) above) and SRECs ((ii) above). The County of Sussex recognizes there is this gap, a delta, so the solar developers are required to close that gap defined under the RFP, the Bond Resolution and related documents as the County Deficiency Amount, through the provision of cash, a letter of credit, a parent guaranty, and/or some other security acceptable to the County of Sussex. In addition to PPA price, this provision of security back to the County of Sussex is one of the most important evaluation criteria (Section 6.2 of the RFP) to be reviewed by the Authority and the County of Sussex in selecting the solar developer under the RFP, in addition to experience and ability to perform. The County of Sussex considered full solar developer security for the entire amount of the County Guaranty, (a) but the County of Sussex appreciates that the cost of same will dramatically reduce effective PPA pricing and (b), since the PPA payments and SRECs are expected to continue, the County of Sussex has determined its true risk that needs to be managed is the County Deficiency Amount, and therefore the County of Sussex is focused on maximizing the security for that amount. As noted herein, depending on the proposals received, it is possible, as was the case in other transactions, that the County Deficiency Amount can be structurally eliminated, in which case the Authority reserves the right to incorporate such a structure to the extent it provides greater security to the Authority, Sussex County and/or Series 2011 Local Units.



**MORRIS COUNTY IMPROVEMENT AUTHORITY**  
**(A Component Unit of the County of Morris)**  
**NOTES TO FINANCIAL STATEMENTS**  
**DECEMBER 31, 2009**  
(continued)

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, (continued)**

**J. Use of Estimates**

The preparation of the financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**K. Scope of Audit**

The audit covered the financial transactions of the Authority, the activities of the Commissioners, and the records of the General Fund.

**L. Net Assets**

Net assets represent the difference between assets and liabilities. Net assets invested in capital assets, net of related debt consists of capital assets, net of accumulated depreciation, reduced by the outstanding balances of any borrowings used for the acquisition, construction, or improvement of those assets. Net assets are reported as restricted when there are limitations imposed on their use either through the enabling legislation adopted by the Authority or through external restrictions imposed by creditors, grantors or laws or regulations of other governments.

**2. CONDUIT DEBT OBLIGATIONS**

The Authority has issued debt on behalf of third-party entities. The Authority has no obligation for the debt beyond the resources provided by the related leases or loans, and, accordingly, the debt is not reflected as a liability in the accompanying financial statements.

The aggregate principal amounts outstanding on this debt at December 31, 2009 are as follows:

**MORRIS COUNTY IMPROVEMENT AUTHORITY**  
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**NOTES TO FINANCIAL STATEMENTS**  
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(continued)

**2. CONDUIT DEBT OBLIGATIONS, (continued)**

		<u>2009</u>
Pooled Program Bonds	Series 2003 (Note 2A)	\$15,300,000
Loan Revenue Bonds	Series 2003 (Note 2B)	11,205,000
School District Revenue	Series 2004 (Note 2C)	37,327,000
Lease Revenue Bonds	Series 2004 (Note 2D)	2,910,000
Pooled Program Bonds	Series 2005 (Note 2E)	14,190,000
Lincoln Park	Series 2009 (Note 2F)	20,930,000
Newton	Series 2009 (Note 2G)	<u>4,285,000</u>
		<u>\$106,147,000</u>

**A. Pooled Program Bonds, Series 2003 (County Guaranteed)**

On July 15, 2003, The MCIA issued bonds in the amount of \$20,870,000.00, with a final maturity date of August 15, 2023, at an interest rate ranging from 2.00% to 5.00%. The program consists of two components. The proceeds of the Series 2003 Pooled Bonds were used to acquire the various series of the Authority's Lease Revenue Bonds Series 2003, and a bond issued by the Board of Education of the Township of Washington. The Authority Pooled Program Bonds are secured by restricted cash and investments, the Authority Lease Revenue Bonds, the Washington Board Bond and an unconditional and irrevocable guarantee of the County. The Authority Lease Revenue Bonds are secured by restricted cash and investments, lease purchase agreements with each of the local units except the Washington Board of Education, and a loan agreement and bond from the Washington Board of Education. The proceeds of the Lease Revenue Bonds were used by the Authority to acquire and install certain equipment to be leased to the local units. They are as follows:

- Board of Education of Boonton
- Board of Education of Denville Township
- Board of Education of Jefferson Township
- Board of Education of Parsippany Troy-Hills
- Boro of Butler

The proceeds of the Washington Board of Education Bond will be used to construct a new elementary school.

**B. Loan Revenue Bonds, Series 2003 (County Guaranteed)**

On February 1, 2003, the MCIA issued bonds in the amount of \$16,890,000.00, with a final maturity date of March 1, 2021, at an interest rate ranging from 1.75% to 5.75%. The bonds are being issued to provide funds to make a loan to each of the local units. The local units will apply the proceeds of the loans to (1) raise funds sufficient to retire the present value of the unit's respective unfunded accrued liability for the early retirement system incentive benefits previously granted by the state to each local unit and (2) pay certain costs of issuance of the series 2003 bonds, and the refunding bonds. The Loan

**MORRIS COUNTY IMPROVEMENT AUTHORITY**  
**(A Component Unit of the County of Morris)**  
**NOTES TO FINANCIAL STATEMENTS**  
**DECEMBER 31, 2009**  
(continued)

**2. CONDUIT DEBT OBLIGATIONS, (continued)**

Revenue Bonds are secured by restricted cash and investments, loan agreements with each local unit and an unconditional and irrevocable guarantee of the County. The local units who participated are as follows:

Chester Township Board of Education	Mount Olive Township
Morris County	Mount Olive Board of Education
Morris Plains Borough	Roxbury Township
Morris Township	Roxbury Township Board of Education

**C. School District Revenue Bonds, Series 2004 (County Guaranteed)**

On March 18, 2004, the MCIA issued bonds in the amount of \$43,092,000, with a final maturity date of October 1, 2029, at an interest rate ranging from 3.125% to 4.25%. The School District Bonds are being issued to make a loan to the Board of Education of the Morris Hills Regional District (the "School District") for the purpose of financing (1) the construction and equipping of various renovations and additions to both the Morris Hills High School and the Morris Knolls High School and (2) the payment of certain costs of issuing the School Bonds. To evidence its obligation to repay such loan, the School District will issue and deliver to the Authority \$43,092,000 principal amount of its General Obligation Bonds (Morris Hills Regional District), series 2004 (the "School District General Obligation Bonds").

**D. Lease Revenue Bonds, Series 2004 (County Guaranteed)**

On March 18, 2004, the MCIA issued bonds in the amount of \$4,940,000, with a final maturity date of October 1, 2024, at an interest rate ranging from 1.00% to 4.125%. The Bonds are being issued to (1) finance certain property improvements for the Educational Service Commission of Morris County the (the "ESC"), (2) to defease and/or refund all of the ESC's outstanding 1996 COPS and 1999 COPS, and (3) to finance any needed reserves and costs of issuance. The MCIA will acquire a leasehold interest in a portion of the property to be financed and refinancing through issuance of the ESC Bonds and pursuant to a Lease Purchase Agreement between MCIA and the ESC. The MCIA will re-lease such property to the ESC and the ESC will be obligated to make payments sufficient, inter alia, to pay principal of, premium, if any, and interest on the ESC Bonds.

**E. Pooled Program Bonds, Series 2005 (County Guaranteed)**

On May 26, 2005, the MCIA issued bonds in the amount of \$19,085,000, with a final maturity date of September 1, 2023, at an interest rate ranging from 3.00% to 5.00%. The payment of principal and interest on the entire bond issuance is secured by a full unconditional irrevocable guarantee by the County. The Bonds are being issued to finance the leasing of capital equipment and/or property in accordance with the County Improvement Authorities Law of the following Local Government Units:

**MORRIS COUNTY IMPROVEMENT AUTHORITY**  
**(A Component Unit of the County of Morris)**  
**NOTES TO FINANCIAL STATEMENTS**  
**DECEMBER 31, 2009**  
(continued)

**2. CONDUIT DEBT OBLIGATIONS, (continued)**

Township of Denville  
Township of Brick  
The Educational Services Commission of Morris County

**F. Loan Program Bonds, Lincoln Park, Series 2009 (County Guaranteed)**

On February 25, 2009 the MCIA issued bonds in the amount of \$20,930,000, with a final maturity date of March 15, 2030, at an interest rate ranging from 2.000% to 5.000%. Lincoln Park shall apply the proceeds of Lincoln Park bond to refund its bond anticipation notes dated February 27, 2008 and maturing February 26, 2009 in the aggregate principal amount of \$21,078,850 issued for the purpose of temporarily financing the costs of the Lincoln Park Projects and to pay a portion of the interest due on the Series 2009 Bonds on September 15, 2009.

The Lincoln Park Project consists of (i) the construction and renovation of certain municipal buildings and various other capital projects in and by Lincoln Park, and (ii) the payment of any costs associated with the issuance of the Lincoln Park Bond (the "Lincoln Park Projects").

**G. Loan Program Bonds, Town of Newton, Series 2009 (County Guaranteed)**

On September 16, 2009 the MCIA issued bonds in the amount of \$4,285,000 with a final maturity date of October 1, 2023, at an interest rate ranging from 2.00% to 5.00%. The proceeds will be issued in (i) refinancing bond anticipation notes originally issued for various purposes including the acquisition of equipment, renovation of buildings and infrastructure and the initial planning expenses for redevelopment planning; and (ii) payment of certain costs of issuance in connection with the issuance of the Newton Local Unit Bond.

**H. Schedule of Annual Debt Service of Principal and Interest for Local Units**

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Amount</u>	<u>Total</u>
2010	\$ 5,250,000.00	\$ 4,477,464.19	\$ 9,727,464.19
2011	4,640,000.00	4,257,502.52	8,897,502.52
2012	4,825,000.00	4,084,590.02	8,909,590.02
2013	4,725,000.00	3,904,106.26	8,629,106.26
2014	5,140,000.00	3,707,532.51	8,847,532.51
2015-2019	29,825,000.00	14,862,126.31	44,687,126.31
2020-2024	28,770,000.00	8,293,998.84	37,063,998.84
2025-2029	20,992,000.00	3,028,378.14	24,020,378.14
2030	<u>1,980,000.00</u>	<u>44,550.00</u>	<u>2,024,550.00</u>
	<u>\$106,147,000.00</u>	<u>\$46,660,248.79</u>	<u>\$152,807,248.79</u>

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

**(A Component Unit of the County of Morris)**

**NOTES TO FINANCIAL STATEMENTS**

**DECEMBER 31, 2009**

(continued)

**2. CONDUIT DEBT OBLIGATIONS, (continued)**

Long Term Portion	\$100,897,000.00
Short Term Portion	<u>\$5,250,000.00</u>
 Total	 <u>\$106,147,000.00</u>

**I. County Guaranteed Leasing Program, Series 2004 (County Guaranteed)**

On August 4, 2004, the MCI A established a County Guaranteed Leasing Program with the Banc of America Leasing and Capital, LLC, up to a maximum amount of \$10,000,000. On June 12, 2006 this amount was increased to \$20,000,000. On June 11, 2007 it was increased an additional \$10,000,000 to \$30,000,000. The Leasing Program is being entered into to provide low cost, timely and turnkey lease financing to local units desiring to lease finance their equipment needs. The MCI A (Lessee) through a master lease purchase agreement which in 2005 was changed to Commerce Commercial Leasing, LLC (Lessor), requests lessor to finance the acquisition of equipment on behalf of the local units.

Concurrently with or subsequent to the execution and delivery of this Lease, Lessee shall enter into a "Sublease Purchase Agreement", with a political subdivision of the State or a state or local governmental unit within the meaning of 1.103-1(a) of the Treasury Regulations promulgated under the Internal Code of 1986, as amended ("*Sublessee*"), pursuant to which Lessee will sublease the Equipment to Sublessee.

In consideration of Lessor and Lessee entering into this Lease, Lessee intends to issue to Lessor a performance bond in a principal amount up to the Maximum Program Amount, which Bond will be issued directly to Lessor and will be payable to Lessor only upon a deficiency in Rental Payments due and owing under the Sublease, in which case the County of Morris will have fully, unconditionally and irrevocably guaranteed the payment of the principal of the Bond up to the Maximum Program Amount, plus interest thereon.

**J. County Guaranteed Leasing Program, Series 2004 (County Guaranteed)**

During the twelve month period ending December 31, 2009 twelve local units had closed on transactions, they are as follows:

Brick Township	\$ 204,306.45
Brick Township Board of Education	511,796.06
Denville Township Board of Education	45,525.50
Denville Township Board of Education	163,682.34
East Hanover Township	99,844.74
Mendham Township Board of Education	132,258.00
Morris Hills Regional School District	467,325.00
Parsippany - Troy Hills Board of Education	1,005,000.00
Randolph Township Board of Education	782,009.51

**MORRIS COUNTY IMPROVEMENT AUTHORITY**  
**(A Component Unit of the County of Morris)**  
**NOTES TO FINANCIAL STATEMENTS**  
**DECEMBER 31, 2009**  
*(continued)*

2. **CONDUIT DEBT OBLIGATIONS, (continued)**

Roxbury Township Board of Education	\$ 281,044.23
Washington Township Board of Education	259,390.50
Washington Township Board of Education	<u>453,490.72</u>
	<u>\$4,405,673.05</u>

As of December 31, 2009, \$27,176,807.99 had been loaned of the \$30,000,000 authorized. Payments totaling \$11,450,525.65 had been made leaving a balance of \$14,273,717.66 available for future loans.

3. **OTHER MATTERS**

There are none at this time.

4.\*\* **SUBSEQUENT EVENTS**

On February 1, 2010, the Morris County Improvement Authority issued \$21,600,000 of County of Morris Renewable Energy Program Lease Revenue Bonds (Federal Taxable). The bonds are being issued to (i) finance the Renewable Energy Projects and the Capital Improvement Projects for each of the Series 2009A Local Units, (ii) reimburse certain Renewable Energy Program development costs paid by the County and the Authority, (iii) pay certain fees and costs incurred by or for the Tioga Solar Morris County I, LLC (the "Company") in connection with the Renewable Energy Program, and (iv) pay the various costs of issuing the Series 2009A Bonds.

5. **COMMITMENTS AND CONTINGENT LIABILITIES**

We are advised by the Authority Counsel that the Authority is not involved in any litigation.

\*\* on 08/18/2010 the Authority issued its County of Morris Guaranteed Renewable Guaranteed Loan Program Refunding Bonds, Series 2010 ( Washington Board of Education Program) - Par Amount \$12,260,000

(part II)

8) Provide the Sources and Uses of the Proposed Issue: **PLEASE SEE EXHIBIT II-A**

SOURCES\*

a) Proceeds of Issue	\$	
b) Other Cash Contributions	\$	_____
c) Interest Earnings	\$	_____
d) Other (describe)	\$	_____
e) Accrued Interest	\$	_____
_____	\$	_____
_____	\$	_____
Total Sources	\$	

USES\*

a) Facilities Costs	\$	_____
b) Equipment Costs	\$	_____
c) Capitalized Interest	\$	_____
d) Debt Service Reserve	\$	_____
e) Costs of Issuance	\$	
f) Accrued Interest	\$	_____
g) Other (describe)	\$	_____
Estimated Cost of Escrow Securities	\$	
Bond Insurance	\$	
Contingency	\$	
Total Uses	\$	_____

\*See Exhibit II-A attached hereto which details the sources and uses for the Series 2011 Bonds. The Authority reserves the right to alter the original issue discount or premium in order to either lower the overall cost of this transaction to the Local Units or to raise sufficient proceeds to fund the Projects as contemplated.

(part II)

Proposed Issuance Costs - PLEASE SEE EXHIBIT II-A

	<u>Name</u>	<u>Not to Exceed Amount</u>
Financial Advisor:		\$
Bond Counsel:		\$
Local Attorneys:		\$
Auditor:		\$
Underwriter:	(N/A if competitive sale) (not to exceed \$6/bond, excluding counsel for a Negotiated sale.)	\$
Underwriter Counsel	N/A (included in Underwriter's discount)	\$
Trustee:	TBD including counsel:	\$
Special Consultants:		\$
		\$
Other Bonding Exp:	Rating Agency Fee	\$
	Binding	\$
	Contingency	\$
	Total Issuance Costs	\$

(part II)

9) Budget and Audit Submission Requirements

- a) Has the current years budget been approved and adopted by the Division of Local Government Services? Yes
- b) Has the previous years audit been completed and submitted to the Division of Local Government Services? Yes.
- c) Provide a statement of the impact on the local unit or units budget, debt service requirements, debt service ratings, local tax rate and service fees if the proposed project is implemented or the proposed project financing is undertaken.

The Authority's obligation to pay debt service on the Series 2011 Bonds is limited solely to the Basic Lease Payments of the Company under the Company Lease Agreement. As a result, debt service on the Series 2011 Bonds will have no impact on the Authority's finances. The expenses (i.e., trustee and Authority expenses) of administering the Series 2011 Bonds will be covered by the Authority's annual Administrative Fee in the amount of approximately \$20,000 payable by the Company under the Company Lease Agreement as an Additional Lease Payment, and the Authority's approximately \$100,000 up front Administrative Fee payable out of a portion of the Series 2011 Bonds.

This issue will require the Authority to appropriate from approximately \$2.3M to 5.4M per year (the initial year's amortization shall be provided with the proceeds of the Series 2011B Notes to be issued and repaid in 2013) in its budget in order to meet the debt service payments on the Series 2011 Bonds (the amortization on the Series 2011 Bonds may be front - loaded, in which case these amounts shall change - see Part II). The Series 2011 Bonds are further secured by the general obligation guaranty of the County of Sussex and the full faith and credit of the County of Sussex under the County Guaranty. The Authority anticipates an equal amount of revenue to offset debt service and other expenses related to the administration of the bond issue. Therefore, there will be no effect on the Authority's budget.

The issue will not affect the Authority's bond rating since the Series 2011 Bonds will be rated on the underlying credit worthiness of the County of Sussex. The Authority has no ad valorem taxing power. The Series 2011 Bonds are not expected to affect the County of Sussex's credit rating, since the anticipated cash flows from the Program are expected to be sufficient to allow the Company to make its Basic Lease Payments under the Company Lease Agreement in full and on time. To the extent notwithstanding any such anticipation, if the County Guaranty is to be called upon, the County of Sussex shall have secured a reimbursement from the Letter of Credit or other County Security to be provided by the solar vendor Company along with their RFP responses to fund the County Deficiency Amount, or alternatively, the transaction shall be structured to avoid any such deficiency, as discussed herein.

The issue will have no impact on the bond rating of the Series 2011 Local Units as under the Program, they have no obligation to repay the debt service on the Authority's Series 2011 Bonds.

d) Has the Annual Debt Statement been submitted to the Division of Local Government Services? yes.  
(if applicable) (yes/no)

e) Has the Supplemental Debt Statement for this proposed issuance of obligations been submitted to the Division of Local Government Services? N/A  
(if applicable) (yes/no)

f) Has the Capital Budget been adopted? N/A  
(if applicable) (yes/no)

10) Provide a certified copy of an introduced ordinance and/or resolution adopted by the local unit indicating the intent of the local unit for the issuance of the proposed obligation(s).  
(if applicable)

See Authority resolutions regarding application to Local Finance Board, tab 4, Part I, and Authority resolution seeking the County of Sussex N.J.S.A. 40:37A-56 (i) approvals and seeking the County of Sussex's N.J.S.A. 40:37A-80 guaranty of the Bonds in tab 7, Part V(a)(ii), that was adopted at the Authority's board meeting of April 19, 2011.

See County of Sussex guaranty ordinance pursuant to N.J.S.A. 40:37A-80 and County of Sussex authorizing resolution pursuant to N.J.S.A. 40:37A-56 (i) in tab 7, Part V(b)(i) and (ii).

See Series 2011 Local Unit resolutions regarding application to Local Finance Board, tab 4, Part I(b)(i) and (ii).

**EXHIBIT II-A**

**Numbers**

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SOURCES AND USES OF FUNDS

Morris County Improvement Authority  
County of Sussex - 2011 Renewable Energy Program  
\*PRELIMINARY\*

Sources:

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Bond Proceeds:	
Par Amount	47,660,000.00
	<hr/>
	47,660,000.00

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Uses:

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Project Fund Deposits:	
Construction Fund	45,780,000.00
Project Development Costs	<u>1,200,000.00</u>
	46,980,000.00

Delivery Date Expenses:	
Cost of Issuance	391,500.00
Underwriter's Discount	<u>285,960.00</u>
	677,460.00

Other Uses of Funds:	
Additional Proceeds	2,540.00
	<hr/>
	47,660,000.00

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**BOND DEBT SERVICE**

Morris County Improvement Authority  
 County of Sussex - 2011 Renewable Energy Program  
 \*PRELIMINARY\*

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/01/2012			1,196,646.94	1,196,646.94	
12/01/2012			1,139,663.75	1,139,663.75	2,336,310.69
06/01/2013	3,180,000	2.100%	1,139,663.75	4,319,663.75	
12/01/2013			1,106,273.75	1,106,273.75	5,425,937.50
06/01/2014	3,180,000	2.550%	1,106,273.75	4,286,273.75	
12/01/2014			1,065,728.75	1,065,728.75	5,352,002.50
06/01/2015	3,180,000	3.450%	1,065,728.75	4,245,728.75	
12/01/2015			1,010,873.75	1,010,873.75	5,256,602.50
06/01/2016	3,180,000	3.700%	1,010,873.75	4,190,873.75	
12/01/2016			952,043.75	952,043.75	5,142,917.50
06/01/2017	3,180,000	4.200%	952,043.75	4,132,043.75	
12/01/2017			885,263.75	885,263.75	5,017,307.50
06/01/2018	3,180,000	4.450%	885,263.75	4,065,263.75	
12/01/2018			814,508.75	814,508.75	4,879,772.50
06/01/2019	3,180,000	4.850%	814,508.75	3,994,508.75	
12/01/2019			737,393.75	737,393.75	4,731,902.50
06/01/2020	3,175,000	5.100%	737,393.75	3,912,393.75	
12/01/2020			656,431.25	656,431.25	4,568,825.00
06/01/2021	3,175,000	5.350%	656,431.25	3,831,431.25	
12/01/2021			571,500.00	571,500.00	4,402,931.25
06/01/2022	3,175,000	5.600%	571,500.00	3,746,500.00	
12/01/2022			482,600.00	482,600.00	4,229,100.00
06/01/2023	3,175,000	5.750%	482,600.00	3,657,600.00	
12/01/2023			391,318.75	391,318.75	4,048,918.75
06/01/2024	3,175,000	5.900%	391,318.75	3,566,318.75	
12/01/2024			297,656.25	297,656.25	3,863,975.00
06/01/2025	3,175,000	6.050%	297,656.25	3,472,656.25	
12/01/2025			201,612.50	201,612.50	3,674,268.75
06/01/2026	3,175,000	6.250%	201,612.50	3,376,612.50	
12/01/2026			102,393.75	102,393.75	3,479,006.25
06/01/2027	3,175,000	6.450%	102,393.75	3,277,393.75	
12/01/2027					3,277,393.75
	47,660,000		22,027,171.94	69,687,171.94	69,687,171.94

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SOURCES AND USES OF FUNDS

Morris County Improvement Authority  
Sussex Solar - May 2012 Note  
\*PRELIMINARY\*

Sources:

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Bond Proceeds:	
Par Amount	1,200,000.00
	<hr/>
	1,200,000.00

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Uses:

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Project Fund Deposits:	
Project Fund	1,196,646.94
Other Uses of Funds:	
Additional Proceeds	3,353.06
	<hr/>
	1,200,000.00

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BOND DEBT SERVICE

Morris County Improvement Authority  
Sussex Solar - May 2012 Note  
\*PRELIMINARY\*

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/01/2013	1,200,000	1.100%	14,520	1,214,520	1,214,520
	1,200,000		14,520	1,214,520	1,214,520

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	<b>Amount</b>
Bond Counsel (Bonds)	85,000.00
Financial Advisor	61,500.00
County Auditor	5,000.00
Authority Fee	100,000.00
1st year Annual Authority Fee	20,000.00
Trustee Fees	5,000.00
Trustee Counsel Fee	5,000.00
Underwriter's Counsel	10,000.00
Rating Agency (Moody's)	25,000.00
Printing	10,000.00
Binding	5,000.00
Miscellaneous	15,000.00
Bond Counsel (Note1)	25,000.00
Bond Counsel (Note2)	10,000.00
Financial Advisor (Note1)	5,000.00
Financial Advisor (Note2)	5,000.00
<b>Total Costs of Issuance</b>	<b>391,500.00</b>
Project Development Costs	1,200,000.00
<b>Total Project Development Costs</b>	<b>1,200,000.00</b>

**TAB 6**

**PART III**

**TRANSACTIONS TO FINANCE THE CONSTRUCTION OR ACQUISITION OF FACILITIES, INFRASTRUCTURE, EQUIPMENT, ETC.**

1) Description of Proposed Project:

See Executive Summary and Exhibit II-A to Part II for a breakdown of Renewable Energy Project Costs, per Series 2011 Local Unit. These are estimates, pending receipt of responses to the RFP by the solar vendors.

2) Who will: a) Use the Renewable Energy Project (i.e. solar projects):

Each Participating Local Unit shall purchase the renewable energy produced by the Renewable Energy Projects for use in their respective Local Unit Facilities, as required by the PPA and the Local Unit License Agreements.

b) Operate and Maintain the Renewable Energy Projects:

The Company, as required under the Company Lease Agreement.

c) Own the Renewable Energy Projects:

The Authority for State law purposes, subject to the lease by the Authority to the Company under the Company Lease Agreement, which Company shall own the Renewable Energy Projects for Federal income tax purposes in order to take advantage of the Federal income tax benefits available for solar financing, the benefits of which shall inure to the Series 2011 Local Units in the form of a lower PPA price.

Note: No Capital Improvement Projects are anticipated (i.e., roofing improvements), but if required, they shall be owned, maintained and used by the respective Series 2011 Local Units.

3) When will the facilities (i.e., the Projects) be fully acquired or completed?

Completed - The private solar developer is entitled to queue the projects under the terms of the RFP, and a firm deadline shall be established, after which the solar developer will incur economic penalties. The original RFP period will be one year to complete all 21 projects, although this may change due to RFP responses. It is difficult to predict with greater accuracy until the RFP responses have been received and reviewed.

Acquired - all Projects will be acquired within the timeframe set forth above.

4) Provide a breakdown of the hard cost of the proposed project being constructed, acquired, etc. EXCLUDING financing costs, such as capitalized interest, cost of issuance, etc.

See list of participants and Renewable Energy Projects attached to the Executive Summary \*. The Authority's energy consultants, Gabel Associates, and PMK Birdsall have estimated \$6.00 per watt (for approximately 9.37 MW of power = approximately \$47M project costs) in arriving at the estimated solar costs is a safe assumption, although the Authority anticipates, but cannot guaranty, lower costs.

\*\* The Project Development costs consist of fees for the one year plus period of development of the Program by the Authority, its energy consultants and its counsel plus development costs (e.g. Local Unit site review and procurement process) exist for each Program tranche. This is a not to exceed amount.

To the extent an up to \$2M Federal Department of Energy Grant that is earmarked for the County of Sussex is realized, the DOE Grant may be used to offset a portion of the Series 2011 Bonds, or otherwise be used as a source of funds.

- 
- \* Break out for Renewable Energy Projects (Solar) is attached to the Executive Summary. The approximately \$47M aggregate of project costs is an estimate as we are waiting for proposals.
  - \*\* The not to exceed Series 2011 Bond authorization is \$50,000,000. Therefore, if these costs come in higher than projected, the Authority shall decrease the scope of the Project if necessary, probably through the downsizing of one or more Local Unit Facilities, or come back to LFB for a supplemental appropriation. At some point, if the solar project costs come in too high, there will not be energy savings generated under applicable law, a pre-condition to moving forward with the transaction.

(part III)

5) Schedule of Project Permits: Standard Building Permits, and site plan review/approval (typically on a courtesy basis since the property owners remain the local governments) for ground or parking canopy Renewable Energy Projects.

The Series 2011 School Board Local Units are applying for amendments to their Long Range Facilities Plan regarding their Projects pursuant to N.J.S.A. 18A:7G-4 and N.J.A.C. 6A:26-2.1 to 2.3.

<u>PERMITS REQUIRED</u>	<u>Date of</u> <u>Applic.</u>	<u>Date of</u> <u>Approval</u>	<u>Applic.</u> <u>Pending</u>	<u>Applic.</u> <u>Denied</u>	<u>Not Yet</u> <u>Applied</u>
Federal:					
State:					
Local:					

**TAB 7**

**PART V**

**PROPOSED FINANCING AGREEMENT  
PROPOSED SERVICE AGREEMENT**

A) Provide a copy of the proposed authority resolution authorizing the adoption of the financing agreement and/or security agreement for project financing by the authority.

See index and attached items.

B) Provide a copy or copies of the proposed municipal or county ordinance(s) or resolution(s) authorizing a financing agreement and/or security agreement by a local unit or units for project financing by an authority.

See index and attached items.

C) Provide a statement of the impact on the local unit or units budget, debt service requirements, debt service ratings, local tax rate and service fees if the financing agreement and/or service agreement are implemented.

See index and attached

D) Provide a breakdown of the current existing overriding Guarantee of Debt by project.

N/A

	<u>Project</u>	<u>Project Debt</u>	<u>Local Unit Guarantee</u>
Total Current Guarantee			
Proposed Project Guarantee			
Total Proposed Guarantee			

SEE VOLUME II

**IMPACT OF THE PROPOSED FINANCING  
ON THE COUNTY OF SUSSEX, NEW JERSEY**

**Tax Rate Effect on Sussex County as Guarantor:**

In this transaction, an unconditional and irrevocable guaranty by Sussex County of the principal of and interest on the Series 2011 Bonds pursuant to N.J.S.A. 40:37A-80 will be provided. There is no anticipated adverse tax rate effect on Sussex County in its capacity as Guarantor since (i) Sussex County expects cash flow generated from the Program to be sufficient to allow the Company to make its Basic Lease Payments on time and in full, and (ii) Sussex County shall be entitled to reimbursement for any County Guaranty payment in accordance with the County Deficiency Amount concept described earlier in this LFB Application, and restated immediately below, or, as noted herein, depending on Company proposals received, to the extent the County Deficiency Amount is structurally eliminated in any such received proposals.

If Sussex County makes a payment under their County Guaranty (and/or defeases the Series 2011B Notes for \$1), the County of Sussex shall be reimbursed from a combination of the following: (i) PPA payments (the solar projects shall be owned by the Authority for State law purposes, but leased to the solar developer under the lease purchase agreement to convey federal tax ownership to the solar developer – in the event of a solar developer default, the lease goes away, and the Authority's ownership rights are no longer subject to the lien of the lease with the solar developer. In this instance, the panels will not be removed from the Series 2011 Local Unit roofs, and the Series 2011 Local Units shall continue to make PPA payments under their respective license agreements. Since the Solar developer has defaulted, the bond holders will have been paid by the County guaranty, at that point, the Bond Resolution and related documents provide that the PPA payments by the Series 2011 Local Units made under their still in existence license agreement go to reimburse the County of Sussex for draws under the County Guaranty, (ii) SRECs (similar analysis to (i) above), and (iii) a County Deficiency Amount posted by the Solar Developer. The County Deficiency Amount is established by the winning solar developer under the competitive contracting RFP process as the difference between the amount of the County Guaranty, and the sum of the future PPA payments ((i) above) and SRECs ((ii) above). The County recognizes there is this gap, a delta, so the solar developers are required to close that gap defined under the RFP, the Bond Resolution and related documents as the County Deficiency Amount, through the provision of cash, a letter of credit, a parent guaranty, and/or some other security acceptable to the County of Sussex. In addition to PPA price, this provision of security back to the County of Sussex is one of the most important evaluation criteria (Section 6.2 of the RFP) to be reviewed by the Authority and the County of Sussex in selecting the solar developer under the RFP, in addition to experience and ability to perform. The County of Sussex considered full solar developer security for the entire amount of the County Guaranty, (a) but the County of Sussex appreciates that the cost of same will dramatically reduce effective PPA pricing and (b), since the PPA payments and SRECs are expected to continue, the County of Sussex has determined its true risk that needs to be managed is the County Deficiency Amount, and therefore the County of Sussex is focused on maximizing the security for that amount.

In Somerset IA's Tranche I, the County Deficiency Amount was eliminated when the proposed amortization in the initial post capitalized interest period was equal to half of the bond issue, with the sole condition being the construction of the projects. Since that condition was further secured with a payment and performance bond in the amount of the Tranche I bond issue, the Authority and County of Sussex anticipated, in Tranche I, that the initial amortization payment would be made. At that point, remaining SRECS and PPA payments provided in excess of 100% debt service coverage. The Authority and County of Sussex will strongly consider such an alternative structure, if presented in this tranche, as security is one of the primary considerations for selection of a solar developer under the Authority's competitive contracting process.

**Tax Rate Effect on the series 2011 Local Units:**

This financing should have a positive tax rate effect for the Series 2011 Local Unit boards of education, municipalities, nonprofits and the County of Sussex, as Series 2011 Local Units, because (i) they have no obligation to repay the Series 2011 Bond debt service and (ii) the PPA price shall be locked in at a rate anticipated to be lower than the existing retail rate. In Tranche I, these savings average 35%. Similar recent transactions had savings of 60%.

**STATE OF NEW JERSEY**  
**DEPARTMENT OF COMMUNITY AFFAIRS**  
**DIVISION OF LOCAL GOVERNMENT SERVICES**  
**LOCAL FINANCE BOARD**

**APPLICATION**

**Volume II of II**

**Morris County Improvement Authority**

Not to Exceed \$50,000,000 aggregate principal amount of the Authority's  
To be issued in 2 Series  
Consisting of

“County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
(County of Sussex Program) Series 2011A (Federally Taxable)”

and

“County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds or Notes,  
(County of Sussex Program) Series 2011B (Federally Taxable)”

For Submission To The

**NEW JERSEY LOCAL FINANCE BOARD**

Thomas Neff, Chairperson

Patricia McNamara, Executive Secretary

Application Date: July 19, 2011  
Scheduled Hearing Date: August 10, 2011

RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY

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RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX  
GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE  
NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF  
THE MORRIS COUNTY IMPROVEMENT AUTHORITY

Adopted August \_\_, 2011  
as amended and supplemented by  
a Certificate of an Authorized Officer of the Authority  
dated \_\_\_\_\_, 2011

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RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory [00016247-1]

thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birdsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants"), if any, and together with the Authority Consultants, the "Consultants"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacements of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinbefore defined Bond Resolution, the "Projects"), and so the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

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WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "Series 2011 Bonds");

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "Series 2011B Notes", and together with the Series 2011A Bonds, the previously defined "Series 2011 Bonds"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County;

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Unit that would, among other things, provide the Authority and/or its assigns the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, adjacent or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, adjacent or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(a) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "Company RFP") and the receipt of proposals from prospective solar developers, including that (the "Company Proposal") of the successful respondent (the "Company"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (i) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (ii) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through

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provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000;

WHEREAS, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

WHEREAS, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the Series 2011 Project);

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local

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the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (iii) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "BPU"), whereby,

- (I) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis.

- (II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

- (III) The Company shall sell to the Authority for the

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benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

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WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$30,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the County Guaranty Agreement, the Company RFE, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

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WHEREAS, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

WHEREAS, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c-12") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement") and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements")

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with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent ("Private Placement Agent"), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement");
- (b) If the Series 2011 Bonds shall be sold by:
  - (i) Competitive sale, authorize the distribution of a notice of sale ("Notice of Sale"), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the "Underwriter"), or
  - (ii) Negotiated sale, enter into a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds; and
- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement, and together with

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the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (i) above, the "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Morris County Improvement Authority as follows:

## ARTICLE I

### DEFINITIONS

#### SECTION 1.01. Definitions.

1. The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

Act  
Additional Bonds  
Authority  
Board of Freeholders  
Bond Purchase Agreement  
Bond Resolution  
Bonds  
BPU  
Capital Improvement Projects\*  
Company  
Company Continuing Disclosure Agreement  
Company Documents  
Company Lease Agreement  
Company Pledge Agreement  
Company Proposal  
Company RFP  
Continuing Disclosure Agreements  
County  
County Continuing Disclosure Agreement  
County Guaranty  
County Guaranty Agreement  
County Security  
County Security Agreement  
County Security Provider  
County Series 2011 Local Units  
Dissemination Agent  
Local Finance Board  
Local Finance Board Application  
Local Units  
Local Unit Facilities\*  
Local Unit License  
Local Unit License Agreement  
Local Unit License Agreements  
Municipal Series 2011 Local Units  
Preliminary Official Statement

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Power Purchase Agreement  
Preliminary Program Costs  
Program Documents  
Projects\*  
Official Statement  
Renewable Energy Program  
Renewable Energy Projects\*  
Rate 15c2-12  
Sale Documents  
Section 13  
Section 37  
Series 2011 Bonds  
Series 2011A Bonds  
Series 2011B Bonds  
Series 2011 Local Unit\*  
Series 2011 Local Units\*  
Series 2011 Project  
Shared Services Act  
SRECs  
State

\*as such defined terms may be amended or supplemented pursuant to Sections 4.6 and 4.7 of the Power Purchase Agreement.

2. The following terms, initially defined in the preambles hereof, shall include the additional terms set forth below.

Reserved.

3. The following defined terms shall, for all purposes of this Bond Resolution, have the following meanings:

"Acceptance Certificates" shall mean, individually or collectively, as the case may be, the CIP Acceptance Certificates and the REP Acceptance Certificates.

"Accounts" shall mean any account established in any of the Funds established by Article V hereof.

"Additional Bonds" means all Bonds authenticated and delivered pursuant to Section 2.04 hereof.

"Additional Lease Payment" shall mean any amount payable by the Company at the times and under the other terms of the Company Lease Agreement, other than Basic Lease Payments, including without limitation, (i) Administrative Expenses not otherwise provided from

a portion of the proceeds of the Bonds, including the second and succeeding Bond Year Administrative Fee, (ii) interest on any past due Lease Payments payable at the Overdue Rate (but not any such past due Basic Lease Payment), (iii) the Purchase Option Price in accordance with Section 701 of the Company Lease Agreement, and (iv) the Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement.

"Administrative Expense Account" shall mean the Account within the Administrative Fund so designated and established by Article V hereof.

"Administrative Expenses" shall mean the fees and expenses which are incurred from time to time by or on behalf of the Authority, the County, the County Security Provider, or the Series 2011 Local Units, including the Administrative Fee, if any, in carrying out their respective rights and duties under the terms of the Program Documents, including, without limitation the Preliminary Program Costs, accounting, administrative, financial advisory, and legal expenses, the Consulting Energy Engineering Services, the fees and expenses of the Trustee, any paying agents or any other fiduciaries or agents acting on behalf of the Authority, the County, or the Series 2011 Local Units, under or pursuant to the terms of the Program Documents, which amounts shall be due and payable by the Company as an Additional Lease Payment at the times set forth in the Program Documents, or, as applicable, upon presentation of an invoice for payment; provided, however, that to the extent an Administrative Expense is incurred solely due to the action or inaction of a Series 2011 Local Unit not caused by or otherwise resulting from any action, inaction or request of the Company, such Administrative Expense shall be paid by such Series 2011 Local Unit upon presentation of an invoice for payment. Other than the \$\_\_\_\_\_ of Series 2011 Bond proceeds deposited in the Administrative Fund earmarked for certain costs and expenses, including certain Administrative Expenses, and other than the Authority's annual Administrative Fee and the Trustee's annual fee to be paid as an Additional Lease Payment by the Company, the Company and the Series 2011 Local Units shall only be responsible for the reasonable amount of Administrative Expenses caused by the action or inaction of the Company or the Series 2011 Local Unit, as applicable, to the extent any such Administrative Expenses arise in the course of the implementation of the Renewable Energy Projects and/or the performance by the Authority, County, and/or Series 2011 Local Unit of their rights, duties and obligations under the Program Documents.

"Administrative Fee" shall mean the sum of the following, payable by the Company to the Authority at the times and the amounts as set forth below:

(i) With respect to the Series 2011 Bonds for the first Bond Year upon initial issuance thereof, the Authority's fee for the Renewable Energy Program in the amount of \$120,000, consisting of the sum of (a) \$100,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Costs of Issuance Account of the Administrative Fund pursuant to Section 2.03(7)(a)(i) of the Bond Resolution and (b) \$20,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Administrative Expense Account of the Administrative Fund pursuant to Section 2.03(7)(a)(ii)(A) of the Bond Resolution; plus

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"Administrative Fund" means the Fund so designated and established by Article V hereof, consisting of a Costs of Issuance Account and an Administrative Expense Account.

"Aged Account" shall mean the Account within the Revenue Fund so designated and established by Article V hereof.

"Applicable" shall mean (i) with reference to any Series 2011 Local Unit, the Series 2011 Local Unit intended to be benefited or obligated thereby, (ii) with reference to any Renewable Energy Project, the Renewable Energy Project for the intended Series 2011 Local Unit, (iii) with reference to any Local Unit Facilities, the Local Unit Facilities for the intended Series 2011 Local Unit, and (iv) with reference to any Local Unit License Agreement, the Local Unit License Agreement executed for the benefit of the intended Series 2011 Local Unit.

"Architect" shall mean individually or collectively, as the case may be, the individual or entity appointed or caused to be appointed or employed by the Applicable Series 2011 Local Unit, the Authority, or the Company, as applicable, with respect to the provision of architectural services relating to the Renewable Energy Projects or the Capital Improvement Projects on, in, affixed or adjacent to, or otherwise for the benefit of the Local Unit Facilities for such Applicable Series 2011 Local Unit, all in accordance with applicable law, which may include the Local Public Contracts Law or the Public Schools Contracts Law, including any rules and regulations relating thereto and to which such Applicable Series 2011 Local Unit, the Authority, or the Company is subject, including without limitation any architect of record with respect to such Projects and/or Local Unit Facilities. The Architect may be a Contractor providing services pursuant to a Development Contract.

"Authority Bondholder," "Authority Bond Holder," "Holder of Authority Bonds," "Holder" or "holder" shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds.

"Authority Series 2011 Bondholder," "Authority Series 2011 Bond Holder," "Holder of Authority Series 2011 Bonds," shall mean the registered owner of any Authority's Series 2011 Bonds.

"Authorized Newspapers" shall mean (i) one newspaper which is customarily published and generally circulated at least once in each calendar week in the County, and (ii) one newspaper which is customarily published in the Borough of Manhattan, City and State of New York, at least once a day for a least five days (other than legal holidays) in each calendar week, each of which newspapers is printed in the English language; provided however that with respect to the redemption of Bonds, "Authorized Newspapers" shall refer only to the newspaper which is described in clause (i) of this definition.

"Authorized Officer" or "Authorized Representative" shall mean, (i) with respect to the Authority: the Chairman, the Vice Chairman, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who

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Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 70) of the Company Lease Agreement with respect to prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Basic Lease Payment Date" shall mean any date set forth in Exhibit A-3 to the Company Lease Agreement and designated as a Basic Lease Payment Date, which for the Interest Portion (December 1 and June 1, commencing December 1, 2012) and Principal Portion (December 1, commencing December 1, 2012) of any Basic Lease Payment, shall be a day five (5) months prior to any regularly scheduled Interest Payment Date and any regularly scheduled Principal Payment Date, respectively, or if either of such days is not a Business Day, the first Business Day prior to such date.

"Board" shall mean the governing body of the Authority, or if said Board shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or to whom the powers and duties granted or imposed by the Bond Resolution shall be given by law.

"Bond" or "Bonds" shall mean any of the Bonds of any Series issued pursuant to the terms of this Bond Resolution, including the Series 2011 Bonds and any Additional Bonds, or any Bonds that are thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Section 4.07 or 11.10 hereof.

"Bond Counsel" shall mean Inglesino, Pearlman, Wyciskala & Taylor, LLC, or any other attorney at law, or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exclusion of interest on bonds or other obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state.

"Bond Year" shall mean (i) with respect to any Series of Outstanding Bonds, including the Series 2011 Bonds, a period of 12 consecutive months beginning on November 1 of any calendar year and ending on October 31 of the immediately succeeding calendar year except that (ii) the first Bond Year with respect to the Series 2011 Bonds shall be a period commencing on the date of issuance of the Series 2011 Bonds and ending on October 31, 2012 and (iii) the first Bond Year with respect to any other Series of Bonds shall be a period commencing on the date of issuance of such Series of Bonds and ending on the succeeding 31<sup>st</sup> day of October.

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(ii) For all Bond Years with respect to the Series 2011 Bonds thereafter (commencing \_\_\_\_\_) a sum of money payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund payable on the Basic Lease Payment Date immediately preceding the first day of any such Bond Year, equal to \$20,000, which amount may be referred to as the Authority's annual Administrative Fee, plus

(iii) Reserved; plus

(iv) For all Bond Years with respect to the Series 2011 Bonds, a sum of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund payable on the last day of each such Bond Year, equal to the following:

(a) If and only if the Company determines for some good and valuable business purpose, including without limitation impending negotiations with the Authority or any other Renewable Energy Program Interested Party regarding any provision of the Program Documents, whether required for negotiation or otherwise, to allocate to the Authority or some other Renewable Energy Program Interested Party some portion of the amount realized or to be realized by or on behalf of the Company pursuant to Section 6.3(b) of the Power Purchase Agreement during any such Bond Year, the amount of such contribution, if any, plus

(v) With respect to any Series of Bonds, interest on any past due Basic Lease Payments payable at the Overdue Rate in accordance with the Company Lease Agreement (but not any such past due Basic Lease Payment); plus

(vi) For all Bond Years with respect to any Series of Additional Bonds, such amounts as may be set forth in a Supplemental Resolution, including without limitation, for any Series of Additional Bonds that refund the Series 2011 Bonds or any other Series of Outstanding Bonds, a financing fee payable upon the issuance of any such Series of Additional Bonds (from the proceeds thereof, from the Company, or otherwise) in the amount of two percent (2%) of the aggregate principal amount of any such Series of Additional Bonds, or such different amount as shall be agreed to by the Company and the Authority, plus all reasonable Administrative Expenses of the Authority and any other Renewable Energy Program Interested Party involved in any such refunding, plus an annual financing fee of one percent (1%) of the aggregate principal amount of any such Series of Additional Bonds Outstanding and payable by the Company as of the first day of each Bond Year until final maturity (stated or otherwise) thereof, except as such amounts may be modified in any such Supplemental Resolution authorizing the issuance of any such Series of Additional Bonds.

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shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairman or by the Vice Chairman of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to any Series 2011 Local Unit: the person designated as an Authorized Officer in the Applicable Local Unit License Agreement of any such Series 2011 Local Unit or any other person or persons who shall be authorized to act on behalf of such Series 2011 Local Unit by virtue of a resolution of the governing body of such Series 2011 Local Unit, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

"Base Rate" shall mean the rate of interest established by the Trustee from time to time as its reference rate in making loans but does not reflect the rate of interest charged to any particular class of borrowers, and is not tied to any external rate of interest or index. The applicable rate will change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any party. If no other rate shall be so established by the Trustee, the Base Rate shall be the Trustee's prime rate as determined from time to time.

"Basic Lease Payment" shall mean, as of each Basic Lease Payment Date, the amount set forth in Exhibit A-3 to the Company Lease Agreement corresponding to such Basic Lease Payment Date and designated as a Basic Lease Payment. The Basic Lease Payment as of any Basic Lease Payment Date is equal to the payment of the Principal Portion and Interest Portion due on such Basic Lease Payment Date, and shall be established as the amount set forth in Exhibit A-3 to the Company Lease Agreement for such date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments), and interest on the Outstanding Bonds on the next occurring Principal Payment Date and Interest Payment Date respectively, of the Outstanding Bonds, including without limitation the credits available under (j) Section 302(a)(f) and (i) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 310(e)(1)(B) of the

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"Bondholder," "Bond Holder," "Holder" or "Holder of Bonds" shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds.

"Business Day" shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or the Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

"Capitalized Interest Account" shall mean the Account within the Debt Service Fund so designated and established by Article V hereof, or by Supplemental Resolution.

"Certificate" shall mean a written certificate signed in the name of the Authority, any Series 2011 Local Unit, the County, the Company or the Trustee. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the instruments so combined shall be read and construed as a single instrument.

"CIP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Capital Improvement Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Capital Improvement Projects for each such Series 2011 Local Unit has been completed in accordance with the Plans and Specifications therefor, and has been accepted by such Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution. The Authority and the Company acknowledge and agree that the Company shall not be responsible for the construction of any Capital Improvement Projects under the Program Documents and any references in such Program Documents to the Capital Improvement Projects shall be of no further force and effect.

"Code" shall mean the Internal Revenue Code of 1986, as amended and supplemented, and the Treasury regulations promulgated pursuant thereto.

"Company Draw Papers" shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

"Company Development Fees and Expenses" shall mean the development fees and expenses incurred by the Company in responding to the Company RFP, and in developing the Projects for the Series 2011 Local Units at the Local Unit Facilities, all in accordance with the terms of the Company Documents, and which amount may include a development fee paid to

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"Construction Manager" shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or any Series 2011 Local Unit, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for any Series 2011 Local Unit, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for any Series 2011 Local Unit.

"Consulting Energy Engineer" shall mean individually or collectively, as the case may be, Birdsall Services Group and Gabel Associates, and any other consulting energy and/or engineer that performs Consulting Energy Engineering Services.

"Consulting Energy Engineering Services" shall mean those services performed by or on behalf of the Consulting Energy Engineer that the Authority deems necessary, desirable or convenient in order to implement the Renewable Energy Program, including without limitation review of Local Unit Facilities for feasible inclusion in the Renewable Energy Program and the particular tranche, formulation of the Series 2011 Local Units, assistance in connection with the Company RFP and review of all proposals, including the Company Proposal and issuance of the report required by applicable law as a pre-condition to the selection of the Company as the successful respondent, assistance with the terms and conditions of the Program Documents, and all services of Construction Manager in overseeing the development of the Renewable Energy Projects for the Series 2011 Local Units.

"Cost", "Costs", "Costs of the Project", "Costs of the Projects", "Project Cost" or "Project Costs" shall mean and be deemed to include, with respect to any Project, together with any other proper item of cost not specifically mentioned herein, whether incurred prior to or after the date of any Program Document, (i) Preliminary Program Costs and the Company Development Fees and Expenses, (ii) costs of and expenses related to the design, permitting, acquisition, construction, installation, operation, maintenance, and financing of the Renewable Energy Projects for the Series 2011 Local Units, and (iii) costs of and expenses related to the design, permitting, acquisition, construction, renovation, installation, and financing of the Capital Improvement Projects for the Series 2011 Local Units, including, without limitation, costs and expenses related to any Architect, Construction Manager or Contractor, the Plans and Specifications, and/or any other costs and expenses related to any Development Contract, the costs of payment of, or reimbursement for, advances, deposits, down-payments or progress payments, administrative costs, insurance costs, costs of surety, construction or performance or payment bonds, financing payments, sales taxes, excise taxes, costs of feasibility, environmental and other reports, inspection costs, permit fees, filing and recording costs, printing costs, reproduction and binding costs, Administrative Expenses, costs of Rating Agencies, credit ratings or credit enhancement, fees for the printing, execution, transportation and safekeeping of the Bonds and charges and fees in connection with the foregoing the cost of insurance; (iv) any sums required to reimburse the Renewable Energy Program Interested Parties for advances made for any of the above items, or for any other costs incurred and for work done, which is properly chargeable to any Project thereof; (v) deposits in any Fund or Account under the Bond

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or on behalf of the Company and or its affiliates, and so long as the aggregate of all such fees and expenses shall not exceed 5% (compensatively procured through the Company RFP process) without the express written consent of the Authority, and which amounts shall be payable in accordance with the provisions of Section 5.02(2)(b) of the Bond Resolution and 509(d) of the Company Lease Agreement.

"Company Pledge Agreement" shall mean that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of November 1, 2011 issued by [Company] (managing member of the Company), as pledgor, in favor of the Trustee, as acknowledged by the Company.

"Completion Conditions" shall have the meaning set forth in Section 3.6(a) of the Power Purchase Agreement.

"Completion Project" shall mean any completion, additions, enlargements, improvements, expansions, repairs, restorations or reconstructions of the Renewable Energy Projects or the Capital Improvement Projects, if any, for the Series 2011 Local Units at their Local Unit Facilities, including to the extent any prior Completion Project shall, for whatever reason, be insufficient for the Local Unit's purposes, for use by the Local Unit pursuant to any amendment or supplement to the Local Unit License Agreement, including, without limitation, all real and personal property and rights therein and any appurtenances that are necessary or useful and convenient therefor, which shall be funded through any combination of the issuance of Additional Bonds, the application of excess proceeds pursuant to Section 5.02 hereof, any grant or subsidized funding from the Federal, State or local government or other source, the equity contribution of any Renewable Energy Program Interested Party, or otherwise. To the extent such Completion Project shall be funded in whole or in part by Additional Bonds of the Authority, such Completion Project shall not be paid for by or on behalf of the Company unless the Company Lease Agreement is amended and supplemented (with the Company's consent), including as applicable the Basic Lease Payment schedule, to reflect any increased principal of and interest due on any Series of Additional Bonds issued to fund all or a portion of such Completion Project. The Authority may, at its sole discretion, issue Additional Bonds for any Completion Project, but it is under no obligation to do so, and accordingly, the Authority may make the execution and delivery by the Company of an amendment or supplement to the Company Lease Agreement regarding the payment of additional Basic Lease Payments a condition precedent to the issuance of any such Series of Additional Bonds.

"Contractor" shall mean the Company, \_\_\_\_\_, or any other subcontractor or other third-party designated by the Company through a Development Contract or otherwise, in any such case as the entity obligated to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

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Resolution, all as shall be provided in the Bond Resolution; and (vi) such other expenses not specified herein as may be necessary or incidental to the implementation of the Renewable Energy Program, including those incurred by the Renewable Energy Program Interested Parties and including costs and expenses related to the placing of the Projects in use and operation.

"Costs of Issuance" shall mean all items of expense directly or indirectly payable by or reimbursable to any Renewable Energy Program Interested Parties (other than the Company Development Fees and Expenses payable to the Company) and related to the authorization, execution, sale and delivery of the Bonds of any Series, including the Series 2011 Bonds, including, but not limited to, bond insurance costs or costs of other credit enhancement, Rating Agency fees, advertising and printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of any such Renewable Energy Program Interested Parties, the fees and expenses to be paid to the underwriters of a particular Series of Bonds (which fees and expenses, including their counsel, may be paid as a discount from Bond proceeds, rather than from the Costs of Issuance Account), including the Series 2011 Bonds, legal and financial advisory fees and expenses of such Renewable Energy Program Interested Parties, Consulting Energy Engineering Services, and initial charges, and all other initial fees and disbursements contemplated by the Program Documents.

"Costs of Issuance Account" shall mean the Account within the Administrative Fund so designated and established by Article V hereof.

"Counsel" shall mean an attorney at law or firm of attorneys at law (who may be, without limitation, of counsel to, or an employee of any Renewable Energy Program Interested Party) duly admitted to practice law before the highest court of any state.

"County Security Fund" shall mean the Fund so designated and established by Article V hereof.

"County Security Fund Requirement" shall mean the minimum amount on deposit in the County Security Fund in the amounts, as of the dates, specified on Exhibit B to the Bond Resolution, to be held as security for the County in the event of a payment or payments to be made by the County under its County Guaranty, and otherwise to be applied in accordance with the terms of the Program Documents; provided, however, that Exhibit B may be modified at any time by a new Exhibit B delivered by the Authority to the Trustee attached to a Certificate of an Authorized Officer of the Authority directing the Trustee to replace such Exhibit B, without the need for an amendment or supplement hereto (and without the need for Bondholder consent), which Certificate shall only be delivered by the Authority to the extent the Company and the County agree to such revised Exhibit B, as evidenced by their acknowledgment in writing to any such Authority Certificate. Such Certificate shall also set forth and direct the Trustee regarding the transfer or disposition of excess funds in the County Security Fund, if such Certificate shall cause same. The Authority covenants to request that the Company and the County consider amending Exhibit B at such times as the Authority shall deem appropriate, but

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in any event such request shall occur at least three (3) months prior to the second (2nd) anniversary of the issuance of the Series 2011 Bonds.

"Debt Service Fund" means the Fund so designated and established by Article V hereof, consisting of an Interest Account, and a Principal Account.

"Default" shall mean an event or condition, the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default with respect to the Bonds, including the Series 2011 Bonds.

"Development Contract" shall mean (i) in the case of the Company, the Company Lease Agreement, (ii) in the case of \_\_\_\_\_, as Contractor, that certain "Turnkey Design, Engineering, Procurement and Construction Contract" between the Company and such Contractor with respect to the Projects, and (iii) in the case of any other Contractor, that certain contract obligating any such other subcontractor or other third-party, as Contractor and on behalf of the Company, to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units. Nothing in any Development Contract shall relieve the Company from its obligations under the Company Lease Agreement and the other Company Documents, which obligations shall include the Company's *continual obligation to design, permit, acquire, construct, install, operate and/or maintain all of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, and to design, permit, acquire, construct, renovate and/or install all of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.*

"DOE Grant" shall mean the grant from the Federal Department of Energy relating to the Renewable Energy Program, the amount and terms of which may be set forth in a Certificate of an Authorized Officer of the Authority executed pursuant to Section 2.02(1)(c) hereof, even if executed and delivered after the date of issuance of the Series 2011A Bonds.

"Draw Date" shall have the meaning ascribed to such term in Section 510(b) of the Company Lease Agreement, and shall not be a regularly scheduled set of dates, but shall occur no more frequently than twice a month.

"Draw Papers" shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

"DTC" shall mean The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, in its capacity as securities depository for the Bonds, including the Series 2011 Bonds.

"Event of Default" shall mean any occurrence or event designated as such in Section 9.01 of the Bond Resolution.

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"Fiduciary" or "Fiduciaries" shall mean individually or collectively, as the case may be, the Trustee or the Paying Agent under the Bond Resolution.

"Funds" shall mean any of the funds established by Article V of the Bond Resolution.

"General Fund" shall mean the Fund so designated and established by Article V of the Bond Resolution.

"Gross Substitute Power Purchase Price" shall have the meaning ascribed to such term in Section 5.2(a)(i) of the Local Unit License Agreements for the Series 2011 Local Units.

"Interconnection Agreement" shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Applicable Series 2011 Local Unit and/or the Authority, with respect to the interconnection of the completed Renewable Energy Projects for such Series 2011 Local Unit to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

"Interest Account" shall mean the Account within the Debt Service Fund so designated and established by Article V of the Bond Resolution.

"Interest Payment Date" shall mean, the date on which interest on the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the first (1<sup>st</sup>) day of each November 1 and May until final maturity of the Bonds, including the Series 2011 Bonds, commencing May 1, 2013 with respect to the Series 2011A Bonds, and (b) which shall be \_\_\_\_\_ with respect to the Series 2011B Bonds, each of which shall constitute a regularly scheduled Interest Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Interest Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the interest due and owing on the Outstanding Bonds, including the Series 2011 Bonds, on the immediately succeeding Interest Payment Date, as set forth in Exhibit A-3 to the Company Lease Agreement, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the interest on the Bonds on the next occurring Interest Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(i) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the

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Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(v)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Investment Securities" shall mean and include any of the following securities; if and to the extent the same are at the time legal for investment of the Authority's funds:

(i) Cash, direct non-callable obligations of the United States of America, and securities fully and unconditionally guaranteed as to the timely payment of principal of and interest by the United States of America, to which direct obligation or guarantee the full faith and credit of the United States of America has been pledged, Refcorp interest strips, CATS, TIGRS, STRPS or defeased municipal notes or bonds rated in the highest rating category by at least one of the Rating Agencies;

(ii) Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state or of any agency or instrumentality of any such local governmental unit (a) that are not callable prior to maturity or as to which irrevocable instructions have been given to the Trustee of such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds or other obligations for redemption on the date or dates specified in such instructions, (b) that are secured as to principal, interest and redemption premium, if any, by a fund consisting only of cash or bonds or other obligations of the character described in clause (i) above, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the redemption date or dates specified in the irrevocable instructions referred to in subclause (a) of this clause (ii), as appropriate, and (c) as to which the principal of and interest on the bonds and obligations of the character in clause (i) above that have been deposited in such fund, along with any cash on deposit in such fund, are sufficient to pay the principal of and interest and redemption premium, if any, on the bonds or other obligations described in this clause (ii) on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in subclause (a) of this clause (ii), as appropriate;

(iii) Bonds, debentures or other evidences of indebtedness issued or guaranteed by any agency or corporation that has been or may hereafter

be created pursuant to an Act of Congress as an agency or instrumentality of the United States of America; provided, however, that at the time of their purchase hereunder such obligations are rated in either of the two highest rating categories by the Rating Agencies;

(iv) New housing authority bonds issued by public agencies or municipalities that are fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or project notes issued by public agencies or municipalities that are fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(v) Direct, general obligations of any state of the United States of America, the payment of the principal of and interest on which the full faith and credit of such state is pledged; provided, however, that at the time of their purchase hereunder such obligations are rated in either of the two highest rating categories by the Rating Agencies;

(vi) Obligations of any state of the United States of America or any political subdivision thereof or of any agency or instrumentality of any such state or political subdivision that shall be rated in the highest short- or long-term rating category by the Rating Agencies;

(vii) Direct and general obligations of the State, the payment of the principal of and interest on which the full faith and credit of the State is pledged; or any bonds or other obligations the payment of the principal of and interest on which are unconditionally guaranteed by the State;

(viii) Certificates or other instruments that evidence ownership of the right to payments of principal of or interest on obligations of any state of the United States of America or any political subdivision thereof or of any agency or instrumentality of any such state or political subdivision; provided, however, that such obligations shall be held in trust by a bank or trust company or a national banking association meeting the requirements for a successor Trustee under Section 10.09 hereof; and provided, further, that the payments of all principal of and interest on such obligations shall be fully insured or unconditionally guaranteed by, or otherwise unconditionally payable pursuant to a credit support arrangement provided by, one or more financial institutions or insurance companies or associations that shall be rated in the highest short- or long-term rating category by the Rating Agencies, or, in the case of an insurer providing municipal bond insurance policies insuring the payment, when due, of the principal of and interest on municipal bonds, such insurance policy shall result in

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such municipal bonds being rated in the highest rating category by the Rating Agencies;

(ix) Certificates that evidence ownership of the right to payments of principal or of interest on obligations described in clause (i) above; provided, however, that such obligations shall be held in trust by a bank or trust company or a national banking association meeting the requirements for a successor Trustee under Section 10.09 hereof;

(x) Certificates of deposit, whether negotiable or non-negotiable, demand deposits, and banker's acceptances of any of the fifty (50) largest banks by measure of total assets, which banks may include the Trustee, that are rated not lower than the second highest rating category by the Rating Agencies;

(xi) Commercial paper rated at the date of investment in the highest rating category by the Rating Agencies;

(xii) Any repurchase agreement that, by its terms, matures not later than one (1) year from its date of execution with any bank or trust company organized under the laws of any state of the United States of America or any national banking association, including the Trustee, or any government bond dealer reporting to, trading with and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in clause (i), (iii), (iv), (x) or (xi) above and which securities shall at all times have a market value (exclusive of accrued interest) of not less than one hundred two percent (102%) of the full amount of the repurchase agreement, have dates of maturity not in excess of seven (7) years, and be delivered to another bank or trust company organized under the laws of any state of the United States of America or national banking association, as custodian;

(xiii) Shares of an investment company organized under the Investment Company Act of 1940, as amended, including any investment company for which the Trustee is investment advisor, that invests its assets substantially in obligations of the type described in clause (i), (vii), (xi) or (xii) above;

(xiv) Interests in the State of New Jersey Cash Management Fund or other similar common trust fund for which the State Treasurer is the custodian;

(xv) Local government investment pools;

(xvi) Money market funds which seek to maintain a constant net asset value per share and are rated in the highest short term rating categories of such funds, by at least two Rating Agencies;

(xvii) With respect to the County Security Fund only, any other investment for which funds of the County may be legally invested at such time; and

(xviii) Any other investments permitted under N.J.S.A. 40A:5-15.1, or any such successor statute.

"Lease Payments" shall mean all amounts due and payable by the Company pursuant to the terms of the Company Lease Agreement, and shall consist of Basic Lease Payments and the Additional Lease Payments.

"Letter of Instructions" shall mean the letter of instructions attached to any Tax Certificate as an exhibit thereto provided by Inglesino, Pearlin, Wyciskala & Taylor, LLC or other Bond Counsel on the date of issuance and delivery of the Series of Bonds to which it applies, as such letter may be amended from time to time, as a source of guidance for compliance with the Code. There shall be no Letter of Instructions with respect to the Series 2011 Bonds.

"Local Finance Board Application" shall mean the Authority's application to the Local Finance Board in the Division of Local Government Services of the Department of Community Affairs dated January 19, 2011 with respect to the Series 2011 Bonds, which was the subject of a public hearing by and findings resolution of the Local Finance Board on March 9, 2011.

"Mandatory Purchase Price" shall have the meaning ascribed to such term in Section 702 of the Company Lease Agreement relating to the acceleration of the Bonds of any Series, including the Series 2011 Bonds.

"Net Proceeds" shall mean any insurance, condemnation, performance bond, or any other financial guaranty proceeds paid with respect to any portion of the Projects, remaining after payment therefrom of all expenses incurred in the collection thereof; and, with respect to insurance, if and at such time as the Company elects to provide self-insurance under Section 614 of the Company Lease Agreement, any moneys payable from any self-insurance fund of the Company which may lawfully be expended for the purposes for which such self-insurance is provided.

"Net Substitute Power Purchase Price" shall have the meaning ascribed to such term in Section 5.2(a)(i) of the Local Unit License Agreements for the Series 2011 Local Units.

"Official Statement" shall have the meaning set forth in Section 6.06 of this Bond Resolution.

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"Outstanding" or "outstanding" shall mean, when used with reference to Bonds of any Series, including the Series 2011 Bonds, as of any particular date (subject to the provisions of Section 13.08 hereof), all Bonds of such Series theretofore, or thereupon being, authenticated and delivered by the Trustee under this Bond Resolution, except: (i) Bonds of such Series theretofore or thereupon canceled by the Trustee or surrendered to the Trustee for cancellation; (ii) Bonds of such Series with respect to which all liability of the Authority shall have been defeated or discharged in accordance with Article XII of the Bond Resolution; and (iii) Bonds of such Series in lieu of or in substitution for which other Bonds of such Series shall have been authenticated and delivered by the Trustee pursuant to any provision of this Bond Resolution.

"Overdue Rate" shall mean two percent (2%) per annum over the Base Rate, which rate shall change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any Renewable Energy Program Interested Parties; provided, however, that notwithstanding the foregoing, to the extent the County Security, if any, shall have been drawn upon to reimburse the County in full for any County payments under the County Guaranty, the Overdue Rate with respect to interest to be paid on past due Basic Lease Payments (such payment of interest constituting an Additional Lease Payment under the Company Lease Agreement) shall have such different meaning, if any, as set forth in the County Security Agreement.

"Owner" or "Registered Owner" of a Bond shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds, as shown on the register kept by the Trustee pursuant to Section 3.04 of the Bond Resolution.

"Paying Agent" means the Paying Agent appointed pursuant to Section 10.02 of the Bond Resolution, and its successors.

"Plans and Specifications" shall mean the architectural and engineering drawings and specifications prepared by the Architect or other Contractor (through a Development Contract or otherwise) describing the Renewable Energy Projects or the Capital Improvement Projects (if any), including any Completion Project, as the case may be, as agreed to among the Company and the Applicable Series 2011 Local Unit pursuant to Section 501 of the Company Lease Agreement.

"Power Purchase Price Payments" shall mean the payments made by the respective Series 2011 Local Units for the purchase of electricity to the Trustee, at the direction of the Authority and on behalf of the Company, all in accordance with Section 5.1(e)(i) of the Local Unit License Agreements.

"Preliminary Official Statement" shall have the meaning set forth in Section 6.05 of this Bond Resolution.

"Principal Account" shall mean the Account within the Debt Service Fund so designated and established by Article V of this Bond Resolution.

"Principal Office" shall mean, when used with reference to the Authority, the Trustee or the Paying Agent, the respective addresses of such parties as set forth in Section 13.07 hereof, and any further or different addresses as set forth pursuant to Section 13.07 hereof, and with reference to the Series 2011 Local Units, the addresses set forth in Exhibit A-2 to the Company Lease Agreement, as any such party may update from time to time in accordance with the terms of the Company Lease Agreement.

"Principal Payment Date" shall mean, the date on which principal (including Sinking Fund installments, if any) of the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the first (1<sup>st</sup>) day of each May until final maturity of the Series 2011 Bonds, commencing May 1, 2013 with respect to the Series 2011A Bonds, and (b) which shall be \_\_\_\_\_ with respect to the Series 2011B Bonds, each of which shall constitute a regularly scheduled Principal Payment Date, or the date of (i) redemption or (ii) acceleration of the Bonds, including the Series 2011 Bonds.

"Principal Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the principal (including Sinking Fund Installments) of the Outstanding Bonds, including the Series 2011 Bonds, due and owing on the immediately succeeding Principal Payment Date, as set forth in Exhibit A-3 attached to the Company Lease Agreement, [except for the Basic Lease Payments due on \_\_\_\_\_ and \_\_\_\_\_, where Exhibit A-3 shall be controlling for such two (2) dates (due to the requirement that the Basic Lease Payment amount due for such two (2) dates shall not be equal to the amount due on the Outstanding Bonds)], less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments) the Bonds on the next occurring Principal Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Agod Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(v)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

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"Proceeds" shall mean the aggregate moneys paid by the initial purchasers of the Bonds of any Series, including the Series 2011 Bonds, to the Trustee, including any accrued interest on the Bonds, which may be net of any applicable underwriter's discount with respect to the applicable Series of Bonds.

"Purchase Option Price" shall have the meaning ascribed to such term in Section 701 of the Company Lease Agreement relating to the optional redemption of the Bonds of any Series, including the Series 2011 Bonds.

"Project Fund" shall mean the Fund so designated and established by Article V hereof.

"Rating Agency" shall mean individually or collectively, as the case may be, Moody's Investors Service, Standard & Poor's, or any other nationally recognized rating agency that has rated the Bonds, including the Series 2011 Bonds, or any Series of Additional Bonds, which rating was sought and/or purchased by the Authority.

"Record Date" shall mean with respect to an Interest Payment Date for a particular Series of Bonds, including the Series 2011 Bonds, unless otherwise provided by this Bond Resolution or a Supplemental Resolution authorizing such Series, the first (1<sup>st</sup>) day (whether or not such day shall be a Business Day) of the month preceding such Interest Payment Date.

"Redemption Price" shall mean, when used with reference to any Series of Bonds, including the Series 2011 Bonds or any portion thereof, the principal amount of such Bonds or such portion thereof and any premium thereon payable upon redemption thereof pursuant to the provisions of such Bonds and this Bond Resolution, except that with respect to the redemption of the Series 2011B Bonds pursuant to Section 2.03(5)(c) hereof, it shall mean one dollar (\$1.00).

"Reimbursement Collateral" shall mean, to the extent a County Security Agreement shall be delivered to the Authority and the Trustee in accordance with the provisions of Section 5.07(6) of the Bond Resolution, (i) the SRECs, (ii) the Net Substitute Power Purchase Price, and (iii) any past due Basic Lease Payments, together with any Additional Lease Payments constituting interest payable on such past due Basic Lease Payments at the Overdue Rate, all of which shall have been pledged and assigned by the Authority to the County Security Provider under the County Security Agreement, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security. If no County Security Agreement shall be so delivered, this term shall mean such portion of the monies and securities on deposit in the County Security Fund at any time, if any, that shall be available to the Company, in such case as County Security Provider, after and to the extent the County has been fully paid under its County

Guaranty; provided that no such monies shall be made available to the Company until the County has completed all of its payment obligations under the County Guaranty and been fully reimbursed therefor, from the County Security Fund or otherwise.

"Renewable Energy Program Interested Parties" shall mean individually or collectively, as the case may be, the Authority, the County, the Series 2011 Local Units, the Company, the Construction Manager, the County Security Provider, the Trustee or any other fiduciary under the Program Documents, or any other interested party with a right, duty or obligation under the Program Documents, including any agents (including professional advisors) of any of the foregoing.

"REP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Renewable Energy Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Renewable Energy Projects for each such Series 2011 Local Unit have been completed in accordance with the Plans and Specifications therefor, and have been accepted by the Company and the Applicable Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution.

"Reserved Rights" shall mean the Authority's right to retain the following under the Company Lease Agreement, which shall not be part of the Trust Estate pledged to the Trustee under Section 1.04 of the Bond Resolution:

(i) Receive the Additional Lease Payments earmarked for purposes other than the Purchase Option Price or the Mandatory Purchase Price (which Purchase Option Price or the Mandatory Purchase Price Additional Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), including without limitation (a) the Administrative Fee, if any, and any other Administrative Expenses, which the Authority shall be obligated to pay or cause to be paid to the Renewable Energy Program Interested Parties due such Administrative Expenses, and (b) interest payable on past due Lease Payments at the Overdue Rate (but not the Basic Lease Payments that may be paid together with any payment at the Overdue Rate, which Basic Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), provided, further, that the portion of which interest that is attributable to past due Basic Lease Payments may be assigned by the Authority to the County and/or the County Security Provider, if any, as part of the Reimbursement Collateral;

(ii) The payments set forth in Section 5.2(a)(ii) and (iii) of the Local Unit License Agreements for the Series 2011 Local Units that reflect the

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difference between the Gross Substitute Power Purchase Price and the Net Substitute Power Purchase Price, which includes the Administrative Fee;

(iii) Receive notices provided for in the Company Lease Agreement or any other Program Document;

(iv) Appoint, replace or remove such parties as shall be appointed, replaced or removed under the Company Lease Agreement or any other Program Document at the direction of the Authority; and

(v) The right to give or withhold consents, including consents to amendments, permitted or required of the Authority under the Company Lease Agreement or any other Program Documents, to the extent that any such consent or amendment would diminish the rights or enlarge the responsibilities or adversely affect the ability of the Authority to realize or perform same, respectively, or which would increase the Authority's potential liability or exposure to any party to any Program Document or to any third party as a result thereof. All such notices, appointments or consents under any other Program Document (i.e., other than the Company Lease Agreement) shall be unaffected by these rights, as the Authority's rights under the other Program Documents are not subject to the pledge of the Trust Estate under Section 1.04 of the Bond Resolution, and are either retained by the Authority, or assigned pursuant to the terms of the Program Documents, but in any event, shall not constitute a Revenue or other part of the Trust Estate for purposes of the Bond Resolution.

"Revenue Account" shall mean the Account within the Revenue Fund so designated and established by Article V hereof.

"Revenue Fund" shall mean the Fund so designated and established by Article V of the Bond Resolution.

"Revenues" shall mean (i) all Basic Lease Payments made by the Company under the Company Lease Agreement, together with all Power Purchase Price Payments made by the Series 2011 Local Units to the Trustee, (ii) those Additional Lease Payments related to the Purchase Option Price or the Mandatory Purchase Price made by the Company under the Company Lease Agreement, (iii) any investment income which is derived from the investment of any funds which are held by the Trustee pursuant to the terms of the Bond Resolution and which are deposited in the Funds and Accounts established under the Bond Resolution; provided, however, that Revenues shall not include the investment income on monies or securities held in the Administrative Expense Account or the Costs of Issuance Account of the Administrative Expense Fund, and (iv) any other amounts received from any other source by or on behalf of the Authority, the Company, the County, the Series 2011 Local Units, the Trustee or the Paying Agent, whereby such amounts are directed or permitted to be applied to the payment of the principal of, Redemption Price, and interest on the Bonds, including the Series 2011 Bonds.

"Series" shall mean all of the Bonds, including the Series 2011 Bonds, authenticated and delivered on original issuance and identified pursuant to this Bond Resolution or any Supplemental Resolution authorizing such Bonds as a separate Series of Bonds, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Sections 4.07 or 11.10 hereof, regardless of variations in maturity, interest rate or other provisions.

"Sinking Fund Installments", with respect to any Series of Bonds, shall have the meaning, if any, specified in either this Bond Resolution, including, without limitation and with respect to the Series 2011A Bonds, Section 2.03(6)(a) hereof, or the Applicable Supplemental Resolution.

"[Company]" shall mean that certain limited liability company organized and existing under the laws of Delaware, and authorized to do business in the State.

"Supplemental Resolution" shall mean the certificate or certificates of an Authorized Officer of the Authority referred to in Section 2.02(1)(d) hereof and/or any resolution or resolutions of the Authority amending, modifying or supplementing this Bond Resolution, authorizing the issuance of a Series of Additional Bonds, or any other Supplemental Resolution adopted by the Authority pursuant to the provisions of this Bond Resolution.

"Tax Certificate", with respect to any Series of Bonds other than the Series 2011 Bonds (there shall be no Tax Certificate with respect to the Series 2011 Bonds), means the "Tax Certificate as to Arbitrage and Instructions as to Compliance with the Provisions of Section 103(a) of the Internal Revenue Code of 1986, as amended" or similar document executed and delivered by an Authorized Officer of the Authority on the date of issuance of such Series of Bonds, as the same may be supplemented and amended from time to time, but only to the extent the interest on such Series of Bonds is excludable from the gross income of the Holders thereof for Federal income tax purposes.

"Tax-exempt Bonds" shall mean any Series of Additional Bonds with respect to which an opinion of Bond Counsel is delivered to the effect that interest on such Series of Bonds is excluded from gross income pursuant to Section 103 of the Code. The Series 2011 Bonds shall not be considered Tax-exempt Bonds.

"Trustee" shall mean the Trustee appointed pursuant to Section 10.01 of the Bond Resolution, and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the provisions of the Bond Resolution.

"Trust Estate" shall mean all right, title and interest of the Authority in, to and under (i) the Revenues, (ii) all moneys payable by the County under the County Guaranty, but only with respect to the Series 2011 Bonds unless extended to any Series of Additional Bonds, (iii) all moneys and securities held in any Funds and Accounts established under the Bond

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Resolution, except for moneys or securities held in (A) the Administrative Expense Account or the Costs of Issuance Account of the Administrative Fund or (B) the County Security Fund, if any, (iv) the Company Lease Agreement, but only to the extent necessary to enforce the payment of Revenues owed by the Company thereunder, which excludes all of the Authority's obligations thereunder, the Reserved Rights, and the Authority's rights to the Renewable Energy Projects for the Series 2011 Local Units or the Capital Improvement Projects for the Series 2011 Local Units, which (non-reserved) interests shall be assigned by the Authority (A) to the County Security Provider pursuant to the terms of the County Security Agreement, but only if such County Security Agreement shall be delivered to the Authority and the Trustee upon or prior to the issuance of the Series 2011 Bonds, and/or (B) to the County pursuant to the terms of the County Guaranty Agreement, and (v) any other amounts received from any other source by or on behalf of the Authority and pledged by the Authority as security for the payment of the Bonds, including the Series 2011 Bonds, all of which shall have been pledged by the Authority to the Trustee pursuant to Section 1.04 of the Bond Resolution as security for the payment of the principal, redemption premium, if any, and interest on the Bonds, including the Series 2011 Bonds. None of the Renewable Energy Projects for the Series 2011 Local Units, the Capital Improvement Projects for the Series 2011 Local Units, or the County Security shall be part of the Trust Estate.

**SECTION 1.02. Rules of Interpretation.** For all purposes of this Bond Resolution, except as otherwise expressly provided or unless the context otherwise requires:

1. "This Bond Resolution" means this instrument as originally adopted and as it may be supplemented, modified or amended from time to time by any Certificate of an Authorized Officer in accordance with Article II hereof, or in accordance with any Supplemental Resolution, unless in the case of any one or more Certificates or Supplemental Resolutions, the context requires otherwise.

2. All reference in this Bond Resolution to designated "Articles", "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this Bond Resolution. The words "herein", "hereof", "hereunder" and "herewith" and other words of similar import refer to this Bond Resolution as a whole and not to any particular Article, Section or other subdivision hereof.

3. The terms defined in this Bond Resolution include the plural as well as the singular.

4. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

5. The table of contents and the headings or captions used in this Bond Resolution are for convenience of reference only and shall not define, limit or prescribe any of the provisions hereof or the scope or intent hereof.

(vii) the Bonds shall be special and limited obligations of the Authority payable from and secured solely by a pledge of the Trust Estate as provided hereby.

**SECTION 1.03. Authority for this Bond Resolution; Appropriation.** This Bond Resolution is adopted pursuant to the provisions of the Act and constitutes a resolution authorizing bonds pursuant to the Act. Promptly after the initial adoption of this Bond Resolution, an Authorized Officer of the Authority shall cause the estoppel notice contemplated by Section 19 of the Act (N.J.S.A. 40:37A-62) to be published in an Authorized Newspaper. The adoption of this Bond Resolution by the governing body of the Authority shall provide an initial appropriation in the amount of \$52,000,000, which appropriation, upon issuance of a Series of Bonds, shall automatically be reduced (without any further action of the Authority) to the aggregate principal amount of Bonds issued and Outstanding (but not in excess of such maximum appropriation amount) in the amount of \$100 to exceed \$52,000,000. Accordingly, the Authority shall be, and hereby is, authorized by applicable law to contract for and spend money on the Projects, and other matters related to the Renewable Energy Program, including through the Program Documents, in an aggregate amount not to exceed such maximum appropriation.

**SECTION 1.04. Bond Resolution and Bonds Constitute a Contract; Pledge of Trust Estate.**

With respect to the Bonds, in consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued under this Bond Resolution by those who shall hold the same from time to time: (i) this Bond Resolution and the Bonds issued hereunder shall be deemed to be and shall constitute a contract by and among the Authority, the Trustee and the Holders, from time to time, of such Bonds; (ii) the pledge made herein to the Trustee for the benefit of the Holders of the Bonds, except that Bondholders shall have no interest in and shall not be secured by (A) the Administrative Fund and (B) the County Security Fund; (iii) the pledge made herein and the duties, covenants, obligations and agreements set forth herein to be observed and performed by or on behalf of the Authority shall be for the equal and ratable benefit, protection and security of the Holders of any and all of such Bonds, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction as to lien or otherwise, except as expressly provided herein or permitted hereby; (iv) the Authority, as security for the payment of the principal and Redemption Price, if any, and the interest on the Bonds and as security for the observance and performance of any other duty, covenant, obligation or agreement of the Authority under this Bond Resolution, all in accordance with the provisions thereof and hereof, does hereby grant a security interest in and further does grant, bargain, sell, convey, pledge, assign and confirm to the Trustee the Trust Estate; (v) notwithstanding any other provision to the contrary herein, that portion of the pledge made in clause (iv) of this Section 1.04 to secure the payment of any redemption premium payable hereunder shall not include clause (ii) of the definition of "Trust Estate"; (vi) the pledge made hereby is valid and binding from the time when the pledge is made, and the Trust Estate shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and regardless of whether held by the Trustee, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof; and

## ARTICLE II

### AUTHORIZATION AND ISSUANCE OF BONDS

**SECTION 2.01. Authorization of Bonds; Designation of Bonds of Series.**

1. This Bond Resolution authorizes Bonds of the Authority to be designated as "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011", which may be issued in one or more Series. The aggregate principal amount of the Bonds that may be executed, authenticated and delivered under this Bond Resolution is not limited except as may hereafter be provided in this Bond Resolution or as may be limited by law.

2. The Bonds may, if and when authorized by the Authority pursuant hereto or pursuant to one or more Supplemental Resolutions, be issued in one or more Series, and the designation thereof, in addition to the name "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 20\_\_", shall include such further appropriate particular designation added to or incorporated in such title for the Bonds of any particular Series as the Authority may determine. Each Bond shall bear upon its face the designation so determined for the Series to which it belongs.

3. Neither the State, the Series 2011 Local Units, the County (except to the extent of the County Guaranty) nor any political subdivision thereof, other than the Authority (but solely to the extent of the Trust Estate), is obligated to pay the principal or Redemption Price, if any, of or the interest on the Bonds, and neither the full faith and credit nor the taxing power of the State, the Series 2011 Local Units, the County (except to the extent of the County Guaranty) or any political subdivision thereof, including the Authority (which has no taxing power), is pledged to the payment of the principal or Redemption Price, if any, of or the interest on the Bonds. The County Guaranty does not secure redemption premium, if any.

**SECTION 2.02. General Provisions for Issuance of Bonds.**

1. All (but not less than all) of the Bonds of each Series shall be executed by the Authority for issuance under this Bond Resolution and delivered to the Trustee, and thereupon shall be authenticated by the Trustee and by it delivered to the Authority or upon its order, but only upon the receipt by the Trustee of:

(a) A copy of this Bond Resolution, certified by an Authorized Officer of the Authority.

(b) In the case of each Series of Additional Bonds, (1) a copy of the Supplemental Resolution authorizing such Series of Additional Bonds, certified by an Authorized Officer of the Authority, which shall, among other provisions, specify: (i) the authorized principal amount, designation and Series of such Additional Bonds; (ii) the purposes for which such Series of Additional Bonds are being issued, which shall be one of the purposes

set forth in Section 2.04 hereof; (iii) the dated date and the maturity date or dates of such Series of Additional Bonds; (iv) the interest rate or rates of such Series of Additional Bonds and the initial Interest Payment Date therefor, provided that the interest rate shall be identical for all such Additional Bonds of like maturity; (v) the denominations of and the manner of dating, numbering and lettering such Series of Additional Bonds, provided that such Additional Bonds shall be in denominations of \$5,000 or any integral multiple thereof as authorized by such Supplemental Resolution; (vi) the Paying Agent or Paying Agents and the place or places of payment of the principal and Redemption Price, if any, of and the interest on such Series of Additional Bonds; (vii) the Redemption Price or Prices, if any, and, subject to Article IV hereof, the redemption terms for such Series of Additional Bonds; (viii) the amount and due date of each Sinking Fund Installment, if any, for such Series of Additional Bonds of like maturity; (ix) the form of such Series of Additional Bonds and the Trustee's certificate of authentication, which shall be substantially in the form set forth in Section 14.01 hereof for the Series 2011 Bonds, with such variations, insertions or omissions as are appropriate and not inconsistent therewith; and (x) the provisions for the application of the proceeds of such Series of Additional Bonds; and (2) such other items required pursuant to the provisions of Section 2.05 hereof.

(c) An opinion of Bond Counsel to the effect that (i) the Authority has the right and power under the Act, as amended to the date of such opinion, to adopt this Bond Resolution; this Bond Resolution has been duly and lawfully adopted by the Authority, is in full force and effect, and constitutes a valid and binding agreement of the Authority, enforceable against the Authority in accordance with its terms; and no other authorization for this Bond Resolution is required; (ii) this Bond Resolution creates the valid pledge that it purports to create of the Trust Estate, subject only to the provisions of this Bond Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in this Bond Resolution; and (iii) the Authority is duly authorized and entitled to issue the Bonds of such Series; such Bonds have been duly and validly authorized and issued by the Authority in accordance with all applicable law, including the Act, as amended to the date of such opinion, and this Bond Resolution; and such Bonds constitute the valid and binding obligations of the Authority as provided in this Bond Resolution, enforceable against the Authority in accordance with their terms and the terms of this Bond Resolution, and are entitled to the benefits of the Act, as amended to the date of such opinion, and this Bond Resolution. Such opinion may take exception as to the effect of, or for restrictions or limitations imposed by or resulting from, bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws affecting creditors' rights generally and judicial discretion, and may state that no opinion is being rendered as to the availability of any particular remedy.

(d) A written order to the Trustee as to the delivery of such Bonds, signed by an Authorized Officer of the Authority.

(e) Notwithstanding any other provision to the contrary herein, in the case of the issuance of each Series of Series 2011 Bonds and where contemplated thereafter in accordance with the terms hereof, a Certificate of an Authorized Officer of the Authority setting forth (i) all of the items applicable to the Series 2011 Bonds that are detailed in subsection (b)

above with respect to a Series of Additional Bonds, (ii) whether the Series 2011 Bonds will be issued in one or more Series, including the Series 2011A Bonds and the Series 2011B Bonds as contemplated by Section 2.03(1)(e) hereof, and as notes or bonds, and if in note form, such specific terms required to issue, secure and repay such notes not specifically set forth in this Bond Resolution as originally adopted on March 20, 2011, and at private or public sale and the final form of the Sale Documents, all within the parameters of the Local Finance Board Application, (iii) the final pricing terms, including interest rates, principal amortization and Sinking Fund Installments, payment dates and terms of redemption of the Series 2011 Bonds, provided however that the Series 2011B Bonds shall bear interest at the same rates as the Series 2011A Bonds, (iv) the entities that shall constitute the Company (as selected pursuant to the Company RFP), the County Security Provider, if any, the Trustee, and the Paying Agent, (v) the final terms of the Program Documents within the parameters of the Local Finance Board Application, the Company RFP and the Company Proposal, (vi) the receipt and contribution of the DOE Grant, to the extent funds shall have been received prior to the issuance of the Series 2011A Bonds, and if not, provision for the receipt and application thereof, and (vii) subject to the parameters set forth in the definition of Series 2011 Bonds and the terms set forth in the Local Finance Board Application, and upon the advice of the Authority's Counsel and professional advisers, the addition to, deletion from or modification of any provision of this Bond Resolution as originally adopted on March 20, 2011, the contents of which Certificate may be incorporated in this Bond Resolution without compliance with any other provision herein, including, without limitation, Article XI hereof. The Authorized Officer executing any such Certificate shall report the substance of such Certificate to the Board at the Board's next public meeting.

(f) Such further documents, moneys and securities as are required by the provisions of Section 2.03 or 2.04 or Article XI hereof or by any Supplemental Resolution adopted pursuant to Article XI hereof.

2. All the Bonds of each such Series of like maturity shall be identical in all respects, except as to denominations, numbers and letters. After the original issuance of Bonds of any Series, no Bonds of such Series shall be issued except in lieu of or in substitution for other Bonds of such Series pursuant to Article III or Section 4.07 or 11.10 hereof.

**SECTION 2.03, Series 2011 Bonds.**

1. One or more Series of Bonds entitled to the benefit, protection and security of this Bond Resolution is hereby authorized in the aggregate principal amount of not to exceed \$52,000,000 for the purpose of acquiring, constructing, renovating, installing, operating and maintaining the Projects as set forth in and in accordance with the terms of the Company Lease Agreement and the Local Unit License Agreements for the Series 2011 Local Units. Such Series of Bonds shall be designated as, and shall be distinguished from the Bonds of all other Series by the title, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011".

(a) To the extent contemplated by the Certificates of an Authorized Officer of the Authority executed pursuant to Section 2.02(1)(e) hereof, the Series 2011 Bonds may be issued in two (2) or more Series, (i) a Series further designated as "Series 2011A Bonds" in an aggregate principal amount of \$\_\_\_\_\_, (ii) a Series further designated as "Series 2011B Bonds" in an aggregate principal amount of \$\_\_\_\_\_, and (iii) any other one (1) or more Series further designated and issued for one of the purposes set forth in Section 2.04(1) hereof, as shall be set forth in any such Certificate of an Authorized Officer, but only to the extent the Outstanding aggregate principal amount of Series 2011A Bonds, Series 2011B Bonds and any such other Outstanding Series of Series 2011 Bonds shall not exceed \$52,000,000.

(b) The Series 2011 Bonds shall be sold in accordance with the provisions of Section 6.04 hereof and all applicable law.

(c) Provided that the Company is not in default, or that the Company has not taken any action or refrained to take action, in either case that would cause an Event of Default to occur with the passage of time, under and as defined in any of the Company Documents, the Authority covenants to issue the Series 2011B Bonds no later than January 31, 2012 in an aggregate principal amount of \$\_\_\_\_\_ unless a Certificate of an Authorized Officer of the Company delivered to the Authority prior to the issuance thereof shall request a lower principal amount.

2. The Series 2011 Bonds shall be dated, and shall bear interest from, their date of issuance, on the basis of a 360-day year consisting of twelve 30-day months, and shall otherwise be payable as provided in Section 3.01 hereof.

(a) In addition to the \$\_\_\_\_\_ per amount of Series 2011B Bonds maturing on \_\_\_\_\_, the balance of the Series 2011 Bonds in the aggregate principal amount of \$\_\_\_\_\_ (resulting in an aggregate par amount of the Series 2011 Bonds in the amount of \$\_\_\_\_\_ ) shall mature on the dates and in the principal amounts (including Sinking Fund Installments), and shall bear interest payable semiannually on May 1 and November 1 in each year, commencing as set forth below for each respective Series, at the respective rates per annum, shown below:

May 1	Amount Maturing	Interest Rate and Yield	May 1	Amount Maturing and/or Sinking Fund Installment	Interest Rate and Yield
2013			2021		
2014			2022		
2015			2023		
2016			2024		
2017			2025		
2018			2026		
2019			2027		
2020					
Total					

(b) The Series 2011A Bonds shall mature on the dates and in the principal amounts, and shall bear interest payable semiannually on May 1 and November 1 in each year, commencing May 1, 2013, at the respective rates per annum, shown below:

May 1	Amount Maturing	Interest Rate and Yield	May 1	Amount Maturing	Interest Rate and Yield
2013			2021		
2014			2022		
2015			2023		
2016			2024		
2017			2025		
2018			2026		
2019			2027		
2020					
Total					

(c) [The \$\_\_\_\_\_ per amount of Series 2011B Bonds shall mature on \_\_\_\_\_] In addition to the \$\_\_\_\_\_ per amount of Series 2011B Bonds maturing on December 1, 2012, the balance of the Series 2011B Bonds in the aggregate principal amount of \$\_\_\_\_\_ (resulting in an aggregate par amount of the Series 2011B Bonds in the amount of \$\_\_\_\_\_ ) shall mature on the dates and in the principal amounts, and shall bear interest payable semiannually on May 1 and November 1 in each year, commencing May 1, 2013, at the respective rates per annum, shown below:

May 1	Amount Maturing	Interest Rate and Yield	May 1	Amount Maturing	Interest Rate and Yield
2013			2021		
2014			2022		
2015			2023		
2016			2024		
2017			2025		
2018			2026		
2019			2027		
2020					
Total					

(d) In addition to the interest set forth in (c) above, Holders of the Series 2011B Bonds shall be paid an additional interest payment on \_\_\_\_\_ in the amount of \$ \_\_\_\_\_, which amount shall be equal to interest payable on the \$ \_\_\_\_\_ based on an interest cost equal to the interest rate of the Series 2011A Bonds maturing May 1, 2013 of \_\_\_\_\_%, from the date the such amount is raised upon issuance of the Series 2011B Bonds, until payment thereon scheduled for \_\_\_\_\_. The \$ \_\_\_\_\_ represents the amount of funds to be raised from a portion of the proceeds of the Series 2011B Bonds, which in accordance with Section 2.03(7)(b) below, shall be applied to the payment of interest on the Series 2011A Bonds on each of May 1, 2012 in the amount of \$ \_\_\_\_\_, and on November 1, 2012 in the amount of \$ \_\_\_\_\_, plus a rounding amount of \$ \_\_\_\_\_ that shall be applied to pay a portion of the Administrative Expenses in accordance with Section 2.03(7)(a)(ii) below.

3. The Series 2011 Bonds shall be issued in denominations of \$5,000 or any integral multiple thereof. Unless the Authority shall otherwise direct, the Series 2011 Bonds shall be lettered and numbered from one upward in order of their maturity preceded by the letter "R" and such other letter as determined by the Trustee prefixed to the number. Subject to the provisions of this Bond Resolution, the form of the Series 2011 Bonds and the Trustee's certificate of authentication shall be substantially in the form set forth in Section 14.01 hereof.

(a) To the extent contemplated by the Certificate of an Authorized Officer of the Authority executed pursuant to Section 2.02(1)(e) hereof, the Series 2011A Bonds shall be lettered and numbered from one upward in order of their maturity preceded by the letters "R-A" and such other letter as determined by the Trustee prefixed to the number.

(a) To the extent contemplated by the Certificate of an Authorized Officer of the Authority executed pursuant to Section 2.02(1)(e) hereof, the Series 2011B Bonds shall be

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redemption on a redemption date and at such Redemption Price, all as authorized by, and pursuant to the terms of, Section 5(a) of the County Guaranty Agreement. Such redemption of the Series 2011B Bonds shall have no effect on the Series 2011A Bonds.

6. (a) (i) The Series 2011A Bonds maturing May 1, 20\_\_ are subject to mandatory redemption prior to their stated maturities, through selection by the Trustee and upon the giving of notice as provided by the Bond Resolution, by payment of the following "Sinking Fund Installments" on May 1 of each year set forth in the table below, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

\$ \_\_\_\_\_ % Term Bond Due May 1, 20\_\_, Yield \_\_\_\_\_ %

Year	Sinking Fund Installment

\* Final Maturity

(ii) The Series 2011A Bonds maturing May 1, 20\_\_ are subject to mandatory redemption prior to their stated maturities, through selection by the Trustee and upon the giving of notice as provided by the Bond Resolution, by payment of the following "Sinking Fund Installments" on May 1 of each year set forth in the table below, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

\$ \_\_\_\_\_ % Term Bond Due May 1, 20\_\_, Yield \_\_\_\_\_ %

Year	Sinking Fund Installment

\* Final Maturity

(b) As the Series 2011B Bonds shall be privately placed, upon initial issuance, with the County, as 100% Bondholder, the Series 2011B Bonds shall not be subject to mandatory sinking fund redemption prior to their stated maturities.

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lettered and numbered from one upward in order of their maturity preceded by the letters "R-B" and such other letter as determined by the Trustee prefixed to the number.

4. The principal and Redemption Price, if any, of the Series 2011 Bonds shall be payable at the Principal Office of [Name of Trustee], as Paying Agent. The principal and Redemption Price, if any, of all Series 2011 Bonds shall also be payable at any other place that may be provided for such payment by the appointment of any other Paying Agent or Paying Agents as permitted by this Bond Resolution. Interest on the Series 2011 Bonds shall be payable by check or draft of the Paying Agent mailed or transmitted to the Holders thereof as the same appear as of the Record Date on the books of the Authority maintained by the Trustee. However, so long as the Series 2011 Bonds are held in book-entry form pursuant to Section 2.06 hereof, the provisions of said Section 2.06 shall govern payment of the principal and Redemption Price, if any, of and the interest on the Series 2011 Bonds.

5. (a) The Series 2011 Bonds maturing on or before May 1, 20\_\_ shall not be subject to redemption prior to their respective maturity dates. The Series 2011 Bonds maturing on and after May 1, 20\_\_ shall be subject to redemption prior to their respective maturity dates, on or after May 1, 20\_\_ at the option of the Authority, upon notice as herein described, either in whole or in part, or in part on any Interest Payment Date in such order of maturity as the Authority shall determine and within a single maturity by lot, at a redemption price equal to one hundred percent (100%) of the principal amount to be redeemed (the "Redemption Price"), plus interest accrued to the date of redemption.

(b) Pursuant to the terms of the County Guaranty Agreement, under certain circumstances, the County may direct the Authority to utilize this otherwise discretionary optional redemption feature set forth above. To the extent the County causes an Event of Default, as defined under the Company Lease Agreement, to occur and such Event of Default requires the County to make a payment of the principal of and interest on the Series 2011A Bonds under the County Guaranty, so long as the County is not in default under the County Guaranty Agreement, the County has the right to cause the Authority to refund all or a portion of the Series 2011A Bonds. To the extent the County were to exercise this right prior to the first optional call date of May 1, 20\_\_, the County would be required to cause the Authority to defease the Series 2011A Bonds in accordance with Article XII of the Bond Resolution, in which case the Series 2011A Bonds would not be called for redemption until such first optional call date of May 1, 20\_\_. Any such redemption shall be made on the earliest practicable date at a redemption price of 100% of the principal amount to be redeemed, plus accrued interest to the date of redemption.

(c) The Series 2011A Bonds shall not be subject to extraordinary optional redemption prior to their stated maturities. The Series 2011B Bonds shall be subject to extraordinary optional redemption in whole prior to their respective maturity dates at an aggregate Redemption Price equal to one dollar (\$1.00), if and only if (i) the County is the Holder of one hundred percent (100%) of the Outstanding principal amount of the Series 2011B Bonds, and (ii) the County so directs the Authority to call all of such Series 2011B Bonds for

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7. \$ \_\_\_\_\_, consisting of the \$ \_\_\_\_\_ par amount of the Series 2011A Bonds, less an Underwriter's discount for the Series 2011A Bonds in the amount of \$ \_\_\_\_\_, (resulting in net proceeds from the Series 2011A Bonds in the amount of \$ \_\_\_\_\_), plus the \$ \_\_\_\_\_ par amount of the Series 2011B Bonds, the issuance of which Series 2011B Bonds shall be accompanied by a Certificate an Authorized Officer of the Authority as required by Section 2.02(1)(e) hereof and received by the Trustee no later than \_\_\_\_\_, all of which Series 2011 Bond proceeds shall be applied with the delivery of such Series 2011 Bonds as follows:

(a) There shall be deposited in the Administrative Fund the amount of \$ \_\_\_\_\_ of which shall be sourced from the Series 2011A Bonds and \$ \_\_\_\_\_ of which shall be sourced from the Series 2011B Bonds, (i) \$ \_\_\_\_\_ of which (all from the Series 2011A Bonds) shall be deposited in the Costs of Issuance Account in the Administrative Fund for application to the payment of certain Costs of Issuance incurred in connection with the issuance of the Series 2011 Bonds, including, without limitation, the Authority's initial Administrative Fee of \$100,000.00 and fees for the Trustee (waived) and counsel, and (ii) \$ \_\_\_\_\_ of which (A) \$20,000.00 of which shall be sourced from the Series 2011A Bonds, and (B) the balance of which in the amount of \$ \_\_\_\_\_ of which shall be sourced from the Series 2011A Bonds and \$ \_\_\_\_\_ of which shall be sourced from the Series 2011B Bonds) shall be applied to the payment of, or reimbursement for, the balance of the Preliminary Program Costs and Administrative Expenses, including without limitation fees for a Construction Manager, if any, upon the Trustee's receipt of a proper invoice or evidence of payment therefore; provided that a Certificate of an Authorized Officer of the Authority delivered to the Trustee may adjust and/or add to the payment categories within the Administrative Fund set forth above.

(b) Upon the issuance of the Series 2011B Bonds, \$ \_\_\_\_\_ (all from the Series 2011B Bonds) shall be deposited in the Capitalized Interest Account of the Debt Service Fund, which amount, together with interest earned thereon, if any, shall be sufficient to pay the interest on the Series 2011A Bonds on May 1, 2012 and November 1, 2012.

(c) There shall be \$ \_\_\_\_\_/no Series 2011 Bond proceeds deposited in the County Security Fund. Upon issuance of the Series 2011 Bonds, the County Security Fund Requirement is \$ \_\_\_\_\_, and accordingly, the Company shall not be required to provide County Security for deposit by the Trustee in the County Security Fund. To be revised based upon successful Company RFP.

(d) There shall be no Series 2011 Bond proceeds deposited in the General Fund.

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(e) The remaining balance of the proceeds of the Series 2011 Bonds in the amount of \$ \_\_\_\_\_ (\$ \_\_\_\_\_ of which shall be sourced from the Series 2011A Bonds, and \$ \_\_\_\_\_ of which shall be sourced from the Series 2011B Bonds), shall be deposited in the Project Fund, (i) \$ \_\_\_\_\_ of which (\$ \_\_\_\_\_ from the Series 2011A Bonds and \$ \_\_\_\_\_ from the Series 2011B Bonds) shall be applied to the payment of the Renewable Energy Projects for the Series 2011 Local Units, (ii) \_\_\_\_\_ of which shall be applied to the payment of the Capital Improvement Projects for the Series 2011 Local Units and (iii) \$ \_\_\_\_\_ of which (all from the Series 2011A Bonds) shall be applied to the payment of the Company Development Fees and Expenses, all in accordance with Section 3.02(2) hereof; provided that a Certificate of an Authorized Officer of the Company, as consented to by an Authorized Officer of the Authority, delivered to the Trustee may adjust the payment categories within the Project Fund set forth above.

8. Upon the authentication and delivery of the Series 2011 Bonds, the Authority shall furnish to the Trustee:

(a) An opinion of Bond Counsel to the effect that, under existing law, interest on the Series 2011 Bonds and any gain on the sale thereof are excluded from gross income for purposes of the New Jersey Gross Income Tax Act.

(b) Opinions of Counsel to the effect that each of the Authority and the Company has the right and power under the Act, as amended to the date of such opinion, and any other applicable law to enter into the Company Lease Agreement; the Company Lease Agreement has been duly and lawfully authorized and executed by the Authority and the Company, is in full force and effect, and is valid and binding upon the Authority and the Company, enforceable against the Authority and the Company in accordance with its terms; and no other authorization for the Company Lease Agreement is required. Opinions of Counsel to the effect that each of the Authority and the County has the right and power under the Act, as amended to the date of such opinion, and any other applicable law to enter into the County Guaranty Agreement; the County Guaranty Agreement has been duly and lawfully authorized and executed by the Authority and the County, is in full force and effect, and is valid and binding upon the Authority and the County, enforceable against the Authority and the County in accordance with its terms; and no other authorization for the County Guaranty Agreement is required. Such opinions may take exception as to the effect of, or for restrictions or limitations imposed by or resulting from, bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws affecting creditors' rights generally and judicial discretion, and may state that no opinion is being rendered as to the availability of any particular remedy, but that such limitations do not make the rights and remedies of the Bondholders, taken as a whole, inadequate for the practical realization of the benefits of the Company Lease Agreement and the County Guaranty Agreement.

#### SECTION 2.04. Purposes, Authorization and Description of Additional Bonds.

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Additional Bond shall be valid and obligatory for any purpose of this Bond Resolution unless said Additional Bond shall have been so authenticated.

5. After their authentication and delivery by the Trustee upon original issuance, all Additional Bonds shall for all purposes hereof be deemed to constitute Bonds, shall be entitled to the pledge of the Trust Estate provided by this Bond Resolution, and shall have equal rank with the Outstanding Series 2011 Bonds and any Outstanding Additional Bonds previously authenticated and delivered, and such Additional Bonds shall be entitled to the security and benefit of such pledge and of the provisions of this Bond Resolution.

6. If Additional Bonds are issued that pay interest on dates different from the interest Payment Dates of Bonds then Outstanding, there shall be no requirement that, on an Interest Payment Date of any Bond, the Trustee establish reserves for the benefit of the Holder of any other Bond on which interest is not then being paid unless provided herein or under the terms of any Supplemental Resolution.

#### SECTION 2.05. Conditions Precedent to Issuance of Additional Bonds.

1. The Trustee shall not authenticate or deliver upon original issuance any Additional Bonds to the Authority or upon its order, unless theretofore or simultaneously therewith there shall have been delivered or paid to the Trustee, among other things, the following:

(a) Copies of this Bond Resolution and the Supplemental Resolution of the Authority, certified by an Authorized Officer of the Authority and only to the extent adversely affecting the rights, duties and obligations of the Company, then additionally consented to in writing by an Authorized Officer of the Company, authorizing the issuance of such Additional Bonds, stating the purpose or purposes for the issuance of such Additional Bonds and otherwise conforming with the provisions of Section 2.04 hereof; and if such Additional Bonds are authorized for any purpose other than the refunding of Bonds, such Supplemental Resolution shall describe in brief and general terms the Completion Project to be financed by the issuance of such Additional Bonds.

(b) A copy of any Supplemental Resolution that has been duly adopted by the Authority, if required, certified by an Authorized Officer of the Authority, fixing the rate or rates of interest on such Additional Bonds and all other terms and provisions thereof that are not fixed by the terms of the Supplemental Resolution referred to in subparagraph (a) above or in this Bond Resolution.

(c) Reserved.

(d) If such Additional Bonds are authorized for the purpose described in clause (b) or (c) of paragraph (1) of Section 2.04 hereof, (i) a certificate of an Authorized Officer of each of the Authority and the Company to the effect that the Company Lease Agreement has

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1. After the execution, authentication and delivery of the Series 2011 Bonds, Additional Bonds of the Authority may be authorized to be issued pursuant to and in accordance with the terms of the Act either (a) reserved, (b) to refund any Bonds (including Additional Bonds) of the Authority, (c) to raise funds to pay the cost of the acquisition, construction, renovation or installation of part or parts of a Completion Project, including any deposit or increase into any Fund or Account that has been established by the terms of this Bond Resolution and that is incidental thereto or is deemed by the Authority to be necessary in connection therewith.

2. Any Series of Additional Bonds of the Authority shall be issued only after the authorization thereof by a Supplemental Resolution of the Authority duly adopted prior to the authentication and delivery of such Series of Additional Bonds. Such Supplemental Resolution shall state the purpose or purposes for which such Additional Bonds are being issued and shall direct the application of the proceeds that are to be derived from the sale of such Additional Bonds to such purpose or purposes and the execution and authentication thereof. Such Supplemental Resolution shall fix and determine the date, principal amounts, denominations, designation and numbers thereof, the rate or rates of interest or maximum rate of interest to be borne thereby, the place or places of payment therefor, the redemption privileges of the Authority, if any, with respect thereto, the amount and date of each Sinking Fund installment, if any, for the retirement of any Bonds and any other provisions thereof, all in accordance with the terms of this Bond Resolution. Upon such authorization, such Additional Bonds may, upon initial issuance, at one time or from time to time, be executed by or on behalf of the Authority and delivered to the Trustee for authentication by the Trustee as provided in this Bond Resolution, and thereafter such Additional Bonds shall be authenticated by the Trustee upon original issuance and, upon fulfillment of the applicable conditions set forth in Section 2.05 hereof, shall be delivered by the Trustee to the Authority or upon its order.

3. All Additional Bonds shall be substantially in the form and tenor of Bonds as provided in Section 14.01 hereof, except that, notwithstanding any other provision contained in this Bond Resolution to the contrary, such Bonds shall be issued in such principal amounts, shall be of such denominations, shall bear such dated date and such maturity dates, shall bear such designation as to Series, numbers or symbols prefixed to their numbers distinguishing them from each other Bond, shall be subject to redemption prior to their maturity on such terms and conditions that are consistent with the provisions of this Bond Resolution, shall bear interest at such rate or such different or varying rates of interest per annum, and shall be payable at such time or times as may be fixed by the Supplemental Resolution of the Authority authorizing the issuance of such Additional Bonds or by a Supplemental Resolution of the Authority duly adopted prior to the authentication and delivery of such Additional Bonds, as the case may be.

4. All Additional Bonds that are authorized by any Supplemental Resolution of the Authority shall constitute Bonds of a single Series. No bonds, notes or other obligations of the Authority shall constitute Additional Bonds unless they are authenticated by the Trustee as provided in this Bond Resolution, nor shall such Additional Bonds be entitled to any right or benefit under the terms of this Bond Resolution unless they are so authenticated, and no

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been amended to cover the issuance of the Additional Bonds, but only to the extent Basic Lease Payments, and with respect to the Purchase Option Price or Mandatory Purchase Price, Additional Lease Payments, shall be adjusted to provide a source of payment of the principal of, redemption premium, if any, and interest on Outstanding Bonds, (ii) a copy of such amended Company Lease Agreement, and (iii) a Certificate of an Authorized Officer of the Company, dated the date of issuance of such Additional Bonds, to the effect that all of the representations, warranties and covenants of the Company contained in the Company Lease Agreement are, as of such date, true, accurate and complete. If no such amendment to the Company Lease Agreement is required, a Counsel's opinion stating same shall be delivered to the Trustee.

(e) The written order of the Authority as to the delivery of such Additional Bonds signed by an Authorized Officer and stating the amount of the proceeds derived from the sale of such Additional Bonds.

(f) The amount, if any, stated in said written order as the amount of such proceeds that will be paid by the Authority to the Trustee for deposit in the Debt Service Fund, which amount shall be held by the Trustee in the Debt Service Fund.

(g) The amounts, if any, stated in said written order as the amounts of such proceeds that will be paid by the Authority to the Trustee for deposit in the Project Fund or in the Costs of Issuance Account or Administrative Expense Account in the Administrative Fund, as the case may be, which amounts shall be held by the Trustee in the Project Fund or in the Costs of Issuance Account or Administrative Expense Account in the Administrative Fund, as the case may be.

(h) Reserved.

(i) If such Additional Bonds are authorized for the purpose described in clause (b) of paragraph (1) of Section 2.04 hereof, the amount of such proceeds that will remain after deducting the amounts, if any, to be paid to the Trustee in accordance with the terms of subparagraphs (f) and (g) above.

(j) If such Additional Bonds are authorized for the purpose described in clause (c) of paragraph (1) of Section 2.04 hereof, a Certificate of the Architect or a Certificate of an Authorized Officer of each of the Authority and the Local Unit stating (i) the opinion that the improvement described in such Supplemental Resolution constitutes a Completion Project, (ii) that the improvement for which Additional Bonds are to be issued is part of a Project for which Bonds had theretofore been issued, (iii) the amount of proceeds to be deposited in the Project Fund, if any, and (iv) that such proceeds, together with any other funds of the Authority or otherwise that are then available or are expected to be available therefor, will be sufficient, in his opinion, to pay the Costs of the completion of the acquisition, construction, renovation or installation of said improvement.

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(k) An opinion of Bond Counsel approving the form of the Supplemental Resolution authorizing the issuance of the Additional Bonds and stating that (i) its terms and provisions conform to the requirements of the Act and this Bond Resolution, (ii) the order, certificates and amounts of money to be delivered or paid to the Trustee in accordance with the provisions of this Section 2.05 constitute compliance with the conditions heretofore stated for the authentication and delivery of such Additional Bonds, (iii) all of the conditions precedent to the authentication and delivery of the Additional Bonds have been satisfied, and (iv) the Trustee may lawfully authenticate the Additional Bonds upon their original issuance.

(j) If the Additional Bonds are insured, a copy of any municipal bond insurance policy issued with respect to such Additional Bonds.

(m) Any additional documents that are required to be executed and delivered pursuant to the terms of any contract executed by or on behalf of the Authority in connection with the sale of Additional Bonds, unless the execution and delivery of such additional documents have been waived by the purchaser of such Additional Bonds.

(n) Such other documents as may be required by a Supplemental Resolution of the Authority duly adopted prior to the authentication and delivery of the Additional Bonds, or as may be required by a Certificate of an Authorized Officer of the Authority executed in connection with the sale of such Additional Bonds.

2. If such Additional Bonds are authorized for the purpose described in clause (c) of paragraph (1) of Section 2.04 hereof, the Trustee shall deposit in the Project Fund the proceeds derived from the sale of such Additional Bonds issued for the Completion Project. The moneys so deposited shall be applied by the Authority and the Trustee to pay the Costs of the improvements described in the Supplemental Resolution of the Authority authorizing the issuance of such Additional Bonds.

3. If such Additional Bonds are authorized for the purpose described in clause (b) of paragraph (1) of Section 2.04 hereof, the Trustee shall deposit, at the direction of the Authority, (i) in the Costs of Issuance Account in the Administrative Fund an amount sufficient to pay the Costs of Issuance of such Additional Bonds, (ii) such other amounts not to be used for the refunding of such Bonds, if any, in such Funds and Accounts in accordance with the terms of the Supplemental Resolution, and (iii) the remaining proceeds derived from the sale of such Additional Bonds to the refunding of such Bonds in accordance with the terms of the Supplemental Resolution of the Authority authorizing the issuance of such Additional Bonds.

**SECTION 2.06. Book-Entry System.**

1. Except as provided in subparagraph (3) of this Section 2.06, the Registered Owner of all of the Series 2011 Bonds shall be, and the Series 2011 Bonds shall be registered in the name of, Cede & Co., as nominee for DTC. Payment of interest on any Series 2011 Bond shall be made by wire transfer to the account of Cede & Co. on the Interest Payment Dates for the Series 2011 Bonds at the address indicated for Cede & Co. in the registry books of the Authority kept by the Trustee.

2. The Series 2011 Bonds shall be issued initially in the form of a separate, single, fully-registered Bond in the amount of each stated maturity of the Series 2011 Bonds. Upon initial issuance, the ownership of each such Series 2011 Bond shall be registered in the registry books of the Authority kept by the Trustee in the name of Cede & Co., as nominee for DTC. With respect to Series 2011 Bonds registered in the registry books of the Authority kept by the Trustee in the name of Cede & Co., as nominee for DTC, the Authority and any Fiduciary shall have no responsibility or obligation to any participant or to any beneficial owner of such Series 2011 Bonds. Without limiting the immediately preceding sentence, the Authority and any Fiduciary shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any participant with respect to any beneficial ownership interest in the Series 2011 Bonds, (ii) the delivery to any participant, any beneficial owner or any other person, other than DTC, of any notice with respect to the Series 2011 Bonds, including any notice of redemption, or (iii) the payment to any participant, any beneficial owner or any other person, other than DTC, of any amount with respect to the principal or Redemption Price, if any, of or the interest on the Series 2011 Bonds. The Authority and any Fiduciary may treat DTC as, and deem DTC to be, the absolute Owner of each Series 2011 Bond for the purpose of payment of the principal or Redemption Price, if any, of and the interest on each such Series 2011 Bond, for the purpose of registering transfers with respect to such Series 2011 Bonds and for all other purposes whatsoever. The Paying Agent shall pay all principal or Redemption Price, if any, of and all interest on the Series 2011 Bonds only to or upon the order of DTC, and all such payments shall be valid and effective to satisfy and discharge fully the Authority's obligations with respect to the principal or Redemption Price, if any, of and the interest on the Series 2011 Bonds to the extent of the sum or sums so paid. No person other than DTC shall receive a Series 2011 Bond evidencing the obligation of the Authority to make payments of principal or Redemption Price, if any, of and interest on the Series 2011 Bonds pursuant to this Bond Resolution. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the transfer provisions hereof, the term "Cede & Co." in this Bond Resolution shall refer to such new nominee of DTC.

**ARTICLE III**

**GENERAL TERMS AND PROVISIONS OF BONDS**

**SECTION 3.01. Medium of Payment; Form and Date; Letters and Numbers.**

1. The Bonds shall be payable, with respect to principal, Redemption Price, if any, and interest, in any coin or currency of the United States of America that at the time of payment is legal tender for the payment of public and private debts.

2. The Bonds of each Series shall be issued only in the form of fully registered Bonds without coupons in denominations of \$5,000 or any integral multiple thereof. The Bonds of each Series shall be in substantially the form set forth in Section 14.01 hereof or substantially in the form set forth in a Supplemental Resolution authorizing such Series.

3. Each Bond shall be lettered and numbered as provided in this Bond Resolution or in a Supplemental Resolution providing for the issuance of the Series of which such Bond is a part and so as to be distinguished from every other Bond.

Bonds of each Series issued on the date of original issuance shall be dated and bear interest from the date set forth in this Bond Resolution or in a Supplemental Resolution authorizing such Series of Bonds. Bonds of each Series issued after the date of original issuance shall be dated as of the date of authentication thereof by the Trustee. Interest on each Bond shall be payable from the most recent Interest Payment Date next preceding the date of such Bond to which interest has been paid, unless the date of such Bond is an Interest Payment Date to which interest has been paid, in which case interest shall be payable from such date, or unless the date of such Bond is prior to the first Interest Payment Date on the Bonds, in which case interest shall be payable from the earliest date on which interest shall have accrued on such Series of Bonds, or unless the date of such Bond is between the Record Date and the next succeeding Interest Payment Date, in which case interest shall be payable from such Interest Payment Date.

4. The principal and Redemption Price, if any, of and the interest on each Series of Bonds shall be payable as provided in this Bond Resolution or in a Supplemental Resolution relating to such Series of Bonds.

**SECTION 3.02. Legends.**

The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Bond Resolution as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission or brokerage board, the Act or otherwise, as may be determined by the Authority prior to the authentication and delivery thereof.

3. (a) DTC may determine to discontinue providing its services with respect to the Series 2011 Bonds at any time by giving written notice to the Authority and the Fiduciaries and discharging its responsibilities with respect thereto under applicable law.

(b) The Authority, in its sole discretion and without the consent of any other person, may terminate the services of DTC with respect to the Series 2011 Bonds if the Authority so determines, and shall terminate the services of DTC with respect to the Series 2011 Bonds upon receipt by the Authority and the Fiduciaries of written notice from DTC to the effect that DTC has received written notice from participants having interests, as shown in the records of DTC, in an aggregate principal amount of not less than fifty percent (50%) of the aggregate principal amount of the then Outstanding Series 2011 Bonds and further to the effect that: (i) DTC is unable to discharge its responsibilities with respect to the Series 2011 Bonds; or (ii) a continuation of the requirement that all of the Outstanding Series 2011 Bonds be registered in the registration books of the Authority kept by the Trustee in the name of Cede & Co., as nominee for DTC, is not in the best interests of the beneficial owners of the Series 2011 Bonds.

(c) Upon the termination of the services of DTC with respect to the Series 2011 Bonds pursuant to subsection 2.06(3)(b)(ii) hereof, or upon the discontinuance or termination of the services of DTC with respect to the Series 2011 Bonds pursuant to subsection 2.06(3)(a) or subsection 2.06(3)(b)(i) hereof, after which no substitute securities depository willing to undertake the functions of DTC hereunder can be found that, in the opinion of the Authority, is willing and able to undertake such functions upon reasonable and customary terms, the Series 2011 Bonds shall no longer be restricted to being registered in the registration books of the Authority kept by the Trustee in the name of Cede & Co., as nominee for DTC, but may be registered in whatever name or names Bondholders transferring or exchanging Series 2011 Bonds shall so designate, all in accordance with the provisions of Article II hereof.

4. Notwithstanding any other provision of this Bond Resolution to the contrary, so long as any Series 2011 Bond is registered in the name of Cede & Co., as nominee for DTC, all payments with respect to the principal or Redemption Price, if any, of and the interest on such Series 2011 Bond and all notices with respect thereto shall be made and given, respectively, to DTC as provided in the representation letter of the Authority addressed to DTC with respect to the Series 2011 Bonds.

5. In connection with any notice or other communication to be provided to Bondholders by the Authority or the Trustee pursuant to this Bond Resolution with respect to any consent or other action to be taken by Bondholders, the Authority or the Trustee, as the case may be, shall establish a record date for such consent or other action and shall give DTC notice of such record date not less than fifteen (15) calendar days in advance of such record date, to the extent possible.

**SECTION 3.03. Execution and Authentication.**

1. The Bonds shall be executed in the name of the Authority by the manual or facsimile signature of the Chairman or other Authorized Officer of the Authority, and its corporate seal (or a facsimile thereof) shall be impressed, imprinted, engraved or otherwise reproduced thereon and attested by the manual or facsimile signature of the Secretary, Assistant Secretary or other Authorized Officer of the Authority, or in such other manner as may be required or permitted by law. In case any one or more of the Authorized Officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall have been authenticated and delivered by the Trustee, such Bonds may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond of a Series may be signed and sealed on behalf of the Authority by such persons who, at the time of the execution of such Bonds, shall be duly authorized or shall hold the proper office in the Authority, although at the date borne by the Bonds of such Series such persons may not have been so authorized or have held such office.

2. The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in this Bond Resolution or in a Supplemental Resolution authorizing such Series of Bonds, executed manually by the Trustee. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under this Bond Resolution, and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. Such certificate of the Trustee upon any Bond executed on behalf of the Authority shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under this Bond Resolution and that the Holder thereof is entitled to the benefits of this Bond Resolution.

**SECTION 3.04. Transfer and Registry.**

1. Each Bond shall be transferable only upon the books of the Authority, which shall be kept for that purpose at the Principal Office of the Trustee, by the Holder thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Trustee duly executed by the Holder or his duly authorized attorney. Upon the transfer of any such Bond, the Authority shall issue in the name of the transferee a new Bond or Bonds of the same aggregate principal amount, Series and maturity as the surrendered Bond.

2. The Authority and each Fiduciary may deem and treat the person in whose name any Bond shall be registered upon the books of the Authority as the absolute Owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price, if any, of and the interest on such Bond and for all other purposes, and all such payments so made to any such Holder or upon his order shall be

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valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Authority nor any Fiduciary shall be affected by any notice to the contrary.

**SECTION 3.05. Regulations With Respect to Exchanges and Transfers.**

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the Authority shall execute, and the Trustee shall authenticate and deliver, Bonds in accordance with the provisions of this Bond Resolution. All Bonds surrendered in any such exchange or transfer shall forthwith be canceled by the Trustee. For every such exchange or transfer of Bonds, whether temporary or definitive, the Authority or the Trustee may make a charge sufficient to reimburse it for any administrative costs associated with any exchange or transfer and for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. Neither the Authority nor the Trustee shall be required (a) to transfer or exchange Bonds for a period beginning on the Record Date next preceding an Interest Payment Date for the Bonds and ending on such Interest Payment Date, or for a period of fifteen (15) days (or such lesser period as may be specified in a Supplemental Resolution for a particular Series of Bonds) next preceding the date of any selection of Bonds to be redeemed or thereafter until after the mailing of any notice of redemption, or (b) to transfer or exchange any Bonds called or tendered for redemption.

**SECTION 3.06. Bonds Mutilated, Destroyed, Stolen or Lost.**

In case any Bond shall become mutilated or be destroyed, stolen or lost, the Authority shall execute, and thereupon the Trustee shall authenticate and deliver, a new Bond of like Series, maturity and principal amount as the Bond so mutilated, destroyed, stolen or lost (i) in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond or (ii) in lieu of and in substitution for the Bond so destroyed, stolen or lost upon filing with the Trustee evidence satisfactory to the Authority that such Bond has been destroyed, stolen or lost and proof of ownership thereof, and upon furnishing the Authority and the Trustee with indemnity satisfactory to them and complying with such other reasonable regulations as the Authority may prescribe and paying such expenses as the Authority and the Trustee may incur. All mutilated Bonds so surrendered to the Trustee shall be canceled by it. Any such new Bonds issued pursuant to this Section 3.06 in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Authority, whether or not the Bonds so alleged to be destroyed, stolen or lost be at any time enforceable by anyone, and such Bonds shall be equally secured by, and entitled to equal and proportionate benefits with all other Bonds issued under this Bond Resolution in, any moneys or securities held by the Authority or any Fiduciary for the benefit of the Bondholders.

**SECTION 3.07. Temporary Bonds.**

1. Until the definitive Bonds of any Series are prepared in the form required by the Authority, the Authority may execute, in the same manner as is provided in Section 3.03 hereof,

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and the Trustee shall authenticate and deliver, in lieu of definitive Bonds but subject to the same provisions, limitations and conditions as the definitive Bonds, one or more temporary Bonds substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The Authority, at its own expense, shall prepare and execute, and upon the surrender of such temporary Bonds for exchange and the cancellation of such surrendered temporary Bonds, the Trustee shall authenticate and, without charge to the Holder thereof (but at the expense of the Authority), deliver in exchange therefor, definitive Bonds of the same aggregate principal amount, Series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds authenticated and issued pursuant to this Bond Resolution.

2. All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith canceled by the Trustee.

**SECTION 3.08. Cancellation and Destruction of Bonds.**

All Bonds paid or redeemed, either at or before maturity, shall be delivered to the Trustee when such payment or redemption is made, and such Bonds, together with all Bonds purchased by the Trustee, shall thereupon be promptly canceled. Bonds so canceled may at any time be destroyed by the Trustee, which shall execute a certificate of destruction in duplicate by the signature of one of its Authorized Officers describing the Bonds so destroyed, and one executed certificate shall be filed with the Authority and the other executed certificate shall be retained by the Trustee.

**SECTION 3.09. Parties Interested Herein.**

Nothing in this Bond Resolution expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Authority, the Trustee, the Paying Agent and the Registered Owners of the Bonds, any right, remedy or claim under or by reason of this Bond Resolution or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Bond Resolution contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Trustee, the Paying Agent and the Registered Owners of the Bonds. Accordingly, nothing in this Bond Resolution expressed or implied is intended or shall be construed to confer upon, or to give to any other Renewable Energy Program Interested Party any right, remedy or claim under or by reason of this Bond Resolution or any covenant, condition or stipulation hereof.

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**ARTICLE IV**

**REDEMPTION OF BONDS PRIOR TO MATURITY**

**SECTION 4.01. Privilege of Redemption and Redemption Price.**

Bonds subject to redemption prior to maturity pursuant to this Bond Resolution shall be redeemable, upon notice as provided in this Article IV, at such times, at such Redemption Prices and upon such terms in addition to the terms contained in this Article IV as may be specified in this Bond Resolution, the Certificate of an Authorized Officer of the Authority referred to in Section 2.02(1)(e) hereof or any Supplemental Resolution authorizing such Series of Bonds.

**SECTION 4.02. Optional Redemption.**

1. The Series 2011 Bonds shall be subject to optional redemption in accordance with the provisions of this Bond Resolution, including, without limitation, Section 2.03(5) hereof, and any other Series of Bonds may be subject to optional redemption in accordance with the terms of a Supplemental Resolution and this Article IV.

2. In the case of any redemption of Bonds at the election of the Authority, the Authority shall give written notice to the Trustee of its election or direction to so redeem, of the redemption date and of the principal amounts of the Bonds of each maturity to be redeemed (which maturities and principal amounts thereof to be redeemed shall be determined by the Authority in its sole discretion, subject to any limitations with respect thereto contained in this Bond Resolution).

3. (a) In the case of any redemption of Bonds at the election of the Authority at the direction of the Company pursuant to the terms of the Company Lease Agreement (including without limitation the payment by the Company of the Purchase Option Price as an Additional Lease Payment thereunder), the Company shall give written notice to the Authority of its direction to so redeem, of the redemption date and of the principal amounts of the Bonds of each maturity to be redeemed (which maturities and principal amounts thereof to be redeemed shall be determined by the Company in its sole discretion, subject to any limitations with respect thereto contained in this Bond Resolution).

(b) In the case of any redemption of Series 2011B Bonds or any Additional Bonds at the election of the Authority at the direction of the County pursuant to the terms of the County Guaranty, the County shall give written notice to the Authority, with a copy to the Trustee, of the County's direction to so redeem, of the redemption date and of the principal amounts of such Bonds of each maturity to be redeemed (which maturities and principal amounts thereof to be redeemed shall be determined by the County in its sole discretion, subject to any limitations with respect thereto contained in this Bond Resolution and the County Guaranty Agreement).

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#### SECTION 4.05. Notice of Redemption.

When Bonds of a Series (other than the redemption of the Series 2011B Bonds pursuant to the provisions of Section 4.02(3)(b) hereof, the redemption terms and notice for which shall be as set forth in the County Guaranty Agreement) have been selected for redemption pursuant to any provision of this Bond Resolution, the Trustee shall give written notice of the redemption of such Bonds in the name of the Authority at the times specified in the second paragraph of this Section 4.05, which notice shall set forth: (i) the Series of Bonds to be redeemed, (ii) the date fixed for redemption, (iii) the Redemption Price to be paid, (iv) that such Bonds will be redeemed at the Principal Office of the Paying Agent, (v) if less than all of such Bonds shall be called for redemption, the distinctive numbers and letters, if any, of such Bonds to be redeemed, and (vi) in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed. Such notice shall further state that on the redemption date there shall become due and payable the Redemption Price of all Bonds to be redeemed, together with interest accrued to the redemption date, and that, from and after such date, interest thereon shall cease to accrue and be payable. In case any Bond is to be redeemed in part only, the notice of redemption that relates to such Bond shall also state that on or after the redemption date, upon surrender of such Bond, the Holder thereof shall be entitled to a new Bond or Bonds of the same Series bearing interest at the same rate and in the aggregate principal amount equal to the unredeemed portion of such Bond.

The notice required to be given by the Trustee pursuant to this Section 4.05 shall be sent by first-class mail to the Registered Owners of the Bonds to be redeemed, at their addresses as they appear on the registration books of the Authority, not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date. The failure to give notice of the redemption of any Bond or portion thereof to the Registered Owner of such Bond as herein provided or as provided in Section 4.06(2) hereof shall not affect the validity of the proceedings for the redemption of any Bonds for which notice of redemption has been given in accordance with the provisions of this Section 4.05.

#### SECTION 4.06. Payment of Redeemed Bonds.

1. On the date designated for redemption, notice having been given in the manner and under the conditions hereinabove provided, the Bonds or the portions thereof called for redemption shall become and be due and payable at the Redemption Price provided for redemption of such Bonds or such portions thereof on such date. If moneys for the payment of the Redemption Price and the accrued interest to the redemption date are held in a separate account by the Trustee in trust for the Holders of such Bonds, interest on such Bonds or such portions thereof so called for redemption shall cease to accrue and be payable, such Bonds or such portions thereof shall cease to be entitled to any benefit or security under this Bond Resolution, and the Holders of such Bonds or such portions thereof shall have no rights in respect thereof, except to receive payment of the Redemption Price thereof and the accrued interest thereon and, to the extent provided in Section 4.07 hereof, to receive Bonds for any unredeemed portions of Bonds.

### ARTICLE V

#### REVENUES AND FUNDS

##### SECTION 5.01. Creation of Funds and Accounts.

1. Project Fund, to be held by the Trustee.
2. Administrative Fund, to be held by the Trustee, which shall consist of a Costs of Issuance Account and an Administrative Expense Account, and which Fund and Accounts are not subject to the pledge of the Trust Estate to the Trustee for the benefit of the Bondholders.
3. Revenue Fund, to be held by the Trustee, which shall consist of a Revenue Account, and an Aged Account.
4. Debt Service Fund, to be held by the Trustee, which shall consist of a Capitalized Interest Account, an Interest Account and a Principal Account. A Supplemental Resolution may establish an Account or subaccount for capitalized interest for any Series of Bonds other than the Series 2011 Bonds, if applicable.
5. County Security Fund, to be held by the Trustee, which Fund is not subject to the pledge of the Trust Estate to the Trustee for the benefit of the Bondholders.
6. General Fund, to be held by the Trustee.
7. There shall be no other Fund or Account established under the Bond Resolution, including without limitation a rebate fund or account, unless created by Supplemental Resolution.

Each of the Funds and Accounts created by this Bond Resolution, other than the Administrative Fund and the County Security Fund, if any, is hereby pledged to, and charged with, the payment of the principal or Redemption Price, if any, of and the interest on the Bonds as the same shall become due.

##### SECTION 5.02. Project Fund.

1. There shall be deposited in the Project Fund (a) from the proceeds of the Series 2011 Bonds, the amounts set forth in Section 2.03(7)(b) hereof, and (b) from the proceeds of each Series of Additional Bonds for a Completion Project, the amounts set forth for deposit therein pursuant to the Supplemental Resolutions authorizing the issuance of each such Series of Additional Bonds. The Company may, at its option in its sole discretion, determine to pay for any additional Project Costs by making an equity contribution or causing a third party to deposit funds with the Trustee, by accompanying any such deposit with a Certificate of an Authorized Officer of the Company (acknowledged by the Authority as to form only) delivered by or on

4. Such notice required under subsection (2) or (3)(a) of this Section 4.02 shall be given at least forty-five (45) days prior to the redemption date or such shorter period as shall be agreed to in writing by the Trustee or the Authority, as the case may be. In the event notice of redemption shall have been given as provided in Section 4.05 hereof, the Authority shall pay or require the Company to pay (in accordance with the terms of the Company Lease Agreement) to the Trustee on or prior to the redemption date an amount in cash that, in addition to other moneys, if any, available therefor held by the Trustee, will be sufficient to redeem on the redemption date at the Redemption Price thereof, plus interest accrued and unpaid to the redemption date, all of the Bonds to be redeemed.

#### SECTION 4.03. Redemption by Trustee.

Whenever, by the terms of this Bond Resolution, the Trustee is required to redeem Bonds otherwise than at the election or direction of the Authority or the Company or the County, the Trustee shall select the Bonds to be redeemed, give the notice of redemption as provided in Section 4.05 hereof and pay the Redemption Price thereof out of moneys available therefor, plus interest accrued and unpaid to the redemption date, to the Paying Agent in accordance with the terms of this Article IV and, to the extent applicable, Article V hereof.

#### SECTION 4.04. Selection of Bonds to be Redeemed.

1. If less than all of the Bonds of like maturity shall be called for redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected at random by the Trustee in such manner as the Trustee in its discretion may deem fair and appropriate; provided, however, that the portion of any Bond of a denomination of more than \$5,000 to be redeemed shall be in the principal amount of \$5,000 or any integral multiple thereof, and that, in selecting Bonds for redemption, the Trustee shall treat each Bond as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by the minimum denomination in which Bonds of such Series are authorized to be Outstanding after the redemption date.

2. If less than all of the Outstanding Bonds that are stated to mature on different dates are called for redemption at one time on any given redemption date occasioned by the payment of the Purchase Option Price by the Company in accordance with the terms of the Company Lease Agreement, an Authorized Officer of the Company shall designate, by maturity, those Bonds that are to be redeemed on any such redemption date by delivering to the Trustee not earlier than sixty (60) days and not later than forty-five (45) days prior to any such redemption date a Certificate detailing such maturities and the amounts to be redeemed within each such maturity. If the Trustee has not received the Company's Certificate by such forty-fifth (45th) day, or if the redemption is occurring other than by payment of the Purchase Option Price by the Company in accordance with the terms of the Company Lease Agreement, the Trustee shall select the Bonds to be redeemed in the same manner as those Bonds selected in accordance with Section 4.04(1) hereof.

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2. With respect to any Bonds to be redeemed that have not been presented for redemption within sixty (60) days after the redemption date, the Trustee, at the expense of the Company for any redemption occasioned by the payment of the Purchase Option Price by the Company in accordance with the terms of the Company Lease Agreement, and at the expense of the Authority, if otherwise, shall give a second notice of redemption by registered mail to the Registered Owners of any such Bonds not presented for redemption.

#### SECTION 4.07. Redemption of Portions of Bonds.

In case part but not all of an Outstanding Bond shall be selected for redemption, upon presentation and surrender of such Bond to the Paying Agent on or after the redemption date for payment of the principal amount thereof so called for redemption and accrued interest thereon, the Authority shall execute and the Trustee shall authenticate and deliver to or upon the order of the Registered Owner thereof or his attorney or legal representative, without charge therefor, a new Bond or Bonds of the same Series, bearing interest at the same rate and in any denomination or denominations authorized by this Bond Resolution in the aggregate principal amount equal to the unredeemed portion of such Bond.

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behalf of the Company to the Trustee. The source of such funds may, but shall not be required to be, any funds previously withdrawn by the Company pursuant to subsection 2(b) below.

2. (a) The Trustee shall make payments, if any, from the Project Fund for Costs of the Renewable Energy Projects and the Capital Improvement Projects for the Series 2011 Local Units in the amounts, at the times on each Draw Date, in the manner and on the other terms and conditions set forth in this Section 5.02(2)(a) and Section 510 and 511 of the Company Lease Agreement. Before any such payment shall be made, the Company shall file with the Trustee the Draw Papers therefor (executed by the Company, acknowledged by the Applicable Series 2011 Local Unit that the Renewable Energy Project Cost or Capital Improvement Project Cost has been incurred in accordance with the Plans and Specifications therefor, and acknowledged as to form only by the Authority), which Draw Papers shall be in substantially the form set forth as Exhibit C to the Company Lease Agreement. The Trustee shall issue a copy of such Draw Papers to the Authority and the Applicable Series 2011 Local Unit at the address set forth in the Applicable Local Unit License Agreement, and thereupon promptly issue the Trustee's check for each payment required by such Draw Papers to or on behalf of the Company, or the Trustee shall, by interbank transfer or other method, arrange to make and promptly make the payment required by such Draw Papers to or on behalf of the Company.

(b) The Trustee shall also make payments, if any, from the Project Fund for Company Development Fees and Expenses in an aggregate amount not to exceed \$\_\_\_\_\_ unless a higher ceiling is specifically authorized by a Certificate of an Authorized Officer of the Authority (which may be provided in the Company Lease Agreement, Exhibit D, Authority acknowledgment as to form only), upon the Trustee's receipt of a duly authorized and executed Certificate of an Authorized Officer of the Company in substantially the form set forth in Exhibit D to the Company Lease Agreement, in the manner and on the other terms and conditions set forth in this Section 5.02(2)(b) and Section 509(d) of the Company Lease Agreement. Such Certificates of an Authorized Officer of the Company may be executed and delivered to the Trustee upon issuance of the Series 2011 Bonds, or thereafter, as the Company shall determine, so long as it is acknowledged by an Authorized Officer of the Authority as to form only in the form set forth on Exhibit D to the Company Lease Agreement, and further, so long as it, together with all prior such Certificates, does not exceed the ceiling noted above (absent specific authorization from the Authority). The Trustee shall promptly issue the Trustee's check for each payment required by such Certificate to or on behalf of the Company, or the Trustee shall, by interbank transfer or other method, arrange to make and promptly make the payment required by such Certificate to or on behalf of the Company.

3. (a) From time to time, in accordance with the terms of the Company Lease Agreement, the Local Unit License Agreements with respect to the Series 2011 Local Units, and this Bond Resolution, the Company shall file with the Trustee, Acceptance Certificates at the following times and with respect to the following matters, and upon receipt thereof, the Trustee shall take the following actions:

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until each such Certificate shall be further acknowledged by an Authorized Officer of the Authority as to form only; and

(iii) Upon the Trustee's receipt of the fully authorized, completed, executed, acknowledged and delivered CIP Acceptance Certificate and REP Acceptance Certificate with respect to all of the Renewable Energy Projects and Capital Improvement Projects for a particular Series 2011 Local Unit, the Trustee shall automatically, and without any further authorization, release to the Company one half (1/2) of the ten percent (10%) retainage previously withheld by the Trustee from all of the Draw Papers previously submitted by the Company with respect to such Renewable Energy Projects and Capital Improvement Projects for such Series 2011 Local Unit.

(b) Prior to the filing of the last Acceptance Certificate for the last Series 2011 Local Unit that is funding a Project, any remaining moneys, including interest, earmarked for a Project for which an Acceptance Certificate shall have been filed, shall remain in the Project Fund. Upon the filing by the Company, as duly acknowledged by the Series 2011 Local Units and the Authority, all in accordance with the terms hereof, of the Company Lease Agreement, and of the Local Unit License Agreements for the Series 2011 Local Units, of the final Acceptance Certificate for all of the Series 2011 Local Units on or prior to \_\_\_\_\_, 2012, unless extended in accordance with the terms of the Company Lease Agreement, regardless of which Project, any such Acceptance Certificate shall additionally provide that the Trustee shall transfer any funds remaining on deposit in the Project Fund as follows, and upon the Trustee's receipt of same, without any further authorization, the Trustee shall so apply any such remaining funds: (i) the Trustee shall (A) release and pay over to the Company the other half (1/2) of the ten percent (10%) retainage previously withheld by the Trustee from all of the Draw Papers previously submitted by the Company with respect to all of the Renewable Energy Projects and Capital Improvement Projects for all of the Series 2011 Local Units, and (B) transfer any such remaining funds to the Debt Service Fund and apply such funds as a credit to the next due interest Portion of Basic Lease Payments due from the Company, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Company, and if still not fully applied, then to the next due future interest Portion, and then Principal Portion, of Basic Lease Payments due from the Company, until fully applied, but only so long as the Company shall not have caused an Event of Default under the Company Lease Agreement or any other Company Document, in which latter case (ii) the Trustee shall transfer any such remaining funds as set forth in a Certificate of an Authorized Officer of the Authority accompanying any such Acceptance Certificate, as applicable, or subsequently delivered to the Trustee, as applicable. To the extent the final Acceptance Certificate for all of the Series 2011 Local Units shall not have been filed by the Company, as duly acknowledged by the Series 2011 Local Units and the Authority, all in accordance with the terms hereof, of the Company Lease Agreement, and of the Local Unit License Agreements for the Series 2011 Local Units, on or prior to \_\_\_\_\_, 2012 (thereby causing an Event of Default under, and as defined in, the Company Lease Agreement, but not under this Bond Resolution), the Trustee shall transfer any funds remaining on deposit in the Project Fund as set forth in a Certificate of an Authorized Officer of the Authority.

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(i) The Company shall file with the Trustee the REP Acceptance Certificates in the form set forth as Exhibit B-1 to the Company Lease Agreement, one for each Series 2011 Local Unit, signed by an Authorized Officer of the Company with respect to the Renewable Energy Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, when (A) the Company has submitted all Draw Papers respecting Costs of such Renewable Energy Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (B) all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed and installed in accordance with the Plans and Specifications therefor, (C) all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by the Company and such Series 2011 Local Unit, and (D) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Renewable Energy Projects, if any, all in accordance with subsection (b) below. Each such REP Acceptance Certificate shall not be filed by the Company with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, until each such Certificate shall be further acknowledged by an Authorized Officer of the Authority as to form only, and until accompanied by one or more Interconnection Agreements with respect to all such Renewable Energy Projects or Completion Projects related thereto;

(ii) The Company shall file with the Trustee the CIP Acceptance Certificates in the form set forth as Exhibit B-2 to the Company Lease Agreement, one for each Series 2011 Local Unit that is financing Capital Improvement Projects with a portion of the proceeds of the Bonds, signed by an Authorized Officer of the Company with respect to such Capital Improvement Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, when (A) the Company has submitted all Draw Papers respecting Costs of such Capital Improvement Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (B) all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed, renovated and installed in accordance with the Plans and Specifications therefor, (C) all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by such Series 2011 Local Unit, and (D) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Capital Improvement Projects, if any, all in accordance with subsection (b) below. Each such CIP Acceptance Certificate shall not be filed by the Company with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, and

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4. To the extent a Series of Additional Bonds are issued as Tax-exempt Bonds, the Authority shall cause the Company to issue any Draw Papers and Acceptance Certificates on such terms additional to the requirements of this Section 5.02 as shall be required by Bond Counsel as set forth in the provisions of the Tax Certificate for such Series of Additional Bonds.

#### SECTION 5.03. Administrative Fund.

1. There shall be established within the Administrative Fund a Costs of Issuance Account and an Administrative Expense Account.

2. In addition to the amounts deposited in the Costs of Issuance Account from the proceeds of the Series 2011 Bonds pursuant to Section 2.03(7)(a)(i) hereof and in the Administrative Expense Account from the proceeds of the Series 2011 Bonds pursuant to Section 2.03(7)(a)(ii) hereof, there shall be deposited in the Administrative Fund from the proceeds of each Series of Additional Bonds the amounts set forth for deposit therein pursuant to the Supplemental Resolutions authorizing the issuance of each such Series of Additional Bonds.

3. (a) The Authority shall direct the Trustee, in writing, to make payments from the Costs of Issuance Account in the manner and on the terms and conditions as the Authority shall determine to be fair and reasonable in the payment of the particular items of the Costs of Issuance relating to a particular Series of Bonds and, with respect to any Series of Additional Bonds that constitute Tax-exempt Bonds, in accordance with the provisions of the Tax Certificate. With respect to Costs of Issuance incurred on behalf of a Series 2011 Local Unit for which either direct payment or reimbursement is being sought, such terms and conditions shall include, as a minimum, a Certificate of an Authorized Officer of such Series 2011 Local Unit in the form of Exhibit F to the Local Unit License Agreement, as applicable, to the effect that any such Cost of Issuance for which payment is sought (i) constitutes a Cost of Issuance hereunder, (ii) has been properly incurred in accordance with all applicable law, and (iii) is evidenced by a proper invoice attached to said Certificate. Costs of issuance to be paid by or on behalf of the Company shall not be deemed a Costs of Issuance for purposes of any Program Document, and may be paid or reimbursed as a Company Development Fee and Expense, payable from the Project Fund, in accordance with the terms of Section 5.02(2)(b) hereof and Section 509(d) of the Company Lease Agreement.

(b) Upon the payment of all Costs of Issuance as evidenced by a Certificate of an Authorized Officer of the Authority to such effect, the amounts remaining in the Costs of Issuance Account, if any, shall be transferred according to the direction of any such Certificate of an Authorized Officer of the Authority, to any of the following: (i) to the Administrative Expense Account for payment of Administrative Expenses, (ii) to the Debt Service Fund and applied to pay the interest on and, to the extent available therefor, the principal of the Bonds due and owing on the immediately succeeding Interest Payment Date, (iii) to the Project Fund and applied to the Costs of Projects in accordance with Section 5.02 hereof, or (iv) as otherwise set forth in such Certificate of an Authorized Officer of the Authority.

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4. (a) The Trustee shall invoice the Company (i) for the annual Administrative Fee not provided for from a portion of the proceeds of a Series of Bonds, if any, at least sixty (60) days prior to the date such amounts become due, and (ii) for any other Administrative Expenses not provided for from a portion of the proceeds of a Series of Bonds, if any, and that is approved by the Authority, promptly after the receipt by the Trustee of a Certificate of an Authorized Officer of the Authority delivered to the Trustee to such effect.

(b) The Company shall pay to the Trustee as Additional Lease Payments under the Company Lease Agreement for deposit in the Administrative Expense Account (i) the Administrative Fee when due in accordance with the definition thereof, if any, not otherwise provided for from a portion of the proceeds of a Series of Bonds, and (ii) any other amounts due as Administrative Expenses, including without limitation interest payable at the Overdue Rate at the times set forth herein or in the Company Lease Agreement, as the case may be.

(c) Upon receipt of such Bond proceeds or Additional Lease Payments, as the case may be, the Trustee shall promptly forward the Administrative Fee including, subject to the following sentence, any amounts payable at the Overdue Rate to the Authority and the other amounts due as Administrative Expenses to the party on whose behalf such payments were made. To the extent the Trustee has made an advance of a payment due and owing by the Company under this Bond Resolution, the Company Lease Agreement or any other Program Document and the Company has paid to the Authority moneys at the Overdue Rate, the Authority shall first reimburse the Trustee from any such Overdue Rate receipts to the extent of any such advances made by the Trustee.

(d) The Administrative Fee may be retained or applied by the Authority in its sole discretion for any corporate purpose allowable under the Act as such funds are not subject to the pledge of the Trust Estate unless and until deposited in any Fund or Account under the Bond Resolution, which purposes may include, without limitation, the application to any Fund or Account under the Bond Resolution at the written direction of a Certificate of an Authorized Officer of the Authority filed with the Trustee, which Certificate for all Series of Tax-exempt Bonds, must also comply with the Tax Certificate or otherwise be subject to an opinion of Bond Counsel filed with the Trustee that such application won't adversely affect exclusion from gross income of the holders of any such Series of Tax-exempt Bonds for Federal income tax purposes.

(e) Upon the payment of all Administrative Expenses funded from the Series 2011 Bonds, as evidenced by a Certificate of an Authorized Officer of the Authority to such effect, the amounts remaining in the Administrative Expense Account and allocable to such Series 2011 Bond proceeds, together with interest earned thereon and retained therein, if any, shall be transferred according to the direction of any such Certificate of an Authorized Officer of the Authority, to any of the following: (i) to the Debt Service Fund and applied to pay the interest on and, to the extent available therefor, the principal of the Bonds due and owing on the immediately succeeding Interest Payment Date, (ii) to the Project Fund and applied to the

of Projects in accordance with Section 5.02 hereof, or (iii) as otherwise set forth in such Certificate of an Authorized Officer of the Authority.

#### SECTION 5.04. Revenues.

All Revenues shall be promptly deposited to the credit of Revenue Account within the Revenue Fund, and all transfers from such Fund shall be made only in accordance with this Article V.

#### SECTION 5.05. Revenue Fund.

1. (a) On each Basic Lease Payment Date or any other date on which the Trustee receives Basic Lease Payments from the Company or Power Purchase Price Payments made by the Series 2011 Local Units on behalf of the Company, the Trustee shall deposit each Basic Lease Payment made by the Company pursuant to the terms of the Company Lease Agreement, and any Power Purchase Price Payments made by the Series 2011 Local Units on behalf of the Company, for immediate credit in the Revenue Account within Revenue Fund. The Trustee shall notify the Company, with a copy to the Authority, of the circumstances and amounts providing credits to Basic Lease Payments due from the Company, all at the times and as otherwise required by Sections 302(a)(iii), 305(b), 306(b), and 310(b) of the Company Lease Agreement.

(b) On each date on which the Trustee receives Additional Lease Payments from the Company allocable to the Purchase Option Price or the Mandatory Purchase Price, the Trustee shall deposit each such Additional Lease Payment made by the Company pursuant to the terms of the Company Lease Agreement for immediate credit in the Revenue Account within Revenue Fund.

(c) After any such funds deposited in the Revenue Account within the Revenue Fund in accordance with subsections (a) or (b) above have been on deposit for one hundred twenty-three (123) consecutive days in the Revenue Account within the Revenue Fund, and have not been recaptured by or on behalf of the Company or its other creditors, the Trustee shall transfer such funds to the Aged Account within the Revenue Fund on the first day of the following month (unless the first day of the following month is an Interest Payment Date, in which case the money should be transferred to the Aged Account on the fifteenth (15<sup>th</sup>) day of such present month, or if the transfer date is after such fifteenth (15<sup>th</sup>) day of such present month preceding an Interest Payment Date, transferred immediately).

2. On or prior to each Interest Payment Date, the Trustee shall transfer from moneys on deposit in the Aged Account within the Revenue Fund to the Interest Account in the Debt Service Fund the amount that, together with the amounts, if any, already on deposit in the Interest Account and the amounts, if any, on deposit in the Capitalized Interest Account and designated for use on such Interest Payment Date pursuant to this Bond Resolution or a Supplemental Resolution, is equal in the aggregate to the interest due and payable on the Outstanding Bonds on such Interest Payment Date.

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Paying Agent and applied by the Paying Agent to the payment of such interest to the Holders as of the Record Date, all in accordance with the terms of this Bond Resolution.

(b) If, by 9:00 a.m. Eastern Standard Time ("EST") thirty (30) days' prior to any Interest Payment Date, the Trustee has determined that there are insufficient funds in the Interest Account in the Debt Service Fund (after taking into account any moneys earmarked for transfer therein from the Revenue Fund and all other amounts available hereunder for transfer into the Interest Account in the Debt Service Fund) to pay the full amount of interest due and owing on such Bonds on such Interest Payment Date, the Trustee shall immediately notify the Authority, the Company, the County and the Paying Agent of such deficiency. The Trustee shall continue to notify such entities of any continuing deficiency on a weekly basis, with the final notification being 9:00 a.m. EST on any such Interest Payment Date.

(c) The County shall timely satisfy any such deficiency remaining as of 10 a.m. on any such Interest Payment Date, by immediately making a payment under the County Guaranty (in accordance with the terms of the County Guaranty Agreement) in the amount of any continuing deficiency in immediately available funds to the Trustee for deposit in the Interest Account in the Debt Service Fund. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment to Holders as of the Record Date of such interest due on such Bonds on such Interest Payment Date in accordance with this Bond Resolution. The Authority and the Trustee shall enforce the provisions of the County Guaranty to the extent the County fails, for whatever reason, to promptly act in accordance with the terms thereof.

2. (a) On each Principal Payment Date of the Outstanding Bonds of any Series, the Trustee shall withdraw from the Principal Account in the Debt Service Fund amounts equal in the aggregate to the principal (including any Sinking Fund Installment or Redemption Price, as applicable, due on such Bonds on such Principal Payment Date). Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment of such principal (including any Sinking Fund Installment or Redemption Price, as applicable, to the Holders as of the Record Date, all in accordance with the terms of this Bond Resolution.

(b) If, by 9:00 a.m. EST one (1) month prior to any Principal Payment Date, the Trustee has determined that there are insufficient funds in the Principal Account in the Debt Service Fund (after taking into account any moneys earmarked for transfer therein from the Revenue Fund and all other amounts available hereunder for transfer into the Principal Account in the Debt Service Fund) to pay the full amount of principal (including any Sinking Fund Installment or Redemption Price, as applicable, due and owing on such Bonds on such Principal Payment Date, the Trustee shall immediately notify the Authority, the Company, the County and the Paying Agent of such deficiency. The Trustee shall continue to notify such entities of any continuing deficiency on a weekly basis, with the final notification being 9:00 a.m. EST on any such Principal Payment Date.

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3. On or prior to each Principal Payment Date, the Trustee shall transfer from moneys on deposit in the Aged Account within the Revenue Fund to the Principal Account in the Debt Service Fund the amount that, together with the amounts, if any, already on deposit in the Principal Account, is equal in the aggregate to the principal, Sinking Fund Installment or Redemption Price due and payable on the Outstanding Bonds on such Principal Payment Date.

4. (a) To the extent the County has made payment of a portion of the principal of and interest on the Bonds under the County Guaranty, on the Business Day following each Interest Payment Date or Principal Payment Date, the Trustee shall immediately pay over to the County any monies on deposit in the Aged Revenue Account in satisfaction of and up to the amount of any such County Guaranty payments in the aggregate.

(b) To the extent any funds remain in the Aged Revenue Account as of such Business Day following each Interest Payment Date or Principal Payment Date and after accounting for any transfer required by clause (a) above, including in the situation where the County Guaranty has not been drawn, the Trustee shall transfer any such amounts remaining on deposit in the Aged Revenue Account (i) first to the Interest Account of the Debt Service Fund, up to the amount of the next scheduled interest payment due on the Bonds on the next scheduled Interest Payment Date and (ii) second to the Principal Account of the Debt Service Fund, for which the Company shall receive a credit in the amount of any such monies so transferred first against the Interest Portion and second the Principal Portion of its Basic Lease Payments due on the next scheduled Basic Lease Payment Date, and to the extent any amounts so transferred remain on deposit in the Debt Service Fund, against the next occurring Interest Portion and then Principal Portion of Basic Lease Payments due until fully expended. The Trustee shall promptly notify in writing the Company, the Authority and the County of any transfers made pursuant to this subsection (4).

5. The Trustee shall keep records and accounts with respect to the Revenue Fund so that all amounts received by the Trustee from the Company under the Company Lease Agreement can be properly designated as (i) the Interest Portion of Basic Lease Payments or the Principal Portion of Basic Lease Payments and (ii) other amounts payable under the Company Lease Agreement as Additional Lease Payments (including those attributable to the Purchase Option Price or Mandatory Purchase Price) or investment earnings attributable to such amounts, provided that Basic Lease Payments shall be applied to the Interest Portion prior to the Principal Portion.

#### SECTION 5.06. Debt Service Fund.

1. (a) On each Interest Payment Date of the Outstanding Bonds of any Series, the Trustee shall withdraw from the Capitalized Interest Account, if so designated, and the Interest Account in the Debt Service Fund amounts equal in the aggregate to the interest due on such Bonds on such Interest Payment Date. Such moneys shall be transferred from the Trustee to the

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(c) The County shall timely satisfy any such deficiency remaining as of 10 a.m. on any such Principal Payment Date, by immediately making a payment under the County Guaranty (in accordance with the terms of the County Guaranty Agreement) in the amount of any continuing deficiency in immediately available funds to the Trustee for deposit in the Principal Account in the Debt Service Fund. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment to Holders as of the Record Date of such principal (including any Sinking Fund installment) or Redemption Price, as applicable, due on such Bonds on such Principal Payment Date in accordance with this Bond Resolution. The Authority and the Trustee shall enforce the provisions of the County Guaranty to the extent the County fails, for whatever reason, to promptly act in accordance with the terms thereof.

3. To the extent moneys on deposit and earned in the Capitalized Interest Account are insufficient to pay interest on any Series of Bonds on any Interest Payment Date through and including the date set forth in the Bond Resolution, including any Supplemental Resolution for that Series of Bonds, the Trustee shall, upon receipt of a Certificate of an Authorized Officer of the Authority to such effect, transfer to the Capitalized Interest Account from moneys on deposit in the Project Fund an amount not exceeding such deficiency at the times set forth in any such Certificate.

#### SECTION 5.07. County Security Fund

##### I. The County Security Fund, if any, shall be funded as follows:

(a) Notwithstanding anything to the contrary in this Section 5.07, upon the issuance of the Series 2011 Bonds, the initial County Security Fund shall be initially funded at \$\_\_\_\_\_ as reflected in Section 2.03(7)(c) hereof, such amount constituting the initial County Security Fund Requirement set forth in the definition thereof, and accordingly, Exhibit B to the Bond Resolution shall be reserved. Upon the issuance of any Series of Additional Bonds, the designated portion of the proceeds of any such Additional Bonds, or such other funds, as applicable, if deemed necessary, convenient or desirable by the Authority (after consultation with the County), shall be deposited in the County Security Fund at the times, in the amounts, and otherwise in conformity with the terms of any Supplemental Resolution authorizing any such Additional Bonds. As security for the Company's obligation, among other things, to make the payment required under clause (j) above, the Company has assigned to the Trustee a portion of, and caused the Pledgor (as defined in the Company Pledge Agreement) to assign to the Trustee the balance of, the Pledged Collateral under the Company Pledge Agreement.

(b) To the extent the Company has caused an Event of Default under the Company Lease Agreement or any other Program Document and the County has made payments under its County Guaranty, the Authority may, and upon the direction of the County, the Authority shall, direct the Trustee, to the maximum extent practicable, to deposit all or a portion of (i) the Leased Property (including without limitation any product therefrom, including the SRECs, but excluding the Renewable Energy Projects, but only to the extent the Series 2011 Local Units are making their Net Substitute Power Purchase Price payments) or the proceeds

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therefrom and/or (ii) the Net Substitute Power Purchase Price payments received from time to time, in the County Security Fund, until the County has been reimbursed in full for any such payments. Upon the reimbursement in full of the County for any of its payments under its County Guaranty in accordance with subsection 2 below, in accordance with any County Security Agreement delivered in accordance with subsection 6 below, or otherwise, amounts remaining on deposit in the County Security Fund, shall be distributed in accordance with the County Security Agreement, if any, as Reimbursement Collateral, or if no County Security Agreement is then in place, promptly transferred to the General Fund for disposition by the Authority for any corporate purpose in accordance with the terms of Section 5.08(1) hereof and the Act.

2. Upon the Trustee's issuance of a continuing deficiency notice with respect to either or both of the Interest Payment Account or the Principal Payment Account of the Debt Service Fund as of 9:00 a.m. EST on any Interest Payment Date or Principal Payment Date, as the case may be, pursuant to Sections 5.06(1)(b) or 5.06(2)(b), hereof, and upon the Trustee's drawing on the County Guaranty to satisfy any such deficiency in accordance with Sections 5.06(1)(c) or 5.06(2)(c) hereof, as the case may be, the Trustee shall immediately (a) pay over to the County, in immediately available funds, the lesser of (i) the amount of the draw on the County Guaranty or (ii) the entire amount on deposit in the County Security Fund and (ii) promptly notify the Authority, and to the extent the Company Lease Agreement has not been terminated, the Company, of the occurrence and amount of such event.

3. (a) Whenever the amount on deposit in the County Security Fund equals or exceeds the principal amount, plus interest due and owing on the next occurring Interest Payment Date and Principal Payment Date, of all Outstanding Series 2011 Bonds plus any Series of Outstanding Additional Bonds so designated by a Supplemental Resolution, the Trustee shall (i) notify the County, the Authority, and the Company of such occurrence, amount, and supporting computations, and (ii) ten (10) Business Days' after such notification, to the extent such computations have been verified by the Authority, promptly transfer any such excess to the Aged Account of the Revenue Fund.

(b) When there are no Series 2011 Bonds Outstanding (and if so designated by a Supplemental Resolution, plus any Series of Outstanding Additional Bonds), whether at final stated maturity, upon redemption of all of such Bonds, or upon acceleration and payment of all of such Bonds, the Trustee shall promptly pay over to the Company the entire amount remaining on deposit in the County Security Fund, with notice of such occurrence and amount to be provided by the Trustee to the Authority and the County.

4. Except to the extent expressly permitted in this Section 5.07 or in accordance with Section 701 of the Company Lease Agreement, which direction the Trustee shall promptly follow upon receipt of the Company notice detailed therein, and notwithstanding anything to the contrary in this Bond Resolution, unless accompanied by a notice of direction issued to the Trustee, signed by an Authorized Officer of each of the County and the Authority, amounts in the County Security Fund shall not be applied (a) directly, or transferred by the Trustee to any Fund or Account herein, in either case whereby such funds shall be used to pay any portion of the

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principal of, redemption premium, or interest on the Series 2011 Bonds or any other Series of Additional Bonds or (b) except as expressly set forth in this Bond Resolution. To the extent the Trustee receives any such properly executed notice of direction, the Trustee shall promptly follow such instructions, and simultaneously or promptly thereafter, notify the County, the Authority, and the Company of any such occurrence. Notwithstanding anything to the contrary in this Bond Resolution, as the County Security Fund is excepted from the pledge of the Trust Estate, this Section 5.07 may be amended by the Authority subsequent to the issuance of the Series 2011 Bonds without the consent of the Trustee or the Holders of any Outstanding Bonds.

5. (a) The Trustee shall accept the pledge and assignment of all right, title and interest in and to the Pledged Collateral under the terms of, and as defined in, the Company Pledge Agreement, which shall not be part of the Trust Estate, and therefore shall not be available to Holders of any Series of Outstanding Bonds, including the Series 2011 Bonds. The Trustee shall not exercise any rights and remedies, or take any other action pursuant to the Company Pledge Agreement, without the express written consent of the Authority. Pursuant to Section 4.08 of the Company Pledge Agreement, the Trustee shall be under no obligation to exercise any such rights or take any such action. Any moneys realized by the Trustee from such pledge (or realized by the Authority shall be promptly paid over to the Trustee, and then) shall be promptly deposited by the Trustee in the County Security Fund. In the case of the occurrence of an Event of Default as defined in the Company Pledge Agreement, the Authority may direct the Trustee, through a duly authorized and executed Certificate of an Authorized Officer of the Authority delivered to the Trustee, to further assign all or a portion of the Trustee's right, title and interest in and to the Collateral under the Company Pledge Agreement to the person or entity specified in such Certificate, including without limitation such person or entity undertaking all or a portion of the Company's responsibilities with respect to the Projects as set forth in the Program Documents, and/or to take such further action as set forth in such Certificate.

(b) Should no such Event of Default under the Company Pledge Agreement occur prior to or as of the end of the recapture period relating to the investment tax credit (or the Section 1603 Grant, as defined in the Company Pledge Agreement, in lieu of such credit) available to the Company under Sections 35, 46 and 48 of the Code in connection with the Renewable Energy Projects, as certified to the Trustee by an Authorized Officer of the Company in a Certificate to such effect delivered by or on behalf of the Company to the Trustee and the Authority, the Trustee shall promptly take all actions to release and/or terminate the pledge under the Company Pledge Agreement, including without limitation returning any Certificated Securities, received pursuant to and as defined under the Company Pledge Agreement, to the Company.

6. Notwithstanding any provision to the contrary herein or in any other Program Document, to the extent the Company has not caused an Event of Default under any Program Document (or any shall have been cured by such time), and the Company delivers to the County, County Security and a fully executed County Security Agreement providing such County Security in an amount greater than or equal to the County Security Fund Requirement applicable at such time, all in a form and substance acceptable, in the County's sole discretion, to the

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County, then upon the Company's delivery to the Trustee and the Authority of a Certificate of an Authorized Officer of the Company to such effect, such Certificate to be acknowledged in writing by the County, the Trustee shall promptly release all funds (principal, interest and/or any securities or other investments) on deposit in the County Security Fund to the Company.

7. Funds on deposit in the County Security Fund in excess of the County Security Fund Requirement shall remain therein, including any interest earned in accordance with Section 5.11(3) hereof, unless such monies are specifically required to be transferred pursuant to the provisions of this Section 5.07 or elsewhere in this Bond Resolution.

#### SECTION 5.08. General Fund.

1. On the first day of each Bond Year beginning May 1, 2014, provided, however, that all transfers from the Revenue Fund required pursuant to subsections (2) and (3) of Section 5.05 hereof shall have been made, any remaining amounts in the General Fund may be retained therein or applied by the Authority in its sole discretion for any corporate purpose allowable under the Act.

2. Any such funds, upon withdrawal from the General Fund, are not subject to the pledge of the Trust Estate unless and until deposited in any Fund or Account under the Bond Resolution, which purposes may include, without limitation, the application to any Fund or Account under the Bond Resolution at the written direction of a Certificate of an Authorized Officer of the Authority filed with the Trustee, which Certificate for all Series of Tax-exempt Bonds, must also comply with the Tax Certificate or otherwise be subject to an opinion of Bond Counsel filed with the Trustee that such application won't adversely affect exclusion from gross income of the holders of any such Series of Tax-exempt Bonds for Federal income tax purposes.

#### SECTION 5.09. Additional Bonds as a Series of Tax-exempt Bonds.

The Supplemental Resolution for any Series of Additional Bonds constituting Tax-exempt Bonds shall contain such provisions regarding a rebate fund, rebatable arbitrage, notice, records and other matters as may be required by a Tax Certificate or otherwise required to allow Bond Counsel to issue an opinion that the interest on the gross income of any such Series of Tax-exempt Bonds shall be excludable from the gross income of the Holders thereof for Federal income tax purposes.

#### SECTION 5.10. Moneys to Be Held in Trust.

All moneys required to be deposited with or paid to the Trustee or the Paying Agent for the account of any Fund or Account established under any provision of this Bond Resolution for the Bonds in accordance with this Bond Resolution, other than the Administrative Fund, shall be held by the Trustee or the Paying Agent, as the case may be, in trust for the Holders of the Bonds and shall constitute part of the Trust Estate while held by the Trustee or the Paying Agent, provided, however, that moneys deposited with or held by the Trustee or the Paying Agent for the

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redemption of Bonds on or after the redemption date of such Bonds, or for the payment of the principal of, Redemption Price, if any, or the interest on Bonds on or after the date on which such amounts shall have become due, shall be held and applied solely for the redemption or payment of such Bonds or the payment of such interest.

#### SECTION 5.11. Investments.

1. All moneys in any of the Funds and Accounts created under this Bond Resolution shall be invested by the Trustee (a) with respect to the Project Fund, as and if directed by the Company in accordance with Section 310(a) of the Company Lease Agreement, (b) with respect to the County Security Fund, as and if directed by the County, in any Investment Obligations, or (c) if clause (a) or (b) are not applicable, either because such provisions do not apply to the other Funds or Accounts contemplated by this Bond Resolution, or the Company and/or the County does not exercise their rights to direct such investments, then as directed by the Authority in writing, subject to the further provisions of this Section 5.11. The Trustee may conclusively rely upon such written direction of the Authority as to any and all investments.

2. Moneys in all Funds and Accounts created under this Bond Resolution, other than the Debt Service Fund and the Accounts established therein, shall be invested in Investment Securities, the principal of and the interest on which are payable not later than the dates on which it is estimated, by the Authority, that such moneys will be required hereunder. Moneys in the Debt Service Fund shall only be invested in such securities as are described in clause (f) of the definition of "Investment Securities" in Section 1.01 hereof, the principal of and the interest on which are payable not later than the dates on which it is estimated, by the Authority, that such moneys will be required hereunder. Moneys on deposit in the Revenue Fund and the Debt Service Fund shall be invested in such Investment Securities as to mature or otherwise become available for payment no later than any Interest Payment Date or Principal Payment Date.

3. Investment Securities as an investment of moneys in any Fund or Account created under this Bond Resolution shall be credited to such Fund or Account, except that any interest earned on monies in the Revenue Account of the Revenue Fund shall be transferred by the Trustee, no less frequently than once a month, to the Aged Account of the Revenue Fund. For the purpose of determining the amount in any Fund or Account at any time in accordance with this Bond Resolution, all Investment Securities credited to such Fund or Account shall be valued annually on the first day of any Bond Year at the lesser of amortized cost (exclusive of accrued interest) or fair market value, and any deficiency resulting therefrom shall be payable by the Company as an Additional Lease Payment under the Company Lease Agreement ratably every month over a period not to exceed five (5) months from such valuation date.

4. All interest, profits and other income earned and received by the Trustee and the Authority, as appropriate, net of any losses suffered (herein called the "net earnings"), from the investment of moneys in any Fund or Account shall be retained in and treated as part of such Fund or Account and applied in accordance with the applicable Sections of this Bond Resolution governing such Fund or Account, except that any interest earned on monies in the Revenue

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Account of the Revenue Fund shall be transferred by the Trustee, no less frequently than once a month, to the Aged Account of the Revenue Fund, and applied in accordance with the applicable Sections of this Bond Resolution governing such Fund or Account.

5. The Trustee may act as principal or agent in the acquisition or disposition of any Investment Securities. The Trustee shall exercise its best efforts to sell at market price obtainable, or present for redemption, any Investment Securities to the credit of any Fund or Account created under this Bond Resolution and the Accounts established therein whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from such Fund or Account, and the Trustee shall not be liable for any loss resulting from such necessary sale so made of such investments.

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### ARTICLE VI

#### PROGRAM DOCUMENTS, BOND PURCHASE AGREEMENT AND OFFICIAL STATEMENTS

##### SECTION 6.01. Terms and Conditions of Program Documents.

The Authority hereby authorizes the Trustee to disburse funds from the Project Fund in accordance with the terms set forth herein and in the Program Documents for the purpose of acquiring, constructing, renovating and installing the Projects. Consequently, the Authority shall enter into or adopt, as the case may be, the Program Documents in the manner, on the terms and conditions and upon submission of the documents required by this Article VI, and not otherwise.

##### SECTION 6.02. Form of Program Documents.

The Authority hereby severally authorizes its Authorized Officers to enter into the Program Documents to be executed or acknowledged by the Authority (a) other than with respect to the Power Purchase Agreement, in the forms thereof attached hereto as Exhibit A upon original adoption of this Bond Resolution on \_\_\_\_\_, with such immaterial changes thereto as shall be within the parameters set forth herein and the terms of the Local Finance Board Application, (b) with respect to the Power Purchase Agreement, in the form thereof attached hereto as Exhibit A upon original adoption of this Bond Resolution on \_\_\_\_\_, with such immaterial changes thereto as shall be within the parameters set forth herein, in the Local Finance Board Application, and the Company RFP, and (c) to the extent not attached hereto, in such forms as shall be consistent with this Bond Resolution and the terms of the Local Finance Board Application, in both cases, as shall be determined exclusively by any such Authorized Officer, after consultation with Counsel, which determination shall be conclusively evidenced by any such Authorized Officer's execution and delivery thereof. To the extent the final forms of the Program Documents attached hereto shall be materially changed from that attached hereto as Exhibit A prior to the issuance of the Series 2011 Bonds, such Program Documents may be authorized by a subsequent authorizing resolution of the Authority without compliance with the provisions of Article XI hereof. The Chair and any other Authorized Officer shall also take all other actions and execute any other documents, agreements, certificates or other instruments deemed necessary, convenient or desirable by the Chair or any such other Authorized Officer to consummate the transactions contemplated hereby and by such Program Documents, including without limitation the issuance of the Company RFP, provided, however, that such Program Documents shall in any event conform in all material respects to the provisions of this Article VI.

##### SECTION 6.03. Lease Payments.

The Authority shall establish Basic Lease Payments under the Company Lease Agreement in such amounts that, together with any amounts available and required to be treated as credits thereunder or under this Bond Resolution, shall be sufficient to pay the principal and prepayment premium, if any, of and the interest on all Series of Bonds as the same become due and payable.

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##### SECTION 6.04. Bond Purchase Agreement or Notice of Sale.

1. Depending on the direction as set forth in the Certificate of an Authorized Officer of the Authority as required by Section 2.02(1)(e) hereof, the Authority hereby severally authorizes its Authorized Officers to either (a) negotiate with an Underwriter selected in accordance with the terms of applicable Authority resolutions for the sale of all of the Series 2011A Bonds and any Series of Additional Bonds (other than the Series 2011B Bonds) if privately placed with the County pursuant to Section 6.04(2) hereof upon terms and conditions to be set forth in a bond purchase agreement, which may include the Bond Purchase Agreement, or (b) sell the Series 2011A Bonds to an Underwriter pursuant to the terms of a Notice of Sale or other competitive process, and if applicable, a bond purchase agreement, including the Bond Purchase Agreement, in either case which terms and conditions shall be within the constraints set forth herein, in the Local Finance Board Application, and in such other Authority resolutions pertaining thereto and shall be determined exclusively by any Authorized Officer, after consultation with Counsel, which determination shall be conclusively evidenced by the Authorized Officer's execution and delivery thereof. The Chair and any other Authorized Officer shall also take all other actions and execute any other documents, agreements, certificates or other instruments deemed necessary or desirable by the Chair or any such other Authorized Officer to consummate the transactions contemplated hereby and by such bond purchase agreement, including the Bond Purchase Agreement.

2. To the extent set forth in the Certificate of an Authorized Officer of the Authority as required by Section 2.02(1)(e) hereof, the Series 2011B Bonds shall be sold directly to the County, with or without the use of any Sale Documents, as may be set forth therein, for a purchase price equal to the par amount thereof, or such other amount as shall be set forth in such Certificate, at the same interest rates as the Series 2011A Bonds (except as set forth in Section 2.03(2)(d) hereof), and on a parity with the Series 2011A Bonds, with the same terms of the Series 2011A Bonds other than as expressly set forth in this Bond Resolution, all as shall be set forth in such Certificate.

3. The Series 2011B Bonds and all of the closing and other certificates to be executed in connection therewith upon the issuance thereof shall be authorized, executed, and delivered to the Trustee, to be held in escrow, until the Chairman of the Authority shall issue a Certificate at the direction of the County setting forth (a) the issuance date of the Series 2011B Bonds as a date no later than January 31, 2012, (b) the Dated Date of the Series 2011B Bonds as that of the Series 2011A Bonds, provided that interest shall accrue on the Series 2011B Bonds from such Dated Date thereof, at which time the Series 2011B Bonds shall be delivered by the Trustee to the County (or at the County's written direction, retained by the Trustee on the County's behalf), and all such other closing certificates and documents shall be released from escrow and delivered to Bond Counsel, for distribution to the Renewable Energy Program Interested Parties along with the Program Documents and closing certificates for the Series 2011A Bonds. Notwithstanding anything to the contrary herein, to the extent the Trustee does not receive such Certificate by 5 p.m., EST, [January 31, 2012], the Authority shall use its best

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efforts to issue the Series 2011B Bonds through public or private sale (including to the County, if applicable) utilizing any necessary or desired Sale Documents, at interest rates at or below the Series 2011A Bonds.

**SECTION 6.05. Preliminary Official Statement.**

1. The Authorized Officers of the Authority are hereby severally authorized and directed, upon satisfaction of all of the legal conditions precedent to the delivery of the preliminary official statement relating to the Series 2011A Bonds and any Series of Additional Bonds (other than the Series 2011B Bonds if privately placed with the County pursuant to Section 6.04(2) hereof) by the Authority, as determined by an Authorized Officer of the Authority in consultation with the Chair of and Counsel to the Authority, to deliver a preliminary official statement (the "Preliminary Official Statement") "deemed final" within the meaning and for the purposes of Rule 15c2-12, and otherwise in the form and with such provisions as such Authorized Officer, after consultation with the Chair of and Counsel to the Authority, deems in their sole discretion to be necessary or desirable for the delivery thereof, which delivery thereof by such Authorized Officer shall conclusively evidence his consent to the provisions thereof.

2. The Authorized Officers of the Authority are hereby severally authorized and directed to execute any certificate or document relating to any statutes, rules or other procedures of the Securities and Exchange Commission, the Municipal Securities Rulemaking Board or any state securities entity that such Authorized Officer, after consultation with the Chair of and Counsel to the Authority, deems necessary or desirable to effect the issuance of the Series 2011 Bonds and any Series of Additional Bonds and the transactions contemplated by the Preliminary Official Statement.

**SECTION 6.06. Official Statement.**

The Authorized Officers of the Authority are hereby severally authorized and directed to execute and deliver a final official statement (the "Official Statement") in substantially similar form to the Preliminary Official Statement, with such changes to reflect the final pricing as set forth in the bond purchase agreement, including the Bond Purchase Agreement as such Authorized Officers, after consultation with the Chair of and Counsel to the Authority, deems necessary or desirable to effect the issuance of the Series 2011A Bonds and any Series of Additional Bonds (other than the Series 2011B Bonds if privately placed with the County pursuant to Section 6.04(2) hereof) and the transactions contemplated by the final Official Statement.

**SECTION 6.07. Continuing Disclosure.**

1. Prior to issuance of the Series 2011A Bonds and any Series of Additional Bonds (other than the Series 2011B Bonds if privately placed with the County pursuant to Section 6.04(2) hereof), the Authority, pursuant to the sole discretion of the Chairman or any other Authorized Officer of the Authority, in consultation with Bond Counsel, general counsel and any

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other applicable advisors to the Authority, all as may be set forth in the Certificate of an Authorized Officer pursuant to Section 2.02(1)(e) hereof, shall determine if the Company is a materially "obligated person" within the meaning and for the purposes of Rule 15c2-12. If the Company is determined to be a materially "obligated person", it shall be required to enter into the Company Continuing Disclosure Agreement, in such form as set forth in Exhibit A hereto as a Program Document authorized thereby.

2. (a) The Authority hereby determines (i) that the County is a "materially obligated person" and (ii) that the Authority is not an "obligated person" within the meaning and for the purposes of Rule 15c2-12.

(b) Accordingly, (i) the Authority and the County shall be required to enter into the County Continuing Disclosure Agreement, in such form as set forth in Exhibit A hereto as a Program Document authorized thereby, and together with the Company Continuing Disclosure Agreement, (ii) the Authority hereby covenants to provide notice of Bond Disclosure Events (as defined in each of the respective Continuing Disclosure Agreements), if material, with respect to the Series 2011A Bonds and any Series of Additional Bonds (other than the Series 2011B Bonds if privately placed with the County pursuant to Section 6.04(2) hereof) to each Nationally Recognized Municipal Securities Information Repository recognized by the SEC or to the Municipal Securities Rulemaking Board and the State Information Depository, if any, recognized by the SEC, all as may be set forth in any such Continuing Disclosure Agreements.

3. Notwithstanding any provision to the contrary in Article XI hereof, the Authority may amend or supplement this Section 6.07 and the corresponding provisions of the Continuing Disclosure Agreements to comply with any amendment, supplement, modification, termination or other change to Rule 15c2-12 without the consent of any other Renewable Energy Program Interested Party or any Bondholder.

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**ARTICLE VII**

**SERVICING OF LEASE PAYMENTS**

**SECTION 7.01. Defaults.**

The Trustee shall notify the Authority of its failure to receive any Lease Payment of the Company, if any, due under the Company Lease Agreement, or of any other Event of Default under the Company Lease Agreement known to the Trustee.

Upon the occurrence of an Event of Default under the Company Lease Agreement, the Trustee shall diligently enforce, and take all reasonable steps, actions and proceedings necessary for the enforcement of, all of the terms and conditions of the Company Lease Agreement, including (without limitation) the prompt payment of all Company Lease Payments and all other amounts due the Authority and the observance and performance of all duties, covenants, obligations and agreements thereunder, provided, however, that the Trustee shall not accelerate the payment of amounts due under the Company Lease Agreement following any Event of Default thereunder (other than any Event of Default that shall automatically accelerate such payment under the Company Lease Agreement).

Except as otherwise provided in the Company Lease Agreement or in this Bond Resolution, the Trustee shall not release the duties, covenants, obligations or agreements of the Company under the Company Lease Agreement, and shall at all times, to the extent permitted by law, defend, enforce, preserve and protect the rights and privileges of the Authority and the Holders under or with respect to the Company Lease Agreement; provided, however, that this provision shall not be construed to prevent the Trustee (with the consent of the Authority) from settling a default under the Company Lease Agreement on such terms as the Trustee shall determine to be in the best interests of the Authority and the Holders. The Authority hereby appoints the Trustee as its agent and attorney-in-fact for the purpose of enforcing all rights, title and interests of the Authority on behalf of the Holders under the Company Lease Agreement, except for the Authority's Reserved Rights.

**SECTION 7.02. Termination of Company Lease Agreement.**

Upon the payment in full of all amounts due under the Company Lease Agreement, the Authority shall cancel the obligation of the Company evidenced by the Company Lease Agreement and shall terminate and release all security interests and liens created under the Company Lease Agreement, and the Authority and the Trustee shall take any and all other action required of the Authority or the Trustee thereunder in connection with such cancellation and termination, including (without limitation) the execution of all relevant documents in connection with such actions.

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**SECTION 7.03. Files.**

The Trustee shall keep a file for all records and other documents pertaining to disbursements of the Project Fund in accordance with this Bond Resolution, the Company Lease Agreement and the Local Unit License Agreements for the Series 2011 Local Units, and pertaining to all Lease Payments and other amounts received by the Trustee under the Company Lease Agreement, and all communications from or received by the Trustee with respect to the Projects. Such file shall be kept at the Principal Office of the Trustee and shall be available for inspection by the Authority, the Series 2011 Local Units, the County, and the Company and their respective agents at reasonable times and under reasonable circumstances.

**SECTION 7.04. Trustee's Obligations.**

The Trustee shall observe and perform all duties, covenants, obligations and agreements of the Authority under the Company Lease Agreement to the extent specified herein and therein. If an inconsistency arises between the Company Lease Agreement and this Bond Resolution, the Trustee shall rely on this Bond Resolution. Notwithstanding the preceding sentence, the Trustee shall have no duty to acquire, construct, renovate or install the Projects.

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## ARTICLE VIII

### GENERAL COVENANTS

#### SECTION 8.01. Payment of Bonds; Special and Limited Obligations of Authority.

The Authority shall pay or cause to be paid the principal or Redemption Price, if any, of and the interest on every Bond of each Series on the date, at the place and in the manner provided herein, in the Applicable Supplemental Resolution and in such Bonds according to the true intent and meaning thereof; provided, however, that the Bonds of each Series are special and limited obligations of the Authority, the principal or Redemption Price, if any, of and the interest on which are payable solely from the Trust Estate.

The Bonds of each Series shall not be payable from the general funds of the Authority, and shall not constitute a legal or equitable pledge of, or lien or encumbrance upon, any of the assets or property of the Authority (other than the Trust Estate) or upon any of its income, receipts or revenues, except as provided in this Bond Resolution. The full faith and credit of the Authority are not pledged, either expressly or by implication, to the payment of the Bonds. The Authority has no taxing power, and has no claim on any revenues or receipts of the State or any agency or political subdivision thereof or of the Series 2011 Local Units or the County (except as expressly provided in the County Guaranty).

#### SECTION 8.02. Observance and Performance of Duties, Covenants, Obligations and Agreements; Representations as to Authorization and Validity of Bonds.

The Authority shall faithfully observe and perform at all times all of its duties, covenants, obligations and agreements contained in the Company Lease Agreement, this Bond Resolution, any Supplemental Resolution or any Bond executed, authenticated and delivered under this Bond Resolution or under any Supplemental Resolution or in any proceedings of the Authority pertaining thereto.

The Authority represents and covenants that: (i) it is duly authorized under the Constitution and laws of the State, particularly the Act, to issue the Bonds of each Series, to enter into the Company Lease Agreement, and to pledge the Trust Estate in the manner and to the extent set forth in this Bond Resolution and as shall be set forth in any Supplemental Resolution; (ii) all action on its part for the issuance of the Bonds of each Series will be duly and effectively taken; and (iii) the Bonds of each Series in the hands of the Holders thereof will be valid and binding special and limited obligations of the Authority, enforceable against the Authority in accordance with their terms.

#### SECTION 8.03. Liens, Encumbrances and Charges.

The Authority shall not create or cause to be created and shall not suffer to exist any lien, encumbrance or charge upon the Trust Estate, except the pledge, lien and charge created for the

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security of the Holders of the Bonds. To the extent Revenues are received, the Authority will pay or cause to be discharged, or will make adequate provision to satisfy and discharge, within sixty (60) days after the same shall accrue, all lawful claims and demands that if unpaid might by law become a lien upon the Trust Estate; provided, however, that nothing contained in this Section 8.03 shall require the Authority to pay or cause to be discharged, or to make provision for, any such lien, encumbrance or charge so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

So long as Bonds of any Series shall be Outstanding, the Authority shall not issue any bonds, notes or other evidences of indebtedness, other than such Bonds, secured by any pledge of or other lien or charge on the Trust Estate. Nothing in this Bond Resolution is intended to or shall affect the right of the Authority to issue bonds, notes and other obligations under other resolutions or indentures for any of its other purposes.

#### SECTION 8.04. Accounts and Audits.

The Authority shall keep, or cause to be kept, proper books of records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Projects, this Bond Resolution and any Supplemental Resolution, which books and accounts (at reasonable hours and subject to the reasonable rules and regulations of the Authority) shall be subject to the inspection of the Trustee, the Series 2011 Local Units, the County, the Company, any Holder of any Bonds or their agents or representatives duly authorized in writing. The Authority shall have the right to cause such books and accounts to be audited annually within ninety (90) days after the end of its fiscal year by an Independent Public Accountant selected by the Authority. Annually, within thirty (30) days after the receipt by the Authority of the report of such audit, a signed copy of such report shall be furnished to the Trustee. Such report shall include at least: (i) a statement of all Funds and Accounts (including investments thereof) held by the Trustee pursuant to the provisions of this Bond Resolution; (ii) a statement of the Revenues collected in connection with this Bond Resolution; and (iii) a statement that, in making such audit, no knowledge of any payment default in the fulfillment of any of the terms, covenants or provisions of this Bond Resolution was obtained or, if knowledge of any such default was obtained, a statement thereof.

#### SECTION 8.05. Further Assurances.

The Authority will pass, make, do, execute, acknowledge and deliver any and all such further resolutions, indentures, actions, instruments and assurances as may be reasonably necessary or proper to carry out the intention, or to facilitate the performance, of this Bond Resolution and for the better assuring and confirming unto the Holders of Bonds the rights and benefits provided in this Bond Resolution.

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## ARTICLE IX

### DEFAULT PROVISIONS; REMEDIES OF TRUSTEE AND BONDHOLDERS

#### SECTION 9.01. Defaults; Events of Default.

If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "Event of Default" for the Bonds of all Series then Outstanding:

- (a) default in the due and punctual payment of any interest on any Bond; or
- (b) default in the due and punctual payment of the principal, Sinking Fund Installment or Redemption Price of any Bond whether at the stated maturity thereof or on any date fixed for the redemption of such Bond; or
- (c) if (i) the Authority shall be adjudicated a bankrupt or become subject to an order for relief under federal bankruptcy law, (ii) the Authority shall institute a proceeding seeking an order for relief under federal bankruptcy law or seeking to be adjudicated a bankrupt or insolvent or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or all of its debts under New Jersey bankruptcy or insolvency law, (iii) with the consent of the Authority, there shall be appointed a receiver, liquidator or similar official for the Authority under federal bankruptcy law or under New Jersey bankruptcy or insolvency law, or (iv) without the application, approval or consent of the Authority, a receiver, trustee, liquidator or similar official shall be appointed for the Authority under federal bankruptcy law or under New Jersey bankruptcy or insolvency law or a proceeding described in clause (ii) above shall be instituted against the Authority, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of sixty (60) consecutive days; or
- (d) if (i) the Authority shall make an assignment for the benefit of creditors, (ii) the Authority shall apply for or seek the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its property, (iii) the Authority shall fail to file an answer or other pleading denying the material allegations of any proceeding filed against it described under clause (iv) of paragraph (c) of this Section 9.01, (iv) the Authority shall take any action to authorize or effect any of the actions set forth in paragraph (c) or (d) of this Section 9.01, (v) the Authority shall fail to contest in good faith any appointment or proceeding described in paragraph (c) or (d) of this Section 9.01, or (vi) without the application, approval or consent of the Authority, a receiver, trustee, examiner, liquidator or similar official shall be appointed for any substantial part of the Authority's property, and such appointment shall continue undischarged or such proceeding shall continue undismissed or unstayed for a period of thirty (30) consecutive days; or
- (e) the Authority shall default in the performance or observance of any other of the duties, covenants, obligations, agreements or conditions on the part of the Authority to be

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performed or observed under this Bond Resolution or under the Bonds of each Series, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Trustee or the Bondholders in accordance with Section 9.09 hereof.

#### SECTION 9.02. Acceleration of Bonds; Remedies.

If an Event of Default described in Section 9.01 hereof shall occur for any Series of Bonds, the Trustee shall give written notice thereof to Holders, and at the written request of the Holders of not less than 25% in aggregate principal amount of the Bonds then Outstanding shall, by telephonic notice to the Authority (promptly confirmed in writing), declare the principal of all Bonds then Outstanding to be due and payable; provided, however, that before making such declaration, the Trustee shall give thirty (30) days' notice to the Authority and the Company during which time the Authority shall be able to cure such default. Upon any such declaration, the Trustee shall forthwith give notice thereof to the Company, each Local Unit and the Paying Agent.

At any time after the principal of the Bonds shall have been so declared to be due and payable and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such Event of Default, or before the completion of the enforcement of any other remedy under this Bond Resolution, the Trustee, by written notice to the Authority, may annul such declaration and its consequences if: (i) moneys shall have accumulated in the Interest Account and the Principal Account in the Debt Service Fund sufficient to pay all arrears of interest, if any, upon all of the Outstanding Bonds (except the interest accrued on such Bonds since the last Interest Payment Date) and the principal then due on all Bonds (except the principal on any such Bonds due solely as a result of any such declaration of acceleration); (ii) moneys shall have accumulated and be available sufficient to pay the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee; and (iii) every other default known to the Trustee in the observance or performance of any duty, covenant, obligation, condition or agreement contained in the Bonds or in this Bond Resolution shall have been remedied to the satisfaction of the Trustee; provided, however, that such declaration may be annulled only with the written consent of the Holders of not less than 25% in aggregate principal amount of the Bonds Outstanding and not then due by their terms. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

Upon the occurrence of an Event of Default, the Trustee shall also have the following rights and remedies:

(a) The Trustee may pursue any available remedy at law or in equity or by statute to enforce the payment of the principal of and the interest on the Bonds then Outstanding, including (without limitation) enforcement of any rights of the Authority or the Trustee under the Company Lease Agreement.

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hereunder, provided, however, that such direction shall not be otherwise than in accordance with the provisions of law and of this Bond Resolution.

#### SECTION 9.04. Application of Moneys.

All moneys received by the Trustee pursuant to any right or remedy given or action taken under the provisions of this Article IX upon any acceleration of the due date for the payment of the principal of and the interest on the Bonds in default (including, without limitation, moneys received by virtue of action taken under provisions of the Company Lease Agreement, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee and any other moneys owed to the Trustee in connection with such Bonds hereunder) shall be applied, first, to the payment of the principal and the interest then due and unpaid upon the Bonds in default, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto, without any discrimination or privilege.

Whenever moneys are to be applied pursuant to the provisions of this Section 9.04, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard for the amount of such moneys available for application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date, unless the Trustee shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Holder of any Bond in default until such obligation shall be presented to the Trustee for appropriate endorsement or for cancellation, as the case may be.

#### SECTION 9.05. Remedies Vested in Trustee.

All rights of action (including, without limitation, the right to file proofs of claims) under this Bond Resolution or under any of the Bonds in default may be enforced by the Trustee without possession of any of the Bonds or the production thereof in any trial or other proceeding related thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee for the equal and ratable benefit of the Holders of all the Outstanding Bonds without the necessity of joining as plaintiffs or defendants any Holders of such Bonds.

#### SECTION 9.06. Rights and Remedies of Holders of Bonds.

No Holder of Bonds then Outstanding in default shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of this Bond Resolution or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless (a) an Event of Default shall have occurred, (b) the Holders of not less than 25% in

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(b) The Trustee by action or suit in equity may require the Authority to account as if it were the trustee of an express trust for the Holders of Bonds, and may take such action with respect to the Company Lease Agreement as the Trustee deems necessary or appropriate and in the best interests of the Holders of Bonds, subject to the terms of the Company Lease Agreement; and

(c) Upon the filing of a suit or other commencement of judicial proceedings to enforce any rights of the Trustee and of the Holders of Bonds under this Bond Resolution, the Trustee will be entitled as a matter of right to the appointment of a receiver or receivers of the Trust Estate and the issues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

If an Event of Default shall have occurred with respect to any Bonds, and if requested so to do by the Holders of a majority in aggregate principal amount of the Bonds then Outstanding, and upon being indemnified to its reasonable satisfaction therefor, the Trustee shall be obligated to exercise such one or more of the rights, remedies and powers conferred by this Section 9.02 as directed by such Holders of Bonds.

No right or remedy by the terms of this Bond Resolution conferred upon or reserved to the Trustee (or to the Holders of Bonds) is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to the Trustee or to such Holders hereunder or now or hereafter existing at law or in equity or by statute other than pursuant to the Act. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

No waiver of any Event of Default hereunder, whether by the Trustee or by the Holders of any Bonds in default, shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

#### SECTION 9.03. Right of Holders of Bonds to Direct Proceedings.

Anything in this Bond Resolution to the contrary notwithstanding, the Holders of a majority in aggregate principal amount of Bonds in default then Outstanding shall have the right at any time during the continuance of an Event of Default of such Bonds, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Bond Resolution or for the appointment of a receiver or any other proceedings

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aggregate principal amount of the Bonds then Outstanding shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the remedies hereinbefore granted or to institute such action, suit or proceeding in its own name, (c) the Holders shall have offered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request, and (d) the Trustee shall have refused, or for sixty (60) days after receipt of such request and offer of indemnification shall have failed, to exercise the remedies hereinbefore granted or to institute such action, suit or proceeding in its own name, and such request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Bond Resolution and to any action or cause of action for the enforcement of this Bond Resolution or for the appointment of a receiver or for any other remedy hereunder. It is understood and intended that no one or more Holders of Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Bond Resolution by his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided, and for the equal and ratable benefit of the Holders of all Bonds then Outstanding; provided, however, that nothing contained in this Bond Resolution shall affect or impair the right of the Holder of any Bond to enforce the payment of the principal or Redemption Price of and the interest on such Bond at and after the maturity thereof, or the obligation of the Authority to pay the principal or Redemption Price of and the interest on each of the Bonds issued hereunder to the respective Holders thereof, at the time and place, from the source and in the manner expressed in the Bonds and in this Bond Resolution and the Applicable Supplemental Resolution.

#### SECTION 9.07. Termination of Proceedings.

In case the Trustee or a Holder of a Bond in default shall have proceeded to enforce any right under this Bond Resolution by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or such Holder, then and in every such case the Authority, the Trustee and the Holders of Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee and the Holders shall continue as if no such proceedings had been taken.

#### SECTION 9.08. Waivers of Events of Default.

The Trustee may, and upon the written request of the Holders of 50% in aggregate principal amount of all Bonds in default then Outstanding shall, waive any Event of Default that shall have been remedied before the completion of the enforcement of any remedy under this Bond Resolution; but no such waiver shall extend to any subsequent or other Event of Default or impair any rights consequent thereon.

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ARTICLE X

THE FIDUCIARIES

SECTION 9.09. Notice of Certain Defaults; Opportunity of Authority to Cure Defaults.

Anything herein to the contrary notwithstanding, no Default under Section 9.01(e) hereof shall constitute an Event of Default until actual notice of such Default shall be given to the Authority, by registered or certified mail, by the Trustee or the Holders of not less than 25% in aggregate principal amount of all Bonds then Outstanding, and the Authority shall not have corrected the Default or caused the Default to be corrected within thirty (30) days following the giving of such notice; provided, however, that if the Default be such that it is correctable but cannot be so corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the Authority within the applicable period and diligently pursued until the Default is corrected.

The Authority hereby grants to the Trustee full authority for the account of the Authority (but the Trustee shall have no obligation) to observe or perform any duty, covenant, obligation or agreement in any alleged Default concerning which notice is given to the Authority under the provisions of this Section 9.09 in the name and stead of the Authority, with full power to do any and all things and acts to the same extent that the Authority could do and to perform any such things and acts and with full power of substitution.

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for its representation contained in its certificate on the Bonds. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid to the Authority or to any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act that would involve it in expense or liability or to institute or defend any suit in respect thereof or to advance any of its own moneys, unless properly indemnified by the Authority or the Local Unit. Subject to the provisions of subsection (2) of this Section 10.03, no Fiduciary shall be liable in connection with the observance and performance of its duties and obligations hereunder except for its own negligence or willful misconduct.

2. The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default that may have occurred, undertakes to perform such duties and obligations and only such duties and obligations as are specifically set forth in this Bond Resolution. In case an Event of Default has occurred (which has not been cured), the Trustee shall exercise such of the rights and powers invested in it by this Bond Resolution, and use the same degree of care and skill in its exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs. Any provision of this Bond Resolution relating to action taken or to be taken by the Trustee or to evidence upon which the Trustee may conclusively rely shall be subject to the provisions of this Section 10.03.

SECTION 10.04. Evidence Upon Which Fiduciaries May Act.

1. Each Fiduciary, upon receipt of any written notice, Supplemental Resolution, written request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it pursuant to any provision of this Bond Resolution, shall examine such instrument to determine whether it conforms to the requirements of this Bond Resolution and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with Counsel, who may or may not be counsel to the Authority, and the opinion of such Counsel shall be full and complete authorization and protection in respect of any action taken or suffered by any Fiduciary under this Bond Resolution in good faith and in accordance therewith.

2. Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Bond Resolution, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate of an Authorized Officer of the Authority, and such Certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Bond Resolution upon the faith thereof.

3. Except as otherwise expressly provided in this Bond Resolution, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof by the Authority to any Fiduciary shall be sufficiently executed in the name of the Authority by an Authorized Officer of the Authority.

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SECTION 10.01. Appointments, Duties, Immunities and Liabilities of Trustee.

[Name of Trustee], a national banking institution authorized and acting under the laws of the United States of America and further authorized to conduct business in the State, whose such bank acts as trustee (the "Trustee"), has been appointed as Trustee hereunder by the Authority. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Bond Resolution, the Company Lease Agreement, the County Guaranty Agreement, and all other Program Documents by executing and delivering to the Authority a written acceptance thereof, and, by executing such acceptance, the Trustee shall be deemed to have accepted such duties and obligations with respect to all the Bonds thereafter to be validly issued, but only, however, upon the terms and conditions set forth in this Bond Resolution and in such other Program Documents.

SECTION 10.02. Paying Agents; Appointments.

1. The Trustee is hereby appointed Paying Agent for the Series 2011 Bonds. The Authority shall appoint one or more Paying Agents for the Bonds of each additional Series, and may at any time or from time to time appoint one or more other Paying Agents having the qualifications set forth in Section 10.13 hereof for a successor Paying Agent.

2. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Bond Resolution by executing and delivering to the Authority and to the Trustee a written acceptance thereof.

3. Unless otherwise provided, the principal corporate trust offices of the Paying Agents are designated as the respective offices or agencies of the Authority for the payment of the principal or Redemption Price, if any, of and the interest on the Bonds.

4. The Authority may enter into agreements with any Paying Agent providing for the payment to the Authority of amounts in respect of interest earned on moneys held by such Paying Agent for the payment of principal or Redemption Price, if any, of and the interest on the Bonds. Any such payments to the Authority shall be deposited in the Revenue Fund and applied as Revenues.

SECTION 10.03. Responsibilities of Fiduciaries.

1. The recitals of fact contained herein and in the Bonds shall be taken as the statements of the Authority, and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representation as to the validity or sufficiency of this Bond Resolution or of any Bonds issued hereunder or as to the security afforded hereby, and no Fiduciary shall incur any liability in respect thereof. The Trustee shall, however, be responsible

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4. Whenever any Fiduciary shall receive any written notice, Supplemental Resolution, written request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it via telecopy pursuant to any provision of this Bond Resolution, the Fiduciary shall accept same; provided, however, that the original of any notice, Supplemental Resolution, request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it pursuant to any provision of this Bond Resolution be shall be forwarded to the Fiduciary immediately thereafter.

SECTION 10.05. Compensation.

The Authority shall pay each Fiduciary from time to time reasonable compensation for all services rendered under this Bond Resolution, including, without limitation, the services rendered pursuant to Section 12.01 hereof, and also all reasonable expenses incurred in and about the performance of their powers and duties under this Bond Resolution, and each Fiduciary shall have a lien therefor on any and all Funds and Accounts at any time held by it under this Bond Resolution. Subject to the provisions of Section 10.03 hereof, each of the Authority and the Company further agrees to indemnify and save each Fiduciary harmless against any losses, liabilities or expenses (including legal fees) that it may incur in the exercise and performance of its powers, duties and obligations hereunder that are not due to its negligence or willful misconduct, and such indemnity shall survive the payment of the Bonds and the discharge of this Bond Resolution and the resignation or removal of the Trustee.

SECTION 10.06. Certain Permitted Acts.

Any Fiduciary may become the Holder of any Bonds with the same rights that it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Bond Resolution, whether or not any such committee shall represent the Holders of a majority in aggregate principal amount of the Bonds then Outstanding.

SECTION 10.07. Resignation of Trustee.

The Trustee may at any time resign and be discharged of the duties and obligations created by this Bond Resolution by giving not less than sixty (60) days' written notice to the Authority, and mailing notice thereof to the Holders of the Bonds then Outstanding, specifying the date when such resignation shall take effect, and such resignation shall take effect upon the day specified in such notice unless previously a successor shall have been appointed by the Authority or the Bondholders as provided in Section 10.09 hereof, in which event such resignation shall take effect immediately upon the appointment of such successor, or unless a successor shall not have been appointed by the Authority or the Bondholders as provided in Section 10.09 hereof on that date, in which event such resignation shall not take effect until a successor is appointed.

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**SECTION 10.08. Removal of Trustee.**

The Trustee may be removed at any time by an instrument or concurrent instruments in writing, filed with the Trustee and signed by the Holders of a majority in aggregate principal amount of the Bonds then Outstanding or their attorneys-in-fact duly authorized, excluding any Bonds held by or for the account of the Authority. So long as no Event of Default or any event that, with notice or passage of time or both, would become an Event of Default shall have occurred and be continuing, the Trustee may be removed at any time for just cause (as determined in the sole judgment of the Authority) by a resolution of the Authority filed with the Trustee.

**SECTION 10.09. Appointment of Successor Trustee.**

1. In case at any time the Trustee shall resign, be removed or become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, a successor Trustee may be appointed by the Authority by a duly executed written instrument signed by an Authorized Officer of the Authority. However, if the Authority does not appoint a successor Trustee within forty-five (45) days, the Holders of a majority in aggregate principal amount of the Bonds then Outstanding, excluding any Bonds held by or for the account of the Authority, may appoint a successor Trustee by an instrument or concurrent instruments in writing signed and acknowledged by such Bondholders or their attorneys-in-fact duly authorized and delivered to such successor Trustee, notification thereof being given to the Authority and the predecessor Trustee. After such appointment of a successor Trustee, the Authority shall mail notice of any such appointment made by it or the Bondholders to the Holders of all Bonds then Outstanding.

2. If in a proper case no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section 10.09 within forty-five (45) days after the Trustee shall have given to the Authority written notice as provided in Section 10.07 hereof or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, the Trustee or the Holder of any Bond may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

3. Any Trustee appointed pursuant to the provisions of this Section 10.09 in succession to the Trustee shall be a bank or trust company or national banking association doing business and having its principal office in the City and State of New York or the State and having capital stock and surplus aggregating at least \$50,000,000, if there be such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all of the duties imposed upon it by this Bond Resolution.

**SECTION 10.13. Resignation or Removal of Paying Agent; Appointment of Successor.**

1. Any Paying Agent may at any time resign and be discharged of the duties and obligations created by this Bond Resolution by giving at least sixty (60) days' written notice to the Authority, the Trustee and the other Paying Agents. Any Paying Agent may be removed at any time by an instrument filed with such Paying Agent and the Trustee and signed by an Authorized Officer of the Authority. Any successor Paying Agent shall be appointed by the Authority with the approval of the Trustee, and shall be a bank or trust company organized under the laws of any state of the United States of America or a national banking association and having capital stock and surplus aggregating at least \$20,000,000, and be willing and able to accept the office on reasonable and customary terms and authorized by law to perform all of the duties imposed upon it by this Bond Resolution.

2. In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent to its successor or, if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Paying Agent, the Trustee shall act as such Paying Agent.

**SECTION 10.10. Transfer of Rights and Property to Successor Trustee.**

Any successor Trustee appointed under this Bond Resolution shall execute, acknowledge and deliver to its predecessor Trustee and to the Authority an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all of the moneys, estates, properties, rights, powers, duties and obligations of such predecessor Trustee, with like effect as if originally named as Trustee hereunder, but the Trustee ceasing to act shall nevertheless, on the written request of the Authority or the successor Trustee, execute, acknowledge and deliver such instrument of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all of the right, title and interest of the predecessor Trustee in and to any property held by it under this Bond Resolution, and such predecessor Trustee shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the Authority be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such estates, rights, powers and duties, any and all such deeds, conveyances and instruments in writing shall, on request and so far as may be authorized by law, be executed, acknowledged and delivered by the Authority. Any such successor Trustee shall promptly notify the Paying Agent of its appointment as Trustee.

**SECTION 10.11. Merger or Consolidation.**

Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or substantially all of its corporate trust business, provided such company (i) shall be a bank or trust company organized under the laws of any state of the United States of America or a national banking association and (ii) shall be authorized by law to perform all of the duties imposed upon it by this Bond Resolution, shall be the successor to such Fiduciary without the execution or filing of any paper or the performance of any further act.

**SECTION 10.12. Adoption of Authentication.**

In case any of the Bonds contemplated to be issued under this Bond Resolution shall have been authenticated but not delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee so authenticating such Bonds and deliver such Bonds so authenticated; and in case any of the said Bonds shall not have been authenticated, any successor Trustee may authenticate such Bonds in the name of the predecessor Trustee or in the name of the successor Trustee, and in all such cases such certificate of authentication shall have the same force and effect that it is anywhere in said Bonds or in this Bond Resolution.

**ARTICLE XI**

**AMENDMENTS**

**SECTION 11.01. Supplemental Resolutions Effective Upon Filing With Trustee.**

For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution of the Authority may be adopted, which, upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority, shall be fully effective in accordance with its terms:

1. To close this Bond Resolution against, or provide limitations and restrictions contained in this Bond Resolution on, the authentication and delivery of Bonds;
2. To add to the duties, covenants, obligations and agreements of the Authority in this Bond Resolution, other duties, covenants, obligations and agreements to be observed and performed by the Authority that are not contrary to or inconsistent with this Bond Resolution as theretofore in effect, including without limitation the terms and conditions of the Series 2011B Bonds upon delivery of the Certificate of an Authorized Officer of the Authority pursuant to Section 2.02(1)(e) hereof;
3. To add to the limitations and restrictions in this Bond Resolution, other limitations and restrictions to be observed by the Authority that are not contrary to or inconsistent with this Bond Resolution as theretofore in effect;
4. To authorize Bonds of a Series and, in connection therewith, to specify and determine the matters and things referred to in Article II hereof and any other matters and things relative to such Bonds, including whether to issue Bonds in book-entry form, that are not contrary to or inconsistent with this Bond Resolution as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination contained in Article II hereof at any time prior to the first authentication and delivery of such Series of Bonds;
5. To confirm, as further assurance, any security interest, pledge or assignment under this Bond Resolution and the subjection of the Revenues or of any other moneys, securities or funds to any security interest, pledge or assignment created or to be created by this Bond Resolution;
6. To modify any of the provisions of this Bond Resolution in any other respect whatsoever; provided, however, that (i) such modification shall be, and be expressed to be, effective only after all Bonds of each Series Outstanding at the date of adoption of such Supplemental Resolution shall cease to be Outstanding, and (ii) such Supplemental Resolution shall be specifically referred to in the text of all Bonds of any Series authenticated and delivered after the date of the adoption of such Supplemental Resolution and of Bonds issued in exchange therefor or in place thereof;

7. To modify any of the provisions of this Bond Resolution in any respect provided that the modifications affect only Bonds issued subsequent to the date of such modifications;

8. To comply with the provisions of any federal or state securities law, including, without limitation, the Trust Indenture Act of 1939, as amended, or to comply with Section 103 of the Code, as amended, replaced or substituted, with respect to any Series of Additional Bonds constituting Tax-exempt Bonds;

9. To modify any provision of this Bond Resolution relating to the County Security Fund and the County Security Fund Requirement, including without limitation Section 5.07 hereof and Exhibit B hereto;

10. To implement one or more replacement Local Unit Facilities and Projects for the Series 2011 Local Units, all in accordance with the provisions of Section 4.6 of the Power Purchase Agreement; or

11. To provide for any terms and conditions of the DOE Grant and the execution and delivery of a Certificate of an Authorized Officer of the Authority executed pursuant to Section 2.02(1)(e)(vi) hereof.

Any Rating Agency rating the Series 2011 Bonds must receive notice of each Supplemental Resolution and a copy thereof at least fifteen (15) days in advance of its execution or adoption.

#### SECTION 11.02. Supplemental Resolutions Effective Upon Consent of Trustee.

For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution may be adopted, which, upon (i) the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority, and (ii) the filing with the Authority of an instrument in writing made by the Trustee consenting thereto, shall be fully effective in accordance with its terms:

1. To cure any ambiguity, supply any omission or cure or correct any defect or inconsistent provision in this Bond Resolution;

2. To insert such provisions clarifying matters or questions arising under this Bond Resolution as are necessary or desirable and are not contrary to or inconsistent with this Bond Resolution as theretofore in effect; or

3. To make any other modification or amendment of this Bond Resolution that will not have a material adverse effect on the interests of Bondholders.

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In making any determination under this Section 11.02, the Trustee may conclusively rely upon an opinion of Counsel.

#### SECTION 11.03. Supplemental Resolutions Effective With Consent of Bondholders.

At any time or from time to time, a Supplemental Resolution may be adopted subject to consent by the Bondholders in accordance with and subject to the provisions of Sections 11.06 and 11.07 hereof, which Supplemental Resolution, upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority and upon compliance with the provisions of Sections 11.06 and 11.07 hereof, shall become fully effective in accordance with its terms as provided in Section 11.07 hereof; provided, however, any Supplemental Resolution that, by its terms, only affects one or more Series of Bonds may be adopted subject solely to the consent of the Holders of such Series of Bonds so affected.

#### SECTION 11.04. General Provisions.

1. This Bond Resolution shall not be modified or amended in any respect except by a Supplemental Resolution as provided in, in accordance with and subject to the provisions of this Article XI. Nothing contained in this Article XI shall affect or limit the right or obligation of the Authority to adopt, make, do, execute, acknowledge or deliver any resolution, act or other instrument pursuant to the provisions of this Bond Resolution or the right or obligation of the Authority to execute and deliver to any Trustee any instrument that it is elsewhere provided in this Bond Resolution shall be delivered to said Trustee.

2. Any Supplemental Resolution referred to in and permitted or authorized by Section 11.01 or 11.02 hereof may be adopted by the Authority without the consent of any Bondholder, but shall become effective only on the conditions, to the extent and at the times provided in Section 11.01 or 11.02, respectively. Every Supplemental Resolution filed with the Trustee shall be accompanied by an opinion of Counsel stating that such Supplemental Resolution has been duly and lawfully adopted by the Authority in accordance with the terms and provisions of this Bond Resolution, is authorized or permitted by this Bond Resolution, and is valid and binding upon the Authority in accordance with its terms.

3. The Trustee is hereby authorized to accept the delivery of a certified copy of any Supplemental Resolution referred to in and permitted or authorized by Section 11.01, 11.02 or 11.03 hereof and to make all further agreements and stipulations that may be therein contained, and the Trustee, in taking such action, shall be fully protected in relying upon an opinion of Counsel that such Supplemental Resolution is authorized or permitted by the terms and provisions of this Bond Resolution.

4. No Supplemental Resolution shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereon.

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#### SECTION 11.05. Mailing.

Any provision in this Article XI for the mailing of a notice or other paper to Holders of Bonds shall be fully complied with if it is mailed, postage prepaid only, to each Registered Owner of Bonds then Outstanding at his address, if any, appearing upon the registry books of the Authority.

#### SECTION 11.06. Powers of Amendment by Supplemental Resolution.

Unless otherwise permitted under Section 11.01 or 11.02 hereof, any modification or amendment of this Bond Resolution and of the rights and obligations of the Authority and the Holders of Bonds hereunder, in any particular, may be made only by a Supplemental Resolution with the written consent (i) of the Holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds Outstanding at the time such consent is given, (ii) in case less than all of the several Series of Bonds then Outstanding are affected by the modification or amendment, of the Holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds of each Series so affected and Outstanding at the time such consent is given, and (iii) in case the modification or amendment changes the terms of any Sinking Fund Installment, of the Holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds of the particular Series and maturity entitled to such Sinking Fund Installment and Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding, the consent of the Holders of such Bonds shall not be required, and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section 11.06. No such modification or amendment shall (i) permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such obligation, (ii) reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or (iii) change or modify any of the rights or obligations of any Trustee without its written assent thereto. For the purposes of this Section 11.06, a Series shall be deemed to be affected by a modification or amendment of this Bond Resolution if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series. The Trustee may, in its discretion, determine whether or not, in accordance with the foregoing powers of amendment, Bonds of any particular Series or maturity would be affected by any modification or amendment of this Bond Resolution, and any such determination shall be binding and conclusive upon the Authority and all Holders of Bonds. For purposes of this Section 11.06, the Holders of any Bonds may include the initial Holders thereof, regardless of whether or not such Bonds are being held for resale.

#### SECTION 11.07. Consent of Bondholders.

The Authority may at any time adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of Section 11.06 hereof to take effect when and as

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provided in this Section 11.07. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto in form approved by the Trustee), together with a request to Holders of Bonds for their consent thereto in form satisfactory to the Trustee, shall be mailed by the Authority to Holders of Bonds (but failure to mail such copy and request shall not affect the validity of the Supplemental Resolution when consented to as in this Section 11.07 provided). Such Supplemental Resolution shall not be effective unless and until there shall have been filed with the Trustee (a) the written consent of the Holders of the percentages of Outstanding Bonds specified in Section 11.06 hereof and (b) an opinion of Counsel stating that such Supplemental Resolution has been duly and lawfully adopted and filed by the Authority in accordance with the terms and provisions of this Bond Resolution, is authorized or permitted by this Bond Resolution, and is valid and binding upon the Authority in accordance with its terms. It shall not be necessary that the consents of the Holders of Bonds approve the particular form of wording of the proposed modification or amendment; or of the proposed Supplemental Resolution effecting such modification or amendment, but it shall be sufficient if such consents approve the substance of the proposed amendment or modification. Each such consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 12.02 hereof. A certificate or certificates executed by the Trustee and filed with the Authority stating that the Trustee has examined such proof and that such proof is sufficient in accordance with Section 12.02 hereof shall be conclusive evidence that the consents have been given by the Holders of the Bonds described in such certificate or certificates. Any such consent shall be binding upon the Holder of the Bonds giving such consent and, anything in Section 12.02 hereof to the contrary notwithstanding, upon any subsequent Holder of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Holder has notice thereof), unless such consent is revoked in writing by the Holder of such Bonds giving such consent or by a subsequent Holder thereof by filing with the Trustee, prior to the time when the written statement of the Trustee is filed (as hereinafter provided for in this Section 11.07), such revocation and proof that such Bonds are held by the signer of such revocation in the manner permitted by Section 12.02 hereof. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Authority to the effect that no revocation thereof is on file with the Trustee.

At any time after the Holders of the required percentages of Bonds shall have filed their consents to the Supplemental Resolution as hereinabove provided, the Trustee shall make and file with the Authority a written statement that the Holders of such required percentages of such Bonds have filed such consents. Such written statements shall be conclusive that such consents have been so filed. At any time thereafter, notice stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Authority on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of Bonds and will become effective as provided in this Section 11.07 may be given to Bondholders by the Authority by mailing such notice to Bondholders (but failure to mail such notice shall not prevent such Supplemental Resolution from becoming effective and binding as in this Section 11.07 provided). The Authority shall file with the Trustee proof of the mailing thereof. A record, consisting of the certificates or statements required or permitted by

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this Section 11.07 to be made by the Trustee, shall be proof of the matters therein stated. Such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the Authority, the Fiduciaries and the Holders of all Bonds at the expiration of forty (40) days after the filing with the Trustee of proof of the mailings of such last-mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Resolution in a legal action or equitable proceeding for such purpose commenced within such forty (40) day period; provided, however, that the Authority and any Fiduciary during such forty (40) day period and any such further period during which any such action or proceeding may be pending shall be entitled in its absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Resolution as it may deem expedient.

#### SECTION 11.08. Modifications or Amendments by Unanimous Consent.

The terms and provisions of this Bond Resolution and the rights and obligations of the Authority and of the Holders of Bonds hereunder may be modified or amended in any respect upon the adoption and filing by the Authority of a Supplemental Resolution and the consent of the Holders of all Bonds then Outstanding, such consent to be given as provided in Section 11.07 hereof, except that no notice to Holders of Bonds either by mail or publication shall be required; provided, however, that no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary without the filing with the Trustee of the written assent thereto of such Fiduciary in addition to the consent of the Holders of Bonds.

#### SECTION 11.09. Exclusion of Bonds.

Bonds owned or held by or for the account of the Authority shall not be deemed Outstanding for the purpose of consent or other action or for any calculation of Outstanding Bonds provided for in this Article XI, and the Authority shall not be entitled with respect to such Bonds to give any consent or to take any other action provided for in this Article XI. At the time of any consent or other action taken under this Article XI, the Authority shall furnish the Trustee a Certificate of an Authorized Officer of the Authority, upon which the Trustee may conclusively rely, describing all Bonds to be so excluded.

#### SECTION 11.10. Notation on Bonds.

Bonds authenticated and delivered after the effective date of any Supplemental Resolution adopted pursuant to this Article XI may, and, if the Authority so determines, shall, bear a notation by endorsement or otherwise in form approved by the Authority as to any modification or amendment provided for in such Supplemental Resolution, and, in that case, upon demand of the Holder of any Bond then Outstanding and upon presentation of any Bond for such purpose at the Principal Office of the Trustee, a suitable notation shall be made on such Bond. If the Authority shall so determine, new Bonds so modified as to conform, in the opinion of the Authority, to any modification or amendment contained in such Supplemental Resolution shall be prepared, authenticated and delivered and, upon demand of the Holder of any Bond then

Outstanding, shall be exchanged upon surrender of such Bonds, without cost to such Holder, for Bonds of the same Series, principal amount, maturity and interest rate then Outstanding. Any action taken as provided in Article X hereof or in this Article XI shall be effective and binding upon all Holders of Bonds notwithstanding that the notation is not endorsed on all Bonds.

#### SECTION 11.11. Effect of Supplemental Resolutions.

Upon the effective date of any Supplemental Resolution, this Bond Resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, covenants, obligations and agreements under this Bond Resolution of the Authority, the Trustee and all Holders of Bonds then Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all of the terms and conditions of any such Supplemental Resolution shall be deemed to be part of the terms and conditions of this Bond Resolution for any and all purposes.

#### SECTION 11.12. Notice of Amendments.

Promptly after the adoption by the Authority of any Supplemental Resolution, the Trustee shall mail a notice, setting forth in general terms the substance of such amendment or modification, to the Holders of any Series of Bonds so affected thereby, and to the other Renewable Energy Program Interested Parties. However, any failure to give such notice, or any defect therein, shall not in any way impair or affect the validity of any such Supplemental Resolution.

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### ARTICLE XII DEFEASANCE

#### SECTION 12.01. Defeasance of Bonds.

1. If the Authority shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Bonds of any Series the principal or Redemption Price, if applicable, thereof and the interest due or to become due thereon at the times and in the manner stipulated therein and in this Bond Resolution, then the pledge of the Trust Estate and all duties, covenants, agreements and other obligations of the Authority to the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall cause an accounting for such period or periods as shall be requested by the Authority to be prepared and filed with the Authority, and, upon the request of the Authority, shall execute and deliver to the Authority all such instruments as may be desirable to evidence such discharge and satisfaction, and the Trustee shall pay over or deliver to the Authority all moneys or securities held by it pursuant to this Bond Resolution that are not required for the payment of the principal or Redemption Price, if applicable, of and the interest due or to become due on the Bonds of any Series not theretofore surrendered for such payment or redemption. If the Authority shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of any Outstanding Bonds of any Series the principal or Redemption Price, if applicable, thereof and the interest due or to become due thereon at the times and in the manner stipulated therein and in this Bond Resolution, such Bonds shall cease to be entitled to any lien, benefit or security under this Bond Resolution, and all duties, covenants, agreements and other obligations of the Authority to the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. Notwithstanding any other provision in this Article XII, all duties, covenants, agreements and other obligations of the Authority to the Holders of Bonds relating to the exclusion of interest from gross income of the Holders thereof for federal income tax purposes shall survive the defeasance of the Bonds.

2. Bonds or interest installments for the payment or redemption of which moneys shall have been set aside and held in trust by the Paying Agent (through deposit by the Authority of funds for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in subsection (1) of this Section 12.01. Subject to the provisions of subsections (3), (4) and (5) of this Section 12.01, Outstanding Bonds of any Series or Outstanding Bonds of any maturity within any Series shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect expressed in subsection (1) of this Section 12.01 if (a) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Authority shall have given to the Trustee instructions in writing accepted by the Trustee to mail notice of redemption of such Bonds (other than Bonds of a Series that have been purchased by the Trustee at the written direction of the Authority or purchased or otherwise acquired by the Authority and delivered to the Trustee as hereinafter provided prior to the mailing of such notice of redemption) on said date, (b) there shall have been deposited with the Trustee either moneys in an amount that

shall be sufficient for Investment Securities (including any Investment Securities issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) the principal of and the interest on which, when due, will provide moneys that, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest due and to become due on such Series of Bonds on or prior to the redemption date or maturity date thereof, as the case may be, and (c) in the event such Series of Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Authority shall have given the Trustee, in form satisfactory to it, instructions to mail, as soon as practicable, a notice to the Holders of such Bonds at their last addresses appearing upon the registry books at the close of business on the last Business Day of the month preceding the month for which notice is mailed that the deposit required by clause (b) above has been made with the Trustee and that such Series of Bonds are deemed to have been paid in accordance with this Section 12.01 and stating such maturity or redemption date upon which moneys are expected, subject to the provisions of subsection (5) of this Section 12.01, to be available for the payment of the principal or Redemption Price, if applicable, of and the interest due and to become due on such Series of Bonds (other than Bonds that have been purchased by the Trustee at the written direction of the Authority or purchased or otherwise acquired by the Authority and delivered to the Trustee as hereinafter provided prior to the mailing of the notice of redemption referred to in clause (a) hereof). Any notice of redemption mailed pursuant to the preceding sentence with respect to any Series of Bonds, which notice relates to a redemption contemplating less than all of the Outstanding Bonds of any maturity within a Series being redeemed, shall specify the letter and number or other distinguishing mark of each such Bond to be so redeemed. The Trustee shall, as and to the extent necessary, apply moneys held by it pursuant to this Section 12.01 to the retirement of said Bonds in amounts equal to the unsatisfied balances of any Sinking Fund Installments with respect to such Bonds, all in the manner provided in this Bond Resolution.

The Trustee shall, if so directed in writing by the Authority (i) prior to the maturity date of Bonds deemed to have been paid in accordance with this Section 12.01 that are not to be redeemed prior to their maturity or (ii) prior to the mailing of the notice of redemption referred to in clause (a) above with respect to any Bonds deemed to have been paid in accordance with this Section 12.01 that are to be redeemed on any date prior to their maturity, apply moneys deposited with the Trustee with respect to such Bonds and redeem or sell Investment Securities so deposited with the Trustee and apply the proceeds thereof to the purchase of such Bonds, and the Trustee shall immediately thereafter cancel all such Bonds so purchased; provided, however, that the moneys and Investment Securities remaining on deposit with the Trustee after the purchase and cancellation of such Bonds shall be sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest due or to become due on all Bonds with respect to which such moneys and Investment Securities are being held by the Trustee on or prior to the redemption date or maturity date thereof, as the case may be. If, at any time (i) prior to the maturity date of Bonds deemed to have been paid in accordance with this Section 12.01 that are not to be redeemed prior to their maturity or (ii) prior to the mailing of the notice of redemption referred to in clause (a) above with respect to any Bonds deemed to have been paid in accordance with this Section 12.01 that are to be redeemed on any date prior to their maturity, the Authority

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shall purchase or otherwise acquire any such Bonds and deliver such Bonds to the Trustee prior to their maturity date or redemption date, as the case may be, the Trustee shall immediately cancel all such Bonds so delivered; such delivery of Bonds to the Trustee shall be accompanied by directions from the Authority to the Trustee as to the manner in which such Bonds are to be applied against the obligation of the Trustee to pay or redeem Bonds deemed paid in accordance with this Section 12.01. The directions given by the Authority to the Trustee referred to in the preceding sentence shall also specify (i) the portion, if any, of such Bonds so purchased or delivered and canceled to be applied against the obligation of the Trustee to pay Bonds deemed paid in accordance with this Section 12.01 upon their maturity date or dates and (ii) the portion, if any, of such Bonds so purchased or delivered and canceled to be applied against the obligation of the Trustee to redeem Bonds deemed paid in accordance with this Section 12.01 on any date or dates prior to their maturity. In the event that on any date, as a result of any purchases, acquisitions and cancellations of Bonds as provided in this Section 12.01, the total amount of moneys and Investment Securities remaining on deposit with the Trustee under this Section 12.01 is in excess of the total amount that would have been required to be deposited with the Trustee on such date with respect to the remaining Bonds of such Series in order to satisfy clause (b) of this subsection (2) of Section 12.01, the Trustee shall, if requested by the Authority, pay the amount of such excess to the Authority free and clear of any trust, lien, security interest, pledge or assignment securing said Bonds or otherwise existing under this Bond Resolution. Except as otherwise provided in this subsection (2) and in subsections (3), (4) and (5) of this Section 12.01, neither moneys nor Investment Securities deposited with the Trustee pursuant to this Section 12.01 nor principal or interest payments on any such Investment Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal or Redemption Price, if applicable, of and the interest on said Bonds; provided, however, that any cash received from such principal or interest payments on such Investment Securities deposited with the Trustee, (A) to the extent such cash will not be required at any time for such purpose, shall be paid over to the Authority, as received by the Trustee, free and clear of any trust, lien or pledge securing said Bonds or otherwise existing under this Bond Resolution, and (B) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in Investment Securities maturing at times and in amounts sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest to become due on said Bonds on or prior to the redemption date or maturity date thereof, as the case may be, and any interest earned from such reinvestments shall be paid over to the Authority, as received by the Trustee, free and clear of any trust, lien, security interest, pledge or assignment securing said Bonds or otherwise existing under this Bond Resolution.

For the purposes of this Section 12.01, Investment Securities shall mean and include only (y) such securities as are described in clause (i) of the definition of "Investment Securities" in Section 1.01 hereof and that are not subject to redemption prior to their maturity other than at the option of the issuer thereof, or (z) upon compliance with the provisions of subsection (3) of this Section 12.01, such securities as are described in clause (i) of the definition of "Investment Securities" and that are subject to redemption prior to their maturity at the option of the issuer thereof on a specified date or dates. In the event of an advance refunding, the Authority shall cause to be delivered a verification report of an Independent Public Accountant.

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redemption proceeds in accordance with subsection (4) of this Section 12.01) pursuant to clause (b) of subsection (2) of this Section 12.01 would be sufficient to pay, when due, the principal and Redemption Price, if applicable, of and the interest on all Bonds deemed to have been paid in accordance with subsection (2) of this Section 12.01.

6. Anything in this Bond Resolution to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the payment and discharge of any Bonds that remain unclaimed after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the fiduciaries at such date, or after the date of deposit of such moneys if deposited with the fiduciaries after the said date when such Bonds became due and payable, shall, be applied, when and as provided in the Uniform Unclaimed Property Act, N.J.S.A. 46:30B-1 et seq., and the fiduciary shall thereupon be released and discharged with respect thereto and the Bondholders shall have such rights as are provided in said Uniform Unclaimed Property Act.

#### SECTION 12.02. Evidence of Signatures and Ownership of Bonds.

1. Any request, consent, revocation of consent or other instrument that this Bond Resolution or any Supplemental Resolution may require or permit to be signed and executed by the Holders of Bonds of any Series may be in one or more instruments of similar tenor, and shall be signed or executed by such Holders of Bonds in person or by their attorneys duly appointed in writing. Proof of the execution of any such instrument, or of any instrument appointing any such attorney, shall be sufficient for any purpose of this Bond Resolution or any Supplemental Resolution (except as otherwise expressly provided therein) if made in the following manner, or in any other manner satisfactory to the Trustee, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable. The fact and date of the execution of such instruments by any Holder of any Bond or his attorney may be proved by a guarantee of the signature thereon by a bank or trust company or at the discretion of the Trustee, by a certificate of any notary public or other officer authorized to take acknowledgments of deeds that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or by a member of a partnership on behalf of such corporation, association or partnership, such signature guarantee, certificate or affidavit shall also constitute sufficient proof of his authority.

2. The ownership of Bonds and the amount, numbers, other identification and date of holding the same shall be proved by the registry books maintained by the Authority and kept by the Trustee.

3. Any request or consent by the Holder of any Bond shall be binding on all future Owners of such Bond with respect to anything done or suffered to be done by the Authority or any Trustee in accordance therewith.

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3. Investment Securities described in clause (z) of subsection (2) of this Section 12.01 may be included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01 if and only if, in making the determination as to whether the moneys and Investment Securities to be deposited with the Trustee would be sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest due and to become due on the Bonds that will be deemed to have been paid as provided in subsection (2) of this Section 12.01, such determination is made both (i) on the assumption that the Investment Securities described in said clause (z) were not redeemed at the option of the issuer thereof prior to their maturity date and (ii) on the assumption that such Investment Securities were redeemed by the issuer thereof at its option on each date on which such option could be exercised, that as of such date or dates interest ceased to accrue on such Investment Securities, and that the proceeds of such redemption were not reinvested by the Trustee.

4. In the event that, after compliance with the provisions of subsection (3) of this Section 12.01, the Investment Securities described in clause (z) of subsection (2) of this Section 12.01 are included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01 and any such Investment Securities are actually redeemed by the issuer thereof prior to their maturity date, then the Trustee, at the written direction of the Authority, shall reinvest the proceeds of such redemption in Investment Securities; provided, however, that the aggregate of the moneys and Investment Securities to be held by the Trustee, taking into account any changes in redemption dates or instructions to give notice of redemption given to the Trustee by the Authority in accordance with subsection (5) of this Section 12.01, shall at all times be sufficient to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01.

5. In the event that, after compliance with the provisions of subsection (3) of this Section 12.01, the Investment Securities described in clause (z) of subsection (2) of this Section 12.01 are included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01, then any notice of redemption to be mailed by the Trustee and any set of instructions relating to a notice of redemption given to the Trustee may provide, at the option of the Authority, that (i) any redemption date or dates with respect to all or any portion of the Bonds to be redeemed on such date or dates may, at the option of the Authority, be changed to any other permissible redemption date or dates, and (ii) redemption dates may be established for any Bonds deemed to have been paid in accordance with this Section 12.01 upon their maturity date or dates at any time prior to the actual mailing of any applicable notice of redemption in the event that all or any portion of any Investment Securities described in clause (z) of subsection (2) of this Section 12.01 have been called for redemption pursuant to an irrevocable notice of redemption or have been redeemed by the issuer thereof prior to their maturity date. No such change of redemption dates or establishment of redemption dates may be made unless, taking into account such changed redemption dates or newly established redemption dates, the moneys and Investment Securities on deposit with the Trustee (including any Investment Securities deposited with the Trustee in connection with any reinvestment of

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#### SECTION 12.03. Moneys Held for Particular Bonds.

The amounts held by any Fiduciary for the payment of the interest, principal or Redemption Price due on any date with respect to particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Holders of the Bonds entitled thereto.

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ARTICLE XIII  
MISCELLANEOUS

SECTION 13.01. Liability of Authority Limited to Trust Estate.

Notwithstanding anything to the contrary contained in this Bond Resolution or in the Bonds, the Authority shall not be required to advance any moneys derived from any source other than the Trust Estate for any of the purposes in this Bond Resolution, whether for the payment of the principal or Redemption Price, if any, of or the interest on the Bonds or for any other purpose hereof. Nevertheless, the Authority may, but shall not be required to, advance for any of the purposes hereof any funds of the Authority that may be made available to it for such purposes.

SECTION 13.02. Successor Is Deemed Included in All References to Predecessor.

Whenever in this Bond Resolution either the Authority or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all of the duties, covenants, obligations and agreements contained in this Bond Resolution by or on behalf of the Authority or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof, whether so expressed or not.

SECTION 13.03. Limitation of Rights to Parties.

Nothing expressed or implied in this Bond Resolution or in the Bonds is intended or shall be construed to give to any person, other than the Authority, the Trustee, the Paying Agent and the Holders of Bonds, any legal or equitable right, remedy or claim under or with respect to this Bond Resolution or any duty, covenant, obligation, agreement, condition or provision herein or therein contained; and all of such duties, covenants, obligations, agreements, conditions and provisions are and shall be for the sole and exclusive benefit of the Authority, the Trustee, the Paying Agent and the Holders of Bonds.

SECTION 13.04. Waiver of Notice.

Whenever in this Bond Resolution the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice, and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 13.05. Destruction of Bonds.

Whenever in this Bond Resolution provision is made for the cancellation of any Bonds by the Trustee and the delivery thereof to the Authority, unless otherwise requested in writing by the Authority, in lieu of such cancellation and delivery, the Trustee shall destroy such Bonds (in the

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presence of an officer of the Authority, if the Authority shall so require) and deliver a certificate of such destruction to the Authority.

SECTION 13.06. Severability of Invalid Provisions.

If any one or more of the provisions contained in this Bond Resolution shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained herein, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Bond Resolution shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. The Authority hereby declares that it would have entered into this Bond Resolution and each and every section, paragraph, sentence, clause or phrase hereof, and authorized the issuance of the Bonds pursuant hereto, irrespective of the fact that any one or more of the sections, paragraphs, sentences, clauses or phrases of this Bond Resolution may be held illegal, invalid or unenforceable.

SECTION 13.07. Notices.

1. Any notices, certificates or other communications required or permitted to be given herein shall be in writing (unless otherwise specifically required or permitted herein) and shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Authority, the County, the Company, the Series 2011 Local Units, the Trustee, the Paying Agent and the Rating Agency at the addresses set forth below:

- (a) Authority: Morris County Improvement Authority  
Administration and Records Building  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: Chairman
- With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, NJ 07054
- (b) County: County of Sussex, New Jersey  
Sussex County Administrative Center  
One Spring Street  
Newton, New Jersey 07860  
Attention: County Administrator
- (c) Company: [Company]  
[REDACTED]

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With a copy to:

- (d) Series 2011 Local Units: See Exhibit A-4 to the Company Lease Agreement
- (e) County Security Provider: None
- (f) Trustee and [Name of Trustee]  
Paying Agent:

With a copy to:

- (g) Rating Agency: Moody's Investor Service  
99 Church Street  
New York, New York 10007-2796

The Authority, the County, the Company, the Series 2011 Local Units, the County Security Provider, the Trustee, the Paying Agent and the Rating Agency may designate any further or different address to which subsequent notices and communications shall be sent by giving notice thereof to the other parties herein.

2. Whenever any provision hereof requires that notice be sent to the Authority or the Series 2011 Local Unit or the Company, a copy of such notice shall also be sent to the County at the address set forth in Section 13.07(1)(b) hereof.

SECTION 13.08. Disqualified Bonds.

In determining whether the Holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Bond Resolution, Bonds that are owned or held by or for the account of the Authority, the Company, or any other primary or secondary obligor on the Company Lease Agreement, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority, the Company or any other primary or secondary obligor on the Company Lease Agreement, shall be disregarded and deemed not to be Outstanding for the purpose of any such determination. Bonds so owned that have been pledged in good faith may be regarded as Outstanding for the purpose of this Section 13.08 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person directly

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or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority, the Company or any other primary or secondary obligor on the Company Lease Agreement. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of Counsel shall be full protection to the Trustee.

SECTION 13.09. Funds and Accounts.

Any Fund, Account or subaccount required by this Bond Resolution to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee either as a fund, an account or a subaccount, and, for the purposes of such records, any audits thereof and any reports or statements with respect thereto may be treated either as a fund, an account or a subaccount; but all such records with respect to all such Funds, Accounts or subaccounts shall at all times be maintained in accordance with generally accepted accounting principles to the extent practicable.

SECTION 13.10. Waiver of Personal Liability.

No member, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the principal or Redemption Price, if any, of or the interest on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof, all such liability, if any, being expressly waived and released by each Holder of Bonds by the acceptance of such Bonds, but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by this Bond Resolution or by law.

SECTION 13.11. Authority Protected in Acting in Good Faith.

In the exercise of the powers of the Authority and its members, officers, agents and employees under this Bond Resolution, the Company Lease Agreement or any other document executed in connection with the Bonds, the Authority shall not be accountable to the Company, the Trustee, the Paying Agent, any Bondholder or any other Renewable Energy Program Interested Party for any action taken or omitted in good faith by it or its members, officers, agents and employees and believed by it or them to be authorized or within the discretion or rights conferred thereon.

SECTION 13.12. Business Days.

Except as otherwise specifically provided in this Bond Resolution, if any date specified herein for the payment of any Bond or the performance of any act shall not be a Business Day at the place of payment or performance, such payment or performance shall be made on the next succeeding Business Day with the same effect as if made on such date, and in case any payment of the principal or Redemption Price, if any, of or the interest on any Bond shall be due on a date that is not a Business Day, interest on such principal amount shall cease to accrue on the date on

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which such payment was due if such payment is made on the immediately succeeding Business Day.

ARTICLE XIV

BOND FORM AND EFFECTIVE DATE

SECTION 14.01. Form of Bonds, Trustee's Certificate of Authentication and County Guaranty Certificate.

Subject to the provisions of this Bond Resolution, the form of the Series 2011 Bonds and any other Series of Bonds designated by Supplemental Resolution, with any appropriate changes as set forth in any such Supplemental Resolution, the Trustee's certificate of authentication and the County Guaranty Certificate, shall be in substantially the following form:

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[FORM OF BOND]

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF SUSSEX

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED

RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011[A/B]

No. R[A/B]- CUSIP: [ ]

Interest Rate	Maturity Date	Dated Date	Authentication Date
%	May 1, 20__	November __, 2011	November __, 2011
2011			

Registered Owner: CEDE & CO.

Principal Sum: [ ] DOLLARS (\$[ ])

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Act"), acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner stated hereon or its registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged therefor, upon presentation and surrender of this bond at the principal corporate trust office of [Name of Trustee] (such bank and any successors thereto being herein called the "Trustee" and "Paying Agent"), the Principal Sum stated hereon in any coin or currency of the United States of America that at the time of such payment is legal tender for the payment of public and private debts, and to pay from such pledged funds on May 1 and November 1 in each year, commencing [May 1, 2013/November 1, 2013], until the Authority's obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date stated hereon on such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However, so long as the Series 2011[A/B] Bonds (as hereinafter defined) are held in book-entry form pursuant to the Bond Resolution (as hereinafter defined), the provisions of the Bond Resolution governing

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such book-entry form shall govern the repayment of the principal or Redemption Price of and the interest on the Series 2011[A/B] Bonds.

This bond is one of a duly authorized Series of Bonds of the Authority designated "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011[A/B]" (herein called the "Series 2011[A/B] Bonds"), in the aggregate principal amount of [ \$ ] (not exceeding \$52,000,000) issued under and in full compliance with the Constitution and statutes of the State of New Jersey, including the Act, and under and pursuant to a resolution of the Authority authorizing the Series 2011 Bonds (as hereinafter defined) adopted on [August \_\_, 2011] and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended by a Certificate of an Authorized Officer of the Authority dated [November \_\_, 2011], [as shall be further amended by a Certificate of an Authorized Officer of the Authority in connection with the Series 2011B Bonds/as further amended by a Certificate of an Authorized Officer of the Authority dated \_\_, 2011] in connection with the Series 2011B Bonds and executed in connection with Section 2.02(1)(e) of said resolution (together with any further amendments thereof or supplements thereto, the "Bond Resolution"). [On November \_\_, 2011] the Authority issued/No later than \_\_, the Authority has covenanted to issue] its "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011[A/B]" in the aggregate principal amount of [ \$ ] (the "Series 2011[A/B] Bonds" and together with the Series 2011[A/B] Bonds, the "Series 2011 Bonds").

All capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Bond Resolution.

As provided in the Bond Resolution, the Series 2011 Bonds, and all other bonds issued on a parity with the Series 2011 Bonds under the Bond Resolution (herein collectively called the "Bonds"), are special and limited obligations of the Authority payable solely from, and secured as to the payment of the principal or Redemption Price thereof and the interest thereon in accordance with their terms and the provisions of the Bond Resolution solely by, the Trust Estate, subject only to the provisions of the Bond Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Bond Resolution.

The Trust Estate under the Bond Resolution includes (i) certain of the Authority's right, title and interest in and to that certain Company Lease Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of November 1, 2011 (the "Company Lease Agreement") by and between the Authority and [Company], a Delaware limited liability company (the "Company"), including, without limitation, the Basic Lease Payments and certain Additional Lease Payments earmarked for the Purchase Option Price or the Mandatory Purchase Price (collectively the "Lease Payments") by the Company as defined in and contemplated by the Company Lease Agreement, (ii) with respect to the payment of the principal of and the interest on the Series 2011 Bonds only, payments made by the County under its guaranty ordinance finally adopted on \_\_, 2011, as amended and supplemented, all in accordance with

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Section 37 of the Act (N.J.S.A. 40:37A-80) and other applicable law, the guaranty certificate executed by an Authorized Officer of the County on the face of each Series 2011 Bond, and that certain County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of November 1, 2011 (the "County Guaranty Agreement") between the Authority and the County (collectively, the "County Guaranty"), and (iii) all other Funds and Accounts established under the Bond Resolution (other than the Administrative Fund and the County Security Fund, if any), including Investment Securities held in any such Fund thereunder, together with all of the proceeds and revenues of the foregoing, and (iv) all other moneys, securities or funds pledged for the payment of the principal or Redemption Price of and the interest on the Series 2011 Bonds in accordance with the terms and provisions of the Bond Resolution.

Copies of the Bond Resolution are on file at the office of the Authority and at the above-mentioned office of the Trustee, and reference is hereby made to the Act and to the Bond Resolution (including any and all supplements thereto and modifications and amendments thereof) for a description of the pledge, assignment and covenants securing the Bonds, the nature, extent and manner of enforcement of such pledge, the rights and remedies of the Bondholders with respect thereto, the terms and conditions upon which the Bonds are issued and may be issued thereunder, the terms and provisions upon which this bond shall cease to be entitled to any lien, benefit or security thereunder and for the other terms and provisions thereof. All duties, covenants, agreements and obligations of the Authority under the Bond Resolution may be discharged and satisfied at or prior to the maturity or redemption of this bond if moneys or certain specified securities shall have been deposited with the Trustee.

As provided in the Bond Resolution, Bonds may be issued from time to time pursuant to Supplemental Resolutions in one or more Series in various principal amounts, may mature at different times, may bear interest at different rates and may otherwise vary as in the Bond Resolution provided. The aggregate principal amount of Bonds that may be issued under the Bond Resolution is not limited, and all Bonds issued and to be issued under the Bond Resolution are and will be equally secured by the pledge and covenants made therein, except as otherwise expressly provided or permitted in the Bond Resolution.

To the extent and in the manner permitted by the terms of the Bond Resolution, the provisions of the Bond Resolution (including any resolution amendatory thereof or supplemental thereto) may be modified or amended by the Authority, (i) without the consent of the Bondholders as provided in the Bond Resolution or (ii) with the written consent of the Holders of at least two-thirds (2/3) in aggregate principal amount of the Bonds Outstanding under the Bond Resolution at the time such consent is given, and, in case less than all of the several Series of Bonds then Outstanding are affected thereby, with such consent of at least two-thirds (2/3) in aggregate principal amount of the Bonds of each Series so affected and Outstanding; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding under the Bond Resolution, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of the calculation of Outstanding Bonds. No such

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modification or amendment shall permit a change in the terms of redemption (including Sinking Fund Installments) or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of the Trustee or of the Paying Agent without its written assent thereto.

This bond is transferable, as provided in the Bond Resolution, only upon the books of the Authority kept for that purpose at the above-mentioned office of the Trustee, as bond registrar, by the Registered Owner hereof in person or such Registered Owner's duly authorized attorney in writing, upon surrender of this bond together with a written instrument of transfer satisfactory to the Trustee, as bond registrar, duly executed by the Registered Owner or such Registered Owner's duly authorized attorney, and thereupon a new fully registered bond or bonds in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Bond Resolution and upon payment of the charges therein prescribed. The Authority, the Trustee and the Paying Agent may deem and treat the Registered Owner as the absolute Owner hereof for the purpose of receiving payment of, or on account of, the principal or Redemption Price hereof and the interest due hereon and for all other purposes.

The Series 2011 Bonds maturing on or before May 1, 20\_\_ shall not be subject to optional redemption prior to their respective maturity dates. The Series 2011 Bonds maturing on and after May 1, 20\_\_ shall be subject to redemption prior to their respective maturity dates, on or after May 1, 20\_\_ at the option of the Authority, upon notice as described in the Bond Resolution, either in whole at any time, or in part on any Interest Payment Date in such order of maturity as the Authority shall determine and within a single maturity by lot, at a redemption price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

[The Series 2011A Bonds shall not be subject to extraordinary optional redemption prior to their stated maturities.] [The Series 2011B Bonds shall be subject to extraordinary optional redemption in whole prior to their respective maturity dates at an aggregate Redemption Price equal to one dollar (\$1.00), if and only if (i) the County is the Holder of one hundred percent (100%) of the Outstanding principal amount of the Series 2011B Bonds, and (ii) the County so directs the Authority to call all of such Series 2011B Bonds for redemption on a redemption date and at such Redemption Price, all as authorized by, and pursuant to the terms of, Section 5(a) of the County Guaranty Agreement. Such redemption of the Series 2011B Bonds shall have no effect on the Series 2011A Bonds.]

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[The Series 2011A Bonds maturing May 1, 20\_\_ are subject to mandatory redemption prior to their stated maturities, through selection by the Trustee and upon the giving of notice as provided by the Bond Resolution, by payment of the following "Sinking Fund Installments" on May 1 of each year set forth in the table below, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

Year	Sinking Fund Installment
\$ _____ % Term Bond Due May 1, 20__	Yield _____ %

\* Final Maturity

The Series 2011A Bonds maturing May 1, 20\_\_ are subject to mandatory redemption prior to their stated maturities, through selection by the Trustee and upon the giving of notice as provided by the Bond Resolution, by payment of the following "Sinking Fund Installments" on May 1 of each year set forth in the table below, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

Year	Sinking Fund Installment
\$ _____ % Term Bond Due May 1, 20__	Yield _____ %

\* Final Maturity

The Bond Resolution contains additional provisions regarding certain other rights to redemption of one or more Series of the Series 2011 Bonds prior to their stated maturities thereof.

The Series 2011 Bonds are payable upon redemption at the above-mentioned office of the Paying Agent. Notice of redemption, setting forth the place of payment, shall be mailed by the Trustee, postage prepaid, not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date, to the Registered Owners of any Series 2011 Bonds or portions thereof to be

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redeemed at their last addresses, if any, appearing upon the registry books, all in the manner and upon the terms and conditions set forth in the Bond Resolution. If notice of redemption shall have been mailed as aforesaid, the Series 2011 Bonds or portions thereof specified in said notice shall become due and payable on the redemption date therein fixed, and if, on the redemption date, moneys for the redemption of all of the Series 2011 Bonds or portions thereof to be redeemed, together with interest to the redemption date, shall be available for such payment on said date, then from and after the redemption date interest on such Series 2011 Bonds or portions thereof so called for redemption shall cease to accrue and be payable. Failure of the Registered Owner of any Series 2011 Bonds to be redeemed to receive any such notice shall not affect the validity of the proceedings for the redemption of Series 2011 Bonds.

The principal or Redemption Price of and the interest on the Series 2011 Bonds are payable by the Authority solely from the Trust Estate, and neither the State of New Jersey, the County (except to the extent of payments under the County Guaranty, which shall not secure the payment of any redemption premium), the Series 2011 Local Units, nor any political subdivision thereof, other than the Authority (but solely to the extent of the Trust Estate), is obligated to pay the principal or Redemption Price of or the interest on this bond and the issue of which it is one, and neither the full faith and credit nor the taxing power of the State of New Jersey, the Series 2011 Local Units, the County (except to the extent of the payments under the County Guaranty, which guaranty shall not secure the payment of any redemption premium) or any political subdivision thereof, including the Authority (which has no taxing power), is pledged to the payment of the principal or Redemption Price of or the interest on this bond and the issue of which it is one.

It is hereby certified and recited that all conditions, acts and things required by law and the Bond Resolution to exist, to have happened and to have been performed precedent to and in the issuance of this bond, exist, have happened and have been performed, and that the Series of Bonds of which this is one, together with all other indebtedness of the Authority, complies in all respects with the applicable laws of the State of New Jersey, including, particularly, the Act.

This bond shall not be entitled to any benefit under the Bond Resolution or be valid or become obligatory for any purpose until this bond shall have been authenticated by the execution by the Trustee of the Trustee's Certificate of Authentication hereon.

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IN WITNESS WHEREOF, THE MORRIS COUNTY IMPROVEMENT AUTHORITY has caused this bond to be executed in its name and on its behalf by the manual or facsimile signature of its Chairman or Vice Chairman, and its seal to be impressed, imprinted, engraved or otherwise reproduced hereon and attested by the manual or facsimile signature of its Secretary or Assistant Secretary, all as of the Dated Date hereof.

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

By: \_\_\_\_\_  
Chairman or Vice Chairman

(SEAL)

Attest:

\_\_\_\_\_  
Secretary or Assistant Secretary

[FORM OF CERTIFICATE OF AUTHENTICATION ON BONDS]

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This bond is one of the Series 2011[A/B] Bonds delivered pursuant to the within-mentioned Bond Resolution.

\_\_\_\_\_  
[Name of Trustee],  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

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[FORM OF COUNTY GUARANTY CERTIFICATE]

GUARANTY OF THE COUNTY OF SUSSEX, NEW JERSEY

The payment of the principal of and the interest on this Series 2011[A/B] Bond shall be fully, irrevocably and unconditionally guaranteed by the County of Sussex, New Jersey (the "County"), in accordance with the provisions of N.J.S.A. 40:37A-30, the guaranty ordinance of the County finally adopted pursuant thereto, and that certain "County Guaranty Agreement (Sussex County Renewable Energy Program)" dated as of November 1, 2011, between the County and The Morris County Improvement Authority, and accordingly, the County is fully, irrevocably and unconditionally liable for the payment, when due (whether at stated maturity or earlier on any date of redemption or acceleration), of the principal of and the interest on this Series 2011[A/B] Bond, and, if necessary, the County shall levy *ad valorem* taxes upon all the taxable property within the County, without limitation as to rate or amount, in order to make such payments.

IN WITNESS WHEREOF, the County has caused this Guaranty Certificate to be executed by the manual or facsimile signature of its Freeholder-Director.

COUNTY OF SUSSEX,  
NEW JERSEY

By: \_\_\_\_\_  
Freeholder - Director

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The following abbreviations, when used in the inscription on this bond, shall be construed as though they were written out in full according to applicable laws or regulations (additional abbreviations may also be used though not in the following list):

TEN COM - as tenants in common  
TEN ENT - as tenants by the  
entireties  
JT TEN - as joint tenants with  
right of survivorship  
and not as tenants in  
common  
UNIF GIFT MIN ACT  
Custodian  
(Cust) (Minor)  
under Uniform Gifts to  
Minors Act  
(State)

ASSIGNMENT

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE (FOR COMPUTER RECORD ONLY): \_\_\_\_\_

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

(Please Print or Typewrite Name and Address of Transferee)

the within bond, and all rights thereunder and hereby irrevocably constitutes and appoints

\_\_\_\_\_, Attorney, to transfer the within bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated:

Signature Guaranty:

Signature: \_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank, trust company, national bank association or other banking institution incorporated under the laws of the United States or a state of the United States.

NOTICE: The signature of this Assignment must correspond with the name that appears upon the first page of the within bond in every particular, without alteration or enlargement or any change whatever.

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**SECTION 14.02. Effective Date.**

This Bond Resolution shall take effect immediately. Notwithstanding the prior sentence, in accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Board of Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Board of Freeholders a certification from the Clerk stating that the minutes of this meeting have not been vetoed by the Director of the Board of Freeholders.

**MOVED/SECONDED:**

Resolution moved by Commissioner \_\_\_\_\_

Resolution seconded by Commissioner \_\_\_\_\_

**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto				
Ramirez				
Roe				
Sandman				
Bonanni				

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on April 19, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

Attested to this 19<sup>th</sup> day of April, 2011

By: \_\_\_\_\_

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of April 19, 2011

By: \_\_\_\_\_

Stephen B. Pearlman, Esq., Partner  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Counsel to the Authority

**EXHIBIT A**

**FORM OF PROGRAM DOCUMENTS**

**EXHIBIT B**

**County Security Fund Requirement**

**RESOLUTION PROVIDING SUSSEX COUNTY'S CONSENT TO THE ISSUANCE BY  
THE MORRIS COUNTY IMPROVEMENT AUTHORITY OF THE AUTHORITY'S  
COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE  
REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY  
TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED  
\$50,000,000 AND RELATED DOCUMENTS**

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that

certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of

renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "*Series 2011B Notes*", and together with the Series 2011A Bonds, the previously defined "*Series 2011 Bonds*"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series

2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000;

**WHEREAS**, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

**WHEREAS**, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and

obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Lease Agreement*") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to

design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "*BPU*"), whereby, among other things,

(I) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition, construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("*SRECs*") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen

(15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

**WHEREAS**, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company

Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

**WHEREAS**, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent (“*Private Placement Agent*”), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”);
- (b) If the Series 2011 Bonds shall be sold by:
  - (I) Competitive sale, authorize the distribution of a notice of sale (“*Notice of Sale*”), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the “*Underwriter*”), or
  - (II) Negotiated sale, enter into a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds; and
- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering

or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (i) above, the "Sale Documents");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF SUSSEX, NEW JERSEY**, as follows:

**Section 1.** In accordance with Section 13 and all other applicable law, the County of Sussex Board of Freeholders hereby consent to (i) the Series 2011 Project and the financing of same on behalf of the Series 2011 Local Units through the Program Documents, (ii) the execution or acknowledgment and delivery by the Authority of the Company Lease Agreement, the Power Purchase Agreement, the Company Pledge Agreement, the County Guaranty Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements in substantially the forms attached hereto as **Exhibits A, B, C, D, E and F** respectively (iii) the adoption by the Authority of the Bond Resolution in substantially the form attached hereto as **Exhibit G**, (iv) the issuance, sale and delivery of the Series 2011 Bonds to effect such purpose and (v) the adoption and execution and delivery of the County Guaranty as further security for the Series 2011 Bonds. The County's consent hereto to the Program Documents contemplates the insertion of the final financing terms therein that will result from the sale of the Series 2011 Bonds, which financing terms shall be limited only by those financing term parameters set forth in the Local Finance Board Application of the Authority filed with the Local Finance Board (and on file with the County Administrator) relating to the Series 2011 Bonds and the findings related thereto and the parameters set forth herein, which terms shall be finally determined by one or more of the Freeholder Director, County Administrator and the County Chief Financial Officer (each an "Authorized Officer"), each severally authorized hereby to act as Authorized Officer for the purposes contemplated hereby.

**Section 2.** The County, as issuer of the County Guaranty, believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Projects through the Program Documents; (b) said purpose is for the health,

wealth, convenience or betterment of the inhabitants of the County; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the County and will not create an undue financial burden to be placed upon the County.

**Section 3.** The Authorized Officers are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Projects through the Program Documents, including the issuance of the Series 2011 Bonds to be further secured by the County Guaranty, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the County at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

**Section 4.** The Authorized Officers are hereby each severally authorized and directed, upon satisfaction of all the legal conditions precedent to the execution and delivery by the County of the County Guaranty Agreement and the County Continuing Disclosure Agreement, to execute and deliver such documents in substantially the forms attached hereto as **Exhibits D and E** respectively, with such changes thereto as the Authorized Officer, in consultation with counsel to the County and other professional advisors deems in his sole discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of any changes to the forms thereof, including without limitation the insertion of the final financing terms which financing terms shall be limited only by those financing term parameters set forth in the application of the Authority filed with the Local Finance Board relating to the Series 2011 Bonds and the parameters set forth therein.

**Section 5.** The Clerk of the Board of Freeholders is hereby authorized and directed, upon the execution or acknowledgment of the documents set forth in Section 4 hereof in accordance with the terms of Section 4 hereof, to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed to thereupon affix the seal of the County to such documents.

**Section 6.** Upon the execution or acknowledgment and attestation of and if required, the placing of the seal on the documents set forth in Section 4 hereof as contemplated by Sections 4 and 5 hereof, the Authorized Officer is hereby authorized and directed to (i) deliver such fully executed, attested and sealed documents to the other parties thereto and (ii) perform such other actions as the Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

**Section 7.** The Board of Freeholders of the County hereby authorizes the preparation and the distribution of financial statements and demographic and other information concerning the County, the Series 2011 Project, the Program Documents and the transactions contemplated thereby as are otherwise necessary, convenient or desirable to cause the Authority and other

parties to enter into the various Program Documents.

**Section 8.** The Board of Freeholders of the County hereby authorizes the performance of any act, the execution or acknowledgment and delivery of any other document, instrument or closing certificates, which the Authorized Officer, after consultation with the Consultants, deems necessary, desirable or convenient in connection with this contemplated transaction, and the Board of Freeholders hereby directs the Authorized Officer to execute or acknowledge, attest and affix the seal to any such documents, instruments or closing certificates, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons.

**Section 9.** The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Projects, producing the contemplated energy savings for the Series 2011 Local Units, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Series 2011 Local Units.

**Section 10.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Projects through the Program Documents, including the issuance of the Series 2011 Bonds to be further secured by the County Guaranty, and to record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

**Section 11.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 12.** This resolution shall take effect immediately.

**Section 13.** Upon the adoption hereof, the Clerk of the Board of Freeholders shall forward certified copies of this resolution to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority.

**Exhibit A**

**[Attach Form of Company Lease Agreement]**

**Exhibit B**

**[Attach Form of Power Purchase Agreement]**

**Exhibit C**

**[Attach Form of Company Pledge Agreement]**

**Exhibit D**

**[Attach Form of County Guaranty Agreement]**

**Exhibit E**

**[Attach Form of Company and County Continuing Disclosure Agreements]**

**Exhibit F**

**[Attach Form of Local Unit License Agreements]**

**Exhibit G**

**[Attach Form of Bond Resolution]**

**GUARANTY ORDINANCE OF THE COUNTY OF SUSSEX, NEW JERSEY,  
SECURING THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF  
SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE  
BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE)  
IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1,

2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit

Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "*Series 2011B Notes*"), and together with the Series 2011A Bonds, the previously defined "*Series 2011 Bonds*"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed

\$50,000,000;

**WHEREAS**, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

**WHEREAS**, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most

particularly their roofs and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Lease Agreement*") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the

Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "*BPU*"), whereby, among other things,

(I) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition, construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("*SRECs*") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power

purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond

Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

**WHEREAS**, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County

Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

**WHEREAS**, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent (“*Private Placement Agent*”), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”);
- (b) If the Series 2011 Bonds shall be sold by:
  - (I) Competitive sale, authorize the distribution of a notice of sale (“*Notice of Sale*”), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the “*Underwriter*”), or
  - (II) Negotiated sale, enter into a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds; and
- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or

direct purchaser under the private sale methodology in clause (i) above, the "Sale Documents");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF SUSSEX, NEW JERSEY**, as follows:

**Section 1.** This guaranty ordinance shall be adopted by the governing body of the County in the manner provided for adoption of a bond ordinance as provided in the Local Bond Law, constituting Chapter 169 of the Pamphlet Laws of 1960 of the State, as amended (the "Local Bond Law").

**Section 2.** Pursuant to and in accordance with the terms of the Act, specifically Section 37, the County is hereby authorized to and hereby shall fully, unconditionally and irrevocably guarantee the punctual payment of the principal, when due, of (including sinking fund installments, if any) and interest on the Series 2011 Bonds in an aggregate principal amount not exceeding \$50,000,000, which Series 2011 Bonds are to be issued to finance the Series 2011 Project as described in the preambles hereof. Notwithstanding the provisions of any other Program Document, upon the endorsement of the Series 2011 Bonds referred to in Section 3 below by an authorized officer of the County, the County shall be fully, unconditionally and irrevocably obligated to pay, when due, the principal of (including sinking fund installments, if any) and interest on the Series 2011 Bonds to the extent the Trustee, for any reason, has insufficient monies on any such payment dates to pay the principal of and interest on the Series 2011 Bonds in full when due on any such payment dates, in the same manner and to the same extent as in the case of bonds issued by the County, and accordingly, the County shall be fully, unconditionally and irrevocably obligated to levy *ad valorem* taxes upon all the taxable property within the County for the payment thereof without limitation as to rate or amount. This full, unconditional and irrevocable guaranty of the County effected hereby to pay the principal of (including sinking fund installments, if any) and interest on the Series 2011 Bonds when due in accordance with the terms hereof and of the Program Documents may not be waived, setoff or otherwise abrogated by action or inaction of the Authority, the County or for any other reason.

**Section 3.** The Director of the Board of Freeholders (the "*Freeholder Director*") shall, by manual or facsimile signature, and is hereby directed to execute an endorsement on each of the Series 2011 Bonds evidencing this guaranty by the County as to the punctual payment of the principal of (including sinking fund installments, if any), when due, and interest thereon. The endorsement on each Series 2011 Bond shall be in substantially the following form, and absent the fully executed endorsement in such following form on any such Series 2011 Bond, such Series 2011 Bond shall not be entitled to the benefits of this guaranty ordinance:

**"GUARANTY OF THE COUNTY OF SUSSEX, NEW JERSEY**

The payment of the principal of (including sinking fund installments, if any) and interest on the within Series 2011 Bond shall be fully, irrevocably and unconditionally guaranteed by the County of Sussex, New Jersey (the "County") in accordance with the provisions of N.J.S.A. 40:37A-80 and the guaranty ordinance of the County finally adopted pursuant thereto and the County Guaranty Agreement executed by the County in connection therewith, and the County is fully, irrevocably and unconditionally liable for the payment, when due, of the principal of (including sinking fund installments, if any) and interest on this Series 2011 Bond, and if necessary the County shall levy *ad valorem* taxes upon all the taxable property within the County without limitation as to rate or amount in order to make such payments on time and in full.

**IN WITNESS WHEREOF**, the County has caused this County Guaranty to be executed by the manual or facsimile signature of its Freeholder Director.

**COUNTY OF SUSSEX, NEW JERSEY**

By: \_\_\_\_\_  
**Freeholder Director"**

The Freeholder Director is hereby further authorized to execute or acknowledge such other certificates or agreement relating to this full, irrevocable and unconditional guaranty that may be required by the Authority to comply with the terms of the Program Documents, including without limitation, the County Guaranty Agreement in substantially the form attached hereto as **Exhibit A**, with such changes thereto as the Freeholder Director, in consultation with counsel to the County and other professional advisors deems in his sole discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Freeholder Director's approval of any changes to the forms thereof. Such further agreement or certificate shall not in any manner relieve the County from its obligations hereunder, and shall contain only such terms as are consistent with or within the parameters herein set forth.

**Section 4.** It is hereby found, determined and declared by the governing body of the County that:

(a) This guaranty ordinance may be adopted notwithstanding any statutory debt or other limitations, including particularly any limitation or requirement under or pursuant to the Local Bond Law, but the aggregate principal amount of the Series 2011 Bonds which shall be entitled to the benefits of this guaranty ordinance, being an amount not to exceed \$50,000,000, shall, after their issuance, be included in the gross debt of the County for the purpose of determining the indebtedness of the County under or pursuant to the Local Bond Law.

(b) The principal amount of Series 2011 Bonds entitled to the benefits of this guaranty ordinance and included in the gross debt of the County shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of the Local Bond Law (i) from and after the time of issuance of the Series 2011 Bonds until the end of the fiscal year beginning next after the completion of acquisition, construction, installation or renovation of the Series 2011 Project, and (ii) in any annual debt statement filed pursuant to the Local Bond Law as of the end of said fiscal year or any subsequent fiscal year if the revenues or other receipts or moneys of the Authority in such year (including amounts payable pursuant to the Local Unit Bonds) are sufficient to pay its expenses of operation and maintenance in such year and all amounts payable in such year on account of the principal of and interest on all such guaranteed Series 2011 Bonds, all bonds of the County issued as provided in Section 36 of the Act (N.J.S.A. 40:37A-79) and all bonds of the Authority issued under the Act.

**Section 5.** The following matters are hereby determined, declared, recited and stated:

(a) The maximum principal amount of Series 2011 Bonds (including one or more series of bonds and one or more series of bond anticipation notes issued in anticipation thereof) of the Authority which are hereby and hereunder fully, unconditionally and irrevocably guaranteed as to the punctual payment of the principal thereof (including sinking fund installments, if any) and interest thereon is \$50,000,000; the maximum principal amount of Series 2011 Bonds (including one or more series of bonds and one or more series of bond anticipation notes issued in anticipation thereof) of the Authority that may be outstanding at any one time is \$50,000,000; and the maximum estimated cost of the Series 2011 Project to be financed in accordance with the transactions contemplated hereby is \$50,000,000.

(b) The purpose described in this guaranty ordinance is not a current expense of the County and no part of the cost thereof has been or shall be assessed on property specially benefited thereby.

(c) A supplemental debt statement of the County has been duly made and filed in the office of the Clerk of the Board, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State, and such debt statement shows that while the gross debt of the County, as defined in the Local Bond Law, is increased by this guaranty ordinance by \$50,000,000 in accordance with the provisions of the Act, the net debt of the County is not increased, and the obligation of the County authorized by or incurred pursuant to the terms of

this guaranty ordinance is permitted by an exception to the debt limitations of the Local Bond Law which exception is contained in the Act, so long as the payment obligations of the County hereunder are not called upon.

(d) Other than the publication requirements set forth below, all other items to be contained in a bond ordinance adopted pursuant to the Local Bond Law are hereby determined to be inapplicable to the County's guaranty of the Series 2011 Bonds hereby.

**Section 6.** To the extent the Authority determines that it is in the best interest of the Authority and the Local Units, the Authority is hereby authorized to finance the Local Unit Projects as separate issues through one or more separate series of Series 2011 Bonds which in the aggregate shall not exceed \$50,000,000. Such series of Series 2011 Bonds shall be entitled to the benefits of this County Guaranty in an aggregate amount not to exceed \$50,000,000.

**Section 7.** To the extent the Series 2011 Bonds are not issued in 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds and all dates related to such year of issuance shall be automatically adjusted.

**Section 8.** If any part(s) of this ordinance shall be deemed invalid, such part(s) shall be severed and the invalidity thereby shall not affect the remaining parts of this ordinance.

**Section 9.** This guaranty ordinance shall take effect at the time and in the manner provided by law.

**Section 10.** A public hearing shall be held on this guaranty ordinance on July 27, 2011 at [\_\_\_\_\_ .m.] in the Freeholder Meeting Room, Sussex County Administrative Center, One Spring Street, Newton, New Jersey.

**Section 11.** The Clerk of the Sussex County Board of Freeholders is hereby directed to publish and post notice of this guaranty ordinance as required by applicable law, including the Act and Local Bond Law.

**Section 12.** Upon the adoption hereof, the Clerk of the Board of Freeholders shall forward certified copies of this resolution to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority.

**Exhibit A**

**Attach form of County Guaranty Agreement**

**RESOLUTION PROVIDING MORRIS COUNTY'S CONSENT TO THE ISSUANCE BY THE MORRIS COUNTY IMPROVEMENT AUTHORITY OF THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND RELATED DOCUMENTS**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services*

*Act*”), and all other applicable law, the terms of which agreement has been set forth in that certain “Service Agreement (Sussex County Renewable Energy Program)” dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the “*Service Agreement*”) between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority’s energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the “*Authority Consultants*”) and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the “*Sussex County Consultants*”, if any, and together with the Authority Consultants, the “*Consultants*”; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the “*Local Unit Facilities*”);

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "*Series 2011B Notes*"), and together with the Series 2011A Bonds, the previously defined "*Series 2011 Bonds*"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series

2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000;

**WHEREAS**, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

**WHEREAS**, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and

obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Lease Agreement*") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to

design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "*BPU*"), whereby, among other things,

(I) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("*SRECs*") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen

(15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

**WHEREAS**, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company

Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

**WHEREAS**, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent (“*Private Placement Agent*”), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”);
- (b) If the Series 2011 Bonds shall be sold by:
  - (I) Competitive sale, authorize the distribution of a notice of sale (“*Notice of Sale*”), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the “*Underwriter*”), or
  - (II) Negotiated sale, enter into a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds; and
- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering

or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (i) above, the "Sale Documents");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS, NEW JERSEY**, as follows:

**Section 1.** In accordance with Section 13 and all other applicable law, the County of Morris Board of Freeholders hereby consent to (i) the Series 2011 Project and the financing of same on behalf of the Series 2011 Local Units through the Program Documents, (ii) the execution or acknowledgment and delivery by the Authority of the Company Lease Agreement, the Power Purchase Agreement, the Company Pledge Agreement, the County Guaranty Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements in substantially the forms attached hereto as **Exhibits A, B, C, D, E** and **F** respectively (iii) the adoption by the Authority of the Bond Resolution in substantially the form attached hereto as **Exhibit G**, (iv) the issuance, sale and delivery of the Series 2011 Bonds to effect such purpose and (v) the adoption and execution and delivery of the County Guaranty as further security for the Series 2011 Bonds. Morris County's consent hereto to the Program Documents contemplates the insertion of the final financing terms therein that will result from the sale of the Series 2011 Bonds, which financing terms shall be limited only by those financing term parameters set forth in the Local Finance Board Application of the Authority filed with the Local Finance Board (and on file with the Morris County Administrator) relating to the Series 2011 Bonds and the findings related thereto and the parameters set forth herein.

**Section 2.** Morris County believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Projects through the Program Documents; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the County; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the County and will not create an undue financial burden to be placed upon the County.

**Section 3.** The Series 2011 Bonds are direct and special obligations of the Authority. Neither the State nor any county or municipality therein (including Morris County) nor any political subdivision thereof, other than the County of Sussex (to the extent of the County Guaranty) and other than the Authority (but solely to the extent of the Trust Estate in accordance with the terms of the Bond Resolution), is obligated to pay the principal or redemption premium, if any, of or interest on the Series 2011 Bonds, and neither the faith and credit nor the taxing power of the State or any county or municipality therein (including Morris County) or any political subdivision thereof, is pledged to the payment of the principal or redemption premium, if any, of or interest on the Series 2011 Bonds other than the County of Sussex (to the extent of the County Guaranty) and other than the Authority (but solely to the extent of the Trust Estate in accordance with the terms of the Bond Resolution). The Authority has no power to levy or collect taxes. Morris County is not providing a guarantee pursuant to N.J.S.A. 40:37A-80 or any other law, regulation, clause or condition in any of the documents or regulations related directly or indirectly to this transaction as to any of the financial or non financial terms, obligations, conditions, requirements, undertakings, or provisions. The sole purpose of this resolution is to provide consent to the Authority from Morris County pursuant to N.J.S.A. 40:37A-56 to finance a portion of this project located in the County of Sussex.

**Section 4.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 5.** This resolution shall take effect immediately.

**Section 6.** Upon the adoption hereof, the Clerk of the Morris County Board of Freeholders shall forward certified copies of this resolution to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority.

**Exhibit A**

**[Attach Form of Company Lease Agreement]**

**Exhibit B**

**[Attach Form of Power Purchase Agreement]**

**Exhibit C**

**[Attach Form of Company Pledge Agreement]**

**Exhibit D**

**[Attach Form of County Guaranty Agreement]**

**Exhibit E**

**[Attach Form of Company and County Continuing Disclosure Agreements]**

**Exhibit F**

**[Attach Form of Local Unit License Agreements]**

**Exhibit G**

**[Attach Form of Bond Resolution]**

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(Sussex County Renewable Energy Program, Series 2011)

By and Between

MORRIS COUNTY IMPROVEMENT AUTHORITY, as Lessor

and

[COMPANY], as Lessee

Dated as of November 1, 2011

with respect to the Morris County Improvement Authority's  
Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series 2011 (Fiduciary  
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**LEASE PURCHASE AGREEMENT**  
(Sussex County Renewable Energy Program, Series 2011)

THIS "LEASE PURCHASE AGREEMENT" (Sussex County Renewable Energy Program, Series 2011) (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "Company Lease Agreement"), dated as of November 1, 2011, is made by and among the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority" or "Lessor"), duly created by ordinance of the Board of Chosen Freeholders ("Board of Freeholders") of the County of Morris (the "County"), State of New Jersey ("State") as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act") and other applicable law, and [COMPANY], a limited liability company organized and existing under the laws of the State of Delaware, duly authorized to conduct business in the State (including any successors and assigns, the "Company" or "Lessee").

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county

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Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects", and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatiny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined

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improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders; for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Peariman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants", if any, and together with the Authority Consultants, the "Consultants"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the

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in the Bond Resolution) not to exceed \$50,000,000 (the "Series 2011 Bonds");

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "Series 2011B Notes", and together with the Series 2011A Bonds, the previously defined "Series 2011 Bonds"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000;

WHEREAS, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

WHEREAS, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution");

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all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "Company RFP") and the receipt of proposals from prospective solar developers, including that (the "Company Proposal") of the successful respondent (the "Company"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

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(II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds; and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty

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(a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

(b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(c) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "BPU"), whereby, among other things,

(i) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

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certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security

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Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

WHEREAS, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

WHEREAS, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c-12") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination

Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement" and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent ("Private Placement Agent"), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement ("deemed final") within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement");
- (b) If the Series 2011 Bonds shall be sold by:
  - (i) Competitive sale, authorize the distribution of a notice of sale ("Notice of Sale"), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the "Underwriter"), or

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(ii) Negotiated sale, enter into a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds; and

- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement, and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (i) above, the "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:57A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

#### SECTION 101. Definitions.

(a) The terms set forth in this Section shall have the meanings ascribed to them for all purposes of this Company Lease Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires. Terms used in this Company Lease Agreement and not otherwise defined shall have the meaning assigned to them in the Bond Resolution.

(b) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

- Act
- Authority
- Board of Freeholders
- Bond Resolution
- Bonds
- BPJ
- Capital Improvement Projects\*
- Company
- Company Continuing Disclosure Agreement
- Company Documents
- Company Lease Agreement
- County
- County Guaranty
- County Guaranty Agreement
- County Security
- County Security Agreement
- County Security Provider
- County Service Agreement
- Local Units
- Local Unit Facilities\*
- Local Unit License
- Local Unit License Agreement
- Local Unit License Agreements
- Power Purchase Agreement
- Preliminary Program Costs
- Program Documents
- Projects\*

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Renewable Energy Program  
Renewable Energy Projects\*  
Rule 15c2-12  
Series 2011 Bonds  
Series 2011A Bonds  
Series 2011B Bonds  
Series 2011 Local Unit\*  
Series 2011 Local Units  
Shared Services Act  
SRECs  
State

Series  
Sinking Fund Installments  
Tax-exempt Bonds  
Trustee  
Trust Estate

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(c) The following defined terms shall, for all purposes of this Company Lease Agreement, have the meanings ascribed to such terms in the Bond Resolution

Account  
Additional Bonds  
Administrative Expense Account  
Capitalized Interest Account  
Code  
Company Development Fees and Expenses  
Company Pledge Agreement  
Completion Conditions  
Consulting Energy Engineer  
Consulting Energy Engineering Services  
Cost  
County Continuing Disclosure Agreement  
County Security Fund  
County Security Fund Requirement  
Fund  
Investment Securities  
Net Substitute Power Purchase Price  
Official Statement  
Outstanding  
Preliminary Official Statement  
Principal Office  
Project Fund  
Renewable Energy Program Interested Party  
Revenue Account  
Revenue Fund  
Revenues

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(d) The following defined terms shall, for all purposes of this Company Lease Agreement, have the following meanings:

"Acceptance Certificates" shall mean, individually or collectively, as the case may be, the CBP Acceptance Certificates and the REP Acceptance Certificates.

"Additional Lease Payment" shall mean any amount payable by the Lessee at the times and under the other terms of the Company Lease Agreement, other than Basic Lease Payments, including without limitation, (i) Administrative Expenses not otherwise provided from a portion of the proceeds of the Bonds, including the second and succeeding Bond Year Administrative Fee, (ii) interest on any past due Lease Payments payable at the Overdue Rate (but not any such past due Basic Lease Payment), (iii) the Purchase Option Price in accordance with Section 701 of the Company Lease Agreement, and (iv) the Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement.

"Administrative Expenses" shall mean the fees and expenses which are incurred from time to time by or on behalf of the Authority, the County, the County Security Provider, or the Series 2011 Local Units, including the Administrative Fee, if any, in carrying out their respective rights and duties under the terms of the Program Documents, including, without limitation the Preliminary Program Costs, accounting, administrative, financial advisory, and legal expenses, the Consulting Energy Engineering Services, the fees and expenses of the Trustee, any paying agents or any other fiduciaries or agents acting on behalf of the Authority, the County, or the Series 2011 Local Units, under or pursuant to the terms of the Program Documents, which amounts shall be due and payable by the Company as an Additional Lease Payment at the times set forth in the Program Documents, or, as applicable, upon presentation of an invoice for payment; provided, however, that to the extent an Administrative Expense is incurred solely due to the action or inaction of a Series 2011 Local Unit not caused by or otherwise resulting from any action, inaction or request of the Company, such Administrative Expense shall be paid by such Series 2011 Local Unit upon presentation of an invoice for payment. Other than the \$\_\_\_\_\_ of Series 2011 Bond proceeds deposited in the Administrative Fund earmarked for certain costs and expenses, including certain Administrative Expenses, and other than the Authority's annual Administrative Fee and the Trustee's annual fee to be paid as an Additional Lease Payment by the Company, the Company and the Series 2011 Local Units shall only be responsible for the reasonable amount of Administrative Expenses caused by the action or inaction of the Company or the Series 2011 Local Unit, as applicable, to the extent any such Administrative Expenses arise in the course of the implementation of the Renewable Energy Projects and/or the performance by the Authority, County, and/or Series 2011 Local Unit of their rights, duties and obligations under the Program Documents.

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"Administrative Fee" shall mean the sum of the following, payable by the Company to the Authority at the times and in the amounts as set forth below:

(i) With respect to the Series 2011 Bonds for the first Bond Year upon initial issuance thereof, the Authority's fee for the Renewable Energy Program in the amount of \$120,000, consisting of the sum of (a) \$100,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Costs of Issuance Account of the Administrative Fund pursuant to Section 2.03(7)(a)(i) of the Bond Resolution and (b) \$20,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Administrative Expense Account of the Administrative Fund pursuant to Section 2.03(7)(a)(ii)(A) of the Bond Resolution; plus

(ii) For all Bond Years with respect to the Series 2011 Bonds thereafter (commencing May 1, 20\_\_), a sum of money payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund payable on the Basic Lease Payment Date immediately preceding the first day of any such Bond Year, equal to \$20,000, which amount may be referred to as the Authority's annual Administrative Fee; plus

(iii) Reserved; plus

(iv) For all Bond Years with respect to the Series 2011 Bonds, a sum of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund payable on the last day of each such Bond Year, equal to the following:

(a) If and only if the Company determines for some good and valuable business purpose, including without limitation impending negotiations with the Authority or any other Renewable Energy Program Interested Party regarding any provision of the Program Documents, whether required for negotiation or otherwise, to allocate to the Authority or some other Renewable Energy Program Interested Party some portion of the amount realized or to be realized by or on behalf of the Company pursuant to Section 6.3(b) of the Power Purchase Agreement during any such Bond Year, the amount of such contribution, if any; plus

(v) With respect to any Series of Bonds, interest on any past due Basic Lease Payments payable at the Overdue Rate in accordance with the Company Lease Agreement (but not any such past due Basic Lease Payment); plus

(vi) For all Bond Years with respect to any Series of Additional Bonds, such amounts as may be set forth in a Supplemental Resolution, including without limitation, for any Series of Additional Bonds that refund the Series 2011 Bonds or any other Series of Outstanding

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Bonds, a financing fee payable upon the issuance of any such Series of Additional Bonds (from the proceeds thereof, from the Company, or otherwise) in the amount of two percent (2%) of the aggregate principal amount of any such Series of Additional Bonds, or such different amount as shall be agreed to by the Company and the Authority, plus all reasonable Administrative Expenses of the Authority and any other Renewable Energy Program Interested Party involved in any such refunding, plus an annual financing fee of one percent (1%) of the aggregate principal amount of any such Series of Additional Bonds Outstanding and payable by the Company as of the first day of each Bond Year until final maturity (stated or otherwise) thereof, except as such amounts may be modified in any such Supplemental Resolution authorizing the issuance of any such Series of Additional Bonds.

"Applicable" shall mean (i) with reference to any Series 2011 Local Unit, the Series 2011 Local Unit intended to be benefited or obligated thereby, (ii) with reference to any Renewable Energy Project, the Renewable Energy Project for the intended Series 2011 Local Unit, (iii) with reference to any Local Unit Facilities, the Local Unit Facilities for the intended Series 2011 Local Unit, and (iv) with reference to any Local Unit License Agreement, the Local Unit License Agreement executed for the benefit of the intended Series 2011 Local Unit.

"Architect" shall mean individually or collectively, as the case may be, the individual or entity appointed or caused to be appointed or employed by the Applicable Series 2011 Local Unit, the Lessor, or the Lessee, as applicable, with respect to the provision of architectural services relating to the Renewable Energy Projects or the Capital Improvement Projects on, in, affixed or adjacent to, or otherwise for the benefit of the Local Unit Facilities for such Applicable Series 2011 Local Unit, all in accordance with applicable law, which may include the Local Public Contracts Law or the Public Schools Contracts Law, including any rules and regulations relating thereto and to which such Applicable Series 2011 Local Unit, the Lessor, or the Lessee is subject, including without limitation any architect of record with respect to such Projects and/or Local Unit Facilities. The Architect may be a Contractor providing services pursuant to a Development Contract.

"Authorized Officer" or "Authorized Representative" shall mean, (i) with respect to the Authority, the Chairman, the Vice Chairman, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairman or by the Vice Chairman of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to any Series 2011 Local Unit, the person designated as an Authorized Officer in the Applicable Local Unit License Agreement of any such Series 2011 Local Unit or any other person or persons who shall be authorized to act on behalf of such Series 2011 Local Unit by virtue of a resolution of the governing body of such Series 2011 Local Unit, which resolution shall set forth such authorization; (iii) with respect to the Trustee, any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect

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to Company: any officer of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider; any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

"Base Rate" shall mean the rate of interest established by the Trustee from time to time as its reference rate in making loans but does not reflect the rate of interest charged to any particular class of borrowers, and is not tied to any external rate of interest or index. The applicable rate will change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any party. If no other rate shall be so established by the Trustee, the Base Rate shall be the Trustee's prime rate as determined from time to time.

"Basic Lease Payment" shall mean, as of each Basic Lease Payment Date, the amount set forth in Exhibit A-3 to the Company Lease Agreement corresponding to such Basic Lease Payment Date and designated as a Basic Lease Payment. The Basic Lease Payment as of any Basic Lease Payment Date is equal to the payment of the Principal Portion and Interest Portion due on such Basic Lease Payment Date, and shall be established as the amount set forth in Exhibit A-3 to the Company Lease Agreement for such date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments), and interest on the Outstanding Bonds on the next occurring Principal Payment Date and Interest Payment Date respectively, of the Outstanding Bonds, including without limitation the credits available under (i) Section 302(a)(i) and (ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701 of the Company Lease Agreement with respect to prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(d)(v)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

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2011 Local Unit has been completed in accordance with the Plans and Specifications therefore, and has been accepted by such Series 2011 Local Unit. The Authority and the Company acknowledge and agree that the Company shall not be responsible for the construction of any Capital Improvement Projects under the Program Documents and any references in such Program Documents to the Capital Improvement Projects shall be of no further force and effect.

"CIP Acceptance State" shall mean the good working order condition of the Capital Improvement Projects for the Series 2011 Local Units, at the time of the authorization, execution and delivery of, and as certified and acknowledged by such Applicable Series 2011 Local Units, in the respective CIP Acceptance Certificates.

"Company Appendices" shall mean that portion of the Preliminary Official Statement and the Official Statement relating to the Company, including the appendices thereof, which may include financial, demographic or other information supplied by or on behalf of the Company, or a link or other reference to such information, all as shall be designated in the Company Continuing Disclosure Agreement, and as to which the Company shall make certain certifications under federal securities law.

"Construction Manager" shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either the Lessor or any Series 2011 Local Unit with the consent of the Lessor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Lessee for any Series 2011 Local Unit, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Lessee for any Series 2011 Local Unit. The Consulting Energy Engineer may act as Construction Manager.

"Contractor" shall mean the Company, or any other subcontractor or other third-party designated by the Company through a Development Contract or otherwise, in either case as the entity obligated to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Development Contract" shall mean (i) in the case of the Company, the Company Lease Agreement, (ii) in the case of \_\_\_\_\_, as Contractor, that certain "Turnkey Design, Engineering, Procurement and Construction Contract" between the Company and such Contractor with respect to the Projects, and (iii) in the case of any other Contractor, that certain contract obligating any such other subcontractor or other third-party, as Contractor and on behalf of the Company, to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

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"Basic Lease Payment Date" shall mean any date set forth in Exhibit A-3 to the Company Lease Agreement and designated as a Basic Lease Payment Date, which for the Interest Portion (December 1 and June 1, commencing December 1, 2012) and Principal Portion (December 1, commencing December 1, 2012) of any Basic Lease Payment, shall be a day five (5) months prior to any regularly scheduled Interest Payment Date and any regularly scheduled Principal Payment Date, respectively, or if either of such days is not a Business Day, the first Business Day prior to such date.

"Bond Counsel" shall mean Inglesino, Pearlman, Wyciskala & Taylor, LLC, or any other attorney at law, or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exclusion of interest on bonds or other obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state.

"Bond Year" shall mean (i) with respect to any Series of Outstanding Bonds, including the Series 2011 Bonds, a period of 12 consecutive months beginning on May 1 of any calendar year and ending on January 31 of the immediately succeeding calendar year except that (ii) the first Bond Year with respect to the Series 2011 Bonds shall be a period commencing on the date of issuance of the Series 2011 Bonds and ending on January 31, 2013 and (iii) the first Bond Year with respect to any other Series of Bonds shall be a period commencing on the date of issuance of such Series of Bonds and ending on the succeeding 31<sup>st</sup> day of January.

"Bondholder," "Bond Holder," "Holder," or "Holder of Bonds" shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds.

"Business Day" shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or the Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

"Certificate" shall mean a written certificate signed in the name of the Authority, any Series 2011 Local Unit, the County, the Company or the Trustee. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the instruments so combined shall be read and construed as a single instrument.

"CIP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Capital Improvement Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Capital Improvement Projects for each such Series

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Nothing in any Development Contract shall relieve the Company from its obligations under the Company Lease Agreement and the other Company Documents, which obligations shall include the Company's continual obligation to design, permit, acquire, construct, install, operate and/or maintain all of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, and to design, permit, acquire, construct, renovate and/or install all of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Draw Date" shall have the meaning ascribed to such term in Section 5.10(b) of the Company Lease Agreement, and need not be a regularly scheduled set of dates, but shall occur no more frequently than twice a month.

"Draw Papers" shall have the meaning ascribed to such term in Section 5.10(c) of the Company Lease Agreement.

"Event of Default" shall have the meaning ascribed to such term in Section 1001 of this Company Lease Agreement.

"Independent Insurance Consultant" shall mean a nationally recognized, independent actuary, insurance company or broker acceptable to the Lessor that has actuarial personnel experienced in the area of insurance for which the Lessee is to be self-insured.

"Interconnection Agreement" shall mean, individually or collectively, as the case may be, one or more agreements between or among the existing local electric utility distribution provider and one or more of the Lessee, the Applicable Series 2011 Local Unit and/or the Lessor, with respect to the interconnection of the completed Renewable Energy Projects for such Series 2011 Local Unit to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

"Interest Payment Date" shall mean, the date on which interest on the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the first (1<sup>st</sup>) day of each May and November until final maturity of the Bonds, including the Series 2011 Bonds, commencing May 1, 2013 with respect to the Series 2011A Bonds, and (b) which shall be \_\_\_\_\_ with respect to the Series 2011B Bonds, each of which shall constitute a regularly scheduled Interest Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Interest Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the interest due and owing on the Outstanding Bonds, including the Series 2011 Bonds, on the immediately succeeding Interest Payment Date, as set forth in Exhibit A-3 to the Company Lease Agreement, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the interest on the Bonds on the next occurring Interest Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(i) of the Company

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Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Lease Payments" shall mean all amounts due and payable by the Company pursuant to the terms of the Company Lease Agreement, and shall consist of Basic Lease Payments and the Additional Lease Payments.

"Lease Term" or "Term" shall mean the period during which this Company Lease Agreement is in effect, as specified in Section 402 hereof.

"Leased Property" shall mean the Renewable Energy Projects, as set forth in Exhibit A-3 to the Company Lease Agreement and in Exhibit B to the respective Local Unit License Agreements for the Series 2011 Local Units, together with all properties, rights, duties and obligations related thereto, including without limitation the right to enter upon and locate the Renewable Energy Projects on the Local Unit Facilities, as all such property shall be leased by the Authority, as owner and lessor, to the Company, as lessee, pursuant to Section 401 of the Company Lease Agreement for the Lease Term, with the express intent that such lease shall convey ownership of such property for purposes of the Code to the Company. The Leased Property shall not include the Capital Improvement Projects, if any, of the Series 2011 Local Units, all of which shall be owned by the respective Series 2011 Local Units.

"Mandatory Purchase Price" shall have the meaning ascribed to such term in Section 702 of the Company Lease Agreement relating to the acceleration of the Bonds of any Series, including the Series 2011 Bonds.

"Maximum Gross Bond Funded Project Cost Amount" shall mean the sum of (i) the Maximum Net Bond Funded Project Cost Amount funded with a portion of the proceeds of the Series 2011 Bonds and deposited with the Trustee in the Project Fund upon initial issuance thereof, together with (ii) any interest earned thereon prior to disbursement from the Project Fund in accordance with the Company Lease Agreement and the Bond Resolution, which amount has been estimated by the Lessee to be sufficient to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all

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"Power Purchase Price Payments" shall mean the payments made by the respective Series 2011 Local Units for the purchase of electricity to the Trustee at the direction of and on behalf of the Lessee and Lessor, all in accordance with Section 5.1(e)(i) of the Local Unit License Agreements.

"Principal Payment Date" shall mean, the date on which principal (including Sinking Fund Installments, if any) of the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the first (1<sup>st</sup>) day of each May until final maturity of the Series 2011 Bonds, commencing May 1, 2013 with respect to the Series 2011A Bonds, and (b) which shall be \_\_\_\_\_ with respect to the Series 2011B Bonds, each of which shall constitute a regularly scheduled Principal Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Principal Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the principal (including Sinking Fund Installments) of the Outstanding Bonds, including the Series 2011 Bonds, due and owing on the immediately succeeding Principal Payment Date, as set forth in Exhibit A-3 attached to the Company Lease Agreement, [except for the Basic Lease Payments due on \_\_\_\_\_ and \_\_\_\_\_, where Exhibit A-3 shall be controlling for such two (2) dates (due to the requirement that the Basic Lease Payment amount due for such two (2) dates shall not be equal to the amount due on the Outstanding Bonds),] less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments) the Bonds on the next occurring Principal Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Purchase Option Price" shall have the meaning ascribed to such term in Section 701 of the Company Lease Agreement relating to the optional redemption of the Bonds of any Series, including the Series 2011 Bonds.

"Reimbursement Collateral" shall mean, to the extent a County Security Agreement shall be delivered to the Lessor and the Trustee in accordance with the provisions of

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of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

"Maximum Net Bond Funded Project Cost Amount" shall mean \$ \_\_\_\_\_, the amount deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(c)(i) and (ii) of the Bond Resolution to fund a portion of the Project Costs, which amount was established by the Lessee pursuant to the Company Proposal.

"Net Proceeds" shall mean any insurance, condemnation, performance bond, or any other financial guaranty proceeds paid with respect to any portion of the Projects, remaining after payment therefrom of all expenses incurred in the collection thereof; and, with respect to insurance, if and at such time as the Lessee elects to provide self-insurance under Section 614 of this Company Lease Agreement, any moneys payable from any self-insurance fund of the Lessee which may lawfully be expended for the purposes for which such self-insurance is provided.

"Overdue Rate" shall mean two percent (2%) per annum over the Base Rate, which rate will change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any Renewable Energy Program Interested Parties; provided, however, that notwithstanding the foregoing, to the extent the County Security, if any, shall have been drawn upon to reimburse the County in full for any County payments under the County Guaranty, the Overdue Rate with respect to interest to be paid on past due Basic Lease Payments (such payment of interest constituting an Additional Lease Payment hereunder) shall have such different meaning, if any, as may be set forth in the County Security Agreement.

"Permitted Encumbrances" shall mean as of any particular time: (i) liens for taxes and assessments not then delinquent with respect to the Leased Property, (ii) the Company Lease Agreement and the other Program Documents, (iii) the pledge and assignment by the Lessor of the Reimbursement Collateral to the County Security Provider, if any, under the County Security Agreement, if any, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security, (iv) the pledge of the Trust Estate by the Lessor to the Trustee under the Bond Resolution, and (v) any mechanic's, laborer's, materialmen's, supplier's or vendor's lien or right not filed or perfected in the manner prescribed by law, other than any lien arising through a manufacturer or supplier of the Leased Property.

"Plans and Specifications" shall mean the architectural and engineering drawings and specifications prepared by the Architect or other Contractor (through a Development Contract or otherwise) describing the Renewable Energy Projects or the Capital Improvement Projects (if any), including any Completion Project, as the case may be, as agreed to among the Company and the Applicable Series 2011 Local Unit pursuant to Section 501 of the Company Lease Agreement.

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Section 5.07(6) of the Bond Resolution, (i) the SRECs, (ii) the Net Substitute Power Purchase Price, and (iii) any past due Basic Lease Payments, together with any Additional Lease Payments constituting interest payable on such past due Basic Lease Payments at the Overdue Rate, all of which shall have been pledged and assigned by the Lessor to the County Security Provider under the County Security Agreement, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security. If no County Security Agreement shall be so delivered, this term shall mean such portion of the monies and securities on deposit in the County Security Fund at any time, if any, that shall be available to the Lessee, in such case as County Security Provider, after and to the extent the County has been fully paid under its County Guaranty, provided that no such monies shall be made available to the Lessee until the County has completed all of its payment obligations under the County Guaranty and been fully reimbursed therefor, from the County Security Fund or otherwise.

"REP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Renewable Energy Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Renewable Energy Projects for each such Series 2011 Local Unit have been completed in accordance with the Plans and Specifications therefor, and have been accepted by the Company and the Applicable Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution.

"Reserved Rights" shall mean the Authority's right to retain the following under the Company Lease Agreement, which shall not be part of the Trust Estate pledged to the Trustee under Section 1.04 of the Bond Resolution:

- (i) Receive the Additional Lease Payments earmarked for purposes other than the Purchase Option Price or the Mandatory Purchase Price (which Purchase Option Price or the Mandatory Purchase Price Additional Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), including without limitation (a) the Administrative Fee, if any, and any other Administrative Expenses, which the Authority shall be obligated to pay or cause to be paid to the Renewable Energy Program Interested Parties due such Administrative Expenses, and (b) interest payable on past due Lease Payments at the Overdue Rate (but not the Basic Lease Payments that may be paid together with any payment at the Overdue Rate, which Basic Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), provided, further, that the portion of which interest that is attributable to past due Basic

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Lease Payments may be assigned by the Authority to the County and/or the County Security Provider, if any, as part of the Reimbursement Collateral;

(ii) The payments set forth in Section 5.2(a)(ii) and (iii) of the Local Unit License Agreements for the Series 2011 Local Units that reflect the difference between the Gross Substitute Power Purchase Price and the Net Substitute Power Purchase Price, which includes the Administrative Fee;

(iii) Receive notices provided for in the Company Lease Agreement or any other Program Document;

(iv) Appoint, replace or remove each party as shall be appointed, replaced or removed under the Company Lease Agreement or any other Program Document at the direction of the Authority; and

(v) The right to give or withhold consents, including consents to amendments, permitted or required of the Authority under the Company Lease Agreement or any other Program Documents, to the extent that any such consent or amendment would diminish the rights or enlarge the responsibilities or adversely affect the ability of the Authority to realize or perform same, respectively, or which would increase the Authority's potential liability or exposure to any party to any Program Document or to any third party as a result thereof. All such notices, appointments or consents under any other Program Document (i.e., other than the Company Lease Agreement) shall be unaffected by these rights, as the Authority's rights under the other Program Documents are not subject to the pledge of the Trust Estate under Section 1.04 of the Bond Resolution, and are either retained by the Authority, or assigned pursuant to the terms of the Program Documents, but in any event, shall not constitute Revenues or other part of the Trust Estate for purposes of the Bond Resolution.

#### SECTION 102. Exhibits.

The following Exhibits are attached to, and by reference are made a part of, this Company Lease Agreement pursuant to which the Renewable Energy Projects are to be leased by the Authority to the Lessee:

(a) **Exhibit A:** Various details regarding a description of the Projects, the schedule of regularly scheduled Basic Lease Payments and maximum Project Costs funded from the Series 2011 Bonds.

(i) **Exhibit A-1:** Description of Renewable Energy Projects for Series 2011 Local Units;

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(ii) **Exhibit A-2:** Description of Capital Improvement Projects (if any) for Series 2011 Local Units;

(iii) **Exhibit A-3:** Basic Lease Payment Schedule; and

(iv) **Exhibit A-4:** Notice Information for Series 2011 Local Units.

(b) **Exhibit B:** Form of Acceptance Certificates, consisting of:

(i) **Exhibit B-1:** Form of RFP Acceptance Certificates; and

(ii) **Exhibit B-2:** Form of CIP Acceptance Certificates.

(c) **Exhibit C:** Form of Draw Papers.

(i) **Exhibit C-1:** Initial Project Workforce Form AA201.

(d) **Exhibit D:** Certificate of an Authorized Officer of the Lessee for Company Development Fees and Expenses Incurred on behalf of the Lessee.

(e) **Exhibit E:** Attach Form of Power Purchase Agreement and Company Continuing Disclosure Agreement.

#### SECTION 103. Inapplicable Terms.

Notwithstanding anything to the contrary contained in this Company Lease Agreement, the parties hereto acknowledge and agree that (a) the Lessee is not responsible for the construction of any Capital Improvements Projects under the Program Documents and any references herein to Capital Improvement Projects, CIP Acceptance Certificates or any other term defined by reference to Capital Improvement Projects (without limiting the application of any such term to the extent not related to Capital Improvement Projects) shall be of no further force and effect, (b) there shall be no need for a County Security Agreement, a County Security Provider or County Security and any references thereto shall be of no further force and effect and (c) any County Security Fund Requirement shall equal \$ \_\_\_\_\_. [To be revised based upon the terms of the successful Company RFP.]

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## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES; DISCLAIMERS

#### SECTION 201. Representations, Covenants and Warranties of Lessee.

The Lessee represents, covenants and warrants as follows:

(a) The Lessee (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and (ii) has or will have all requisite power and authority, and as applicable, all requisite governmental licenses, authorizations, consents and approvals, to (A) own or lease its assets and carry on and transact its business, including without limitation the conduct of business within the State in accordance with the terms of the Company Documents, (B) authorize, execute, deliver and perform its obligations under the Company Documents, and (C) accept and be bound by the terms of the other Program Documents, and (iii) is duly qualified and is licensed and, as applicable, is in good standing under the laws of each jurisdiction, including the State, where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license. The Lessee has all of the requisite power and authority and has full legal right to (x) enter into each of the Company Documents, (y) perform, observe and comply with all of its respective agreements and obligations under the Company Documents, and (z) otherwise be bound by the terms of all of the other Company Documents.

(b) The Constitution and the laws of the State and the jurisdiction of the Lessee's organization authorize the Lessee to, and the Lessee has the right, power, authority and expertise to, and shall (i) design, permit, acquire, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of the Local Unit Facilities for all of the Series 2011 Local Units in accordance with the technical specifications set forth in Appendix C of the Company RFP attached hereto as part of Exhibit A-1, and otherwise in accordance with the terms of the Company Documents, (ii) design, permit, acquire, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities in accordance with the plans and specifications and construction documents included or referred to herein and otherwise in accordance with the terms of the Program Documents, (iii) enter into the Company Documents, to acknowledge and consent and otherwise be bound by the terms of the other Program Documents, and to consummate the transactions and perform the obligations contemplated thereby. Notwithstanding the foregoing, the Lessee shall in all circumstances commence construction of the Renewable Energy Projects on or before May 1, 2012, and complete construction and file all Acceptance Certificates for all Projects in accordance with the provisions of Section 510(e) hereof no later than November 1, 2012, unless extended, per Project, by Force Majeure or Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement. Any such extension shall have no effect on the obligation to make Basic Lease Payments on time and in full.

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(c) The execution and delivery by the Lessee of the Company Documents, the performance by the Lessee of all of its respective agreements and obligations under each of such documents and to be bound by the other Company Documents, and the incurring by the Lessee of all of the obligations contemplated by the Company Documents, have been duly authorized by all necessary requisite actions on the part of the Lessee, and the provisions of the Company Documents do not and shall not (i) contravene any provision of the Lessee's certificate of incorporation, by-laws and any other organizational documentation (each from time to time in effect), (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessee under any material agreement, mortgage or other instrument to which the Lessee is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessee's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation to which the Lessee is or may be bound, or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable to such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessee, or (v) to the best of Lessee's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of execution and delivery hereof and prior to the date of issuance of the Series 2011 Bonds, or are not required as a matter of law until a future date including the Interconnection Agreement for each Project, under any provision of applicable law.

(d) The officers of the Lessee executing and delivering its Company Documents have been duly authorized to execute and deliver the same under the laws of the State and the state of its organization and any other organizational documentation, and upon the Lessee's execution and delivery of the Company Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Company Documents shall constitute valid and binding obligations of the Lessee, enforceable against the Lessee in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessee or, to the best of the Lessee's knowledge, threatened against the Lessee (or, to the best of the Lessee's knowledge, is there any basis therefore) (i) that contests or would contest the Lessee's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Company Document or that would preclude the Lessee from performing in accordance with the terms of any Company Document or (ii) wherein an unfavorable decision, ruling or finding would adversely affect (A) the transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessee is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

(f) The Lessee has complied with laws applicable to the Lessee, the satisfaction of which is a condition precedent to either or both of the design, permitting,

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acquisition, installation, operation and maintenance of the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of the Local Unit Facilities for all of the Series 2011 Local Units, or the design, permitting, acquisition, renovation, and installation of the Capital Improvement Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, all as contemplated by the Program Documents.

(g) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessee shall not transfer, lease, assign, mortgage or encumber the Projects or any property of the Lessee constituting the Trust Estate.

(h) The Lessee currently intends to continue this Company Lease Agreement for its entire Term and to pay all Basic Lease Payments required hereunder, unless the Lessee shall pay and otherwise comply with the terms related to the Purchase Option Price or Mandatory Purchase Price in accordance with Article VII hereof, or any other termination provisions contained in this Company Lease Agreement.

(i) Information supplied and statements made by the Lessee in any financial statement or current budget delivered prior to or contemporaneously with this Company Lease Agreement, including the Company Appendices, present such information fairly, accurately and completely, in all material respects and in accordance with generally accepted accounting principles. The Lessee agrees to take all reasonable actions in connection with the Authority's marketing and sale of the Bonds, including without limitation executing Certificates of an Authorized Officer of the Lessee (i) regarding the deemed final nature of the Company Appendices for purposes of Rule 15c2-12, and (ii) to the effect that the Company Appendices, and any other information concerning the Company or its rights, duties and obligations under the Company Documents set forth in the Preliminary Official Statement and the Official Statement (A) contain no material misstatement of fact and (B) do not omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, materially misleading.

(j) Information provided by Lessee, in writing or at the interview date with the Authority pursuant to the Company RFP process on [\_\_\_\_\_, 2011], upon which Lessor relied in selecting Lessee under the Company RFP process, remains materially accurate.

**SECTION 202. Representations, Covenants and Warranties of Lessor.**

The Lessor represents, covenants and warrants as follows:

(a) The Lessor (i) is a public body corporate and politic duly organized, validly existing and in good standing under the Act and other applicable laws of the State, (ii) has full and complete power to enter into or adopt, as the case may be, the Program Documents and to carry out the transactions contemplated thereby, (iii) is possessed with full power to own and hold real and personal property, including the Renewable Energy Projects, and to lease the leased Property subject to the terms of the Act and any other applicable law, and (iv) has duly

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preclude the Lessor from performing in accordance with the terms of any Program Document or (ii) wherein an unfavorable decision, ruling or finding would adversely affect (A) the transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessor is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

(f) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessor shall not transfer, lease, assign, mortgage or encumber the Projects or the Trust Estate.

(g) Upon the exercise by the Lessee of its option to purchase the entire Renewable Energy Projects pursuant to Article VII hereof, the Lessor (i) shall deliver to the Lessee all of the documents that are or may be necessary to vest all of the Lessor's right, title and interest in and to the Renewable Energy Projects in the Lessee, and (ii) shall release all liens and encumbrances created under this Company Lease Agreement, or the other Program Documents with respect to the Renewable Energy Projects, all as provided in Article VII hereof.

(h) Simultaneously with the execution and delivery hereof, Lessor shall issue the Series 2011A Bonds. Prior to January 31, 2012, Lessor shall issue the Series 2011B Bonds. To the extent the Company proposes a Completion Project on one (1) or more existing Local Unit Facility or Facilities whereby additional electricity can be generated at such Local Unit Facility or Facilities beyond that contemplated in the Company Proposal, Lessor shall consider issuing Additional Bonds in an amount, together with all Outstanding Series 2011 Bonds, shall not exceed \$2,000,000. To the extent Lessor determines the issuance of any such Additional Bonds is in the best interests of the Authority, the County and the Applicable Local Unit, the Authority shall issue such Additional Bonds in an amount sufficient to pay for any such Completion Project, any reserves or capitalized interest, as required, and the costs of issuance thereof, but only to the extent the Company Lease Agreement is amended and supplemented to increase the Basic Lease Payment schedule to reflect the issuance of such Series of Additional Bonds.

**SECTION 203. Disclaimer of Lessor and Trustee.**

THE TRUSTEE, BY ACCEPTANCE OF THE TRUSTS SET FORTH IN THE BOND RESOLUTION, AND THE LESSOR, BY ADOPTION OF THE BOND RESOLUTION, BY ISSUANCE OF THE BONDS AND BY EXECUTION AND DELIVERY OF ALL OTHER PROGRAM DOCUMENTS, MAKE NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF ANY PROJECT.

**SECTION 204. Tax Covenants of Lessee.**

There shall be no covenants herein arising from or otherwise relating to the issuance of

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authorized the execution and delivery of or has duly adopted, as the case may be, the Program Documents.

(b) Neither the execution and delivery or adoption, as the case may be, of the Program Documents, the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby conflicts with or results in a breach of the terms, conditions or provisions of any restriction, any agreement or any instrument to which the Lessor is now a party or by which the Lessor or its property are bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Lessor or upon the Projects, except Permitted Encumbrances.

(c) The execution and delivery by the Lessor of the Program Documents, the performance by the Lessor of all of its respective agreements and obligations under each of the Program Documents, and the incurring by the Lessor of all of the obligations contemplated by the Program Documents, have been duly authorized by all necessary requisite actions on the part of the Lessor, and the Lessor's authorization, execution, delivery and performance pursuant to the terms of the Program Documents do not and shall not (i) contravene any provision of the Act, (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessor under any material agreement, mortgage or other instrument to which the Lessor is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessor's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation thereunder or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable to such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessor, or (v) to the best of Lessor's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of issuance of the Series 2011 Bonds, under any provision of any applicable law.

(d) The officers of the Lessor executing and delivering its Program Documents have been duly authorized to execute and deliver the same under the Act, and upon the Lessor's execution and delivery of the Program Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Program Documents shall constitute valid and binding obligations of the Lessor, enforceable against the Lessor in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessor or, to the best of the Lessor's knowledge, threatened against the Lessor (or, to the best of the Lessor's knowledge, is there any basis therefore) (i) that contests or would contest the Lessor's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Program Document or that would

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the Series 2011 Bonds, as such Bonds shall not be issued as a Series of Tax-exempt Bonds.

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ARTICLE III  
LEASE PAYMENTS

SECTION 301. Lease Payments.

(a) The Lessee agrees to pay to the Trustee the following Lease Payments, as rent for the Leased Property for the Term hereof, in immediately available funds, no later than when due, delivered to the principal corporate trust office of, or some other location designated by, the Trustee:

(i) For deposit in the Revenue Account of the Revenue Fund, Basic Lease Payments, as set forth in Sections 305 and 306 hereof and Exhibit A-3 hereof, on each Basic Lease Payment Date; and

(ii) For deposit in the Administrative Expense Account of the Administrative Fund, from time to time as provided herein, as Additional Lease Payments, all as set forth in Section 308 hereof.

(A) Administrative Expenses (including the Authority's annual Administrative Fee, but excluding those properly payable by the Applicable Series 2011 Local Unit(s)) at the times set forth in invoices to be received by the Lessee from the Trustee in accordance with the Bond Resolution, provided that no further invoice shall be required for payment of the annual Administrative Fee and the Trustee's annual fee in an annual amount not to exceed \$5,000, which shall be due and payable in advance on the first day of any Bond Year (except that the initial Administrative Fee shall be funded from a portion of the proceeds of the Series 2011 Bonds);

(B) Interest on any overdue Lease Payments at the Overdue Rate, which amounts shall be immediately due and payable to the extent any Lease Payments are overdue;

(C) The Purchase Option Price in accordance with Section 701 of the Company Lease Agreement;

(D) The Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement; and

(E) All other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder or under the terms of any other Company Document.

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Resolution, to notify the Company in writing (with a copy to the Lessor) of the aggregate amount of all Power Purchase Price Payments made by the Series 2011 Local Units since the prior Basic Lease Payment Date that are available for such credit, (A) as of the date that is thirty (30) days prior to each Basic Lease Payment Date, and (B) on the Business Day immediately following the ten (10) Business Day credit cutoff date noted above.

(b) Notwithstanding any dispute between the Lessor and the Lessee, or between or among any party hereto and any one or more of any Renewable Energy Program Interested Party or any other person, in any case concerning any provision of any Program Document, the Lessee shall make all Lease Payments in full and when due, and the Lessee shall not withhold any Lease Payment pending final resolution of such dispute, nor shall the Lessee assert against the Lessor, the Trustee, any Renewable Energy Program Interested Party or any other person any right of set-off, recoupment or counterclaim against its obligation to make such Lease Payments, regardless of whether or not the Projects are completed, available for use, or used by the Lessee or any other Renewable Energy Program Interested Party, as applicable.

(c) However, nothing herein shall be construed to release the Lessor from the performance of its obligations hereunder, and if the Lessor should fail to perform any such obligation, the Lessee may institute such legal action against the Lessor as the Lessee may deem necessary to compel the performance of such obligation, but if and only if the Lessee is not in default under the terms of this Company Lease Agreement and if the Lessee shall have paid all amounts that are required to be paid pursuant to the terms of this Company Lease Agreement; and if the Lessee shall have performed all of its obligations under the terms of this Company Lease Agreement and continues to pay and perform as provided herein, the Lessee shall not be precluded from bringing any action it may otherwise have against the Lessor.

SECTION 303. Termination of Lease Term; Lease Payment Obligation.

The Lessee shall not terminate this Company Lease Agreement (other than such termination as is provided for under the terms of this Company Lease Agreement) or be excused from its obligations hereunder, including without limitation, Lessee's obligations to make Lease Payments, for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute an eviction or constructive eviction, failure of consideration, failure of title or frustration of purpose, any damage to or destruction of any Project, the taking by eminent domain of title or the right of temporary use of all or any part of any Project, or the failure of the Lessor or any other Renewable Energy Program Interested Party to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation that arises out of or that is related to this Company Lease Agreement or any other Program Document.

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(b) The Lessee shall be entitled to a credit against Basic Lease Payments for unused moneys held in the Project Fund in accordance with Section 310(e)(i)(B) hereof, and for earnings on other Funds held by the Trustee and certain other Revenue Fund transfers in accordance with Section 310(b) hereof, all at the times and in the amounts and determined in accordance with the provisions of the Bond Resolution and this Company Lease Agreement; provided, however, that such credits, if applicable, shall be applied first to the interest portion and then the Principal Portion of Basic Lease Payments and second to Additional Lease Payments due, if any.

(c) Notwithstanding anything to the contrary herein, the Lessee may make any and all Lease Payments in immediately available funds through wire transfer or otherwise, to the extent the Trustee or other payee consents in writing to such method of delivery.

SECTION 302. Lease Payments to be Unconditional, Except for Power Purchase Price Payments; No Abatement or Set-Off

(a) Except as set forth in clauses (i) and (ii) below, the obligation of the Lessee to make Lease Payments in full and when due shall be absolute and unconditional in all events, including without limitation any circumstance regarding the Projects, regardless of whether any such event shall be foreseen or otherwise, and regardless of whether any such event shall occur by accident or otherwise. The Lessee hereby acknowledges and irrevocably covenants that the terms of this Company Lease Agreement create a valid and binding obligation of the Lessee to make Lease Payments from any available source under all circumstances.

(i) Lessee shall receive a credit against the interest portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of all Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment Date.

(ii) Lessee shall receive a credit against the Principal Portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of any remaining Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment Date, after accounting for the application of the credit set forth in clause (i) above.

(iii) For purposes of applying this credit, Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee within ten (10) Business Days of any Basic Lease Payment Date shall be deemed to have been received by the Trustee the Business Day after such Basic Lease Payment Date (and therefore the Lessee shall not be entitled to a credit for such amounts paid by the Series 2011 Local Units until the following Basic Lease Payment Date). The Lessor shall cause the Trustee, pursuant to the terms of the Bond

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SECTION 304. Return of Renewable Energy Projects upon Termination of Company Lease Agreement; CIP Acceptance State.

(a) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value (as defined in the Power Purchase Agreement) in accordance with Section 609(d) hereof, Lessee shall (i) take no action regarding the removal of any such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, or if none, the Local Unit Facilities, or if no Capital Improvement Projects, to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or thereto from that would ordinarily degrade the state of any such Capital Improvement Projects, if any, or Capital Improvement Project from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from the Lessee's operation and maintenance of such Renewable Energy Projects.

(b) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are eligible for sale by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value in accordance with Section 609(d) hereof, but no accommodation on sale price or other terms shall be reached in accordance with Section 3.7(b) of the Power Purchase Agreement, and the Lessee shall accordingly be prospectively entitled to the full use and enjoyment of any such Renewable Energy Projects, the Lessee shall (i) promptly remove such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, or any such Applicable Series 2011 Local Units to the CIP Acceptance State, or if no Capital Improvement Projects, to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or thereto from that would ordinarily degrade the state of any such Capital Improvement Projects or Local Unit Facility from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from either (A) the Lessee's operation and maintenance of such Renewable Energy Projects or (B) the Lessee's removal of such Renewable Energy Projects.

(c) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessor to the Applicable Series 2011 Local Units for nominal consideration in accordance with Section 609(f) hereof (after a Lessee Event of Default), Lessee shall (i) take no action regarding the removal of any such Renewable Energy Projects

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from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, for any such Applicable Series 2011 Local Units to the CIP Acceptance State, after giving effect to the normal wear and tear thereon or thereto from that would ordinarily degrade the state of any such Capital Improvement Projects from the date of any such CIP Acceptance Certificate to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, from the Lessee's operation and maintenance of such Renewable Energy Projects.

**SECTION 305. Basic Lease Payments; Principal Portion.**

(a) The Principal Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of principal due and payable on the Bonds, including the Series 2011 Bonds, on the immediately succeeding Principal Payment Date, with respect to regularly scheduled Principal Payment Dates, all as set forth on Exhibit A-3 hereto; *provided, however,* that no Principal Portion of Basic Lease Payments shall be payable by the Lessee, or the Principal Portion of Basic Lease Payments shall be reduced, as applicable, (a) to the extent of a balance available for payment of principal on the Bonds on deposit in the Principal Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Principal Portion of Basic Lease Payments in accordance with (A) Section 302(a)(ii) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(e)(i)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(a)(v)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award or (ii) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(iii)(B) hereof.

**SECTION 306. Basic Lease Payments; Interest Portion.**

(a) The Interest Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of interest due and payable on the Bonds, including the Series

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2011 Bonds, on the immediately succeeding Interest Payment Date, with respect to regularly scheduled Interest Payment Dates, all as set forth on Exhibit A-3 hereto; *provided, however,* that no Interest Portion of Basic Lease Payments shall be payable by the Lessee, or the Interest Portion of Basic Lease Payments shall be reduced, as applicable, (a) for any period to the extent interest payable on the Bonds for such period shall have been previously provided to the Trustee as capitalized interest for deposit in the Capitalized Interest Account of the Debt Service Fund from proceeds derived from the sale of the Bonds and (b) to the extent of a balance available for payment of interest on the Bonds on deposit in the Interest Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Interest Portion of Basic Lease Payments in accordance with (A) Section 302(a)(i) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(c)(i)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(a)(v)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award, or (ii) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(iii)(B) hereof.

**SECTION 307. Interest Calculation.**

The Interest Portion of Basic Lease Payments is equal to the interest accrued on the Bonds, including the Series 2011 Bonds. Interest on the Bonds is computed upon the basis of a 360-day year, consisting of twelve 30-day months.

**SECTION 308. Additional Lease Payments.**

(a) At the times required in the definition of "Administrative Fee", when not otherwise provided for from a portion of the proceeds of a Series of Bonds, including the Series 2011 Bonds, the Lessee shall pay the Administrative Fee to the Trustee as an Additional Lease Payment for deposit in the Administrative Expense Account of the Administrative Fund.

(b) The Lessee shall pay to the Trustee, for deposit in the Administrative Expense Account of the Administrative Fund as an Additional Lease Payment, from time to time

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upon the Lessee's receipt from the Trustee of an invoice therefore in accordance with the terms of the Bond Resolution, reasonable compensation for all services rendered by the Trustee pursuant to the Bond Resolution, all reasonable expenses, charges, counsel fees and other disbursements (including those of the Trustee's attorneys, agents and employees) incurred in the performance of its powers and duties under the Bond Resolution, and any other Administrative Expenses.

(c) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, interest on any past due Lease Payment at the Overdue Rate in accordance with Section 1007 hereof.

(d) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Purchase Option Price in accordance with Section 701 hereof, reflecting the optional redemption of a Series of Bonds, including the Series 2011 Bonds.

(e) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Mandatory Purchase Price in accordance with Section 702 hereof, reflecting the acceleration or any other mandatory payment of a Series of Bonds, including the Series 2011 Bonds.

(f) The Lessee shall pay to the Trustee as an Additional Lease Payment all other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder, under the Bond Resolution, under the Tax Certificate for any Series of Tax-exempt Bonds or under any other Program Document, including without limitation deficiencies in the payment of principal (including mandatory sinking fund installments) of and interest on Bonds when due as may be contemplated by Article V of the Bond Resolution, which Article shall not be amended by Lessor to add any such payment obligation without Lessee's consent, and any amounts that may be required to be paid into a rebate fund at the times required hereunder and under any such Tax Certificate.

**SECTION 309. General Obligation of Company to Make Lease Payments; Pledge of Reimbursement Collateral; Company Pledge Agreement.**

(a) The Lessee hereby covenants to make all Lease Payments due under this Company Lease Agreement, during the entire Lease Term, from any and all funds or other assets available to the Lessee, including without limitation, but not limited to, such economic benefits as may be conferred upon the Company pursuant to the Program Documents.

(b) Pledge of Section 1603 Grant to Trustee. As security and further assurance for the Lessee's obligations to make certain initial Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Trustee a collateral security interest in the Section 1603 Grant, such grant of a collateral security interest to remain in effect only so long as set forth in the Company Pledge Agreement, including specifically Sections 2.01 and 7.11 thereof.

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(c) Pledge of Certain Revenues to Authority. As security and further assurance for the Lessee's obligations to perform its obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Authority a collateral security interest in any funds it may receive with respect to the following:

- (i) the sale of renewable energy produced by the Renewable Energy Projects under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements;
- (ii) the sale of SRECs from the Renewable Energy Projects; and
- (iii) the Construction Performance Bond (as defined in the Power Purchase Agreement).

The Lessor hereby covenants that the security interest granted pursuant to this Section 309(c) shall not, provided no Event of Default has occurred and is continuing, adversely affect any of the Lessee's:

- (A) use and enjoyment of the Renewable Energy Projects,
- (B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements, or
- (C) SRECs.

(d) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee shall and hereby does acknowledge

- (i) that the Lessor has the right to deliver the County Security Agreement, if any, in accordance with the provisions of Section 5.07 of the Bond Resolution, whereupon the Reimbursement Collateral shall be assigned and pledged by the Lessor to the County and the County Security Provider, if any, in accordance with the terms of the County Guaranty Agreement and such County Security Agreement, respectively, as to which terms the Lessor hereby covenants that the rights of the County and the County Security Provider to the Reimbursement Collateral shall not adversely affect any of the Lessee's:

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(A) use and enjoyment of the Renewable Energy Projects,

(B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements, or

(C) SRECs.

In all cases prior to the date of an Event of Default caused by the Lessee, it being the express intent of the parties that any such assignment and pledge of the Reimbursement Collateral is only to protect the County and/or the County Security Provider to the extent any such Renewable Energy Program Interested Party shall not have been reimbursed for funds expended under the Program Documents due to the Lessee's actions or inactions under the Program Documents, and it being the further express intent of the parties that any and all such remedies flowing from any such Event of Default caused by the Lessee are within the Lessee's control to prevent by complying with the terms of this and all other Program Documents, including without limitation the making of Lease Payments in full and on time.

(ii) upon an Event of Default, including an occurrence as a result of the Lessee's failure to make its Lease Payments on time and in full, the Lessee's rights to the Leased Property may be terminated in accordance with the terms hereof, and the County and the County Security Provider, if any, may realize all or a portion of the Reimbursement Collateral in accordance with the terms of their respective County Guaranty Agreement and County Security Agreement, if any and as applicable, which economic benefits comprising the Reimbursement Collateral had been previously available to the Lessee, and would continue to be so available, should any such Event of Default never occur or be timely cured.

(e) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby covenants to deliver the Company Pledge Agreement from the Pledgor defined in the Company Pledge Agreement contemporaneously herewith, and in any event, no later than the issuance of the Series 2011 Bonds, the terms of which Company Pledge Agreement are hereby acknowledged and accepted by the Lessee.

(f) The Lessee, as debtor, authorizes the Trustee, on behalf of itself as creditor, and the Lessor, as creditor, to file UCC1 financing statements with respect to the foregoing pledge of collateral contemplated by this Section 309.

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#### SECTION 310. Investment of Bond Resolution Funds; Credit for Certain Investment Earnings.

(a) The Lessor shall cause the monies in the Funds and Accounts established under the Bond Resolution to be invested in accordance with the provisions of Section 5.11 of the Bond Resolution, provided, however, that the Lessee may direct the Lessor in writing to cause the Trustee to invest the Project Fund in any Investment Securities available under the Bond Resolution; absent any such direction from the Lessee, the Lessor may cause the investment of the Project Fund in such Investment Securities as the Lessor shall determine.

(b) (i) To the extent interest earnings on any such Funds or Accounts are transferred to the Aged Account of the Revenue Fund in accordance with the provisions of Section 5.11(3) and (4) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such earnings, plus interest earned thereon as of any such Basic Lease Payment Date, against the next due Interest Portion of Basic Lease Payments due and owing from the Lessee, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied or if additional interest earnings are on deposit in the Aged Account, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), within ten (10) Business Days after each Basic Lease Payment Date, of the amount of such interest earnings credit available to the Company as of the next Basic Lease Payment Date.

(ii) To the extent the amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Interest Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(i) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Interest Portion of Basic Lease Payments due and owing from the Lessee, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

(iii) To the extent amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Principal Account of the Debt Service Fund in accordance with the provisions of

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Section 5.05(4)(b)(ii) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

#### ARTICLE IV

#### LEASE OF LEASED PROPERTY; TERM OF COMPANY LEASE AGREEMENT

##### SECTION 401. Lease of Leased Property.

(a) The Lessor hereby agrees to (i) finance the Renewable Energy Projects and the Capital Improvement Projects, if any, for the Series 2011 Local Units, through the issuance of the Series 2011 Bonds, and (ii) enter into the Local Unit License Agreements with the Series 2011 Local Units, thereby giving the Lessor nominal ownership of the Renewable Energy Projects, and providing the Company with a license and access to the Local Unit Facilities for the Series 2011 Local Units.

(b) The Lessee hereby agrees to (i) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects as described on Exhibit A-1 hereof and (ii) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, as described on Exhibit A-2 hereof, all for the Series 2011 Local Units.

(c) Upon the acquisition of title to the Leased Property from the Contractor (the timing of which does not adversely affect the Lessee's obligations hereunder, including the obligations to make Lease Payments), the Lessor hereby agrees to lease to the Lessee, except for the Reserved Rights, all of its right, title and interest in and to the Leased Property for the duration of the Lease Term hereof, and to grant to the Lessee an option to purchase the Leased Property as set forth in Article VII hereof. The Lessee hereby agrees to take and lease from the Lessor, other than the Reserved Rights, all of the Lessor's right, title and interest in and to the Leased Property on the terms and conditions set forth in this Company Lease Agreement, including, without limitation, all of the Lessee's duties and obligations under the Program Documents. The lease of the Leased Property from the Lessor to the Lessee is also intended to convey to the Lessee any product of the Leased Property, including any right, title and interest of the Lessor in and to the SRECs and the right to electricity generated from the Renewable Energy Projects for the Series 2011 Local Units at their respective Local Unit Facilities, subject to the terms and conditions of the Program Documents. The Lessor hereby acknowledges the Lessee's intent to exercise such option to purchase the Leased Property during or upon the termination of the Lease Term.

(d) It is an express purpose of this Company Lease Agreement that the benefits and burdens of owning the Leased Property being conveyed by the Lessor to the Lessee pursuant to this Company Lease Agreement be such that the Lessee shall be deemed to be the owner of the Leased Property for purposes of the Code. Accordingly, Lessor and Lessee agree and acknowledge that, for federal income tax purposes: (i) Lessee will treat the use of Series 2011 Bond proceeds to purchase, construct and install the Renewable Energy Projects as construction loan advances of Series 2011 Bond proceeds to Lessee by Authority, (ii) Lessee will treat all payments (or credits against such payments) made under this Company Lease Agreement as payments of interest and principal to the Authority with respect to such construction loan,

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with an allocation of principal and interest based upon the Authority's related principal and interest payments on the Series 2011 Bonds; and (iii) Lessee will report all payments made by the Series 2011 Local Units under the Power Purchase Agreements as revenues earned by Lessee. Notwithstanding the foregoing, for State law purposes, Lessor and Lessee agree that under the Program Document structure, any benefit to the Company shall be deemed incidental, the primary purpose of the Renewable Energy Program being to provide the Series 2011 Local Units with electricity at multi-year locked in rates to the greatest extent practicable below tariff, which goal has been effectively realized through the financing structure contemplated by the Program Documents.

#### SECTION 402. Lease Term.

(a) This Company Lease Agreement shall be and remain in effect with respect to the Leased Property (the "Lease Term") commencing on the date of authorization, execution, authentication and delivery of the Series 2011 Bonds that shall finance, among other things, the Renewable Energy Project component of the Leased Property, and continuing until terminated as provided for in this Section 402. The Term of this Company Lease Agreement shall terminate upon the occurrence of the first of the following of events:

(i) The exercise by the Lessee of its option or its requirement to purchase the Lessor's entire interest in the Leased Property pursuant to Article VII hereof;

(ii) The occurrence and continuation of an Event of Default hereunder by the Lessee and the Lessor's election to exercise remedies under this Company Lease Agreement pursuant to Section 1002 hereof;

(iii) Subject to an extension of this Company Lease Agreement in accordance with clause (iv) below, which provisions shall control even if the other requirements of this clause (iii) have been satisfied, the occurrence of all of the following: (A) the payment by the Lessee of all Lease Payments, which requirement as to Basic Lease Payments (unless sooner terminated or extended in accordance with the provisions hereof) shall be fully satisfied on December 15, 2025 (unless extended by an amendment hereto resulting from the issuance of Additional Bonds), (B) the Bonds, including the Series 2011 Bonds, shall no longer be Outstanding under the Bond Resolution, and if the provisions of Section 703(b) are applicable, (C) on the date specified in the Certificate of Authorized Officer of the Lessee required by Section 703(b)(iii); or

(iv) The expiration date of any extension to the initial term of this Company Lease Agreement, which initial term would be determined by clauses (i), (ii), and (iii) above, as such extension date shall be set forth in any amendment of this Company Lease Agreement (in accordance with the amendment provisions of Section 1103 hereof), to the extent permitted under then

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applicable law.

(b) Notwithstanding the foregoing, this Company Lease Agreement shall be in effect until all the obligations created hereunder have been fulfilled.

(c) Notwithstanding the foregoing, any termination by reason of clause (a)(ii) above shall not alter or terminate the Lessee's unconditional payment obligations hereunder, including Sections 302 and 309 hereof.

#### SECTION 403. Net Lease.

(a) The Lessee intends for the Lease Payments to be net to the Lessor. The obligation of the Lessee to pay Lease Payments shall be absolute and unconditional and shall in no way be released, discharged or otherwise affected for any reason, including, without limitation, (i) any defect in the condition, quality or fitness for use of, or title to, any Project or (ii) any damage to or abandonment, destruction, requisition or taking of any portion of any Project.

(b) The Lessee shall comply with and pay all (i) local, state and federal taxes incurred with respect to the design, permitting, acquisition, construction, renovation, installation, operation, maintenance, ownership, possession or use of any Renewable Energy Project or the design, permitting, acquisition, construction, renovation or installation of any Capital Improvement Projects, including, without limitation, income, franchise, gross receipts, sales, use, documentary stamp, excise and real and personal property taxes, (ii) payments in lieu of taxes, assessments, licenses, registration fees, freight and transportation charges and any other charges imposed or liabilities incurred with respect to the design, permitting, acquisition, construction, renovation, installation, operation, maintenance, ownership, possession or use of any Renewable Energy Project or the design, permitting, acquisition, construction, renovation or installation of any Capital Improvement Projects, (iii) Lease Payments, and (iv) penalties, fines or interest imposed on any of the foregoing, during the Lease Term.

(c) The Lessee shall pay, from a portion of the proceeds of the Bonds or otherwise, all reasonable expenses incurred by the Lessor in connection with all filings or recordings of any documents relating to this Company Lease Agreement, the other Company Documents, or the Lessor's rights hereunder and thereunder. The Lessor shall have the right to make any of the payments required of the Lessee, but shall not be obligated to pay the same, and to charge such payment with interest at the Overdue Rate from the due date thereof through the date of payment as an Additional Lease Payment to be paid by the Lessee with the next Basic Lease Payment due under this Company Lease Agreement.

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### ARTICLE V

#### CONSTRUCTION OF PROJECT; CARE AND USE; DRAW PROCEDURES

##### SECTION 501. Design of Project.

(a) Within ninety (90) days of the execution and delivery of this Company Lease Agreement, the Lessee shall cause Plans and Specifications to be prepared by one or more Architects or other Contractors with respect to all of the Projects for all of the Series 2011 Local Units and within the parameters set forth in the Company RFP. In preparing or causing the preparation of such Plans and Specifications, the Lessee expressly acknowledges that the Lessor shall only be providing financing, through the issuance of the Series 2011 Bonds, for the Maximum Net Bond Funded Project Cost Amount, and that any costs and expenses beyond such amount, except for any Completion Projects agreed in writing to be financed by the Lessor, are to be borne solely and wholly by the Lessee from any available funds.

(b) Copies of the Plans and Specifications, when in form satisfactory to the Lessee, shall be promptly delivered to the Lessor and the Applicable Series 2011 Local Units for the review, comment and approval of the Applicable Series 2011 Local Units. Within five (5) Business Days of receipt, each Applicable Series 2011 Local Unit shall have reviewed, and either commented on or approved the Plans and Specifications prepared by the Lessee for each respective Renewable Energy Project and each Capital Improvement Project, if any, for the respective Series 2011 Local Units. To the extent approval from any Series 2011 Local Unit shall not be received, the Lessee shall promptly modify the Plans and Specifications to address the Series 2011 Local Unit's reasonable concerns, whereupon the Lessee shall resubmit the Plans and Specifications to the Lessor and the Applicable Series 2011 Local Unit for further review, comment and approval. Such process shall continue until the Lessor and Lessee have received the approval of all of the Series 2011 Local Units; provided however, that both parties and the Applicable Series 2011 Local Units shall endeavor to complete the review, comment and approval process within one (1) month of the original submission to the Lessor and the Series 2011 Local Units.

(c) Promptly after having received the respective Series 2011 Local Unit approvals of the Plans and Specifications related to their respective Projects, the Lessee shall submit or cause the submission of such Plans and Specifications to all other federal, state or local governmental or quasi-governmental agencies having jurisdiction over the Projects or any part thereof, and shall receive any required Project permits or approvals.

##### SECTION 502. Construction of Project.

(a) The Lessee shall be responsible for the letting of Development Contracts with Contractors for (a) the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for all of the Series 2011 Local Units, (b) the design, permitting, acquisition, construction, renovation, and installation of the Capital

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Improvement Projects for all of the Series 2011 Local Units, (c) the completion and acceptance of the Renewable Energy Projects in accordance with the Plans and Specifications therefor; and the other terms hereof, including the filing of the REP Acceptance Certificates in accordance with Section 510(d)(i) hereof, (d) the completion of the Capital Improvement Projects in accordance with the Plans and Specifications therefor and the other terms hereof, including the filing of the CIP Acceptance Certificates in accordance with Section 510(d)(ii) hereof, and (e) all other matters that are incidental to the performance of the duties and powers that are expressly granted to the Lessee herein in connection with any of the foregoing. The Lessee may carry out its functions hereunder without obtaining any further approval of the Lessor, provided, however, that the Lessee shall issue monthly reports to the Lessor and the Applicable Series 2011 Local Unit detailing the progress of the foregoing and the anticipated completion dates thereof.

(b) After complying with the notification provisions of this subsection (b), the Lessee shall enter into one or more Development Contracts with the Contractor(s) providing for (i) the design, permitting, acquisition, construction, installation, operation and/or maintenance of the Renewable Energy Projects in accordance with the Plans and Specifications and/or (ii) the design, permitting, acquisition, construction, renovation, and/or installation of the Capital Improvement Projects in accordance with the Plans and Specifications. At least five (5) Business Days prior to the Lessee's entering into of each such Development Contract, the Lessee shall notify and provide each of the Lessor, the Applicable Series 2011 Local Unit and the Construction Manager with substantially final drafts thereof. Within a reasonable period of time thereafter, the Lessor, the Applicable Series 2011 Local Units and/or the Construction Manager shall notify the Lessee of any deviation therein from the Plans and Specifications for the Projects or from applicable law, if any. The Lessee shall, in its discretion, determine to incorporate or disregard any such advice into the final form of such Development Contracts; provided, however, that any such action or inaction shall not relieve the Lessee from completing the Projects in accordance with the agreed upon Plans and Specifications and in accordance with all applicable law. After such five (5) day notice period, the Lessee may enter into such Development Contracts, providing only that final executed copies thereof be delivered to each of the Lessor, the Applicable Series 2011 Local Unit and the Construction Manager. After such execution, the Lessee shall cause each Contractor to perform its obligations under the Development Contracts, and shall deliver the completed Project available for occupancy and use by the Company with respect to the Renewable Energy Projects and the Applicable Series 2011 Local Unit with respect to the Capital Improvement Projects, on or before the date specified in the Development Contracts.

(c) None of the Lessor, the Series 2011 Local Unit or the Trustee makes any warranties or representations or accepts any liabilities or responsibilities with respect to or for the adequacy, sufficiency or suitability of, or defects in or with respect to, the design, permitting, acquisition, construction, renovation or installation of the Project.

##### SECTION 503. Performance Bonds and Other Guaranty.

Any Development Contracts authorized to be entered into by the Lessor under the terms

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of this Company Lease Agreement in connection with the design, permitting, acquisition, construction, and installation of the Renewable Energy Projects and the design, permitting, acquisition, construction, renovation and installation of the Capital Improvement Projects shall be let in accordance with the requirements set forth in Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP attached as part of Exhibit A-1 hereto. The Lessor shall cause each Contractor to provide a performance bond and/or a maintenance bond or bonds, a letter of credit or any other form of financial guaranty covering, with respect to the portion of the Project to which the Development Contract applies, the (a) performance of the Development Contract, including coverage for correction of defects developing within one year after completion and acceptance, and (b) payment for labor and materials, in each case issued by a responsible surety company qualified to do business in the State. Such bond or bonds shall name the Lessor, the Lessee and the Applicable Series 2011 Local Unit as co-obligees, and shall be in amounts equal to the fixed contract price; provided, however, that the one-year post completion and acceptance portion may be limited to ten percent of the Development Contract price.

#### SECTION 504. Default in Contractors' Performance.

(a) In the event of default of the Contractor, including any subcontractor, under any Development Contract made in connection with any Project, the Lessee shall promptly proceed, either separately or in conjunction with others, to exhaust the remedies of the Lessee against the Contractor or any subcontractor so in default and against each surety for the performance of such Contractor or subcontractor. All such actions shall be construed to be Costs of the Project for purposes of this Company Lease Agreement, inasmuch as the same shall be necessary to enable any such Project to be designed, permitted, constructed, acquired, renovated or installed in accordance with the terms hereof and of the Development Contracts. The Lessee agrees to advise the Lessor, in writing, of the steps it intends to take in connection with any such default. If the Lessee shall so notify the Lessor, the Lessor may, in good faith, in its own name or in the name of the Lessee, with notice to the Lessee, prosecute or defend any action or proceeding or take such other action involving the Contractor, including any subcontractor, or surety that the Lessor deems reasonably necessary, and in such event the Lessor hereby agrees to cooperate fully with the Lessee, but at the sole cost and expense of the Lessor. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing shall be paid into the Project Fund or the Revenue Fund, as shall be determined by the Lessee.

(b) In the event that the Lessee is unable to comply with its requirements under this Company Lease Agreement prior to the execution of any Acceptance Certificate or if for any reason the design, permitting, acquisition, construction, renovation and installation of any Project is delayed, there shall be no resulting liability on the part of the Lessor and there shall be no diminution in or postponement of the amounts that are due and payable by the Lessee to the Lessor under the terms of this Company Lease Agreement.

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Permitted Encumbrances; provided, however, that if any such lien is established and the Lessee notifies the Lessor of its intention so to do, the Lessee may, in good faith, contest any lien filed or established against the Projects and, in such event, permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such item, the interest of the Lessor or the Applicable Series 2011 Local Unit in such Project shall be materially endangered or such Project or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide the Lessor and the Applicable Series 2011 Local Unit with full security against any such loss or forfeiture. The Lessor shall cooperate, and shall cause the Applicable Series 2011 Local Unit to cooperate fully with the Lessee in any such contest upon such request at the sole cost and expense of the Lessee.

#### SECTION 507. Possession and Enjoyment of Projects during Lease Term.

(a) From and after the execution and delivery of the REP Acceptance Certificate with respect to the applicable Renewable Energy Projects, the Lessor hereby agrees that during the Lease Term the Lessee, so long as the Lessee is not in default hereunder, shall have the quiet use and enjoyment of such Renewable Energy Projects, and the Lessee shall during such Lease Term peaceably and quietly have, hold and enjoy such Renewable Energy Projects, without suit, trouble or hindrance from the Lessor, any 2011 Local Unit, or any party claiming under or through the Lessor or such Local Unit, except as expressly set forth in the Program Documents. The Lessor and the Applicable Series 2011 Local Unit shall, at the request of the Lessee and at the Lessee's sole cost and expense, join in any legal action in which the Lessee asserts its right to such possession and enjoyment against any third-party to the extent the Lessor and the Applicable Series 2011 Local Unit lawfully may so do; in addition, the Lessee, while not in default hereunder, may in its discretion and at its sole cost and expense bring any such action in the name of the Lessor.

(b) From and after the execution and delivery of the CIP Acceptance Certificate with respect to the applicable Capital Improvement Projects, if any, the Lessor and the Lessee hereby agree that during the Lease Term, the Applicable Series 2011 Local Unit, as fee owner thereof, shall have the quiet use and enjoyment of such Capital Improvement Projects, and the Applicable Series 2011 Local Unit shall during such Lease Term peaceably and quietly have, hold and enjoy such Capital Improvement Projects, without suit, trouble or hindrance from the Lessor or the Lessee, or any party claiming under or through the Lessor or the Lessee, except as may be expressly set forth in the Program Documents.

#### SECTION 508. Lessee's Negligence.

Subject to Section 608 hereof, the Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Projects, or any portion thereof, and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of the Lessee or of Contractors or other third parties, and whether such

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#### SECTION 505. Additional Rights of Lessee.

The Lessor agrees that the Lessee shall, at its own expense, have the right to make immaterial changes to any Project or to make such additions, modifications and improvements thereto as in the Lessee's judgment are necessary to enable it to perform its obligations under this Company Lease Agreement without materially impairing the Project or materially changing the design of the Project from the Plans and Specifications; provided, however, that none of the foregoing shall in any way damage the Project or cause the Project to be used for purposes other than those authorized under the provisions of all applicable law. With respect to any such additions (only) to the Project in accordance with the provisions of this Section 505, such additions shall for all purposes of this Company Lease Agreement be deemed to be and remain the property of the Lessee and shall not become part of the Project, and any such item may be removed, altered or changed by the Lessee upon or before the termination of this Company Lease Agreement; provided, however, that such removal, alteration or change shall not damage the Project or, if any such damage shall occur, the Lessee shall repair the same at its sole cost and expense.

#### SECTION 506. Maintenance and Use of Project; Lessor Access; Repairs Not to Create Liens.

(a) With respect to the Renewable Energy Projects or a portion thereof financed under this Company Lease Agreement, the Lessee shall, at its own and sole expense, maintain, preserve and keep such Projects or any portion thereof, as the case may be, in good repair, working order and condition, and shall from time to time make all repairs, replacements and improvements necessary to keep such Projects or any portion thereof in such condition. The requirements to repair and keep the Capital Improvement Projects in good working order shall remain with the owners thereof, the Applicable Series 2011 Local Units.

(b) The Lessee agrees that the Lessor and the Applicable Series 2011 Local Unit shall have the right (but not the obligation) to enter upon the premises at reasonable times and upon reasonable notice in a reasonable manner where the Renewable Energy Projects or a portion thereof, as the case may be, is located in order to inspect the same for the purpose of assuring that such Renewable Energy Projects are being properly maintained, preserved and kept in good repair and condition. The Lessee further agrees that the Lessor or the Applicable Series 2011 Local Unit shall have such rights of access to such Renewable Energy Projects as may be reasonably necessary to cause the proper maintenance, preservation and keeping in good repair of such Renewable Energy Projects in the event of a failure by the Lessee to perform its obligations hereunder, which rights of access shall in no way imply any obligation on the part of the Lessor or the Applicable Series 2011 Local Unit.

(c) The Lessee shall not permit any mechanic's or materialmen's or other lien to be established or remain against any portion of the Projects for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the Lessee pursuant to Section 503 hereof and this Section 506, other than

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property damage be to the Lessee's property or to the property of others, which injury, death or damage is proximately caused by the negligent conduct of the Lessee or its officers, employees and agents, including any Contractors. The Lessee hereby assumes responsibility for and agrees to reimburse the Lessor and the Applicable Series 2011 Local Unit for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorneys' fees), of whatsoever kind and nature, imposed on, incurred by or asserted against the Lessor or the Applicable Series 2011 Local Unit that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part upon the negligent conduct of the Lessee or its officers, employees and agents, to the maximum extent permitted by law.

#### SECTION 509. Project Costs; Payment.

(a) The Project Costs to be incurred by the Lessee, or on behalf of the Lessee by any Contractor, relating to the acquisition, construction, and installation of the Renewable Energy Projects and the acquisition, construction, renovation and installation of the Capital Improvement Projects for all Series 2011 Local Units have been estimated by the Lessee under the Company RFP to be an aggregate amount not to exceed the Maximum Gross Bond Funded Project Cost Amount. Accordingly, the Lessor shall cause the Series 2011 Bonds to be issued, and further, shall cause the Maximum Net Bond Funded Project Cost Amount to be deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(c)(i) and (ii) of the Bond Resolution. The Lessee represents that such initial deposit of the Maximum Net Bond Funded Project Cost Amount, together with interest to be earned thereon prior to disbursement in accordance with the terms hereof and of the Bond Resolution giving rise to the Maximum Gross Bond Funded Project Cost Amount, shall be sufficient to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

(b) It is expressly acknowledged by the Lessee and the Lessor that the Lessor shall be under no obligation to issue any Bonds in an amount in excess of the Maximum Net Bond Funded Project Cost Amount to fund any Project Cost, including the Costs of any Completion Project related to either the Renewable Energy Projects or the Capital Improvement Projects of the Series 2011 Local Units on, in or about their Local Unit Facilities, unless the Authority agrees to issue a Series of Additional Bonds pursuant to the provisions of Section 2.02(h) hereof.

(c) Any Project Costs in excess of such estimated Project Cost amount as set forth in subsection (a) above shall be solely borne by and solely paid from any funds available to the Lessee (which shall not include monies under the Bond Resolution, absent the Lessor's written consent). The Lessee hereby covenants to complete all of the Projects in accordance with the Plans and Specifications regardless of the actual Costs of such Projects and regardless of the amounts remaining on deposit in the Project Fund to pay such Project Costs. To the extent the Lessee shall complete all of the Projects in accordance with the Plans and Specifications in an

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aggregate amount less than any such deposit, plus estimated investment earnings, in the amount of such estimated Project Costs, any excess amounts remaining on deposit in the Project Fund, after the final Acceptance Certificate shall have been filed by the Lessee in accordance with the terms hereof, shall be applied as a credit to the next due Basic Lease Payments otherwise due and owing by the Lessee in accordance with Section 5.02(3)(b) hereof and Section 5.02(3)(b) of the Bond Resolution.

(d) The Lessee shall cause moneys on hand from time to time in the Project Fund, held by the Trustee, to be made available for payment of all Project Costs, in the manner provided herein for submission of Draw Papers, including Sections 510 and 511 hereof, and in the Bond Resolution, including Sections 5.02(1) and 5.02(2)(a) thereof. The Lessee may cause moneys on hand from time to time in the Project Fund held by the Trustee to be made available for payment of all Company Development Fees and Expenses up to an aggregate amount of \$\_\_\_\_\_ unless the Lessee receives the written acknowledgment of a higher ceiling from the Lessor, through the submission of a Certificate of an Authorized Officer of the Lessee substantially in the form of Exhibit D hereto, and otherwise following the terms set forth in Section 5.02(2)(b) of the Bond Resolution; provided, however, that notwithstanding the foregoing, the Lessee may not withdraw moneys from the Project Fund for payment of Company Development Fees and Expenses, excluding those third-party and other Company Development Fees and Expenses approved by the Authority and paid upon issuance of the Series 2011A Bonds or thereafter, until the Company has satisfied, or caused the satisfaction of, all of the Completion Conditions. The Lessee, at its sole discretion, may apply less of the aggregate amount on deposit in the Project Fund and earmarked for payment of Company Development Fees and Expenses to such purpose, and instead apply all or a portion of such earmark (including any interest earned thereon) toward Costs of the Renewable Energy Projects or Capital Improvement Projects in the manner contemplated by Sections 510 and 511 hereof, and Section 5.02(2)(a) of the Bond Resolution. Any moneys remaining on deposit in the Project Fund, including interest earnings, upon the payment of all Project Costs (for which the Company shall submit Draw Papers) and all Company Development Fees and Expenses (for which the Company shall submit such Exhibit D form Certificate), shall be applied in the manner set forth in Section 510(e) hereof.

#### SECTION 510. Submission of Draws; Procedures; Acceptance Certificates.

(a) As payments are required for the Project under this Company Lease Agreement, the Lessee shall prepare and assemble the Draw Papers (as defined below) and submit them to the Trustee.

(b) On or before 10:00 a.m. on each date on which the Lessee intends to submit Draw Papers requisitioning funds held by the Trustee in the Project Fund for Costs of the Renewable Energy Projects or Capital Improvement Projects for an Applicable Series 2011 Local Unit (each a "Draw Date"), the Lessee shall advise the Trustee in writing of the aggregate amount of funds needed for disbursement to pay such Project Costs. An amount equal to the lesser of (i) such aggregate amount of funds needed and (ii) the amount of funds available in the Project Fund (and not otherwise earmarked to pay the Costs of the Projects for the other Series

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Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (B) all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed and installed in accordance with the Plans and Specifications therefor, (C) all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by the Lessee and such Series 2011 Local Unit, and (D) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Renewable Energy Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.2(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.2(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager) and until accompanied by one or more Interconnection Agreements with respect to all such Renewable Energy Projects or Completion Projects related thereto;

(ii) The Lessee shall file with the Trustee the CIP Acceptance Certificates in the form of Exhibit B-2 hereto, one for each Series 2011 Local Unit that is financing Capital Improvement Projects with a portion of the proceeds of the Bonds, signed by an Authorized Officer of the Lessee with respect to such Capital Improvement Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, when (A) the Lessee has submitted all Draw Papers respecting Costs of such Capital Improvement Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (B) all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed, renovated and installed in accordance with the Plans and Specifications therefor, (C) all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by such Series 2011 Local Unit. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only, and (D) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Capital Improvement Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such CIP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so

2011 Local Units) shall be applied to the payment of such Project Costs upon submission of the Draw Papers in accordance with subsection (c) below.

(c) Except as otherwise provided in Section 511 hereof, the Lessee shall cause the Trustee to make payments from the Project Fund to the Contractors under the Development Contracts or other third-party vendors, in either case for Costs of the Projects, but only after the Lessee shall have supplied the Trustee with a duly authorized, completed and executed requisition from the Lessee substantially in the form of Exhibit C hereto (together with any attachments thereto, the "Draw Papers"), each executed by the Lessee, acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.1(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and acknowledged as to form only by the Lessor (in accordance with Section 4.1(e) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), stating with respect to each such payment to be made: (i) the requisition number, (ii) the name and address of the Contractor, other person, other corporation or other entity to which payment is due or, if for reimbursement to the Lessee, to which Contractor, other person, other corporation or other entity and when payment has previously been made by the Lessee, and as applicable in either case, the Development Contract under which such payment is or was due, (iii) the amount to be paid, which amount shall be not a ten percent (10%) retainage amount, (iv) the Renewable Energy Project or Capital Improvement Project to which such payment is to be applied, including the Applicable Series 2011 Local Unit and their Local Unit Facility, (v) that such payment obligation has been properly incurred in accordance with the Plans and Specifications, is an item of the Cost of such Project, is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal, and (vi) that attached thereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Lessee. Lessee also agrees to file a monthly Initial Project Workforce Form AA201, substantially in the form of, and consistent with the instructions included in, Exhibit C-1 attached hereto, with the Lessor and the Division of Public Contracts Equal Opportunity Compliance, through and including the month after the final Acceptance Certificate has been filed.

(d) From time to time, in accordance with the terms of the Company Lease Agreement, the Local Unit License Agreements with respect to the Series 2011 Local Units, and this Bond Resolution, the Lessee shall file with the Trustee, duly authorized, completed, executed, acknowledged, and delivered Acceptance Certificates in the form of Exhibit B hereto at the following times and with respect to the following matters, and upon receipt thereof, the Trustee shall take the following actions:

(i) The Lessee shall file with the Trustee the REP Acceptance Certificates in the form of Exhibit B-1 hereto, one for each Series 2011 Local Unit, signed by an Authorized Officer of the Lessee with respect to the Renewable Energy Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, when (A) the Lessee has submitted all Draw Papers respecting Costs of such Renewable Energy Projects or the Completion

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acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.3(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.3(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager); and

(iii) Upon the Trustee's receipt of the fully authorized, completed, executed, acknowledged and delivered CIP Acceptance Certificate (if any) and REP Acceptance Certificate with respect to all of the Renewable Energy Projects and Capital Improvement Projects for a particular Series 2011 Local Unit, the Lessor shall cause, pursuant to Section 5.02(3)(a)(iii) of the Bond Resolution, the Trustee to release and pay over to the Lessee one half (1/2) of the ten percent (10%) retainage previously withheld by the Trustee from all of the Draw Papers previously submitted by the Lessee with respect to such Renewable Energy Projects and Capital Improvement Projects for such Series 2011 Local Unit.

(e) If, upon the completion of the design, permitting, acquisition, construction, renovation and installation of all of the Projects for the Series 2011 Local Units on or prior to November 1, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), as evidenced by the filing of all Acceptance Certificates by the Company, as duly acknowledged by the Series 2011 Local Units and the Lessor, on or prior to November 1, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), all in accordance with the terms hereof, of the Bond Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, then upon the Trustee's receipt of the final Acceptance Certificate so designated, the Trustee shall, without any further authorization, (i) (A) release and pay over to the Lessee the other half (1/2) of the ten percent (10%) retainage previously withheld by the Trustee from all of the Draw Papers previously submitted by the Lessee with respect to all of the Renewable Energy Projects and Capital Improvement Projects for all of the Series 2011 Local Units, and (B) transfer any surplus funds remaining on deposit in the Project Fund to the Debt Service Fund for application as a credit to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and if still not fully applied, then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied, all unless the provisions of Section 5.02 of the Bond Resolution require application otherwise, in which case the Trustee shall (ii) apply any such retainage and surplus funds remaining on deposit in the Project Fund in accordance with the terms of Section 5.02 of the Bond Resolution. To the extent the final Acceptance Certificate for all of the Series 2011 Local Units shall not have been filed by the Lessee, as duly acknowledged by the Series 2011 Local Units and the Lessor, all in accordance with the terms hereof, of the Bond Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, on or prior to November 1, 2012, as extended if applicable (thereby causing an Event of Default

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hereunder, but not under the Bond Resolution), the Trustee shall transfer any funds remaining on deposit in the Project Fund as set forth in a Certificate of an Authorized Officer of the Authority, as required pursuant to the provisions of Section 5.02(3)(b) of the Bond Resolution.

**SECTION 511. Reimbursement to Lessor from Moneys in the Project Fund.**

Notwithstanding the provisions of Section 510 hereof to the contrary, the Lessee shall be entitled to submit Draw Papers to the Trustee and receive reimbursement for the amounts set forth in such Draw Papers for advances made with respect to the Projects, prior to a given Draw Date, so long as the Lessee submits the requisite requisition and supporting copies of invoices prior to being reimbursed directly by the Trustee.

**SECTION 512. Construction Period Insurance.**

Each Contractor shall be required to provide and maintain in force during the entire acquisition, construction, renovation or installation period of all Projects, and prior to the Contractor's performance of work under any Development Contract, builder's risk or property damage insurance (in an amount not less than the full value of all work done and materials and equipment provided or delivered by the Contractor and, in any event, not less than the applicable Purchase Option Price at such time), comprehensive liability insurance, worker's compensation insurance and any other insurance required by law or customarily maintained with respect to like projects. All such policies of insurance shall show the Lessor, the Lessee and the Applicable Series 2011 Local Unit as named insureds, in such amounts as their interests may appear. Evidence of such insurance shall be filed with the Lessor.

**SECTION 513. Taxes and Other Governmental Charges and Utility Charges.**

The Lessee shall pay when due all gas, water, steam, electricity, heat, power, telephone and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Renewable Energy Projects. The Lessee shall also pay all property and excise taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Renewable Energy Projects or any part thereof or the Lease Payments, which become due during the Term of this Company Lease Agreement with respect thereto, and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Renewable Energy Projects; provided, however, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only such installments as are required to be paid during the Term of this Company Lease Agreement as and when the same become due. The Lessee shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate or other similar tax payable by the Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any real estate or other tax upon property and arises out of or is levied upon the Lessor's interest in the Renewable Energy Projects hereunder.

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The Lessee may, at its own expense and in its or the Lessor's name, contest in good faith any such taxes, assessments or utility or other charges (and the Lessor shall cooperate fully in any such contest) and, in the event of any such contest, permit such taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items, the interest of the Lessor in the Renewable Energy Projects shall be materially endangered, or the Renewable Energy Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss or forfeiture that may result from nonpayment.

**SECTION 514. Site Visits.**

The Lessor shall visit the site of the Project at least quarterly to monitor the acquisition, construction, renovation and installation of the Projects by the Lessee and/or the Contractors, as the case may be.

**SECTION 515. Construction Manager.**

At its sole discretion, the Lessor may employ one or more Construction Manager, payable from a portion of the proceeds of the Series 2011 Bonds in excess of the Maximum Net Bond Funded Project Cost Amount, to act on behalf of the Lessor in exercising any of its rights, or in discharging any of its duties and obligations under this Company Lease Agreement or other Program Document with respect to the (a) design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units and/or the (b) design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units.

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**ARTICLE VI**

**INSURANCE; TITLE TO PROJECT AND OTHER MATTERS**

**SECTION 601. Insurance Coverage for the Projects.**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement and in accordance with the further terms of this Article VI, (i) public liability insurance, including, without limitation, bodily injury and property damage coverage, (ii) auto liability insurance, including, without limitation, bodily injury and property damage coverage, (iii) worker's compensation insurance, and (iv) property insurance, including, without limitation, fire and comprehensive other risk coverage, all to be procured and maintained with an insurance company approved by the State and such insurance policy or policies naming the Lessee, the Lessor and the Applicable Series 2011 Local Units as insureds or, if the Lessee elects and receives the consent of the Lessor, the Lessee shall provide to the Lessor a Certificate of an Authorized Officer of the Lessee to the effect that adequate reserves are deposited and maintained in trust with an independent trustee in the amounts sufficient to cover the loss or damage to any Project. Any insurance proceeds in excess of the Purchase Option Price for all of the Bonds Outstanding at such time with respect to the Projects under this Company Lease Agreement shall be remitted to the Lessee.

**SECTION 602. Public Liability Insurance.**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard comprehensive general liability insurance policy or policies in protection of the Lessee, the Lessor and the Applicable Series 2011 Local Units. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by the operation or ownership of the Projects. Said policy or policies shall provide coverage in the amount of \$1,000,000.00. This coverage must be in writing on an occurrence form, claims made policies will be unacceptable. This Comprehensive General Liability insurance shall cover the Lessee, the Authority, each of the Series 2011 Local Units and their employees, agents and officers from and against any claim arising out of personal injury of Lessee or the Lessee's failure to comply with the terms of this Company Lease Agreement. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by a Lessee or by any other persons. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in this Company Lease Agreement. The policy shall also be endorsed to include coverage for products, completed operations, and independent contractors. Such public liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that

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such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

**SECTION 603. Auto Liability Insurance.**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard comprehensive automobile liability insurance policy or policies in protection of the Lessee, the Lessor and the Applicable Series 2011 Local Units. Said policy or policies shall be written in a comprehensive form, shall comply with N.J.S.A. 39:6b-1 et seq. and all local regulations and case law regarding the scope and effect of the New Jersey Compulsory Motor Vehicle Insurance Statute, and shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage arising from the maintenance, use or operation of any owned or non-owned vehicle used in or in connection with the Projects. Said policy or policies shall provide coverage in an amount not less than \$1,000,000.00, shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles, which may be used by Lessee in connection with the services, required under the Power Purchase Agreement, such auto liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

**SECTION 604. [Reserved].**

**SECTION 605. Worker's Compensation Insurance.**

If required by State law, the Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, worker's compensation insurance covering all of Lessee's and its Contractors' employees on, in, near or about the Projects, and, upon request, shall furnish to the Lessor certificates evidencing such coverage. To the extent the Lessee is procuring or maintaining such insurance, such coverage may, at the option of the Lessee, be provided through a self-insurance program that is established and operating in conformity with all applicable State law. To the extent that any other entity is procuring or maintaining such insurance, such insurance shall be provided under a policy written by an insurance company approved by the State in a minimum amount of \$1,000,000 for damage resulting from a single accident or event.

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**SECTION 606. Excess Liability**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, an excess liability insurance policy or policies in protection of the Lessee, the Lessor and the Applicable Series 2011 Local Units. Said policy or policies shall be in the amount of \$1,000,000.00 shall be in the form of an Umbrella policy rather than a following form excess policy. This policy or policies shall be specifically endorsed to be excess of the required Comprehensive General Liability Coverage, the Employers' Liability Coverage on the Workers' Compensation policy, and the Comprehensive Automobile Liability policy.

**SECTION 607. Other Insurance and Requirements for All Insurance.**

All insurance required by Article V hereof or this Article VI (a) may be carried under a separate policy or a rider or endorsement, (b) shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State, or may be maintained as part of any insurance pool permitted under the laws of the State, (c) shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the Lessor and the Applicable Series 2011 Local Units at least thirty (30) days before the cancellation or revision becomes effective, and (d) shall name the Lessee, the Lessor and the Applicable Series 2011 Local Units as insured parties as their respective interests may appear. The Lessee shall deposit with the Lessor original policies evidencing any such insurance procured by it or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy, the party obligated under the terms of this Company Lease Agreement to maintain such insurance shall furnish to the other party and to the Applicable Series 2011 Local Units evidence that the policy has been renewed or replaced by another policy conforming to the provisions of Article V hereof and this Article VI, unless such insurance is no longer obtainable in which event such party shall notify the other party and the Applicable Series 2011 Local Units of this fact and the Lessee shall thereafter self-insure pursuant to the terms of this Article VI. Neither the Trustee nor any Applicable Series 2011 Local Unit shall have responsibility with respect to any determinations as to the sufficiency of any insurance required under this Company Lease Agreement nor as to the compliance by the Lessee with the provisions of the Bond Resolution regarding insurance.

**SECTION 608. Indemnification.**

The Lessee shall (a) indemnify and save harmless the Lessor and the Series 2011 Local Units and their agents, employees, officers and directors from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of any breach or non-performance by the Lessee of its obligations under this Company Lease Agreement, or negligence or misconduct by the Lessee in connection with such performance or non-performance, or the ownership, rental, possession,

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operation, condition, sale or return of the Projects, and (b) reimburse the Lessor or the Series 2011 Local Units for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Lessor or the Series 2011 Local Units, as applicable, has acted with gross negligence or willful misconduct in connection with the liabilities for which the Lessor or the Series 2011 Local Units, as applicable, is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 608 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefore by the Lessor or the Series 2011 Local Units, as applicable (which demand cannot be made prior to the Lessee's receipt thereof), and shall survive the termination or expiration of this Company Lease Agreement.

**SECTION 609. Title to Projects Upon Termination of Company Lease Agreement.**

(a) Upon the financing of the Renewable Energy Projects with a portion of the proceeds of the Bonds and the filing of the REP Acceptance Certificates, the Lessor shall be the holder of title to such Renewable Energy Projects for all State law purposes, subject to the lease of the Leased Property contemplated hereby. Upon the filing of the CIP Acceptance Certificates, if any, the parties hereto acknowledge that the respective Series 2011 Local Units shall be the fee owners of the respective Capital Improvement Projects described in any such Certificates. The parties further acknowledge that the Lessor may assign the Reimbursement Collateral pursuant to the terms of the County Security Agreement, if any, and/or the County Guaranty Agreement. So long as no Event of Default shall have occurred and be continuing hereunder, the Lessor shall not sell, assign or alienate all or any part of the Renewable Energy Projects (but such provision shall not apply to the Capital Improvement Projects, the Lessor having no interest therein) or any interest therein to any other Renewable Energy Program interested Party or other third-party (other than to the Lessee pursuant to Article VII hereof), it being the purpose and intent hereof that the Lessee shall have the option to purchase all of the Lessor's right, title and interest in and to the Renewable Energy Projects during or upon the termination of this Company Lease Agreement, with credit toward the Basic Lease Payments for any such purchase price paid, all in accordance with Article VII hereof.

(b) Upon the termination of this Company Lease Agreement in accordance with Section 402(a)(iii) or (iv) hereof, (i) all of the Lessor's right, title and interest in and to the Renewable Energy Projects (and not the Capital Improvement Projects, the Lessor having no interest therein) shall be deemed sold, for purposes of State law, by the Lessor to the Lessee for the consideration of all previous Basic Lease Payments, and to the extent the Lessor was deemed to have a fee interest therein or to have retained title thereto for purposes of State law, such interest shall be deemed extinguished under State Law and such title thereto shall be deemed automatically and without further action conveyed by Lessor to Lessee, (ii) except for the rights

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of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(c) Upon the termination of this Company Lease Agreement due to an optional or mandatory pre-purchase of the Renewable Energy Projects in accordance with Section 402(a)(f) and Sections 701 or 702, as applicable, hereof, (i) the rights of the Lessor and the Lessee in the title to the Renewable Energy Projects (but not the Capital Improvement Projects, which title shall remain with the respective Series 2011 Local Units) shall be as set forth in Section 703 hereof, (ii) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(d) Upon the termination of the Power Purchase Agreement, the parties acknowledge that (i) the Company and each Series 2011 Local Unit shall have thirty (30) days from any such termination to negotiate a fair market value purchase price for the Renewable Energy Project developed for any such Applicable Series 2011 Local Unit and (ii) to the extent the Company and any such Applicable Series 2011 Local Unit can agree to any such fair market value purchase price for such Renewable Energy Project, the parties acknowledge that the right, title and interest in and to such Renewable Energy Project may be sold by the Lessee to any such Applicable Series 2011 Local Unit for such fair market value price, and any other terms and conditions, all in accordance with the provisions of Section 5.2(d) of the Local Unit License

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Agreement for any such Applicable Series 2011 Local Unit.

(e) Upon the termination of this Company Lease Agreement due to a Lessee Event of Default in accordance with Section 402(a)(g) hereof, (i) Lessor shall possess full right, title and interest in and to the Renewable Energy Projects for all of the Series 2011 Local Units (but not the Capital Improvement Projects, if any, which title shall remain with the respective Series 2011 Local Units), (ii) Lessee shall have no further leasehold or other right, title and interest in and to such Renewable Energy Projects (nor any such Capital Improvement Projects), (iii) except for the rights of the Series 2011 Local Units to effect a nominal value purchase of their respective Renewable Energy Projects in accordance with subsection (f) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessee and its officers shall take all actions necessary to authorize, execute and deliver to the Lessor any and all documents necessary to vest in the Lessor all of the Lessee's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessee or the Lessor to be prepared and filed with the Lessee and the Lessor, and, upon the request of the Lessee or the Lessor, shall execute and deliver to the Lessee and the Lessor all such instruments as may be desirable to evidence such discharge and satisfaction.

(f) Upon the termination of this Company Lease Agreement as contemplated in Section 609(c) above, the parties acknowledge that the right, title and interest in and to the Renewable Energy Project developed for any one or more Series 2011 Local Units may be sold by the Lessor to any such Applicable Series 2011 Local Unit for nominal consideration in accordance with the provisions of Section 5.2(a)(iv) of the Local Unit License Agreement for such Applicable Series 2011 Local Unit.

**SECTION 610. No Further Encumbrances; Exceptions.**

(a) The Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Projects, other than the respective rights of the Lessor and the Lessee as herein provided and the Permitted Encumbrances or in any other Program Document. Except as expressly provided in this Article VI, the Lessee shall promptly, at its own expense, take such action as may be necessary to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Lessee shall reimburse the Lessor and/or the Applicable Series 2011 Local Units, as applicable, for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

(b) The Lessee may, at its own expense and in its name, contest in good faith any taxes, assessments or utility and other charges and, in the event of any such contest, permit

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the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items the interest of the Lessor in the Projects shall be materially affected or the Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss that may result from nonpayment, in form satisfactory to the Lessor.

**SECTION 611. Trustee Indemnification.**

The Lessee shall (a) indemnify and save harmless the Trustee and its agents, employees, officers and directors from and against any and all liabilities, including, without limitation, all claims, demands, damages, losses, costs, penalties, charges and expenses (including, but not limited to, reasonable attorneys' fees) in any way relating to or arising from (i) the development, ownership, possession, operation, condition, sale, rental, sub-rental or return of the Projects, (ii) the Program Documents, and (iii) any resignation by the Trustee in accordance with Section 10.07(2) of the Bond Resolution; and (b) reimburse the Trustee for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Trustee may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Trustee has acted with negligence or willful misconduct in connection with the liabilities for which the Trustee is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 611 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefor by the Trustee, and shall survive the termination or expiration of this Company Lease Agreement.

**SECTION 612. Advances.**

If the Lessee shall fail to perform any of its obligations under this Company Lease Agreement, the Lessor or the Applicable Series 2011 Local Units may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and the Lessee shall be obligated to repay all such advances on demand to the Lessor or the Applicable Series 2011 Local Units, as the case may be, as Additional Lease Payments with interest at the Overdue Rate from the date of the advance to the date of repayment.

**SECTION 613. Net Proceeds of Insurance; Form of Policies.**

(a) Each policy of insurance obtained pursuant to or required by this Article VI shall provide that all Net Proceeds thereunder shall be payable (i) with respect to the Renewable Energy Projects, to the Lessor for deposit with the Trustee in the Project Fund, the Revenue Fund or such other Fund or Account under the Bond Resolution, in any event as directed by the Lessee, but only so long as the Lessee has not caused an Event of Default hereunder, in which latter case such Net Proceeds shall be payable to the Lessor, (ii) with respect

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(d) The self-insurance claims fund shall be held in a separate trust fund by an independent trustee, which independent trustee may also be the Trustee serving as such under the Bond Resolution;

(e) The self-insurance program shall comply in every particular with all applicable law; and

(f) In the event the self-insurance program shall be discontinued, the actual soundness of its claims reserve fund, as determined by an Independent Insurance Consultant, shall be maintained.

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to the Capital Improvement Projects, to the Applicable Series 2011 Local Unit, or at their direction, to the Trustee for deposit in the Project Fund, or other Fund or Account under the Bond Resolution, or (iii) if not discernable as to Project or otherwise, payable to the Lessor or at the Lessor's direction, to the Trustee for deposit in the Project Fund, the Revenue Fund, or other Fund or Account under the Bond Resolution.

(b) The Lessee shall pay or cause to be paid when due the premiums for all insurance policies required by this Company Lease Agreement, and shall promptly furnish or cause to be furnished to the Lessor and the Series 2011 Local Units evidence of such payments. All such policies shall provide that the Applicable Series 2011 Local Units and the Lessor shall be given not less than thirty (30) days' notice of each expiration, any intended cancellation and any intended reduction of the coverage provided thereby.

(c) Neither the Applicable Series 2011 Local Units nor the Authority shall be responsible for the sufficiency of any insurance herein required, and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Applicable Series 2011 Local Units or the Authority, as the case may be.

(d) The Lessee shall cause to be delivered to the Applicable Series 2011 Local Units and the Lessor on each anniversary of the date of issuance of the Series 2011 Bonds a Certificate of an Authorized Officer of the Lessee, satisfactory to the Applicable Series 2011 Local Units and the Lessor, that the insurance policies required by this Company Lease Agreement are in full force and effect.

**SECTION 614. Self-Insurance.**

Self-insurance, in lieu of policy coverage, maintained by the Lessee pursuant to this Article VI shall only be deemed to comply with this Article VI to the extent all of the following are satisfied:

(a) The self-insurance program shall be acceptable to the Lessor, the Applicable Series 2011 Local Units and the Lessee, as evidenced by Certificates of Authorized Officers to such effect;

(b) The self-insurance program shall be approved by an Independent Insurance Consultant;

(c) The self-insurance program shall include an actuarially sound claims reserve fund out of which each self-insured claim shall be paid; the adequacy of each such fund shall be evaluated on an annual basis by an Independent Insurance Consultant; and any deficiencies in any self-insurance claims reserve fund shall be remedied in accordance with the recommendation of an Independent Insurance Consultant;

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**ARTICLE VII**

**OPTION TO PURCHASE; PREPAYMENT OF LEASE PAYMENTS**

**SECTION 701. Lessee's Prepayment and Purchase Option; Purchase Option Price.**

(a) The Lessee is hereby granted the option to prepay its Basic Lease Payments in part, in accordance with Section 5.07 of the Bond Resolution. Any partial prepayment shall not affect the Lessor's right, title and interest in and to the Renewable Energy Projects, nor the Series 2011 Local Units' right, title and interest in and to the Capital Improvement Projects. At the Lessee's option, as directed in a Certificate of an Authorized Officer of the Company delivered by the Company to the Trustee, the Lessor, and the County accompanying any such partial prepayment, any such partial prepayment shall be either (i) credited to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied or (ii) applied to defease Outstanding Bonds in the manner contemplated by Article XR of the Bond Resolution, and in the amounts and on the dates as set forth in any such partial prepayment Certificate of the Company, which in the case of such defeasance option selected by the Company, such Certificate of the Company shall be acknowledged by an Authorized Officer of the Authority to the effect that such dates and amounts conform to the requirements of the Bond Resolution. Upon any such partial prepayment, new schedules reflecting the revised Basic Lease Payments due from the Lessee, taking into account any such partial prepayment, shall be attached by the Lessor hereto.

The Lessee may not utilize funds in the County Security Fund, if any, toward any such partial prepayment; provided, however, that such limitation does not extend to monies previously released from the County Security Fund and transferred to the Aged Account in the Revenue Fund in accordance with Section 5.07(3)(a) of the Bond Resolution at the time of any such partial prepayment; provided, further however, that such limitation does not extend to such amounts that would be eligible for release pursuant to the calculations referred to in Section 5.07(3)(e) of the Bond Resolution immediately after any such partial prepayment (to the extent the Series 2011 Bonds will not be redeemed simultaneously with the prepayment, the Series 2011 Bonds that will be defeased upon the prepayment shall not be considered Outstanding for purposes of such calculations, and therefore can be released and applied to any such prepayment if the calculations so warrant release), to the extent the Lessor has verified such calculations in writing to the Lessee and the Trustee. In any such instance where this limitation does not so extend, the Lessee may direct the Trustee in writing, with a copy to the Lessor, to apply any such amounts in the County Security Fund, if any, to any such partial prepayment, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(b) The Lessee is further hereby granted the option to prepay and purchase all

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of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, if any) in whole, at the times set forth in Section 701(c) hereof, by paying to the Trustee the "Purchase Option Price", which for any date of calculation shall be the sum of (i) the aggregate amount of unpaid principal of the Bonds to their maturity date under the terms of the Bond Resolution and as set forth in the Lessee's notice to the Trustee of such prepayment, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the final maturity date set forth in clause (i) above, (iii) the redemption premium, if any, applicable to the payment of the Bonds on the maturity date set forth in clause (i) above, and (iv) any costs of redemption or defeasance or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

The Lessee may direct the Trustee in writing, with a copy to the Lessor, that all or a portion of the Purchase Option Price (where all of the Outstanding Bonds shall be paid) shall be funded from the County Security Fund, if any, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(c) The prepayment options set forth in subsections (a) and (b) above may be exercised by the Lessee at any time by (i) giving written notice to the Trustee and the Lessor of the exercise of such option at least fifty-two (52) days prior to the final maturity date set forth in such notice, and (ii) if the prepayment shall occur before [November 15, 2017], complying with any other requirements of Article XII of the Bond Resolution that may be required by the Trustee or the Lessor to defease the Bonds in accordance with the terms of the Bond Resolution, including, without limitation, a verification report from a nationally recognized accounting firm approved by the Trustee and the Lessor to the effect that the amount so prepaid shall equal the Purchase Option Price (for a full prepayment) and shall therefore be sufficient to defease the Bonds (in whole or in part, as the case may be) by paying all of the principal thereof and redemption premium, if any, thereon through and including the final maturity thereof, plus all interest accruing thereon to such final maturity date. Such option shall be exercised by depositing with said notice cash and/or Investment Securities in such amount as shall be sufficient, together with interest to accrue thereon, to pay the Bonds to be defeased on said redemption date.

(c) Notwithstanding any provision herein or in any Program Document to the contrary, the Lessee may not advance refund, currently refund or otherwise refund any Series of Bonds with bonds, notes or other obligations of the Lessee, or such other moneys available to the Lessee, and use such moneys to make any prepayments hereunder unless (i) provision has been made by the Lessee for the payment of all (A) principal of, redemption premium if any, and interest on the Series of Bonds being refunded to any redemption date and (B) Administrative Expenses of the Lessor relating thereto, and (ii) if applicable, prior written notification of any such refunding has been given to the Lessor. Notwithstanding the foregoing, the Lessor may, in its sole discretion at the times and under the circumstances and for the purposes set forth in the Bond Resolution, advance refund, currently refund, or otherwise refund any Series of Bonds, the allocation of the benefit from which shall be determined between the Lessor and the Lessee at the time of any such defeasance and/or refunding.

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#### SECTION 702. Mandatory Prepayment and Purchase of Project; Mandatory Purchase Price.

(a) Upon the acceleration of the Bonds, the Lessee shall forthwith prepay and purchase all of the Renewable Energy Projects (but not the Capital Improvement Projects, if any) by paying to the Trustee, immediately upon receipt of notice of such acceleration, the "Mandatory Purchase Price", which for any date of calculation shall be the sum of (i) the aggregate amount of the unpaid principal of the Bonds, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the date that the amount in clause (i) above has been paid in full, and (iii) any costs of acceleration or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

(b) In the event the Mandatory Purchase Price remains unpaid when due, the Lessee shall make an Additional Lease Payment immediately due and payable equal to, for any date of such deficiency, the amount of such deficiency times the per diem Overdue Rate.

#### SECTION 703. Effect of Prepayment.

(a) In the event of a deposit sufficient to purchase the Renewable Energy Projects (but not the Capital Improvement Projects, if any) pursuant to Section 701 or 702 hereof and to pay any and all amounts due hereunder, (i) all of the Lessor's right, title and interest in and to such Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest) shall be deemed sold to the Lessee for the consideration set forth in such Sections, (ii) except for the rights of the Series 2011 Local Units to effect a Fair Market Value purchase of their respective Renewable Energy Projects in accordance with Section 609(d) hereof, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest), free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(b) Notwithstanding anything to the contrary herein or in any Program Document, including without limitation subsection (a) above, to the extent the Lessee has satisfied all of the conditions of subsection (a) above in order to terminate this Company Lease Agreement,

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including the payment of all amounts due and owing hereunder and under the other Company Documents, and at the date all of such conditions are satisfied, (i) the Lessee is not in any continuing default or Event of Default hereunder or under any Company Document, (ii) the term of one (1) or more Local Unit License Agreements with one (1) or more Series 2011 Local Units has not expired, (iii) the Lessee delivers to the Lessor and such Series 2011 Local Unit a Certificate of an Authorized Officer of the Lessee expressing the Lessee's interest in continuing the term of this Company Lease Agreement to a specified date which date shall be no later than the termination date of any such Local Unit License Agreements, then without any further action (a) the Company Lease Agreement shall not terminate, but rather shall continue for a term no longer than the termination date of the Applicable Local Unit License Agreement, all as set forth in any such Certificate, (b) the Lessee's only remaining payment obligations under the Company Lease Agreement are to pay rent for the Leased Property in an amount that shall be the sum of (i) the Authority's annual Administrative Fee, (ii) any Administrative Expense that Lessee causes the Authority, the County or any such Series 2011 Local Unit to incur, both as Additional Lease Payments hereunder, there being no continuing obligation to make Basic Lease Payments as the Series 2011 Bonds and any Additional Bonds that are Outstanding are either defeased or redeemed under the Bond Resolution, and (iii) ten (10) dollars per annum, payable annually in advance, (c) the Lessee can only cause an Event of Default hereunder should the Lessee fail to pay such amounts, fail to operate and maintain the Applicable Renewable Energy Project, or fail to allow the Applicable Series 2011 Local Unit to discharge its obligations under its Local Unit License Agreement, such as to take and pay for the Electricity generated under the Renewable Energy Program by the Lessee for the benefit of any such Series 2011 Local Unit, and (d) the Company retains all other rights, duties and obligations under the Program Documents, until the termination of the Applicable Local Unit License Agreement with respect to the particular Project, including without limitation the right to receive the PPA Price, as escalated, for the duration of any such term. The Lessee may continue this arrangement with the Authority and more than one (1) Series 2011 Local Unit, to the extent all such conditions are satisfied with respect to any other Series 2011 Local Unit and their respective Renewable Energy Projects, until the termination of this Company Lease Agreement, without interruption, in accordance with the terms of Section 402(a)(iii) hereof, in which case title to the Applicable Renewable Energy Project(s) shall transfer in accordance with the provisions of Section 609(b) hereof.

#### SECTION 704. Substitution of Project.

The Lessee is hereby granted the full power of substitution with respect to any Project so long as the Lessor and the Trustee receive the prior written consent of the Applicable Series 2011 Local Unit and the Authority, along with revised Exhibits to the Applicable Program Documents.

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### ARTICLE VIII

#### DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

##### SECTION 801. Damage, Destruction and Condemnation.

(a) If either (i) the Projects or any portion thereof are destroyed or damaged by fire or other casualty or (ii) title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by any governmental body, other than Sussex County, a division of Sussex County Government, any Series 2011 Local Unit, or by any person, firm or corporation acting under governmental authority, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to purchase the Project in whole by paying the then applicable Purchase Option Price in accordance with Section 701 hereof and causing the Lessor to deposit, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so deposit, such Net Proceeds with the Trustee in the Revenue Fund, the Debt Service Fund, or such other Fund or Account that would allow the application of the Net Proceeds toward the Purchase Option Price. Subsections (y) and (z) above are mutually exclusive.

(b) If title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by Sussex County, a division of Sussex County Government, or any Series 2011 Local Unit, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project

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Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to have no further obligation with respect to the affected Project(s). Subsections (y) and (z) above are mutually exclusive.

(c) In the event of any damage, destruction, condemnation, taking or other event that constitutes a revocation or deemed revocation under Section 3.7 of any Local Unit License Agreement with respect to a Project requiring payment of the amounts set forth in Section 3.7(a)(iv) of such Local Unit License Agreement, upon receipt of such amount, this Company Lease Agreement and the obligations of Lessee thereunder with respect of and solely with respect to such Project, shall terminate and title thereto shall vest in Lessee. Such event shall have no effect on the Lessee's obligations to continue to make all Lease Payments on time and in full.

#### SECTION 802. Insufficiency of Net Proceeds.

If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement relating to the Projects as so damaged or taken, the Lessee shall either:

(a) direct the application of the Net Proceeds in the manner as set forth in Sections 801(a)(y) or 801(b)(y) above, thereby requiring the Lessee to complete the work relating to the Projects as so set forth, except that the Lessee shall itself pay any Project Costs in excess of the amount of the Net Proceeds, and, if by reason of any such insufficiency of the Net Proceeds the Lessee shall make any payments pursuant to the provisions of this Section 802(a), the Lessee shall not be entitled to any reimbursement therefor from the Lessor, nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Projects;

(b) direct the application of the Net Proceeds in the manner as set forth in Section 801(a)(z) above, thereby requiring the Lessee to make an equity contribution to the extent the Net Proceeds are insufficient to cover the Purchase Option Price and thereupon exercise Lessee's option to purchase the Project in whole, in accordance with Article VII hereof, in which event the Net Proceeds shall be used toward this purpose; or

(c) direct the application of the Net Proceeds consistent with the determination contemplated in Section 801(b)(y) above, thereby causing the Net Proceeds to be applied to the payment of the Interest Portion and, to the extent available, the Principal Portion of the Basic Lease Payments due on the immediately succeeding Basic Lease Payment Dates until all of the Net Proceeds have been so applied, in which event the Lessee shall not be entitled to any reimbursement therefor from the Lessor nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Project. Subsections (a), (b) and (c) above are mutually exclusive.

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#### SECTION 803. Cooperation of Lessor.

The Lessor and the Applicable Series 2011 Local Unit shall cooperate fully with the Lessee, at the sole cost and expense of the Lessee, in filing any proof of loss with respect to any insurance policy covering the casualties described in Section 801 hereof and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Projects or any part thereof. In no event shall the Lessor or the Applicable Series 2011 Local Unit voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim or any prospective or pending condemnation proceeding with respect to the Projects or any part thereof, without the prior written consent of the Lessee.

#### SECTION 804. Condemnation of Other Property Owned by Lessee.

The Lessee shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for the destruction of, damage to or taking of its property not included in the Project.

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### ARTICLE IX

#### ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING

##### SECTION 901. Assignment by Lessor.

Except for this Company Lease Agreement and as otherwise provided below and in any other Program Document, including without limitation with respect to its payment obligations under the Power Purchase Agreement to the Series 2011 Local Units under the Local Unit License Agreements, or with respect to the assignment of the Reimbursement Collateral to the County and the County Security Provider, if any, under the County Guaranty Agreement and the County Security Agreement, if any and as applicable, the Lessor shall not assign its obligations under this Company Lease Agreement and no such purported assignment thereof shall be effective. All of the Lessor's right, title and interest in and to this Company Lease Agreement, the Lease Payments and the other amounts due to it hereunder and under the Project shall be assigned by the Lessor to the Trustee pursuant to the pledge of the Trust Estate under the Bond Resolution no later than the execution and delivery hereof.

##### SECTION 902. Lease Payments to Trustee.

The Lessor and the Lessee hereby agree that from and after the adoption of the Bond Resolution and the execution of this Company Lease Agreement, so long as the same shall remain in effect, payment by the Lessee to the Trustee or, if applicable, to the successor thereto of any moneys or sums due hereunder from the Lessee to the Lessor shall satisfy the obligation of the Lessee to pay such money or sums.

##### SECTION 903. Assignment and Subleasing by Lessee.

This Company Lease Agreement may not be assigned or subleased by the Lessee without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Lessee entered into this Company Lease Agreement as the successful respondent pursuant to the Company RFP and all applicable law, and the Lessor and the Series 2011 Local Units have selected the Lessee, and not any assignee, to receive the rights, and perform the duties and obligations hereunder. Any such purported assignment or sublease shall be deemed null and void without such prior written consent.

##### SECTION 904. Restriction on Mortgage or Sale of Project by Lessee.

The Lessee shall not mortgage, sell, assign, transfer or convey the Projects or any portion thereof during the Term of this Company Lease Agreement without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Program Documents contemplate such Projects being available, directly in the case of the Capital Improvement Projects, or indirectly in the case of the Renewable Energy Projects as a source of power, for the benefit of the Series 2011 Local Units.

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##### SECTION 905. Reorganization.

It is understood and agreed by the parties hereto that reorganization of the Lessee with the consent of the Lessor shall not constitute an assignment under this Article IX.

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ARTICLE X

EVENTS OF DEFAULT; REMEDIES

SECTION 1001. Events of Default.

(a) An Event of Default hereunder means the occurrence of any one or more of the following events:

(i) The Lessee fails to (A) make any Basic Lease Payment or any Additional Lease Payment as it becomes due or (B) maintain any insurance requirement set forth hereunder.

(ii) The Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder or under any Company Document, and such failure is not cured within ninety (90) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, that if such failure cannot be cured within said ninety (90) day period, the Lessee shall not be in default if it has commenced to cure within such ninety (90) day period, it continuously proceeds with the cure, and if such action to cure the default is acceptable to the Lessor and the Lessor indicates the same in writing.

(iii) The discovery by the Lessor or the Trustee that any material statement, representation or warranty made by the Lessee in this Company Lease Agreement, or in any writing delivered by the Lessee pursuant hereto or in connection herewith, is false, misleading or erroneous in any material respect.

(iv) The Lessee becomes insolvent or admits in writing its inability to pay its debts as they mature or applies for, consents to or acquiesces in the appointment of a trustee, receiver or custodian for the Lessee or a substantial part of its property; or in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed for the Lessee or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, moratorium or other proceeding under bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or, if permitted by law, against the Lessee and, if instituted against the Lessee, is consented to or acquiesced in by the Lessee or is not dismissed within sixty (60) days.

(v) The entering of an order or decree appointing a receiver for the Leased Property or for any part thereof or for the revenues thereof with or without the consent or acquiescence of the Lessee, and such order or decree shall not be vacated, discharged or stayed within ninety (90) days after the date of such

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immediately due and payable by the Lessee, whereupon such Lease Payments shall be immediately due and payable.

(v) Take whatever action at law or in equity may appear necessary or desirable to collect the Lease Payments then due and thereafter to become due hereunder with respect to the Project or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Company Lease Agreement.

SECTION 1003. Reinstatement.

Notwithstanding any termination of this Company Lease Agreement that shall be made in accordance with the provisions of Section 1002 hereof, unless the Lessor shall have entered into a firm bilateral agreement providing for the reletting of the Project for a period of at least one year, if, after the maturity of the Outstanding Bonds shall have been accelerated by the Trustee (upon the occurrence of an Event of Default) under the terms of the Bond Resolution, (a) all arrearages of interest on such Outstanding Bonds and interest on overdue installments of principal, redemption premium, if any, and (to the extent permitted by law) interest on such Bonds at a rate per annum equal to the highest rate per annum borne by any of the Bonds shall have been paid, (b) the principal and redemption premium, if any, on all Outstanding Bonds that have become due and payable (other than by an acceleration) shall have been paid, (c) all other sums payable under the terms of the Bond Resolution, except the principal of and the interest on such Bonds that by such acceleration shall have become due and payable, and under the terms of the other Program Documents shall have been paid, (d) all other things shall have been performed in respect of which there was an Event of Default, (e) the reasonable fees and expenses of the Lessor, the Trustee, the Series 2011 Local Units, the County, the County Security Provider, and the Bondholders, including Administrative Expenses thereof (including reasonable attorneys' fees paid or incurred) shall have been paid, and (f) such acceleration under the terms of the Bond Resolution is rescinded, then the Lessee's Event of Default hereunder shall be waived without further action by the Trustee or the Lessor or any other Renewable Energy Program Interested Party. Upon such payment and waiver, this Company Lease Agreement shall be fully reinstated as if it had never been terminated, and the Lessee shall be restored to the use, occupancy and possession of the Renewable Energy Projects and the other Leased Property.

SECTION 1004. Election of Remedies; No Waiver of Elected Remedies.

No failure on the part of either party to exercise, and no delay in exercising any right or remedy so provided for herein, shall operate as a waiver thereof, nor shall any single or partial exercise by either party of any right or remedy so provided hereunder preclude any other or further exercise of any other right or remedy provided hereunder.

SECTION 1005. No Additional Waiver Implied by One Waiver.

In the event any agreement contained in this Company Lease Agreement should be

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entry.

(b) Upon the occurrence of an Event of Default under this Section 1001, the Trustee shall transmit a written notice, including electronic mail, of such Event of Default to the Lessor, the Lessee and the Series 2011 Local Units within thirty (30) days of the Trustee's knowledge thereof.

(c) Upon the occurrence of an Event of Default under this Section 1001, all obligations of the Lessee under this Company Lease Agreement shall remain in full force and effect.

SECTION 1002. Remedies.

(a) Upon the occurrence and continuation of any Event of Default as described in Section 1001 hereof, at the option of the Lessor, the Mandatory Purchase Price with respect to the Project shall become immediately due and payable by the Lessee upon the Lessor's declaration. So long as the Lessor is not in default hereunder, the Lessor shall have the right to direct all remedial proceedings under this Company Lease Agreement, including the consent to remedies taken upon an Event of Default. Subject to the preceding sentence, the Lessor shall have the right, without any further demand or notice, to take one or any combination of the remedial steps below:

(i) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and exclude the Lessee from using it; provided, however, that if this Company Lease Agreement has not been terminated, the Lessor shall return possession of same to the Lessee when the Event of Default has been cured; and provided, further, that the Lessee shall continue to be responsible for the Lease Payments due hereunder during the remainder of the Lease Term.

(ii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and sell, lease or sublease its interest therein or any part thereof.

(iii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and apply any portion of same, or of the proceeds of same (in accordance with clause (ii) above) in accordance with the provisions of Section 5.07(1)(b) of the Bond Resolution.

(iv) With or without terminating this Company Lease Agreement, declare all Lease Payments due or to become due hereunder to be

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breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder, and shall not be construed to be an implied term hereof or a course of dealing between the parties hereto.

SECTION 1006. Agreement to Pay Attorneys' Fees and Expenses.

In the event either party to this Company Lease Agreement should default under any of the provisions hereof and the non-defaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement, performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall, on demand therefor, pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

SECTION 1007. Late Charges.

Whenever any payment of Lease Payments is not made when due, the Lessee promises to pay to the Lessor, in addition to the amount due, interest thereon at the Overdue Rate; provided, however, that this Section 1007 shall not be applicable if or to the extent the application thereof would affect the validity of this Company Lease Agreement.

SECTION 1008. Delay; Notice.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof. Any such right or power may be exercised from time to time and as often as may be deemed expedient, and any one exercise thereof shall not be deemed an exclusive exercise. To entitle any party to exercise any remedy reserved to it in this Company Lease Agreement, it shall not be necessary to give any notice other than as may be specifically required in this Company Lease Agreement.

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ARTICLE XI

ADMINISTRATIVE PROVISIONS

SECTION 1101. Notices.

Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Company Lease Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) If to Lessor: The Morris County Improvement Authority
P.O. Box 900
Morristown, New Jersey 07963-0900
Attention: John Bonanni, Chairman
Email: jbonanni@co.Morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.
Inglesino, Pearlman, Wyciskala & Taylor, LLC
600 Parsippany Road, Suite 204
Parsippany, New Jersey 07054
Email: spearman@iandplaw.com

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Agreement may be amended, supplemented, or otherwise modified with respect to its Term or any of its other provisions by written amendment authorized and executed by the Lessor, the Lessee, and to the extent any of the rights, duties or obligations of any Series 2011 Local Units or other Renewable Energy Program Interested Parties under a Program Document are affected, with the written acknowledgment and consent of any one or more such Series 2011 Local Units and/or Renewable Energy Program Interested Parties, as applicable.

(c) To the extent Bonds are Outstanding at the time of any amendment, supplement or modification of this Company Lease Agreement, any such proposed amendment, supplement or modification, in substantially final form, shall be delivered by the Lessor at least fifteen (15) days in advance of its execution to the Trustee and each rating agency that at such time is rating any such Bonds, unless this provision is waived by any such rating agency and the Trustee; moreover, no such amendment, supplement or modification shall be entered into by the parties unless there shall be no adverse affect on the rating of such Bonds. Where there shall be no such adverse affect on the rating of such Bonds, a final copy of any such authorized, executed and delivered amendment, supplement or modification of this Company Lease Agreement shall be promptly delivered to each such rating agency and the Trustee.

SECTION 1104. Further Assurances and Corrective Instruments.

The Lessor and the Lessee agree that they shall, if necessary, execute, acknowledge and deliver such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Projects or the Leased Property, or any inadequate or incorrect description intended so to be, or for carrying out the expressed intention of this Company Lease Agreement.

SECTION 1105. Applicable Law.

This Company Lease Agreement shall be governed by and construed in accordance with the laws of the State.

SECTION 1106. Lessor and Lessee Officers.

Whenever under the provisions of this Company Lease Agreement the approval of the Lessor or the Lessee is required or the Lessor or the Lessee is required to take some action at the request of the other, such approval of such request shall be given for each party by its respective Authorized Officer, and any party hereto shall be authorized to rely upon any such approval or request.

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(b) If to the Lessee:

With a copy to:

(c) If to the Trustee: [Name of Trustee]

With a copy to:

(d) If to the Series 2011 Local Units: See Exhibit A-4 attached hereto.

(e) If to the Construction Manager: Jessica Vogel, CBSB
Birdsall Services Group, Inc.
1101 Laurel Oak Road, Suite 160
Voorhees, NJ 08043

With a copy to: Joseph Santaini
Gabel Associates
417 Denison Street
Highland Park, NJ 08904

SECTION 1102. Severability.

In the event any provision of this Company Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 1103. Amendments, Changes and Modifications.

(a) This Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to the recomputation of Basic Lease Payments or Additional Lease Payments related to the Purchase Option Price or Mandatory Purchase Price, or with respect to any other term of this Company Lease Agreement affecting the security of the Bond Resolution, by (i) written amendment authorized executed and delivered by each of the Lessor and the Lessee and (ii) by compliance with Article XI of the Bond Resolution regarding conditions required for amendment of the Bond Resolution, which may include the consent of the Trustee.

(b) Other than as provided in subsection (a) above, this Company Lease

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SECTION 1107. Captions.

The captions or headings in this Company Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Company Lease Agreement.

SECTION 1108. Company Lease Agreement is Original.

For all purposes of filing, perfection or any other matter requiring identification or possession of the "original" copy of a lease, the executed original hereof identified as the "original" shall be the "original" to evidence this Company Lease Agreement.

SECTION 1109. Binding; Counterparts.

This Company Lease Agreement shall be binding upon the parties hereto only when duly executed on behalf of both the Lessor and the Lessee together; provided, however, that each set of counterparts taken together shall constitute an original.

SECTION 1110. Inspections Permitted.

The Lessee shall, whenever requested, advise the Lessor and the Applicable Series 2011 Local Units of the exact location and condition of the Projects. The Lessor and the Applicable Series 2011 Local Units may enter upon the premises of the Projects for the purpose of inspection at all reasonable times, and, upon reasonable notice, may enter upon the job, building or place where the Projects and the books and records of the Lessee with respect thereto are located.

SECTION 1111. Time is of the Essence.

Time is of the essence with respect to this Company Lease Agreement, and no covenant or obligation hereunder to be performed by the Lessee may be waived except by the written consent of the Lessor and the Lessee. Waiver of any such covenant or obligation or a forbearance to invoke any remedy on any occasion shall not constitute or be treated as a waiver of such covenant or obligation or any other covenant or obligation as to any other occasion and shall not preclude the Lessor from invoking such remedy at any later time prior to the Lessee's cure of the condition giving rise to such remedy. Each of the Lessor's rights hereunder is cumulative to its other rights hereunder and not alternative thereto.

SECTION 1112. No Personal Liability or Accountability.

No covenant or agreement contained in this Company Lease Agreement shall be deemed to be the covenant or agreement of any present, past or future officer, agent or employee of the Lessor or the Lessee, in his or her individual capacity, and neither the officers, agents or employees of the Lessor or the Lessee nor any official executing this Company Lease Agreement

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shall be liable personally on this Company Lease Agreement or be subject to any personal liability or accountability by reason of any transaction or activity relating to this Company Lease Agreement.

**SECTION 1113. Gender.**

Use of the masculine, feminine or neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the other genders whenever and wherever appropriate.

**SECTION 1114. Receipt of Company Lease Agreement.**

The parties hereto each acknowledge receipt of a signed, true and exact copy of this Company Lease Agreement.

**SECTION 1115. Waiver of Sovereign Immunity.**

For the purposes of this Company Lease Agreement, the Lessor acknowledges and agrees that (a) its execution and delivery of this Company Lease Agreement and (b) its performance of the actions contemplated by this Company Lease Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Lessor in respect of itself or its assets, properties or revenues, shall be entitled to any immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, the Lessor hereby (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding.

**SECTION 1116. Approvals.**

In order to ensure that construction of the Renewable Energy Projects is not unduly delayed, in the event that any party to this Company Lease Agreement seeks the approval or consent of another party to this Company Lease Agreement, the party considering such request shall not unreasonably condition, withhold or delay such consent or approval.

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IN WITNESS WHEREOF, the Lessor and the Lessee have each caused this Company Lease Agreement to be executed in its name by its respective duly authorized officers, all as of the date first above written.

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY, as Lessor**

[SEAL]

By: \_\_\_\_\_  
John Bonanni, Chairman

ATTEST:

By: \_\_\_\_\_  
Christina Ramirez, Secretary

[COMPANY]

BY: \_\_\_\_\_  
NAME:  
TITLE:

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

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STATE OF NEW JERSEY )  
                                  ) ss.:  
COUNTY OF SUSSEX )

On this \_\_\_ day of \_\_\_\_\_, 2011, before me, a Notary Public in and for said County and State, personally appeared John Bonanni, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

\_\_\_\_\_  
Notary Public

STATE OF NEW JERSEY )  
                                  ) ss.:  
COUNTY OF SUSSEX )

On this \_\_\_ day of \_\_\_\_\_, 2011, before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ known to me (or proved to me on the basis of satisfactory evidence) to be the \_\_\_\_\_ of the Managing Member of the Company, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

\_\_\_\_\_  
Notary Public

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EXHIBIT A

1. DESCRIPTION OF PROJECTS

EXHIBIT A-1: See attached Description of Renewable Energy Project for each Series 2011 Local Unit, to be constructed in accordance with Exhibit C to the Company RFP, also attached. See also attachment of Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP

EXHIBIT A-2: See attached Description of Capital Improvement Project for each Series 2011 Local Unit

2. BASIC LEASE PAYMENT SCHEDULE

EXHIBIT A-3: See attached Basic Lease Payment Schedule

3. NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS

EXHIBIT A-4: Notice Information for Series 2011 Local Units

4. MAXIMUM PROJECT COSTS FINANCED BY THE SERIES 2011 BONDS

The maximum Project Costs financed by the Series 2011 Bonds is the Maximum Net Bond Funded Project Cost Amount of \$ \_\_\_\_\_

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Townsend Street  
Newton, NJ

(iii) Green Township (<http://www.greenwp.com/>)

(A) Green Hills School  
Roof Mounted System  
System Size: (157.09 kW)  
69 Macarley Road  
Newton, NJ

b. Series 2011 Board of Education Local Units

(i) Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)

(A) Franklin Elementary School  
Roof and Parking Canopy  
System Size: (376.74 kW)  
50 Washington Avenue  
Franklin, NJ

(ii) Lafayette Township Board of Education (<http://www.ltxe.org/>)

(A) Lafayette Township School  
Roof and Ground  
System Size: (379.96 kW)  
178 Beaver Run Road  
Lafayette, NJ

(iii) Newton Board of Education (<http://www.newtonnj.org/>)

(A) Merriam Avenue School  
Roof and Parking Canopy  
System Size: (256.45 kW)  
81 Merriam Avenue  
Newton, NJ; and

(B) Newton High School  
Roof and Parking Canopy  
System Size: (305.21 kW)  
44 Ryerson Avenue  
Newton, NJ

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EXHIBIT A-1

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unit-elevated construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP.

EXHIBIT A

Morris County Improvement Authority  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

Series 2011 Local Unit List of Local Unit Facilities

a. Series 2011 Municipal Local Units

(i) Fredon Township (<http://www.nyp.fredon.nj.us/>)

(A) Civic Center  
Roof Mounted System  
System Size: (61.18 kW)  
436 Route 94  
Fredon, NJ

(ii) Town of Newton (<http://www.newtontownhall.com/>)

(A) DPW Complex  
Roof Mounted System  
System Size: (88.78 kW)  
39 Trinity Street  
Newton, NJ

(B) Wastewater Treatment Plant  
Ground Mounted System  
System Size: (151.80 kW)

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(iv) Lenape Valley Regional Board of Education (<http://www.lvrb.org/>)

(A) Lenape Valley Regional High School  
Ground and Parking Canopy  
System Size: (1,170.70 kW)  
28 Sparta Road  
Stanhope, NJ

(v) Byram Township School District (<http://www.byramschools.org/>)

(A) Byram Lakes Elementary School  
Roof, Ground, and Parking Canopy  
System Size: (692.07 kW)  
11 Mansfield Drive  
Stanhope, NJ

(B) Byram Intermediate School  
Roof and Parking Canopy  
System Size: (476.79 kW)  
12 Mansfield Drive  
Stanhope, NJ

(vi) Hardyston Board of Education (<http://www.hbps.org/BOE/BOEbudget.htm>)

(A) Hardyston Middle School  
Ground and Parking Canopy  
System Size: (331.20 kW)  
183 Wheatworth Road  
Hamburg, NJ

(vii) High Point Regional School District (<http://www.hprsdnj.org/>)

(A) High Point Regional High School  
Roof and Ground  
System Size: (1,380.84 kW)  
299 Pidgeon Hill Road  
Sussex, NJ

(viii) Kittatinny Regional School District (<http://www.krls.net/>)

(A) Kittatinny Regional High School  
Roof and Parking Canopy  
System Size: (282.67 kW)  
77 Halsey Road

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Newton, NJ

(ix) *Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*

(A) *Frankford Township School  
Ground Mounted System  
System Size: (463.68 kW)  
2 Pines Road  
Branchville, NJ*

c. **Series 2011 County Local Units**

(i) *Sussex County Technical School (<http://www.sussex.tcc.nj.us/>)*

(A) *Sussex County Technical School  
Roof and Ground  
System Size: (1,696.48 kW)  
105 North Church Road  
Sparta, NJ*

(ii) *County of Sussex (<http://www.sussex.nj.us/>)*

(A) *Sussex County Parking Deck/Jail  
Parking Canopy  
System Size: (468.05 kW)  
39 High Street  
Newton, NJ*

(B) *Juvenile Detention Center  
Ground Mounted System  
System Size: (146.28 kW)  
135 Morris Turnpike  
Newton, NJ*

(C) *Wheatworth Facility  
Ground and Parking Canopy  
System Size: (245.64 kW)  
149 Wheatworth Road  
Hardyston, NJ*

(D) *Main Library  
Ground Mounted System  
System Size: (100.28 kW)*

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125 Morris Turnpike  
Newton, NJ

(ii) *Sussex County MUA (<http://www.somua.org/>)*

(A) *Sussex County MUA Admin. Parking Area  
Ground and Parking Canopy  
System Size: (173.60 kW)  
34 South Route 94  
Lafayette, NJ*

[00016345-]

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EXHIBIT A-1 (cont.)

[Attach Appendix C to the Company RFP]

EXHIBIT A-1 (cont.)

[Attach Article VII to the Company RFP]

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[00016345-]

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EXHIBIT B

FORMS OF ACCEPTANCE CERTIFICATES

See Attached:

- Form B-1, Form of REP Acceptance Certificate
- Form B-2, Form of CIP Acceptance Certificate

[00016045-]

B-1

510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the [A] Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, release the retinings remaining on deposit, and any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

[00016045-]

B-1-2

EXHIBIT B-1

FORM OF REP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of [Company], a Delaware limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of November 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the [A] Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof, or if such funds were insufficient, the Company has provided available funds to complete the design, permitting, acquisition, construction and installation thereof.]

3. The [A] Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the [A] Renewable Energy Projects for all purposes of Section 510(d)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the [A] Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the [A] Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section [00016045-] B-1-]

6. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

[COMPANY]

BY: \_\_\_\_\_  
NAME:  
TITLE:

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

The terms of this REP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

[00016045-]

B-1-3

The form (only) of this REP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_, 20\_\_.

By: BIRDSALL SERVICES GROUP, INC., AS CONSTRUCTION MANAGER

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT B-2

FORM OF CIP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of [Company], a Delaware limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of November 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects") being developed for [\_\_\_\_\_] as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_, the [A] Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof, or if such funds were insufficient, the Company has provided available funds to complete the design, permitting, acquisition, construction, renovation, and installation thereof.

3. By obtaining the Licensor's execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor's acceptance of (a) the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which [A] Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor's acceptance of the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. [Choose one, as applicable]

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for  
[\_\_\_\_\_] B-2-1

100016343

B-1-4

the [A] Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, release the retainage remaining on deposit, and any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

[COMPANY]

By: \_\_\_\_\_  
Name:  
Title:

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

The terms of this CIP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this CIP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

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100016343

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EXHIBIT C  
FORM OF DRAW PAPERS

Requisition No. \_\_\_\_\_  
\_\_\_\_\_, 20\_\_

U.S. Bank National Association, as Trustee

Re: The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (f) Section 510(c) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of November 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and [Company], a Delaware limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted \_\_\_\_\_ and entitled "Resolution Authorizing the Issuance of County Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects")] [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects")] being developed for [\_\_\_\_\_] as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, DOES HEREBY CERTIFY and REQUISITION moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "Trustee") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$ \_\_\_\_\_ from moneys on deposit in the Project Fund (equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition of \$ \_\_\_\_\_, less the required ten percent (10%) retainer of \$ \_\_\_\_\_).

(a) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] (incurred in connection  
with the following Development Contract: \_\_\_\_\_);

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which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

[COMPANY]

BY: \_\_\_\_\_  
NAME:  
TITLE:

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

The terms of this Requisition are hereby  
ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: BIRDSALL SERVICES GROUP, INC., AS  
CONSTRUCTION MANAGER

By: \_\_\_\_\_  
Name:  
Title:

100016345-1

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[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
services] (incurred in connection with the following Development Contract:  
\_\_\_\_\_); and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] (incurred in connection  
with the following Development Contract: \_\_\_\_\_)

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
services] (incurred in connection with the following Development Contract:  
\_\_\_\_\_)

(Please Note, Include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted)

2. (a) Such funds requested in accordance with Section 1(a) of this  
Requisition were incurred in connection with the [acquisition, construction, or installation of the  
[A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or  
installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company  
Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all  
with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

(b) Such funds requested in accordance with Section 1(b) of this  
Requisition were incurred in connection with the [acquisition, construction, or installation of the  
[A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or  
installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company  
Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all  
with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

3. Such payment obligation, for which funds have been requested in accordance with  
Section 1(a) [1(b)] of this Requisition, (i) has been properly incurred in accordance with the  
Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against  
the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto  
is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or  
has been paid by or on behalf of the Company. This Requisition, together with any such  
attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw  
Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit  
License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of  
counterparts, each of which may be executed by one or more of the respective parties, and all of  
100016345-1 C-2

EXHIBIT C-1

[Attach Initial Project Workforce Form AA201]

[Insert Form found at [http://www.state.nj.us/treasury/contract\\_compliance/pdf/aa201.pdf](http://www.state.nj.us/treasury/contract_compliance/pdf/aa201.pdf)]

EXHIBIT D

CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LESSEE FOR COMPANY DEVELOPMENT FEES AND EXPENSES INCURRED ON BEHALF OF THE LESSEE

The Morris County Improvement Authority
P.O. Box 900
Morristown, New Jersey 07963-0900
Attention: Michael J. Amorosa, Chairman
jbonanni@co.Morris.nj.us

U.S. Bank National Association, as Trustee
Corporate Trust Services
21 South Street, 3rd Floor
Morristown, NJ 07960
Attention: Paul O'Brien
paul.obrien@usbank.com

Re: The Morris County Improvement Authority
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 509(d) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of November 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and [Company], a Delaware limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2)(b) of the Authority's bond resolution duly adopted [ , 2010] and entitled "Resolution Authorizing the Issuance of County Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, HEREBY REQUESTS that the Authority direct the Trustee (which direction has occurred through Section 5.02(2)(b) of the Bond Resolution) to pay the following Company Development Fees and Expenses incurred by or on behalf of the Company from moneys on deposit in the Project Fund in the aggregate amount of \$ \_\_\_\_\_, which amount shall be payable to

[\_\_\_\_\_
for \_\_\_\_\_ services].

[the Company for reimbursement of Company Development Fees and Expenses previously paid by the Company to

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The form (only) of this Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_ day of \_\_\_, 20\_\_.

By: \_\_\_\_\_
Name:
Title:

for \_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Company Development Fees and Expense as such term is defined in the Bond Resolution, including without limitation within the aggregate ceiling of \$ \_\_\_\_\_ for such defined term (unless the Authority agrees, below or otherwise in writing, to an increase above such ceiling), is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Company Development Fees and Expenses is due or has been paid by or on behalf of the Company.

Very truly yours,

[COMPANY]

BY: \_\_\_\_\_
NAME:
TITLE:

ATTEST:

By: \_\_\_\_\_
Name:
Title:

EXHIBIT E

[Attach form of Power Purchase Agreement and Company Continuing Disclosure Agreement]

**POWER PURCHASE AGREEMENT**  
(Sussex County Renewable Energy Program, Series 2011)

By and Between

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

and

[COMPANY]

Dated as of November 1, 2011

with respect to the Morris County Improvement Authority's  
Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue (Notes) Bonds, Series 2011 (Federally  
Taxable)

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another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birdsal Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants", if any, and together with the Authority Consultants, the "Consultants"), to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the

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POWER PURCHASE AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

THIS "POWER PURCHASE AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "Power Purchase Agreement"), dated as of November 1, 2011, is made by and among the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of the County of Morris (the "County"), State of New Jersey ("State") as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act") and other applicable law, and [COMPANY, a limited liability company organized and existing under the laws of the State of Delaware], duly authorized to conduct business in the State (including any successors and assigns, the "Company" or "Service Provider").

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of

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Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects", and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "Series 2011 Bonds");

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive

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process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "Series 2011B Notes", and together with the Series 2011A Bonds, the previously defined "Series 2011 Bonds"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however, that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000;

WHEREAS, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

WHEREAS, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the

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"Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "Company RFP") and the receipt of proposals from prospective solar developers, including that (the "Company Proposal") of the successful respondent (the "Company"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (i) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (ii) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to

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design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (iii) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "BPU"), whereby, among other things,

(i) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis;

(ii) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(iii) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable

Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series

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2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

WHEREAS, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever

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40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent ("Private Placement Agent"), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement");
- (b) If the Series 2011 Bonds shall be sold by:
  - (I) Competitive sale, authorize the distribution of a notice of sale ("Notice of Sale"), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the "Underwriter"), or
  - (II) Negotiated sale, enter into a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds; and
- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement, and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (i) above, the "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure

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be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

WHEREAS, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c-12") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement" and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A.

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Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions referenced and exchanged herein, the sufficiency and receipt of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

## ARTICLE I

### DEFINITIONS

#### Section 1.1. Definitions.

(a) The terms set forth in this Section shall have the meanings ascribed to them for all purposes of this Power Purchase Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires.

(b) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

Act  
Authority  
BPU  
Capital Improvement Projects  
Company  
Company Lease Agreement  
Company Proposal  
Company RFP  
County  
Local Unit Facilities  
Local Unit License Agreement  
Power Purchase Agreement  
Projects  
Renewable Energy Projects  
Series 2011 Local Units  
Service Provider  
Shared Services Act  
State

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(c) The following defined terms shall, for all purposes of this Power Purchase Agreement, have the meanings as set forth in the Company Lease Agreement:

- Acceptance Certificates
- CIP Acceptance Certificates
- Company Documents
- Construction Manager
- County Security
- County Security Agreement
- County Security Provider
- Development Contract
- Interconnection Agreement
- Plans and Specifications
- Program Document
- Principal Office
- Renewable Energy Program
- Renewable Energy Program Interested Party
- REP Acceptance Certificates
- Series 2011 Bonds
- Trustee

(d) The following defined terms shall, for all purposes of this Power Purchase Agreement, have the following meanings:

"Business Day" shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or the Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

"Commencement Date" shall have the meaning set forth in Section 3.5 of this Power Purchase Agreement.

"Completion Conditions" shall have the meaning set forth in Section 3.6(a) of this Power Purchase Agreement.

"Construction and Interconnection Phase" shall have the meaning set forth in Section 3.2 of this Power Purchase Agreement.

"Construction Performance Bond" shall mean that construction performance bond provided by or on behalf of the Company securing, in part, the Company's obligations under this Power Purchase Agreement to complete the Projects, in the form set forth in Exhibit G to this Power Purchase Agreement.

"Customer" shall mean individually or collectively, as the case may be, the Series 2011 Local Units that are receiving or have contracted to receive Electricity under the combination

"Meter" shall mean that metering system or systems owned or controlled by Service Provider that accurately measures the amount of solar energy that is converted into Electricity by the Renewable Energy Projects and delivered to each Customer pursuant to this Power Purchase Agreement.

"Parties" or "Party" shall mean, individually or collectively, as the case may be, the Authority, the Service Provider, and the Series 2011 Local Units, as third-party beneficiaries and obligors under this Power Purchase Agreement.

"Point of Delivery" shall mean that physical point, which is identified in the Plans and Specifications, at which Service Provider shall deliver Electricity to each Customer's Applicable Local Unit Facility pursuant to this Power Purchase Agreement, it being understood that Service Provider shall be responsible for all operating, maintenance and repair costs associated with the delivery of Electricity from the Renewable Energy Projects to and including the Point of Delivery, and that Customer shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery to Customer's operating site at or in its Local Unit Facility.

"PPA Price" shall have the meaning set forth in Section 6.2 of this Power Purchase Agreement.

"Required Completion Date" shall have the meaning set forth in Section 3.6(a) of this Power Purchase Agreement.

"SREC" shall mean a New Jersey Solar Renewable Energy Certificate available as a result of the operation of the Renewable Energy Projects.

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of this Power Purchase Agreement and the Local Unit License Agreements, including Section 5.1(c)(f) thereof, which Series 2011 Local Units shall be entitled to the rights and obligated to perform the duties and obligations of Customer hereunder, both as a third-party beneficiary and third-party obligor of this Power Purchase Agreement.

"Designated Representative" shall have the meaning set forth in Section 3.3 of this Power Purchase Agreement.

"Effective Date" shall have the meaning set forth in Section 3.1(a) of this Power Purchase Agreement.

"Electricity" shall mean that alternating current electricity which is produced by the Renewable Energy Projects at the respective Local Unit Facilities as the result of the conversion of solar energy into electricity pursuant to the terms of this Power Purchase Agreement and pursuant to the Plans and Specifications;

"Event of Default" shall have the various meanings, as applicable, set forth in Article IX of this Power Purchase Agreement.

"Fair Market Value" shall mean the price at which an asset would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell, and both having reasonable knowledge of relevant facts, and which price shall be established by one or more third party appraisals from firms experienced in the valuation of assets similar to those comprising the Renewable Energy Projects, as contemplated by Section 3.7(b) hereof.

"Force Majeure" shall mean any event which is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party or its affiliates, including, but not limited to and without limitation, (a) strikes or other labor disputes (other than strikes or labor disputes solely by employees or contractors of the Parties to this Power Purchase Agreement as a result of such Party's failure to comply with a collective bargaining agreement), (b) adverse weather conditions, breakdown or failure of the utility transmission or distribution system not caused by the Service Provider and (c) other acts of nature, riot or civil unrest. The term Force Majeure does not include (i) any acts or omissions of any third party, including, without limitation, any vendor, customer, or supplier of the Service Provider, unless such acts or omissions are themselves excused by reason of Force Majeure; (ii) any full or partial curtailment in the electric output of the Renewable Energy Projects that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear, unless such mishap is caused by Force Majeure; (iii) changes in market conditions that affect the cost of the Service Provider's supplies, or that affect demand or price for any of the Service Provider's products, including, but not limited to the price of electricity, SRECs or other environmental attributes; or (iv) any action that constitutes negligence or gross negligence by the Party claiming a Force Majeure event.

"Initial Term" shall have the meaning set forth in Section 3.1(a) of this Power Purchase Agreement.

## ARTICLE II

### CONDITIONS

#### Section 2.1 Conditions Precedent for Service Provider.

The obligations of Service Provider under this Power Purchase Agreement are expressly conditioned on and subject to the satisfaction, or waiver by Service Provider, of the following conditions precedent:

(a) The execution and delivery by the Customer of any license, easement, or other real property interests in or contract rights to use the Customer's real property that Customer is obligated to deliver hereunder prior to the scheduled commencement of construction of the Projects. The Parties acknowledge that such condition precedent shall be satisfied by the authorization, execution and delivery of the Local Unit License Agreements by each Customer and the Authority contemporaneously herewith, which Local Unit License Agreements, among other things, by their respective terms (including Section 3.1(a) thereof) provide authority for the Company (and their subcontractors, consultants, agents or other designees) to access the Local Unit Facilities of Customer for the purpose of (i) designing, permitting, acquiring, constructing, installing, operating and maintaining the Renewable Energy Projects and (ii) designing, permitting, acquiring, constructing, renovating and installing the Capital Improvement Projects.

#### Section 2.2 Conditions Precedent for Authority.

The obligations of the Authority hereunder, assumed by the respective Customers under the Local Unit License Agreements (including Section 5.11 thereof) to accept deliveries of Electricity derived from the Renewable Energy Projects and make service payments hereunder to the Service Provider, are expressly conditioned on and subject to the satisfaction or waiver of the following conditions precedent:

(a) The receipt by the Authority of the County Security, County Security Agreement, and the Company Lease Agreement.

#### Section 2.3 Conditions Precedent for all Parties.

The respective obligations of Service Provider, the Authority and the Customer with respect to the Projects related to any Customer are each expressly conditioned on and subject to the receipt, prior to the commencement of construction of such Projects, of (a) any policies of insurance that the Service Provider is required to maintain hereunder and under the Company Lease Agreement and (b) the receipt by Service Provider of all required State and local regulatory permits, consents and approvals, including without limitation the New Jersey Department of Education to (i) design, permit, acquire, construct and install the Renewable Energy Projects in accordance with the Plans and Specifications and the technical specifications of Appendix C to the Company RFP attached as a portion of Exhibit A-1 to the Company Lease Agreement, such that the REP Acceptance Certificates required under the Company Lease Agreement can be obtained prior to the Required Completion

Date, and (ii) design, permit, acquire, construct, renovate and install the Capital Improvement Projects, if any, in accordance with the Plans and Specifications and the attached technical specifications of the Company RFP such that the CIP Acceptance Certificates required under the Company Lease Agreement can be obtained prior to the Required Completion Date.

#### Section 2.4 Non-Satisfaction of Conditions.

In the event that the conditions precedent set forth in this Article II are not satisfied, unless Service Provider, or the Authority, on behalf of the Customers, shall elect to waive such conditions precedent, then Service Provider or the Authority may terminate this Power Purchase Agreement with respect to such Projects without further liability effective upon five (5) days advance written notice to the other Party, in which event neither Party shall have any further rights or obligations hereunder. Notwithstanding the Service Provider's commercially reasonable efforts to satisfy the conditions precedent in Section 2.3, in the event that the conditions precedent in Section 2.3 are not satisfied by \_\_\_\_\_, the Parties agree to act in good faith to secure a replacement Project in accordance with the relevant provisions in Section 4.6 hereof.

#### Section 2.5 Inapplicable Terms.

Notwithstanding anything to the contrary contained in this Power Purchase Agreement, the Parties hereto acknowledge and agree that (a) the Service Provider is not responsible for the construction of any Capital Improvement Projects under the Program Documents and any references herein to Capital Improvement Projects, CIP Acceptance Certificates or any other term defined by reference to Capital Improvement Projects (without limiting the application of any such term to the extent not related to Capital Improvement Projects) shall be of no further force and effect, (b) as recited in the preambles, there shall be no need for a County Security Agreement, a County Security Provider or County Security and any references thereto shall be of no further force and effect and (c) any County Security Fund Requirement shall equal \$0. [To be revised based upon successful Company RFP if such RFP meets certain criteria.]

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### ARTICLE III

#### COMMENCEMENT DATES, REQUIRED COMPLETION DATE, AND INITIAL TERM

#### Section 3.1 Commencement and Length of Initial Term.

(a) This Power Purchase Agreement shall become effective and legally binding upon the Parties (including their permitted successors and assigns) and be enforceable in accordance with its terms, upon the execution and delivery hereof by the Authority, the Company and each Customer (the "Effective Date"), and shall remain in full force and effect, (i) with respect to the Authority and the Service Provider, until the end of the fifteenth (15<sup>th</sup>) annual anniversary of the final Commencement Date of all Customers, as set forth in subsection (b) below, and (ii) with respect to each respective Customer, until the end of the applicable period for such Customer set forth in subsection (b) below (as applicable, the "Initial Term").

(b) Unless otherwise terminated as provided herein, this Power Purchase Agreement shall remain in full force and effect, for each Customer, for a period of time (i) beginning on the respective Commencement Dates for each such Customer as established in accordance with Section 3.5 below and (ii) ending on the fifteenth (15<sup>th</sup>) annual anniversary of each such Commencement Date.

#### Section 3.2 The Construction and Interconnection Phase.

The period commencing on the Effective Date and continuing until the earlier occurrence of either (a) the respective Commencement Dates for each Customer or (b) a termination of this Power Purchase Agreement in accordance with Section 2.4 herein shall be hereinafter referred to as the "Construction and Interconnection Phase" for each such Customer. During this phase, the Service Provider shall use commercially reasonable efforts to complete (but in any event shall complete by \_\_\_\_\_), unless extended, per Project, by Force Majeure or Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement) for each such Customer, the construction, start-up and testing of their respective Renewable Energy Projects and the interconnection of their Renewable Energy Projects to their applicable Local Unit Facility, all to permit the transfer of Electricity on or before the applicable Required Completion Date. Note that pursuant to the Company Lease Agreement, the applicable Interconnection Agreement must be in place prior to the issuance of the Acceptance Certificates, which are a prerequisite to the Commencement Dates for each Customer. The Service Provider further agrees to commence construction of all Renewable Energy Projects for each Customer no later than \_\_\_\_\_, unless extended, per Project, by Force Majeure or Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement. Service Provider agrees to the maximum extent practicable that it shall not interfere with the Customer's use of the Local Unit Facility during the Construction and Interconnection Phase.

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#### Section 3.3 Designated Representatives.

(a) To insure a smooth and orderly coordination of activities during the Construction and Interconnection Phase, the Authority, the Service Provider and each Customer shall appoint a designated representative of such Party (each a "Designated Representative") who or which shall be authorized and directed by its principal to meet with the Designated Representative of the other Parties and shall have full power and authority, to the greatest extent practicable in light of applicable law governing the actions of the Authority and Customer, to bind its principal with respect to all construction matters relating to the Projects, and all operational matters relating to the Renewable Energy Projects.

(b) As soon as practicable following the Effective Date, the Designated Representatives shall hold, at a mutually acceptable time and location, an initial Project meeting, at which time the Designated Representatives shall prepare jointly, based on the best information available to Customer and Service Provider (and if applicable, the Authority) at such time, a preliminary schedule for completing the construction of the Projects, and the interconnection, testing and start-up of the Renewable Energy Projects. After the initial Project meeting, the Designated Representatives shall meet periodically, but no less frequently than once every two (2) weeks, at such times and locations as they may mutually agree or as may be requested by one of the Parties for the purposes of coordinating all relevant construction matters with respect to the Projects, and all relevant operational matters with respect to the Renewable Energy Projects, and achieving a timely completion of all Project work and all testing of the Renewable Energy Projects.

(c) The Authority hereby appoints the Construction Manager designated by it under the Company Lease Agreement as its Designated Representative. The Service Provider shall submit its proposed Designated Representative to each Customer. Each Customer shall have five (5) Business Days to either approve or reject Service Provider's proposed Designated Representative, provided however, that its approval shall not be unreasonably withheld, and any failure to respond within the five (5) Business Days specified shall be deemed to be a conclusive approval of Service Provider's proposed Designated Representative.

#### Section 3.4 Cooperation.

The Authority and each Customer agree to reasonably cooperate and assist Service Provider to the fullest extent practicable, at Service Provider's cost, to perform any and all actions within their respective control that Service Provider may reasonably request in connection with (a) the design, permitting, acquisition, construction, installation, interconnection, start-up, and testing of the Renewable Energy Projects, and (b) the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, including, without limitation, the granting of any required rights of access to Service Provider and its contractors in accordance with the terms of the Local Unit License Agreements, the timely execution and return of any required consent of the Authority and/or such Customers, the execution and delivery of any interconnection Agreement, and the participation as and when required of the Authority's and/or Customers' employees and representatives, including the Construction Manager, in the performance of any test in respect of the Renewable Energy Projects.

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#### Section 3.5. Commencement Dates and PPA Price.

(a) Each Customer shall have its own Commencement Date (which may or may not be the same date as that for one or more other Customers) determined as set forth in subsection (b) below. Accordingly, except as set forth in subsection (c) below, there shall be fifteen (15) Commencement Dates for purposes of this Power Purchase Agreement and the Local Unit License Agreements.

(b) Except as the Authority, in its sole discretion, may determine in accordance with subsection (c) below, the "Commencement Date" for each Customer shall be the date on which the Company shall have filed with the Trustee both the REP Acceptance Certificate and the CIP Acceptance Certificate with respect to all of the Local Unit Facilities for such Customer (see Exhibit A hereto for a list of Customers and their Local Unit Facilities), certifying that all of the Renewable Energy Projects and Capital Improvement Projects for such Customer have been completed and accepted.

(c) Notwithstanding subsection (b) above, the Authority may, in its sole discretion, determine to establish an earlier Commencement Date for one or more Customers, by written notification of same to the Company, the Trustee, and the affected Customer, but only with respect to the completed Renewable Energy Projects and Capital Improvement Projects for the Local Unit Facilities of such Customer (otherwise eligible for the issuance of Acceptance Certificates, were it not for the following), and only in the event the Authority determines that the Acceptance Certificates (which require completion of all such Projects for a Customer under subsection (b) above) are being unduly delayed for some reason not within the control of the Company.

(i) Nothing in this subsection (c) shall waive the requirement to ultimately receive such Acceptance Certificates for other purposes of the Renewable Energy Program.

(ii) Should the Authority act to establish an earlier Commencement Date for one or more Renewable Energy Projects for a Customer (as opposed to when all Renewable Energy Projects for such Customer shall have received Acceptance Certificates under subsection (b) above) in accordance with this subsection (c), there shall be more than one Commencement Date for such Customer, and the terms and provisions in this Power Purchase Agreement relating to Commencement Dates shall be applied separately, as applicable, for such one or more Renewable Energy Projects of such Customer.

(d) Upon the earlier to occur of (i) the completion of the construction and start-up of each Renewable Energy Project for any Customer and the interconnection thereof to the applicable Local Unit Facility for such Customer, or (ii) the applicable Commencement Date for such Customer, then:

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- (A) The full Electricity production capability of such completed Renewable Energy Project for such Customer shall be exclusively dedicated to such Customer for the applicable Initial Term and any extensions thereto;
- (B) Service Provider shall operate and maintain the Renewable Energy Projects for such Customer through the Initial Term and any extensions thereof;
- (C) Service Provider shall commence the delivery of all Electricity produced from such Renewable Energy Projects to such Customer; and
- (D) Upon receipt of such Electricity, such Customer shall pay the PPA Price in the amount and manner as set forth in subsection (e) below, in Section 6.4 hereof, and Exhibit B attached hereto.

(e) (i) When Service Provider commences deliveries of Electricity to such Customer in accordance with subsection (d) above, either prior to or on the applicable Commencement Date for such Customer, such Customer shall pay for such deliveries, at the initial PPA Price specified in Exhibit B, Section 1 attached hereto, without escalation. Therefore, the escalation to the first year PPA Price specified in Exhibit B, Section 1 attached hereto shall not be made until the first annual anniversary of the Commencement Date for such Customer. The escalation (as specified in Exhibit B, Section 2 attached hereto) for amounts payable in any following year shall be made on each succeeding anniversary after such Commencement Date, for such succeeding year. Escalation adjustments (as specified in Exhibit B, Section 2 attached hereto) shall be made on each such anniversary date through the end of the Initial Term and any extension thereto for such Customer. As so adjusted for each subsequent year beyond the first annual anniversary of the Commencement Date, each such escalated amount (as specified in Exhibit B attached hereto) shall be the PPA Price payable for such year.

(ii) Notwithstanding anything to the contrary herein or in any other Program Document, the PPA Price set forth in Exhibit B, Section 1 attached hereto, shall be promptly adjusted (without any further authorization or other action required by any Renewable Energy Program Interested Party, but with notice of such change to be promptly provided by the Authority to the Company (and any other County Security Provider, if any), the County, the Series 2011 Local Unit, and the Trustee) to reflect (A) any change in the County Security Fund Requirement in accordance with the terms of the definition thereof as set forth in the Bond Resolution, or (B) a mutually agreeable allocation of the unknown financial / environmental benefits attributable to the Renewable Energy Projects for the Series 2011 Local Units or the Renewable Energy Program relating thereto, including but not limited to the refunding of any Series 2011 Bonds.

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(f) The obligations of Customers under this Power Purchase Agreement, including those to take and pay for Electricity with respect to their applicable Local Unit Facilities, shall be several, and not joint. The Authority shall have no obligation with respect to such take and pay obligations other than to obligate the Series 2011 Local Units, as Customers, to take and pay for such Electricity in accordance with the terms hereof, including this Section 3.5, and other than to enforce such obligations, all as set forth in the Local Unit License Agreements, including Section 5.11 thereof.

### Section 3.6. Required Completion Date; Liquidated Completion Damages.

(a) Unless excused by reason of Force Majeure, fault of Customer due to its default under the Local Unit License Agreement, or otherwise as may be expressly provided herein, Service Provider hereby covenants to satisfy the following conditions (the "Completion Conditions") no later than [ ] (the "Required Completion Date"):

(i) Service Provider shall, in such order and timeframe as Service Provider shall determine, as shall be communicated by Service Provider to the Authority and Customer in accordance with Section 3.3 hereof, complete, in accordance with the Plans and Specifications for Projects prepared by or on behalf of Service Provider and approved by the applicable Customer (all in accordance with Section 501 of the Company Lease Agreement), which Customer approval shall be promptly provided to Service Provider and not withheld unreasonably, which Plans and Specifications shall incorporate, as necessary, desirable or convenient, the technical specifications of the Company RFP, and any further applicable requirements of (A) Exhibits C and D to this Power Purchase Agreement, (B) Exhibit A-2 to the Company Lease Agreement and (C) Exhibit C to the Local Unit License Agreements:

(Y) The design, permitting, acquisition, construction, installation, interconnection, start-up, and testing of all of the Renewable Energy Projects for all Customers on their Local Unit Facilities (see Exhibit A attached hereto); and

(Z) The design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, if any, for all applicable Customers on their Local Unit Facilities (see Exhibit A attached hereto);

(ii) Service Provider shall obtain all of the Acceptance Certificates relating to all Customers on all of the Local Unit Facilities; and

(iii) Service Provider shall commence the production, delivery and sale of Electricity to all Customers through the operation and maintenance of the Renewable Energy Projects, to continue through the Initial Term of this Power Purchase Agreement, and any extensions hereof.

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(b) Unless excused by reason of Force Majeure, fault of Customer due to its default under the Local Unit License Agreement, or otherwise as may be expressly provided herein, if Service Provider fails to satisfy the conditions set forth in subsection (a) prior to the Required Completion Date, then Service Provider shall pay liquidated damages to each such Customer equal to the difference between the variable line item per kWh costs for delivered electricity payable by each such Customer to the local electric utility distribution provider, minus the initial PPA Price (as specified in Exhibit B, Section 1 attached hereto per kWh), multiplied by the guaranteed kWh production of Electricity referenced in Section 6.1(b) of this Power Purchase Agreement for each day after the Required Completion Date, until the Renewable Energy Projects for such respective Customers are able to produce, and Service Provider shall deliver, Electricity for and to such Customers as contemplated by this Power Purchase Agreement.

(c) At the Authority's option, whereby the Authority may look to be directed by the respective Customers, or determine on its own, as the Authority shall in its sole discretion decide, the Authority may recover any amounts due and owing by the Service Provider in accordance with subsection (b) above either through realization of such liquidated damage amount under the Construction Performance Bond provided by Service Provider, or alternatively, accrue and offset such liquidated damage amount against next due PPA Price payments made by Customers, or some combination thereof, in any event as such determination shall be communicated in writing by the Authority to Service Provider and Customer.

(d) In the event Service Provider has an allowable excuse as outlined in subsection (a) above, which shall be the sole cause for failing to meet the timeframes and conditions set forth in subsection (a) above, and after Service Provider has used all commercially reasonable efforts to meet such timeframes and conditions (e.g., overtime), then Service Provider shall not be liable to Customer for such liquidated damages contemplated by subsection (b) above. In the event of any such performance excusing event, Service Provider shall promptly give written notice to Customer and the Authority (but in no event later than twenty-four (24) hours following such occurrence), specifying the Force Majeure event or Customer's alleged failure to act, cooperate or assist Service Provider or other performance excusing event, as applicable. Should the Service Provider performance excusing event be caused by Customer's action or inaction, Customer shall promptly respond (but in no event later than forty-eight (48) hours) to Service Provider and the Authority regarding such notice by outlining all such remedial actions to be undertaken by or on behalf of Customer, and further, Customer shall promptly implement such action outlined in such response as shall be necessary, desirable or convenient in order to remedy such event, and allow Service Provider to meet such conditions as set forth in subsection (a), as soon as practicable, after the Required Completion Date.

### Section 3.7 Extension of Initial Term and other options; Obligations at Termination.

(a) At least one-hundred and twenty (120) days prior to the expiration of the Initial Term, to the extent then permitted by applicable law, the Authority, on behalf of one or more Customers, may submit a written request to Service Provider expressing a desire by such Customer

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to pursue a possible extension of this Power Purchase Agreement. Upon receipt of the Authority's request, Service Provider, the Authority and Customer agree to promptly meet with the intent of negotiating an amendment on mutually agreeable terms and conditions, reflecting, among other things, the cost of any necessary equipment replacements or upgrades, the costs of contract maintenance and operating services, and Service Provider's profit and overhead. Neither Service Provider nor Customer shall be legally obligated to enter into or perform any extension or replacement of this Power Purchase Agreement until and unless reduced to a writing duly executed and delivered by both parties, and the provisions of Sections 5.1 and 7.1 of the applicable Local Unit License Agreement are either complied with or waived by the Authority and/or the applicable Customer.

(b) If the parties shall fail to enter into an agreement extending the Initial Term, then Customer shall elect, at its sole option, to either require that the Service Provider promptly remove the Renewable Energy Projects and return the Local Unit Facilities to the state and condition existing prior to construction and installation of the Renewable Energy Projects (i.e., after the construction, renovation and installation of the Capital Improvement Projects on the applicable Local Unit Facility, if applicable), reasonable wear and tear excluded, at Service Provider's sole cost, or purchase the physical Renewable Energy Projects at Fair Market Value, in any event in compliance with Sections 5.1 and 7.1 of the applicable Local Unit License Agreement. Such Fair Market Value shall be established by an appraisal firm agreed to by the Parties. The cost of the appraisal shall be shared equally by Service Provider and the applicable Customer. In the event the Parties cannot agree to a single appraisal firm, then the Company, the Authority and the Customer shall each contract with a qualified appraisal firm for an appraisal at its own cost, and Fair Market Value shall be the average of the three (3) appraisals.

(i) In the event the end of term option selected by the Local Unit is removal of the Renewable Energy Projects, Service Provider shall remove all of its tangible property comprising such Renewable Energy Projects from the Local Unit Facility by a mutually convenient date but in no case later than one hundred eighty (180) days after the end of the Initial Term. Service Provider shall provide Customer, the applicable roof warrantor for the applicable Local Unit Facility, and the Authority, with a removal plan, at Service Provider's sole cost and expense, with respect to such removal. Such removal plan is subject to the review and approval by Customer, such warrantors, and the Authority, which approval (with respect to Customer and the Authority) shall not be unreasonably withheld or delayed.

(ii) In implementing such removal plan, Service Provider (A) shall cause the portion of the Local Unit Facility on which the Renewable Energy Projects were installed to be returned to the state and condition set forth in subsection (b) above, including removal of above grade electrical wires and conduits, inverters, photovoltaic panels, steel superstructure, combiner boxes, and Renewable Energy Projects disconnect switches, and (B) shall not adversely affect the remaining warranties then in existence with respect to such roofs on such Local Unit Facilities. Not included in the removal schedule are below-grade electric/wiring components (unless otherwise specified in the approved removal plan), material that cannot be

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removed due to safety concerns, and ordinary wear and tear. Service Provider shall leave the portion of the Local Unit Facilities on which the Renewable Energy Projects were installed in neat and clean order, having sealed any penetrations into such portion of the roofs of such Local Unit Facilities, all subject to the applicable Customer's inspection and approval, not to be unreasonably withheld or delayed.

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## ARTICLE IV

### DEVELOPMENT OF PROJECTS AND RELATED AGREEMENTS AND UNDERTAKINGS

#### Section 4.1 Development of Projects.

(a) Service Provider has covenanted to undertake the obligations set forth in Section 3.6(a) hereof with respect to the development of the Projects prior to the Required Completion Date. Thereupon, Service Provider shall deliver Electricity to each Customer, each Customer shall pay for such Electricity, and Service Provider shall operate and maintain the Renewable Energy Projects, all through the Initial Term and any extensions thereof, and all as set forth in Section 3.5(d) hereof.

(b) Service Provider shall be solely responsible for taking, and shall take or cause to be taken, with the cooperation of the Authority and Customer, including as applicable and as required pursuant to Section 3.4 hereof, all action deemed necessary, desirable or convenient by Service Provider in order to discharge its obligations set forth in subsection (a) above. Toward that end, Service Provider shall coordinate all Project construction activities with the Authority and the applicable Customer, and shall provide the Authority and such Customer with all Plans and Specifications and other information that the Authority or such Customer may reasonably request from time to time. The Authority and such Customer shall be provided with submittals during design and construction of such Projects. Such Customer shall provide comments, if any, within ten (10) Business Days of receipt of such submittals. Review and comments by Customer, if any, shall not relieve Service Provider of its obligations under this Power Purchase Agreement. The Authority shall have no obligation, but may on its own volition undertake, to review and comment on such submittals. Service Provider reserves the right to substitute products provided such substitutions are equal or better in quality and performance than the products submitted in Service Provider's Company Proposal, based on which the Authority selected Service Provider, as the successful respondent to the Company RFP, as such substitution shall be agreed to and approved in writing (consent not to be unreasonably withheld) by such Customer and the Authority. Service Provider shall timely apply for all required permits and approvals from all applicable authorities having jurisdiction relating to the construction of the Projects, and the operation and maintenance of the Renewable Energy Projects, and any other activities contemplated by this Power Purchase Agreement. If despite commercially reasonable efforts, Service Provider is unable to obtain a required permit, such occurrence shall be deemed an event of Force Majeure hereunder.

(c) For its undertaking of the obligations set forth in subsection (a), Service Provider shall be entitled to receive the PPA Price from Customer in accordance with Section 6.2 hereof, as full and complete consideration for such services and the undertaking and discharging such obligations by Service Provider.

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#### Section 4.2 Operation and Maintenance of the Renewable Energy Projects.

Throughout the Initial Term and any extensions thereof, Service Provider shall operate and maintain the Renewable Energy Projects in a manner that meets or exceeds good industry practice, and in good working order and repair, and shall coordinate all planned maintenance activities with Customer in order to minimize any adverse impact on Customer and/or its Local Unit Facility. The Renewable Energy Projects shall remain in Service Provider's sole custody and control during the term of this Power Purchase Agreement and Customer shall not attempt to use, repair or otherwise interfere with Service Provider's custody, except in accordance with Service Provider's express consent. Service Provider shall have the right, but not the obligation, to replace or exchange, in its discretion, any component of the Renewable Energy Projects during the Initial Term or any extensions thereof provided that the Renewable Energy Projects continue to operate in accordance with the Plans and Specifications. Service Provider shall be responsible, at its sole cost and expense, for performing all required Renewable Energy Projects operation and maintenance to insure that the Renewable Energy Projects shall operate in an efficient manner in accordance with the Plans and Specifications. It is understood and agreed that Service Provider may delegate its operation and maintenance responsibilities to a technically qualified and financially responsible third party, upon notification to the Authority and the applicable Customer, and upon their review and approval of any such contract, which Authority and Customer approval shall be promptly provided to Service Provider and not withheld unreasonably. Any delegation by Service Provider to such third party shall not relieve Service Provider from its obligations under this Power Purchase Agreement.

#### Section 4.3 Reserved

#### Section 4.4 Outages

Service Provider, the Authority and Customer understand and agree that from time to time it shall be necessary for Service Provider to remove all or part of the production, distribution, and interconnection portions of the Renewable Energy Projects from service to make any necessary repairs or replacements. Accordingly, Service Provider shall have the right to interrupt, reduce or discontinue the delivery of Electricity for the purposes of inspection, maintenance, repair, replacement, construction, installation, removal or alteration of the equipment used for the production or delivery of the same; provided however, that unless the exigencies of the situation require otherwise, Service Provider shall use commercially reasonable efforts to only interrupt or restrict delivery of Electricity at such times as Service Provider and Customer shall mutually agree. Customer and Service Provider agree to act in good faith to accommodate the reasonable requests of the other in fulfilling their respective obligations under this Power Purchase Agreement. If the circumstances require Service Provider to remove the Renewable Energy Projects from service for more than several hours, Service Provider shall take such actions as are reasonable under the circumstances to minimize the effect on Customer's Local Unit Facility and its operations. Unless the exigencies of the situation require otherwise, Service Provider shall provide Customer with at least ten (10) days prior notice of any proposed service outage, which notice shall explain in detail the reason for the proposed interruption, the proposed maintenance or other corrective action to be undertaken, and the expected length of the interruption. For the purposes of this Section 4.4, exigent circumstances shall include, but shall not be limited to, conditions which, in Service Provider's

reasonable judgment, pose an imminent and unreasonable risk of personal injury or property loss, or circumstances under which Service Provider's failure to remove its system from service would, in Service Provider's reasonable judgment, constitute an illegality or violation of any statute, regulation or order of any federal, State, or local governmental authority in the exercise of its regulatory jurisdiction, or any similar events or circumstances.

#### Section 4.5 Removal and Re-installation of Panels; Roof Maintenance & Repairs.

(a) If at any time during the term of this Power Purchase Agreement, Customer is required to remove or interrupt, or cause the removal or interruption, as applicable, of the operation of one or more of Service Provider's solar panels that comprise a portion of the Renewable Energy Projects, to repair or replace the roof of such Customer's Local Unit Facility, or perform required maintenance on any other of the Local Unit's equipment located on such roof, or for any other governmental reason for which no other commercially reasonable solution exists other than to interrupt some portion of service provided by the Renewable Energy Projects, Customer shall promptly notify Service Provider and the Authority of the specific panels and/or other portion of the affected Renewable Energy Project that must be removed or shut down, and when removal or shut-down is required, taking into account to the greatest extent practicable any efforts within Customer's control to minimize the loss of Electricity generated by such removed or shut down (in whole or in part) of the Renewable Energy Project. In such instance, Service Provider agrees to remove and re-install or shut down and re-initiate the operation of such minimum number of panels for the minimum amount of time necessary in order to allow Customer access to its Local Unit Facility to undertake the required task causing the need for such removal.

(b) To the extent Customer is required to take the action set forth in subsection (a) above in whole or in part due to some action or inaction of Service Provider or any of its designees, consultants, subcontractors or agents, or another licensee (other than the Authority or the Authority's designees, consultants, subcontractors or agents) under Customer's Local Unit License Agreement, then Service Provider shall (i) bear and pay for the cost of such removal, and (ii) reimburse Customer for the difference between (A) Customer's actual cost for electricity, as evidenced by that amount delivered and billed by the local electric utility distribution provider to Customer in lieu of the Electricity to have been provided by Service Provider during such applicable period for which Customer is not receiving Electricity from Service Provider, in whole or in part, and (B) the PPA Price that would have been applicable to such amount of electricity so delivered to Customer under clause (i) above, had Service Provider delivered such deficient amount of Electricity during such period.

(c) Conversely, to the extent Service Provider is required, with the Authority's consent, to remove and re-install or shut down and re-initiate the operation of a portion, or all of a Renewable Energy Project due to some action or inaction by Customer or any of its designees, consultants, subcontractors, or agents, Service Provider shall be reimbursed by Customer at Service Provider's actual out-of-pocket cost, plus ten percent (10%) overhead. Further, Customer shall reimburse the Service Provider for the cost of lost production during the period of removal or shut-down in excess of ten (10) days in any twelve (12) month period, starting on the Commencement Date (for such Customer or as applicable, such Local Unit Facility) and each anniversary thereafter.

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The cost of lost production shall include an allowance for both lost Electricity at the applicable PPA Price, and lost SRECs, at the market value of such SREC's as determined in comparable transactions. Customer may at its option, elect to pay Service Provider any amounts in this subsection (c) in either a lump sum payment, or in uniform monthly payments, including interest on the unpaid balance, at the rate set out in Section 6.4 (relating to payment terms) over not greater than a twelve (12) month period. For purposes of this subsection, an action of inaction of a Customer's designees, consultants, subcontractors or agents shall not include students unless such students are under the direct control of the Customer at the time such action or inaction occurred.

#### Section 4.6 Certain Local Unit Facility Issues.

(a) Prior to commencement of construction of each of the Renewable Energy Projects, preferably prior to the Effective Date, and no later than the completion of the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, if applicable, for each Local Unit Facility, Service Provider shall investigate and secure an opinion from a structural engineer licensed in the State that the Local Unit Facility roof is structurally sound and requires no structural reinforcement to support the Renewable Energy Projects to be provided in accordance with the terms hereof. A wind analysis shall also be conducted by or on behalf of Service Provider to insure the proposed mounting structures for the Renewable Energy Projects shall be sufficient to meet wind conditions at each Local Unit Facility. A copy of such opinion and analysis for each Local Unit Facility shall be delivered to the Authority and applicable Customer.

(b) If the Service Provider delivers to the Authority a Certificate of an Authorized Officer of the Service Provider to the effect that such opinion and/or analysis and/or other credible evidence demonstrates any of the following: (i) that structural reinforcement of a Local Unit Facility would be required in order to support the contemplated Renewable Energy Projects, (ii) that any roof of a Local Unit Facility is structurally unsound or that the Local Unit Facility is not otherwise available for the contemplated Project, including issues of title, damage, or condemnation affecting the Local Unit Facility, (iii) that there are other latent subsurface or structural conditions present at any Local Unit Facility that is not a roof, which latent subsurface or structural conditions were not contemplated in its Company Proposal and would have a material adverse financial impact on the Service Provider or (iv) that the existing warranties can only be maintained through an unreasonable scope of work, or at an unreasonable cost, in either case as determined solely by the Authority, and if in any such case (clauses (i) - (iv) inclusive) the Authority, in exercising its reasonable discretion, agrees with such determination as evidenced by their acknowledgment of such Service Provider Certificate by an Authorized Officer of the Authority, then neither the Authority nor Customer shall have any responsibility to provide any additional funding for such Renewable Energy Projects, and Service Provider is not entitled to any additional compensation for such Renewable Energy Projects, it being understood by the Parties that any such circumstance has been preliminarily reviewed and diligenced by Service Provider, as any contemplated cost relating thereto shall have been included in the Company Proposal as part of the submitted cost of the Projects.

(c) To the extent the Authority executes and delivers to the Service Provider the acknowledgment contemplated by subsection (b) above, notwithstanding the other provisions of

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subsection (b) above the Parties shall work together in good faith to select an alternative location (hereinafter, such alternative location shall be known as the revised Local Unit Facility for such Series 2011 Local Unit for all purposes hereof and of the other Program Documents) within the jurisdiction of the following, and in the following order: (i) first of the affected Series 2011 Local Unit for which the Renewable Energy Project shall no longer be developed, in which case the revised Local Unit Facility shall act as the location for the replacement renewable energy project (hereinafter a Renewable Energy Project for all purposes hereof and of the other Program Documents), and as necessary, required or desirable, the revised capital improvement project (hereinafter a Capital Improvement Project for all purposes hereof and of the other Program Documents), both of which Projects, shall to the maximum extent practicable, be of a similar (or more advantageous to the Parties) size, scope and economic impact as the Projects being replaced, (ii) second, within the jurisdiction of any other Series 2011 Local Unit, in which case the revised Local Unit Facility and Project shall be located in such agreed upon jurisdiction, and (iii) if a suitable replacement location within such jurisdiction is still not available on a mutually agreeable basis, then from any location within (and including) the County upon which the Parties can agree, in which case the revised Local Unit Facility and Project shall be located in such agreed upon jurisdiction.

(d) Should an alternative Local Unit Facility be selected by the Parties in accordance with subsection (c) above, (i) a new Commencement Date and a new Completion Date shall be developed for the replacement Renewable Energy Project, and as applicable, Capital Improvement Project, (ii) such revised Commencement Date and Completion Date for such replacement Renewable Energy Project shall be incorporated into this Power Purchase Agreement via a written amendment executed by the Parties, which amendment shall also incorporate a revised Exhibit A hereto and any other changes the Parties deem necessary, desirable, or convenient to implement the change in Project and Local Unit Facility, and (iii) the other Program Documents shall be amended to reflect any required changes caused by such amendment hereof, including without limitation the revised Project, the replaced Local Unit Facility, and if necessary, a new Series 2011 Local Unit (in which case instead of an amended Local Unit License Agreement with such new Series 2011 Local Unit, there shall be a new Local Unit License Agreement with such new Series 2011 Local Unit), provided that the economic rights and responsibilities of the Parties shall not be amended (including without limitation, the PPA Price), unless agreed to at the complete discretion of the Parties.

(e) If after good faith negotiations the Parties are unable to secure a replacement Local Unit Facility and Project within six (6) months of the date of the Authority's acknowledgment of the Certificate of an Authorized Officer of the Service Provider contemplated in subsection (b) above, then the Service Provider shall have the option, exercisable at any time within nine (9) months of the date of such Authority Certificate, to abandon the Project associated with the Local Unit Facility that was to be replaced. Such option shall be exercised by the Service Provider delivering a Certificate of an Authorized Officer of the Service Provider to the Trustee, the County, the Authority, and the affected Series 2011 Local Unit, (i) setting forth the authorization for, and the reasons why the Project and Local Unit Facility are being abandoned, and (ii) further, that attached thereto is a partial prepayment of Basic Lease Payments (or evidence thereof, in the case of a wire transfer or other similar conveyance) in immediately available funds that shall be applied in the manner set forth in Section 701(a) of the Company Lease Agreement. Upon the abandonment of any

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Project, the Service Provider, the Authority and the Customer will enter into such amendments of the Program Documents as shall be necessary to evidence the partial termination of the Program Documents solely with respect to such Project.

#### Section 4.7 Incorporation of Certain Company RFP Terms and Conditions.

To the extent not otherwise inconsistent with the provisions of this Power Purchase Agreement, the terms and conditions of Article VII and Appendix C to the RFP, as attached to the Company Lease Agreement as part of Exhibit A-1 thereto, are hereby incorporated by reference into this Power Purchase Agreement.

#### Section 4.8 Service Provider's Ability to Choose Subcontractors.

Service Provider shall enter into the applicable contract(s) for construction, renovation and installation of the Projects, subject to the terms of any Renewable Energy Program agreement executed by any Party. Prior to implementing any such contract(s), Service Provider and Customer shall have agreed upon a list of acceptable subcontractors, with all other subcontractors subject to notification to the Authority and Customer's consent, such consent not to be unreasonably withheld or delayed; provided, however, that Customer's agreement as to the list of acceptable subcontractors shall not make the Authority or Customer in any way responsible for, or a guarantor of, such subcontractors, nor relieve Service Provider of any of its duties and obligations with respect to subcontractors or otherwise hereunder. Service Provider shall insure all subcontractors are qualified, reputable and adhere to all applicable regulations and laws of the State. The Service Provider identified and the Authority and Customer have approved the initial list of subcontractors, as set forth in Exhibit H, by the time of execution and delivery hereof (such list is not intended to be exclusive, should Service Provider subsequently determine to proffer one or more other subcontractors).

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## ARTICLE V

### LOCAL UNIT LICENSE AGREEMENT - LOCAL UNIT FACILITY ACCESS

#### Section 5.1. Local Unit License Agreement.

(a) For consideration of the transactions contemplated by this Power Purchase Agreement and the Local Unit License Agreement, Service Provider, the Authority and Customer hereby agree that Service Provider and their subcontractors, including \_\_\_\_\_ pursuant to their Development Contract with Service Provider, and other agents and designees shall each be deemed a permitted licensee under Customer's Local Unit License Agreement, and accordingly, Service Provider and their subcontractors and other agents and designees shall have access to the Local Unit Facility of Customer to (i) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, (ii) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, and (iii) perform the other related Project activities set forth in Section 3.1, including subsection (c) thereof, of the Local Unit License Agreement for Customer.

(b) The license provided to Service Provider in accordance with subsection (a) and Customer's Local Unit License Agreement, subject to Section 3.7 of such Customer's Local Unit License Agreement, shall be irrevocable for the Initial Term of this Power Purchase Agreement and any extension, for so long as Service Provider is not in default of its delivery obligations hereunder, thereby causing an Event of Default hereunder, and except as otherwise expressly provided in this Power Purchase Agreement.

(c) Service Provider shall insure that any equipment used or installed by the Service Provider shall not adversely affect the structural integrity or existing roofing warranties of the Local Unit Facility roof and shall be completed in strict accordance with manufacturer's requirements by a certified manufacturer roofing contractor.

(d) In the event a Customer exercises revocation rights pursuant to Section 3.7 of such Customer's Local Unit License Agreement, upon the satisfaction of all requirements under such Section 3.7, this Power Purchase Agreement shall be terminated in respect of, and solely with respect to, such applicable Project.

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ARTICLE VI

ENERGY SERVICES PROVIDED BY SERVICE PROVIDER  
PRIOR TO OR UPON COMMENCEMENT DATE

Section 6.1 Sale and Purchase of Electricity Converted from Solar Energy.

(a) On the date set forth in Section 3.5(d) of this Power Purchase Agreement, which date shall be on or prior to the Commencement Date, Customer shall purchase and take, and Service Provider shall sell and deliver, all Customer's electric energy requirements for the Local Unit Facility (upon or in which the Renewable Energy Project shall have been constructed and installed) from the Electricity produced from the Renewable Energy Projects, up to the actual output from the Renewable Energy Project, regardless of its estimated delivery capability, prior to Customer supplementing its electricity requirements with other sources, including the local electric utility distribution provider.

(b) The Plans and Specifications for the Renewable Energy Projects shall provide for the output guaranteed by Service Provider in Section 6 of its Form A-1 of the Company Proposal attached hereto as Exhibit C (which, in accordance with Form A-1 of the Company Proposal, needs to be adjusted to reflect the actual solar insulation measured at the site for the time period under review), unless Customer agrees in writing to a different output to be set forth in such Plans and Specifications. For the avoidance of doubt, the Parties hereto expressly agree that the proposed output so set forth in Form A-1 of the Company Proposal is \_\_\_\_\_ MW, and is the standard against which the output guaranty contemplated by this Power Purchase Agreement is measured, notwithstanding the fact that the anticipated output set forth in Exhibit A hereto is \_\_\_\_\_ MW (as the difference was financed by the Service Provider away from the Series 2011 Bonds).

(c) Service Provider shall guarantee the output of the Renewable Energy Projects cumulatively through the 5<sup>th</sup>, 10<sup>th</sup>, and 15<sup>th</sup> years of the Initial Term to be within ten percent (10%) of the output (calculated using the PV Watts version 2 with initial system sizes rated at STC methodology employed by the Company in the Company Proposal as described in Exhibit C attached hereto) as set forth in the final Plans and Specifications for the Renewable Energy Projects; provided, that to the extent that such output shall fall below such limit, the remedy therefor shall be solely as set forth in subclause (d) below.

(d) To the extent that the Renewable Energy Projects' output shall fall below the limits set out in the preceding subsection (c) and such shortfall is not due to an action of the Customer, Service Provider shall reimburse Customer for the difference between Customer's variable line item cost for electricity, per kWh, as evidenced by that amount delivered and billed by the local electric utility distribution provider to Customer in lieu of the Electricity to have been provided by Service Provider, and the PPA Price, per kWh, set forth in this Power Purchase Agreement, such difference in price per kWh to be applied to the amount of such Renewable Energy Projects' output deficiency. Such reimbursement shall occur no later than sixty (60) days after the next occurring anniversary of the Commencement Date that arises after the date in which the

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shortfall occurred. In the event such reimbursement payment is not made by Service Provider, Customer shall be entitled to deduct such amount in three (3) equal amounts from its PPA Price invoice payments in the following three (3) months after such sixty (60) days, or if invoice amounts are not large enough to allow for the entirety of such credit during such time, the balance shall be credited as quickly as possible thereafter.

(e) To the extent that the Renewable Energy Projects' output shall fall below the limits set out in the preceding subsection (c) at the end of one of the 5-year periods of the Initial Term, and Service Provider reimburses Customer as set out in the preceding subsection (d), the amount of the shortfall in kWh upon which the reimbursement payment is based shall be deducted from the cumulative guaranteed output amounts at the end of subsequent 5-year periods.

(f) To the extent that a reduction in the amount of Electricity produced by the Renewable Energy Projects is caused due to action of the Customer, such as that contemplated in the preceding section 4.5, subsection (c) or due to the circumstances described in Sections 3.6(d), 4.6(b) or 6.6 hereof, 100% of the amount of Electricity that would otherwise have been produced will be deducted from both (i) the cumulative guaranteed output at the end of the 5-year period in which the reduction due to Customer action occurs, and (ii) the cumulative guaranteed output amounts at the end of all subsequent 5-year periods.

Section 6.2 Rates and Charges.

Customer shall pay to Service Provider the monthly fees and charges for Electricity as set forth in Exhibit B and Sections 3.5(e) and 6.4 hereof (the "PPA Price").

Section 6.3 Service Provider Reservation of Rights; Benefits Shared.

(a) Service Provider retains all ownership and rights to use, sell, or transfer (i) SRECs and (ii) rights with respect to Federal tax benefits (Investment Tax Credit and MACRS Depreciation) associated with the Renewable Energy Projects. Nothing in this Section 6.3 shall relieve Service Provider from its obligation to sell Electricity generated by the Renewable Energy Projects to the Customers.

(b) Any financial / environmental benefits, with the exception of SRECs, determined in the future (but unknown at this time) to be attributable to Renewable Energy Projects shall be the property of the Service Provider.

Section 6.4 Payment Terms.

Service Provider shall measure and read all Meters on or about the first Business Day of each calendar month during the term of this Power Purchase Agreement, commencing the first month immediately following the date set forth in Section 3.5(d) of this Power Purchase Agreement, which date shall be on or prior to the Commencement Date. Promptly thereafter, Service Provider shall provide in writing to Customer, with a copy to the Trustee, an invoice setting forth the Electricity

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charges as set forth in Exhibit B and quantity of Electricity delivered during the previous period. Should an error in invoicing be determined, then Service Provider agrees to promptly provide for an adjustment of the next due invoice to remedy said error. Customer shall have thirty (30) Business Days after the date of the invoice in which to pay the invoice in full. Any sums owing and remaining unpaid after the expiration of said period of time shall bear interest at a rate equal to the lesser of one and one-half percent (1 and 1/2%) per month until paid in full, or highest rate allowed by law.

Section 6.5 Taxes; Other Governmental Charges.

To the extent that Service Provider, Customer, and/or the Authority shall become responsible for the payment of any tax as a result of the placement, operation or maintenance of the Renewable Energy Projects on the Local Unit Facility (other than taxes imposed by Customer after the date of this Power Purchase Agreement), Service Provider shall be responsible for the payment of all such taxes and/or assessments. Such obligation shall be limited to the Renewable Energy Project improvements constructed by the Service Provider on the Local Unit Facility. The Service Provider shall have the right to challenge the lawfulness of any tax or assessment associated with the construction, operation, or maintenance of the Renewable Energy Projects on the Local Unit Facility that shall be imposed on Service Provider, or that shall be attributable to Customer and/or the Authority for which Service Provider shall be required to pay. The Authority and Customer shall be notified of any such challenge by Service Provider, and further, shall be periodically kept informed of all developments, including copies of any pleadings or other documents comprising the docket of any such challenge.

Section 6.6 Alterations to Customer's Facilities.

The Authority and Customer agree not to undertake any structural alterations or repairs in the Local Unit Facilities that may adversely impact the operation and maintenance of the Renewable Energy Projects by Service Provider, without giving prior written notice to Service Provider, and without obtaining the input from Service Provider regarding the best manner in which such alterations or repairs might be conducted without affecting, or minimizing the affect on, as applicable, the operations and maintenance of the Renewable Energy Projects. If the Authority or Customer shall perform any alterations or repairs that permanently reduce the production of the Renewable Energy Projects resulting from such alteration or repairs, then the Parties shall negotiate a per kWh PPA Price adjustment to make the Service Provider whole for any loss in production capability. The per kWh PPA Price adjustment shall be established by negotiation by the Parties or, failing agreement within a reasonable time, by arbitration pursuant to the provisions of Section 14.5.

Section 6.7 Point of Delivery.

Service Provider agrees that it shall provide Electricity services to Customer at the Point of Delivery as specified in the Plans and Specifications.

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Section 6.8 Energy Metering.

The output of the Renewable Energy Projects will be measured by revenue grade production meters in addition to load metering, inverter monitoring, and sub-combiner monitoring meters installed by the Service Provider in accordance with industry standards. Service Provider shall conduct tests of the Meters at such times as it deems appropriate in accordance with industry standards, but not less than once in any two year period. Service Provider shall promptly repair all Meter failures or defects. Should a Meter ever be deemed to reflect inaccuracies in measurement, the Service Provider shall make corresponding adjustments to the records of the amount of electrical energy being provided by the Renewable Energy Project delivered based on the period in between the date of the discovery of the inaccuracy and the last testing date of the Meter. Should the Meter ever become non-operational, but Electricity is still being provided by Service Provider to Customer hereunder, then, the Parties hereto shall endeavor in good faith to address the Meter failure based upon, among other things, historical and cyclical consumption. To the extent that the Parties hereto are unable to adjust the inaccuracy, then they shall appoint their respective engineers or an independent meter consultant who, along with a third party independent engineer chosen by the Parties' engineers, shall review, examine, mediate and arbitrate the Meter adjustment. The decision of the engineers shall be final, and shall be reduced to the form of an invoice adjustment to be delivered by Service Provider to Customer. Notwithstanding the existence of any inaccuracy, or the allegation or belief of the existence of an erroneous Meter reading, Customer shall at all times pay all invoices in accordance with those time periods set forth herein, with the understanding that adjustments shall be reflected on subsequent invoices. Customer shall have no right to withhold invoice payment due to the actual or alleged existence of Meter inaccuracy except in the case when the current invoice varies by thirty percent (30%) or greater compared with historic like month data.

Section 6.9 Information Technology Support.

Customer shall provide Service Provider with access to the Customer's data management network for the Service Provider to monitor system performance and metering from remote locations, as required by Section 3.1(c)(iv) of the Local Unit License Agreement.

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## ARTICLE VII

### REPRESENTATIONS AND WARRANTIES

#### Section 7.1 Warranties and Representations of the Authority.

The Authority does hereby warrant, represent, covenant and agree with the other Parties as follows:

- (a) The Authority is a duly constituted governmental entity that possesses the full power and authority to enter into this Power Purchase Agreement, and perform its obligations hereunder;
- (b) The Authority has obtained all authorizations, consents and approvals that are required in order for the Authority to execute and deliver this Power Purchase Agreement, and to perform its obligations hereunder;
- (c) The performance by the Authority of its obligations hereunder do not conflict with the Authority's constituent documents, bylaws and/or resolutions, or otherwise conflict with or be in violation of any other indenture, loan agreement, covenant, condition, order, agreement or other obligation to which the Authority is a party or is otherwise bound; and
- (d) The Authority shall cause Customer to purchase and acquire the Electricity from Service Provider during the Initial Term and any extensions hereto, and further, cause Customer to not otherwise look to or utilize any other entity as the source of Electricity until after Customer has acquired all of the Electricity that the Renewable Energy Projects is capable of producing. The Authority shall be deemed to have satisfied this subsection through its entering into and enforcement of the Local Unit License Agreement with Customer.

#### Section 7.2 Warranties and Representations of Customer.

Each Customer does hereby warrant, represent, covenant and agree with the other Parties as follows:

- (a) Customer is a duly constituted governmental entity that possesses the full power and authority to acknowledge and be bound by the terms of this Power Purchase Agreement, and to perform its financial and other obligations hereunder;
- (b) Customer has obtained all authorizations, consents and approvals that are required in order for Customer to acknowledge, be bound by the terms of, and deliver this Power Purchase Agreement, and perform its financial and other obligations hereunder;
- (c) The performance by the Customer of its obligations hereunder does not conflict with the Customer constituent documents, bylaws and/or resolutions, or otherwise conflict with or be in

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## ARTICLE VIII

### INDEMNIFICATION AND INSURANCE

#### Section 8.1 Indemnification.

Customer and Service Provider shall each indemnify, defend and hold harmless the other, the Authority, and their respective officers, agents, servants, and employees from and against any and all claims, demands, actions, suits, recoveries, judgments, and any associated costs and expenses, including any reasonable attorney fees, expert expenses and costs of litigation, relating to the loss of life, property, or injury to the person or property of any person(s) and which results from, in the case of Service Provider, Service Provider's performance of its obligations under the Power Purchase Agreement, and, in the case of Customer, Customer's operation, maintenance, repair, construction, or alteration of the Local Unit Facility.

#### Section 8.2 Service Provider's Insurance.

(a) On or before the Effective Date and at all times thereafter for as long as this Power Purchase Agreement remains in effect, Service Provider shall maintain at its sole expense the following insurance:

- (i) Comprehensive General Liability Coverage in the amount of \$1,000,000.00. This coverage must be in writing on an occurrence form, claims made policies will be unacceptable. This Comprehensive General Liability insurance shall cover Service Provider, the Authority, Customer and their employees, agents and officers from and against any claim arising out of personal injury of Service Provider or Service Provider's failure to comply with the terms of this Power Purchase Agreement. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by Service Provider. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in this Power Purchase Agreement. The policy shall also be endorsed to include coverage for products, completed operations, and independent contractors.
- (ii) Property and Casualty Damage Coverage in the amount of the aggregate replacement value of all of the Renewable Energy Projects.
- (iii) Workers' Compensation Coverage as statutorily required by the State for all employees of Service Provider. Employers' Liability coverage on the Workers Compensation policy shall be written in the minimal amount of \$1,000,000.00.
- (iv) Comprehensive Automobile Liability Coverage, in an amount not less than \$1,000,000.00, shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles, which may be used by Service Provider in

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violation of any other indenture, loan agreement, covenant, condition, order, agreement or other obligation to which the Customer is a party or is otherwise bound; and

(d) Customer shall purchase and acquire the Electricity from Service Provider under this Power Purchase Agreement and Local Unit License Agreement during the Initial Term and any extensions hereto, and shall not otherwise look to or utilize any other entity as the source of Electricity until after Customer has acquired all of the Electricity that the Renewable Energy Projects is capable of producing.

#### Section 7.3 Warranties and Representations of Service Provider.

Service Provider does hereby warrant, represent, covenant and agree with the other Parties as follows:

- (a) Service Provider is a duly constituted business entity that possesses the full power and authority to enter into this Power Purchase Agreement and perform its financial and other obligations hereunder;
- (b) Service Provider has obtained all authorizations, consents and approvals that are required in order for Service Provider to execute and deliver this Power Purchase Agreement and perform its financial and other obligations hereunder, except for permits and approvals to be obtained after the date hereof as contemplated by Section 2.3(b) hereof;
- (c) The performance by Service Provider of its financial and other obligations hereunder do not conflict with Service Provider's constituent documents, bylaws and/or resolutions, or otherwise conflict with or be in violation of any other indenture, loan agreement, covenant, condition, order, agreement or other obligation to which Service Provider is a party or is otherwise bound;
- (d) Service Provider warrants it will promptly cause to be removed (or post security pending resolution as provided by law) any mechanics', suppliers' or similar liens or encumbrance which will exist or attach to the Local Unit Facility as a result of any Project, and at the completion of construction of the Capital Improvement Projects and the Renewable Energy Projects, all contractors, vendors, suppliers and workers relating to any Project will have been paid in full;
- (e) All Project equipment shall be new, and all work performed by or on behalf of Service Provider pursuant to this Power Purchase Agreement shall be free of any liens other than such liens and security interests in connection with the authorization, sale, issuance and security of the Series 2011 Bonds; and
- (f) The Renewable Energy Projects shall interconnect with Local Unit Facility's existing electrical system, and the Electricity delivered to the Local Unit Facility's existing system shall conform to utility and BPU requirements, and the Projects and the Electricity generated from the Renewable Energy Projects shall conform to the Plans and Specifications.

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connection with the services, required under the Power Purchase Agreement.

- (v) Excess Liability Coverage, in the amount of \$1,000,000.00 shall be in the form of an umbrella policy rather than a following form excess policy. This policy or policies shall be specifically endorsed to be excess of the required coverages in clauses (i) through (iii) above.
- (b) All such insurance coverages, with the exception of Workers' Compensation, shall name the Authority, Customer, and their employees, agents, officers and directors as additional insured hereunder.
- (c) Evidence of such coverages being in place shall be promptly delivered to the Authority prior to or simultaneously with the Effective Date. All such coverages shall be endorsed to indicate that such coverages shall not be materially changed or canceled without at least thirty (30) days prior notice to the Authority and Customer, such prior notice being mandatory and not the best efforts of the carrier to notify. Prior to the expiration of the required coverages, Service Provider shall provide the Authority and Customer with evidence of the renewal of all such coverages required on at least the same terms and conditions as originally required for this Power Purchase Agreement. All agents, contractors and other licensees under the Local Unit License Agreement (other than the Authority) working for the Service Provider shall also be required to maintain all insurance coverages set forth in this Section 8.2.
- (d) In addition to the coverages set forth in subsection (a) above, Service Provider shall maintain, for the Initial Term and any extensions hereof, all risk insurance on the Renewable Energy Projects equal to the replacement cost thereof. The Authority shall be named a loss payee, and the Customer may be named an additional insured.

#### Section 8.3 Customer's Insurance.

On or before Service Provider shall commence any construction activities at the Local Unit Facilities and at all times thereafter for as long as this Power Purchase Agreement remains in effect, Customer shall maintain at its sole expense Comprehensive General Liability (including contractual) and coverage for loss or damage, in an amount not less than \$1,000,000, with respect to any liability, losses, damages, expenses, claims, actions, judgments and settlements for any personal injury, death or property or economic loss occurring in Local Unit Facilities or surrounding premises and arising out of or incident to the operation, maintenance, repair, construction, replacement or modification of the Local Unit Facilities, excluding the Renewable Energy Projects.

#### Section 8.4 Additional Insured and Waiver of Subrogation.

Service Provider and Customer shall each name the other, the Authority, and the local government, if different from Customer that owns the Local Unit Facility as an additional insured on each policy of insurance procured by it in satisfaction of this Article VIII. Further, Service Provider and Customer shall each cause its respective insurance carriers to waive any and all rights of subrogation against the other.

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**Section 8.5 Evidence of Insurance.**

Prior to commencing any construction or deliveries under this Power Purchase Agreement, Service Provider and Customer shall each furnish to the other one or more certificates of insurance evidencing the existence of the coverage set forth in Sections 8.2 and 8.3, respectively. Each certificate shall state that the insurance carrier will give Service Provider and Customer at least thirty (30) days written notice of any cancellation or material change in the terms and conditions of such policy during the periods of coverage.

**Section 8.6 Use of Insurance Proceeds.**

Unless the Authority, the Customer, and the Service Provider agree otherwise, in the event of any loss or liability related to the Projects, Service Provider agrees to promptly restore the Projects to the condition prior to such loss, and Service Provider will use the proceeds received by or on behalf of the Authority (the Authority agreeing to make such proceeds available) or the Service Provider, in either case from any policy of insurance providing coverage for such loss to make all necessary repairs or replacements to the Projects and to promptly restore deliveries of Electricity to Customer.

**Section 8.7 Casualty and Condemnation with Respect to Underlying Local Unit Facilities.**

(a) **Casualty.** In the instance where a Local Unit Facility has suffered a casualty which renders the applicable Project inoperable and such Customer fails to rebuild such Local Unit Facility within a commercially reasonable time, then Customer shall comply with the terms of Section 3.7(f)-(iv), inclusive, of such Customer's Local Unit License Agreement with respect to such Local Unit Facility as if such failure to rebuild is deemed a revocation pursuant to Section 3.7 of the applicable Local Unit License Agreement.

(b) **Condemnation.** In the instance where a Local Unit Facility has suffered a taking which renders the construction or operation of the applicable Project unfeasible and such Customer fails to remediate such taking, then Customer shall comply with the terms of Section 3.7(f)-(iv), inclusive, of such Customer's Local Unit License Agreement with respect to such Local Unit Facility as if such taking is deemed a revocation pursuant to Section 3.7 of the applicable Local Unit License Agreement.

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**ARTICLE IX**

**EVENT OF DEFAULT**

**Section 9.1 Service Provider Event of Default.**

Any of the following events shall constitute a Service Provider Event of Default:

(a) Service Provider shall fail or cease to deliver Electricity to a Customer for a continuous period of thirty (30) days unless (i) Service Provider's performance is excused by a Force Majeure event, or by action or inaction of such Customer, or otherwise as provided in this Power Purchase Agreement, and Service Provider is diligently pursuing a cure, or (ii) Service Provider is willing to pay Customer during the term of such non-performance liquidated damages equal to the positive difference, if any, of the cost of replacement power less the per kwh PPA Price provided in this Power Purchase Agreement;

(b) Service Provider fails to make timely lease payments or otherwise causes an Event of Default as defined under the Company Lease Agreement or as defined in any other Company Document, notwithstanding a Force Majeure event; or,

(c) Service Provider shall fail to comply with any other provision of this Power Purchase Agreement, other than as described in subsection (a) and (b) above, and such failure continues for ninety (90) days of a written demand to cure; provided, however, that if such failure cannot be cured within said ninety (90) day period, Service Provider shall not be in default if it has commenced to cure within such ninety (90) day period if such action to cure the default is acceptable to the Authority and the Authority indicates the same in writing, and provided, further, that Service Provider diligently seeks to cure such failure.

**Section 9.2 Customer Event of Default.**

The following events shall constitute a Customer Event of Default:

(a) Customer shall fail or refuse to pay any bill for service rendered under this Power Purchase Agreement for Electricity on which payment is due in accordance with the terms of this Power Purchase Agreement, within forty-five (45) days of Service Provider's written demand therefor.

(b) Customer shall fail to comply with any other provision of the Agreement or their Local Unit License Agreement (including any failure to comply that constitutes a Licensor Event of Default as defined in the Local Unit License Agreement) and such failure shall continue for a period of sixty (60) days after receipt of written notice of such failure provided, that if such failure cannot be cured within sixty (60) days, then within a reasonable time so long as Customer diligently seeks to cure such failure.

**Section 9.3 Authority Event of Default.**

The following events shall constitute an Authority Event of Default:

(a) Authority shall fail to comply with any other provision of the Agreement or the Local Unit License Agreements and such failure shall continue for a period of thirty (30) days after receipt of written notice of such failure provided, that if such failure cannot be cured within thirty (30) days, then within a reasonable time so long as the Authority diligently seeks to cure such failure.

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**ARTICLE X**

**REMEDIES**

**Section 10.1 Remedies upon a Service Provider Event of Default.**

(a) Upon a Service Provider Event of Default as described in Section 9.1(a) hereof, the affected Customer may terminate the Power Purchase Agreement by written notice to Service Provider, which notice shall be effective upon delivery, which may give rights to certain Parties or other interested parties involved in the Renewable Energy Program to the County Security and/or the Construction Performance Bond. Such rights shall be in addition to any and all other rights and remedies that Customer may have at law or in equity including, without limitation, the right to recover monetary damages and thereafter pursue such damages or other relief to which Customer may be entitled with respect to any monetary damages owed by Service Provider which do not result in a termination of this Power Purchase Agreement,

(b) Upon a Service Provider Event of Default as described in Section 9.1(b), the Authority may exercise its rights under any other Company Document

(c) Upon a Service Provider Event of Default as described in section 9.1(c), the sole remedy of any other Party shall be specific performance or if applicable monetary damages.

**Section 10.2 Remedies upon a Customer Event of Default.**

(a) Upon a Customer Event of Default as described in Section 9.2(a) hereof (i.e., following expiration of the 45-day period following Service Provider's written demand for payment), (i) Service Provider may suspend performance hereunder until such time as Customer cures the Event of Default, and (ii) if such Event of Default continues for another 30 days, Service Provider may terminate the Power Purchase Agreement with respect to such Customer by written notice to the Authority and Customer, which notice shall be effective upon delivery, it being expressly understood however that any such termination shall not relieve Service Provider from its obligations under the Company Lease Agreement with respect to the lease payments due thereunder, or under any other Company Lease Agreement, with respect to any other Customer. Such rights shall be in addition to any and all other rights and remedies that Service Provider may have at law or in equity including, without limitation, the right to recover monetary damages and thereafter pursue such damages or other relief to which Service Provider may be entitled.

(b) Upon a Customer Event of Default as described in section 9.2(b), subject to Section 9.2(c), the sole remedy available to any other Party shall be specific performance or, if applicable, monetary damages.

(c) To the extent a Customer Event of Default would constitute a Licensor Event of Default under the applicable Customer's Local Unit License Agreement, the remedies set forth in Section 6.2 of such Customer's Local Unit License Agreement shall apply to the same extent as set forth herein.

**Section 10.3 Remedies upon an Authority Event of Default.**

(a) Upon an Authority Event of Default as described in section 9.1, the sole remedy available to any other Party shall be specific performance, or if applicable, monetary damages.

**ARTICLE XI**

**FORCE MAJEURE**

**Section 11.1 Suspension of Performance.**

No Party shall be in default in respect of any obligation under this Power Purchase Agreement with respect to one or more Projects if the Party is unable to perform such obligation by reason of a Force Majeure event affecting any such Project; provided that the suspension of performance with respect to such Project shall be commensurate with the nature and duration of the Force Majeure event and the nonperforming Party is using its commercially reasonable efforts to restore its ability to perform.

**Section 11.2 Termination by Reason of Force Majeure.**

If a Party's performance with respect to any Project is excused by reason of Force Majeure for more than twelve (12) consecutive months, any of the Parties (otherwise not in breach of this Agreement) may terminate the Agreement in so far as it relates to such Project upon thirty (30) days written notice to the other Parties, notwithstanding the existence of Force Majeure.

**ARTICLE XII**

**LIMITATION ON LIABILITY**

**Section 12.1 Limitation on Liability.**

Notwithstanding anything in this Power Purchase Agreement to the contrary, none of the Authority, Customer or Service Provider shall be responsible to any other in contract or in tort for any special, incidental or consequential loss or damage, including opportunity costs, arising out of this Power Purchase Agreement. The parties hereto agree that Customer is fully responsible for the upkeep and maintenance of all of the Customer's equipment and property after the Point of Delivery to Customer's operating site that is utilized in connection with the operation of the Renewable Energy Projects including, without limitation, electric panels, sub-panels and sub-metering. Except as provided in Section 3.6 hereof, which shall be Customer's sole and exclusive remedy, Service Provider shall not be responsible for any damages that Customer may incur as a result of delays associated with the construction of the Projects.

**ARTICLE XIII**

**TERMINATION**

**Section 13.1 Termination.**

No Party may terminate the Agreement, except upon the other's Event of Default as provided herein, or as otherwise expressly provided in this Power Purchase Agreement.

**ARTICLE XIV**

**MISCELLANEOUS**

**Section 14.1 Assignment.**

None of Service Provider, the Authority or any Customer shall assign this Power Purchase Agreement without first having obtained the written consent of the other Parties; provided, however, Service Provider may assign its rights and delegate its duties and obligations under this Power Purchase Agreement to any special purpose entity which it may organize for the purpose of owning and operating the Renewable Energy Projects (a "Permitted Provider Assignee"), so long as contemporaneously herewith such Service Provider, or its Permitted Provider Assignee, delivers the County Security and the Construction Performance Bond; and provided, further, that with the consent of Service Provider and Customer, certain payments hereunder may be assigned to the Trustee for the Series 2011 Bonds as further security therefor.

**Section 14.2 Governing Law, Waiver of Right to Jury Trial, and Jurisdiction.**

(a) This Power Purchase Agreement and the rights and obligations of the Parties shall be governed by, construed, and enforced in accordance with, the laws of the State. In order to expedite resolution of any actions, suits, or proceedings that arise under this Power Purchase Agreement, and in light of the complexity of the transactions contemplated hereby, each of the Parties (i) irrevocably waives the right to trial by jury in any such actions, suit, or proceeding of any kind or nature in any court to which it may be a Party and (ii) other than with respect to arbitration in accordance with the provisions of Section 14.5 hereof, agrees that venue shall be laid in the Superior Courts of Morris County, New Jersey.

(b) With respect to any such action, suit, or proceedings relating to this Power Purchase Agreement or arising in connection with the transactions contemplated hereby, the Parties irrevocably (i) submit to the exclusive jurisdiction of the federal and State courts of the State; (ii) waive any objection which it or they may have at any time to the laying of venue of any action, suit or proceeding in any such court; (iii) waive any claim that any such action, suit, or proceeding has been brought in an inconvenient forum and (iv) waive the right to object that such court does not have jurisdiction over the Parties.

**Section 14.3. Successors and Assigns.**

This Power Purchase Agreement shall inure to the benefit of, and be binding upon the Parties hereto and to their successors and assigns.

**Section 14.4 Waiver.**

No provision of this Power Purchase Agreement may be waived absent the express written consent of the Authority, the Service Provider and each affected Customer, if any. The failure of any Party hereto to assert any of its rights under this Power Purchase Agreement shall not be construed to constitute a waiver of such provision, nor in any way be deemed to affect the validity of this Power Purchase Agreement or any part hereof or the right of any Party hereto to thereafter subsequently enforce its rights and remedies as otherwise provided herein. No express and written waiver of any breach of this Power Purchase Agreement shall be held to constitute a waiver of any other provision hereof or any subsequent breach hereof.

**Section 14.5 Arbitration.**

Should any dispute, controversy or claim arise hereunder, then the Parties covenant and agree, to the extent permitted by law, that all such disputes, controversies or claims shall be submitted to non-binding arbitration, and in all other cases legal actions concerning such disputes, controversies and claims shall be brought in the Superior Court of Morris County, New Jersey. Arbitration shall be conducted before an arbitrator chosen by the American Arbitration Association, should the Parties hereto not be able to otherwise agree upon an arbitrator to adjudicate said matter. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The cost of arbitration, along with the prevailing Party's legal fees and costs of arbitration, shall be borne by that Party which the arbitrator deems to be the non-prevailing party to the arbitration. It is the intent of the Parties that there shall be liberal discovery permitted including depositions and document production.

**Section 14.6 Entire Agreement, Amendment.**

This Power Purchase Agreement, together with the other Program Documents, constitutes the entire agreement by and between the Parties hereto and supersedes and replaces all previous understandings and agreements, whether written or oral, which may have existed between the Parties hereto. This Power Purchase Agreement may only be modified by a subsequent written instrument which shall be executed by the Authority and the Service Provider, and to the extent any such amendment involves any terms that could adversely affect any Customer, by such Customer.

**Section 14.7 Partial Invalidity.**

If any non-material part of this Agreement is held to be unenforceable, the rest of the Agreement will continue in effect. If a material provision is determined to be unenforceable and the Party which would have been benefited by the provision does not waive its unenforceability, then the Parties shall negotiate in good faith and if they are unable to reach agreement on an

appropriate amendment within a reasonable time, their disagreement shall constitute a dispute and be resolved pursuant to the provisions of Section 14.5 (relating to arbitration). The arbitrator may grant any remedy or relief, including reformation of the Agreement, that the arbitrator deems just and equitable.

**Section 14.5 Non-Substitution.**

Customer covenants and agrees that throughout the Initial Term of this Power Purchase Agreement, and all extensions hereof, that with respect to the Local Unit Facility (a) it shall not purchase, lease or rent property to perform the same function or provide the same services as, or functions or services taking the place of, those functions and services being provided by Service Provider under this Power Purchase Agreement, (b) it shall not permit such functions of services to be performed or supplied by Customer's own employees or by Customer or any agency, affiliate or third party of Customer, (c) it shall not otherwise enter into any agreement with any third party or otherwise affiliated party to perform such functions or services, and/or (d) otherwise take steps to circumvent or defeat the intentions of this paragraph or this Power Purchase Agreement. During the Initial Term of this Power Purchase Agreement and throughout all extensions hereof, Customer covenants and agrees to look to and consider Service Provider as the Local Unit's sole and exclusive supplier of Electricity up to the total amount generated by the Renewable Energy Projects.

**Section 14.9 Further Assurances.**

The Parties hereto agree to execute all documents and take all further actions which might be reasonably requested by the other party in order to better fulfill or evidence the intentions of the Parties hereto.

**Section 14.10 Counterpart Execution; Facsimile Signatures.**

This Power Purchase Agreement may be executed and acknowledged in counterparts, and when signed by all of the Parties hereto shall constitute one binding agreement. Facsimile Signatures shall be deemed the same as originals.

**Section 14.11 Waiver of Sovereign Immunity.**

For the purposes of this Power Purchase Agreement, the Authority and each Customer acknowledge and agree that (a) its execution and delivery of this Power Purchase Agreement and (b) its performance of the actions contemplated by this Power Purchase Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or such Customer in respect of itself or its assets, properties or revenues, shall be entitled to any immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding.

**Section 14.12 Notice.**

Unless otherwise provided in writing, any notices to be given or to be served upon any Party hereto, or any other documents to be delivered to Party, all in connection with this Power Purchase Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the Party to whom it is addressed. Such notice or document shall be given to the Party at their following respective addresses or at such other address as any Party may hereafter designate to the other Parties hereto in writing:

(a) If to the Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

With a copy to: Stephen B. Peariman, Esq.  
Inglesino, Peariman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: speariman@inndplaw.com

(b) If to Service Provider: [COMPANY]  
[COMPANY ADDRESS]

With a copy to:

If to Customer: See Exhibit F attached hereto.

**Section 14.13. Approvals.**

In order to ensure that construction of the Renewable Energy Projects is not unduly delayed, in the event that any party to this Power Purchase Agreement, including without limitation any Series 2011 Local Unit, seeks the approval or consent of another party to this Power Purchase Agreement, the party considering such request shall not unreasonably condition, withhold or delay such consent or approval.

**ACKNOWLEDGMENT**

Pursuant to Section 5.1(c) of their respective Local Unit License Agreements, the terms and conditions of this Power Purchase Agreement are hereby acknowledged and accepted by each of the Series 2011 Local Units, as acknowledgment parties to this Power Purchase Agreement, intending to be severally entitled to, and bound by, the rights, duties and obligations of Customer hereunder, this \_\_\_\_\_ the day of November, 2011.

**FREDON TOWNSHIP**

BY: \_\_\_\_\_  
Name:  
Title:

**GREEN TOWNSHIP**

BY: \_\_\_\_\_  
Name:  
Title:

**HARDYSTON TOWNSHIP**

BY: \_\_\_\_\_  
Name:  
Title:

**TOWN OF NEWTON**

BY: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, the undersigned have caused this Power Purchase Agreement to be duly executed and delivered as of the date and day first above written.

[COMPANY]

BY: \_\_\_\_\_  
NAME:  
TITLE:

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY

[SEAL]

By: \_\_\_\_\_  
John Bonanni  
Chairman

ATTEST:

By: \_\_\_\_\_  
Christina Ramirez  
Secretary

BYRAM TOWNSHIP SCHOOL  
DISTRICT

BY: \_\_\_\_\_  
Name:  
Title:

FRANKFORD BOARD OF EDUCATION

BY: \_\_\_\_\_  
Name:  
Title:

FRANKLIN BOROUGH BOARD OF  
EDUCATION

BY: \_\_\_\_\_  
Name:  
Title:

HIGH POINT REGIONAL BOARD OF  
EDUCATION

BY: \_\_\_\_\_  
Name:  
Title:

KITTATINNY REGIONAL SCHOOL  
DISTRICT

BY: \_\_\_\_\_  
Name:  
Title:

LAFAYETTE TOWNSHIP BOARD OF EDUCATION

BY: \_\_\_\_\_  
Name:  
Title:

LENAPE VALLEY BOARD OF EDUCATION

BY: \_\_\_\_\_  
Name:  
Title:

NEWTON BOARD OF EDUCATION

BY: \_\_\_\_\_  
Name:  
Title:

SUSSEX COUNTY MUNICIPAL UTILITIES AUTHORITY

BY: \_\_\_\_\_  
Name:  
Title:

SUSSEX COUNTY TECHNICAL SCHOOL

BY: \_\_\_\_\_  
Name:  
Title:

[0016344]

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- (A) *Franklin Elementary School  
Roof and Parking Canopy  
System Size: (376.74 kW)  
50 Washington Avenue  
Franklin, NJ*
- (ii) *Lafayette Township Board of Education (<http://www.ltes.org>)*
  - (A) *Lafayette Township School  
Roof and Ground  
System Size: (379.96 kW)  
178 Beaver Run Road  
Lafayette, NJ*
- (iii) *Newton Board of Education (<http://www.newtonnj.org>)*
  - (A) *Merriam Avenue School  
Roof and Parking Canopy  
System Size: (256.45 kW)  
81 Merriam Avenue  
Newton, NJ; and*
  - (B) *Newton High School  
Roof and Parking Canopy  
System Size: (305.21 kW)  
44 Ryerson Avenue  
Newton, NJ*
- (iv) *Lenape Valley Regional Board of Education (<http://www.lvrs.org>)*
  - (A) *Lenape Valley Regional High School  
Ground and Parking Canopy  
System Size: (1,170.70 kW)  
28 Sparta Road  
Stanhope, NJ*
- (v) *Byram Township School District (<http://www.byramschools.org>)*
  - (A) *Byram Lakes Elementary School  
Roof, Ground, and Parking Canopy  
System Size: (692.07 kW)  
11 Mansfield Drive  
Stanhope, NJ*

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EXHIBIT A

Morris County Improvement Authority  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

Series 2011 Local Unit List of Local Unit Facilities

- a. **Series 2011 Municipal Local Units**
  - (i) *Fredon Township (<http://www.twp.fredon.nj.us/>)*
    - (A) *Civic Center  
Roof Mounted System  
System Size: (61.18 kW)  
436 Route 94  
Fredon, NJ*
  - (ii) *Town of Newton (<http://www.newtontownhall.com/>)*
    - (A) *DPW Complex  
Roof Mounted System  
System Size: (88.78 kW)  
39 Trinty Street  
Newton, NJ*
    - (B) *Wastewater Treatment Plant  
Ground Mounted System  
System Size: (151.80 kW)  
Townsend Street  
Newton, NJ*
  - (iii) *Green Township (<http://www.greenbjn.com/>)*
    - (A) *Green Hills School  
Roof Mounted System  
System Size: (157.09 kW)  
69 Mackerley Road  
Newton, NJ*
- b. **Series 2011 Board of Education Local Units**
  - (i) *Franklin Borough Board of Education (<http://www.fboc.org/fboc.htm>)*
    - (B) *Byram Intermediate School  
Roof and Parking Canopy  
System Size: (476.79 kW)  
12 Mansfield Drive  
Stanhope, NJ*
  - (ii) *Hardyston Board of Education (<http://www.hbn.org/ROE/ROEIndex.htm>)*
    - (A) *Hardyston Middle School  
Ground and Parking Canopy  
System Size: (331.20 kW)  
183 Wheatsworth Road  
Hamburg, NJ*
  - (iii) *High Point Regional School District (<http://www.hjregional.org/>)*
    - (A) *High Point Regional High School  
Roof and Ground  
System Size: (1,380.84 kW)  
299 Pidgeon Hill Road  
Sussex, NJ*
  - (vii) *Kittatinny Regional School District (<http://www.krds.net/>)*
    - (A) *Kittatinny Regional High School  
Roof and Parking Canopy  
System Size: (282.67 kW)  
77 Halsey Road  
Newton, NJ*
  - (ix) *Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*
    - (A) *Frankford Township School  
Ground Mounted System  
System Size: (463.68 kW)  
2 Fines Road  
Brunnsville, NJ*
- c. **Series 2011 County Local Units**
  - (i) *Sussex County Technical School (<http://www.sussex.tcs.nj.us/>)*
    - (A) *Sussex County Technical School  
Roof and Ground*

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System Size: (1,696.48 kW)  
105 North Church Road  
Sparta, NJ

Exhibit B

PPA Price –  
Electricity Rates and Escalation Adjustments

(ii) County of Sussex (<http://www.sussex.nj.us/>)

(A) Sussex County Parking Deck/Jail  
Parking Canopy  
System Size: (468.05 kW)  
39 High Street  
Newton, NJ

(B) Juvenile Detention Center  
Ground Mounted System  
System Size: (146.28 kW)  
135 Morris Turnpike  
Newton, NJ

(C) Wheatworth Facility  
Ground and Parking Canopy  
System Size: (245.64 kW)  
149 Wheatworth Road  
Hardyston, NJ

(D) Main Library  
Ground Mounted System  
System Size: (100.28 kW)  
125 Morris Turnpike  
Newton, NJ

(iii) Sussex County MUA (<http://www.scmua.org/>)

(A) Sussex County MUA Admin. Parking Area  
Ground and Parking Canopy  
System Size: (113.60 kW)  
34 South Route 94  
Lafayette, NJ

For any year of this Power Purchase Agreement and with respect to each respective Customer, the PPA Price payable by any one such Customer is the sum of Sections 1 and 2 below (after the escalation percentage factor in Section 2 below is converted into a dollar amount for the applicable year of computation). For the period prior to the first anniversary of the Commencement Date for such Customer, the amount in Section 2 below shall be \$\_\_\_\_\_.

(a) Cost of Electricity, per kWh, pursuant to the Power Purchase Agreement, for the period (a) from the date of the first delivery by the Service Provider to such Customer of Electricity from the Renewable Energy Project; on the Local Unit Facility of such Customer (b) to, but excluding, the first anniversary of the applicable Commencement Date for such Customer: \$\_\_\_\_\_/kWh.

(b) Annual escalation (expressed as a fixed percentage increase from the prior year's PPA Price) applicable as of each anniversary date of the Commencement Date for such Customer in effect for the following year (c, but not including, the next succeeding anniversary of such Commencement Date for such Customer: two and three-quarters percent (\_\_\_\_\_%).

(i) This escalation factor commences on the first anniversary of the Commencement Date for such Customer, and ends at the end of the Initial Term, unless further adjusted in accordance with the terms of any extension of the Initial Term pursuant to the terms of the Power Purchase Agreement.

(c) The Parties further agree to the following:

(i) Although the percentage of escalation is fixed in Section 2, since it is based on the prior year's PPA Price, which is itself increasing on an annual basis, the actual dollar amount of each year's escalation increases.

(ii) With the possibility that each Customer shall have different Commencement Dates, and although each Customer shall be subject to the same base cost of Electricity governed by Section 1 above and the same escalation factor governed by Section 2 above, the actual PPA Price payable by one or more Customers may vary on the same date of computation for different Customers.

(iii) In light of the provisions of Section 6.5 of the Power Purchase Agreement, the PPA Price for any Applicable Customer shall be further escalated for any increase in taxes assessed or levied against the Renewable Energy Projects, which taxes shall be imposed by or on behalf of any such Customer, if any, provided, however, that any such increase shall be solely available to the entity that must pay any such tax, the intent being that there shall be no after tax effect on the PPA Price, should any such tax ever be imposed.

[00010244]

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[00010244]

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EXHIBIT C

PLANS AND SPECIFICATIONS FOR RENEWABLE ENERGY PROJECTS

[NOTE: PHOTOVOLTAIC RENEWABLE ENERGY PROJECTS DESCRIBED BELOW IS SUBJECT TO CHANGE BASED UPON CUSTOMER INPUT, SOLAR MODULE AVAILABILITY AND FINAL DESIGN DETAILS. ALL "AS BUILT" DESIGN DOCUMENTS AND PLANS AND SPECIFICATIONS SHALL BECOME PART OF THIS EXHIBIT C WHEN COMPLETE.]

1. Service Provider shall install the Renewable Energy Projects for each Local Unit Facility as described in Exhibit A to this Power Purchase Agreement and, as applicable, with a roof support system that minimizes roof penetrations and assures the safety and integrity of the system and continued validity of the respective roof warranties for each Local Unit Facility.

EXHIBIT D

PLANS, SPECIFICATIONS AND LOCAL UNIT EXISTING ROOF WARRANTY  
DURATION CHART FOR CAPITAL IMPROVEMENT PROJECTS

[00010244]

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[00010244]

D-1

**EXHIBIT E**

[ATTACH FORM OF LOCAL UNIT LICENSE AGREEMENT]

[SEE CLOSING ITEM NO. \_\_\_]

**EXHIBIT F**

**NOTICE INFORMATION FOR CUSTOMER**

Morris County Improvement Authority  
[not to exceed \$50,000,000] aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

Series 2011 Local Unit Distribution List

[insert local unit distribution list]

[0016344]

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[0016344]

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**EXHIBIT G**

[Attach Construction Performance Bond]

**EXHIBIT H**

[Attach Initial List of Subcontractors]

[0016344]

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[0016344]

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PLEDGE AND SECURITY AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

PLEDGE AND SECURITY AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

By

[COMPANY], as Pledgor

in favor of

[NAME OF TRUSTEE], as Trustee

Dated as of November 1, 2011

with respect to the Morris County Improvement Authority's  
Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (Federally Taxable)

100016322

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WHEREAS, simultaneously herewith and in furtherance of the Authority's Renewable Energy Program, the Company has also entered into that certain "Power Purchase Agreement (Sussex Renewable Energy Program, Series 2011)" dated as of November 1, 2011 (as amended, modified and supplemented and in effect from time to time, the "Power Purchase Agreement") with the Authority;

WHEREAS, the Company has certain obligations set forth under the Company Lease Agreement and the Power Purchase Agreement (collectively, and together with this Agreement, the "Company Agreements"), including without limitation the obligation to make Lease Payments and finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the Series 2011 Local Units as defined in and contemplated under the Company Agreements (collectively, the "Obligations"), which if not performed by or on behalf of the Company, give rise to an Event of Default as defined in and in accordance with the terms of such Company Agreements (each an "Event of Default");

WHEREAS, the Pledgor owns one hundred percent (100%) of the legal and beneficial ownership interests (the "Equity Interests") in and to the Company; and

WHEREAS, in order to secure the payment and performance of all Obligations of the Company, the Pledgor has granted the security interests contemplated by this Agreement.

NOW, THEREFORE, for and in consideration of the foregoing and of any financial accommodations or extensions of credit (including, without limitation, any loan or advance by renewal, refinancing or extension of the agreements described hereinabove) heretofore, now or hereafter made to or for the benefit of the Company and/or the Pledgor by the Trustee in connection with the transactions contemplated by the Acknowledgment (as defined in Section 1.03 below), the Company Agreements, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

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THIS "PLEDGE AND SECURITY AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "Agreement" or this "Security Agreement") dated as of November 1, 2011, is executed by [COMPANY], a limited liability company organized and existing under the laws of the State of Delaware, and the signatory party hereto (the "Person", or the "Pledgor", the managing member of [COMPANY] (the "Company"), a limited liability company organized and existing under the laws of the [State of Delaware] duly authorized to conduct business in the State of New Jersey (the "State") and an acknowledgment party hereto, in favor of [NAME OF TRUSTEE] (the "Bank"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State, where the Bank acts as trustee (the "Trustee") under and pursuant to that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011A AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Morris County Improvement Authority (the "Authority") as resolution (no. 1) on \_\_\_\_\_, 2011, as amended and supplemented from time to time in accordance with its terms, including by a Certificate of an Authorized Officer of the Authority to be dated the date of issuance of each of the Series 2011A Bonds and the Series 2011B Bonds authorized and defined therein (the "Bond Resolution"), to be held by the Trustee pursuant to the provisions of Section 5.07(5) of the Bond Resolution.

WITNESSETH:

WHEREAS, the Authority has been duly created by resolution duly adopted by the Board of Chosen Freeholders (the "Board of Freeholders") of the County of Sussex (the "County") in the State as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the "Act"), and other applicable law;

WHEREAS, simultaneously herewith and in order to implement the Authority's Renewable Energy Program for the Series 2011 Local Units on their respective Local Unit Facilities (as all such terms are defined in the hereinafter defined Company Lease Agreement), the Company has entered into that certain "Lease Purchase Agreement (County of Sussex Renewable Energy Program, Series 2011)" dated as of November 1, 2011 (as amended, modified and supplemented and in effect from time to time, the "Company Lease Agreement") with the Authority;

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ARTICLE I

GRANT OF SECURITY INTEREST; PLEDGED COLLATERAL

Section 1.01 Pledged Collateral. As security for the full and punctual payment and performance of the Obligations (whether at stated maturity, by required repayment, declaration, acceleration, demand or otherwise, including without limitation the payment of amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. §362(a), whether allowed or allowable as claims), the Pledgor, hereby grants, pledges, hypothecates, transfers and assigns to the Trustee a first priority and continuing lien on, and first priority security interest, in, and, in furtherance of such grant, pledge, hypothecation, transfer and assignment, hereby transfers and assigns to the Trustee as collateral security, all of the Pledgor's right, title, ownership, equity or other interests in and to the following, whether now owned or hereafter acquired, now existing or hereafter arising and wherever located (collectively, the "Pledged Collateral"):

(a) The Equity Interests of the Persons described in Schedule I attached hereto, in and to the Company (the "Pledged Entity"), as and to the extent of their Equity Interests in and to the Company described on said Schedule I (collectively, the "Pledged Equity");

(b) all rights, privileges, general intangibles, payments intangibles, voting rights, authority and power arising from its interest in the Pledged Equity;

(c) the capital of the Pledgor in the Company and any and all profits, losses, Distributions (as defined below), and allocations attributable to the Pledged Equity as well as the proceeds of any Distribution thereof, whether arising under the terms of any Organizational Agreement (as defined below) or otherwise;

(d) all other payments, if any, due or to become due, to the Pledgor from the Pledged Entity and all other present or future claims by the Pledgor against any Pledged Entity, or in respect of the Pledged Equity, under or arising out of (i) any Organizational Agreement, (ii) monies loaned or advanced, for services rendered or otherwise, (iii) any other contractual obligations, commercial tort claims, supporting obligations, damages, insurance proceeds, condemnation awards or other amounts due to the Pledgor from any Pledged Entity or with respect to the Pledged Equity;

(e) the Pledgor's claims, rights, powers, privileges, authority, options, security interests, liens and remedies, if any, under or arising out of the ownership of the Pledged Equity;

(f) to the extent permitted by applicable law, the Pledgor's rights, if any, in any Pledged Entity pursuant to any Organizational Agreement, or at law, to exercise and enforce every right, power, remedy, authority, option and privilege of the Pledgor relating to the Pledged Equity, including without limitation, the right to (i) execute any

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instruments and to take any and all other action on behalf of and in the name of the Pledgor in respect of the Pledged Equity; (ii) exercise any and all voting, consent and management rights of the Pledgor in or with respect to any Pledged Entity; (iii) exercise any election (including, but not limited to, election of remedies) or option or to give or receive any notice, consent, amendment, waiver or approval with respect to any Pledged Entity; (iv) enforce or execute any checks, or other instruments or orders of any Pledged Entity; and (v) file any claims and to take any action in connection with any of the foregoing, together with full power and authority to demand, receive, enforce or collect any of the foregoing or any property of any Pledged Entity;

(g) all Investment Property (as such term is defined in Section §9-102 of the UCC (as defined below)) issued by or relating to any Pledged Entity;

(h) all additional Equity Interests or other property, securities, or assets now existing or hereafter acquired by the Pledgor relating to the Pledged Equity, including, without limitation, as a result of any consolidation, combinations, mergers, reorganizations, acquisitions, exchange offers, recapitalizations of any type, contributions to capital, splits, spin-offs, or similar actions or the exercise of options or other rights relating to the Pledged Equity;

(i) all partnership certificates, member certificates, stock certificate, or any other instrument, note, chattel paper or certificate (including, without limitation, "certificated securities" within the meaning of §8-102 of the UCC) (whether or not qualifying as Investment Property) representing interests in the Pledged Equity and any interest of the Pledgor in the entries on the books of any financial intermediary pertaining to such certificates or writings, and all options and warrants for the purchase of such Equity Interests now or hereafter held in the name of the Pledgor (collectively, "Certificated Securities"), and all Certificated Securities in the Pledged Entity from time to time acquired by the Pledgor in any manner, and any interest of the Pledgor in the entries on the books of any financial intermediary pertaining to such Certificated Securities, and all securities convertible into and options, warrants, dividends, cash, instruments and other rights and options from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Certificated Securities (including all rights to request or cause the issuer thereof to register any or all of the Pledged Collateral under federal and state securities laws to the maximum extent possible under any agreement for such registration rights), and all put rights, tag-along rights or other rights pertaining to the sale or other transfer of such Pledged Collateral, together in each case with all right under any Organizational Agreements pertaining to such rights;

(j) (i) all "proceeds" (as such term is defined in §9-102 of the UCC) of any or all of the foregoing (whether cash or non-cash proceeds, including insurance proceeds); (ii) whatever is receivable or received when any of the Pledged Collateral is sold, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, and includes, without limitation, all rights to payment, including return premiums, with respect to any insurance relating thereto and also includes all interest;

dividends and other property receivable or received on account of any of the Pledged Collateral or proceeds thereof, and in any event, shall include all Distributions or other income from any of the Pledged Collateral, all collections thereon or all Distributions with respect thereto, and (iii) all proceeds, products, accessions, rents, profits, income, benefits, substitutions and replacements of and to any of the Pledged Collateral. The inclusion of proceeds in the Pledged Collateral does not authorize the Pledgor to sell, dispose of or otherwise use the Pledged Collateral in any manner not specifically authorized hereby.

(k) To the extent any of the Pledged Collateral constitutes an "uncertificated security" (as defined in Section 8-102(a)(18) of the UCC), the Pledgor shall cause the issuer thereof to acknowledge to the Trustee the registration on the books of such issuer of the pledge and security interest hereby created in the manner required by Section 8-301(b) of the UCC.

(l) The Pledgor, as debtor, authorizes the Trustee, on behalf of itself as creditor, to file UCC1 financing statements with respect to the foregoing pledge of collateral contemplated by this Section 1.01.

Section 1.02 Definitions. Unless otherwise defined herein, all words and terms set forth and defined in the Company Agreements shall have the same meaning as set forth in the Company Agreements, as if fully set forth in this Security Agreement, and the following terms have the following meanings (such meanings being equally applicable to both the singular and plural forms of the terms defined):

(a) "Distributions" means all dividends, distributions, liquidation proceeds, cash, profits, instruments and other property and payments or economic benefits or interests to which the Pledgor is entitled with respect to the Pledged Equity whether or not received by or otherwise distributed to the Pledgor, whether such dividends, distributions, liquidation proceeds, cash, profits, instruments and other property and economic benefits are paid or distributed by the Pledged Entities in respect of operating profits, sales, exchanges, refinancing, condemnations or insured losses of the company's assets, the liquidation of the company's assets and affairs, management fees, guaranteed payments, repayment of loans, reimbursement of expenses or otherwise in respect of or in exchange for any or all of the Pledged Equity.

(b) "Organizational Agreement" means the limited liability company agreement and other organizational or governing documents, as applicable, of any Pledged Entity.

(c) "UCC" means the Uniform Commercial Code, as in effect from time to time in the State where the property subject to this Security Agreement is located.

Section 1.03 Perfection of Security Interest; Further Acts. On or before the issuance of the Series 2011A Bonds, the Pledgor shall (a) enter into such arrangements as may be necessary

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to give control of any pledged Investment Property to the Trustee within the meaning of §8-106 of the UCC, (b) cause each Pledged Entity to execute and deliver the Agreement and Acknowledgement of Pledge attached hereto as Exhibit A (the "Acknowledgement"), and (c) promptly take all other actions required to perfect the security interest of the Trustee in the Pledged Collateral under applicable law. It is the intention of the Pledgor and the Trustee that at all times while the Agreement remains in effect, the Pledged Equity shall constitute Investment Property, and, to that end, the Pledgor shall take, and shall cause each Pledged Entity to take, all necessary action to obtain such classification pursuant to the UCC.

Section 1.04 Acts of the Trustee. All of the Pledged Collateral at any time delivered to the Trustee pursuant to this Agreement shall be held by the Trustee subject to the terms, covenants and conditions set forth in the Company Agreements. Neither the Trustee nor any of the Trustee's directors, officers, agents, employees or counsel shall be liable for any action taken or omitted to be taken by such party or parties relative to any of the Pledged Collateral, except to the extent of such party's or parties' own negligence or willful misconduct. The Trustee shall be entitled to rely in good faith upon any writing or other document (including, without limitation, any telegram or e-mail) or any telephone conversation reasonably believed by it to be genuine and correct and to have been signed, sent or made by the proper Person (but the Trustee shall be entitled to such additional evidence of authority or validity as it may, in its sole and absolute discretion request, but it shall have no obligation to make any such request), and with respect to any legal matter, the Trustee may rely in acting or in refraining from acting upon the advice of counsel selected by it concerning all matters hereunder.

Section 1.05 Custody of Pledged Collateral. The Trustee shall not have any duty concerning the collection or protection of the Pledged Collateral or any income thereon or payments with respect thereto, or concerning the preservation of any rights pertaining thereto beyond exercising reasonable care with respect to the custody of any tangible evidence of the Pledged Collateral actually in its possession.

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## ARTICLE II

### POWERS OF THE PLEDGOR PRIOR TO AN EVENT OF DEFAULT

Section 2.01 Distributions; Exercise of Rights. Unless an Event of Default has occurred and is continuing, and subject to the terms of the Company Agreements, the Pledgor shall be entitled to (a) receive cash Distributions (including in respect of the Section 1603 Grant or the proceeds from the sale of any SRECs) allocable to the Pledged Collateral, and (b) exercise (but only in a manner that will not (i) violate or be inconsistent with the terms hereof or of any other Company Agreement or (ii) have the effect of impairing the position or interests of the Trustee) the voting, consent, administration, management and all other powers, rights and remedies of the Pledgor with respect to the Pledged Collateral under the Organizational Agreements of any Pledged Entity (including all other rights and powers thereunder which are pledged hereunder or otherwise). If the Pledgor shall become entitled to receive or shall receive from any Pledged Entity (A) any non-cash Distribution as an addition to, an account of, in substitution of, or in exchange for the Pledged Collateral or any part thereof, or (B) upon the occurrence of any Event of Default that is continuing, any cash Distributions, in either case the same shall immediately be remitted to the Trustee (in the exact form received, with the Pledgor's endorsement or assignment or other instrument as the Trustee may deem appropriate) to be held as additional Pledged Collateral for the Obligations or for application thereto, as applicable, and until so remitted, shall be received and held by the Pledgor in trust and as agent for the Trustee. For the avoidance of doubt, upon payment in full by the Company of its initial scheduled Basic Lease Payment (as defined in the Company Lease Agreement) due January 1, 2013, any Distribution by the Company (including in respect of the Section 1603 Grant or any proceeds from the sale of SRECs) occurring prior to an Event of Default shall be irrevocable and shall not be subject to refund or recovery by the Trustee, including without limitation, upon the occurrence of an Event of Default.

Section 2.02 Termination of Powers. Upon the occurrence of an Event of Default that is continuing, all such powers, rights and remedies of the Pledgor, which are conditionally permitted pursuant to Section 2.01 of this Agreement, shall cease and the provisions of Article II of this Agreement shall apply.

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ARTICLE III  
REPRESENTATIONS, WARRANTIES  
AND COVENANTS OF PLEDGOR

The Pledgor hereby represents, warrants and covenants with and to the Trustee as follows:

**Section 3.01 Percentage Ownership.** The Pledgor owns one hundred (100%) percent of the legal and beneficial ownership interests in and to all Pledged Equity. The Pledgor does not have any outstanding options or rights or other agreements to acquire or sell or otherwise transfer all or any portion of any Pledged Equity.

**Section 3.02 Title to Pledged Collateral.** The Pledgor validly acquired and is the legal and beneficial owner of the Pledged Collateral in which it has granted a security interest, and transferred a collateral interest, herein, free and clear of all Liens except such as are created pursuant to this Agreement. The Pledgor has the legal right to pledge and grant a security interest in the Pledged Collateral as herein provided without the consent of any other person or entity, other than any such consent that has been obtained. The Pledgor will have like title in, and the right to pledge, any other property at any time hereafter acquired by the Pledgor and pledged to the Trustee as Pledged Collateral hereunder.

**Section 3.03 Defense of Title.** The Pledgor will defend the Trustee's right, title and interest in and to the Pledged Collateral against the claims and demands of all other persons and entities.

**Section 3.04 No Transfer.** Except for the transfer effected by this Agreement, the Pledgor will not transfer the Pledged Collateral, or any portion thereof, or suffer or permit any transfer thereof to occur. Any transfer made in violation of the foregoing provisions shall be an immediate Event of Default hereunder without notice or opportunity to cure and shall be void and of no force and effect, and upon demand of the Trustee, shall forthwith be cancelled or satisfied by an appropriate instrument in writing.

**Section 3.05 Perfected Security Interest.** Giving effect to this Agreement, the Trustee has, with respect to all Pledged Collateral owned by the Pledgor on the Closing Date, and will have with respect to any other property at any time hereafter acquired by the Pledgor and pledged to the Trustee as Pledged Collateral hereunder, a valid, perfected and continuing first lien upon and security interest in the Pledged Collateral.

**Section 3.06 No Financing Statements.** Except for financing statements filed or to be filed in favor of the Trustee as secured party, or such other financing statements expressly permitted with the Trustee's prior written consent, which may be withheld in the Trustee's sole and absolute discretion, there are not now any financing statements under the UCC covering any or all of the Pledged Collateral filed in any public office, and the Pledgor will not authorize the filing of any such financing statements.

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**Section 3.07 Certificated Securities.** The Pledgor represents and warrants that if all of the Pledged Equity is not evidenced by a Certificated Security, it shall promptly take all actions required to perfect the security interest of the Trustee in such Pledged Equity under applicable law as required under Section 1.03 of this Agreement. The Pledgor further agrees to take such additional actions as the Trustee deems necessary or desirable to effect the foregoing and to permit the Trustee to exercise any of its rights and remedies hereunder and agrees to provide an opinion of counsel satisfactory to the Trustee with respect to any such pledge of Equity Interests which are not Certificated Securities promptly upon request of the Trustee. Without limiting the effect of the immediately preceding clause, the Pledgor, upon the occurrence of an Event of Default, hereby grants to the Trustee an irrevocable proxy to vote the Pledged Equity and to exercise all other rights, powers, privileges and remedies to which a holder of the pledged equity would be entitled (including without limitation (a) giving or withholding written consents, (b) calling special meetings, (c) voting at such meetings, and (d) voting at any time or place) with respect to any action, decision, determination or election by the pledged entities or the holders of the respective equity interests therein that the Pledged Equity (or any new or additional equity interest in such Pledged Entity) be, or cease to be, a certificated security, and all other matters related to any such action, decision, determination or election, which proxy shall be effective automatically and without the necessity of any action (including any transfer of any pledged equity on the record books of the issuer thereof) by any other person (including the issuer of the Pledged Equity or any officer or agent thereof) as of the date hereof, and which proxy shall only terminate upon the termination of this Agreement.

**Section 3.08 Fully Paid and Non-Assessable.** All of the Pledged Equity has been duly authorized and validly created and is subject to no options to purchase or similar rights of any Person. The Pledgor is not, and will not become, a party to or otherwise be or become bound by any agreement, other than this Agreement and the other Company Agreements, which restricts in any manner the rights of any present or future holder of any of the Pledged Equity with respect thereto. There are no set-offs, counterclaims or defenses with respect to the Pledged Collateral owned by the Pledgor and no agreement, oral or written, has been made with any other person or party under which any deduction or discount may be claimed with respect to such Pledged Collateral and the Pledgor knows of no fact which would prohibit or prevent the Pledgor assigning or granting a security interest in the Pledged Collateral.

**Section 3.09 Organizational Agreements.** Attached hereto as Exhibit B are true, correct, and complete copies of the Organizational Agreements of each Pledged Entity. The Organizational Agreements are in full force and effect and have not been modified or amended except as attached hereto. The Pledgor is not in default of any of its obligations under the Organizational Agreements nor is the Pledgor aware of a default by any other member in their respective obligations under the Organizational Agreements.

**Section 3.10 Amendments.** The Pledgor shall not allow any Pledged Entity to (a) amend any provision of its Organizational Agreements, (b) dissolve, liquidate, wind-up, merge or consolidate with any other entity or (c) transfer any of its respective assets and properties to any Person except as permitted by the Company Agreements.

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ARTICLE IV  
EVENTS OF DEFAULT AND REMEDIES

If an Event of Default shall occur during the term of this Agreement and during its continuance:

**Section 4.01 Transfer Rights.** Subject to the limitation of Section 4.10 hereof, the Trustee shall have the right, at any time and from time to time, to affect the transfer of any or all of the Pledged Collateral, subject only to the provisions of the UCC and any other applicable statute which, in accordance with such statute, cannot be waived, in any one or more of the following ways:

(a) Register in the name of, or transfer to, the Trustee, a nominee or nominee, or designee or designees, of the Trustee; provided that the provisions of Section 5.06 of this Agreement are complied with;

(b) Sell, resell, assign and deliver, in the Trustee's sole and absolute discretion, any or all of the Pledged Collateral (whether in whole or in part and at the same or different times) and all right, title and interest, claim and demand therein and right of redemption thereof, at public or private sale, for cash or upon credit (by the Trustee only), in accordance with the applicable procedures specified in Article V of this Agreement; and

(c) Proceed by a suit or suits at law or in equity to foreclose all or any part of the security interests in the Pledged Collateral and sell the Pledged Collateral or any portion thereof, under a judgment or decree of a court of competent jurisdiction, retaining during the duration of such judicial enforcement all other rights with respect to the Pledged Collateral, including specifically the rights specified hereafter in Article V of this Agreement with respect to each Pledged Entity.

**Section 4.02 Voting Rights.** Upon the occurrence of an Event of Default and during its continuance, the Trustee may exercise, either by itself or by its nominee or designee, in the name of the Pledgor, the rights, powers and remedies granted to the Trustee hereunder and under the other Company Agreements in respect of the Pledged Collateral at any time prior to effecting the transfer of such Pledged Collateral to the Trustee or its nominee or designee, or any third party purchasers, as contemplated in Sections 4.01(a) and (b) above, and whether or not any judicial action as contemplated in Sections 4.01(c) above has been commenced or is continuing prior to a final unappealable judgment. Such rights and remedies shall include, without limitation, and the Pledgor hereby grants to the Trustee the right to exercise by delivering notice to the Pledgor and the applicable Pledged Entity, (a) all voting, consent, managerial and other rights relating to the Pledged Equity, whether in the Pledgor's name or otherwise, including without limitation the right to appoint officers, directors, managers and other similar positions and (b) the right to exercise the Pledgor's rights, if any, of conversion, exchange, or subscription, or any other rights, privileges or options pertaining to any of the Pledged Equity, including, without limitation, the

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right to exchange, at the Trustee's sole and absolute discretion, any and all of the Pledged Equity upon the merger, consolidation, reorganization, recapitalization or other readjustment of such Pledged Entity, all without liability, except to account for property actually received by the Trustee. The Pledgor hereby irrevocably authorizes and directs each Pledged Entity, on receipt of any such notice (i) to deem and treat the Trustee or its nominee in all respects as a member, partner or shareholder, as applicable (and not merely an assignee of a member, partner or shareholder) of such Pledged Entity, entitled to exercise all the rights, powers and privileges (including, without limitation, the right to vote on or take any action with respect to such Pledged Entity matters pursuant to the Organizational Agreement) thereof, to receive all distributions, to be credited with the capital account and to have all other rights, powers and privileges pertaining to such member, partner or shareholder interest, as applicable, to which the Pledgor would have been entitled had the Pledgor not executed this Agreement and (ii) to file an amendment to the Organizational Agreement of such Pledged Entity admitting the Trustee or such nominee(s) as a member, partner or shareholder in place of the Pledgor.

#### Section 4.03 Power of Attorney.

(a) The Pledgor hereby irrevocably authorizes and empowers the Trustee, and assigns and transfers of the Trustee, and constitutes and appoints the Trustee and any of its assigns, its true and lawful attorney-in-fact (coupled with an interest) and as its agent with full power of substitution for the Pledgor to proceed from time to time in the Pledgor's name, in order to more fully vest in the Trustee the rights and remedies provided for herein, in any statutory or non-statutory legal or other proceeding, including without limitation, any Bankruptcy proceeding affecting any Pledged Entity or the Pledged Collateral and Pledgor's interest in any Pledged Entity or the Pledged Collateral.

(b) The Trustee and any of its assigns, or their respective nominees, may, to the extent permitted by applicable law, either pursuant to such power-of-attorney or otherwise, take any action and exercise and execute any instrument that it determines necessary or advisable to accomplish the purposes of this Agreement, including without limitation: (i) execute and file proof of claim with respect to any or all of the Pledged Collateral against any Pledged Entity and vote such claims with respect to all or any portion of such Pledged Collateral (A) for or against any proposal or resolution, (B) for a trustee or trustees or for a receiver or receivers or for a committee of creditors, and/or (C) for the acceptance or rejection of any proposed arrangement, plan of reorganization, composition or extension; (ii) receive, endorse and collect all drafts, checks and other instruments for the payment of money made payable to the Pledgor representing any interest, payment of principal or other distribution payable in respect of the Pledged Collateral; (iii) execute endorsements, assignments or other instruments of conveyance or transfer in respect of any other property which is or may become a part of the Pledged Collateral hereunder; and (iv) execute releases and negotiate settlements, as appropriate, including on account of, or in exchange for, any or all of the Pledged Collateral, or any payment or distribution received by the Pledgor, or the Trustee on the Pledgor's behalf.

(c) The foregoing power-of-attorney is irrevocable and coupled with an interest, and any similar or dissimilar powers previously given by the Pledgor in respect

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of the Pledged Collateral or any Pledged Entity to any Person or any other person or entity (other than the Trustee) are hereby revoked. The power-of-attorney granted herein shall terminate automatically upon the termination of this Agreement in accordance with the terms hereof.

Section 4.04 Management Rights. The Trustee may at such time and from time to time thereafter, without notice to, or consent of, the Pledgor or any Person (to the extent permitted by law), but without affecting any of the Obligations, in the name of the Pledgor or in the name of the Trustee: (a) notify any other party to make payment and performance directly to the Trustee, (b) extend the time of payment and performance of, compromise or settle for cash, credit or otherwise, and upon any terms and conditions, any obligations owing to the Pledgor, or claims of the Pledgor under any Organizational Agreement of any Pledged Entity, as applicable, (c) file any claims, commence, maintain or discontinue any actions, suits or other proceedings deemed by the Trustee reasonably necessary or advisable for the purpose of collecting upon or enforcing any Organizational Agreement of any Pledged Entity and (d) execute any instrument and do all other things deemed reasonably necessary and proper by the Trustee to protect and preserve and realize upon the Pledged Collateral or any portion thereof and the other rights contemplated hereby.

Section 4.05 Right of Substitution. The Trustee shall have the right, without notice to or consent of the Pledgor, to become, or to designate its nominee, designee, agent or assignee to become, a partner, member, officer or director, as applicable, of any Pledged Entity, in substitution of any existing Person serving in such capacity, subject to the terms of the Organizational Agreement.

Section 4.06 UCC Rights. The Trustee may exercise all of the rights and remedies of a secured party under the UCC.

#### Section 4.07 The Trustee Self-Help Rights.

(a) Subject to all applicable Laws, the Trustee shall have the right, but not the obligation, to take any appropriate action as it, in its reasonable judgment, may deem necessary to (i) cure any Event of Default, (ii) cause any term, covenant, condition or obligation required under this Agreement or other Company Agreement to be promptly performed or observed on behalf of the Pledgor or (iii) protect the Pledged Collateral and any other security obtained pursuant to the other Company Agreements. All amounts advanced by, or on behalf of, the Trustee in exercising its rights under this Article IV (including, without limitation, reasonable legal expenses and disbursements incurred in connection therewith), together with interest thereon at the Default Rate from the date of any such advance, shall be payable by the Pledgor to the Trustee upon demand therefor and shall be secured by the Pledged Collateral.

(b) The Trustee shall not be obligated to perform or discharge any obligation of the Pledgor or any Pledged Entity as a result of this Agreement. The acceptance by the Trustee of this Agreement shall not at any time or in any event obligate the Trustee to (i) appear in or defend any action or proceeding relating to the Pledged Collateral to which it

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is not a party, or (ii) take any action hereunder or thereunder, or expend any money or incur any expenses or perform or discharge any obligation, duty or liability under the Pledged Collateral.

Section 4.08 Remedies Cumulative. The obligations of the Pledgor under this Agreement shall be absolute and unconditional and shall remain in full force and effect without regard to, and shall not be released, suspended, discharged, terminated or otherwise affected by, any circumstances or occurrence except as specifically provided in this Agreement. The rights, powers and remedies of the Trustee under this Agreement shall be cumulative and not exclusive of any other right, power or remedy which the Trustee may have against the Pledgor or any Person pledging collateral pursuant to the other Company Agreements or existing at law or in equity or otherwise. The Trustee's rights, powers and remedies may be pursued singly, concurrently or otherwise, at such time and in such order as the Trustee may determine in its sole and absolute discretion. **THE TRUSTEE SHALL HAVE NO DUTY TO EXERCISE ANY OF THE AFORESAID RIGHTS, POWERS AND REMEDIES AND SHALL NOT BE RESPONSIBLE FOR ANY FAILURE TO DO SO OR DELAY IN SO DOING.**

Section 4.09 Notice of Exercise of Remedies. The Pledgor hereby waives notice of acceptance hereof, and except as otherwise specifically provided herein or required by provision of law which may not be waived, hereby waives any and all notices or demands with respect to any exercise by the Trustee of any rights or powers which it may have or to which it may be entitled with respect to the Pledged Collateral.

Section 4.10 Limitation. Unless the Pledgor or the Company shall cause an Event of Default, the Trustee may not sell or otherwise transfer any interest in the Pledged Collateral to a person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event. The expression, "Tax Benefit Recapture Event", means an event which would entitle the United States Department of the Treasury or Internal Revenue Service to require that the Company return all or part of the Section 1603 grant in lieu of tax credit received in connection with the Renewable Energy Projects, or to disallow the Company's tax deductions with respect to investments in energy property or for depreciation.

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## ARTICLE V

### SALES OF THE PLEDGED COLLATERAL

Section 5.01 Right to Conduct Partial Sale of Pledged Collateral. In connection with any sale of the Pledged Collateral, the Trustee may grant options and may impose reasonable conditions such as requiring any purchaser to represent that any "securities" constituting any part of the Pledged Collateral are being purchased for investment only. If all or any of the Pledged Collateral is sold at any such sale by the Trustee to a third party upon credit, the Trustee shall not be liable for the failure of the purchaser to purchase or pay for the same and, in the event of any such failure, the Trustee may resell such Pledged Collateral. It is expressly agreed that the Trustee may exercise its rights with respect to less than all of the Pledged Collateral, leaving unexercised its rights with respect to the remainder of the Pledged Collateral; provided, however, that such partial exercise shall in no way restrict or jeopardize the Trustee's right to exercise its rights with respect to the remaining Pledged Collateral at a later time or times. The Pledgor hereby waives and releases any and all rights of redemption with respect to the sale of any Pledged Collateral.

Section 5.02 Sale Procedures. Except as may be required by any applicable laws, no demand, advertisement or notice, all of which are hereby expressly waived by the Pledgor, shall be required in connection with any sale or other disposition of all or any part of the Pledged Collateral, except that the Trustee shall give the Pledgor at least ten (10) days' prior notice of the time and place of any public sale or of the time and the place at which any private sale or other disposition is to be made, which notice the Pledgor hereby agrees is reasonable. All other demands, advertisements and notices are hereby irrevocably waived by the Pledgor. The notice of such sale shall (a) in case of a public sale, state the time and place fixed for such sale, (b) in case of a sale at a broker's board or on a securities exchange, state the board or exchange at which such sale is to be made and the day on which the Pledged Collateral, or the portion thereof so being sold, first will be offered for sale at such board or exchange, and (c) in the case of a private sale, state the date after which such sale may be consummated. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as the Trustee may fix in the notice of such sale.

Section 5.03 Adjournment; Credit Sale. The Trustee shall not be obligated to make any sale of the Pledged Collateral if it shall determine, in its sole and absolute discretion, not to do so, regardless of the fact that notice of sale may have been given, and the Trustee may without notice or publication adjourn any public or private sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. Upon each public or private sale of all or any portion of the Pledged Collateral, unless prohibited by any applicable statute which cannot be waived, the Trustee (or its nominee or designee) may purchase all or any portion of the Pledged Collateral being sold, free and clear of, and discharged from, any trusts, claims, equity or right of redemption of the Pledgor, all of which are hereby waived and released to the extent permitted by law, and may make payment therefor by credit against any of the Obligations in lieu of cash or any other obligations.

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Section 5.04 Expenses of Sale. In the case of any sale, public or private, of any portion of or all of the Pledged Collateral, the Pledgor shall be responsible for the payment of all reasonable costs and expenses of every kind for the sale and delivery, including, without limitation, brokers' and reasonable attorneys' fees and disbursements and any tax imposed thereon. The proceeds of the sale of the Pledged Collateral shall be available to cover such costs and expenses, and, after deducting such costs and expenses from the proceeds of the sale, the Trustee shall apply any remaining amounts to the payment of the Obligations in the order of priority as set forth in the Company Agreements.

Section 5.05 No Public Registration of Sale. The Pledgor is aware that §9-610(c) of the UCC may restrict the Trustee's ability to purchase the Pledged Collateral at a private sale. The Pledgor is also aware that Securities and Exchange Commission (the "SEC") staff personnel have, over a period of years, issued various No-Action Letters that describe procedures which, in the view of the SEC staff, permit a foreclosure sale of securities to occur in a manner that is public for purposes of Part 6 of Article 9 of the UCC, yet not public for purposes of Section 4(2) of the Securities Act of 1933 (the "Securities Act"). The Pledgor is also aware that the Trustee may wish to purchase certain interests that are sold at a foreclosure sale, and the Pledgor believes that such purchases would be appropriate in circumstances in which such interests are sold in conformity with the principles set forth in such No-Action Letters. §9-603 of the UCC permits the Pledgor to agree on the standards for determining whether the Trustee has complied with its obligations under §9-610. Pursuant to §9-603 of the UCC, the Pledgor specifically agrees that a foreclosure sale conducted in conformity with the principles set forth in such No-Action Letters (a) shall be considered to be a "public disposition" for purposes of §9-610(c) of the UCC; (b) will be considered commercially reasonable notwithstanding that the Trustee has not registered or sought to register the interests under the Securities Act, even if the Pledgor or any Pledged Entity agree to pay all costs of the registration process; and (c) shall be considered to be commercially reasonable, notwithstanding that the Trustee purchases such interests at such a sale.

Section 5.06 Strict Foreclosure. Upon the occurrence of an Event of Default:

(a) The Trustee may, but shall have no obligation to, in its sole and absolute discretion, either negotiate an agreement ("Strict Foreclosure Agreement") with the Pledgor, or make a written proposal ("Strict Foreclosure Proposal") to the Pledgor, to retain the Pledged Collateral in full or partial satisfaction of the financial Obligations in accordance with the procedures specified in §9-620 of the UCC.

(b) In the case of a Strict Foreclosure Proposal, the Pledgor shall, within ten (10) Business Days of the Pledgor's receipt of the Strict Foreclosure Proposal, indicate the Pledgor's (i) acceptance or rejection of such Strict Foreclosure Proposal and (ii) waiver of any right to redeem the Pledged Collateral pursuant to §9-624(c) of the UCC ("UCC Waiver"). The Pledgor's indication of acceptance of a Strict Foreclosure Proposal shall be made by delivering a notice in a form substantially identical to the form attached hereto as Exhibit C.

(c) The Trustee shall notify any guarantor, any other creditor with perfected lien rights in the Pledged Collateral, and any Person, or any other person or entity entitled to notice under §9-621 of the UCC ("Interested Parties") of any Strict Foreclosure Agreement or Strict Foreclosure Proposal. Such Interested Party shall, within ten (10) Business Days of receipt of notice thereof, indicate its (i) acceptance or rejection of the Strict Foreclosure Agreement or the Strict Foreclosure Proposal, and (ii) UCC Waiver.

(d) If the Trustee fails to receive (i) the Pledgor's acceptance of a Strict Foreclosure Proposal and UCC Waiver or (ii) acknowledgments from all Interested Parties of acceptance of the Strict Foreclosure Agreement or the Strict Foreclosure Proposal, as applicable) and their respective UCC Waivers, within ten (10) Business Days of receipt of the notice periods specified in subsections (b) and (c) above (collectively the "Notice Period"), then the Pledgor, or such other Interested Party, as applicable, shall be deemed to have objected to the Strict Foreclosure Agreement or the Strict Foreclosure Proposal, as applicable.

(e) Notwithstanding the acceptance of either a Strict Foreclosure Agreement or a Strict Foreclosure Proposal by the Pledgor and each Interested Party within the applicable Notice Period, the Pledgor and the Trustee shall not be required to consummate such transfer of the Pledged Collateral unless and until (i) twenty (20) days have elapsed after the delivery of such acceptance and, (ii) any Interested Party shall have not paid and satisfied the financial Obligations in full within such twenty (20) day period as contemplated under §9-623 of the UCC (a "Redemption"). If a Redemption is consummated, the Pledgor's acceptance shall be deemed to have been revoked with the consent of the Trustee.

(f) If all the conditions specified in subsections (a) through (e) of this Section 5.06 have been satisfied, the Pledgor and each Pledged Entity shall fully cooperate, at their sole expense, in all matters deemed reasonably necessary by the Trustee to effect such transfer of ownership on the records of such Pledged Entity in accordance with any applicable requirements of the Organizational Agreement of such Pledged Entity and/or the Company Agreements. Such cooperation shall include using the Pledgor's best efforts to assist the Trustee in obtaining any necessary review, approvals and other administrative action from such Pledged Entity and the Trustee. Such assistance shall include, at the Trustee's request (i) attending all meetings with, and providing all related financial and operational documents and materials to, such third parties, and (ii) providing such assurances and executing such documentation as is required by such third parties or The Trustee to effect such transfer.

Section 5.07 Receipt of Sales Proceeds. Upon any sale of the Pledged Collateral, or any portion thereof, by the Trustee hereunder (whether by virtue of the power of sale herein granted, pursuant to judicial process or otherwise), the receipt of the proceeds by the Trustee or the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Pledged Collateral so sold, and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Trustee or such officer or be answerable in any way for the misapplication or non-application thereof.

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Section 5.08 Application of Pledged Collateral. All proceeds from the sale of all or any portion of the Pledged Collateral, and all Distributions now or at any time hereafter received or retained by the Trustee pursuant to the provisions of this Agreement shall be applied by the Trustee to the satisfaction of the Obligations in such order and priority as determined by the Trustee in its sole and absolute discretion and in accordance with applicable law.

Section 5.09 Preferences. The Trustee shall have no obligation to marshal any assets in favor of the Pledgor or any other party or against, or in payment of, any or all of the Obligations. To the extent the Pledgor makes a payment or payments to the Trustee, which payment or payments or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any Bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Obligations intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by the Trustee.

Section 5.10 Limitation. The rights and powers of the Trustee set out in this Article V are subject to the limitation of Section 4.10 hereof.

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## ARTICLE VI

### SECURITIES ACT

Section 6.01 Private Securities Sale. If at any time when the Trustee shall determine to exercise its right to sell all or any part of the Pledged Collateral pursuant to Article V of this Agreement, and such Pledged Collateral or the part thereof to be sold shall not, for any reason whatsoever, be effectively registered under the Securities Act, as then in effect, the Trustee may, in its sole and absolute discretion, sell such Pledged Collateral or part thereof by private sale (for securities law purposes) in such manner and under such circumstances as the Trustee may deem necessary or advisable in order that such sale may legally be effected without such registration, provided that at least ten (10) days' notice is given to the Pledgor in accordance with the private sale notice provisions of Article V of this Agreement. Without limiting the generality of the foregoing, in any such event the Trustee, in its sole and absolute discretion (a) may proceed to make such private sale notwithstanding that a registration statement for the purpose of registering such Pledged Collateral or part thereof shall have been filed under such Securities Act, (b) may approach and negotiate with a single potential purchaser to effect such sale, and (c) may restrict such sale to a purchaser who will represent and agree that such purchaser is purchasing for its own account, for investment, and not with a view to the distribution or sale of such Pledged Collateral or part thereof. In the event of any such sale, the Trustee shall incur no responsibility or liability for selling all or any part of the Pledged Collateral at a price which the Trustee may in good faith deem reasonable under the circumstances, notwithstanding the possibility that a substantially higher price might be realized if the sale was made pursuant to a filed registration statement under the Securities Act.

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ARTICLE VII

MISCELLANEOUS

Section 7.01 Further Assurances. The Pledgor hereby agrees to sign and deliver to the Trustee financing statements, continuation statements and other documents, agreements, and instruments, in form acceptable to the Trustee, and do such further acts, as the Trustee may from time to time reasonably request or which are reasonably necessary to establish and maintain a valid and perfected security interest in the Pledged Collateral (and to pay any filing fees relative thereto) or to further assure or confirm the Trustee's rights hereunder. Without limiting the foregoing, the Pledgor authorizes the Trustee, to the extent permitted by law, to file such financing statements and amendments thereto and continuations thereof relating to all or any part of the Pledged Collateral without the signature of the Pledgor (including, to the extent permitted by law, to file a photographic or other reproduction of this Agreement).

Section 7.02 No Release, Etc. No delay or omission to exercise any remedy, right or power accruing upon a default or an Event of Default shall impair any such remedy, right or power or shall be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of any default or Event of Default shall not be construed to be a waiver of any subsequent default or Event of Default or to impair any remedy, right or power of the Trustee. Any and all of the Trustee's rights with respect to any Pledged Collateral shall continue unimpaired, and the Pledgor shall be and remain obligated in accordance with the terms hereof, notwithstanding, among other things: (a) any renewal, extension, amendment or modification of, or addition or supplement to, or deletion from, this Agreement or any other Company Agreement or any other instrument or agreement referred to therein, or any assignment or transfer of any thereof; (b) any waiver, consent, delay, extension of time, indulgence or other action or inaction under or in respect of this Agreement or any other Company Agreement; (c) any exercise or non-exercise of any right, remedy, power or privilege under or in respect of this Agreement or any other Company Agreement; (d) any sale, exchange, release, surrender, or substitution of, or realization upon, any Pledged Collateral (except to the extent otherwise specifically agreed to by the Trustee) or any other security held by the Trustee to secure the financial Obligations; (e) the furnishing to or acceptance by the Trustee of any additional security to secure the financial Obligations; or (f) any invalidity, irregularity or unenforceability of all or any part of the Obligations or of any security therefor.

Section 7.03 Notices. All notices, consents, approvals, demands and requests required or permitted hereunder shall be given in the manner set forth in the Acknowledgment.

Section 7.04 Modification, Waiver in Writing. No modification, amendment, extension, discharge, termination or waiver of any provision of this Agreement, nor consent to any departure by the Pledgor therefrom, shall in any event be effective unless the same shall be in a writing signed by the party against whom enforcement is sought, and then such waiver or consent shall be effective only in the specific instance, and for the purpose, for which given. Except as otherwise expressly provided herein, no notice to, or demand on the Pledgor, shall

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entitle the Pledgor to any other or future notice or demand in the same, similar or other circumstances.

Section 7.05 Number and Gender. All references to sections and exhibits are to sections and exhibits in or to this Agreement unless otherwise specified. Unless otherwise specified, the words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision, article, section or other subdivision of this Agreement. Unless otherwise specified, all meanings attributed to defined terms herein shall be equally applicable to both the singular and plural forms of the terms so defined. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 7.06 Headings, Etc. The headings and captions of various paragraphs of this Agreement are for the convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 7.07 Counterparts. This Agreement may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Agreement. The failure of any party hereto to execute this Agreement, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

Section 7.08 GOVERNING LAW; SEVERABILITY. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW JERSEY, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICT OF LAWS THEREUNDER. WHEREVER POSSIBLE, EACH PROVISION OF THIS AGREEMENT SHALL BE INTERPRETED IN SUCH MANNER AS TO BE EFFECTIVE AND VALID UNDER APPLICABLE LAW, BUT IF ANY PROVISION OF THIS AGREEMENT SHALL BE PROHIBITED BY OR INVALID UNDER APPLICABLE LAW, SUCH PROVISION SHALL BE INEFFECTIVE TO THE EXTENT OF SUCH PROHIBITION OR INVALIDITY, WITHOUT INVALIDATING THE REMAINDER OF SUCH PROVISION OR THE REMAINING PROVISIONS OF THIS AGREEMENT.

Section 7.09 JURY TRIAL. THE PLEDGOR AND THE TRUSTEE (BY ACCEPTANCE OF THIS AGREEMENT) MUTUALLY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THE COMPANY AGREEMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY, INCLUDING, WITHOUT LIMITATION, ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS OR ACTIONS OF THE TRUSTEE RELATING TO THE ADMINISTRATION OR ENFORCEMENT OF THE COMPANY AGREEMENTS, AND AGREE THAT NEITHER PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS,

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NOT BEEN WAIVED. EXCEPT AS PROHIBITED BY LAW, THE PLEDGOR HEREBY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION ANY EXEMPLARY, OR PUNITIVE DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. THE PLEDGOR CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE TRUSTEE HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT TRUSTEE WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR TRUSTEE TO ACCEPT THIS AGREEMENT.

IN WITNESS WHEREOF, the Pledgor has caused this Pledge and Security Agreement to be duly executed and delivered, all as of the day and year first above written.

[COMPANY]

By: \_\_\_\_\_  
Name:  
Title:

[WITNESS]

By: \_\_\_\_\_  
Name:  
Title:

ACKNOWLEDGMENT

The terms of this Pledge and Security Agreement are hereby acknowledged, and accepted, by the Company, as of the 1<sup>st</sup> day of November, 2011.

[COMPANY],

By: \_\_\_\_\_  
Name:  
Title:

SIGNATURE PAGE TO FOLLOW

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Schedule J

Pledgor, consisting of the following Persons	Pledged Entity	Pledged Equity Interest
	Company	All Pledgor's Membership Interest in the Company

Exhibit A

**AGREEMENT AND ACKNOWLEDGMENT**

THE UNDERSIGNED hereby agrees, acknowledges and consents to the execution and delivery to [NAME OF TRUSTEE] (the "Bank"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State of New Jersey (the "State"), where the Bank acts as trustee (together with its successors, assigns, and designees for the purposes hereof, the "Trustee") under and pursuant to that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Morris County Improvement Authority (the "Authority") as resolution number [1]-\_\_\_ on August \_\_, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds authorized and defined therein (the "Bond Resolution"), of the Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of November 1, 2011 to which this Agreement and Acknowledgment is attached (the "Pledge Agreement") made by all of the Persons (collectively, the "Pledgor"), as collateral security for the payment and performance of the Obligations, and the assignment and pledge thereby to the Trustee by the Pledgor of all of the Pledgor's right, title and interest to the Pledged Collateral described therein. All capitalized terms used herein not otherwise defined herein shall have the meanings ascribed to such terms in the Pledge Agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned, hereby represents, warrants, covenants and agrees for the benefit of the Trustee as follows:

1. **Representations and Warranties.** The undersigned represents and warrants that (a) the execution and delivery of the Pledge Agreement does not violate any of such undersigned's Organizational Agreements or any other agreement to which such undersigned is a party or by which any of the property of such undersigned is bound, (b) the undersigned has not entered into a control agreement perfecting a security interest in any of the Equity Interests favor of any other party (other than pursuant to the Permitted Encumbrances), (c) the Pledged Collateral is not subject to any security interest or lien in favor of any Person, or other person or entity (other than the Trustee) and has not been pledged, transferred or assigned to, and is not otherwise in the control of, any Person, or other person or entity (other than the Trustee), (d) the undersigned does not have any present claim, right of offset, or counterclaim against the Pledgor under or with respect to the Pledged Collateral or otherwise under any of the undersigned's Organizational Agreements, (e) the Pledgor is not in default to the undersigned or otherwise under or in respect of any of his obligations under any of such undersigned's Organizational Agreements, and (f) all of the representations and warranties of the Pledgor made in the Pledge Agreement are true, accurate and complete in all material respects.

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2. **Covenants and Agreements.**

(a) **Books and Records.** The undersigned (i) shall cause all of its respective books and records to reflect the pledge of the Pledged Collateral to the Trustee and agrees not to consent to or to permit any transfer thereof or any other action that may be taken by the Pledgor that might constitute an Event of Default so long as the Pledge Agreement remains in effect, (ii) agrees that the Trustee and/or its representatives may, upon reasonable advance notice and at any reasonable time during normal business hours, inspect the books, records and properties of such undersigned.

(b) **UCC Matters.** The undersigned confirms, agrees and acknowledges that (i) notwithstanding any provisions in the Organizational Agreements, the Pledgor is hereby authorized and permitted to pledge, assign and grant a security interest in the Pledged Collateral in favor of the Trustee pursuant to the Pledge Agreement, (ii) this Agreement and Acknowledgment is intended to, and shall, provide the Trustee with "control" over the Pledged Collateral within the meaning of Articles 8 and 9 of the UCC, (iii) it shall comply with all instructions relating to the Pledged Collateral originated by the Trustee without further authorization or consent, so long as such instructions are within the powers of the Trustee set forth in the Pledge Agreement, the intention of such covenant being to comply with §8-106(c)(2) of the UCC, and (iv) no Equity Interest other than the Pledged Equity of the undersigned is valid or will be recognized by the undersigned.

(c) **Organizational Agreements.** The undersigned shall not suffer or permit its Organizational Agreements to be amended or modified without the prior written consent of the Trustee.

(d) **Notices, Defaults.** The undersigned shall give the Trustee and the Authority a copy of all notices, reports or communications received or given pursuant to its Organizational Agreements promptly after the same shall have been received or contemporaneously with the giving thereof, as the case may be. The undersigned shall permit the Trustee the right to cure any default by the Pledgor under the Organizational Agreements, and no notice of any default by the Pledgor with respect to the Organizational Agreements shall be effective unless and until such notice has been received by the Trustee and the Authority; provided, however, in no event shall the Trustee or the Authority be obligated to cure such default. The Trustee shall have fifteen (15) days in excess of the amount of time to exercise its right (but not obligation) to cure any such default as given to the Pledgor under the Organizational Agreements, as measured from the date notice of such default has been received by the Trustee. Notices to the Authority and the Trustee, along with the undersigned, shall be to the following persons, unless updated by such entities in a writing delivered to each of the other notice entities:

(i) If to Authority: The Morris County Improvement Authority  
P.O. Box 990  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman

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Email: jbonanni@co.morris.nj.us

With a copy to:

Stephen B. Peariman, Esq.  
Inglefino, Peariman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: speariman@jmandplaw.com

(ii) If to Trustee

[Name of Trustee]

With a copy to:

(iii) If to undersigned

[COMPANY]  
[COMPANY ADDRESS]

With a copy to:

3. **Events of Default, Sales of Pledged Collateral.** The undersigned hereby agrees that upon the occurrence of an Event of Default, (a) all Distributions will be made directly to the Trustee, (b) the Trustee shall have the sole and exclusive right to exercise all voting, consensual and other powers of ownership pertaining to the Pledged Collateral, (c) the Trustee may take any reasonable action which the Trustee may deem necessary for the maintenance, preservation and protection of any of the Pledged Collateral or the Trustee's security interests therein, including, without limitation, the right to declare any or all Obligations to be immediately due and payable without demand or notice and the right to transfer any of the Pledged Equity or other Pledged Collateral into the Trustee's name or the name of any designee or nominee of the Trustee, (d) the Trustee may dispose of the Pledged Collateral in accordance with Articles 8 and 9 of the UCC and the provisions of the Pledge Agreement, in which case, notwithstanding anything to the contrary in the Organizational Agreements, (i) the Trustee, or its designee or assign, shall automatically be admitted as a member of the undersigned and shall be entitled to receive all benefits and exercise all rights in connection therewith pursuant to the Organizational Agreements of the undersigned, (ii) the undersigned shall recognize the Trustee (or its designee or assign) as the successor in interest to the Pledgor, and (iii) notwithstanding any provisions to the contrary in the Organizational Agreements, the Trustee shall not be required to pay any fees or other consideration of any type, or execute any documents, or be limited by any requirements or conditions whatsoever (regarding Distributions receivable by the Trustee from the undersigned, the Trustee's financial condition or otherwise), other than any such requirements, if any, that are expressly set forth in the Company Agreements.

4. **No Liability.** Notwithstanding the security interests of the Trustee in the Pledged Collateral or any of its rights hereunder, (a) the Trustee shall have no obligation or liability whatsoever for matters in connection with the Pledged Equity arising or occurring, directly or indirectly, prior to the Trustee's (or its designee's, successor's or assign's) becoming a shareholder, member or partner, as the case may be, of the undersigned, and except to the extent set forth in the Company Agreements, the Pledgor shall have no liability for matters in connection with the Pledged Equity first occurring or arising after the Trustee's (or its designee's, successor's or assign's) acquisition through foreclosure of the Pledged Equity, and (b) the Trustee shall not be obligated to perform any of the obligations or duties of the Pledgor under any of the undersigned's Organizational Agreements, or to take any action to collect or enforce any claim for payment due the Pledgor arising thereunder.

Name:  
Title:

5. **Transfers.** The undersigned acknowledges that the security interest of the Trustee in the Pledged Collateral and all of the Trustee's rights and remedies under the Pledge Agreement may be freely transferred or assigned by the Trustee. In the event of any such transfer or assignment, all of the provisions of this Agreement and Acknowledgment shall inure to the benefit of the transferees, successors, and/or assigns of the Trustee. The provisions of this Agreement and Acknowledgment shall likewise be binding upon any and all permitted transferees, successors and assigns of the undersigned.

6. **Further Assurances.** The undersigned shall, from time to time, promptly execute and deliver such further instruments, documents and agreements, and perform such further acts as may be reasonably necessary or proper to carry out and effect the terms of the Pledge Agreement and this Agreement and Acknowledgment.

7. **Reliance.** This Agreement and Acknowledgment is being given to induce the Trustee to accept the Pledge Agreement and with the understanding that the Trustee will rely hereon.

8. **Counterparts.** This Agreement and Acknowledgment may be executed in counterparts.

9. **Miscellaneous.** The provisions of Article 7 of the Pledge Agreement are hereby incorporated herein by this reference (with all references to the Pledgor therein deemed to mean and refer to the undersigned).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement and Acknowledgment to be executed and delivered, all as of the day and year first above written.

[COMPANY], as Pledged Entity (the Company)

By: \_\_\_\_\_

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Exhibit B  
Organizational Agreements

Exhibit C

Acceptance of the Trustee's Proposal under Section 5.6

\_\_\_\_\_, 20\_\_

(Name of Trustee), as Trustee

Ladies and Gentlemen:

This letter agreement and waiver is being delivered by the undersigned (the "Pledgor") to [\_\_\_\_\_] (the "Trustee") in connection with that certain Pledge and Security Agreement dated as of November 1, 2011 by the Pledgor in favor of the Trustee (the "Pledge Agreement"). All capitalized terms used herein, unless otherwise defined herein, shall have the meanings specified in the Pledge Agreement.

1. As contemplated by Section 5.6 of the Pledge Agreement, the Pledgor hereby accepts the Trustee's Strict Foreclosure Proposal to retain all right, title and interest in and to the Pledged Collateral, and agrees to ratify such retention at the direction of the Trustee in accordance with such Section 5.6 and the other applicable provisions of the Company Agreements.

2. This acceptance is irrevocable and unconditional, subject, however, to the terms of Paragraph 5 below.

3. All of the Interested Parties acknowledge and consent to the acceptance and agreements set forth in Paragraph 1 and Paragraph 2 hereof.

4. In accordance with Section 9-624(c) of the UCC, each Pledged Entity and each Interested Party, hereby waives, effective as of the date hereof, all of its rights under the UCC with respect to the Facility, the Pledge Agreement and the Pledged Collateral, if any, including any rights described in Section 9-623 of the UCC, in each case to the fullest extent such rights may be waived in accordance with the UCC ("UCC Waiver").

5. Notwithstanding the acceptance and UCC Waiver, the Pledgor and the Trustee shall not be required to consummate such retention by the Trustee unless and until (a) twenty (20) days have elapsed after the delivery of such acceptance, and (b) none of the Interested Parties have caused the entire financial Obligations to be paid and satisfied in full within such twenty day period (a "Redemption"), and, if a Redemption is consummated pursuant to the terms of the Company Agreements and in accordance with applicable law, the Pledgor's acceptance shall be deemed to have been revoked with the consent of the Trustee.

[00016352-1]

[00016352-1]

Very truly yours,

[\_\_\_\_\_]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**ACKNOWLEDGED AND AGREED:**

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**COUNTY GUARANTY AGREEMENT**  
(Sussex County Renewable Energy Program, Series 2011)

By and Between

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

And

**COUNTY OF SUSSEX**

Dated: as of November 1, 2011

with respect to the Morris County Improvement Authority's  
Not to exceed \$ \_\_\_\_\_ aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable)

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County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Cahel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the

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THIS "COUNTY GUARANTY AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" dated as of November 1, 2011 (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "County Guaranty Agreement") by and between the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of the hereinafter defined County as a public body corporate and politic of the State of New Jersey ("State") pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act") and other applicable law, and the COUNTY OF SUSSEX, a political subdivision of the State (the "County").

WITNESSETH:

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris

"Sussex County Consultants", if any, and together with the Authority Consultants, the "Consultants"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "County Series 2011 Local Units");

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(each a "Series 2011 Local Unit", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "Series 2011 Bonds");

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "Series 2011B Notes, and together with the Series 2011A Bonds, the previously defined "Series 2011 Bonds"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000;

WHEREAS, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

WHEREAS, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond

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(the "Company"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (i) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (ii) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (iii) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "BPU"), whereby, among other things,

(i) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital

Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law.

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "Company RFP") and the receipt of proposals from prospective solar developers, including that (the "Company Proposal") of the successful respondent

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Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

- (II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and
  - (III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and
- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

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WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-30);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease

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required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement") and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements" with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent ("Private Placement Agent"), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement");
- (b) If the Series 2011 Bonds shall be sold by:

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Agreement;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

WHEREAS, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

WHEREAS, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c-12") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be

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(I) Competitive sale, authorize the distribution of a notice of sale ("Notice of Sale"), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the "Underwriter"); or

(II) Negotiated sale, enter into a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds; and

- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement", and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (i) above, the "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth herein, the Authority and the County and its successors and assigns, do mutually covenant, promise and agree as follows:

Section 1. Pursuant to the provisions of the Act and the County Guaranty ordinance, the County shall, and hereby agrees to fully, irrevocably, and unconditionally guarantee the punctual payment of the principal of (including sinking fund installments) and the interest on the Series 2011 Bonds. The aggregate principal amount of Series 2011 Bonds may not exceed \$\_\_\_\_\_. The full faith and credit of the County are hereby pledged for the full and punctual performance of the County Guaranty. Accordingly, the Freeholder-Director of the County shall, and hereby is,

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authorized and directed to execute and deliver the County Guaranty Certificate in the form set forth in Section 14.01 of the Bond Resolution upon initial issuance of the Series 2011 Bonds, as part of each such Series 2011 Bond. This County Guaranty Agreement shall not guaranty the payment of any redemption premium with respect to the Series 2011 Bonds. Capitalized terms not defined herein shall have the meaning ascribed to such terms in the Bond Resolution.

**Section 2.** The Authority agrees to apply the proceeds derived from the sale of the Series 2011 Bonds to Costs associated with the Projects for the Series 2011 Local Units, including payment of Costs of Issuance, Administrative Expenses and required reserves, if any, and such other matters as set forth in the Bond Resolution. In furtherance thereof, the County covenants to cause the Authority to issue the Certificate contemplated by Section 6.04(3) thereof no later than \_\_\_\_\_.

**Section 3.** The Authority will keep, or cause to be kept by the Trustee or otherwise, proper books of record and account in which complete and correct entries shall be made of its transactions relating to the Projects and which, together with all other books and papers of the Authority, shall at all reasonable times be subject to inspection by the County.

**Section 4.** Attached hereto as Exhibit A is the following information required by the County in order to discharge its obligations under this County Guaranty Agreement:

(a) The date of issuance, the maturity dates, the principal amortization, the interest rate or rates, and the Trustee and Paying Agent for the Series 2011 Bonds.

(b) The Basic Lease Payments and the Basic Lease Payment Dates.

**Section 5.** If, thirty (30) days prior to any Interest Payment Date or Principal Payment Date, the amounts that are on deposit in the Aged Account of the Revenue Fund established under the Bond Resolution are insufficient to provide for the payment of the principal of (including sinking fund payments, if any) and/or interest on the Series 2011 Bonds that are due and payable on such payment dates, the Trustee shall notify the County's Chief Financial Officer on such day of the amounts that are necessary to provide for the payment of the principal of and/or interest on the Series 2011 Bonds (the "Deficiency"). The County shall be obligated to make payment of the Deficiency to the Trustee no later than one (1) business day prior to the Interest Payment Date or the Principal Payment Date, as applicable, of the Series 2011 Bonds. Notwithstanding any other provision of this Guaranty Agreement, failure by the Trustee to give the County notice as provided herein shall not relieve the County of its obligations to make payment under the terms of the County Guaranty.

(a) Notwithstanding the foregoing provisions of this Section 5, upon the occurrence and continuance of the Deficiency one (1) business day prior to the Interest Payment Date or the Principal Payment Date,

(i) with respect to the Series 2011A Bonds only, the County may, in its sole discretion determine to exercise its right to cause the optional redemption or if

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to be paid from amounts the Authority controls on deposit in the County Security Fund, or from any past due Basic Lease Payments it receives from the Company. [The County and the Authority acknowledge and agree that as of the date of this Guaranty Agreement, the County Security Fund Requirements is \$0, and there is no County Security Agreement, County Security Provider or County Security, and any provisions herein with respect to such terms are hereby of no further force or effect.]

(b) Nothing herein provided shall in any way diminish the County's rights to receive payment from the County Security Provider under the County Security for reimbursement of any County payment of the Deficiency. The Authority shall take all actions necessary, desirable or convenient to assist the County in any such reimbursement action, and simultaneously with the authorization, execution and delivery hereof, the Authority shall deliver or cause to be delivered to the County either (i) a County Security Agreement, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited or to be in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, Program Documents incorporating the repayment provisions to the County of the County Security, including without limitation Section 5.07 of the Bond Resolution.

(c) As further security and further assurance for the Company's obligations to (i) make Basic Lease Payments, (ii) make those Additional Lease Payments constituting part of the Trust Estate, and (iii) pay interest at the Overdue Rate on such amounts in clauses (i) and (ii), all at the times, in the amounts, and otherwise in accordance with the terms and provisions of the Company Lease Agreement, the failure to make timely and full payment of which could cause any such Deficiency, the Authority hereby further assigns and pledges all of its right, title and interest in and to the Reimbursement Collateral to the County, to be held as collateral to secure such Deficiency payment; provided, however, that to the extent the County is reimbursed in full for its Deficiency payment(s) by the County Security Provider from the County Security, the County expressly acknowledges it shall have no further rights to the Reimbursement Collateral, and further, that the County Security Provider shall, in such instance, be exclusively entitled to the Reimbursement Collateral. This County Guaranty Agreement shall be deemed to be a security agreement for purposes of the Uniform Commercial Code and all other applicable law.

**Section 8.** The obligations of the County under this County Guaranty Agreement shall be full, absolute, irrevocable, and unconditional, and shall remain in full force and effect until the entire principal of (including Sinking Fund Installments, if any) and interest on the Series 2011 Bonds shall have been paid or duly provided for in accordance with the provisions of the Bond Resolution. The County Guaranty is a guaranty of payment and not of collectability. The obligations of the County hereunder shall not be affected, modified or impaired upon the occurrence from time to time of any event, including without limitation any of the following, whether or not with notice to, or the consent of, the County:

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applicable, defeasance and subsequent optional redemption, of all or a portion of the Series 2011A Bonds, which optional redemption is contemplated by Section 2.03(5)(a) and (b) of the Bond Resolution, and which defeasance is contemplated by Article XII of the Bond Resolution. In any such instance, the County may establish the defeasance date, as applicable, at any time, and the redemption date at any time on or after [May 15, 20\_\_], all with written notice to the Authority and the Trustee and otherwise in accordance with the terms of the Bond Resolution. Nothing in this Section 5(a)(i) is intended to diminish the County's rights to reimbursement, including those rights set forth in Section 7 hereof.

(ii) with respect to the Series 2011B Bonds only, and to the extent the County is the Holder of one hundred percent (100%) of the Outstanding principal amount of the Series 2011B Bonds, the County may, in its sole discretion and in lieu of making payment on that portion of the Deficiency (with respect to the Series 2011B Bonds only) to satisfy the County's payment obligations under its County Guaranty, determine to exercise its right to cause the extraordinary optional redemption of all of the Series 2011B Bonds, as contemplated by Section 2.03(5)(c) of the Bond Resolution, for the Redemption Price of one dollar (\$1). In any such instance, the County may establish the redemption date at any time, including without limitation on such date, with written notice to the Authority and the Trustee. Nothing in this Section 5(a)(ii) is intended to diminish the County's rights to reimbursement, as if payment had been made in full and on time under its County Guaranty obligations hereunder, including those rights set forth in Section 7 hereof.

**Section 6.** Subject to Section 5(a) hereof, when notice has been provided, as described above, the County shall take all necessary actions to make payment of the Deficiency to the Trustee as provided above. Such actions shall include the adoption of an emergency appropriation or an emergency temporary appropriation and the funding of such appropriation in accordance with the requirements of the Local Budget Law (N.J.S.A. 40A:4A-1 *et seq.*), the levy of *ad valorem* taxes on all taxable property in the County, without limitation as to rate or amount, or any other actions that are legally permitted to be taken to meet the requirements of such County Guaranty (including the adoption of a bond ordinance pursuant to the provisions of the Local Bond Law).

**Section 7.** (a) The Authority hereby covenants to the County that in the event the County Guaranty is called upon, the Authority shall be obligated and shall take all actions within its power (in accordance with the terms of the Act), including causing the Trustee to pay over to the County all funds on deposit in the County Security Fund, if any, held by the Trustee under the Bond Resolution as monies therein shall not be part of the Trust Estate pledged to the payment of debt service on the Series 2011 Bonds, so as to enable the County to be reimbursed, to the maximum extent practicable, up to the amount that shall have been paid by the County pursuant to the terms of this County Guaranty Agreement (i.e., the Deficiency), at the earliest practicable date. The Authority shall not be obligated to pay the Deficiency from funds within its general control that are not contemplated by the Program Documents; the Authority, shall, however, pay or cause the Deficiency

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(a) The waiver, compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of the Authority which are contained in the Bond Resolution and any other Program Document, or of the payment, performance or observance thereof;

(b) The failure to give notice to the County of the occurrence of an event of default under the provisions of this County Guaranty Agreement;

(c) The transfer, assignment or mortgaging or the purported transfer, assignment or mortgaging of all or any part of the interest or security interest of the Authority in the Projects;

(d) The extension of the time for payment of the principal of or interest on the Series 2011 Bonds or of the time for performance of any obligations, covenants or agreements under or arising out of the Program Documents;

(e) The modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Program Documents;

(f) The taking, suffering or the omission of any of the actions referred to in the Series 2011 Bond Resolution or of any actions under this County Guaranty Agreement;

(g) Any failure, omission, delay or lack on the part of the Authority to enforce, assert or exercise any right, power or remedy conferred on the Authority in this County Guaranty Agreement, the Series 2011 Bond Resolution or any other act or acts on the part of the Authority or any of the holders from time to time of the Series 2011 Bonds;

(h) The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment or other similar proceedings affecting the Authority or any party to the Program Documents or any of the assets of any of them, or any allegation or contest of the validity of the County Guaranty, or the Series 2011 Bond Resolution;

(i) To the extent permitted by law, any event or action that would, in the absence of this clause, result in the release or discharge by operation of law of the County from the performance or observance of any obligation, covenant or agreement contained in this County Guaranty Agreement; or

(j) The default or failure of the County fully to perform any of its obligations set forth in this County Guaranty Agreement.

**Section 9.** No set-off, counterclaim, reduction, recoupment, or diminution of any obligation, or any defense of any kind or nature (other than full and timely performance by the County of its obligations hereunder) which the County or the Authority has or may have against the

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Authority, the County, the Trustee or against any holder of the Series 2011 Bonds, shall be available to the County or the Authority hereunder against the Authority, the County or the Trustee or anyone succeeding to the interest of the Authority, the County or the Trustee.

Section 10. The County further guarantees that all payments made with respect to the Series 2011 Bonds will, when made, be final and agree that if such payment is recovered from or repaid by or on behalf of the Authority or the holders of the Series 2011 Bonds in whole or in part in any bankruptcy, insolvency or similar proceeding instituted by or against the Authority or the Company, the County Guaranty shall continue to be fully applicable to such liabilities to the same extent as though the payment so recovered or repaid had never been originally made on such liabilities.

Section 11. In the event of a default in payment of the principal of or interest on the Series 2011 Bonds when and as the same shall become due, whether at the stated maturity thereof or otherwise, the Authority, the Trustee or any party to whom the Authority's or the Trustee's rights have been assigned may proceed to enforce their rights hereunder and may proceed first and directly against the County under the terms of this County Guaranty Agreement without proceeding against or exhausting any other remedies which it may have and without resorting to any other security held by the Authority or the Trustee. In any such event, the County shall be subrogated to the rights of such party with respect to such security. All moneys recovered pursuant to this County Guaranty Agreement shall be applied in accordance with the provisions of the Bond Resolution.

Section 12. The County hereby acknowledges that it is an "obligated person" as such term is defined in Rule 15c2-12, and the preparation, negotiation, execution and delivery of the County Continuing Disclosure Agreement in accordance with Rule 15c2-12 is hereby approved in the form attached as Exhibit B hereto, and the Freeholder Director of the County is hereby authorized to execute the County Continuing Disclosure Agreement and to deliver the same to the Trustee and the Authority. The Freeholder Director is hereby authorized and directed to execute and deliver such other documents, certificates and agreements required to be delivered by the County under the County Continuing Disclosure Agreement, and the Clerk of the County is hereby authorized and directed to attest and affix the seal of the County to any such document, certificate or agreement, if necessary.

Section 13. This County Guaranty Agreement shall terminate after payment in full of the principal of and interest on the Series 2011 Bonds have been made, or provision for the payment of same has been made in accordance with the terms of the Bond Resolution, including without limitation Article XII thereof, provided, however, this Guaranty Agreement shall survive if payment of principal and interest is made pursuant to Section 10 hereof.

Section 14. This County Guaranty Agreement may be executed in any number of counterparts, each of which shall be executed by the Authority and by the County and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same. This County Guaranty Agreement shall be governed by the laws of the State.

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Section 15. The County hereby acknowledges and consents to the irrevocable assignment of the right of the Authority to receive payments from the County under the provisions of the County Guaranty by the Authority to the Trustee for the benefit of the holders of the Series 2011 Bonds, as and to the extent provided in the Bond Resolution.

Section 16. Notwithstanding anything contained herein to the contrary, in the event that the form of government is changed so that there is no longer a Chief Financial Officer of the County, any notices contemplated hereunder shall be provided to and any actions contemplated to be taken hereunder shall be taken by the chief executive officer of the County.

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Section 17. Notwithstanding anything contained herein to the contrary, the following defined terms may be amended or supplemented in accordance with the provisions of Section 4.6 of the Power Purchase Agreement, and to the extent the Power Purchase Agreement is amended for such purpose, such following defined terms shall automatically (without any further action) be amended and supplemented for all purposes hereof: Capital Improvement Projects, Local Unit Facilities, Projects, Renewable Energy Projects, and Series 2011 Local Units.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their respective officers thereunto duly authorized and this agreement to be dated as of the date and the year first above written.

ATTEST: THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
By: \_\_\_\_\_  
Secretary John Bonanni  
Chairman

ATTEST: COUNTY OF SUSSEX, NEW JERSEY  
By: \_\_\_\_\_  
Clerk of the Board of Freeholders Freeholder Director

EXHIBIT A

Pricing Information with respect to the Series 2011 Bonds

- 1. Dated Date, Issuance Date and Date of Authentication of Series 2011 Bonds:  
Dated Date, Issuance Date and Date of Authentication of Series 2011A Bonds:  
[November \_\_, 2011]  
Dated Date, Issuance Date and Date of Authentication of Series 2011B Bonds:  
No later than [\_\_\_\_\_, 2012]
- 2. Paying Agent and Trustee for Series 2011 Bonds: [Name of Trustee]
- 3. Amortization, including Sinking Fund Installments, and Interest Rates of Series 2011 Bonds:  
See 4 below.

[Remainder of page intentionally left blank]

[Signature Page to the County Guaranty Agreement]

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**EXHIBIT B**

[Attach Form of County-Continuing Disclosure Agreement]

[001034]

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COMPANY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)

COMPANY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)

among  
[COMPANY]  
and  
[NAME OF TRUSTEE], as Trustee  
and  
MORRIS COUNTY IMPROVEMENT AUTHORITY

Dated as of November 1, 2011

With respect to the Morris County Improvement Authority's  
Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011

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the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County,

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Peariman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants", if any, and together with the Authority Consultants, the "Consultants"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

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THIS COMPANY CONTINUING DISCLOSURE AGREEMENT (SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011) (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "Company Continuing Disclosure Agreement") is made and entered into as of November 1, 2011 by and among \_\_\_\_\_, a limited liability company organized and existing under the laws of the State of Delaware, duly authorized to conduct business in the hereinafter defined State (including any successors and assigns, the "Company"), [NAME OF TRUSTEE] (the "Bank"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State of New Jersey (the "State"), where the Bank acts as trustee under and pursuant to the hereinafter defined Bond Resolution (including any successors and assigns, the "Trustee"), and the MORRIS COUNTY IMPROVEMENT AUTHORITY, a public body corporate and politic duly created and validly existing under the laws of the State (including any successors and assigns, the "Authority").

WITNESSETH

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize

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WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"; and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "Series 2011 Bonds");

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011

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Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "Series 2011B Notes", and together with the Series 2011A Bonds, the previously defined "Series 2011 Bonds"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000;

WHEREAS, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

WHEREAS, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the

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with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "BPU"), whereby, among other things,

(i) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition, construction, renovation, and installation of such Projects on a requisition basis,

(ii) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates

Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(e) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "Company RFP") and the receipt of proposals from prospective solar developers, including that (the "Company Proposal") of the successful respondent (the "Company"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance

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("SREC") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance

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with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

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with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent ("Private Placement Agent"), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement");
- (b) If the Series 2011 Bonds shall be sold by:
  - (I) Competitive sale, authorize the distribution of a notice of sale ("Notice of Sale"), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the "Underwriter"), or
  - (II) Negotiated sale, enter into a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds; and

- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement, and together with the Preliminary Official Statement, the Notice of Sale or the Bond

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WHEREAS, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

WHEREAS, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c2-12") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement" and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements")

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Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (i) above, the "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

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## ARTICLE I

### DEFINITIONS AND EXHIBITS

#### SECTION 1.1. Definitions.

The following additional terms shall have the meanings specified below:

"Annual Report" means Financial Statements and Operating Data provided at least annually with respect to the Company.

"Bondholder" or "Holder" or any similar term, when used with reference to the Series 2011 Bonds, means any person who shall be the registered owner of any outstanding the Series 2011 Bonds, including holders of beneficial interests in the Series 2011 Bonds.

"Bond Disclosure Event" means any event described in subsection 2.6(a) of this Company Continuing Disclosure Agreement.

"Bond Disclosure Event Notice" means the notice to the MSRB as provided in subsection 2.6(b) of this Company Continuing Disclosure Agreement.

"Dissemination Agent" means an entity acting in its capacity as Dissemination Agent under this Company Continuing Disclosure Agreement, or any successor Dissemination Agent designated in writing by the Company and which has filed a written acceptance of such designation.

"Final Official Statement" means the Official Statement relating to the Series 2011A bonds dated \_\_\_\_\_, 2011.

"Financial Statements" means the audited financial statements of the Company for each Fiscal Year and includes balance sheets, statements of changes in fund balances and statements of current funds, revenues, expenditures and other charges or statements which convey similar information.

"Fiscal Year" means the fiscal year of the Company as determined by the Company from time to time pursuant to State law. As of the date of this Company Continuing Disclosure Agreement, the Fiscal Year of the Company begins on January 1 of each calendar year and closes on the following December 31.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States of America, consistently applied.

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"GAAS" means generally accepted auditing standards as in effect from time to time in the United States of America, consistently applied.

"MSRB" means the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to Rule 15c2-12. Effective August 1, 2009 and until otherwise designated by the MSRB or the SEC, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) website of the MSRB, currently located at <http://emma.msrb.org>.

"Operating Data" means certain financial and statistical information of the Company, which for purposes of this Company Continuing Disclosure Agreement shall include the financial and statistical information in Appendix C to the Final Official Statement, if any, a copy of which is attached hereto as Exhibit A.

"SEC" means the Securities and Exchange Commission.

Notwithstanding anything contained herein to the contrary, the following defined terms may be amended or supplemented in accordance with the provisions of Section 4.6 and 4.7 of the Power Purchase Agreement, and to the extent the Power Purchase Agreement is amended for such purpose, such following defined terms shall automatically (without any further action) be amended and supplemented for all purposes hereof: Capital Improvement Projects, Local Unit Facilities, Projects, Renewable Energy Projects, and Series 2011 Local Units.

Section 1.3. Interpretation. Words of masculine gender include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular include the plural and vice versa, and words importing Persons include corporations, associations, partnerships (including limited partnerships), trusts, firms and other legal entities, including public bodies, as well as natural persons. Articles and Sections referred to by number mean the corresponding Articles and Sections of this Company Continuing Disclosure Agreement. The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms as used in this Company Continuing Disclosure Agreement, refer to this Company Continuing Disclosure Agreement as a whole unless otherwise expressly stated.

The headings of this Company Continuing Disclosure Agreement are for convenience only and shall not define or limit the provisions hereof.

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## ARTICLE 2

### CONTINUING DISCLOSURE COVENANTS AND REPRESENTATIONS

Section 2.1. Continuing Disclosure Covenants of the Company. The Company agrees that it will provide, or, if the Company has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to provide:

(a) Not later than two hundred twenty-five (225) days after the end of each Fiscal Year, commencing with the Fiscal Year of the Company ending after December 31, 2011, an Annual Report to the MSRB via electronic format (accompanied by such identifying information as is prescribed by the MSRB) and to the Authority; provided that the Financial Statements of the Company may be submitted separately from the balance of the Annual Report and later than the date required herein for the filing of the Annual Report if the Financial Statements of the Company are not available by that date, but only if the unaudited financial statements of the Company are included in the Annual Report; and

(b) Not later than fifteen (15) days prior to the date of each year specified in subsection 2.1(a), a copy of the Annual Report, complete to the extent required in Section 2.1(a), to the Trustee and the Dissemination Agent, if the Company has appointed or engaged a Dissemination Agent.

Section 2.2. Continuing Disclosure Representations of the Company. The Company represents and warrants that:

(a) Financial Statements shall be prepared according to GAAP.

(b) Financial Statements shall be audited by an independent certified public accountant or a registered municipal accountant or such other accountant as shall be permitted or required under State law in accordance with GAAS.

Section 2.3. Form of Annual Report. (a) The Annual Report may be submitted by the Company, or on behalf thereof, as a single document or as separate documents comprising a package.

(b) Any or all of the items which must be included in the Annual Report may be incorporated by reference from other documents, including official statements delivered in connection with other financings issued on behalf of the Company or related public entities thereof which have been made available to the public on the MSRB's website or filed with the SEC. If the document incorporated by reference is a final official statement, it must be available from the MSRB. The Company shall clearly identify each such other document so incorporated by reference.

(c) The Annual Report for any Fiscal Year containing any modified operating data or financial information (as contemplated by Sections 4.9 and 4.10 hereof) for such Fiscal Year

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shall explain, in narrative form, the reasons for such modification and the effect of such modification on the Annual Report being provided for such Fiscal Year.

Section 2.4. Responsibilities and Duties of the Authority, the Company, the Dissemination Agent and the Trustee.

(a) If fifteen (15) days prior to the date specified in subsection 2.1(a), the Trustee has not received a copy of the Annual Report, complete to the extent required in Section 2.1(a), the Trustee shall notify the Company in writing to provide notice of the Company's obligations pursuant to Sections 2.1(a), 2.1(b) and 2.4(c) hereof.

(b) If the Trustee, by the date specified in subsection 2.1(a) herein, has not received a written report from the Company, as required by Section 2.4(c) hereof, indicating that an Annual Report, complete to the extent required in Section 2.1(a), been provided to the MSRB and to the Authority by the date specified in subsection 2.1(a), the Trustee shall send a notice to the MSRB, in electronic format, substantially in the form attached hereto as Exhibit B, together with identifying information as prescribed by the MSRB, with a copy thereof to the Authority and the Company.

(c) The Company shall, or, if the Company has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to, by the date specified in subsection 2.1(a) herein, provide a written report to the Authority and the Trustee (and, if a Dissemination Agent has been appointed, to the Company), upon which said parties may rely, certifying that the Annual Report, complete to the extent required in Section 2.1(a), has been provided pursuant to this Continuing Disclosure Agreement, and stating the date that it was provided to the MSRB.

(d) If the Fiscal Year of the Company changes, the Company shall promptly notify, in writing, the Authority and the Trustee, and shall disclose such change in its next Annual Report.

Section 2.5. Appointment, Removal and Resignation of the Dissemination Agent.

(a) The Company may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Company Continuing Disclosure Agreement and shall provide notice of such appointment to the Trustee and the Authority. Thereafter, the Company may discharge any such Dissemination Agent and satisfy its obligations under this Company Continuing Disclosure Agreement without the assistance of a Dissemination Agent, or the Company may discharge a Dissemination Agent and appoint a successor Dissemination Agent, such discharge to be effective on the date of the appointment of a successor Dissemination Agent. The Company shall provide notice of the discharge of a Dissemination Agent to the Trustee and the Authority and shall further indicate either the decision of the Company to satisfy its obligations under this Company Continuing Disclosure Agreement without the assistance of a Dissemination Agent or the identity of the new Dissemination Agent. In the absence of a separate Dissemination Agent, the Trustee shall assume and discharge all of the obligations as Dissemination Agent under this Company Continuing Disclosure Agreement.

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(b) The Dissemination Agent shall have only such duties as are specifically set forth in this Company Continuing Disclosure Agreement.

(c) The Dissemination Agent, or any successor thereto, may at any time resign and be discharged of its duties and obligations hereunder by giving not less than thirty (30) days written notice to the Company. Such resignation shall take effect on the date specified in such notice.

#### Section 2.6. Responsibilities and Duties of the Authority.

(a) Authority agrees that it will provide in a timely manner to the MSRB notice of any of the following events with respect to the Series 2011 Bonds (each, a "Bond Disclosure Event"), if material, and will provide a copy of such notice to the Trustee and the Company, for informational purposes only:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults;
- (iii) Unscheduled draws on debt service reserves, reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements, reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions or events affecting the tax-exempt status of the Series 2011 Bonds;
- (vii) Modifications to rights of the holder of the Series 2011 Bonds;
- (viii) Bond calls (other than regularly scheduled mandatory sinking fund redemptions for which notice of redemption has been given to the Bondholders as required pursuant to the provisions of the Bond Resolution);
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Series 2011 Bonds; and
- (xi) Rating changes.

(b) If the Authority has determined that the occurrence of a Bond Disclosure Event would be material, the Authority shall promptly provide a notice of such occurrence to the MSRB (the "Bond Disclosure Event Notice") in electronic format together with identifying

information as prescribed by the MSRB, in the form determined by the Authority, provided that the Bond Disclosure Event Notice pertaining to the occurrence of a Bond Disclosure Event described in clauses 2.6(a)(viii) (Bond calls) or 2.6(a)(ix) (defeasances) need not be given under this subsection any earlier than the time when the notice (if any) of such Bond Disclosure Event shall be given to Series 2011 Bondholders of affected Bonds as provided in Section 4.05, Article XII and other related sections of the Bond Resolution. The obligations of the Authority to provide the notices required under this Continuing Disclosure Agreement are in addition to, and not in substitution of, any of the obligations (if any) of the Trustee to provide notices of events of default to Series 2011 Bondholders under said Section 4.05, Article XII and other related sections of the Bond Resolution. The Authority shall file a copy of each Bond Disclosure Event Notice with the Trustee and the Company, for informational purposes only.

#### Section 2.7. Immunities and Liabilities of the Trustee.

Article X of the Bond Resolution, relating to compensation, reimbursement, immunities and liabilities of the Trustee, is hereby made applicable to its and the Dissemination Agent's responsibilities under this Company Continuing Disclosure Agreement. The immunities and liabilities of the Trustee and Dissemination Agent shall survive the termination of the Bond Resolution, as amended and supplemented and the removal or resignation of the Trustee or the Dissemination Agent. The Trustee shall have no obligation hereunder to provide, or to monitor the Authority's obligation to provide, Bond Disclosure Event Notices.

### ARTICLE 3

#### REMEDIES

##### Section 3.1 Remedies.

(a) The Trustee may (and at the request of the Holders of at least twenty-five percent (25%) in aggregate principal amount of outstanding the Series 2011 Bonds, and after provision of indemnity in accordance with Section 10.05 of the Bond Resolution, shall), or any Bondholder, for the equal benefit and protection of all Bondholders similarly situated, may take whatever action at law or in equity against the Company and the Authority and any of their respective officers, agents and employees which is necessary or desirable to enforce the specific performance and observance of any obligation, agreement or covenant of the Company and the Authority under this Company Continuing Disclosure Agreement and may compel the Company or the Authority or any of their respective officers, agents or employees (except for the Dissemination Agent with respect to the obligations, agreements and covenants of the Company), to perform and carry out their duties under this Company Continuing Disclosure Agreement; provided, that no person or entity shall be entitled to recover monetary damages hereunder under any circumstances; and provided further that any Bondholder, acting for the equal benefit and protection of all Bondholders similarly situated, may pursue specific performance only with respect to the failure to file the Annual Reports and Bond Disclosure Event Notices required by this Company Continuing Disclosure Agreement, and may not pursue specific performance in challenging the adequacy of Annual Reports which have been filed pursuant to the provisions hereof.

(b) In case the Trustee or any Bondholder shall have proceeded to enforce its rights under this Company Continuing Disclosure Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or any Bondholder, as the case may be, then and in every such case the Company, the Authority, the Trustee and any Bondholder, as the case may be, shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Company, the Authority, the Trustee and any Bondholder shall continue as though no such proceeding had been taken.

(c) A failure by the Authority or the Company to perform their respective obligations under this Company Continuing Disclosure Agreement shall not be deemed an event of default under any other agreement entered into in connection with the issuance of the Series 2011 Bonds or the Bond Resolution, and the sole remedy under this Company Continuing Disclosure Agreement in the event of any failure by the Authority or the Company to comply with this Company Continuing Disclosure Agreement shall be as set forth in subsection 3.1(a) of this Company Continuing Disclosure Agreement.

### ARTICLE 4

#### MISCELLANEOUS

Section 4.1. Purpose of this Company Continuing Disclosure Agreement. This Company Continuing Disclosure Agreement is being executed and delivered by the Company, the Trustee and the Authority for the benefit of the Bondholders and in order to assist the Underwriter in complying with clause (b)(5) of Rule 15c2-12.

##### Section 4.2. The Authority and the Bondholders.

(a) The Authority may enforce any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee or the Holders of the Series 2011 Bonds.

(b) Each Bondholder is hereby recognized as being a third-party beneficiary hereunder and each may enforce, for the equal benefit and protection of all Bondholders similarly situated, any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee, to the extent permitted in Section 3.1(a) hereof.

Section 4.3. Obligations of the Authority Hereunder; Indemnified Parties. Neither the Authority nor any member, official, employee, counsel, consultant or agent of the Authority or any person executing the Series 2011 Bonds shall bear any obligation for the performance of any duty, agreement or covenant of the Company or the Trustee under this Company Continuing Disclosure Agreement. The obligations of the Authority under this Company Continuing Disclosure Agreement are expressly limited to the duties set forth in Sections 2.6, 4.9(c) and 4.12 herein.

The Company agrees to indemnify and hold harmless the Authority, any member, officer, official, employee, counsel (including, without limitation, Bond Counsel to the Authority), consultant and agent of the Authority, including the Trustee and the Dissemination Agent and any of their members, officers or employees or agents or any purchaser of the Series 2011 Bonds (collectively, the "Indemnified Parties"), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by the Company's failure to perform or observe any of the Company's obligations, agreements or covenants under the terms of this Company Continuing Disclosure Agreement, but only if and insofar as such losses, claims, damages, liabilities or expenses are caused directly or indirectly by any such failure of the Company to perform. In case any action shall be brought against the Indemnified Parties based upon this Company Continuing Disclosure Agreement and in respect of which indemnity may be sought against the Company, the Indemnified Parties shall promptly notify the Company in writing. Upon receipt of such notification, the Company shall promptly assume the defense of such action, including the retention of counsel, the payment of all expenses in connection with such action and the right to negotiate and settle any such action on behalf of such party to the extent allowed by law. Any Indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless the employment of such counsel has been specifically

authorized by the Company, or unless by reason of conflict of interest determined by the written opinion of counsel to any such party, it is advisable for such party to be represented by separate counsel, to be retained by the Company, in which case the fees and expenses of such separate counsel shall be borne by the Company. The Company shall not be liable for any settlement of any such action effected without its written consent, but if settled with the written consent of the Company or if there be a final judgment for the plaintiff in any such action with or without written consent, the Company agrees to indemnify and hold harmless the indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Nothing in this paragraph shall require or obligate the Company to indemnify or hold harmless the indemnified Parties from or against any loss, claim, damage, liability or expense caused by any negligence, recklessness or intentional misconduct of the indemnified Parties in connection with the Company's performance of its obligations, agreements and covenants under this Company Continuing Disclosure Agreement. The provisions of this section shall survive the termination of this Company Continuing Disclosure Agreement and the removal or resignation of the Trustee.

Section 4.4. Additional Information. Nothing in this Company Continuing Disclosure Agreement shall be deemed to prevent the Company or the Authority (a) from disseminating any other information, using the means of dissemination set forth in this Company Continuing Disclosure Agreement or any other means of communication, or (b) including, in addition to that which is required by this Company Continuing Disclosure Agreement, in the case of the Company, any other information in any Annual Report and in the case of the Authority, any other information in any Bond Disclosure Event Notice. If the Authority chooses to include any information in any Annual Report or if the Authority chooses to include any information in any Bond Disclosure Event Notice, in addition to that which is specifically required by this Company Continuing Disclosure Agreement, neither the Company nor the Authority shall have any obligation under this Company Continuing Disclosure Agreement to update such information or include it in any future Annual Report or Bond Disclosure Event Notice, as the case may be.

Section 4.5. Notices. All notices required to be given or authorized to be given by each party pursuant to this Company Continuing Disclosure Agreement shall be in writing and shall be sent by registered or certified mail (as well as by facsimile), addressed to: in the case of the Company, \_\_\_\_\_ with a copy to: \_\_\_\_\_; in the case of the Trustee, [Name of Trustee]; and in the case of the Authority, the Morris County Improvement Authority, P.O. Box 900, Morristown, NJ 07963-0900 (attention: Chairman), with a copy to Stephen B. Pearlman, Esq., of Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, NJ 07054. In addition, all notices sent to the Company shall also be sent to the Company's auditor and bond counsel.

Section 4.6. Assignments. This Company Continuing Disclosure Agreement may not be assigned by any party without the consent of the others and, as a condition to any such assignment, only upon the assumption in writing of all of the obligations imposed upon such party by this Company Continuing Disclosure Agreement.

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(c) Upon entering into any amendment or modification required or permitted by this Company Continuing Disclosure Agreement which materially affects the interests of the Holders of the Series 2011 Bonds, the Authority shall deliver to the MSRB written notice of any such amendment or modification.

(d) The Company, the Trustee and the Authority shall be entitled to rely conclusively upon a written opinion of Bond Counsel to the Authority to the effect that such amendments or modifications comply with the conditions and provisions of this Section 4.9.

Section 4.10. Amendments Required by Rule 15c2-12. The Company, the Trustee and the Authority each recognize that the provisions of this Company Continuing Disclosure Agreement are intended to enable the compliance with Rule 15c2-12. If, as a result of a change in Rule 15c2-12 or in the interpretation thereof or the promulgation of a successor rule, statute or regulation thereto, a change in this Company Continuing Disclosure Agreement shall be permitted or necessary to assure continued compliance with Rule 15c2-12 and upon delivery of an opinion of Bond Counsel to the Authority to the effect that such amendments shall be permitted or necessary to assure continued compliance with Rule 15c2-12 as so amended or interpreted, then the Company, the Trustee and the Authority shall amend this Company Continuing Disclosure Agreement to comply with and be bound by any such amendment to this Company Continuing Disclosure Agreement to the extent necessary or desirable to assure compliance with the provisions of Rule 15c2-12 and provide the written notice of such amendment as required by subsection 4.9(c) hereof.

Section 4.11. Governing Law. This Company Continuing Disclosure Agreement shall be governed exclusively by and construed in accordance with the laws of the State and the laws of the United States, as applicable.

Section 4.12. Commencement and Termination of Continuing Disclosure Obligations. Except as otherwise provided herein, the obligations of the Authority, the Company and the Trustee hereunder shall be in full force and effect from the date of issuance of the Series 2011 Bonds and shall continue in effect until the earlier of (i) the date the Series 2011 Bonds are no longer outstanding in accordance with the terms of the Bond Resolution or (ii) the Company's obligations under the Series 2011 Bonds are no longer outstanding, and only after the Authority delivers written notice to such effect to the MSRB.

Section 4.13. Prior Undertakings. The Company has not failed to comply in any material respect with any prior continuing disclosure undertaking made by the Company, if any, in accordance with Rule 15c2-12.

Section 4.14. Binding Effect. This Company Continuing Disclosure Agreement shall inure to the benefit of and shall be binding upon the Company, the Trustee and the Authority and their respective successors and assigns.

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Section 4.7. Severability. If any provision of this Company Continuing Disclosure Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 4.8. Execution of Counterparts. This Company Continuing Disclosure Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Each party hereto may sign the same counterpart or each party hereto may sign a separate counterpart.

Section 4.9. Amendments, Changes and Modifications.

(a) Except as otherwise provided in this Company Continuing Disclosure Agreement, subsequent to the initial issuance of the Series 2011 Bonds and prior to their payment in full (or provision for payment thereof having been made in accordance with the provisions of the Bond Resolution), this Company Continuing Disclosure Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto.

(b) Without the consent of any Bondholders, the Company, the Trustee and the Authority at any time and from time to time may enter into any amendments or modifications to this Company Continuing Disclosure Agreement for any of the following purposes:

(i) to add to covenants and agreements of the Company or the Authority hereunder for the benefit of the Bondholders, or to surrender any right or power conferred upon the Company or the Authority by this Company Continuing Disclosure Agreement;

(ii) to modify the contents, presentation and format of the Annual Report from time to time to conform to changes in accounting or disclosure principles or practices and legal requirements followed by or applicable to the Company or to reflect changes in the identity, nature or status of the Company or in the business, structure or operations of the Company or any mergers, consolidations, acquisitions or dispositions made by or affecting the Company; provided that any such modification shall not be in contravention of Rule 15c2-12 as then in effect at the time of such modification; or

(iii) to cure any ambiguity, to correct or supplement any provision hereof which may be inconsistent with any other provision hereof, or to include any other provisions with respect to matters or questions arising under this Company Continuing Disclosure Agreement which, in each case, would have complied with the requirements of Rule 15c2-12 at the time of the primary offering, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances;

provided, that prior to approving any such amendment or modification an opinion of Bond Counsel to the Authority is delivered to the Trustee to the effect that such amendment or modification does not adversely affect the interests of the Holders of the Series 2011 Bonds in any material respect.

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IN WITNESS WHEREOF, [COMPANY], [NAME OF TRUSTEE] and the MORRIS COUNTY IMPROVEMENT AUTHORITY have caused this Company Continuing Disclosure Agreement to be executed in their respective names and their corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

[ATTEST] [COMPANY]  
By: \_\_\_\_\_  
Name:  
Title:

BY: \_\_\_\_\_  
Name:  
Title:

ATTEST: [NAME OF TRUSTEE],  
as Trustee  
By: \_\_\_\_\_

[SEAL] ATTEST: THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY

Christina Ramirez  
Secretary By: John Bonanni  
Chairperson

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EXHIBIT A

EXCERPT OF FINAL OFFICIAL STATEMENT

1. Section heading of the Final Official Statement entitled "THE COMPANY".
2. Appendix C to the Final Official Statement.

EXHIBIT B

FORM OF NOTICE TO THE MSRB OF  
FAILURE TO FILE ANNUAL REPORT

Name of Obligated Person: \_\_\_\_\_

Name of Bond Issue: The Morris County Improvement Authority's  
County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011 ("Bonds")

Date of Issuance: Series 2011A Bonds: \_\_\_\_\_, 2011  
Series 2011B Bonds: \_\_\_\_\_, 2012

CUSIP Numbers:

NOTICE IS HEREBY GIVEN that \_\_\_\_\_ (the "Company") has not provided an Annual Report with respect to the above-named Bonds as required by the "Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of November 1, 2011 among the Company, [Name of Trustee], as Trustee, and the Morris County Improvement Authority. [The Company anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_ [NAME OF TRUSTEE], as Trustee

By: \_\_\_\_\_

COUNTY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)

COUNTY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)

among  
COUNTY OF SUSSEX  
and  
[NAME OF TRUSTEE], as Trustee  
and

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

Dated as of November 1, 2011

With respect to The Morris County Improvement Authority's  
Not to Exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011

THIS COUNTY CONTINUING DISCLOSURE AGREEMENT (SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011) (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "County Continuing Disclosure Agreement") is made and entered into as of November 1, 2011 by and among the COUNTY OF SUSSEX, NEW JERSEY, a political subdivision of the hereinafter defined State (the "County"), [NAME OF TRUSTEE] (the "Bank"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State of New Jersey (the "State"), where the Bank acts as trustee under and pursuant to the hereinafter defined Bond Resolution (including any successors and assigns, the "Trustee"), and the MORRIS COUNTY IMPROVEMENT AUTHORITY, a public body corporate and politic duly created and validly existing under the laws of the State (including any successors and assigns, the "Authority").

WITNESSETH

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act"), and other applicable law,

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WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants"), if any, and together with the Authority Consultants, the "Consultants"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or

for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects", and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the

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aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "Series 2011 Bonds");

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process as underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "Series 2011B Notes", and together with the Series 2011A Bonds, the previously defined "Series 2011 Bonds"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000;

WHEREAS, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

WHEREAS, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each

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dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(c) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, Contracting for Renewable Energy Services, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, Contracting for Renewable Energy Services: Update on Power Purchase Agreements, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "Company RFP") and the receipt of proposals from prospective solar developers, including that (the "Company Proposal") of the successful respondent (the "Company"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or

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acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(c) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "BPU"), whereby, among other things,

(i) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(ii) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(iii) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty

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ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the

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County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

WHEREAS, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

WHEREAS, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c-12") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure

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Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement" and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent ("Private Placement Agent"), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

(a) Authorize the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement");

(b) If the Series 2011 Bonds shall be sold by:

(i) Competitive sale, authorize the distribution of a notice of sale ("Notice of Sale"), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the "Underwriter"), or

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(ii) Negotiated sale, enter into a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds; and

(c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement", and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (i) above, the "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

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**ARTICLE 1**  
**DEFINITIONS AND EXHIBITS**

**SECTION 1.1. Definitions.**

The following additional terms shall have the meanings specified below:

"Annual Report" means Financial Statements and Operating Data provided at least annually with respect to the County.

"Bondholder" or "Holder" or any similar term, when used with reference to the Series 2011 Bonds, means any person who shall be the registered owner of any outstanding the Series 2011 Bonds, including holders of beneficial interests in the Series 2011 Bonds.

"Bond Disclosure Event" means any event described in subsection 2.6(a) of this County Continuing Disclosure Agreement.

"Bond Disclosure Event Notice" means the notice to the MSRB as provided in subsection 2.6(b) of this County Continuing Disclosure Agreement.

"Dissemination Agent" means an entity acting in its capacity as Dissemination Agent under this County Continuing Disclosure Agreement, or any successor Dissemination Agent designated in writing by the County and which has filed a written acceptance of such designation.

"Final Official Statement" means the Official Statement relating to the Series 2011A bonds dated \_\_\_\_\_, 2011.

"Financial Statements" means the audited financial statements of the County for each Fiscal Year and includes balance sheets, statements of changes in fund balances and statements of current funds, revenues, expenditures and other charges or statements which convey similar information.

"Fiscal Year" means the fiscal year of the County as determined by the County from time to time pursuant to State law. As of the date of this County Continuing Disclosure Agreement, the Fiscal Year of the County begins on [January 1 of each calendar year and closes on the following December 31].

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States of America, consistently applied, as modified by governmental accounting

standards and mandated State statutory principles applicable to the County as may be in effect from time to time.

"GAAS" means generally accepted auditing standards as in effect from time to time in the United States of America, consistently applied, as modified by governmental auditing standards and mandated State statutory principles applicable to the County as may be in effect from time to time.

"MSRB" means the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to Rule 15c2-12. Effective August 1, 2009 and until otherwise designated by the MSRB or the SEC, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) website of the MSRB, currently located at <http://emma.msrb.org>.

"Operating Data" means certain financial and statistical information of the County, which for purposes of this County Continuing Disclosure Agreement shall include the financial and statistical information in Appendix A and B to the Final Official Statement, a copy of which is attached hereto as Exhibit A.

"SEC" means the Securities and Exchange Commission.

Notwithstanding anything contained herein to the contrary, the following defined terms may be amended or supplemented in accordance with the provisions of Section 4.6 and 4.7 of the Power Purchase Agreement, and to the extent the Power Purchase Agreement is amended for such purpose, such following defined terms shall automatically (without any further action) be amended and supplemented for all purposes hereof: Capital Improvement Projects, Local Unit Facilities, Projects, Renewable Energy Projects, and Series 2011 Local Units.

**Section 1.3. Interpretation.** Words of masculine gender include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular include the plural and vice versa, and words importing Persons include corporations, associations, partnerships (including limited partnerships), trusts, firms and other legal entities, including public bodies, as well as natural persons. Articles and Sections referred to by number mean the corresponding Articles and Sections of this County Continuing Disclosure Agreement. The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms as used in this County Continuing Disclosure Agreement, refer to this County Continuing Disclosure Agreement as a whole unless otherwise expressly stated.

The headings of this County Continuing Disclosure Agreement are for convenience only and shall not define or limit the provisions hereof.

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**ARTICLE 2**

**CONTINUING DISCLOSURE COVENANTS AND REPRESENTATIONS**

**Section 2.1. Continuing Disclosure Covenants of the County.** The County agrees that it will provide, or, if the County has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to provide:

(a) Not later than two hundred twenty-five (225) days after the end of each Fiscal Year, commencing with the Fiscal Year of the County ending after December 31, 2011, an Annual Report to the MSRB via electronic format (accompanied by such identifying information as is prescribed by the MSRB) and to the Authority; provided that the Financial Statements of the County may be submitted separately from the balance of the Annual Report and later than the date required herein for the filing of the Annual Report if the Financial Statements of the County are not available by that date, but only if the unaudited financial statements of the County are included in the Annual Report; and

(b) Not later than fifteen (15) days prior to the date of each year specified in subsection 2.1(a), a copy of the Annual Report, complete to the extent required in Section 2.1(a), to the Trustee and the Dissemination Agent, if the County has appointed or engaged a Dissemination Agent.

**Section 2.2. Continuing Disclosure Representations of the County.** The County represents and warrants that:

(a) Financial Statements shall be prepared according to the audit requirements prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey and Government Auditing standards issued by the Comptroller General of the United States.

(b) Financial Statements shall be audited by an independent certified public accountant or a registered municipal accountant or such other accountant as shall be permitted or required under State law in accordance with GAAS.

**Section 2.3. Form of Annual Report.** (a) The Annual Report may be submitted by the County, or on behalf thereof, as a single document or as separate documents comprising a package.

(b) Any or all of the items which must be included in the Annual Report may be incorporated by reference from other documents, including official statements delivered in connection with other financings issued on behalf of the County or related public entities thereof which have been made available to the public on the MSRB's website or filed with the SEC. If the document incorporated by reference is a final official statement, it must be available from the

MSRB. The County shall clearly identify each such other document so incorporated by reference.

(c) The Annual Report for any Fiscal Year containing any modified operating data or financial information (as contemplated by Sections 4.9 and 4.10 hereof) for such Fiscal Year shall explain, in narrative form, the reasons for such modification and the effect of such modification on the Annual Report being provided for such Fiscal Year.

**Section 2.4. Responsibilities and Duties of the Authority, the County, the Dissemination Agent and the Trustee.**

(a) If fifteen (15) days prior to the date specified in subsection 2.1(a), the Trustee has not received a copy of the Annual Report, complete to the extent required in Section 2.1(a), the Trustee shall notify the County in writing to provide notice of the County's obligations pursuant to Sections 2.1(a), 2.1(b) and 2.4(c) hereof.

(b) If the Trustee, by the date specified in subsection 2.1(a) herein, has not received a written report from the County, as required by Section 2.4(c) hereof, indicating that an Annual Report, complete to the extent required in Section 2.1(a), been provided to the MSRB and to the Authority by the date specified in subsection 2.1(a), the Trustee shall send a notice to the MSRB, in electronic format, substantially in the form attached hereto as Exhibit B, together with identifying information as prescribed by the MSRB, with a copy thereof to the Authority and the County.

(c) The County shall, or, if the County has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to, by the date specified in subsection 2.1(a) herein, provide a written report to the Authority and the Trustee (and, if a Dissemination Agent has been appointed, to the County), upon which said parties may rely, certifying that the Annual Report, complete to the extent required in Section 2.1(a), has been provided pursuant to this Continuing Disclosure Agreement, and stating the date that it was provided to the MSRB.

(d) If the Fiscal Year of the County changes, the County shall promptly notify, in writing, the Authority and the Trustee, and shall disclose such change in its next Annual Report.

**Section 2.5. Appointment, Removal and Resignation of the Dissemination Agent.**

(a) The County may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this County Continuing Disclosure Agreement and shall provide notice of such appointment to the Trustee and the Authority. Thereafter, the County may discharge any such Dissemination Agent and satisfy its obligations under this County Continuing Disclosure Agreement without the assistance of a Dissemination Agent, or the County may discharge a Dissemination Agent and appoint a successor Dissemination Agent, such discharge to be effective on the date of the appointment of a successor Dissemination Agent. The County shall provide notice of the discharge of a Dissemination Agent to the Trustee

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and the Authority and shall further indicate either the decision of the County to satisfy its obligations under this County Continuing Disclosure Agreement without the assistance of a Dissemination Agent or the identity of the new Dissemination Agent. In the absence of a separate Dissemination Agent, the Trustee shall assume and discharge all of the obligations as Dissemination Agent under this County Continuing Disclosure Agreement.

(b) The Dissemination Agent shall have only such duties as are specifically set forth in this County Continuing Disclosure Agreement.

(c) The Dissemination Agent, or any successor thereto, may at any time resign and be discharged of its duties and obligations hereunder by giving not less than thirty (30) days written notice to the County. Such resignation shall take effect on the date specified in such notice.

**Section 2.6. Responsibilities and Duties of the Authority.**

(a) Authority agrees that it will provide in a timely manner to the MSRB notice of any of the following events with respect to the Series 2011 Bonds (each, a "Bond Disclosure Event"), if material, and will provide a copy of such notice to the Trustee and the County, for informational purposes only:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults;
- (iii) Unscheduled draws on debt service reserves, reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements, reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions or events affecting the tax-exempt status of the Series 2011 Bonds;
- (vii) Modifications to rights of the holder of the Series 2011 Bonds;
- (viii) Bond calls (other than regularly scheduled mandatory sinking fund redemptions for which notice of redemption has been given to the Bondholders as required pursuant to the provisions of the Bond Resolution);
- (ix) Defeasances;

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**ARTICLE 3**

**REMEDIES [Subject to Bond Resolution]**

**Section 3.1 Remedies.**

(a) The Trustee may (and at the request of the Holders of at least twenty-five percent (25%) in aggregate principal amount of outstanding the Series 2011 Bonds, and after provision of indemnity in accordance with Section 10.05 of the Bond Resolution, shall), or any Bondholder, for the equal benefit and protection of all Bondholders similarly situated, may take whatever action at law or in equity against the County and the Authority and any of their respective officers, agents and employees which is necessary or desirable to enforce the specific performance and observance of any obligation, agreement or covenant of the County and the Authority under this County Continuing Disclosure Agreement and may compel the County or the Authority or any of their respective officers, agents or employees (except for the Dissemination Agent with respect to the obligations, agreements and covenants of the County), to perform and carry out their duties under this County Continuing Disclosure Agreement; provided, that no person or entity shall be entitled to recover monetary damages hereunder under any circumstances; and provided further that any Bondholder, acting for the equal benefit and protection of all Bondholders similarly situated, may pursue specific performance only with respect to the failure to file the Annual Reports and Bond Disclosure Event Notices required by this County Continuing Disclosure Agreement, and may not pursue specific performance in challenging the adequacy of Annual Reports which have been filed pursuant to the provisions hereof.

(b) In case the Trustee or any Bondholder shall have proceeded to enforce its rights under this County Continuing Disclosure Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or any Bondholder, as the case may be, then and in every such case the County, the Authority, the Trustee and any Bondholder, as the case may be, shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the County, the Authority, the Trustee and any Bondholder shall continue as though no such proceeding had been taken.

(c) A failure by the Authority or the County to perform their respective obligations under this County Continuing Disclosure Agreement shall not be deemed an event of default under any other agreement entered into in connection with the issuance of the Series 2011 Bonds or the Bond Resolution, and the sole remedy under this County Continuing Disclosure Agreement in the event of any failure by the Authority or the County to comply with this County Continuing Disclosure Agreement shall be as set forth in subsection 3.1(a) of this County Continuing Disclosure Agreement.

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- (x) Release, substitution, or sale of property securing repayment of the Series 2011 Bonds; and
- (xi) Rating changes.

(b) If the Authority has determined that the occurrence of a Bond Disclosure Event would be material, the Authority shall promptly provide a notice of such occurrence to the MSRB (the "Bond Disclosure Event Notice") in electronic format together with identifying information as prescribed by the MSRB, in the form determined by the Authority, provided, that the Bond Disclosure Event Notice pertaining to the occurrence of a Bond Disclosure Event described in clauses 2.6(a)(viii) (Bond calls) or 2.6(a)(ix) (defeasances) need not be given under this subsection any earlier than the time when the notice (if any) of such Bond Disclosure Event shall be given to Series 2011 Bondholders of affected Bonds as provided in Section 6.06 and other related sections of Bond Resolution. The obligations of the Authority to provide the notices required under this Continuing Disclosure Agreement are in addition to, and not in substitution of, any of the obligations (if any) of the Trustee to provide notices of events of default to Series 2011 Bondholders under said Section 6.06 and other related sections of Bond Resolution. The Authority shall file a copy of each Bond Disclosure Event Notice with the Trustee and the County, for informational purposes only.

**Section 2.7. Immunities and Liabilities of the Trustee.**

Article X of the Bond Resolution, relating to compensation, reimbursement, immunities and liabilities of the Trustee, is hereby made applicable to its and the Dissemination Agent's responsibilities under this County Continuing Disclosure Agreement. The immunities and liabilities of the Trustee and Dissemination Agent shall survive the termination of the Bond Resolution, as amended and supplemented and the removal or resignation of the Trustee or the Dissemination Agent. The Trustee shall have no obligation hereunder to provide, or to monitor the Authority's obligation to provide, Bond Disclosure Event Notices.

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**ARTICLE 4**

**MISCELLANEOUS**

**Section 4.1. Purposes of this County Continuing Disclosure Agreement.** This County Continuing Disclosure Agreement is being executed and delivered by the County, the Trustee and the Authority for the benefit of the Bondholders and in order to assist the Participating Underwriter in complying with clause (b)(5) of Rule 15c2-12.

**Section 4.2. The Authority and the Bondholders.**

(a) The Authority may enforce any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee or the Holders of the Series 2011 Bonds.

(b) Each Bondholder is hereby recognized as being a third-party beneficiary hereunder and each may enforce, for the equal benefit and protection of all Bondholders similarly situated, any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee, to the extent permitted in Section 3.1(a) hereof.

**Section 4.3. Obligations of the Authority Hereunder; Indemnified Parties.** Neither the Authority nor any member, official, employee, counsel, consultant or agent of the Authority or any person executing the Series 2011 Bonds shall bear any obligation for the performance of any duty, agreement or covenant of the County or the Trustee under this County Continuing Disclosure Agreement. The obligations of the Authority under this County Continuing Disclosure Agreement are expressly limited to the duties set forth in Sections 2.6, 4.9(c) and 4.12 herein.

The County agrees to indemnify and hold harmless the Authority, any member, officer, official, employee, counsel (including, without limitation, Bond Counsel to the Authority), consultant and agent of the Authority, including the Trustee and the Dissemination Agent and any of their members, officers or employees or agents or any purchaser of the Series 2011 Bonds (collectively, the "Indemnified Parties"), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by the County's failure to perform or observe any of the County's obligations, agreements or covenants under the terms of this County Continuing Disclosure Agreement, but only if and insofar as such losses, claims, damages, liabilities or expenses are caused directly or indirectly by any such failure of the County to perform. In case any action shall be brought against the Indemnified Parties based upon this County Continuing Disclosure Agreement and in respect of which indemnity may be sought against the County, the Indemnified Parties shall promptly notify the County in writing. Upon receipt of such notification, the County shall promptly assume the defense of such action, including the retention of counsel, the payment of all expenses in connection with such action and the right to negotiate and settle any such action on behalf of such party to the extent allowed by law. Any Indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such

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Indemnified Party unless the employment of such counsel has been specifically authorized by the County, or unless by reason of conflict of interest determined by the written opinion of counsel to any such party, it is advisable for such party to be represented by separate counsel, to be retained by the County, in which case the fees and expenses of such separate counsel shall be borne by the County. The County shall not be liable for any settlement of any such action effected without its written consent, but if settled with the written consent of the County or if there be a final judgment for the plaintiff in any such action with or without written consent, the County agrees to indemnify and hold harmless the Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Nothing in this paragraph shall require or obligate the County to indemnify or hold harmless the Indemnified Parties from or against any loss, claim, damage, liability or expense caused by any negligence, recklessness or intentional misconduct of the Indemnified Parties in connection with the County's performance of its obligations, agreements and covenants under this County Continuing Disclosure Agreement. The provisions of this section shall survive the termination of this County Continuing Disclosure Agreement and the removal or resignation of the Trustee.

Section 4.4. Additional Information. Nothing in this County Continuing Disclosure Agreement shall be deemed to prevent the County or the Authority (a) from disseminating any other information, using the means of dissemination set forth in this County Continuing Disclosure Agreement or any other means of communication, or (b) including in addition to that which is required by this County Continuing Disclosure Agreement, in the case of the County, any other information in any Annual Report and in the case of the Authority, any other information in any Bond Disclosure Event Notice. If the County chooses to include any information in any Annual Report or if the Authority chooses to include any information in any Bond Disclosure Event Notice, in addition to that which is specifically required by this County Continuing Disclosure Agreement, neither the County nor the Authority shall have any obligation under this County Continuing Disclosure Agreement to update such information or include it in any future Annual Report or Bond Disclosure Event Notice, as the case may be.

Section 4.5. Notices. All notices required to be given or authorized to be given by each party pursuant to this County Continuing Disclosure Agreement shall be in writing and shall be sent by registered or certified mail (as well as by facsimile), addressed to: in the case of the County, (attention: County Treasurer); in the case of the Trustee, [Name of Trustee],

and in the case of the Authority, the Morris County Improvement Authority, P.O. Box 900, Morristown, NJ 07963-0900 (attention: Chairman), with a copy to Stephen B. Pearlman, Esq., of Inglesino, Pearlman, Wyciskala & Taylor, L.L.C. 600 Parsippany Road, Suite 204, Parsippany, NJ 07054. In addition, all notices sent to the County shall also be sent to the County's auditor and bond counsel.

Section 4.6. Assignments. This County Continuing Disclosure Agreement may not be assigned by any party without the consent of the others and, as a condition to any such assignment, only upon the assumption in writing of all of the obligations imposed upon such party by this County Continuing Disclosure Agreement.

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modification does not adversely affect the interests of the Holders of the Series 2011 Bonds in any material respect.

(c) Upon entering into any amendment or modification required or permitted by this County Continuing Disclosure Agreement which materially affects the interests of the Holders of the Series 2011 Bonds, the Authority shall deliver to the MSRB written notice of any such amendment or modification.

(d) The County, the Trustee and the Authority shall be entitled to rely conclusively upon a written opinion of Bond Counsel to the Authority to the effect that such amendments or modifications comply with the conditions and provisions of this Section 4.9.

Section 4.10. Amendments Required by Rule 15c2-12. The County, the Trustee and the Authority each recognize that the provisions of this County Continuing Disclosure Agreement are intended to enable the compliance with Rule 15c2-12. If, as a result of a change in Rule 15c2-12 or in the interpretation thereof or the promulgation of a successor rule, statute or regulation thereto, a change in this County Continuing Disclosure Agreement shall be permitted or necessary to assure continued compliance with Rule 15c2-12 and upon delivery of an opinion of Bond Counsel to the Authority to the effect that such amendments shall be permitted or necessary to assure continued compliance with Rule 15c2-12 as so amended or interpreted, then the County, the Trustee and the Authority shall amend this County Continuing Disclosure Agreement to comply with and be bound by any such amendment to this County Continuing Disclosure Agreement to the extent necessary or desirable to assure compliance with the provisions of Rule 15c2-12 and provide the written notice of such amendment as required by subsection 4.9(c) hereof.

Section 4.11. Governing Law. This County Continuing Disclosure Agreement shall be governed exclusively by and construed in accordance with the laws of the State and the laws of the United States, as applicable.

Section 4.12. Commencement and Termination of Continuing Disclosure Obligations. Except as otherwise provided herein, the obligations of the Authority, the County and the Trustee hereunder shall be in full force and effect from the date of issuance of the Series 2011 Bonds and shall continue in effect until the earlier of (i) the date the Series 2011 Bonds are no longer outstanding in accordance with the terms of the Bond Resolution or (ii) the County's obligations under the County Refunding Bond are no longer outstanding, and only after the Authority delivers written notice to such effect to the MSRB.

Section 4.13. Prior Undertakings. The County has not failed to comply in any material respect with any prior continuing disclosure undertaking made by the County, if any, in accordance with Rule 15c2-12.

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Section 4.7. Severability. If any provision of this County Continuing Disclosure Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 4.8. Execution of Counterparts. This County Continuing Disclosure Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Each party hereto may sign the same counterpart or each party hereto may sign a separate counterpart.

Section 4.9. Amendments, Changes and Modifications.

(a) Except as otherwise provided in this County Continuing Disclosure Agreement, subsequent to the initial issuance of the Series 2011 Bonds and prior to their payment in full (or provision for payment thereof having been made in accordance with the provisions of the Bond Resolution), this County Continuing Disclosure Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto.

(b) Without the consent of any Bondholders, the County, the Trustee and the Authority at any time and from time to time may enter into any amendments or modifications to this County Continuing Disclosure Agreement for any of the following purposes:

(i) to add to covenants and agreements of the County or the Authority for the benefit of the Bondholders, or to surrender any right or power conferred upon the County or the Authority by this County Continuing Disclosure Agreement;

(ii) to modify the contents, presentation and format of the Annual Report from time to time to conform to changes in accounting or disclosure principles or practices and legal requirements followed by or applicable to the County or to reflect changes in the identity, nature or status of the County or in the business, structure or operations of the County or any mergers, consolidations, acquisitions or dispositions made by or affecting the County; provided that any such modification shall not be in contravention of Rule 15c2-12 as then in effect at the time of such modification; or

(iii) to cure any ambiguity, to correct or supplement any provision hereof which may be inconsistent with any other provision hereof, or to include any other provisions with respect to matters or questions arising under this County Continuing Disclosure Agreement which, in each case, would have complied with the requirements of Rule 15c2-12 at the time of the primary offering, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances;

provided, that prior to approving any such amendment or modification an opinion of Bond Counsel to the Authority is delivered to the Trustee to the effect that such amendment or

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Section 4.14. Binding Effect. This County Continuing Disclosure Agreement shall inure to the benefit of and shall be binding upon the County, the Trustee and the Authority and their respective successors and assigns.

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IN WITNESS WHEREOF, the COUNTY OF SUSSEX, [NAME OF TRUSTEE] and the MORRIS COUNTY IMPROVEMENT AUTHORITY have caused this County Continuing Disclosure Agreement to be executed in their respective names and their corporate seals to be hereto affixed and attested by their duly authorized officers, all as of the date first above written.

EXHIBIT A

EXCERPT OF FINAL OFFICIAL STATEMENT

- 1. Appendix A to the Final Official Statement.
- 2. Appendix B to the Final Official Statement.

[SEAL]

ATTEST: COUNTY OF SUSSEX, NEW JERSEY

\_\_\_\_\_  
 Clerk of the Board of Freeholders

By: \_\_\_\_\_  
 Freeholder Director

ATTEST: [NAME OF TRUSTEE],  
as Trustee

\_\_\_\_\_  
By: \_\_\_\_\_

[SEAL]

ATTEST: THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY

\_\_\_\_\_  
 Christina Ramirez  
 Secretary

By: \_\_\_\_\_  
 John Bonanni  
 Chairman

EXHIBIT B

FORM OF NOTICE TO MSRB OF  
FAILURE TO FILE ANNUAL REPORT

Name of Obligated Person: The County of Sussex

Name of Bond Issue: The Morris County Improvement Authority's  
County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011 ("Bonds")

Date of Issuance: Series 2011A Bonds: \_\_\_\_\_, 2011  
Series 2011B Bonds: \_\_\_\_\_, 2012

CUSIP Numbers:

NOTICE IS HEREBY GIVEN that the County of Sussex (the "County") has not provided an Annual Report with respect to the above-named Bonds as required by the "Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of November 1, 2011 among the County, [Name of Trustee], as Trustee, and the Morris County Improvement Authority. [The County anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_ [NAME OF TRUSTEE], as Trustee

By: \_\_\_\_\_

STATE OF NEW JERSEY  
DEPARTMENT OF COMMUNITY AFFAIRS  
DIVISION OF LOCAL GOVERNMENT SERVICES  
LOCAL FINANCE BOARD

APPLICATION

Volume II of II

**PDF 2 OF 2**

**LICENSE AND ACCESS AGREEMENT**  
(Sussex County Renewable Energy Program, Series 2011)

By and Between

[Local Unit], as Licensor

And

MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee

Dated as of November 1, 2011

with respect to the Morris County Improvement Authority's  
Not to exceed \$ \_\_\_\_\_ aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue (Notes) Bonds,  
Series 2011 (Federally Taxable)

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**LICENSE AND ACCESS AGREEMENT**  
(Sussex County Renewable Energy Program, Series 2011)

THIS "LICENSE AND ACCESS AGREEMENT (Morris County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "[A] Local Unit License Agreement"), dated as of November 1, 2011, is made by and among [insert name of Local Unit] (the "Licensor"), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Morris (the "County"), State of New Jersey ("State") and the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority" or the "Licensee"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of the County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act") and other applicable law.

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Project") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Unit");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

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Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearfman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants"), if any, and together with the Authority Consultants, the "Consultants"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

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forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "Series 2011B Notes"), and together with the Series 2011A Bonds, the previously defined "Series 2011 Bonds", either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000;

WHEREAS, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

WHEREAS, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the Series 2011 Project);

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to

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of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hamytown Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery; Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "Series 2011 Bonds");

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set

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time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements" with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit Licenses"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(c) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, Contracting for Renewable Energy Services, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, Contracting for Renewable Energy Services: Update on Power Purchase Agreements, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "Company RFP") and the receipt of proposals from prospective solar developers, including that (the "Company Proposal") of the successful respondent (the "Company"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (i) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (ii) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority

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through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(c) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "BPU"), whereby, among other things,

(I) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power

purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds

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as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

WHEREAS, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company

in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

WHEREAS, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c2-12") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement") and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreement") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company

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Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent ("Private Placement Agent"), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement");
- (b) If the Series 2011 Bonds shall be sold by:
  - (I) Competitive sale, authorize the distribution of a notice of sale ("Notice of Sale"), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the "Underwriter"), or
  - (II) Negotiated sale, enter into a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds; and
- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement", and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (f) above, the "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of

Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE I  
DEFINITIONS

Section 3.1. Definitions.

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

- [A] Local Unit License Agreement
- Act
- Additional Bonds
- Authority
- Board of Freeholders
- Bond Resolution
- Bonds
- BPU
- Capital Improvement Projects\*
- Company
- Company Documents
- Company Lease Agreement
- Company RFP
- County
- County Guaranty
- County Guaranty Agreement
- County Security
- County Security Agreement
- County Security Provider
- Local Units
- Local Unit Facilities\*
- Local Unit License
- Local Unit License Agreement
- Local Unit License Agreements
- Power Purchase Agreement
- Preliminary Program Costs
- Program Documents
- Projects\*
- Renewable Energy Program
- Renewable Energy Projects\*
- Series 2011 Bonds
- Series 2011 Local Unit\*
- Series 2011 Local Units
- Shared Services Act
- SRECs
- State

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this [A] Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

- Account
- Administrative Expenses
- Administrative Fund
- Certificate
- Code
- Completion Project
- Cost
- Costs of Issuance
- Costs of Issuance Account
- County Security Fund
- Development Contract
- Fund
- Outstanding
- Plans and Specifications
- Project Fund
- Reimbursement Collateral
- Renewable Energy Program Interested Party
- Series
- Trustee

(c) The following defined terms shall, for all purposes of this [A] Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof:

- (i) Section 3.1(a):
  - [A] Capital Improvement Projects
  - [A] Licensee
  - [A] Licensees
  - [A] Local Unit Facilities
  - [A] Local Unit License
  - [A] Project Activities
  - [A] Projects
  - [A] Renewable Energy Projects
- (ii) Section 3.8:
  - Revised [A] Renewable Energy Projects
- (iii) Section 5.2(a)(i)

Gross Substitute Power Purchase Price  
Net Substitute Power Purchase Price

- (iv) Section 6.1(a)  
Authority Event of Default
- (v) Section 6.1(b)  
Licensor Event of Default
- (vi) Section 7.1(c)  
Term

(d) The following defined terms shall, for all purposes of this [A] Local Unit License Agreement, have the following meanings:

"[A] Acceptance Certificates" shall mean individually or collectively, as the case may be, the [A] CIP Acceptance Certificate and the [A] REP Acceptance Certificate, each in the form attached as Exhibit E to the [A] Local Unit License Agreement and Exhibit B to the Company Lease Agreement.

"[A] CIP Acceptance Certificate" shall mean the certificate applicable to the [A] Capital Improvement Projects in the form attached as Exhibit E-2 to the [A] Local Unit License Agreement and Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, Licensor's acceptance of all of the [A] Capital Improvement Projects, all as set forth in Section 4.3 of the [A] Local Unit License Agreement and Section 510(d)(ii) of the Company Lease Agreement. As there are no [A] Capital Improvement Projects for the Licensor, this definition shall have no effect in this [A] Local Unit License Agreement. The Parties acknowledge and agree that no [A] Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

"[A] Construction Manager" shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

"[A] Draw Papers" shall mean the requisitions, and attachments thereto, applicable to either the (i) [A] Renewable Energy Projects or (ii) [A] Capital Improvement

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such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

"Event of Default" shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

"Local Public Contracts Law" shall mean the Local Public Contracts Law, constituting Chapter 198 of the Pamphlet Laws of 1971 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:11-1 et seq.).

Projects, in either case in the form attached as Exhibit D to the [A] Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the [A] Renewable Energy Projects or the [A] Capital Improvement Projects, all as set forth in Section 4.1 of the [A] Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

"[A] Interconnection Agreement" shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed [A] Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

"[A] REP Acceptance Certificate" shall mean the certificate applicable to the [A] Renewable Energy Projects in the form attached as Exhibit E-1 to the [A] Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company's acceptance of all of the [A] Renewable Energy Projects, all as set forth in Section 4.2 of the [A] Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

"Authorized Officer" or "Authorized Representative" shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the [Supervisor, Administrator or Secretary] or such other person designated as an Authorized Officer in the [A] Local Unit License Agreement or any other person or persons who shall be authorized to act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform

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## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### Section 2.1. Representations and Warranties of the Licensor.

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this [A] Local Unit License Agreement (and any documents contemplated hereby, including without limitation the [A] Draw Papers, the [A] Acceptance Certificates, and any [A] Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the [A] Local Unit Facilities. Licensor holds good, record and marketable title to each of the [A] Local Unit Facilities.

#### Section 2.2. Representations and Warranties of the Licensee.

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this [A] Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company hereunder, this [A] Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i) N.J.S.A. 49A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Municipal or County Series 2011 Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public

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Schools Contracts Law, to the extent the Licensor is a Board of Education Series 2011 Local Unit, as applicable.

Section 2.4. Covenants of the Licensor.

(a) Upon the delivery of the [A] CIP Acceptance Certificate with respect to the [A] Capital Improvement Projects, the Licensor shall own such [A] Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the [A] Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the [A] Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the [A] Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this [A] Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

Section 2.5. Covenants of the Licensee.

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the [A] Renewable Energy Projects on, or as applicable, in the [A] Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the [A] Capital Improvement Projects on or as applicable, in the [A] Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct,

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install, operate and maintain the [A] Renewable Energy Projects on or as applicable, in or about the [A] Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such [A] Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the [A] Capital Improvement Projects on or as applicable, in or about the [A] Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such [A] Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the fair market value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

Section 2.6. Inapplicable Terms.

[Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) there shall be no need for a County Security Agreement, a County Security Provider or County Security and any references thereto shall be of no further force and effect and (b) any County Security Fund Requirement shall equal \$0.][To be revised based upon results from the RFP.]

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ARTICLE III  
LICENSE

Section 3.1. License.

(a) For the Term of this [A] Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this [A] Local Unit License Agreement (each, an "[A] Licensee", and collectively, the "[A] Licensees"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on Exhibit A hereto (the "[A] Local Unit Facilities"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other [A] Licensee access to the [A] Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this [A] Local Unit License Agreement, a license (the "[A] Local Unit License") allowing each [A] Licensee to enter the [A] Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on Exhibit B hereto (the "[A] Renewable Energy Projects"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on Exhibit C hereto (the "[A] Capital Improvement Projects", and together with the [A] Renewable Energy Projects, the "[A] Projects") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "[A] Project Activities"), all at the sole cost and expense of the Authority or any other [A] Licensee, but not the Licensor, (unless expressly set forth elsewhere herein). [As there are no [A] Capital Improvement Projects for the Licensor, this definition shall have no effect in this [A] Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site at or in each of its [A] Local Unit Facilities.]

(b) For all purposes of this [A] Local Unit License Agreement, the [A] Local Unit License shall be deemed to include a preliminary license granted by the Licensor to the Authority and shall include, as [A] Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to constitute permissive [A] Activities, which preliminary [A] Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

(c) The [A] Licensees shall have access to the [A] Local Unit Facilities to conduct [A] Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the [A] Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the [A] Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the [A] Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the [A] Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the [A] Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the [A] Local Unit Facilities.

(d) No other activities beyond the scope of the [A] Project Activities shall be undertaken on the [A] Local Unit Facilities by the Authority or any other [A] Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensor shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensor is obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensor shall use commercially reasonable efforts to avoid interfering with the Company's performance of its obligations under this [A] Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

Section 3.2. [A] Licensees. The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this [A] Local Unit License Agreement, the [A] Licensee shall permit the [A] Licensees to enter upon the [A] Local Unit Facilities to conduct the [A] Project Activities, at which time any such [A] Licensees shall

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automatically, without any further action, be bound by the provisions of this [A] Local Unit License Agreement during the Term hereof.

**Section 3.3. Observation.** In connection with all [A] Project Activities, the Authority and/or any other [A] Licensee shall afford the Licensor and/or its representatives, the opportunity to observe all [A] Project Activities; provided, however, that such observation activities shall not interfere with any [A] Project Activities or delay construction of the Projects, and provided, further, that the Licensor hereby releases and agrees to indemnify, defend and hold harmless the Authority and each other [A] Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensor's, or its representatives' or consultant's entry or activities on the [A] Local Unit Facilities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all [A] Licensees, to promptly provide the Licensor with copies of any final written reports prepared, compiled or generated as part of the [A] Project Activities, if any list of reports can be added here. Further, the Licensor shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the [A] Local Unit License, to inspect the [A] Local Unit Facilities during the Term of this [A] Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the [A] Local Unit License under this [A] Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other [A] Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the [A] Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing [A] Project Activities on the [A] Local Unit Facilities, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority is given at least thirty (30) days prior written notice of such cancellation or modification.

### Section 3.7. Revocation.

(a) The parties expressly acknowledge that the [A] Local Unit License cannot be revoked (including deemed revocation situations where the [A] Local Unit Facilities are unavailable to allow the Company to perform [A] Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the

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circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the [A] Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its [A] Local Unit License for the [A] Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the [A] Renewable Energy Projects, with as similar physical conditions to the existing [A] Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute [A] Renewable Energy Project on the [A] Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this [A] Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the [A] Renewable Energy Projects located on, or as applicable in, the [A] Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the [A] Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new [A] Local Unit Facilities for all purposes of this [A] Local Unit License Agreement and the other Program Documents, and similarly, the new [A] Renewable Energy Projects on, or as applicable in, such new [A] Local Unit Facilities shall be deemed the new [A] Renewable Energy Projects for all purposes of this [A] Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the [A] Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this [A] Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and

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obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the [A] Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (i) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (ii) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the [A] Renewable Energy Projects been operating at the [A] Local Unit Facilities for the remainder of such then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (iii) any penalties or other payments required to be made by or on behalf of the Company or its investors under the Code caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the [A] Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the [A] Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the [A] Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any [A] Local Unit Facility as a result of which such [A] Local Unit Facility is unavailable to allow the Company to perform its

[A] Project Activities shall be deemed to be a revocation of the [A] Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

### Section 3.8. Material Change to [A] Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.

To the extent the Licensor requests a material change to the [A] Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the [A] Renewable Energy Projects (the "Revised [A] Renewable Energy Projects"), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised [A] Renewable Energy Project, reimburse the Company for all costs incurred by the Company upon reliance of the [A] Renewable Energy Projects set forth on Exhibit B hereof.

### Section 3.9. Abandonment.

If any [A] Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(a) of the Power Purchase Agreement, the obligations under this [A] Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such [A] Renewable Energy Project, be deemed terminated and discharged.

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ARTICLE IV

IA] DRAW PAPERS; [A] ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE

Section 4.1. [A] Draw Papers.

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the [A] Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the [A] Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, the [A] Renewable Energy Projects and the [A] Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the [A] Renewable Energy Projects or the [A] Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the [A] Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and Exhibit D hereto, executed by the Company, for the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the [A] Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the [A] Capital Improvement Projects. The Licensor shall promptly review the [A] Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the [A] Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such [A] Draw Papers where indicated, and promptly forward the original of such [A] Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the [A] Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any [A] Draw Papers, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this [A] Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i)

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review, acknowledge, accept, execute and deliver any [A] Draw Papers or (ii) delegate any such action to the [A] Construction Manager.

(e) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the [A] Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any [A] Draw Papers to the [A] Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this [A] Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any [A] Draw Papers or (ii) delegate any such action to the [A] Construction Manager.

Section 4.2. [A] REP Acceptance Certificate Relating to the [A] Renewable Energy Projects.

(a) When the Company has determined that all of the [A] Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the [A] Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the [A] REP Acceptance Certificate applicable to such [A] Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and Exhibit E-1 hereto.

(b) The Licensor shall promptly review the form [A] REP Acceptance Certificate applicable to the [A] Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the [A] REP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the [A] REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such [A] REP Acceptance Certificate where indicated, and promptly forward the original of such [A] REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the [A] Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the [A] REP Acceptance Certificate to the [A] Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the [A] Construction Manager; provided, however,

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that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this [A] Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the [A] REP Acceptance Certificate or (ii) delegate any such action to the [A] Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the [A] Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the [A] REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this [A] Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the [A] REP Acceptance Certificate or (ii) delegate any such action to the [A] Construction Manager.

Section 4.3. [A] CIP Acceptance Certificate Relating to the [A] Capital Improvement Projects.

(a) When the Company has determined that all of the [A] Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the [A] CIP Acceptance Certificate applicable to such [A] Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and Exhibit E-2 hereto.

(b) The Licensor shall promptly review the form [A] CIP Acceptance Certificate applicable to the [A] Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the [A] CIP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the [A] CIP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such [A] CIP Acceptance Certificate where indicated, and promptly forward the original of such [A] CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the [A] Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the [A] CIP Acceptance Certificate, which delegation

shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this [A] Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the [A] CIP Acceptance Certificate or (ii) delegate any such action to the [A] Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the [A] Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the [A] CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this [A] Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the [A] CIP Acceptance Certificate or (ii) delegate any such action to the [A] Construction Manager.

Section 4.4. Costs of Issuance.

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of Exhibit F hereto.

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ARTICLE V

POWER PURCHASE AGREEMENT

Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgment of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material effect on the Licensor, it being expressly understood that any such amendment having no material effect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement. (A) the Licensor's fair market value purchase option set forth in subsection (d) below, and (B) the removal of the [A] Renewable Energy Projects and restoration of the [A] Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this [A] Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the applicable Series 2011 Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power

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have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; provided, however, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) Upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Authority shall cause the Company Documents to include provisions to the effect that the Company, or any other [A] Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time, the [A] Renewable Energy Projects from the [A] Local Unit Facilities at the sole cost and expense and effort of the Company or any such other [A] Licensees, and (ii) restore, within a reasonable period of time, the [A] Local Unit Facilities, as improved by the [A] Capital Improvement Projects, to the condition prior to the installation of the [A] Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no effort or cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the [A] Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

Section 5.2. Substitute Power Purchase Price.

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, this [A] Local Unit License Agreement shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its [A] Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the [A] Renewable Energy

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from the Company thereunder from the [A] Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(f) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (c), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the [A] Renewable Energy Projects located on, or as applicable, in the [A] Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificates of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(f)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. The Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), the Authority shall cause the Company Documents to include provisions (i) giving the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the [A] Renewable Energy Projects installed on or, as applicable, in the [A] Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the [A] Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall take into account all the facts and circumstances of the marketplace for such [A] Renewable Energy Projects at such time, including without limitation, its continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents

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Projects located on, or as applicable, in the [A] Local Unit Facilities from the Authority, as owner of the [A] Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "Gross Substitute Power Purchase Price"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "Net Substitute Power Purchase Price") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the [A] Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, and the Company's extinguishment of any interest in and to the [A] Renewable Energy Projects,

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unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the [A] Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI EVENT OF DEFAULT

### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this [A] Local Unit License Agreement:

(i) the Authority or any other [A] Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other [A] Licensee to be performed or observed under this [A] Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other [A] Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this [A] Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(e) that are within the Licensor's control) the [A] Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof.

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Licensor to be performed or observed under this [A] Local Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same

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to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

### Section 6.2. Remedies.

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this [A] Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds, or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by statute to enforce the rights of the Authority under this [A] Local Unit License Agreement.

### Section 6.3. Remedies Generally.

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party,

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this [A] Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this [A] Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the [A] Projects due to a Licensor Event of Default shall extend the time periods relating to such [A] Projects until cured, including without limitation the requirement that the Company complete all Projects, including the [A] Projects, by \_\_\_\_\_ all in accordance with the terms of the Program Documents.

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ARTICLE VII

MISCELLANEOUS

Section 7.1 Term.

(a) This [A] Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This [A] Local Unit License Agreement and the [A] Local Unit License granted herein shall terminate against the Authority, after which date all [A] Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder.

(i) (A) The revocation of the [A] Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(v)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the [A] Renewable Energy Projects shall have been removed from the [A] Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The fair market value purchase by the Licensor of the [A] Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof; or

(iv) The nominal consideration purchase by the Licensor of the [A] Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof.

(c) The "Term" of this [A] Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

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Parsippany, New Jersey 07054  
Email: spearman@landplaw.com

(c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to:

(d) Company: [COMPANY]  
[COMPANY ADDRESS]

With a copy to:

(e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Verhees, NJ 08043  
Email: jvogel@birdsall.com

With a copy to: Joseph Santati  
Gabel Associates  
417 Donison St.  
Highland Park, NJ 08904  
Email: joseph.santati@gabelassociates.com

Section 7.4. Successors and Assigns. This [A] Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors. This [A] Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This [A] Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other [A] Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

Section 7.6. Governing Law. This [A] Local Unit License Agreement shall be governed by the laws of the State without regard to principles of conflicts of laws thereunder.

Section 7.7. Severability. If any provision of this [A] Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same

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(d) Upon expiration of the Term of this [A] Local Unit License Agreement, none of the Licensor, the Authority, nor any other [A] Licensees shall have any further rights, duties or obligations with respect to the [A] Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

Section 7.2. Assignment. The Authority shall not assign this [A] Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company, provided, however, the other parties expressly acknowledge that the Authority intends to permit the [A] Licensees to gain access under the [A] Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority's rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

Section 7.3. Notices. Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this [A] Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

- (a) Licensor: [A]  
With a copy to: [Licensor's Counsel]
- (b) Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us  
With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204

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shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this [A] Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this [A] Local Unit License Agreement shall control.

Section 7.8. Counterparts. This [A] Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereon were upon the same instrument.

Section 7.9. Effective Date. This [A] Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

Section 7.10. Waiver of Sovereign Immunity. For the purposes of this [A] Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this [A] Local Unit License Agreement and (b) its performance of the actions contemplated by this [A] Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties or revenues, shall be entitled to any immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding.

[The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow]

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IN WITNESS WHEREOF, the parties hereto have each caused this [A] Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY, as Licensee

By: \_\_\_\_\_  
John Bonanni, Chairman

ATTEST:

By: \_\_\_\_\_  
Christina Ramirez, Secretary

[SEAL]

\_\_\_\_\_, as Licensor

By: \_\_\_\_\_  
Authorized Representative

ATTEST:

By: \_\_\_\_\_  
Authorized Representative

Acknowledgment and Acceptance Page to Follow

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STATE OF NEW JERSEY )  
                                  ) ss:  
COUNTY OF SUSSEX)

On this \_\_\_ day of August, 2011, before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

\_\_\_\_\_  
Notary Public

STATE OF NEW JERSEY )  
                                  ) ss:  
COUNTY OF SUSSEX)

On this \_\_\_ day of August, 2011, before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ known to me (or proved to me on the basis of satisfactory evidence) to be the \_\_\_\_\_ of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

\_\_\_\_\_  
Notary Public

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EXHIBIT A

Morris County Improvement Authority
not to exceed \$50,000,000 aggregate principal amount of
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series
2011 (Federally Taxable)

Series 2011 Local Unit List of Local Unit Facilities

a. Series 2011 Municipal Local Units

(i) Fredon Township (http://www.twp.fredon.nj.us/)

(A) Civic Center
Roof Mounted System
System Size: (61.18 kW)
436 Route 94
Fredon, NJ

(ii) Town of Newton (http://www.newtontownhall.com/)

(A) DPW Complex
Roof Mounted System
System Size: (88.78 kW)
39 Trinity Street
Newton, NJ

(B) Wastewater Treatment Plant
Ground Mounted System
System Size: (151.80 kW)
Townsend Street
Newton, NJ

(iii) Green Township (http://www.greentown.com/)

(A) Green Hills School
Roof Mounted System
System Size: (157.09 kW)
69 Mackerley Road
Newton, NJ

b. Series 2011 Board of Education Local Units

(i) Franklin Borough Board of Education (http://www.fboe.org/boe.htm)

System Size: (476.79 kW)
12 Mansfield Drive
Stanhope, NJ

(vi) Hardyston Board of Education (http://www.hboe.org/BOE/index.htm)

(A) Hardyston Middle School
Ground and Parking Canopy
System Size: (331.20 kW)
183 Wheatsworth Road
Hamburg, NJ

(vii) High Point Regional School District (http://www.hprsd.org/)

(A) High Point Regional High School
Roof and Ground
System Size: (1,380.84 kW)
299 Pidgeon Hill Road
Sussex, NJ

(viii) Kittatinny Regional School District (http://www.krsd.net/)

(A) Kittatinny Regional High School
Roof and Parking Canopy
System Size: (282.67 kW)
77 Halsey Road
Newton, NJ

(ix) Frankford Township Consolidated Schools (http://www.frankford-school.org/)

(A) Frankford Township School
Ground Mounted System
System Size: (463.68 kW)
2 Pines Road
Branchville, NJ

c. Series 2011 County Local Units

(i) Sussex County Technical School (http://www.sussex-tec.nj.us/)

(A) Sussex County Technical School
Roof and Ground
System Size: (1,696.48 kW)
105 North Church Road
Sparta, NJ

(A) Franklin Elementary School
Roof and Parking Canopy
System Size: (376.74 kW)
50 Washington Avenue
Franklin, NJ

(ii) Lafayette Township Board of Education (http://www.lboe.org/)

(A) Lafayette Township School
Roof and Ground
System Size: (379.96 kW)
178 Beaver Run Road
Lafayette, NJ

(iii) Newton Board of Education (http://www.nboe.com/)

(A) Merriam Avenue School
Roof and Parking Canopy
System Size: (256.45 kW)
81 Merriam Avenue
Newton, NJ; and

(B) Newton High School
Roof and Parking Canopy
System Size: (305.21 kW)
44 Ryerson Avenue
Newton, NJ

(iv) Lenape Valley Regional Board of Education (http://www.lvrbe.org/)

(A) Lenape Valley Regional High School
Ground and Parking Canopy
System Size: (1,176.70 kW)
28 Sparta Road
Stanhope, NJ

(v) Byram Township School District (http://www.bvramschools.org/)

(A) Byram Lakes Elementary School
Roof, Ground, and Parking Canopy
System Size: (692.07 kW)
11 Mansfield Drive
Stanhope, NJ

(B) Byram Intermediate School
Roof and Parking Canopy

(i) County of Sussex (http://www.sussex.nj.us/)

(A) Sussex County Parking Deck/Jail
Parking Canopy
System Size: (468.05 kW)
39 High Street
Newton, NJ

(B) Juvenile Detention Center
Ground Mounted System
System Size: (146.28 kW)
135 Morris Turnpike
Newton, NJ

(C) Wheatsworth Facility
Ground and Parking Canopy
System Size: (245.64 kW)
149 Wheatsworth Road
Hardyston, NJ

(D) Main Library
Ground Mounted System
System Size: (100.28 kW)
125 Morris Turnpike
Newton, NJ

(ii) Sussex County MUA (http://www.scntua.org/)

(A) Sussex County MUA Admin. Parking Area
Ground and Parking Canopy
System Size: (113.60 kW)
34 South Route 94
Lafayette, NJ

EXHIBIT B

[Attach Description of [A] Renewable Energy Projects]

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0-10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

EXHIBIT C

[Attach Description of [A] Capital Improvement Projects]

None

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EXHIBIT D

[Attach [A] Draw Papers]

Requisition No. \_\_\_\_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority
County Guaranteed Renewable Energy Program Lease Revenue Bonds,
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of November 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and [COMPANY], [a Delaware limited liability company] (the "Company"), as lessee, authorized to transact business in the State of New Jersey (the "State") and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted [August \_\_, 2011] and entitled "Resolution Authorizing the Issuance of County Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects")] [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects")] being developed for [\_\_\_\_\_] , as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, DOES HEREBY CERTIFY and REQUISITION moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "Trustee") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund (equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition of \$\_\_\_\_\_, less the required ten percent (10%) retainage of \$\_\_\_\_\_).

(a) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

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\_\_\_\_\_ for
with the following Development Contract: \_\_\_\_\_
[the Company for reimbursement of Costs of the Project previously paid by the Company to
services] [incurred in connection with the following Development Contract:
]; and

(b) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for
with the following Development Contract: \_\_\_\_\_
[the Company for reimbursement of Costs of the Project previously paid by the Company to
services] [incurred in connection with the following Development Contract:
]

(Please Note, include Name and Address of any Contractor and the specific Development Contract pursuant to which this Requisition is submitted)

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the [A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the [A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

3. Such payment obligation, for which funds have been requested in accordance with Section 1(a) [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

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4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

[COMPANY]

By:

By: \_\_\_\_\_  
Name:  
Title:

The terms of this Requisition are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_ 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_ 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT E  
FORMS OF [A] ACCEPTANCE CERTIFICATES

See Attached:

Form E-1, Form of [A] REP Acceptance Certificate  
Form E-2, Form of [A] CIP Acceptance Certificate

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EXHIBIT E-1

[Attach [A] REP Acceptance Certificate]

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of November 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_, the [A] Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof, or if such funds were insufficient, the Company has provided available funds to complete the design, permitting, acquisition, construction and installation thereof.

3. The [A] Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the [A] Renewable Energy Projects for all purposes of Section 510(d)(6)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the [A] Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the [A] Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the [A] Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

[COMPANY]

By:

By: \_\_\_\_\_  
Name:  
Title:

ATTEST:

00016346-1

E-1-1

00016346-1

E-1-2

The terms of this [A] REP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_ day of \_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this [A] REP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_ day of \_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

[00016346-]

E-1-3

the [A] Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(c) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

[COMPANY]

By:

By: \_\_\_\_\_  
Name:  
Title:

ATTEST:

The terms of this [A] CIP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_ day of \_\_\_, 20\_\_.

[LICENSOR]

[00016346-]

E-2-2

EXHIBIT E-2

[Attach [A] CIP Acceptance Certificate]

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of November 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_, the [A] Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof, or if such funds were insufficient, the Company has provided available funds to complete the design, permitting, acquisition, construction, renovation, and installation thereof.]

3. By obtaining the Licensor's execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor's acceptance of (a) the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which [A] Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor's acceptance of the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. [Choose one, as applicable]

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(s) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for

[00016346-]

E-2-1

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this [A] CIP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_ day of \_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

[00016346-]

E-2-3

EXHIBIT F

CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.Morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of November 1, 2011 (the "[A] Local Unit License Agreement") by and between The Morris County Improvement Authority (the "Authority") and [ ] (the "Licensor"), and (ii) Section 5.03(3)(a) of the Authority's bond resolution duly adopted [August, 2011] and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the [A] Local Unit License Agreement), the Company, by its Authorized Officer stated below, HEREBY REQUESTS that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

I \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to  
for \_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

[LICENSOR]

By: \_\_\_\_\_  
Authorized Officer

The form (only) of this Certificate is hereby  
ACKNOWLEDGED by the MORRIS COUNTY  
IMPROVEMENT AUTHORITY this \_\_\_\_ day  
of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

---

**TITLE:**

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS  
PURSUANT TO THE LOCAL PUBLIC CONTRACTS LAW  
N.J.S.A. 40A:11-4.1(k) IN CONNECTION WITH THE  
AUTHORITY'S COUNTY OF SUSSEX RENEWABLE ENERGY PROGRAM**

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall

exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, the Authority, in accordance with Department of Community Affairs Division of Local Government Services (hereinafter the "Division") Local Finance Notice ("*LFN*") 2008-20, dated December 3, 2008, and LFN 2009-10, dated June 12, 2009, N.J.S.A. 40A:11-4.1 through 4.5, inclusive, of the Local Public Contracts Law, and/or other applicable law and through a competitive contracting request for proposal process (the "*Company RFP*"), shall have procured the services of one or more private renewable energy developers (collectively the "*Company*") to (a) design, acquire, construct, install, operate and maintain the Renewable Energy Projects and (b) design, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for certain designated Local Unit Facilities;

**WHEREAS**, pursuant to N.J.S.A. 40A:11-4.3a, in order to initiate a competitive contracting process and issue the Company RFP, the Authority must first adopt a resolution authorizing the use of competitive contracting; and

**WHEREAS**, in order to comply with N.J.S.A. 40A:11-4.3b, the Authority shall select a successful respondent from the Company RFP process through the adoption of a resolution by the Authority.

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The Chair of the Authority, the Vice-Chair of the Authority, the Treasurer of the Authority, or their designee (each an "Authority Authorized Officer"), or at the direction of an Authority Authorized Officer, any of the Authority's consulting energy engineer, and/or the Authority's counsel and financial advisor for the Renewable Energy Program, (collectively, the "**Consultants**") are hereby severally authorized to (a) issue the Company RFP, individually or as more than one Company RFP, in substantially the form attached hereto as Exhibit A, with such changes thereto as an Authority Authorized Officer, each severally authorized to issue the Company RFP, shall in their sole discretion determine to be in the best interests of the Authority, the Local Units, the County of Sussex and the Renewable Energy Program, (b) post the notice of the Company RFP (Exhibit 1 to the Company RFP) and the Company RFP on the Authority website, and (c) from time to time issue any addenda to the Company RFP, if required desirable or convenient to conclude the selection process, all in such form and with such terms and conditions that any such Authority Authorized Officer shall determine, in their sole discretion, after consultation with the Consultants, to be compliant with the Act, N.J.S.A. 19:44A-20.1 et seq., and other applicable law and otherwise in the best interests of Authority, the County of Sussex and/or the Local Units in the development and implementation of the Renewable Energy Program, which posting shall state, at a minimum, that copies of Company RFP are available from the Authority upon written request.

**Section 2.** Upon receipt of the responsive proposals to the Company RFP (the "Company Proposals"), one or more of the Authority Authorized Officers and its Consultants along with the County shall review the Company Proposals on the basis of the Evaluation Criteria as defined and set forth in the Section 6.2 of the Company RFP.

**Section 3.** Prior to making a recommendation to the governing body of the Authority and the County as to the selection of a Company Proposal that would be the most beneficial to the development and implementation of the Renewable Energy Program, the Authority, the County of Sussex and the Local Units (the "Company RFP Successful Respondent") the Authority shall cause the preparation of a report evaluating and recommending the award of a contract or contracts pursuant to N.J.S.A. 40A:11-4.5d.

**Section 4.** The award of the Company RFP to the Company RFP Successful Respondent shall be made by the governing body of the Authority and the County at a subsequent Authority and County, respectively, public meeting, unless otherwise delegated in a subsequent resolution of the Authority or the County.

**Section 5.** Each Authority Authorized Officer and at their direction, the Consultants, are hereby severally authorized to take such other actions as may be deemed, in their sole discretion, to be necessary, desirable or convenient in carrying out the intentions of this

resolution with respect to the Company RFP for the development and implementation of the Renewable Energy Program.

**Section 6.** All actions taken to date by the Authority, the Authorized Officers and the Consultants, with respect to the matters set forth in or contemplated by this resolution, are hereby ratified and approved.

**Section 7.** In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the County of Sussex Board of Freeholders and the County of Morris Board of Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Sussex County Clerk of the Board of Freeholders and the Morris County Clerk of the Board of Freeholders, a certification from the respective Clerks stating that the minutes of this meeting have not been vetoed by the respective Director of the Board of Freeholders.

**Section 8.** This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

***MOVED/SECONDED:***

Resolution moved by Commissioner \_\_\_\_\_.

Resolution seconded by Commissioner \_\_\_\_\_.

***VOTE:***

Commissioner	Yes	No	Abstain	Absent
Pinto				
Ramirez				
Roe				
Sandman				
Bonanni				

***ATTESTATION:***

This Resolution was acted upon at the Regular Meeting of the Authority held on July 20, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

Attested to this 20<sup>th</sup> day of July, 2011

By: \_\_\_\_\_

Secretary of the Authority

***FORM and LEGALITY:***

This Resolution is approved as to form and legality as of July 20, 2011

By: \_\_\_\_\_

Stephen B. Pearlman, Esq., Partner  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Counsel to the Authority

**CERTIFICATION**

I, \_\_\_\_\_, Secretary of the Morris County Improvement Authority hereby certify that the foregoing **RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS PURSUANT TO THE LOCAL PUBLIC CONTRACTS LAW N.J.S.A. 40A:11-4.1(k) IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX RENEWABLE ENERGY PROGRAM** is a true copy of a resolution adopted by the governing body of the Authority on \_\_\_\_\_, 2011.

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

By: \_\_\_\_\_

Dated:

**EXHIBIT A**  
**FORM OF RFP**

**RESOLUTION OF THE COUNTY OF SUSSEX AUTHORIZING THE ISSUANCE OF A  
REQUEST FOR PROPOSALS  
PURSUANT TO THE LOCAL PUBLIC CONTRACTS LAW  
N.J.S.A. 40A:11-4.1(k) IN CONNECTION WITH THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX RENEWABLE ENERGY  
PROGRAM**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that

certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, the Authority, in accordance with Department of Community Affairs Division of Local Government Services (hereinafter the "Division") Local Finance Notice ("*LFN*") 2008-20, dated December 3, 2008, and LFN 2009-10, dated June 12, 2009, N.J.S.A. 40A:11-4.1 through 4.5, inclusive, of the Local Public Contracts Law, and/or other applicable law and through a competitive contracting request for proposal process (the "*Company RFP*"), shall have procured the services of one or more private renewable energy developers (collectively the "*Company*") to (a) design, acquire, construct, install, operate and maintain the Renewable Energy Projects and (b) design, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for certain designated Local Unit Facilities;

**WHEREAS**, pursuant to N.J.S.A. 40A:11-4.3a, in order to initiate a competitive contracting process and issue the Company RFP, the Authority must first adopt a resolution authorizing the use of competitive contracting; and

**WHEREAS**, in order to comply with N.J.S.A. 40A:11-4.3b, the Authority shall select a successful respondent from the Company RFP process through the adoption of a resolution by the Authority.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF SUSSEX, NEW JERSEY**, as follows:

**Section 1.** The Chair of the Authority, the Vice-Chair of the Authority, the Treasurer of the Authority, or their designee (each an "Authority Authorized Officer"), or at the direction of an Authority Authorized Officer, any of the Authority's consulting energy engineer, and/or the Authority's counsel and financial advisor for the Renewable Energy Program, (collectively, the "Consultants") are hereby severally authorized to (a) issue the Company RFP, individually or as more than one Company RFP, in substantially the form attached hereto as Exhibit A, with such changes thereto as an Authority Authorized Officer, each severally authorized to issue the Company RFP, shall in their sole discretion determine to be in the best interests of the Authority, the Local Units, the County of Sussex and the Renewable Energy Program, (b) post the notice of the Company RFP (Exhibit 1 to the Company RFP) and the Company RFP on the Authority website, and (c) from time to time issue any addenda to the Company RFP, if required desirable or convenient to conclude the selection process, all in such form and with such terms and conditions that any such Authority Authorized Officer shall determine, in their sole discretion, after consultation with the Consultants, to be compliant with the Act, N.J.S.A. 19:44A-20.1 et seq., and other applicable law and otherwise in the best interests of Authority, the County of Sussex and/or the Local Units in the development and implementation of the Renewable Energy Program, which posting shall state, at a minimum, that copies of Company RFP are available from the Authority upon written request.

**Section 2.** Upon receipt of the responsive proposals to the Company RFP (the "Company Proposals"), one or more of the Authority Authorized Officers and its Consultants along with the County shall review the Company Proposals on the basis of the Evaluation Criteria as defined and set forth in the Section 6.2 of the Company RFP.

**Section 3.** Prior to making a recommendation to the governing body of the Authority and the County as to the selection of a Company Proposal that would be the most beneficial to the development and implementation of the Renewable Energy Program, the Authority, the County of Sussex and the Local Units (the "Company RFP Successful Respondent") the Authority shall cause the preparation of a report evaluating and recommending the award of a contract or contracts pursuant to N.J.S.A. 40A:11-4.5d.

**Section 4.** The award of the Company RFP to the Company RFP Successful Respondent shall be made by the governing body of the Authority and the County at a subsequent Authority and County, respectively, public meeting, unless otherwise delegated in a subsequent resolution of the Authority or the County.

**Section 5.** Each Authority Authorized Officer and at their direction, the Consultants, are hereby severally authorized to take such other actions as may be deemed, in their sole discretion, to be necessary, desirable or convenient in carrying out the intentions of this resolution with respect to the Company RFP for the development and implementation of the Renewable Energy Program.

**Section 6.** All actions taken to date by the Authority, the Authorized Officers and the Consultants, with respect to the matters set forth in or contemplated by this resolution, are hereby ratified and approved.

**Section 7.** This resolution shall be effective immediately.

**CERTIFICATION**

I, \_\_\_\_\_, Clerk of the Board of Freeholders hereby certify that the foregoing **RESOLUTION OF THE COUNTY OF SUSSEX AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS PURSUANT TO THE LOCAL PUBLIC CONTRACTS LAW N.J.S.A. 40A:11-4.1(k) IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX RENEWABLE ENERGY PROGRAM** is a true copy of a resolution adopted by the governing body of the County on \_\_\_\_\_, 2011.

**COUNTY OF SUSSEX**

By: \_\_\_\_\_

Dated:

**EXHIBIT A**  
**FORM OF RFP**

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
MORRIS COUNTY RENEWABLE ENERGY PROGRAM  
(COUNTY OF SUSSEX PROGRAM), SERIES 2011**

**REQUEST FOR PROPOSALS**  
For a Developer of Photovoltaic Systems with respect to certain Local Government  
Facilities in the County of Sussex, New Jersey  
Dated [Post Date]

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

**MORRIS COUNTY RENEWABLE ENERGY PROGRAM  
(County of Sussex Program),  
SERIES 2011**

**REQUEST FOR PROPOSALS**

For a Developer of Photovoltaic Systems with Respect to Certain Local  
Government Facilities in the County of Sussex, New Jersey

dated [Post Date]

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<sup>1</sup> Required if Proposal utilizes Company Financing Option.  
<sup>2</sup> Provide EITHER (i) Form A-4 (Proposal Funds) or (ii) Form A-5 (Proposal Bond), found in Appendices D-A-4 or D-A-5, as applicable. See Section 7.2(a) of RFP.  
<sup>3</sup> See prior footnotes.  
<sup>4</sup> Provided by Successful Bidder only. To be supplied upon award of Successful Bidder.  
[000165704]

[solarenergy@co.morris.nj.us](mailto:solarenergy@co.morris.nj.us)

Timely, complete and conforming responses ("Proposals") submitted by photovoltaic development firms ("Respondents") in response to the RFP shall be reviewed, evaluated and considered by the Authority and its consultants, with respect to the Municipal Series 2011 Local Units, pursuant to the competitive contracting provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-4.1(k)), with respect to the Board of Education Series 2011 Local Units, the Public Schools Contracts Law (N.J.S.A. 18A:18A-4.1(k)) of the State of New Jersey (the "State"), and on behalf of the County Series 2011 Local Unit, the State College Contracts Law (N.J.S.A. 18A:64-52 *et seq.*), all pursuant to (i) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services ("LFB Notice 2008-20")*, (ii) the Board of Public Utilities protocol for measuring energy savings in PPA Agreements (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines, Dated February 20, 2009*), (iii) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements (the "LFB Notice 2009-10")*, and together with LFB Notice 2008-20, the "Local Finance Board Notice") and applicable law. Proposals are also being solicited through, and the RFP is being issued in accordance with, a fair and open process pursuant to the State Pay to Play Law, N.J.S.A. 19:44A-20.1 *et seq.*

Under the competitive contracting provisions of applicable law, the Authority is not bound to select the lowest responsible bidder, although the PPA Price, the elimination or minimization of the County Deficiency Amount, and as applicable, the provision of County Security to fund any such County Deficiency Amount, and the ability to perform the other Company Services, are each significant factors of the RFP. The Authority reserves the right to conduct interviews with any or all of the Respondents, prior to the award of a contract, for clarification of any response to the RFP. See Section 6.2 of the RFP for the Evaluation Criteria (defined in such Section) that shall serve as the basis for the contract award (see Section 6.3 of the RFP) pursuant to the RFP. The Respondent who receives the contract award from the Authority to provide the Company Services shall be known as the "Successful Respondent" or the "Company" for purposes of the RFP.

**REGISTRATION**

In order to be considered as the Successful Respondent and in order to access certain important information on the Authority's website needed to prepare its Proposal, each Respondent must register with the Authority providing information pursuant to Section 2.3 of the RFP, including the following: (i) a statement that such Respondent intends to submit a Proposal, and (ii) providing the name of its contact person (the "Respondent Contact Person") and contact information (name, company, address, phone, cell, fax, and e-mail address) for any and all communication with the Respondent during the RFP timeframe. Any changes to any information in the RFP, including any future addenda amending or supplementing any terms, shall be both posted on the Authority's website (<http://www.co.morris.nj.us/improvement/>) and issued, *via fax or e-mail*, to the Respondent Contact Person. Registration should occur immediately upon downloading the RFP from the website or otherwise receiving a copy of the

**EXHIBIT 1**

to be posted on the Authority's website, and delivered to the Daily Record, the Star Ledger and the Authority's papers of record, for publication, all on [Post Date]

**NOTICE OF RFP**

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
MORRIS COUNTY RENEWABLE ENERGY PROGRAM (COUNTY OF SUSSEX  
PROGRAM), SERIES 2011**

**REQUEST FOR PROPOSALS**

For a Developer of Photovoltaic Systems with Respect to Certain Local Government Facilities in the County of Sussex, New Jersey

Dated [Post Date]

**IMPORTANT. RESPONDENTS MUST REGISTER.  
SEE BELOW FOR DETAILS.**

The Morris County Improvement Authority ("Authority") has issued a "Request for Proposals for a Developer of Photovoltaic Systems with respect to certain Local Government Facilities in the County of Sussex, New Jersey" dated [Post Date] (the "RFP"). Capitalized terms not defined in this Notice of RFP shall be defined as set forth in the RFP. The RFP was authorized for issuance pursuant to resolution of the Authority adopted by its governing body on July 20, 2011, a copy of which is attached in Appendix A to the RFP. The RFP may be downloaded from the Authority's website (<http://www.co.morris.nj.us/improvement/>), or a hard copy may be obtained from the Chairman of the Authority at the following address for a fee of fifty dollars (\$50.00):

The Morris County Improvement Authority  
Administration and Records Building  
10 Court Street  
P.O. Box 900  
Morristown, New Jersey 07963-0900  
Attention: John Bonanni, Chairman  
T: (973) 285-6047  
F: (973) 285-5266

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RFP from the Authority. Registration should be made by e-mailing the required information in clauses (i) and (ii) above to John Bonanni at [solarenergy@co.morris.nj.us](mailto:solarenergy@co.morris.nj.us) and/or mailing a copy to John Bonanni at the address referenced above.

One original and nine (9) copies of a fully authorized, completed (in accordance with the terms of this RFP, including Section 7.1 thereof), executed and sealed (either opaque envelopes or boxes may be used if necessary or desirable, so long as the Respondent and RFP are clearly marked on the outside) Proposal are due from Respondents by 1:00 p.m., Eastern time, [Due Date] (time is of the essence), to be delivered to John Bonanni, the Authority Chairman, at the address set forth earlier in this Notice of RFP. See Section 5.4 of the RFP for additional requirements regarding the submission of the Proposal and actions to occur on the Due Date, including Section 5.4(j) of the RFP regarding the option for submitting an additional redacted version of the Proposal under OPRA, if applicable. Should there be any conflict in terms between the Notice of RFP and the RFP, the provisions of the RFP shall control.

All comments and questions concerning any facet of the RFP, including the corresponding procedures and requirements, must be addressed in writing, at the time established in the Proposed Schedule for the Series 2011 Program set forth in Exhibit 3 to the RFP:

(i) If via hard copy, to John Bonanni, the Authority Chairman, at the address set forth earlier in this Notice of RFP;

(ii) If via e-mail, to Deborah S. Verderame, Esq. of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Counsel for the Authority: [dverderame@randolphlaw.com](mailto:dverderame@randolphlaw.com).

A Pre-Proposal Submission Meeting shall be held for the benefit of all potential Respondents by the Authority and its consultants in the Freeholders Conference Room, 5<sup>th</sup> Floor, County Administration and Records Building, 10 Court Street, Morristown, New Jersey, at 10:00 a.m. on [Date], 2011. Please see Section 2.3 of the RFP for registration. Potential Respondents are STRONGLY encouraged to take part in the Pre-Proposal Submission Meeting. The Authority is considering allowing Respondents to participate in the Pre-Proposal Submission Meeting via teleconference and information concerning this option will be provided to Respondents at the time they register pursuant to Section 2.3 of the RFP. Respondents are also encouraged to have, at a minimum, the persons responsible for coordinating the financing and technical components of any Proposal in attendance at the Pre-Proposal Submission Meeting.

Potential Respondents who, prior to each site tour, shall have sent a list of attendees to the Authority, via e-mail to John Bonanni at [solarenergy@co.morris.nj.us](mailto:solarenergy@co.morris.nj.us) and Jessica Vogel, CBCP, Birdsall Services Group at [jvogel@birdsall.com](mailto:jvogel@birdsall.com), shall have an opportunity to inspect the Local Unit Facilities for the Series 2011 Local Units, upon or in which the Program Renewable Energy Projects are to be developed, at the dates and times set forth in the RFP.

The Authority reserves the right to reject specific Proposals if not submitted by the time, date, and manner and at the place designated in the RFP, or if not completed in conformance with the terms of the RFP. The Authority further reserves the right to waive any defects in specific Proposals that the Authority, in its sole discretion and in accordance with law, determines to be immaterial to the purposes of the Authority, the County, the Series 2011 Local Units and/or the Series 2011 Program. The Authority further reserves the right to reject all Proposals or otherwise take such action that the Authority, in its sole discretion and in accordance with law, shall determine to be in the best interests of the Authority, the County, the Series 2011 Local Units and/or the Series 2011 Program. The Authority anticipates that due to Local Finance Board Notices, it is possible the Authority will reject all Proposals should the PPA purchase price for electricity submitted in each Proposal be in excess of the existing delivered cost of electrical power from the Local Distribution Companies, which in the case of the Local Unit Facilities for the \_\_\_\_\_, is the \_\_\_\_\_, and in the case of the Local Unit Facilities for the other Series 2011 Local Units, is the Jersey Central Power & Light Company.

Each submitted Proposal, without any further act, shall be deemed to be the property of the Authority, and shall be submitted and if applicable, presented, at the cost and expense of the Respondent, without reimbursement for any portion thereof from the Authority. Respondents shall comply with the requirements of P.L. 1975, c.127 (N.J.A.C. 17:27 et seq.). See Section 7.5 of the RFP.

This Notice of RFP has been issued and posted on the Authority's website by order of John Bonanni, Chairman, Morris County Improvement Authority, this \_\_\_\_\_ day of \_\_\_\_\_, 2011, all pursuant to an authorizing resolution of the Authority adopted July 26, 2011.

(3) If and to the extent the Respondent determines to make an Equity Contribution (RFP Section 1.3(c)), the submission of ONE of the following shall be considered a mandatory item that shall be submitted as part of the Proposal, or else the Authority shall deem the Respondent as not having exercised its option to provide an Equity Contribution.

(a) Equity Contribution Cash Commitment (RFP Section 1.3(c)(i)) ..... ( )

OR

(b) Equity Contribution Consent of Surety (RFP Section 1.3(c)(ii)) ..... ( )

(4) The submission of ONE of the following forms of evidencing the provision of Reimbursement Collateral, as County Security to fund the County Deficiency Amount (unless eliminated) shall be considered a mandatory item that shall be submitted as part of the Proposal, or failing that, by September 27, 2011. See Section 1.3(g)(ix) for the effect of the insufficiency of the items provided, or the failure to provide any such items on a timely basis.

(a) County Security Cash Commitment (RFP Section 1.3(g)(ix)(B)) ..... ( )

OR

(b) County Security Consent of Surety (RFP Section 1.3(g)(ix)(C)) ..... ( )

(5) If and to the extent the Respondent exercises the Restoration Security option (RFP Section 7.2(c)), the submission of ONE of the following shall be considered a mandatory item that shall be submitted as part of the Proposal, or else the Authority shall deem the Respondent as not having exercised its option to provide Restoration Security.

(a) Restoration Security Cash Commitment (RFP Section 7.2(c)(iii)(A)) ..... ( )

OR

(b) Restoration Security Consent of Surety (RFP Section 7.2(c)(iii)(B)) ..... ( )

(6) Please note that ONLY the Successful Respondent will be required to submit Form A-12 found in Appendix D-A-12.

As the Authority's goal is to ensure the greatest number of complete Proposals for review, consideration and reporting, notwithstanding any provision in the RFP to the contrary, registered Respondents should submit questions, in writing, to Deborah S. Verderame, Esq., of Inglesino, Pearlman, Wyciskala & Taylor, LLC, at [dverderame@jandtlaw.com](mailto:dverderame@jandtlaw.com) with respect to this check-list, and the necessary documents to be submitted in connection with any such Respondent's Proposal. The Authority and its consultants will not answer any question that

**EXHIBIT 2  
RESPONDENT CHECK-LIST**

Pursuant to Section 7.1 of the RFP, the following is a check-list of all items that each Respondent must submit with their Proposal (except as set forth below) in order for their Proposal to be reviewed, considered, and reported on by or on behalf of the Authority in accordance with the provisions of the RFP. Capitalized terms not defined in this check-list shall be as defined in the RFP.

(1) The following documents shall be considered mandatory items that shall be submitted as part of the Proposal, and failure to submit any one or more of the following shall be automatically deemed by the Authority to be a fatal defect in the Proposal, which fatal defect cannot be cured, and the Proposal shall be rejected as unresponsive to the RFP.

**CHECK**

- (a) Forms A-1-a<sup>6</sup> and/or A-1-b<sup>7</sup> ..... ( )
- (b) Forms A-2 and A-3<sup>8</sup> ..... ( )
- (c) Forms A-4 OR A-5<sup>9</sup> ..... ( )
- (d) Forms A-6 through A-11<sup>10</sup> ..... ( )
- (e) Construction Consent of Surety<sup>11</sup> ..... ( )

(2) The following documents shall be considered mandatory items that shall be submitted prior to any award to the Successful Respondent pursuant to Section 6.3(a) of the RFP, but not later than \_\_\_\_\_, 2011 (and, therefore, may or may not be submitted at the time of the Proposal, which, if submitted after the original Proposal, shall nonetheless be deemed part of the Proposal, so long as received prior to any award pursuant to Section 6.3(a) of the RFP; see also conditional award under Section 6.5 of the RFP), and failure to ultimately submit any one or more of the following may be deemed by the Authority to be a fatal defect in the Proposal (even if submitted after the original Proposal), which if determined to be a fatal defect that cannot be cured, the Proposal shall be rejected as unresponsive to the RFP.

**CHECK**

- (a) Notice of Classification ..... ( )
- (b) Total Amount of Uncompleted Contracts Form DPMC701 ..... ( )
- (c) Public Works Contractor Certificate ..... ( )
- (d) Evidence of County Security ..... ( )
- (e) Business Registration Certificate (RFP Section 7.6(b)) ..... ( )

<sup>6</sup> Use for Authority Financing Option; found in Appendix D-A-1-a. See Sections 1.2, 1.3, and 1.4 of RFP. If multiple Proposals are being submitted, use this Form for each Proposal utilizing the Authority Financing Option.  
<sup>7</sup> Use for Company Financing Option; found in Appendix D-A-1-b. See Sections 1.2, 1.5, and 1.6 of RFP. If multiple Proposals are being submitted, use this Form for each Proposal utilizing the Company Financing Option.  
<sup>8</sup> Found in Appendices D-A-2 and D-A-3.  
<sup>9</sup> Provide EITHER (i) Form A-4 (Proposal Funds) or (ii) Form A-5 (Proposal Bond); found in Appendices D-A-4 or D-A-5, as applicable. See Section 7.2(a) of RFP.  
<sup>10</sup> Found in Appendices D-A-6 through D-A-11, inclusive.  
<sup>11</sup> See Section 7.2(b) of RFP.

would in any way prejudice one Respondent over another. To the extent any such question has general relevance, the Authority will report the question with the appropriate response to all Respondent Contact Persons.

EXHIBIT 3

PROPOSED SCHEDULE FOR SERIES 2011 PROGRAM

- 1. Package to County of Sussex with Section 56 Resolution and Guaranty Ordinance..... July 1, 2011
- 2. Submit RFP to Office of State Comptroller commencing 30 day period..... July 8, 2011
- 3. Birdsall/Gabel to finish site work and complete list of local units..... July 13, 2011
- 4. Morris County to adopt Section 56 Resolution..... July 13, 2011
- 5. Authority Board Meeting regarding adoption of resolution authorizing issuance of RFP to obtain a Successful Respondent and LFB Authorizing Resolution..... July 20, 2011
- 6. LFB Application Due..... July 20, 2011
- 7. County of Sussex to adopt Section 56 Resolution as a beneficiary County and first reading on Guaranty Ordinance..... July 27, 2011
- 8. Sussex County to finally adopt Guaranty Ordinance..... August 10, 2011
- 9. LFB Hearing..... August 10, 2011
- 10. Issue RFP for Solar Provider and post Notice of RFP..... [Post Date]
- 11. Post Draft Program Documents, including PPA on MCIA website..... [Post Date]
- 12. Hold Respondent RFP Meeting..... August 30, 2011
- 13. All Local Unit Facilities open, 8 a.m. - 3 p.m..... August 30 to September 7, 2011
- 14. Written Questions from Respondents Due..... September 14, 2011
- 15. Authority Responses to Respondent Questions are posted..... September 21, 2011
- 16. Respondent Proposals Due..... September 29, 2011
- 17. Authority reserved dates for interviews with all qualified Respondents..... October 5 and 6, 2011
- 18. Authority consults with Series 2011 Local Units on PPA price and proposed Successful Respondent..... October 11, 2011

- 19. County Meeting to adopt Section 56 Resolution for County Security Agreement, if necessary, and approve Successful Respondent..... October 19, 2011
- 20. Authority Completes Competitive Contracting Report and publish on Authority web-site..... October 20, 2011
- 21. Authority Meeting to award Successful Respondent and authorize final forms of Program Documents..... October 26, 2011
- 22. Clarify all final terms of PPA and Company Lease Agreement with Company; Series 2011 Local Units to have approved Local Unit License Agreement..... by November 2, 2011
- 23. Mail Preliminary Official Statement for Series 2011 Bonds..... November 2, 2011
- 24. Sell Series 2011A Bonds; Execute final OS, Accept Bid..... November 9, 2011
- 25. Pre-Close Series 2011A Bonds..... November 22, 2011
- 26. Close Series 2011A Bonds..... November 23, 2011
- 27. Renewable Energy Projects Installation (RFP Appendix C, Sections 1.6, 6.27(C))..... by November 23, 2012

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ARTICLE 1

INTRODUCTION, OVERVIEW, FINANCING OPTIONS AND DEFINITIONS

Section 1.1 Introduction and Overview.

(a) The Program. The Morris County Improvement Authority (the "Authority"), in combination with and for the County of Sussex, New Jersey (the "County"), has created its "Sussex County Renewable Energy Program" (the "Program"). The Program seeks to develop photovoltaic and other renewable energy systems (including any related electrical modifications, the maintenance of existing warranties and other work necessary, desirable or convenient for the installation of such systems, the "Renewable Energy Projects") for certain local government buildings, parking canopy and other structures, and lands (the "Local Unit Facilities") owned or controlled by local governments within and including the County (the "Local Units").

The Program shall be implemented over time, developing Renewable Energy Projects for the Local Unit Facilities of a limited group of Local Units participating in each segment or tranche of the Program. From time to time, the Program may also fund certain capital improvement projects for one or more Local Units (the "Capital Improvement Projects", and together with the Renewable Energy Projects, the "Projects") participating in any such tranche of the Program.

On February 18, 2010, the Authority financed approximately 3.2 MW of photovoltaic and related system Renewable Energy Projects for seven (7) Local Units at fifteen (15) Local Unit Facilities (the "Series 2010 Program"). The Authority is currently undertaking a second tranche of its Renewable Energy Program for Morris County (the "Morris County Series 2011 Program"). The Series 2010 Program and the Morris County Series 2011 Program are unrelated to the hereinafter defined Series 2011 Program, which is the subject of this RFP (as hereinafter defined).

(b) The Series 2011 Program, the Series 2011 Local Units.

The 2011 tranche of the Program (the "Series 2011 Program") consists of developing photovoltaic and related system Renewable Energy Projects (here are no Capital Improvement Projects in the Series 2011 Program) for the following ~~Series 2011~~ (3) Local Units (the "Series 2011 Local Units"):

*[Insert list of local units in paragraph form]*

(c) The Renewable Energy Projects. The Series 2011 Program shall develop photovoltaic and related system Renewable Energy Projects at the following ~~Series 2011~~ (3) Local Unit Facilities for the ~~Series 2011~~ (3) Series 2011 Local Units (see (i)(A)

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(C) below), which include any related electrical modifications, the maintenance of existing warranties and other work necessary, desirable or convenient for the installation of such systems, all as more particularly described in Appendix B-1 to this RFP. Appendix B-1 to this RFP includes the Conceptual Site Plans designating the specific portion of the Local Unit Facilities where Renewable Energy Projects can be located, which plans have been based upon a preliminary feasibility assessment performed by the Authority's energy engineering consultants to identify the technical potential for each of the Renewable Energy Projects. Further, based upon this assessment, the Authority estimates these Renewable Energy Projects shall produce, in the aggregate, approximately ~~3.2~~ 3.2 MW of electricity. The Authority understands that detailed site review and proposed Renewable Energy Project designs by or on behalf of Respondents (as hereinafter defined), including assessment of roof and building conditions, panel selection, shading analysis, etc., may change the final Renewable Energy Project scope and the kW capacities indicated below at any of these Local Unit Facilities. As the Successful Respondent (as hereinafter defined) is required to maintain existing roof warranties for roof type Renewable Energy Projects, Appendix B-1 to this RFP also includes the applicable roof warranty information obtained by or on behalf of the Authority from the Local Units. Note that the costs for Renewable Energy Projects submitted by the Successful Respondent shall be firm when submitted in Section B3(b)(1) of Form A-1 (as defined herein) of the Proposal, and shall be incorporated into the Program Documents. Accordingly, the Successful Respondent bears the total risk of actual costs increasing from the time of the submission of their Proposal, and stands to gain the entire benefit from costs decreasing during such timeframe.

(i) The following sets forth the list of Local Unit Facilities for the Series 2011 Local Units:

*[Insert list of local units in paragraph form]*

(d) The REP. As part of the Series 2011 Program, the Authority has issued this "Request for Proposals for a Developer of Photovoltaic Systems with respect to certain Local Government Facilities in the County of Sussex, New Jersey" dated [Post Date] (including any addenda issued by the Authority that would amend or supplement this document, the "RFP"). The RFP was authorized for issuance pursuant to resolution of the Authority adopted by its governing body on July 20, 2011, a copy of which is attached in Appendix A to this RFP.

(e) Proposals. Photovoltaic development firms ("Respondents") interested in (i) performing the various Company Services (as hereinafter defined) for the Authority and the Series 2011 Local Units outlined in this RFP, and other obligations, and (ii) enjoying the benefits and other rights, all as detailed in the Company Documents (as hereinafter defined) to be authorized, executed or acknowledged, as applicable, and delivered by the Successful Respondent, may submit one or more written proposals (each a "Proposal") to the Authority no later than the deadline, and within the various requirements and parameters set forth in this RFP.

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(f) **Review and Evaluation of Proposals.** Timely, complete and conforming Proposals submitted by Respondents in response to this RFP shall be reviewed, evaluated and considered by the Authority and its consultants, with respect to the Municipal Series 2011 Local Units, pursuant to the competitive contracting provisions of the Local Public Contracts Law (N.J.S.A. 49A:11-4.1(k)), with respect to the Board of Education Series 2011 Local Units, the Public Schools Contracts Law (N.J.S.A. 18A:18A-4.1(k)) of the State of New Jersey (the "State"), and on behalf of the County Series 2011 Local Unit, the State College Contracts Law (N.J.S.A. 18A:64-52 *et seq.*), all pursuant to (i) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (ii) the Board of Public Utilities ("BPU") protocol for measuring energy savings in power purchase agreements (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines, Dated February 26, 2009*), (iii) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements (the "LFB Notice 2009-10"*), and together with LFB Notice 2008-20, the "Local Finance Board Notices") and applicable law. Proposals are also being solicited through, and this RFP is being issued in accordance with, a fair and open process pursuant to the State Pay to Play Law, N.J.S.A. 19:44A-20.1 *et seq.*

Under the competitive contracting provisions of applicable law, the Authority is not bound to select the lowest responsible bidder, although the PPA Price (as defined in Section 1.3(b) herein), the elimination or minimization of the County Deficiency Amount (as hereinafter defined), and as applicable, the provision of Reimbursement Collateral, as County Security (as such terms are hereinafter defined) to fund any such County Deficiency Amount, and the ability to perform the other Company Services, are each significant factors of this RFP. The Authority reserves the right to conduct interviews with any or all of the qualified Respondents, prior to any award of a contract(s), for clarification of any response to this RFP. See Section 6.2 of this RFP for the Evaluation Criteria (as defined in Section 1.3(b) herein) that shall serve as the basis (see Section 6.3 of this RFP) for the award pursuant to this RFP. The Respondent that shall receive the award by the Authority to provide the services required by this RFP (the "Company Services"), which Company Services shall be set forth in the Company Documents, shall be known as the "Successful Respondent" or the "Company" for purposes of this RFP.

(g) **Registration of Respondents Required.** In order to be considered as the Successful Respondent and in order to access certain important information on the Authority's website needed to prepare its Proposal, each Respondent must register with the Authority providing information pursuant to Section 2.3 of this RFP, including the following: (i) a statement that such Respondent intends to submit a Proposal, and (ii) providing its Respondent Contact Person (as defined in Section 1.8(b) herein) and contact information (name, company, address, phone, cell, fax, and e-mail address) for any and all communication with the Respondent during this RFP timeframe. Any changes to any information in this RFP, including any future addenda amending or supplementing any terms, shall be both posted on the Authority's website (<http://www.co.morris.nj.us/improvement/>) and issued, via fax or e-mail, to the Respondent Contact Person. Registration should occur immediately upon downloading this RFP from the website or otherwise receiving a copy of this RFP from the Authority or otherwise. Registration should be made by e-mailing the required information in clauses (i) and (ii) above to

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(j) **Site-Tours.** Potential Respondents shall have an opportunity to inspect the Local Unit Facilities for the Series 2011 Local Units, upon or in which the Projects are to be developed, at the dates and times, and upon the conditions, all as set forth in Section 3.3 of this RFP.

(k) **Rejection Waiver.** The Authority reserves the right to reject any Proposals that are not submitted by the time, date, and manner and at the place designated in this RFP, or if not completed in conformance with the terms of this RFP. The Authority further reserves the right to waive any defects in specific Proposals that the Authority, in its sole discretion and in accordance with applicable law, determines to be immaterial to the purposes of the Authority, the County, the Series 2011 Local Units and/or the Series 2011 Program. The Authority further reserves the right to reject all Proposals or otherwise take such action that the Authority, in its sole discretion and in accordance with law, shall determine to be in the best interests of the Authority, the County, the Series 2011 Local Units and/or the Series 2011 Program. The Authority anticipates that due to the Local Finance Board Notices, the Authority would likely reject all Proposals should the PPA purchase price for electricity submitted in each Proposal be in excess of the existing delivered cost of electrical power from the local electric utility distribution companies, which in the case of the Local Unit Facilities for the \_\_\_\_\_, is the \_\_\_\_\_, and in the case of the Local Unit Facilities for the other Series 2011 Local Units, is the Jersey Central Power & Light Company.

(l) **Proposals are Property of the Authority: OPRA.**

(i) Each Proposal, without any further act, shall be deemed to be the property of the Authority, and shall be prepared, reviewed, finalized, submitted and if applicable, presented, at the sole cost and expense of the Respondent, without payment or reimbursement for any portion thereof by or on behalf of the Authority.

(ii) Each Respondent, by submitting its Proposal and without any further act, acknowledges that the Proposal, now a public document owned by the Authority, is subject to review by the general public under the Open Public Records Act, constituting Chapter 73 of the Pamphlet Laws of 1963 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 47:1A-1 *et seq.*, "OPRA").

(iii) To the extent the Respondent desires to claim that a portion of its Proposal constitutes trade secrets and proprietary commercial or financial information that is expressly precluded from public disclosure pursuant to N.J.S.A. 47:1A-1.1 of OPRA or such other applicable exception to OPRA, and therefore such portion should be withheld from public disclosure, such Respondent must comply with the provisions of Section 5.4(j) of this RFP.

**Section 1.2 Financing Options.**

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John Bonanni at [johnbonanni@co.morris.nj.us](mailto:johnbonanni@co.morris.nj.us) and/or mailing a copy to Mr. Bonanni at the address referenced in subsection (h) below.

(h) **Copies and Due Date of Proposals.**

(i) One original and nine (9) copies of a fully authorized, completed, executed and sealed (boxes may be used if necessary or desirable, so long as the Respondent and RFP are clearly marked on the outside) Proposal are due from Respondents by 1:00 p.m., Eastern time (time is of the essence), on the Due Date (as defined in Section 1.8(b) hereof), to be delivered to the following address:

The Morris County Improvement Authority  
Administration and Records Building  
10 Court Street  
P.O. Box 900  
Morristown, New Jersey 07963-0900  
Attention: John Bonanni, Chairman

(ii) See Section 5.4 of this RFP for additional requirements regarding the submission of the Proposal and actions to occur on the Due Date, including subsection (j) of Section 5.4 regarding the option for submitting an additional redacted version of the Proposal under OPRA (as hereinafter defined), if applicable.

(i) **Comments and Questions.** All comments and questions concerning any facet of this RFP, including the corresponding procedures and requirements for submitting the Proposal, must be addressed in writing, no later than the time established in the Proposed Schedule for the Series 2011 Program set forth in Exhibit 3 to this RFP,

(i) if via hard copy, to the following address:

The Morris County Improvement Authority  
Administration and Records Building  
10 Court Street  
P.O. Box 900  
Morristown, New Jersey 07963-0900  
Attention: John Bonanni, Chairman; or

(ii) If via e-mail, to Deborah S. Verdesame, Esq., of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Counsel for the Authority: [dverdesame@tandnlaw.com](mailto:dverdesame@tandnlaw.com).

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(a) In determining the PPA Price and other requirements of the Proposal, including the funding of the various Renewable Energy Projects, each Respondent may, at its option, utilize the Authority Financing Option, as defined in Section 1.3(e) of this RFP, and/or the Company Financing Option, as defined in Section 1.5(c) of this RFP.

(b) If the Respondent selects the Authority Financing Option, it must submit Form A-1-a, which is found in Appendix D-A-1-a to this RFP (and described in Section 4.1 of this RFP), as part of Exhibit A to be attached to the Respondent's Proposal.

(c) If the Respondent selects the Company Financing Option, it must submit Form A-1-b, which is also found in Appendix D-A-1-b to this RFP (and also described in Section 4.1 of this RFP), as part of Exhibit A to be attached to the Respondent's Proposal.

(d) If multiple alternative Proposals are to be submitted by a Respondent, they will need to submit as part of their Proposal (among other things), Form A-1-a, or Form A-1-b, as applicable, for each Proposal alternative. Note that in accordance with Section 5.4(a)(iv) of this RFP, each Respondent may submit up to three (3) alternative Proposals using the Authority Financing Option, and up to one (1) Proposal using the Company Financing Option. Pursuant to Section 1.3(g)(vii), Respondents submitting under both Option F-1 and Option F-2 are deemed to have submitted one (1) Proposal under the Authority Financing Option, and a second alternative Proposal under the Authority Financing Option. Finally, Respondents are encouraged, but not required, to submit a Proposal under each of the Authority Financing Option and the Company Financing Option.

**Section 1.3 Authority Financing Option.**

(a) Each Respondent may submit a Proposal utilizing funds provided by the Authority through the issuance of the Authority's hereinafter defined Series 2011 Bonds to finance all or a portion of the following, all of which must be provided for if utilizing the Authority Financing Option, and all as shall be designated by the Respondent in its Proposal:

(i) The cost of the Renewable Energy Projects for the Series 2011 Local Units (there are no Capital Improvement Projects for the Series 2011 Local Units), which cost shall be determined by the Respondent in their Proposal, within the parameters of this RFP, including Section 1.1(e) and Appendix B-1 hereof;

(ii) The sum of the following amounts: (A) the costs incurred by or on behalf of the Authority, the County or the Series 2011 Local Units, including consultants, in developing the Series 2011 Program, (B) the cost of issuing the Series 2011 Bonds, including all first year administrative costs, and (C) construction management costs to be incurred by the Authority in overseeing the construction and implementation of the Renewable Energy Projects by the

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Successful Respondent (collectively and under the Authority Financing Option, the "Project Development Costs"), which Project Development Costs have been estimated at the time of this RFP by the Authority to total \$[Project Development Costs], to be adjusted in accordance with Section 4.1(c)(iii)(B) of this RFP; and

(iii) Capitalized interest for one (1) year (i.e., two (2) semi-annual interest payments) on the Series 2011A Bonds (as hereinafter defined), to be funded through the issuance of the Series 2011B Note (as hereinafter defined) ("Capitalized Interest").

(b) The Respondent may also determine to finance reserves, its own soft costs, including development fees and that of its consultants, or other related amounts with the proceeds of a portion of the Series 2011A Bonds, so long as the Respondent provides for same in its Proposal (under the Authority Financing Option, the "Company Development Costs"). None of the Authority, the County or the Series 2011 Local Units are responsible for these Company Development Costs, which are the sole obligation of the Respondent, although the Authority shall provide for Company Development Costs in its earmarking of Series 2011 Bond proceeds if requested by the Respondent in its Proposal and if permitted in accordance with subsection (d) below.

(c) Subject to subsection (d) below, the Respondent may, at its option, finance one hundred percent (100%) of the costs and expenses set forth in subsections (a) and, if applicable, (b) above (collectively, and under the Authority Financing Option, the "Total Project Costs") through the issuance of the Authority's Series 2011 Bonds, or such lesser amount as the Respondent shall determine. However, to the extent the Respondent determines to finance less than one hundred percent (100%) of the Total Project Costs through the issuance of the Series 2011 Bonds (either at Respondent's option, or as a result of subsection (d) below), the Respondent shall provide an equity contribution (which can be in the form of a debt obligation incurred by or on behalf of the Respondent, so long as any equity stakeholders or debt obligees agree to subordinate their rights to be repaid to the Authority's rights to receive Basic Lease Payments (as defined in Section 1.8(b) herein) under the Company Lease Agreement, as such terms are hereinafter defined, the "Equity Contribution") to cover the balance of the Total Project Costs.

(i) If the Equity Contribution is cash to be provided upon the signing of the PPA or a covenant for the Company (or affiliates) to provide cash in the future, the Respondent must provide to the Authority at the time of submission of Respondent's Proposal (the "Equity Contribution Cash Commitment") (A) details regarding the source, timing and any conditions regarding the provision of the cash (e.g. on deposit in a bank account, or to come from Program Agreement revenues received over time), and (B) an irrevocable commitment to provide same, whereupon the Authority will determine the reasonableness and likelihood of receiving that cash.

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action upon the Authority's award of the Successful Respondent to this RFP. The Authority anticipates that all of these remaining official actions shall occur, well within the timeframes for Series 2011A Bond closing established in the Proposed Schedule for the Series 2011 Program set forth in Exhibit 3 to this RFP.

(g) The Authority Financing Option is structured as follows.

(i) Bond Resolution. Pursuant to the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the "Act"), including Sections 17-19 thereof (N.J.S.A. 40:37A-60, 61 and 62), and other applicable law, on ~~December 1, 2011~~, 2011, the governing body of the Authority is scheduled to adopt its "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 (SUSSEX COUNTY PROGRAM) AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY", as such resolution may be amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"). The form of Bond Resolution is set forth in Appendix A to this RFP.

(ii) Series 2011 Bonds. The Bond Resolution shall authorize one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series 2011 (County of Sussex Program) (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "Series 2011 Bonds"). In accordance with the Proposed Schedule for the Series 2011 Program set forth in Exhibit 3 to this RFP, the Authority anticipates issuing a series of Series 2011 Bonds (the "Series 2011A Bonds") to fund all of the Total Project Costs, if under \$50,000,000, except for Capitalized Interest for the Series 2011A Bonds, on or about November 3, 2011. The Authority shall finance the Capitalized Interest for the Series 2011A Bonds in one or more series of Series 2011 Bonds (collectively, the "Series 2011B Note") to be issued after January 1, 2012, and prior to the respective semi-annual interest payment dates for the Series 2011A Bonds coming due on ~~December 1, 2012~~ and ~~December 1, 2013~~.

(iii) Company Lease Agreement. The principal of, redemption premium, if any, and interest on the Series 2011A Bonds shall be payable from Basic Lease Payments to be made by the Company (i.e., the Successful Respondent) under that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day

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(ii) If the Equity Contribution is some non-cash form of security from a third-party (even if that third-party, upon Company action or inaction, will provide cash, such as a letter of credit), (A) an irrevocable commitment letter to provide such security, along with (B) the material terms regarding the source, timing and any conditions for the provision of such security (collectively, the "Equity Contribution Consent of Surety") from the source of the Equity Contribution must be provided to the Authority at the time of submission of Respondent's Proposal.

(iii) If notwithstanding the Equity Contribution Cash Commitment or the Equity Contribution Consent of Surety, the Authority determines the plan for the funding of cash or other security to be unreasonable or unlikely to actually occur, or if no Equity Contribution Cash Commitment or Equity Contribution Consent of Surety, as applicable, is provided with the Proposal upon its submission, then the Authority will weight negatively the Respondent's ability to fund the Equity Contribution. The Authority will allow the Respondent to provide either the Equity Contribution Cash Commitment or Equity Contribution Consent of Surety, if not provided with the Proposal, no later than \_\_\_\_\_. Any post-Proposal submission of the Equity Contribution Cash Commitment or Equity Contribution Consent of Surety runs the added risk of the Authority and its consultants not having sufficient review time to adequately determine the reasonableness or likelihood of the realization of the Equity Contribution proposed by the Respondent.

(d) Notwithstanding the provisions of subsection (c) above, due to constraints of applicable law, the Authority shall not issue the Series 2011 Bonds in an amount in excess of fifty million dollars (\$50,000,000).

(e) Utilizing the Series 2011 Bonds, and as applicable, other sources, to fund the costs and expenses set forth in this Section 1.3 of this RFP shall be known as the "Authority Financing Option".

(f) The Local Finance Board, Division of Local Government Services, State Department of Community Affairs (the "Local Finance Board") has taken all required official action to authorize the Authority Financing Option under the Series 2011 Program, including the issuance of the Series 2011 Bonds. This RFP has been approved by the Office of the State Comptroller for issuance, including the Authority Financing Option. The County has taken all official action required for it to participate in the Series 2011 Program, including the Authority Financing Option. The Authority has taken all official action, except for the adoption of the Bond Resolution, which action is scheduled for July 20, 2011, and except for the award of the Successful Respondent and the approval of the final terms of the Series 2011 Bonds, in order to implement the Series 2011 Program, including the Authority Financing Option. The Series 2011 Local Units have each adopted resolutions expressing their interest in participating in the Series 2011 Program, including the Authority Financing Option, and are scheduled to take final official

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of the month of issuance of the Series 2011A Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor of the Renewable Energy Projects, and the Company, as lessee. The form of Company Lease Agreement is set forth in Appendix A to this RFP.

(iv) Basic Lease Payments - Series 2011A Bonds

The principal of the Series 2011A Bonds shall be due each May 1, commencing May 1, 2013, through and including May 1, 2027. The interest on the Series 2011A Bonds shall be due and payable each May 1 and November 1, commencing May 1, 2012 through and including May 1, 2027, although the May 1 and November 1 interest payments on the Series 2011A Bonds payable in 2012 shall be paid from the Capitalized Interest provided from the principal of the Series 2011B Note. Basic Lease Payments to pay the principal of and interest on the Series 2011A Bonds shall be due each December 1 and June 1, commencing December 1, 2012, through and including December 1, 2026. The Basic Lease Payments have been purposely established five (5) months' prior to the corresponding Series 2011A Bond principal and interest payment dates. The estimated Basic Lease Payments allocable to debt service on the Series 2011A Bonds is set forth in Appendix E to this RFP.

(v) Basic Lease Payment - Series 2011B Note

The principal of and interest on the Series 2011B Note shall be due, in full, on the first Basic Lease Payment date, ~~December 1, 2012~~. The estimated Basic Lease Payment allocable to debt service on the Series 2011B Note is also set forth in Appendix E to this RFP.

(vi) Additional Lease Payments. In addition to Basic Lease Payments, the Company is responsible for payment of certain Additional Lease Payments as defined under the Company Lease Agreement, which includes an Authority's Annual Administrative Fee (as defined in Section 1.8(b) herein). Any further administrative expenses incurred by or on behalf of the Authority during the term of the Company Lease Agreement, including the annual fees of the trustee (the "Trustee") for the Series 2011 Bonds (in an amount not to exceed \$5,000 per annum until the Series 2011 Bonds have been fully paid off), any late payment fees, or prepayment, through redemption or mandatory acceleration (due to a Company default) of the Series 2011 Bonds. The first year annual fee of \$20,000, along with a one-time Authority acceptance fee, shall be payable from a portion of the proceeds of the Series 2011A Bond issue and are included in the Project Development Costs.

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(vii) County Guaranty. The Series 2011 Bonds shall also be secured by a full faith and credit guaranty (the "County Guaranty") of the County under Section 37 of the Act (N.J.S.A. 40:37A-30) and in accordance with the terms of that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011A Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement"). The form of County Guaranty Agreement is set forth in Appendix A to this RFP. As the County is presently rated AAA, the Authority anticipates the Series 2011 Bonds shall be rated AAA. The Series 2011A Bonds shall be offered to the public through a public underwriting. The Authority anticipates that the Series 2011B Note shall be issued directly to, and held by, the County, for its under one (1) year term.

(viii) Company Continuing Disclosure Agreement. As a materially obligated person through its Basic Lease Payment obligation under the Company Lease Agreement in accordance with applicable Federal securities law, the Company shall be obligated to authorize, execute, and deliver with the Authority and the Trustee, as dissemination agent, that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011A Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement"). The form of Company Continuing Disclosure Agreement is set forth in Appendix A to this RFP. The Company obligations under the Company Continuing Disclosure Agreement are expected to be contiguous in length with the final maturity of the Series 2011 Bonds, which is expected to be approximately the same as the fifteen (15) year PPA.

(ix) Principal Amortization and Interest Rates

The principal amortization, and interest rates used in the Basic Lease Payment schedule set forth in Appendix E to this RFP is based upon a level principal amortization of \$50,000,000, the maximum Total Project Cost to be funded by the Authority under this RFP, and a total interest cost ("TIC") of 5.00%. See Section 4.1(c)(iv) of this RFP, which allows the Respondent to amortize the principal of the Series 2011A Bonds (and therefore the Basic Lease Payment schedule allocable thereto) on an accelerated basis (i.e., sooner than a level principal payback). This TIC is approximately 50 basis points above current market conditions for the taxable Series 2011A Bonds in order to provide some hedge against rising interest rates from the date of this RFP through the anticipated sale date of the Series 2011A Bonds. Also see Article IV for the interest rate adjustment factor (up or down), post Proposal submission, for the PPA Price, which allows the Respondent to propose a PPA Price and be held

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(xi) Local Unit License Agreements. Prior to the issuance of the Series 2011A Bonds, the Authority will have authorized, executed and delivered a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011A Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit. Each Local Unit License Agreement shall be acknowledged by the Company. The form of the master Local Unit License Agreements is set forth in Appendix A to this RFP. The Local Unit License Agreement shall designate the location of the Local Unit Facilities and the Renewable Energy Projects, and allow the Authority and its designee through the Company Lease Agreement and the PPA (as hereinafter defined), the Company, on site to design, permit, acquire, construct, install, operate and maintain the respective Renewable Energy Projects for the Series 2011 Local Units.

(xii) PPA. Under the terms of the Company Lease Agreement and that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011A Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "PPA") between the Authority and the Company, the Company shall sell to the Authority the electricity generated by the respective Renewable Energy Projects at the PPA Price for the fifteen (15) year term allowed or permitted under applicable law. The form of the PPA is set forth in Appendix A to this RFP. The obligation to receive and utilize this electricity at the respective Local Unit Facilities, and to pay for same, is passed through to the respective Local Units from the Authority in accordance with the terms of the Local Unit License Agreements. Accordingly, under the terms of the Company Lease Agreement, the PPA, and the Local Unit License Agreements, the Company shall be entitled to:

- (A) Solar Renewable Energy Certificates ("SRECs") generated from the Renewable Energy Projects; and
- (B) The PPA Price payments made by the Series 2011 Local Units.

(xiii) End of Lease Term Options. At the end of the lease term under the Company Lease Agreement, the Company shall purchase the Renewable Energy Projects for nominal consideration. To the extent permitted by then applicable law, the Company has the option to extend the PPA with either the Authority and/or the applicable Series 2011 Local Units, to the extent the parties can agree upon a new PPA price for the balance of the useful life of the Renewable Energy Projects. Alternatively, such parties could agree to a fair

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harmless for movement in interest rates in the taxable municipal market from the date of Proposal submission until the Series 2011A Bonds are sold. The TIC for the Series 2011B Note to be placed with the County is anticipated to be derived from the TIC for the Series 2011A Bonds.

(x) Tax Structure. The Company Lease Agreement is structured as a conditional sale of the Renewable Energy Projects by the Authority, as State law owner, to the Company, as State law lessee, for Federal income tax purposes. Assuming conditional sale treatment under the Internal Revenue Code of 1986, as amended, including the regulations promulgated pursuant thereto (the "Code"), the Company may be entitled to the items in clauses (A) and (B) below, provided the Respondent should note the disclaimer in clause (C) below:

(A) Thirty percent (30%) investment tax credit (or Section 1603 grant in lieu thereof; see Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 as extended by *The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (H.R. 4653)* approved by Congress in December 2010 (i.e., the stimulus bill, "ARRA", applicability of which to be determined by Company) and Section 4 of IRS Notice 2009-52, 2009-25 I.R.B. 1) (the "TIC"); and

(B) five (5) year accelerated depreciation for Renewable Energy Projects and other available benefits, if applicable (the "Accelerated Depreciation").

(C) BY REGISTERING FOR RECEIPT OF THIS RFP, AND WITHOUT ANY FURTHER ACT, EACH POTENTIAL AND ACTUAL RESPONDENT ACKNOWLEDGES THAT SUCH RESPONDENTS SHOULD CONSULT WITH, AND RELY UPON, THEIR OWN TAX ADVISORS IN CONNECTION WITH ALL FEDERAL AND STATE TAX MATTERS IN THIS RFP, INCLUDING THE INTERPRETATION OF THE COMPANY LEASE AGREEMENT AND ANY OTHER PROGRAM DOCUMENTS, AND THAT NONE OF THE AUTHORITY, THE COUNTY, THE SERIES 2011 LOCAL UNITS, NOR THEIR ADVISORS, ARE RENDERING ANY ADVICE OR OPINION IN CONNECTION WITH SUCH TAX MATTERS

market value sale of the Renewable Energy Projects from the Company to the Authority and/or the applicable Series 2011 Local Units. If terms cannot be reached for either option, the Company is responsible for both removing the Renewable Energy Projects and restoring the roofs or other applicable property to the condition that existed prior to the Local Unit License Agreements.

(xiv) Company Default. Under the terms of this RFP (see Section 7.2(a)) and the Company Lease Agreement, the Company is required to post a Construction Performance Bond (as defined in Section 1.8(b) herein) for the construction and installation of the Renewable Energy Projects. Should the Company default under its Basic Lease Payment obligations, the Authority anticipates that the County would be required to pay the principal of and interest on the Series 2011 Bonds pursuant to its County Guaranty. Although under this Company default scenario, the Company would have lost its rights with respect to the Renewable Energy Projects under the Company Documents, the Authority anticipates that it would invoke the provisions of the Construction Performance Bond to complete the construction and installation of the Renewable Energy Projects. If, alternatively, the Renewable Energy Projects were already installed, or after completion of construction and installation of same to the extent the Construction Performance Bond were called upon, the Authority anticipates allowing the Series 2011 Local Units to continue receiving the benefit of their fifteen (15) year bargain under the terms of their respective Local Unit License Agreements (i.e., receive solar energy and pay for it at the PPA Price).

(xv) County Deficiency Amount. In a Company default scenario, the Authority would be entitled to all SREC and PPA revenues, less an amount necessary to hire a developer to operate and maintain the Renewable Energy Projects, and less any administrative costs of the Authority (such net revenue shall be known as the "Default Revenues"). Due to the unavailability to the Authority of all Federal tax benefits, the Authority anticipates that the amounts paid by the County under its County Guaranty would not be wholly offset by the Default Revenues. This difference shall be known as the "County Deficiency Amount".

(xvi) Eliminate, Minimize, and/or Fund the County Deficiency Amount. Although in a Company default scenario the Authority may attempt to replace the defaulting Company with a substitute developer that might accept the same material terms under the Company Documents, the Authority and the County cannot rely on that occurrence. Accordingly, the Authority is requiring the Respondent to do any of the following, all of which are acceptable to the Authority, although the Authority's preference is stated in the following order:

- (A) Eliminate the County Deficiency Amount;

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(B) Minimize the County Deficiency Amount; if it is not eliminated, then the Respondent must fund it; or

(C) Fund the County Deficiency Amount.

(xvii) Reimbursement Collateral, County Security, County Security Agreement.

Funding the County Deficiency Amount can occur at closing upon issuance of the Series 2011A Bonds, over time through a covenant to fund, or some combination thereof. Funding at closing is preferable to the Authority. The provision of immediately available funds in the form of cash, an irrevocable letter of credit, or otherwise is preferable to the Authority. Other non-immediately available funding sources, such as Company parent guarantees, are acceptable at the option of the Authority. The funding sources shall be known as the "Reimbursement Collateral", as such amounts shall be earmarked to reimburse the County for any payments under the County Guaranty (the "County Security"). The Authority is not imposing a debt service coverage ratio on the Respondents, although greater coverage is preferable to the Authority over lesser coverage. Reimbursement Collateral received as County Security for the County Deficiency Amount shall be deposited with the Trustee in the County Security Fund created under the Bond Resolution (although not pledged to the Series 2011 Bondholders), and may be released over time, as established in the Proposal, if agreed to by the Authority, especially as the potential County Guaranty obligation reduces as the Series 2011 Bonds are repaid. It may be necessary for the Company to enter into an agreement (the "County Security Agreement") concerning the Reimbursement Collateral as County Security, such as a letter of credit and reimbursement agreement with a third-party provider (the "County Security Provider") of any such Reimbursement Collateral as County Security. Since the form of such Reimbursement Collateral is up to the Respondent, if required depending on the nature of the Proposal and the Reimbursement Collateral being offered, the Authority cannot impose a form of County Security Agreement to provide County Security. If the Respondent is required to execute a County Security Agreement in order to produce the Reimbursement Collateral as County Security, the form of the County Security Agreement is subject to the reasonable acceptance of the terms thereof by the Authority and the County, and a form of which must be included with the Proposal.

(xviii) Sizing the County Deficiency Amount. To the extent the Respondent is unable to eliminate the County Deficiency Amount, the Respondent must determine the size of the County Deficiency Amount to be funded using SREC amounts no greater than the minimum SREC values set forth in either Option F-1 or Option F-2 in Appendix F to this RFP. The option

selected shall be considered the base case (using both options shall be considered the base case, plus the submission of an alternative Proposal - see Section 5.4(a)(iv) of this RFP for the maximum number of alternative Proposals the Authority is required to review). "Option F-1", attached hereto in Appendix F, provides for a higher County Deficiency Amount, but allows for the release of excess funds in the County Security Fund as soon as the amount on deposit exceeds the remaining debt service obligations on the Outstanding Series 2011 Bonds (at 100% coverage, unless the Respondent offers a higher debt service coverage ratio in its Proposal). "Option F-2", attached hereto in Appendix F, presumes the Respondent is sufficiently incentivized under the Code to avoid the recapture provisions during the initial five (5) year period. Therefore, although the initial County Deficiency Amount is lower under Option F-2, the amount in the County Security Fund does not release to the Company until after the noted recapture period. There are a number of adjustment factors set forth in Appendix F that will alter the Amount of the County Deficiency Amount, including without limitation the par amount and amortization of the Series 2011 Bonds, the TIC on the Series 2011 Bonds, the EPA Price offered by Respondent, and even the SREC values, assuming Respondent desires to utilize more conservative SREC values than those set forth in Appendix F. The assumption of minimum SREC values for the calculation of the County Deficiency Amount shall have NO EFFECT on the Respondent's view of SRECs in determining its PPA Price, as this County Deficiency Amount calculation assumes the minimum SREC values for the sole purpose of providing security to the County, should it ever have to make payment under its County Guaranty.

(xix) County Security Cash Commitment, County Security Consent of Surety.

(A) If the County Deficiency Amount has not been eliminated, after calculating the County Deficiency Amount in clause (xviii) above, the Respondent is required to provide Reimbursement Collateral, as County Security for and in the amount of the County Deficiency Amount.

(B) If the Reimbursement Collateral, as County Security for and in the amount of the County Deficiency Amount is cash to be provided upon the signing of the PPA or a covenant for the Company (or affiliate) to provide cash in the future, the Respondent must provide to the Authority at the time of submission of Respondent's Proposal (the "County Security Cash Commitment") (I) details regarding the source, timing and any conditions regarding the provision of the cash (e.g. on deposit in a bank account, or to come from Program Agreement revenues received over time), and (II) an irrevocable commitment to provide

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same, whereupon the Authority will determine the reasonableness and likelihood of receiving that cash.

(C) If the Reimbursement Collateral, as County Security for and in the amount of the County Deficiency Amount is some non-cash form of security from a third-party (even if that third-party, upon Company action or inaction, will provide cash, such as a letter of credit), (I) an irrevocable commitment letter to provide such security, along with (II) the material terms regarding the source, timing and any conditions for the provision of such security (collectively, the "County Security Consent of Surety") from the County Security Provider to provide the funds or other security that comprises the Reimbursement Collateral must be provided to the Authority at the time of submission of Respondent's Proposal.

(D) If, notwithstanding the County Security Cash Commitment or the County Security Consent of Surety, the Authority determines the plan for the funding of cash or other security to be unreasonable or unlikely to actually occur, or if no County Security Cash Commitment or County Security Consent of Surety, as applicable, is provided with the Proposal upon its submission, then the Authority will weight negatively the Respondent's ability to fund the County Deficiency Amount. The Authority will allow the Respondent to provide either the County Security Cash Commitment or County Security Consent of Surety, if not provided with the Proposal, no later than September 27, 2011. Any post-Proposal submission of the County Security Cash Commitment or County Security Consent of Surety runs the added risk of the Authority and its consultants not having sufficient review time to adequately determine the reasonableness or likelihood of the realization of the County Security proposed by the Respondent.

(xx) Company Pledge Agreement. In order to protect the County, the Authority shall require the Respondent and/or the owner of one hundred percent (100%) of the special purpose or other Respondent affiliated entity that shall become the Company to enter into that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011A Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the managing member (or equivalent in a non-limited liability company form of corporate governance) of the Company in favor of the Trustee, and acknowledged and

accepted by the Company. The form of the Company Pledge Agreement is set forth in Appendix A to this RFP.

Section 1.4 Company Services Under the Authority Financing Option.

(a) The Company Services under the Authority Financing Option are set forth in the obligations of the Company under the Company Lease Agreement, the PPA, the Local Unit License Agreements, the Company Continuing Disclosure Agreement, the Company Pledge Agreement, and as applicable, the County Security Agreement (collectively, under the Authority Financing Option, the "Company Documents").

(b) The Company Documents, together with the Authority's Bond Resolution and the County Guaranty Agreement, shall be collectively referred to under the Authority Financing Option as the "Program Documents". The Successful Respondent shall be prepared to exercise the rights, and perform all of the duties and obligations of the Company as set forth in the Program Documents.

Section 1.5 Company Financing Option.

(a) Each Respondent may submit a Proposal utilizing funds provided by or on behalf of the Company. There are no Series 2011 Bonds to be issued by the Authority under the Company Financing Option. Funds provided by or on behalf of the Company, whether in the form of equity, mezzanine debt, senior and/or subordinated debt, and/or otherwise, shall, at a minimum, be sufficient to provide for the following, as shall be designated by the Respondent in its Proposal:

(i) The cost of the Renewable Energy Projects for the Series 2011 Local Units (there are no Capital Improvement Projects for the Series 2011 Local Units), which cost shall be determined by the Respondent in their Proposal;

(ii) The sum of the following amounts: (A) the costs incurred by or on behalf of the Authority, the County or the Series 2011 Local Units, including consultants, in developing the Series 2011 Program, and (B) construction management costs to be incurred by or on behalf of the Authority in overseeing the construction and implementation of the Renewable Energy Projects by the Successful Respondent (collectively and under the Company Financing Option, the "Project Development Costs"), which Project Development Costs have been estimated at the time of this RFP by the Authority to total \$3,000,000, to be adjusted in accordance with Section 4.1(d) of this RFP. As there are no Series 2011 Bonds under the Company Financing Option, there is no cost of issuing the Series 2011 Bonds to be provided for under the Company Financing Option, resulting in a lower Project Development Cost; and

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(iii) Similarly, there is no need to provide for capitalized interest under the Company Financing Option.

(b) The Respondent may also determine to finance reserves, its own soft costs, including development fees and that of its consultants, or such other amounts as it shall deem necessary, desirable or convenient in connection with the Series 2011 Program, regardless of whether the Respondent provides for same in its Proposal (the "Company Development Costs"). None of the Authority, the County or the Series 2011 Local Units is responsible for these Company Development Costs, which are the sole obligation of the Respondent.

(c) Utilizing equity and/or debt (or otherwise) provided by or on behalf of the Company to fund the costs and expenses set forth in this Section 1.5 of this RFP shall be known as the "Company Financing Option".

(d) This RFP has been approved by the Office of the State Comptroller for issuance, including the Company Financing Option. The County has taken all official action required for it to authorize the Series 2011 Program, including the Company Financing Option. The Authority has taken all official action for it to participate in the Series 2011 Program, including the Company Financing Option, except for the award of the Successful Respondent and the approval of the final terms of the Company Financing Documents in order to implement the Series 2011 Program, including the Company Financing Option. The Series 2011 Local Units have each adopted resolutions expressing their interest in participating in the Series 2011 Program, including the Company Financing Option, and are scheduled to take final official action upon the Authority's award of the Successful Respondent to this RFP. The Authority anticipates that all of these remaining official actions shall occur, well within the timeframes for closing established in the Proposed Schedule for the Series 2011 Program set forth in Exhibit 3 to this RFP.

(e) The Company Financing Option is structured as follows.

(i) PPA. Under the Company Financing Option, the Company is providing and/or obtaining through a third party its own financing for one hundred percent (100%) of the costs and expenses set forth in subsections (a) and (b) above (collectively, and under the Company Financing Option, the "Total Project Costs") in the form of equity, mezzanine debt, senior and/or subordinated debt, and/or otherwise. Accordingly, the Company should, to the greatest extent practicable, utilize the form documents required by its funding source(s) (the "Company Funding Documents"). Nevertheless, to the extent the material risk sharing provisions of the PPA are different from those set forth in the attached form of the PPA as set forth in Appendix A to this RFP, (A) such material deviations should be identified in the Proposal, (B) such material deviations may be viewed as a negative factor in the Evaluation Criteria pursuant to Section 6.2 of this RFP, and (C) the Respondent should note if it would be using the form PPA provided, or its own form of PPA, in which latter case such

PPA form (along with any other material documents to be executed or acknowledged by the Authority, the County and/or the Series 2011 Local Units) shall be provided as part of the Proposal. If the Respondent is using the form PPA provided in Appendix A to this RFP, such PPA shall be adjusted to provide the requisite license and other provisions required to make such document work in conjunction with the Local Unit License Agreements.

(ii) Local Unit License Agreements. The Local Unit License Agreements shall continue to provide their primary purposes under the Company Financing Option; i.e., allowing the Company site access to design, permit, acquire, construct, install, operate, and maintain the Renewable Energy Projects, while providing the Local Units with the right and obligation to use and pay for the electricity generated thereby at the PPA Price. The form of the master Local Unit License Agreement is set forth in Appendix A to this RFP. The master Local Unit License Agreement shall be adjusted to conform to the PPA utilized under the Company Financing Option.

(iii) Allocation of Benefits. Under the PPA and the Local Unit License Agreements, as among the Authority, the County, the Series 2011 Local Units, and the Company, so long as the Company is not in default under the Company Documents as hereinafter defined, the Company shall be entitled to all of the following under the Company Financing Option:

- (A) The ITC;
(B) Accelerated Depreciation;
(C) SRECs generated from the Renewable Energy Projects; and
(D) The PPA Price payments made by the Series 2011 Local Units.

(iv) Analogous Provisions to Company Financing Documents under the Authority Financing Option. The Company Financing Documents under the Company Financing Option shall include provisions, as adjusted for the difference in financing structure, similar to those set forth in Section 1.3(g)(vi), and Section 1.3(g)(x) - (xiv) inclusive.

Section 1.6 Company Services Under the Company Financing Option.

(a) The Company Services under the Company Financing Option are set forth in the obligations of the Company under the PPA, the Local Unit License Agreements, and the Company Funding Documents (collectively, under the Company Financing Option, the

"Company Documents" or the "Program Documents"). The Successful Respondent shall be prepared to exercise the rights, and perform all of the duties and obligations of the Company as set forth in the Program Documents.

(b) The Company shall not be obligated to submit the Company Funding Documents as part of the Proposal, unless the Company Funding Documents have a material effect on provisions of the other Program Documents under the Company Financing Option. In such instance, the Company shall either (i) supply the relevant Company Funding Documents as part of the Proposal or (ii) provide excerpts of the relevant provisions thereof as part of the Proposal.

Section 1.7 Material Changes to RFP. The Series 2011 Program differs from the Series 2010 Program, in addition to different Local Units, Local Unit Facilities, and Renewable Energy Projects, in the following material ways:

(a) The Series 2011 Program includes a Company Financing Option. See Sections 1.5 and 1.6 to this RFP.

(b) Appendix F to this RFP has been added to provide Respondents with minimum SREC values in determining the County Deficiency Amount. See Section 1.3(g)(xviii) of this RFP regarding the options available in sizing the County Deficiency Amount.

(c) Section 5.4(j) of this RFP provides for the Respondent to submit an additional redacted version of its Proposal in order to invoke an applicable OPRA exception regarding certain information contained in the Proposal.

Section 1.8 Definitions.

(a) The following terms defined Article I of this RFP shall, for all purposes of this RFP, have the meanings set forth in the following Sections of Article I of this RFP.

Table with 2 columns: Term and Reference. Includes: Act (1.3(g)(i)), Accelerated Depreciation (1.3(g)(x)(B)), Authority (1.1(a)), Authority Financing Option (1.3(e)), Board of Education Series 2011 Local Units (1.1(b)(ii)), Bond Resolution (1.3(g)(1)), BPU (1.1(f)), Capital Improvement Projects (1.1(a)), Capitalized Interest (1.3(a)(iii)), Company (1.1(f)), Company Continuing Disclosure Agreement (1.3(g)(viii)), Company Development Costs (Authority Financing Option) (1.3(b)), Company Development Costs (Company Financing Option) (1.5(b)).

Table with 2 columns: Item and Reference. Includes: Company Documents (Authority Financing Option) (1.4(a)), Company Documents (Company Financing Option) (1.6(a)), Company Financing Option (1.5(e)), Company Funding Documents (1.5(e)(i)), Company Lease Agreement (1.3(g)(iii)), Company Pledge Agreement (1.3(g)(xx)), Company Services (1.1(f)), County (1.1(a)), County Deficiency Amount (1.3(g)(xv)), County Guaranty (1.3(g)(vii)), County Guaranty Agreement (1.3(g)(vii)), County Security (1.3(g)(xvii)), County Security Agreement (1.3(g)(xvii)), County Security Cash Commitment (1.3(g)(xx)(B)), County Security Consent of Surety (1.3(g)(xx)(C)), County Security Provider (1.3(g)(xvii)), County Series 2011 Local Unit (1.1(b)(ii)), Default Revenues (1.3(g)(xv)), Equity Contribution (1.3(c)), Equity Contribution Cash Commitment (1.3(c)(f)), Equity Contribution Consent of Surety (1.3(c)(fi)), ITC (1.3(g)(x)(A)), LFB Notice 2005-20 (1.1(f)), LFB Notice 2009-10 (1.1(f)), Local Finance Board (1.3(f)), Local Finance Board Notices (1.1(f)), Local Unit (1.1(a)), Local Unit Facilities (1.1(a)), Local Unit License Agreements (1.3(g)(xv)), Municipal Series 2011 Local Units (1.1(b)(i)), Option F-1 (1.3(g)(xviii)), Option F-2 (1.3(g)(xvii)), OPRA (1.1(f)(ii)), PPA (1.3(g)(xii)), Program (1.1(a)), Program Documents (Authority Financing Option) (1.4(b)), Program Documents (Company Financing Option) (1.6(a)), Project Development Costs (Authority Financing Option) (1.3(a)(ii)), Project Development Costs (Company Financing Option) (1.3(a)(ii)), Projects (1.1(a)), Proposals (1.1(a)), Reimbursement Collateral (1.3(g)(xvii)), Renewable Energy Projects (1.1(a)), Respondents (1.1(f)).

RFP	1.1(d)
Series 2010 Program	1.14(a)
Series 2011 Bonds	1.3(g)(ii)
Series 2011A Bonds	1.3(g)(i)
Series 2011B Note	1.3(g)(ii)
Series 2011 Local Units	1.1(b)
Series 2011 Program	1.1(b)
SRECs	1.3(g)(iii)(A)
State	1.1(f)
Successful Respondent	1.1(f)
TIC	1.3(g)(ic)
Total Project Costs (under Authority Financing Option)	1.3(c)
Total Project Costs (under Company Financing Option)	1.5(e)(i)
Trustee	1.3(g)(v)

(b) The following terms defined Articles II - VII of this RFP shall, for all purposes of this RFP, have the meanings set forth in the following Sections of this RFP.

Construction Consent of Surety	7.2(b)(i)
Construction Performance Bond	7.2(b)(ii)
Construction Security	7.2(b)(i)
Due Date	5.4(a)
Evaluation Criteria	6.2
Form A-1	4.1(a)
PPA Price (under Authority Financing Option)	4.1(c)(iii)(A)
PPA Price (under Company Financing Option)	4.1(a)(iii)(A)
Proposal Bond	7.2(i)
Proposal Funds	7.2(a)
Proposal Security	7.2(a)
Restoration Security Cash Commitment	7.2(e)(iii)(A)
Restoration Security Consent of Surety	7.2(c)(iii)(B)
Restoration Security	7.2(c)

(c) The following additional terms shall have the following respective meanings for all purposes of this RFP.

"Annual Administrative Fee" shall mean an amount equal to \$20,000 per annum for each year of the Company Lease Agreement.

"Authority Contact Person" shall mean, individually or collectively, those persons set forth in Section 2.2 of this RFP that shall be the sole point of Authority contact during the RFP process for prospective Respondents.

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"Basic Lease Payments" shall mean that portion of the lease payments, designated as such, due and payable by the Company (i.e., the Successful Respondent) to or on behalf of the Authority under the Company Lease Agreement that are paid on the schedule set forth in Appendix E to pay the principal of and interest on the Series 2011 Bonds, and which amounts are estimated in Appendix E, and are to be established in accordance with this RFP upon the authorization, execution and delivery of the Program Documents, as such amounts may be adjusted in the Proposal of the Successful Respondent.

"Commencement Date" shall mean, individually or collectively, as the case may be, with respect to each Series 2011 Local Unit, the date on which the Company shall have filed with the Trustee for the Series 2011 Bonds the REP Acceptance Certificate, as such term is defined in the Company Lease Agreement, certifying that all of the Renewable Energy Projects for such Series 2011 Local Unit (or multiple Local Unit Facilities, if applicable), have been completed and accepted. Accordingly there shall be eleven (11) Commencement Dates on which the respective Series 2011 Local Units shall commence paying their PPA Price. Notwithstanding the foregoing, the Authority may, at its sole discretion, determine to establish an earlier Commencement Date for certain Series 2011 Local Units, by written notification of same to the Company, the Trustee for the Series 2011 Bonds, and the affected Series 2011 Local Unit, but only with respect to the completed Renewable Energy Projects for the Local Unit Facilities of such Series 2011 Local Unit, and only in the event the Authority determines that the Acceptance Certificates (which require completion of all such Renewable Energy Projects for a Series 2011 Local Unit) are being unduly delayed for some reason not within the control of the Company.

"Financing Option(s)" shall mean, individually or collectively, as the case may be, the Authority Financing Option or the Company Financing Option.

"Respondent Contact Person" shall mean the one or more persons identified by potential Respondents as the contact person(s) for such Respondent to receive all future communication from the Authority during the RFP process, which Respondent has received a copy of this RFP and has registered in accordance with the provisions of Section 2.3 of this RFP.

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## ARTICLE II

### INITIAL ACTION BY RESPONDENTS

#### Section 2.1 RFP.

(a) The RFP may be downloaded by Respondents from the Authority's website (<http://www.co.morris.nj.us/improvement/>). AS SOON AS RESPONDENTS DOWNLOAD THIS RFP, PLEASE REGISTER IN ACCORDANCE WITH SECTION 2.3 OF THIS RFP.

(b) Alternatively, hard copies may be obtained from the Chairman of the Authority for a fee of fifty dollars (\$50.00) each at the following address, but only upon simultaneous registration in accordance with Section 2.3 of this RFP:

(i) The Morris County Improvement Authority  
Administration and Records Building  
10 Court Street  
P.O. Box 900  
Morristown, New Jersey 07963-0900  
Attention: John Bonanni, Chairman  
  
T: (973) 285-6047  
F: (973) 285-3266  
sol@energy@co.morris.nj.us

(c) In making copies of this RFP available on the terms set forth in this Section 2.1, the Authority's sole purpose is to obtain Proposals from Respondents in order to select a Successful Respondent. In making this RFP available, the Authority is not intending to confer, and shall not confer, a license or grant of its consent or permission as to any other use of this RFP by potential Respondents.

#### Section 2.2 Authority Contact Persons.

(a) All comments and questions concerning any facet of this RFP, including the corresponding procedures and requirements, must be addressed, in writing, at the times established in the Proposed Schedule for the Series 2011 Program set forth in Exhibit 3 to this RFP, and as follows to the following Authority Contact Persons:

(i) If via hard copy, to John Bonanni, the Authority Chairman, at the address set forth in Section 2.1(B)(i) of this RFP;

(ii) If via e-mail, to Deborah S. Verderame, Esq. of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Counsel to the Authority, at [dverderame@ingdnlaw.com](mailto:dverderame@ingdnlaw.com).

(b) The Authority, in its sole discretion and in accordance with law, reserves the right to respond or not, and if it chooses to respond, to make such question and answers available to the entire group of potential Respondents, through a posting of questions and answers on its website, through an addendum to this RFP, through an e-mail to the Respondent Contact Persons, or otherwise.

(c) The Authority and its advisors shall not respond to any questions or comments concerning this RFP by telephone or during an in-person meeting prior to the award to the Successful Respondent, except for the forum of any interviews authorized and conducted by the Authority; provided, however, that this shall not preclude the Authority and its advisors from seeking clarification of a particular Proposal received from a Respondent through any available means, in order to assist the Authority in its Evaluation Criteria analysis, all as contemplated by Section 6.2 of this RFP.

#### Section 2.3 Respondent Registration.

(a) In order to be considered as the Successful Respondent and in order to access certain important information on the Authority's website needed to prepare its Proposal, each Respondent must register with the Authority providing information pursuant to Section 2.3 of this RFP, including the following: (i) a statement that such Respondent intends to submit a Proposal, and (ii) providing its Respondent Contact Person (as defined in Section 1.8(b) herein) and contact information (name, company, address, phone, cell, fax, and e-mail address) for any and all communication with the Respondent during this RFP timeframe. In addition, registration is recommended (iii) in order to attend the Pre-Proposal Submission Meeting discussed in Section 3.2 of this RFP. There is no penalty for registering as a Respondent, and then ultimately determining in good faith not to submit a Proposal. ACCORDINGLY ALL POTENTIAL RESPONDENTS ARE ENCOURAGED TO REGISTER IMMEDIATELY UPON RECEIVING A COPY OF THE RFP.

(b) Any changes to any information in this RFP, including any future addenda amending or supplementing any terms hereof, shall be both posted on the Authority's website (<http://www.co.morris.nj.us/improvement/>) and issued, via fax or e-mail, to the Respondent Contact Person. Registration should occur immediately upon downloading this RFP from the website or otherwise receiving a copy of this RFP from the Authority. Registration should be made by e-mailing the required information in clauses (i) and (ii), and if applicable, clause (iii) of Section 2.3(a) above to John Bonanni at [sol@energy@co.morris.nj.us](mailto:sol@energy@co.morris.nj.us) and/or mailing a copy to John Bonanni at the address set forth in Section 2.1(B)(i) of this RFP.

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ARTICLE III  
PROPOSED SCHEDULE

Section 3.1. RFP and Notice of RFP.

The RFP and the Notice of RFP were authorized for issuance pursuant to resolution of the Authority adopted by its governing body on July 20, 2011, a copy of which is attached in Appendix A to this RFP. The Notice of RFP is set forth as Exhibit 1 to this RFP, and was posted on the Authority's website (<http://www.co.morris.nj.us/improvement/>), and delivered to the *Daily Record*, the *Star Ledger* and *Record*, the Authority's papers of record, for publication, all on (Post Date). Should there be any conflict in terms between the Notice of RFP and this RFP, the provisions of this RFP shall control. This RFP shall be made available in accordance with the terms of Section 2.1 of this RFP from its date until the Due Date for all Proposals.

Section 3.2 Pre-Proposal Submission Meeting

A Pre-Proposal Submission Meeting shall be held for the benefit of all potential Respondents by the Authority and its consultants in the Freeholders Conference Room, 5<sup>th</sup> Floor, County Administration and Records Building, 10 Court Street, Morristown, New Jersey, at 10:00 a.m. on August 30, 2011. Please see Section 2.3 of this RFP for registration requirements. Potential Respondents are STRONGLY encouraged to take part in the Pre-Proposal Submission Meeting. The Authority is considering allowing Respondents to participate in Pre-Proposal Submission Meeting via teleconference and information concerning this option will be provided to Respondents at the time they register pursuant to Section 2.3 of this RFP. Respondents are also encouraged to have, at a minimum, the persons responsible for coordinating the financing and technical components of any Proposal in attendance at the Pre-Proposal Submission Meeting. The Authority does not anticipate having any representatives of the Series 2011 Local Units present at such Pre-Proposal Submission Meeting.

Section 3.3 Site Tours of Local Unit Facilities

(a) The Authority shall make the Local Unit Facilities available for inspection at the times set forth in subsection (b) below by the prospective Respondents that have registered in accordance with Section 2.3 hereof.

(b) Potential Respondents that, prior to each site tour, shall have sent a list of attendees to the Authority, via e-mail to John Bonanni at [solarenergy@co.morris.nj.us](mailto:solarenergy@co.morris.nj.us) and Jessica Vogel, CBCP, Birdsall Services Group at [jvogel@birdsall.com](mailto:jvogel@birdsall.com), shall have an opportunity to inspect the Local Unit Facilities for the Series 2011 Local Units, upon or in which the Renewable Energy Projects are to be developed, at the dates and times set forth below. Such list should include all agents and advisors of the potential Respondents that in the potential

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Respondent's sole discretion shall need to view these Local Unit Facilities in order to submit an informed Proposal.

(i) See chart below.

~~(insert site visit chart)~~

(c) The locations of such site tours for each Local Unit Facility shall be as set forth in Section 1.1(c) of this RFP. The Authority anticipates that representatives of both the Authority and the respective Series 2011 Local Units shall participate in these site tours, and that plans and site drawings, as available, and other background information concerning the Local Unit Facilities shall be available on the Authority's website prior to each site tour, and possibly available at such site tours. Any such background information shall be deemed to be incorporated in this RFP, as if fully set forth herein, and shall be a part of this RFP. Respondent Contact Persons shall be notified, via e-mail, of any updates or changes to such posted background information, or with respect to any change in the site tour meeting times and locations.

(d) While the Series 2011 Local Units shall make their Local Unit Facilities available to Respondents at the designated times set forth in subsection (b) above, none of the Authority, the County, nor such Series 2011 Local Units accept any responsibility regarding potential injury to person or property of Respondents or any of their accompanying contract parties and/or guests during such site tours. Respondents and any such guests should take care in participating in the site tours, especially in moving on roofs, parking lots or grounds and in handling any electrical equipment. By participating in such site tours, all Respondents and any such guests are deemed to have assumed any and all risks associated with such participation, and all Respondents and any such guests that attend site tours expressly waive any claims or rights related to any of the foregoing that may arise out of the participation by Respondents and any such guests in such site tours. All Respondents and any such guests have been granted a license to attend these site tours for each Local Unit Facility, fully revocable by the Authority or the respective Series 2011 Local Units for any action or inaction deemed inconsistent with policies of the respective Series 2011 Local Units then in effect for visitors, including dress code, noise, safety and the like.

Section 3.4 Proposed Schedule for Series 2011 Program

(a) The Authority's proposed schedule for the remainder of the Series 2011 Program is set forth in Exhibit 3 to this RFP.

(b) The Authority reserves the right to change this schedule from time to time, as circumstances warrant, and no Respondent shall rely on this schedule as a commitment on the part of the Authority to proceed within that time-frame, although the Authority will use commercially reasonable efforts to meet that schedule.

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ARTICLE IV

CERTAIN INFORMATION TO BE INCLUDED IN PROPOSALS

Section 4.1 Pricing and Other Terms of Forms A-1-a and A-1-b.

(a) Respondents shall be required to submit, as a portion of Exhibit A to their Proposal (see Section 7.1 of this RFP), a fully completed "Form A-1-a, Authority Financing Option, PPA Price Quotation Sheet" (with respect to the Authority Financing Option, "Form A-1-a") and/or "Form A-1-b, Company Financing Option, PPA Price Quotation Sheet" (with respect to the Company Financing Option, "Form A-1-b"), as the case may be, which forms are set forth in Appendix D-A-1-a and Appendix D-A-1-b, respectively, to this RFP. References in this RFP to "Form A-1" shall be deemed to be references to both Form A-1-a and Form A-1-b. Form A-1-a shall be completed by the Respondent in accordance with the provisions set forth in the subsections (b) and (c) of this Section 4.1 below. Form A-1-b shall be completed by the Respondent in accordance with the provisions set forth in the subsections (b) and (d) of this Section 4.1 below. All Respondents must completely fill out Section A, subsections 1, 2, 3, and 4 of Form A-1, and Section B, subsections 3, 4, 5, 6, 7 (even if to check the no changes box) and 8, 9 and 10 (even if to check the none box) of Form A-1.

(b) Section A of Form A-1. Section A, subsections 1, 2, 3, 4, and 5 of Form A-1 are self-explanatory, although any joint venture or other joint arrangement should identify all entities in the Respondent line item of subsection 1, along with a designation of which entity shall be the managing or lead entity.

(c) Section B of Form A-1-a (Authority Financing Option).

(i) Subsections 1 and 2. These subsections provide general information, and no information is required to be filled out by the Respondent.

(ii) Subsection 3.

(A) Subsection 3(a). Respondents must base their PPA Price (including any escalation), in part, on the Total Project Costs. See Section 1.3(a) - (c), inclusive, of this RFP to determine the Total Project Costs that must be filled out in Section B(3)(a) of Form A-1-a. Note the adjustment footnotes on Form A-1-a, and the references back to the RFP. Regarding Company Development Costs of Section B(3)(e)(iv) of Form A-1-a, please note that while Respondents may include development fees in that amount, Section 509(d) of the Company Lease Agreement limits when such funds can be drawn by the Company (i.e., after all of the Renewable Energy Projects have been constructed and are operational).

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(B) Subsection 3(b) and (c). See Section 1.3(c) and (d) of this RFP. Respondents shall determine what percentage, of the Total Project Costs, shall be funded with the net proceeds of the Series 2011 Bonds, mindful of the aggregate limitation of \$30,000,000, and what balance, if any, shall be funded from an Equity Contribution. Note that the Series 2011B Note is only being issued for one (1) year's worth of Capitalized Interest on the Series 2011A Bonds. The amount of this Capitalized Interest should be based on the Total Project Cost funded with the Series 2011A Bonds, as determined by the Respondent, established at the TIC interest rate. Note that as stated in Section B(3)(c) of Form A-1-a, any principal amount of Series 2011 Bonds set forth in a Respondent's Proposal in excess of \$30,000,000 shall be automatically converted into an (additional) Equity Contribution of the Respondent.

(C) Subsections 3(d) and (e). See Section 1.3(c)(i), (ii), and (iii) of this RFP. Respondents that have determined to make an Equity Contribution, shall (i) provide either the Equity Contribution Cash Commitment, or the Equity Contribution Consent of Surety, as applicable, in a form that shall be reasonably acceptable to the Authority and (ii) check the appropriate box in Section B(3)(c)(i) or (ii) of Form A-1-a. If the appropriate form is not supplied with the Proposal, the Respondent should so note same in the Proposal, and estimate an approximate delivery date for such form, which date shall be no later than September 27, 2011. The structure and material terms of the applicable form submitted or to be submitted shall be set forth by the Respondent in Section B(3)(d) of Form A-1-a.

(iii) Subsection 4.

(A) Subsection 4(a). Each Respondent must determine the annual dollar price or prices, per kWh (the "PPA Price"), at which the Respondent will agree to sell all of the electricity generated from all of the Renewable Energy Projects to the eleven (11) Series 2011 Local Units. The Respondent must set forth this single PPA Price applicable to all eleven (11) Series 2011 Local Units, in \$ per kWh, (assuming a TIC of 5.00% for the Series 2011 Bond portion of the Authority Financing Option), from the Commencement Date applicable to each Series 2011 Local Unit (i.e., when all of the Renewable Energy Projects for a particular Series 2011 Local Unit have been completed) for one

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year from the applicable Commencement Date, to but excluding the first anniversary of such Commencement Date. With \_\_\_\_\_ ( ) Local Units Facilities and \_\_\_\_\_ ( ) Series 2011 Local Units, there shall be only \_\_\_\_\_ ( ) Commencement Dates.

(B) Subsection 4(b)(i). The Authority reserves the right to increase or decrease the amount of the Project Development Costs, and will pass through such increase or decrease in a comparable post-Proposal submission adjustment to the PPA Price (see Section B(4)(b)(i) of Form A-1-a). Any such post-Proposal submission adjustment will not impact the evaluation of the Proposals and the determination of the Successful Respondent. As such, the only Respondent that the subject adjustment will be discussed with, is the Successful Respondent. In Section B(4)(b)(i) of Form A-1-a, Respondents must set forth an adjustment factor to the PPA Price for each \$100,000 change in the Project Development Costs in the initial year of the PPA Price (from the Commencement Dates) due to the fact that the Project Development Costs (presently estimated at \$[Project Development Costs] million) portion of Total Project Costs will not be finally determined until the execution of Program Documents (see Exhibit 3 to this RFP for the estimated Series 2011 Bond sale and closing schedule). Such Project Development Costs may increase or decrease, so Respondents should carefully select this adjustment factor, as the ultimate PPA Price shall be increased or decreased by such adjustment factor, and the intent is to hold the Successful Respondent harmless from any such increase, and to prevent the Successful Respondent from receiving a windfall from any such decrease.

(C) Subsection 4(b)(ii). As the TIC payable on the Series 2011 Bonds will not be determined until the sale date of the Series 2011A Bonds, the Authority will pass through to the Successful Respondent the actual TIC on the Series 2011A Bonds. In Section B(4)(b)(ii) of the Form A-1-a, Respondent must set forth an adjustment factor to the PPA Price in the initial year of the PPA Price (from the Commencement Dates) to adjust for any change in the interest rate (computed on the basis of the aggregate yield to maturity, or "TIC," as described below) on the Series 2011 Bonds from the current TIC rate of 5.00% (computed as the rate, compounded semi-annually, necessary to discount the debt service payments on the Series 2011A Bonds to the purchase price for the Series 2011A Bonds). Such TIC may increase or decrease, so

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Respondents should carefully select this adjustment factor, as the ultimate PPA Price shall be increased or decreased by such adjustment factor, and the intent is to hold the Successful Respondent harmless from any such increase, and to prevent the Successful Respondent from receiving a windfall from any such decrease. The Authority intends to sell the Series 2011B Note either to the County at the TIC for the Series 2011A Bonds, or if it can achieve the same or lower TIC, through a private placement. For purposes of its Proposal, the Respondent can assume the same TIC for the Series 2011B Note as for the Series 2011A Bonds.

For example, if at the time of the sale of the Series 2011 Bonds, when all numbers are finalized, assume interest rates on the Series 2011 Bonds (calculated as the TIC) were to decrease to 5.00% from the 4.50% estimated in the RFP over the life of the Series 2011 Bonds, resulting in a total interest cost savings of approximately \$1,930,000. Also assume that Project Development Costs increased from \$[Project Development Costs] million to \$2,250,000.00. Combining the two, there would be a net decrease in costs of \$1,630,000 (\$1,930,000 - \$300,000). If the annual PPA Price adjustment factor proposed by the Respondent for each \$5,000 change in cost was 0.000029, since there were three hundred and twenty-six (326) changes of \$5,000 in order to give back the extra \$1,630,000 actually saved when final cost numbers came in, the PPA Price would be decreased, before the escalation factor were to be applied, by .009454 cents ( $0.000029 \times 326$ ). The converse would be true, and the PPA Price would be automatically adjusted higher by .009454 cents, if the \$1,630,000 net reduction in cost were in fact a net increase in cost to be included in or borne by the Series 2011 Bonds.

(D) Subsection 4(c). Section B(4)(c) of Form A-1-a allows the Respondent to propose an escalation factor (Respondents can fill in "none" if no escalation is proposed) expressed as a percentage of the increase in the PPA Price over the prior year PPA Price. In order to determine the PPA Price (plus any escalation factor), Respondents should consider, as a minimum, all of the Program benefits to the Successful Respondent, including without limitation, the size of the transaction, funding supplied from the Authority at below commercially available costs of capital, the Federal tax benefits, SRECs, and the PPA Price initially established by the Respondent.

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(E) If either of the adjustments set forth in sub-clause (B) (Project Development Costs) or (C) (TIC) above results in a net increase in cost to the Company, the annual PPA Price shall be automatically increased (such increase to be reflected in the PPA Price table to be included in the PPA) by the recurring upward adjustment in the annual PPA Price proposed by the Successful Respondent in Section B(4)(b) of Form A-1. If either of the adjustments results in a net decrease in cost to the Company, the annual PPA Price shall be automatically decreased (such decrease to be reflected in the PPA Price table to be included in the PPA) by the recurring downward adjustment in the annual PPA Price proposed by the Successful Respondent in Section B(4)(b) of Form A-1. Note that this adjustment shall occur prior to the application of any escalation factor contemplated in sub-clause (D) above, as this adjustment is intended to produce what would have been the PPA Price, prior to escalation, were the interest cost of the Series 2011 Bonds and the final Project Development Costs known at the time of this RFP. Each Respondent expressly acknowledges that by the submission of their respective Proposals, and without any further act, any such adjustment (increase or decrease) in the PPA Price from that set forth in Section B(4)(a) of Form A-1 shall be automatically binding on the Successful Respondent, and that any such adjustment shall not serve as the basis for any non-Successful Respondent to challenge any award under this RFP. Unless specified otherwise in a Respondent's Proposal, the information set forth by the Respondent in Sections B(4)(a), (b) and (c) of Form A-1-a shall be based on the amortization schedule set forth in Appendix E to this RFP. The amortization schedule set forth in Appendix E provides for a level amortization of principal. As noted in clause (iv) below, Respondents may propose an accelerated amortization schedule.

(iv) Subsection 5. The Respondent can accept the level principal amortization schedule for the Series 2011A Bonds, as reflected in the mirror Basic Lease Payment structure set forth in Exhibit E to the RFP, by checking box (a) in Section B(5) of the Form A-1-a. If the Respondent desires a level principal amortization schedule, but on a reduced principal amount of Series 2011A Bonds (e.g., due to an Equity Contribution), or after one (1) or more initial large payments, then the Respondent shall check box (b) in Section B(5) of the Form A-1-a, and provide the revised schedule attached to the Form A-1-a. Alternatively, if the Respondent desires an accelerated principal amortization schedule, then the Respondent shall check box (c) in Section B(5) of the Form A-1-a, and provide the revised schedule attached to the Form A-1-a.

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(v) Subsection 6. See Sections 1.3(g)(xv) - (xix), inclusive, to determine whether the County Deficiency Amount can be eliminated, or if not eliminated, minimized. If the County Deficiency Amount cannot be eliminated, it must be funded. See sub-clause (B) below.

(A) If the County Deficiency Amount can be eliminated through the financing structure proposed by the Respondent in their Proposal, the Respondent should check box (i) in Section B(6)(a) of Form A-1-a, and set forth the reasoning for same in Section B(6)(b) of Form A-1-a.

(B) Respondents that have identified a County Deficiency Amount of > \$0, regardless of whether minimized, shall (i) provide either the County Security Cash Commitment, or the County Security Consent of Surety, as applicable, in a form that shall be reasonably acceptable to the Authority and (ii) check the appropriate box in Section B(6)(a)(iii) ((A) or (B)) of Form A-1-a. If the appropriate form is not supplied with the Proposal, the Respondent should so note same in the Proposal, and estimate an approximate delivery date for such form, which date shall be no later than September 27, 2011. The structure and material terms of the applicable form submitted or to be submitted shall be set forth by the Respondent in Section B(6)(b) of Form A-1-a.

(vi) Subsection 7. See Sections 7.2(c) to determine whether the Respondent shall exercise its option to provide Restoration Security. If the option to provide Restoration Security is to be properly exercised, and to receive a positive Evaluation Criteria, it must be funded. See sub-clause (B) below.

(A) If the Respondent is not providing any Restoration Security in their Proposal, the Respondent should check box (i) in Section B(7)(a) of Form A-1-a, and set forth the reasoning for same in Section B(7)(b) of Form A-1-a.

(B) Respondents that desire a positive Evaluation Criteria by providing Restoration Security shall (i) provide either the Restoration Security Cash Commitment, or the Restoration Security Consent of Surety, as applicable, in a form that shall be reasonably acceptable to the Authority and (ii) check the appropriate box in Section B(7)(a)(iii) ((A) or (B)) of Form A-1-a. If the appropriate form is not supplied with the Proposal, the Respondent should so note same in the Proposal, and estimate an approximate delivery date for such form, which date shall be no

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later than September 27, 2011. The structure and material terms of the applicable form submitted or to be submitted shall be set forth by the Respondent in Section B(7)(b) of Form A-1-a.

(vii) Subsection 8.

(A) Subsection 8(a). Section B(8)(a) of Form A-1-a requires that the Respondent set forth the amount of electricity to be generated by each of the Renewable Energy Projects for each Series 2011 Local Unit on each Program Local Unit Facility, measured in kW (dc), and post inversion, annual kWh (ac) for each year of the fifteen (15) year PPA.

(B) Subsection 8(b). Section B(8)(b) of Form A-1-a requires that Respondents set forth the guaranteed amount of electricity to be generated by the Renewable Energy Projects for each Series 2011 Local Unit, measured in kW (dc), and post inversion, annual kWh (ac) for each year of the fifteen (15) year PPA. A true-up payment is required of the Company under the PPA in the event any such production is not met. In such instance, the difference between the PPA Price, and the amount paid by the Series 2011 Local Unit to the existing local electric utility distribution provider (i.e. which in the case of the Local Unit Facilities for the \_\_\_\_\_, is the \_\_\_\_\_, and in the case of the Local Unit Facilities for the other Series 2011 Local Units, is the Jersey Central Power & Light Company) for the amount of electricity guaranteed, but not provided, by the Successful Respondent, is the true-up amount owed by the Company under the PPA. Note that the PPA also provides an offset in the PPA Price, to the extent any such true-up payment is not timely made by the Company under the PPA. Please take particular note of Section 6.1 of the PPA, including the minimum output guarantees.

(viii) Subsection 9. Section B(9) of Form A-1-a allows Respondents to propose material changes to Program Documents, if any. Please note that in accordance with Section 5.1(f) and 6.2(k) (Evaluation Criteria) of this RFP, any changes that adversely affect the Series 2011 Program (as determined by the Authority) are strongly discouraged. By the Authority's award (conditional or otherwise) to a Successful Respondent, the Authority shall not have accepted any such changes, which if accepted by the Authority in whole or in part or in modified form, shall only be evidenced by duly authorized, executed and delivered Program Documents reflecting such accepted changes. Unless the Authority specifically accepts any such material changes in writing, Respondents

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available and sufficient to allow the Successful Respondent to complete construction and reach the Commencement Dates for all Series 2011 Local Units by the one (1) year anniversary of executing and delivering the PPA.

(iii) Subsection 4.

(A) Subsection 4(a). Each Respondent must determine the annual dollar price or prices, per kWh (the "PPA Price"), at which the Respondent will agree to sell all of the electricity generated from all of the Renewable Energy Projects to the eleven (11) Series 2011 Local Units. The Respondent must set forth this single PPA Price applicable to all \_\_\_\_\_ ( ) Series 2011 Local Units, in \$ per kWh, from the Commencement Date applicable to each Series 2011 Local Unit (i.e., when all of the Renewable Energy Projects for a particular Series 2011 Local Unit have been completed) for one year from the applicable Commencement Date, to but excluding the first anniversary of such Commencement Date. With \_\_\_\_\_ ( ) Local Unit Facilities and \_\_\_\_\_ ( ) Series 2011 Local Units, there shall be only \_\_\_\_\_ ( ) Commencement Dates.

(B) Subsection 4(b)(i). The Authority reserves the right to increase or decrease the amount of the Project Development Costs, and will pass through such increase or decrease in a comparable post-Proposal submission adjustment to the PPA Price (see Section B(4)(b)(i) of Form A-1-b). Any such post-Proposal submission adjustment will not impact the evaluation of the Proposals and the determination of the Successful Respondent. As such, the only Respondent that the subject adjustment will be discussed with, is the Successful Respondent. In Section B(4)(b)(i) of Form A-1-b, Respondents must set forth an adjustment factor to the PPA Price in the initial year of the PPA Price (from the Commencement Dates) due to the fact that the Project Development Costs (presently estimated at \$1.2 million) portion of Total Project Costs will not be finally determined until the execution of Program Documents (see Exhibit 3 to this RFP for the estimated closing schedule for the Program Documents, including the PPA). Such Project Development Costs may increase or decrease, so Respondents should carefully select this adjustment factor, as the ultimate PPA Price shall be increased or decreased by such adjustment factor, and the intent is to hold the Successful Respondent harmless from any such increase, and to

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should deem all requested changes denied. If there are no material changes being proposed, Respondents should check the box in Section B(9)(a) marked no changes.

Notwithstanding the foregoing, should Respondents strongly desire Program Document changes, the Authority will consider any Program Document changes proposed during the question and answer period. If accepted by the Authority, in its sole discretion, such changes would be available to all Respondents. The Authority reserves the sole and exclusive right to accept, reject or modify any and all such changes proposed by a Respondent during the question and answer period. Any changes received either in Form A-1-a, or outside of the question and answer time period, will be dealt with as noted in the paragraph above.

(xi) Subsection 10. Section B(10) of Form A-1-a allows Respondents to propose additional economic benefits, as contemplated by Section 5.2 of this RFP. If there are no additional economic benefits being proposed, Respondents should check the box in Section B(10)(a) marked none.

(x) Subsection 11. Section B(11) of Form A-1-a allows Respondents, at their option, the ability to provide early termination and end of term fair market value purchase option prices or formulas for each of the Renewable Energy Projects. The Authority reserves the right as to whether it desires to include any such prices in the Program Documents.

(d) Section B of Form A-1-b (Company Financing Option).

(i) Subsections 1 and 2. These subsections provide general information, and no information is required to be filled out by the Respondent.

(ii) Subsection 3.

(A) Subsection 3(a). Respondents must base their PPA Price (including any escalation), in part, on the Total Project Costs. See Section 1.5(a) - (c), inclusive, of this RFP to determine the Total Project Costs that must be filled out in Section B(3)(a) of Form A-1-b. Note the adjustment footnotes on Form A-1-b, and the references back to the RFP.

(B) Subsection 3(b). Respondents should set forth the sources, structure, and material terms of the Company Financing Option, so that the Authority can receive comfort that the funds to implement the Renewable Energy Projects for the Series 2011 Local Units at the Local Unit Facilities will be timely

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prevent the Successful Respondent from receiving a windfall from any such decrease.

(C) Subsection 4(c). Section B(4)(c) of Form A-1-b allows the Respondent to propose an escalation factor (Respondents can fill in "none" if no escalation is proposed) expressed as a percentage of the increase in the PPA Price over the prior year PPA Price. In order to determine the PPA Price (plus any escalation factor), Respondents should consider, at a minimum, all of the Program benefits to the Successful Respondent, including without limitation, the size of the transaction, the Federal tax benefits, SRECS, and the PPA Price initially established by the Respondent.

(iv) Subsection 5. See Sections 7.2(c) to determine whether the Respondent shall exercise its option to provide Restoration Security. If the option to provide Restoration Security is to be properly exercised, and to receive a positive Evaluation Criteria, it must be funded. See sub-clause (B) below.

(A) If the Respondent is not providing any Restoration Security in their Proposal, the Respondent should check box (i) in Section B(5)(a) of Form A-1-b, and set forth the reasoning for same in Section B(5)(b) of Form A-1-b.

(B) Respondents that desire a positive Evaluation Criteria by providing Restoration Security shall (I) provide either the Restoration Security Cash Commitment, or the Restoration Security Consent of Surety, as applicable, in a form that shall be reasonably acceptable to the Authority and (II) check the appropriate box in Section B(5)(a)(iii) ((A) or (B)) of Form A-1-b. If the appropriate form is not supplied with the Proposal, the Respondent should so note same in the Proposal, and estimate an approximate delivery date for such form, which date shall be no later than September 27, 2011. The structure and material terms of the applicable form submitted or to be submitted shall be set forth by the Respondent in Section B(5)(b) of Form A-1-b.

(v) Subsection 6.

(A) Subsection 6(a). Section B(6)(a) of Form A-1-b requires that the Respondent set forth the amount of electricity to be generated by each of the Renewable Energy Projects for each Series 2011 Local Unit on each Program Local

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Unit Facility, measured in kW (dc), and post inversion, annual kWh (ac) for each year of the fifteen (15) year PPA.

(B) **Subsection 8(f)** Section B(6)(b) of Form A-1-b requires that Respondents set forth the guaranteed amount of electricity to be generated by the Renewable Energy Projects for each Series 2011 Local Unit, measured in kW (dc), and post inversion, annual kWh (ac) for each year of the fifteen (15) year PPA. A true-up payment is required of the Company under the PPA in the event any such production is not met. In such instance, the difference between the PPA Price, and the amount paid by the Series 2011 Local Unit to the existing local electric utility distribution provider (i.e. which in the case of the Local Unit Facilities for the \_\_\_\_\_ is the \_\_\_\_\_ and in the case of the Local Unit Facilities for the other Series 2011 Local Units, is the Jersey Central Power & Light Company) for the amount of electricity guaranteed, but not provided, by the Successful Respondent, is the true-up amount owed by the Company under the PPA. Note that the PPA also provides an offset in the PPA Price, to the extent any such true-up payment is not timely made by the Company under the PPA. Please take particular note of Section 6.1 of the PPA, including the minimum output guarantees.

(vi) **Subsection 7** Section B(7) of Form A-1-b allows Respondents to propose material changes to Program Documents, if any. Please note that in accordance with Section 5.1(f) and 6.2(k) (Evaluation Criteria) of this RFP, any changes that adversely affect the Series 2011 Program (as determined by the Authority) are strongly discouraged. By the Authority's award (conditional or otherwise) to a Successful Respondent, the Authority shall not have accepted any such changes, which if accepted by the Authority in whole or in part or in modified form, shall only be evidenced by duly authorized, executed and delivered Program Documents reflecting such accepted changes. Unless the Authority specifically accepts any such material changes in writing, Respondents should deem all requested changes denied. If there are no material changes being proposed, Respondents should check the box in Section B(7)(a) marked no changes.

Notwithstanding the foregoing, should Respondents strongly desire Program Document changes, the Authority will consider any Program Document changes proposed during the question and answer period. If accepted by the Authority, in its sole discretion, such changes would be available to all Respondents. The Authority reserves the sole and exclusive right to accept, reject or modify any and all such changes proposed by a Respondent during the question

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and answer period. Any changes received either in Form A-1-b, or outside of the question and answer time period, will be dealt with as noted in the paragraph above.

(vii) **Subsection 8** Section B(8) of Form A-1-b allows Respondents to propose additional economic benefits, as contemplated by Section 5.2 of this RFP. If there are no additional economic benefits being proposed, Respondents should check the box in Section B(8)(a) marked none.

(viii) **Subsection 9** Section B(9) of Form A-1-b allows Respondents, at their option, the ability to provide early termination and end of term fair market value purchase option prices or formulas for each of the Renewable Energy Projects. The Authority reserves the right as to whether it desires to include any such prices in the Program Documents.

#### Section 4.2. Renewable Energy Projects.

(a) The Authority is providing technical specifications attached as Appendix C to this RFP as a preliminary guide for the final design of the Renewable Energy Projects. Respondents must maintain the existing roof warranties associated with each of the Series 2011 Local Unit Facilities, as detailed in Appendix B-1 to this RFP. These plans should be considered as the minimum requirements to satisfy this RFP. The technical design proposed by the Respondents must meet the Authority's goals as indicated in this RFP. This preliminary Renewable Energy Project configuration is being provided to Respondents as a guide only and Respondents are not bound by the configuration set forth in Appendix C to this RFP.

(b) Respondents are encouraged to propose innovative (but achievable) Renewable Energy Project designs to maximize the value of the Renewable Energy Projects to the Authority and its Series 2011 Local Units. However, the Renewable Energy Projects must meet the technical specifications set forth in Appendix C to this RFP including maintaining the existing roof warranties associated with each of the Series 2011 Local Unit Facilities as set forth in Appendix B-1, must comply with all BPU Clean Energy Program technical and administrative requirements, and must satisfy aesthetic considerations as determined by the Authority and the Series 2011 Local Units.

(c) The Authority is aware that the removal of trees at certain Local Unit Facilities could increase the size of the Renewable Energy Projects. Respondents should submit their proposals based upon existing conditions at Program Local Unit Facilities. The Authority intends to work with the Successful Respondent and the Series 2011 Local Units to determine a reasonable number of trees that could be removed at certain Local Unit Facilities to allow for an increase in the overall size of the Renewable Energy Projects.

#### Section 4.3. Reserved [No Capital Improvement Projects for the Series 2011 Program]

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## ARTICLE V

### PROCEDURES FOR SUBMISSION OF PROPOSALS

#### Section 5.1 Substantive Requirements for Proposals.

In order to be responsive, Proposals must include all of the information required in this Section 5.1 of this RFP. Notwithstanding the foregoing, Section 5.1(f) is included in this Section of this RFP because if such changes are to be proposed to the Program Documents, they must be disclosed at the time of the submission of the Proposal, and be included in the Proposal. Accordingly, the inclusion of Section 5.1(f) in the following list is NOT intended to require that a Respondent submits material changes to the Program Documents (note that material changes to Program Documents are negatively viewed in the Section 6.2 Evaluation Criteria).

(a) Proposals must include the legal name of the Respondent and a statement identifying the Respondent as a sole proprietor, joint venture, partnership, single purpose entity, corporation or other legal entity, as appropriate. The Proposal must indicate whether or not the Respondent intends to form a special purpose entity to own and operate the Renewable Energy Projects, and the proposed ownership structure of that special purpose entity (including the entities) that would execute the Company Pledge Agreement. The original Proposal shall be executed by the person or persons legally authorized to bind the Respondent. A Proposal by a limited liability company or corporation shall further set forth the state of organization or incorporation, as applicable, and whether the Respondent is qualified to transact business in the State as a foreign corporation or other business entity. The Company will be required to have a business registration certificate by the execution of all Program Documents (see <http://www.state.nj.us/treasury/revenue/businesscert.shtml>). A Proposal submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Respondent.

(b) Proposals must also include the following information about the Respondent:

(i) **Respondent History/Qualification.** Provide a detailed history of Respondent and a statement of qualifications including a description of comparable services provided for comparable projects including dates. Respondent must demonstrate a minimum of three (3) years experience for design, construction, and installation of Renewable Energy Projects of a similar size and scope (not all joint venture partners need comply, although lack of experience of the entire team can be considered negatively in the Evaluation Criteria), and provide at least three (3) references, including contact information, for projects of similar size and scope.

(ii) **Financial Qualifications.** Provide evidence that Respondent has the financial ability to perform the required Company Services.

Respondent must provide complete financial statements, including the following statements for the current fiscal year-to-date and the prior fiscal year: balance statement (detailing cash and cash equivalents, current assets, current liabilities, stockholder equity), statement of operations (detailing pre-tax earnings) and statement of cash flows. The Respondent shall also submit any other information that the Respondent believes to be relevant to demonstrate its financial strength. In the case of a subsidiary, statements must provide information with respect to the operating entity. The Authority reserves the right to submit the financial statements to the rating agencies in connection with the rating agencies review of an Authority's Series 2011 Bonds. The rating agencies have agreed to keep the content of said financial statements confidential, although the Authority shall not be responsible to Respondent should the rating agencies act in a different manner.

(c) Proposals must also include the following:

(i) Proposed PPA Price and other pricing elements specified in Section 4.1 and Appendix D (Form A-1) of this RFP, including without limitation Total Project Cost, a component breakout of Total Project Cost, and the amount of electricity generated by each of the Renewable Energy Projects, measured in kW (dc), and post inversion, annual kWh (ac);

(ii) Proposed Renewable Energy Project Technical Design consistent with Sections 4.2 and 4.3 and Appendix C of this RFP;

(iii) Proposal and Construction Bonding requirements consistent with Section 7.2 of this RFP; and

(iv) Insurance Requirements consistent with Section 7.3 of this RFP.

(d) The following attachments must be included in the Proposal.

(i) Proposal Form A-1 PPA Price Quotation Sheet(s)<sup>12</sup>

(ii) Proposal Form A-2 Respondent Information / Cover Letter Form,

(iii) Proposal Form A-3 Consent of Surety Form

(iv) Proposal Form A-4<sup>13</sup> Agreement for Proposal Security In Lieu of Proposal Bond;

<sup>12</sup> Proposal Form A-1-a for the Authority Financing Option, and Proposal Form A-1-b for the Company Financing Option

<sup>13</sup> Provide EITHER (i) Form A-4 (Proposal Funds) or (ii) Form A-5 (Proposal Bond); found in Appendices D-A-4 or D-A-5, as applicable. See Section 7.2(c) of RFP.

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- (v) Proposal Form A-3<sup>14</sup> Proposal Bond;
- (vi) Proposal Form A-6 Ownership Disclosure Statement;
- (vii) Proposal Form A-7 Non-Collusion Affidavit;
- (viii) Proposal Form A-8 Consent to Investigation;
- (ix) Proposal Form A-9 Statement of Respondent's Qualifications;
- (x) Proposal Form A-10 Acknowledgement of Receipt of Addenda (if any);
- (xi) Proposal Form A-11 Sealed Proposal Checklist (See Exhibit 2);

(f) The Authority has taken great care to craft the Series 2011 Program, and as discussed elsewhere in this RFP, has received virtually all approvals of the applicable governing bodies, including the State, for this Series 2011 Program. Accordingly, the Authority shall not look to accept any material changes to the forms of the Program Documents attached as Appendix A to this RFP, and Respondents should be aware that any such proposed changes could be a negative factor in any Evaluation Criteria. However, if a Respondent believes it is absolutely necessary to materially change any of the terms and provisions of the Program Documents set forth in Appendix A to this RFP (and this includes any of Respondent's team, such as the County Security Provider), Respondent *must* include said changes in its Proposal at the time of submission, along with a detailed explanation clearing setting forth justification for the proposed changes (See Section B(9) of Form A-1-a, and Section B(7) of Form A-1-b). The Authority reserves the right, in its sole discretion and in accordance with applicable law, to determine whether or not to accept or reject any proposed material changes to the form of such Program Agreements.

#### Section 5.2 Permitted Inclusions in Proposals.

In addition to the items that must be included in the Proposals as set forth in Section 5.1 of this RFP, the following items may be included, each to be considered an option under applicable competitive contracting law. To the extent, pursuant to this Section 5.2, other items are included in submitted Proposals, the Authority may consider any such potential inclusion a positive or negative factor in its Evaluation Criteria, depending on the nature of the inclusion. The Authority reserves the right in its sole discretion and in accordance with applicable law to determine whether or not to accept or reject any permitted inclusion in the Proposals as part of

<sup>14</sup> See prior footnote.  
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the Series 2011 Program, regardless of any perceived benefits to the Authority and/or the Series 2011 Local Units.

(a) The Respondent may include a form of the proposed County Security Agreement, so long as it meets the minimum criteria for such County Security Agreement as outlined in Section 1.3(g)(vii) of this RFP. In preparing or causing the preparation of any such County Security Agreement, Respondents should cause their County Security Provider, if any, to be mindful of Section 5.1(f) of this RFP. It is also acceptable, and shall not be evaluated as a negative factor in the Evaluation Criteria, for a Respondent to include a general form of County Security Agreement from any such County Security Provider, so long as it is clearly marked as such, thereby making it clear to both the Authority and any Successful Respondent that such document is a general form, and is not intended to be providing material changes to other Program Documents strongly discouraged by Section 5.1(f) of this RFP.

(b) Respondents may include a summary of any additional benefits to be provided to the Authority and/or the Series 2011 Local Units beyond that set forth in the Program Documents. The Respondents are encouraged to be creative in the benefits offered. In addition to the benefits afforded to the Authority by the PPA Price, such benefits offered might include the following: (i) a sharing in the SREC market revenues realized, (ii) a sharing in any federal or State tax benefits realized, (iii) a sharing in any other financial / environmental market value realized, (iv) end of contract provisions and options beyond those included in the Program Documents (i.e., (A) extension of PPA if permitted under applicable law, upon then applicable to be determined terms, such as PPA Price, (B) sale of Renewable Energy Projects to Series 2011 Local Units for fair market value, or (C) removal of Renewable Energy Projects from Local Unit Facilities by and for the Company), and (v) additional services to be performed by the Respondent in addition to the Company Services. The Authority is mindful of tax considerations, and is willing to consider commercially reasonable arrangements to provide same.

(c) Optimally, the Authority would prefer to share, on an equitable to be determined basis, any future, but at this time unknown financial / environmental benefits attributable to the Renewable Energy Projects or the Series 2011 Program, including but not limited to the refunding of any Series 2011 Bonds, either by the Authority or the Successful Respondent, and any savings generated by such refunding. In the event such benefits are not easily monetized, a sharing methodology would need to be developed at the time of any precipitating event. The Respondents may desire to include in their Proposals, as part of Section 5.2(b), any suggested allocation or other offers regarding these concepts, to be worked into the Program Documents if amenable to the Authority and the Series 2011 Local Units.

#### Section 5.3 Proposals Governed by Applicable Law.

In order for the Authority to consider a Proposal, any such Proposal, and the terms it proposes with respect to the Company Services, must comply with all applicable law, including

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the procurement law of the State. The Authority suggests that each Respondent take particular note of the following:

(a) The provisions of Article I of this RFP that guided the structure of this Series 2011 Program, and to which the Authority must adhere.

(b) Any Successful Respondent and its subcontractors, if any, must comply with all "Buy American" statutes and regulations, including N.J.S.A. 40A:11-18. Given the lack of regulations interpreting N.J.S.A. 40A:11-18, the Authority reserves the right to accept non-domestic materials under this RFP in accordance with guidance provided by N.J.S.A. 52:33-2 and 52:33-3 in the event: (i) it determines the use of domestic materials is "impractical" or "inconsistent with the public interest;" (ii) it determines that the cost of using domestic materials is "unreasonable;" or (iii) domestic materials of the class or kind sought are not mined, produced, or manufactured, as the case may be, in the United States in commercial quantities and of a quality satisfactory to the Authority.

(c) Respondent(s) shall not offer any gratuities, favors, or anything of monetary value to any official or employee of the Authority, any Authority consultant working on this RFP or the State for the purpose of influencing consideration of any Proposal. Any attempt shall be reported to the proper law enforcement authorities.

#### Section 5.4 Procedural Requirements and Other Matters for Proposals.

(a) One original and nine (9) copies of a fully authorized, completed (in accordance with the terms of this RFP, including Section 7.1 hereof), executed and sealed (either opaque envelopes or boxes may be used if necessary or desirable, so long as the Respondent and RFP are clearly marked on the outside) Proposal are due from Respondents by 1:00 p.m., Eastern time, [Due Date] (time is of the essence, the "Due Date"), to be delivered to the following address:

- (i) The Morris County Improvement Authority  
Administration and Records Building  
10 Court Street  
P.O. Box 900  
Morristown, New Jersey 07963-0900  
Attention: John Bonanni, Chairman

(ii) Immediately thereafter, Proposals will be opened and acknowledged as timely received. For each such Proposal, the Respondent, PPA price and escalation factors (per each alternative submitted) shall be publicly read by or on behalf of the Authority. No further action is required to be taken on the due date. Proposals received after that time and date will be returned unopened. The Respondents shall assume full responsibility for timely delivery at the location designated for the receipt of Proposals.

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(iii) See Section 5.4(j) of this RFP for the option of submitting a redacted version of the Proposal under OPRA.

(iv) Each Respondent may submit up to three (3) alternative Proposals using the Authority Financing Option, and up to one (1) Proposal using the Company Financing Option, for a total of four (4) Proposals. Assuming each of the up to four (4) Proposals conform to the requirements of this RFP, the Authority will review, consider and report on all such Proposals submitted. Pursuant to Section 1.3(g)(xviii), Respondents submitting under both Option F-1 and Option F-2 are deemed to have submitted one (1) Proposal under the Authority Financing Option, and a second alternative Proposal under the Authority Financing Option (leaving the Respondent with the ability to submit one (1) more alternative Proposal under each of the Authority Financing Option and the Company Financing Option). Respondents are encouraged, but not required, to submit a Proposal under each of the Authority Financing Option and the Company Financing Option. The Authority may, in its sole discretion, determine to review, consider and report on (A) Proposals in excess of the maximum number and type of permitted Proposals and/or (B) non-conforming Proposals (with defects other than fatal defects under applicable law), particularly if such Proposals provide the Authority, the County, the Series 2011 Local Units and/or the Series 2011 Program with one (1) or more of the Evaluation Criteria to a material degree not found in the other Proposals.

(b) The Proposal should be accompanied by a PDF of the Proposal on a CD-ROM or other disc or flash drive.

(c) All comments and questions concerning any facet of this RFP, including the corresponding procedures and requirements for submitting the Proposal, must be addressed in writing, no later than the time established in the Proposed Schedule for the Series 2011 Program set forth in Exhibit 3 to this RFP.

- (i) if via hard copy, to the following address:

The Morris County Improvement Authority  
Administration and Records Building  
10 Court Street, P.O. Box 900  
Morristown, New Jersey 07963-0900  
Attention: John Bonanni, Chairman; or

(ii) If via e-mail, to Deborah S. Verderame, Esq., of Inglesino, Pearman, Wyciskala & Taylor, LLC, Counsel for the Authority, at [dverderame@andp.com](mailto:dverderame@andp.com)

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(d) Oral or telephonic Proposals, and letter Proposals (without meeting the requirements of this RFP) are invalid and will not receive consideration by the Authority.

(e) The Authority presumes that Submission of a Proposal signifies careful examination of this RFP by the Respondent, and a complete understanding by the Respondent of the nature, extent and location of the Company Services to be performed as part of the Series 2011 Program, and a thorough due diligence of the Local Unit Facilities of the Series 2011 Local Units with respect to the contemplated Renewable Energy Projects. Accordingly, prior to submitting a Proposal, each Respondent shall make all investigations and examinations necessary to ascertain conditions and requirements affecting provision of the proposed Company Services. Failure to make such investigation and examinations shall not relieve the Successful Respondent of the obligation to comply, in every detail, with all provisions and requirements, nor shall it be a basis for any claim whatsoever for alteration in any provision required by this RFP or the Program Documents.

(f) During the RFP process and prior to the award to a Successful Respondent, no contact shall be made by any prospective Respondent, or any of their agents or advisors or contract parties, including subcontractors and counsel, with any board member or staff of the Authority, the County or the Series 2011 Local Units, or any of their agents, advisors or contract parties, except (i) as expressly provided for in this RFP (e.g., Local Unit Facility site tours, design review by Local Unit Facility roof warrantors) and (ii) in compliance with Section 5.4(c) and 5.5 of this RFP. Failure to abide by these guidelines is cause for an automatic rejection of an otherwise qualified Proposal. Respondents are responsible for the actions of their agents, advisors or contract parties.

(g) The Proposals and any information made a part of the Proposals shall become part of the Authority official files without any obligation on the Authority's part to compensate, or return them to, the individual Respondent(s).

(h) This RFP and the Successful Respondent's Proposal may, by reference, become part of any formal contract between the Authority and Respondent, including any Program Document. Only the due authorization, execution and delivery by the Successful Respondent, the Authority, and any other party or parties to the Program Documents creates a valid and binding obligation of all such entities, notwithstanding any award to a Successful Respondent, which award is and shall be conditional until and unless such Program Documents are so authorized, executed and delivered. The Successful Respondent is not entitled to any excess Series 2011 Bond authorization capacity, although the Authority may utilize same in the Series 2011 Program, but at the Authority's sole discretion.

(i) The following is the Authority's policy regarding modification or withdrawal of Proposals:

(i) A Proposal may not be modified, withdrawn or canceled by the Respondent for a period of sixty (60) days from the Proposal submission due

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provided to the public; the said information shall not be disclosed without first notifying the Respondent in writing.

(v) A Respondent claiming that any portion of its Proposal constitutes trade secrets and proprietary commercial or financial information that is expressly precluded from public disclosure pursuant to N.J.S.A. 47:1A-1.1 of OPRA or such other applicable exception to OPRA shall:

(A) Expressly state such position and request such treatment, in the cover letter accompanying the Proposal or elsewhere clearly marked in the Proposal;

(B) Provide an accompanying affidavit of an authorized officer of the Respondent supporting the reasoning for such exclusion; and

(C) Provide one (1) additional copy of the Proposal, with the confidential information redacted using any reasonable means, along with a CD-ROM disk of the redacted Proposal in PDF format, both included in a sealed envelope marked "Redacted Version of Proposal submitted by [fill in name of Respondent] for OPRA purposes". The Authority reserves the right to make all determinations under OPRA regarding whether the redacted material is entitled to any such OPRA exception, so long as the Authority notifies the Respondent Contact Person in writing prior to responding to any valid OPRA request through the Authority's dissemination of the Proposal in response to any such valid OPRA request, but only if the Authority disagrees with the Respondent as to the OPRA exception sought for any portion of the redacted Proposal. Further, the Authority reserves the right to request another redacted version of the Proposal (and accompanying CD-ROM) to the extent the Authority so disagrees as to the applicability of any such OPRA exception to any portion of the redacted Proposal submitted by the Respondent.

#### Section 5.5 Clarification of Proposals.

(a) Each Respondent shall carefully examine the Local Unit Facilities and this RFP, and thoroughly familiarize themselves with all RFP requirements prior to submitting a Proposal. Should a Respondent find discrepancies or ambiguities in, or omissions from this RFP, or should the Respondent be in doubt as to the meaning of any provision in this RFP, Respondent shall at once, and in any event, not later than fifteen (15) business days prior to the proposal due date, and only through the Respondent Contact Person, submit to the Authority a written request for interpretation or correction thereof (see Section 5.4(c) of this RFP). The

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date, and each Respondent agrees to this condition in submitting a Proposal, although the Authority reserves the right to request a Respondent to clarify certain terms of its Proposal;

(ii) Proposals submitted prior to the time and date designated for receipt of Proposals may be modified or withdrawn by notice from the Respondent Contact Person to an Authority Contact Person up until the time and Due Date for the receipt and opening of Proposals. Such notice shall be in writing over the signature of an authorized officer of the Respondent. Such Respondent should be careful so that any information set forth in the previously submitted Proposal, such as a PPA Price, shall not be revealed through this process; and

(iii) A withdrawn Proposal may be resubmitted up to the time and Due Date designated for the receipt of Proposals, provided that it is then fully in conformance with this RFP.

(j) The following is the Authority's policy regarding confidentiality of materials within the Proposal:

(i) If a Respondent believes that any portion of its Proposal constitutes trade secrets and proprietary commercial or financial information that is expressly precluded from public disclosure pursuant to N.J.S.A. 47:1A-1.1 of OPRA or such other applicable exception to OPRA, and therefore such portion should be withheld from public disclosure, it is the responsibility of the Respondent to identify such information in its Proposal, or at the Authority's discretion, subsequent to the submission of the Proposal, in accordance with the provisions of clause (v) below;

(ii) Proposals received in response to this RFP shall not be discussed or otherwise made available to the public or any other Respondent until such time as a PPA and the other Program Documents relating to Company Services are approved and executed by all parties thereto. Disclosure shall be subject to the provisions of OPRA;

(iii) The Successful Respondent shall establish and maintain procedures and controls that are acceptable to the Authority for the purpose of assuring that information provided by the Authority remains confidential;

(iv) All information identified by a Respondent as confidential and proprietary in nature shall be kept confidential by the Authority only after receiving a written determination, from counsel or from some applicable government authority, as to whether the information qualifies as confidential and proprietary. Should the Authority determine that such information must be

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Respondent Contact Person will be responsible for its prompt delivery to the Authority via the methodology permitted in Section 5.4(c) of this RFP. Each Respondent is responsible for confirming receipt of any facsimile or email materials to the Authority.

(b) Any interpretation or correction of this RFP will be made by the Authority only by written addenda available to all Respondents through publications on the Authority's website, and through an e-mail notification to the Respondent Contact Persons. No allowance will be made after Proposals are received for oversight, omission, error, or mistake by the Respondent or by the Authority or other Series 2011 Program participants, including by the County or the Series 2011 Local Units; although by their submission of the Proposals, and without any further act, Respondents acknowledge that any such oversight, omission, error, or mistake by the Authority, the County or the Series 2011 Local Units, if any, shall be deemed to be immaterial, and waived by the Respondent in any event. Addenda so issued will become part of this RFP and receipt and review thereof by the Respondent shall be acknowledged in their Proposal.

(c) The Authority reserves the right to clarify any provision of any timely received and properly completed Proposal, in any manner suitable to the issue, whether through interview, meeting, written request for clarification to any one or more Respondents or to all similarly situated Respondents, through telephone call, teletype, e-mail through the Respondent Contact Person or otherwise.

#### Section 5.6 No Tax Advice Offered.

BY ACCEPTING THIS RFP, AND WITHOUT ANY FURTHER ACT, RESPONDENTS ARE DEEMED TO HAVE AUTOMATICALLY ACCEPTED THE FOLLOWING, REGARDLESS OF WHETHER OR NOT THEY SUBMIT A PROPOSAL: IT SHALL BE EXPRESSLY UNDERSTOOD BY ALL POTENTIAL AND ACTUAL RESPONDENTS, INCLUDING THE SUCCESSFUL RESPONDENT, THAT SUCH RESPONDENTS SHOULD CONSULT WITH, AND RELY UPON, THEIR OWN TAX ADVISORS IN CONNECTION WITH ALL FEDERAL AND STATE TAX MATTERS IN THIS RFP, INCLUDING THE INTERPRETATION OF ANY PROGRAM DOCUMENTS, AND THAT NONE OF THE AUTHORITY, THE COUNTY, THE SERIES 2011 LOCAL UNITS, NOR THEIR ADVISORS, ARE RENDERING ANY ADVICE OR OPINION IN CONNECTION WITH SUCH TAX MATTERS.

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## ARTICLE VI

### AWARD TO SUCCESSFUL RESPONDENT

#### Section 6.1 Submitted Proposals.

(a) Timely submitted and properly completed Proposals shall be opened in accordance with Section 5.4(a) (ii) of this RFP.

(b) The Authority, together with its evaluation team, shall review such Proposals in accordance with the Evaluation Criteria set forth in Section 6.2 of this RFP. The Authority shall use commercially reasonable efforts to keep to the schedule set forth in Exhibit 3 to this RFP, but failure to do so shall not serve as the basis for any challenge under this RFP, to which all Respondents acknowledge and agree by their submission of their Proposal.

(c) The Authority reserves the right to conduct one or more interviews with qualified Respondents prior to any award to a Successful Respondent for clarification of any response to this RFP. The Authority shall determine the scope of the interview at such time, which may include a forum for response to questions, and/or a presentation from the Respondents. Any such interview shall not be a forum to engage in negotiation of Company Services or the material terms of Program Documents. By the submission of a Proposal and without any further action, each Respondent specifically acknowledges that it has accepted both the scope of Company Services and the material terms of the Program Documents. Failure to comply with an interview request may disqualify a Respondent from consideration under this RFP.

(d) Proposals submitted by Respondents shall be irrevocable by them for sixty (60) days from the date of opening by the Authority. The Authority may seek clarification from one or more Respondents concerning their respective Proposals in accordance with Section 5.5 of this RFP.

#### Section 6.2 Evaluation Criteria.

The Authority, in combination with its evaluation team, shall review each properly completed and timely submitted Proposal applying the following economic and non-economic criteria (the "Evaluation Criteria"), in accordance with all applicable law, in determining the Successful Respondent. The Authority reserves the right to apply different weight to any one or more of the following Evaluation Criteria, as the Authority, in its sole discretion and in accordance with law, shall determine to be in the best interests of the Authority, the County, the Series 2011 Local Units and the Series 2011 Program.

(a) The PPA Price and the other information supplied on Form A-1, along with any other relevant factors of economic value to the Authority, the County, and/or the Series 2011 Local Units supplied by Respondent in their Proposal.

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(k) The extent to which the Respondent proposes material changes to the Program Documents, as discussed in Section 5.1 of this RFP.

(l) The extent to which the Respondent proposes more favorable option terms to the Authority, as contemplated by Section 5.2 of this RFP.

(m) The Respondent's demonstrated knowledge of State laws and regulations for permitting and construction of Renewable Energy Projects and State and federal renewable energy programs, requirements, regulations and financial incentive programs.

(n) The Authority reserves the right to waive immaterial, non-conforming components in any Proposal. Materiality shall be determined by the Authority, in its sole discretion and in accordance with law, and in making such determination, the Authority may take into account the overall best interests of the Authority, the County, the Series 2011 Local Units and the Series 2011 Program.

(o) The Respondent's inclusion of Restoration Security in its Proposal.

(p) The form of Construction Security.

#### Section 6.3 Basis of Award.

(a) After review of all timely submitted and complete Proposals, after any clarification authorized by Section 5.5 of this RFP, after any interview process contemplated by Section 6.1(c) of this RFP, and after applying the Evaluation Criteria set forth in Section 6.2 of this RFP, the Authority, by resolution of its governing body, may award the Company Services contemplated by this RFP to the Respondent (now the Successful Respondent) that the Authority, in its sole discretion and in accordance with law, shall determine to be in the best interests of the Authority, the County, the Series 2011 Local Units and/or the Series 2011 Program.

(b) Only the due authorization, execution and delivery by the Successful Respondent, the Authority, and any other party or parties to the Program Documents creates a valid and binding obligation of all such entities, notwithstanding any award to a Successful Respondent and notwithstanding Section 6.5 of this RFP, which award is and shall be conditional until and unless such Program Documents are so authorized, executed and delivered.

(c) Following the evaluation and award, the Authority shall issue a report concerning the RFP process and award, in accordance with applicable law. At their request, such report shall be made available to all Respondents.

(b) The Respondent's general approach and plans in meeting the requirements of this RFP.

(c) The Respondent's detailed approach and plans to perform the Company Services as required in the Program Documents and as set forth in this RFP, including Respondent's ability to design, permit, acquire, construct, install, operate, and maintain the Renewable Energy Projects on the Local Unit Facilities for all of the Series 2011 Local Units in accordance with the requirements of Appendix B-1 and Appendix B-3 of this RFP and the technical specifications set forth in Appendix C of this RFP.

(d) The Respondent's detailed approach and plans to perform the Company Services required under the Program Documents in connection with the operation and maintenance of the Renewable Energy Projects on the Local Unit Facilities for all of the Series 2011 Local Units.

(e) The Respondent's documented experience in successfully completing contracts of a similar size and scope to those required by this RFP, including the Program Documents.

(f) The qualifications of the Respondent's management, supervisory and other key staff assigned to perform the Company Services under the Program Documents, with emphasis upon documented experience in successfully completing contracts of a similar size and scope to those required by this RFP.

(g) The overall ability of the Respondent to mobilize, undertake and successfully and timely complete the Company Services under the Program Documents. This judgment will include the qualifications, number, and availability of management, supervisory and other key staff assigned to this transaction and the Respondent's management plan for the performance of the Company Services under the Program Documents.

(h) The financial strength of the Respondent and the proposed Company.

(i) The elimination of the County Deficiency Amount, or failing that, the minimization of same. To the extent a County Deficiency Amount shall exist, the early availability in immediately available funds, amount, quality, and strength of the Reimbursement Collateral, as County Security, to reimburse the County up to the County Deficiency Amount, should the County ever have to pay debt service on the Series 2011 Bonds under its County Guaranty.

(j) Excess County Security, beyond the funding of the County Deficiency Amount, if any, while not required under this RFP, would be a positive Evaluation Criteria.

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#### Section 6.4 Rejection of Proposals.

(a) Proposals may be rejected without review because they have been submitted on an untimely basis or not otherwise in conformity with the requirements of this RFP, to which requirements the Authority is entitled to apply strict scrutiny.

(b) This RFP does not commit the Authority to the awarding of a Successful Respondent, or the execution and delivery of a PPA or any other Program Document.

(c) The Authority reserves the right to reject specific Proposals if not submitted by the time, Due Date, manner and at the place designated in this RFP, or if not completed in conformance with the terms of this RFP. The Authority further reserves the right to waive any defects in specific Proposals that the Authority, in its sole discretion and in accordance with law, determines to be immaterial to the purposes of the Authority, the County, the Series 2011 Local Units and the Series 2011 Program. The Authority further reserves the right to reject all Proposals or otherwise take such action that the Authority, in its sole discretion and in accordance with law, shall determine to be in the best interests of the Authority, the County, the Series 2011 Local Units and the Series 2011 Program. The Authority anticipates that due to LFB Notices, it is possible the Authority would reject all Proposals should the PPA purchase price for electricity submitted in each Proposal be in excess of the existing delivered cost of electrical power from the Local Distribution Companies, which in the case of the Local Unit Facilities for the \_\_\_\_\_ is the \_\_\_\_\_, and in the case of the Local Unit Facilities for the other Series 2011 Local Units, is the Jersey Central Power & Light Company.

(d) Once a Successful Respondent has been selected, the other Respondents will be notified that their Proposals have been rejected.

#### Section 6.5 Conditional Award.

(a) The Authority reserves the right to conditionally award this RFP to a Respondent (which would become the Successful Respondent, when and if such condition is satisfied), if and only if (i) the only items not included with the original Proposal are those permitted to be submitted thereafter in accordance with Section 7.1 of this RFP, and (ii) the Authority is otherwise ready and able to make an award to any such Respondent pursuant to Section 6.3(a) hereof.

(b) The Authority reserves the right to notify the Respondent of any such conditional award under subsection (a) above that it has a deadline in making all such final submissions, and that if such deadline, and if applicable, any extensions, are not met, the Authority reserves the right to (i) revoke the conditional award, (ii) bypass such Respondent and (iii) award the Successful Respondent to this RFP (conditionally or otherwise) to another Respondent in accordance with Section 6.3(a) or 6.5(a) of this RFP.

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ARTICLE VII

CERTAIN GENERAL MATTERS

Section 7.1 Exhibit 2 Checklist.

(a) For a Proposal to be complete, and be reviewed, considered, and reported on by or on behalf of the Authority, each Respondent must submit all items required for submission as set forth in the Exhibit 2 checklist. See Appendix D to this RFP for a list of the forms to be included in each Proposal as Exhibit A to each such Proposal.

(b) **IMPORTANT NOTE:** Please note that all items set forth in Section 1 of Exhibit 2 must be submitted with the original Proposal, or else the Authority shall reject the Proposal without substantive review. Failure to provide all such items shall, in and of itself, cause the Proposal to contain a fatal, non-curative flaw.

(c) **IMPORTANT NOTE:** The items set forth in Section 2 of Exhibit 2 may or may not be submitted with the Proposal, but all such items in Section 2 of Exhibit 2 must be submitted prior to any award to a Successful Respondent pursuant to Section 6.3(a) of this RFP. To the extent a Respondent submits one or more items from Section 2 of Exhibit 2 after the original Proposal but within the allowable timeframe, such items shall be deemed part of the Proposal as if fully set forth in the original Proposal. Failure of the Respondent to submit all the items in Exhibit 2 within the permitted timeframe shall, in and of itself, cause the Proposal to contain a fatal, non-curative flaw, even once a conditional award may have been made pursuant to Section 6.5 hereof, in which instance the Authority shall reject the Proposal without substantive review.

(d) To the extent the Respondent determines to make an Equity Contribution in accordance with the provisions of Section 1.3(c) of this RFP, the Respondent must provide either an Equity Contribution Cash Commitment, or an Equity Contribution Consent of Surety, as required by Section 3 of Exhibit 2. The Authority shall determine the timeliness and sufficiency of any such submission in accordance with Section 1.3(c)(iii) of this RFP. The Respondent may provide these items either upon submission of the Proposal, or prior to the award to the Successful Respondent, but in any event no later than September 27, 2011.

(e) Unless the Respondent has eliminated the County Deficiency Amount (see RFP Sections 1.3(g)(xv) through 1.3(g)(xix), inclusive), the Respondent must provide either a County Security Cash Commitment, or a County Security Consent of Surety, as required by Section 4 of Exhibit 2. The Authority shall determine the timeliness and sufficiency of any such submission in accordance with Section 1.3(g)(xvii)(D) of this RFP. The Respondent may provide these items either upon submission of the Proposal, or prior to the award to the Successful Respondent pursuant to Section 6.3(a) of this RFP, but in any event no later than September 27, 2011.

(f) The items in Section 5 of Exhibit 2 are relevant only if the Respondent exercises its option to provide Restoration Security. See Section 7.2(e) of this RFP. The Authority shall determine the timeliness and sufficiency of any such submission in accordance with Section 7.2(c)(iii)(C) of this RFP. The Respondent may provide these items either upon submission of the Proposal, or prior to the award to the Successful Respondent pursuant to Section 6.3(a) of this RFP, but in any event no later than September 27, 2011.

(g) The item in Section 6 of Exhibit 2 is only required from the Successful Respondent, prior to any award to the Successful Respondent pursuant to Section 6.3(a) of this RFP, but in any event no later than September 27, 2011.

Section 7.2 Proposal and Construction Bonding.

(a) **Proposal Security.** Each Respondent must submit with the Proposal either (i) a certified check, cashier's check, or other immediately available funds in the amount of \$20,000, unconditionally and irrevocably payable to the Authority, accompanied by Form A-4 prepared and signed by the Respondent in the form set forth in Appendix D-A-4 to this RFP (the "Proposal Funds"); OR (ii) a proposal bond in the amount of \$20,000 in the form set forth as Form A-5, as set forth in Appendix D-A-5 to this RFP (the "Proposal Bond"). Delivery to the Authority of either the Proposal Funds or the Proposal Bond (whichever is selected by the Respondent, such alternate Proposal security may be referred to collectively as the "Proposal Security"), as part of the Proposal, satisfies the mandatory submittal requirements of this RFP (see Exhibit 2), so long as the other provisions of this Section 7.2(a) are met.

When submitting a Proposal Bond, it shall contain a power of attorney for the full amount of the Proposal Bond from a surety company authorized to do business in the State, shall have an A.M. Best's rating of at least "A" or the equivalent thereof, and shall be listed in the United States Treasury Department Circular 570. The Proposal Security of the Successful Respondent to whom the PPA is awarded shall be retained until a PPA is executed and the required Construction Performance Bond (as hereinafter defined) is submitted.

The Proposal Security of all unsuccessful Respondents shall be returned within three (3) days, Saturdays, Sundays and holidays excepted, after the award of the PPA and upon receipt and approval of the Successful Respondent's Construction Performance Bond (not merely the Successful Respondent's Construction Consent of Surety, as hereinafter defined).

Non-performance by the Successful Respondent as contemplated by this RFP, including their failure to execute the PPA for any reason or meet the Construction Performance Bond requirements within ten (10) days after notice of the award to the Respondent made by the Authority shall result in its Proposal Security being forfeited to the Authority as liquidated damages.

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If no PPA has been awarded within sixty (60) days after the opening of Proposals, the Authority may request the Respondents to allow the Authority a reasonable amount of additional time prior to awarding a contract and returning the Proposal Security to the Respondents. The Authority will not require the forfeiture of any Proposal Security in the instance that execution of the PPA is delayed by the governmental action of the Authority, the County or the Series 2011 Local Units.

(b) **Construction Security.** In order for the Proposal of a Respondent to be reviewed, considered, and reported on, the Respondent must provide,

(i) Upon and as part of the submission of the Proposal, the Respondent must provide a fully executed consent of surety substantially in the form set forth in the back of Form A-3 found in Appendix D-A-3 to this RFP (the "Construction Consent of Surety"), with any deviations from such form to be reviewed with strict scrutiny, and accepted or not, at the Authority's sole discretion (and hence any changes from the form provided is at the Respondent's risk). Failure to submit a conforming Construction Consent of Surety along w/ the Proposal is a fatal flaw that will result in the rejection of the Proposal, just for this fact, without any substantive review of the Proposal, all as required by applicable State law (See Exhibit 2).

(ii) No later than the issuance of and closing for the Series 2011A Bonds, at which time the PPA shall be executed, the Successful Respondent must provide, and further, the Successful Respondent must maintain, during the construction of the Renewable Energy Projects, a "Construction Performance Bond", all as required by the Company Lease Agreement. The Construction Consent of Surety, together with the Construction Performance Bond, shall be collectively known as the "Construction Security". The Construction Performance Bond shall contain, at a minimum, the following elements:

(A) The Construction Performance Bond must be in the amount of one hundred percent (100%) of the costs for design, permitting and construction of the Renewable Energy Projects;

(B) Such Construction Performance Bond shall be in effect and maintained until construction is completed and commercial operation of the Renewable Energy Projects commences;

(C) The Construction Performance Bond shall be substantially in the form set forth in the front of Form A-3 found in Appendix D-A-3 to this RFP, with any deviations from such form to be reviewed with strict scrutiny, and accepted or not, at the Authority's sole discretion (and hence any changes from the form provided is at the Respondent's risk). In particular, the Construction Performance Bond

shall not contain any conditions to the obligations of the surety company(ies) issuing such Construction Performance Bond, other than as expressly provided in Proposal Form A-3;

(D) The Construction Performance Bond shall be obtained from a surety(s) that is (are) authorized to transact business in the State, that satisfies the requirements set forth in N.J.S.A. 2A:44-143(1)(b), has an A.M. Best's rating of at least "A" or the equivalent thereof, and that is listed in the United States Treasury Department Circular 570;

(iii) For the avoidance of all doubt, the Construction Security shall only apply to the Respondent's obligations related to construction of the Renewable Energy Systems, and shall not apply to or address any other services or requirements that the Respondent is responsible for under the Power Purchase Agreement or any other Program Document.

(iv) Alternatively, the Construction Performance Bond can be provided by the Successful Respondent's EPC contractor in the form of a dual obligee bond (where both the Authority and Successful Respondent are obligees). However, if the Construction Performance Bond is provided in this manner, the Successful Respondent will be required to pledge its rights under said Dual Obligatee Bond directly to the Authority through the Company Pledge Agreement (Appendix A-4 attached hereto). Although less favored by the Authority, this form of Construction Performance Bond will be acceptable to the Authority.

(c) **Restoration Security (OPTIONAL).** "Restoration Security" is security in the form of cash, a payment and/or performance bond, a letter of credit, or other form of security that provides a payment and/or performance guaranty in the event the Successful Respondent removes the Renewable Energy Projects upon the end of the term of the PPA, and no extension or other agreement is then in place, the roofs and/or grounds of the respective Local Unit Facilities will be restored to the condition that existed prior to the execution and delivery of the PPA, all as required under the Program Documents.

(i) If the fiduciary holding the Restoration Security is not identified in the Proposal, the Authority will presume the Restoration Security shall be held by the Trustee or some other designee of the Authority.

(ii) Restoration Security is optional and can be provided by a Respondent as part of its Proposal in any amount the Respondent deems appropriate.

(iii) **IMPORTANT NOTE:** If a Respondent chooses to include Restoration Security in its Proposal:

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(A) If the Restoration Security is cash to be provided upon the signing of the PPA or a covenant for the Company (or affiliate) to provide cash in the future, the Respondent must provide to the Authority at the time of submission of Respondent's Proposal (the "Restoration Security Cash Commitment") (I) details regarding the source, timing and any conditions regarding the provision of the cash (e.g. on deposit in a bank account, or to come from Program Agreement revenues received over time), and (II) an irrevocable commitment to provide same, whereupon the Authority will determine the reasonableness and likelihood of receiving that cash.

(B) If the Restoration Security is some non-cash form of security from a third-party (even if that third-party, upon Company action or inaction, will provide cash, such as a letter of credit), (I) an irrevocable commitment letter to provide such security, along with (II) the material terms regarding the source, timing and any conditions for the provision of such security (collectively, the "Restoration Security Consent of Surety") from the source of the Equity Contribution must be provided to the Authority at the time of submission of Respondent's Proposal.

(C) If notwithstanding the Restoration Security Cash Commitment or the Restoration Security Consent of Surety, the Authority determines the plan for the funding of cash or other security to be unreasonable or unlikely to actually occur, or if no Restoration Security Cash Commitment or Restoration Security Consent of Surety, as applicable, is provided with the Proposal upon its submission, then the Authority will weight negatively the Respondent's ability to fund the Restoration Security. The Authority will allow the Respondent to provide either the Restoration Security Cash Commitment or Restoration Security Consent of Surety, if not provided with the Proposal, no later than \_\_\_\_\_ Any post-Proposal submission of the Restoration Security Cash Commitment or Restoration Security Consent of Surety runs the added risk of the Authority and its consultants not having sufficient review time to adequately determine the reasonableness or likelihood of the realization of the Restoration Security proposed by the Respondent

(d) In order for its Proposal to be reviewed by the Authority, each Respondent must include in its Proposal, at a minimum, Proposal Security and a Construction Consent of Surety, in accordance with the requirements of Sections 7.2 (a) and (b) above. See Section 7.1 hereof and Exhibit 2 for the other mandatory requirements for submittal in this RFP.

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### Section 7.3 Insurance.

(a) The Successful Respondent will be required to obtain and maintain in force at all times during the term of the PPA as a direct cost of operation, insurance coverage as directed by the Authority. Such coverage will be obtained from an insurance company authorized and licensed to do business in the State of New Jersey and rated not less than A-VIII by the most current Best's Manual. Furthermore, said insurance company or companies must be approved by the Authority. It is anticipated that such coverage shall include the following:

(i) Comprehensive General Liability Coverage in the amount of \$1,000,000.00. This coverage must be in writing on an occurrence form, claims made policies will be unacceptable. This Comprehensive General Liability insurance shall cover the Successful Respondent, the Authority, the Series 2011 Local Units and their directors, employees, agents and officers from and against any claim arising out of any action of the Successful Respondent or any subcontractors or the Successful Respondent's failure to comply with the terms of this PPA. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by a Respondent or by any subcontractors or other persons. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in the PPA. The policy shall also be endorsed to include coverage for products, completed operations, and independent contractors.

(ii) Casualty and Property Damage in an amount equal to the replacement value of all Renewable Energy Projects.

(iii) Workers' Compensation Coverage as statutorily required by the State of New Jersey for all employees of Successful Respondent. Employers' Liability coverage on the Workers Compensation policy shall be written in the minimal amount of \$1,000,000.00.

(iv) Excess Liability Coverage, in the amount of \$1,000,000.00 shall be in the form of an Umbrella policy rather than a following form excess policy. This policy or policies shall be specifically endorsed to be excess of the required Comprehensive General Liability Coverage, the Employers' Liability Coverage on the Workers' Compensation policy, and the Comprehensive Automobile Liability policy.

(v) Comprehensive Automobile Liability Coverage, in an amount not less than \$1,000,000.00, shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles, which may be

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used by the Successful Respondent in connection with the Company Services, required under the PPA.

(b) All such insurance coverage, with the exception of Workers' Compensation, shall name Authority, the Series 2011 Local Units, and their employees, agents, officers and directors as additional insured hereunder.

(c) Evidence of such coverage being in place will be promptly delivered to the Authority prior to the commencement of the term of the PPA. All such coverage shall be endorsed to indicate that coverage will not be materially changed or canceled without at least thirty (30) days prior notice to the Authority, such prior notice being mandatory and not the best efforts of the carrier to notify. Prior to the expiration of the required coverage, the Successful Respondent will provide the Authority with evidence of the renewal of all coverage required on at least the same terms and conditions as originally required for the PPA. All contractors working for the Successful Respondent will also be required to maintain all insurance coverages listed above.

### Section 7.4 Indemnification.

The Successful Respondent shall defend, indemnify, and save harmless the Authority, the County, the Series 2011 Local Units and as applicable their chairpersons, members, elected officials, officers, directors, employees and agents, from, and against all claims, suits, judgments, expense, fines, penalties assessments and costs of every kind and description, by reason of injury to persons or damage to property, resulting or alleged to result from any negligent act or omission of the Successful Respondent or his employees or agents, including, but not limited to, expenses or claims related to environmental contamination, investigation, injury, remediation, remediation cost assessment, request for contribution or Natural Resource Damage claims.

### Section 7.5 Labor.

(a) The Successful Respondent shall provide, at its own expense, qualified, union or licensed labor in the applicable trades. Respondent, at the Authority's request, will remove or replace any employee at our discretion.

(b) To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each shall not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal opportunity shall include, but not be limited

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to the following: employment, up-grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause;

To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or worker's representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each agrees to comply with any regulations promulgated by the Treasurer of the State of New Jersey ("Treasurer"), pursuant to N.J.S.A. 10:5-31 *et seq.*, as amended and supplemented from time to time and the Americans with Disabilities Act.

To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each shall, when hiring or scheduling workers in each construction trade, agree to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Division of Public Contracts Equal Employment Opportunity Compliance in the Department of Treasury ("Division") may, in its discretion, exempt a Successful Respondent, its contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, (i), (ii) and (iii), as long as the Division is satisfied that the Successful Respondent, its contractor or subcontractor is employing workers provided by a union which provided evidence, in accordance with standards prescribed by the Division, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Projects each agrees that a good faith effort shall include compliance with the following procedures:

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(i) If the Successful Respondent, its contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the Successful Respondent, its contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the Successful Respondent, its contractor or subcontractor is unable to obtain said assurance from the construction trade union at least five business days prior to the commencement of construction work, the Successful Respondent, its contractor or subcontractor agrees to afford equal employment opportunities to minority and women workers directly, consistent with this chapter.

If the Successful Respondent's, its contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the Successful Respondent, its contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the procedures prescribed under (i) below, and the Successful Respondent, its contractor or subcontractor further agrees to take said action immediately if it determines or is so notified by the Division that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(ii) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (i) above, or if the Successful Respondent, its contractor or subcontractor does not have a referral agreement or arrangement with a union for a construction trade, the Successful Respondent, its contractor or subcontractor agrees to take the following actions:

(A) To notify the Public Agency Compliance Officer, the Division, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(B) To notify any minority and women workers who have been listed with it as awaiting available vacancies;

(C) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;

(D) To leave standing requests for additional referrals to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;

(E) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions.

(F) To adhere to the following procedures when minority and women workers apply or are referred to the contractor or subcontractor:

(i) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Projects each shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a Successful Respondent, its contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Division. If necessary, the Successful Respondent, its contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees

pursuant to these rules. All of the requirements, however, are limited by the provisions of (iii) below.

(ii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in paragraph (i) above, whenever vacancies occur. At the request of the Division, the Successful Respondent, its contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.

(iii) If, for any reason, said Successful Respondent, its contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the Successful Respondent, its contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Division.

(G) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Division and submitted promptly to the Division upon request.

(iii) The Successful Respondent, its contractor or subcontractor agrees that nothing contained in (ii) above shall preclude the Successful Respondent its contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall agreement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (ii) above without regard to such agreement or arrangement; provided further, however, that the Successful Respondent, its contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the

applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by the practice in the area for said construction trade. Also, the Successful Respondent, its contractor or subcontractor agrees that, in implementing the procedures of (ii) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

(iv) After notification of award, but prior to signing a construction contract, the Successful Respondent, or its contractor shall submit to the public agency compliance officer and the Division an Initial Project Workforce (Form AA201) provided to the public agency by the Division for distribution to and completion by the Successful Respondent and its contractor, in accordance with N.J.A.C. 17:27-7. The Successful Respondent and its contractor also agree to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Division and to the public agency compliance officer. The contractor agrees to cooperate with the public agency in the payment of budget funds, as is necessary, for on the job end/or off-the-job programs for outreach and training of minority and women.

(v) To the extent applicable, the Successful Respondent, its contractor and its subcontractors shall furnish such reports or other documents to the Division as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code N.J.A.C. 17:27.

#### Section 7.6 Licenses and Laws

(a) All entities performing any of the work in installing the systems for the Renewable Energy Projects on behalf of the Respondent must be classified by the State of New Jersey, Department of Treasury, Division of Property Management and Construction, for the Services requested in this RFP, and must submit a copy of the Notice of Classification and the Total Amount of Uncompleted Contracts (from DPMC 701) with their Proposal. Classification shall be in an amount equal to or greater than the total amount of Respondent's Proposal, including any add-on alternates, and the total amount of uncompleted contracts.

(b) A Respondent is required to submit a valid Business Registration Certificate from the State of New Jersey Department of Treasury, Division of Revenue, prior to the award of a contract. Failure to timely submit proof of registration shall be deemed a material and non-waivable defect, and shall be cause for rejection of the bid without further consideration. All Respondents should be advised that Business Registration Certificate can be obtained on-line

from the State Division of Revenue by following the following on-line procedures that can be completed within a week's time.

(i) Go to [www.nj.gov/treasury/revenue/taxreg.htm](http://www.nj.gov/treasury/revenue/taxreg.htm) and complete a Form NJ-REG on-line (NOTE: you will need to reference the filed copy of your company's formation certificate (i.e., a certificate of formation for your New Jersey limited liability company, etc.) or the certificate of authority for a foreign entity (collectively, the "Formation Certificates") to complete the Form NJ-REG);

(ii) Select Option 2 "Register a Business for Tax and Employer Purposes." (NOTE: in order to register, you will need: (a) the 10-digit identification number that is handwritten on the filed copy of the Formation Certificate[s] and (b) a Federal EIN, which can be obtained through [www.irs.gov](http://www.irs.gov) prior to registering online.) Once the online registration process is completed, it will take about 2-3 business days to be entered into the State's record database.

(iii) After this 2-3 day waiting period, you can obtain a Business Registration Certificate online at [https://www.state.nj.us/TYTR\\_BRC/isp/BRCLocalInp.ism](https://www.state.nj.us/TYTR_BRC/isp/BRCLocalInp.ism) by using the company's 10 digit ID number or Federal EIN.

(iv) Print a copy of the Business Registration Certificate online.

(c) All Respondents, their contractors and subcontractors shall hold a valid Public Works Contractor Certificate. Respondents, their contractors and subcontractors must be registered pursuant to N.J.S.A. 34:11-56.48 et seq. at the time its Proposal is submitted and include copies with its Proposal.

(d) The Successful Respondent's obligations to obtain all permits and approvals required for the installation of the Renewable Energy Projects shall include all permits and approvals as may be required by the New Jersey Department of Education for all installations involving public schools.

**Section 7.7 Background Check**

All employees of the Successful Respondent and its contractors working on the Renewable Energy Projects will sign an Authorization to Release Records form and submit to finger printing and background checks by the Morris County Sheriff's Department and/or Prosecutor's Office prior to beginning work. The Successful Respondent and its contractors shall not utilize any employees for the work described in this RFP who are not first approved by the Sheriff's Department or Prosecutor's Office.

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**APPENDIX A**

[Attach forms of certain Program Documents]

posted on the Authority's website (<http://www.co.morris.nj.us/improvement/>)

1. PPA
2. Company Lease Agreement
3. Company Continuing Disclosure Agreement
4. Bond Resolution
5. Form of Master Local Unit License Agreement
6. County Guaranty Agreement
7. Authority Resolution adopted July 20, 2011 Authorizing issuance of RFP
8. Company Pledge Agreement

**APPENDIX B**

**DESCRIPTION OF PROJECTS**

- |                      |                                                                                                                                                           |
|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>APPENDIX B-1:</b> | See attached Description of Renewable Energy Projects for each Series 2011 Local Unit<br>- Conceptual Site Plans; and<br>- Site Roof Warranty Information |
| <b>APPENDIX B-2:</b> | Reserved [No Capital Improvement Projects for Series 2011 Program]                                                                                        |
| <b>APPENDIX B-3:</b> | Load data by Local Unit Facility                                                                                                                          |

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APPENDIX B-1

RENEWABLE ENERGY PROJECTS SUMMARY INFORMATION

The Program Renewable Energy Projects are to be located on the roofs, parking lots and/or grounds of the Local Unit Facilities of the Series 2011 Local Units, with the precise location and system size to be supplied by the Successful Respondent in their Proposal. Respondents should take care to understand the requirements of the roof warranties, as set forth in Appendix B-2 and the Respondents should follow up in whatever manner they desire to understand those requirements, including conversation with roof warrantors and architects if desired for their review of potential Program Renewable Energy Project plans and specifications for the effect of such design on any such roof warranties, all for the purpose to ensure that any Program Renewable Energy Project will not have an adverse effect on such roof warranties. Program Renewable Energy Projects involving ground mounted systems should be reviewed by the Successful Respondent and/or their professionals in respect to any and all environmental or geotechnical constraints that may be present and potentially impacting the project area. The Conceptual Site Plans set forth later in this Appendix B-1 were based on a feasibility study conducted on behalf of the Authority, and should be utilized by the Respondents as a guide only, but not as a limitation, so long as all of the provisions of this RFP, including the technical specifications set forth in Appendix C to this RFP, are satisfied. The Respondent is required to secure all necessary approvals, as required, for all proposed Program Renewable Energy Projects.

The following chart is for informational purposes only, and is the Authority's estimate of the Renewable Energy Project system sizes (expressed in Kw) for each Program Local Unit Facility:

[insert KW chart]

NOTE: ADDITIONAL INFORMATION RELATIVE TO THE RENEWABLE ENERGY PROJECTS FOR THE SERIES 2011 PROGRAM CAN BE VIEWED AT THE AUTHORITY'S WEBSITE AT <http://www.co.morris.nj.us/improvement/>. ROOFING AND WARRANTY RELATED INFORMATION CAN ALSO BE FOUND IN THIS APPENDIX AT THE AUTHORITY'S WEBSITE.

APPENDIX B-1 (cont.)

[Conceptual Site Plans]

[See Authority's website (<http://www.co.morris.nj.us/improvement/>)]

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(00016570-1)

B-1-2

APPENDIX B-2

RESERVED

There are no Capital Improvement Projects in the Series 2011 Program.

APPENDIX B-1 (cont.)

[Site Roof Warranty Information]

[To be posted from time to time, See Authority's website (<http://www.co.morris.nj.us/improvement/>)]

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APPENDIX B-3

LOAD DATA BY LOCAL UNIT FACILITY

[See Authority's website (<http://www.en.morris.nj.us/improvement/>)]

APPENDIX C

SCOPE OF WORK AND TECHNICAL SPECIFICATIONS

1.0 PROJECT SUMMARY

1.1 Provide all labor, material, equipment, tools, and supervision to install Renewable Energy Projects for the Authority at the Local Units described in this RFP.

It is estimated that the total size of the Renewable Energy Projects will be approximately ~~1000~~ MW.

1.2 Provide in Proposal solar array layout identifying the position and orientation of the proposed PV Systems including the location of major equipment (inverters, etc.).

1.3 Provide Renewable Energy Project size in kW (dc) by location.

1.4 Provide annual calculation, using PV Watts or similar industry accepted software, to determine annual kWh (ac) production for each year of the proposed PPA, by Local Unit Facility.

1.5 Provide a total unit price per kWh for a PPA for a 15-year term as described in Section 1.4 of the RFP.

1.6 All work to be done in accordance with the design Technical Specifications Section guidelines provided in this Appendix C to this RFP.

1.7 Work to be scheduled around business intervals. Work will be staged on a schedule to be agreed-upon between the Respondent, the Authority, and the Local Units; however, all work for the Renewable Energy Projects on Local Unit Facilities must be completed by \_\_\_\_\_, unless an extension is otherwise approved by the Authority.

1.8 Provide all lift equipment, temporary protection for the project. All work must be performed as not to affect adjacent active areas, pedestrian and vehicular traffic, existing surfaces and equipment.

1.9 Respondent's total unit cost per kWh for PPA shall be for all costs of installation, including maintenance, insurance, bonds, mobilization costs, fees, permits, and ancillary costs.

1.10 All trash shall be removed at the end of each shift and placed in dumpsters provided by the Respondent.

1.11 Provide product manufacturer's catalogue information "cut sheets" for system components being proposed such as solar panels, inverters, racking systems, parking lot

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C-1

canopies/car ports and data acquisition system with associated kiosks and monitors.

2.0 QUALITY ASSURANCE

2.1 The Successful Respondent shall have a minimum of three (3) years experience in solar power work. This shall be demonstrated by providing a minimum of three (3) successful project references where least two of the projects be at least 300 kW or greater.

2.2 The Successful Respondent shall store and condition the product in full compliance with the manufacturer's recommendations. The Successful Respondent shall be fully responsible for the security of materials throughout the project.

3.0 GENERAL

3.1 The Successful Respondent shall adhere to all procedures, limitations, and cautions for the products in the manufacturer's current printed literature.

3.2 All work shall be done in a neat and workmanlike manner and shall comply with all local, state and federal codes.

3.3 The Successful Respondent shall leave finished work and work area in a neat, clean condition with no evidence of spillover, construction dust, and/or trash onto adjacent areas.

4.0 SOLAR ENERGY CONSIDERATIONS

4.1 The Successful Respondent shall provide the most energy efficient and cost effective solar photovoltaic system available, using state of the art components and technology.

5.0 SAFETY

5.1 The Successful Respondent shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. Responsibility to protect and prevent damage to property during removal, relocation or replacement actions rests solely with the Successful Respondent. The Successful Respondent shall restore to its original condition without extra costs to the Authority, property that shall be damaged due to the acts or omissions of any employees, agents, or subcontractors of the Successful Respondent. Such repairs shall meet the requirements of the Authority and its Local Units. The Successful Respondent must take proper care to protect all finished work by substantial covering until accepted by the Authority. To ensure public safety, the Successful Respondent shall provide the required burriending, cones, safety tape, etc., for all areas, which have work in progress.

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PART 1

1.1 SYSTEMS DESCRIPTION

This Section includes photovoltaic interactive electric generating systems with the following features and accessories:

1. Photovoltaic modules
2. Mounting System
3. Inverters
4. Combiner Boxes
5. AC Disconnect Switches
6. DC Disconnect Switches
7. Transformers
8. Fuse Boxes
9. Wiring/Conduit/Electronic Mounting
10. Data Acquisition System/Metering
11. Interactive Kiosks/Monitoring Stations

1.2 SUBMITTALS

A. Detailed Engineering Package shall be provided for code enforcement compliance review for each host site. All drawings shall be created in AutoCAD format, version 2006 or newer. The Detailed Engineering Package shall include the following items:

1. Array Design
  2. Single-Line Diagrams
  3. Interconnection Diagrams
  4. Installation Details -- including mounting method and location of transformers, inverters and other equipment.
  5. Equipment Cut sheets
  6. Project Schedules
  7. Equipment Staging Plan -- Crane lift plan
  8. Roof Repair Plan (as required)
- B. Product Data: Include data on features, components, ratings and performance. Include the following: modules, mounting structure, parking lot canopies, combiner boxes, fuses, disconnects, inverter, isolation/step up transformer, revenue grade kWh meter, data acquisition system.
- C. Shop Drawings: Indicate fabrication details, dimensions, weights, loads, required clearances, method of field assembly, components, and location and size of each field connection.
1. Design Calculations
  2. Wiring Diagrams
  3. Locations of conduit runs and building penetrations
  4. Mounting details for components: combiner boxes, disconnects, transformers, inverters, etc.
- D. Field Test and Observation Reports: Indicate and interpret test results and inspection records relative to compliance with performance requirements.
- E. Certified Summary of Performance Tests: Demonstrate compliance with performance criteria.
- F. Factory Test Reports: For units to be shipped for this Project, showing evidence of compliance with specified requirements

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G. Field test report of tests specified in Part 4 of this Appendix C.

1. Start-up, Testing and Commissioning Plan -- include the following:
    2. Start-up Procedures
    3. Testing Procedures
    4. Commissioning Plan
- H. Maintenance Data: Include the following:
1. List of tools and replacement items recommended for storage at the County sites for ready access.
  2. Detail operating instructions for both normal and abnormal conditions.
- I. Health & Safety Plan
1. The contractor shall submit a Health & Safety plan and observe all County safety practices required for performing construction work of this type including all applicable OSHA standards.
- 1.3 QUALITY ASSURANCE
- A. Every PV Module shall be individually tested and certified at the factory.
- B. Other applicable codes and standards:
1. System shall comply with the applicable version of the National Electrical Code NEC.
  2. System shall include all UL listed and/or UL recognized components.
  3. System interconnection shall comply with IEEE 929 and NEC 690.
  4. Modules shall have a UL fire rating classification equal to or higher than the rating required for the roof.
  5. Inverters shall comply with UL subject 1741: Standard for static inverters and charge controllers for use in PV power systems and also comply with IEEE 929.
  6. PV System shall be designed to meet all of the following standards applicable to the building site and location:
  7. Uniform Building Code (UBC)

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8. Building Officials and Code Administrators International (BOCA)
  9. International Building Code (IBC)
  10. Utility interconnect and net metering requirements
  11. NJBPU Office of Clean Energy program inspection requirements
- C. All contractors and workers used by the contractor must be licensed and bonded to perform these services in the State of New Jersey.
- D. Contractor must comply with the provisions of the Department of Labor Prevailing Wage standards.
- E. All professional services (architects, engineers, etc.) utilized by the contractor must be licensed in the State of New Jersey.
- 1.4 WARRANTY
- A. General Warranty: Special warranty specified herein shall not deprive the County of other rights County may have under other provisions of the Contract Documents and shall be in addition to, and run concurrent with, other warranties made by Company under requirements of the Contract Documents.
- B. Special Warranty: Written warranty, executed by manufacturer agreeing to repair or replace PV equipment and system components that fail in materials or workmanship within specified warranty period. Company shall obtain industry standard, manufacturer equipment warranties. For PV Modules, Module shall be covered by a power warranty that guarantees module power will be within twenty (20) percent of original power after twenty (20) years of operation. Regardless of manufacturers' warranties, the Company is responsible for the maintenance and operation of the Systems during the term of the Agreement and, as such, shall be responsible for equipment repair and replacement as needed to maintain the operation of the Systems.

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- C. [Roof Installations only] Roof Warranty: Company to provide a written certification from all parties responsible for the roof warranties that the PV systems, as installed, have no adverse effect on roof warranties or the Company must provide substitute roof warranties of equal value.
- 1.5 EXTRA MATERIALS
- A. Furnish extra materials described below that match products installed and that are packaged with protective covering for storage and identified with labels describing contents.
1. Fuses: One for every ten (10) of each type and rating, but not less than one (1) of each.

## PART 2 PRODUCTS

### 2.1 GENERAL COMPONENT REQUIREMENTS

- A. Hardware must be selected based upon a twenty (20)-year system design life.
- B. Outdoor components must be made with corrosion-proof materials such as galvanized steel and aluminum.
- C. Electrical Components shall be designed for use on a maximum of 600 Volt Systems AC or DC operation.
- D. All materials that are used outdoors shall be sunlight and UV resistant.
- E. Materials shall be designed to withstand the temperatures to which they are exposed.
- F. Only corrosion-resistant fasteners shall be used.
- G. Structural members shall be corrosion resistant aluminum or galvanized steel.

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- H. All electrical equipment shall be rated for the current and voltage ratings necessary for the application.
- I. Array installation shall not unreasonably restrict access to, if applicable, roof surface for inspection or repair.
- J. Wind uplift resistance shall be certified to meet wind gust requirements and codes for that area, included in the design of the system, and be verified in writing by a Professional Engineer licensed in the State of New Jersey.
- K. Modules shall be mounted to prevent pooling of water on module surface.
- L. Walking space shall be provided throughout any roof-mounted PV array to facilitate installation, inspection and maintenance access to all modules and other existing roof equipment, such as air handling units, fans, etc. On flat roofs, the PV array shall be installed to meet OSHA required setbacks around the roof perimeter.
- M. As to any roof-mounted PV array, it shall be mounted in such a way that the normal drainage of the roof is not affected.
- N. Any ballasting removed must be replaced in kind.
- O. All parking lot canopies/car port structures must include devices that will prevent ice dams and ice falling hazards.
- P. Respondent shall provide lighting in parking areas that meets or exceeds existing light levels. Respondent shall measure and document existing light levels prior to the installation of any new equipment.
- Q. Respondent shall provide security cameras, where security cameras existed prior to the installation of the solar power system, that meets or exceeds existing visibility. Respondent shall measure and document existing visibility prior to the installation of any new equipment.

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- 1. Manufacturer shall provide a toll-free number and regular office hours for technical support.
- 2. Manufacturer shall provide answers or requests for additional information to technical questions regarding installation and operation of the panels within two (2) business days.

E. Documentation/Data/Labeling

- 1. A detailed installation manual shall accompany each crate of modules. Instructions shall comply with requirements of UL 1703 and include information regarding hazards, installation, operation, warranty, troubleshooting and return procedures.
- 2. Each module shall be labeled to indicate hazard warnings, manufacturer's name, nominal electrical characteristics, appropriate standards approvals, module and individual serial number.
- 3. Each module serial number shall be traceable to module testing, assembly operator or critical material lots.

F. Operational

- 1. Modules shall be designed and constructed to deter theft to the extent possible. Theft deterrents could include weight and size difficult to handle by a single person or special mounting hardware.
- 2. Modules shall be designed and constructed to protect against vandalism to the extent possible. Vandalism protection could include thick thermally tempered glass, a module weight and size difficult to handle by a single person or special mounting hardware.
- 3. Modules shall be designed to be maintenance-free.
- 4. Module shall be designed to operate in temperatures ranging from -40° C to 85° C
- 5. Module shall be designed to operate in humidity levels ranging from 0% to 100% - RH

G. Disposal

- 1. Module shall pass a leachate test, landfill environment, with no adverse environmental effects.

2.3 INVERTERS

- A. Inverters shall be Xantrex PV-series or approved equal.

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2.2 PHOTOVOLTAIC MODULES

A. Construction

- 1. Glass must be thermally tempered, low iron glass designed for maximum photovoltaic gain while capable of withstanding hailstone impact test according to ASTM E-1038.
- 2. Module Encapsulate shall have sufficient physical and optical properties to meet safety requirements of UL 1703, while providing the characteristics to maximize module performance.
- 3. Manufacturer shall provide pre-wired PV modules with latching or locking type connectors per NEC690.33(C). Wiring shall be properly secured and neatly dressed within module frame - allowing the option to readily change wiring in the field.
- 4. Junction box shall be of a material that meets UL 94HB fire rating.
- 5. Interconnect material shall be free of lead and lead-based solder and flux material.

B. Safety

- 1. Module shall be rated for a minimum of 600 volts DC.
- 2. Module shall be rated for operation in the maximum applicable wind regime or higher.
- 3. Module shall be able to be handled by two (2) or fewer trades' people on any commercial roof top.
- 4. Module shall be fire rated for installation on any commercial roof.
- 5. Module shall be designed for loading (wind, snow, etc.) on both the front and back and same shall be certified in writing by the Company's Engineer.

C. Standard & Listings

- 1. Modules shall be UL 1703 listed.
- 2. Module type shall have passed test plan IEEE 1262 or IEC 61215 as conducted by an independent certified lab and carry appropriate documentation.

D. Design and Service Support

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- B. Each Inverter shall be designed for PV applications.

- C. Each Inverter shall qualify for all utility and state rebate and loan programs.

- D. Installation shall meet all applicable UL 1741, IEEE Standard 929-2000 and standard 519, NEC Codes, and the latest applicable ANSI and FCC standards and addenda dated prior to the award of the purchase order for this procurement.

- E. Each Inverter shall include:

- 1. Automatic operation includes start-up, shut down, self diagnosis, and fault detection.
- 2. Digital Signal Processor (DSP) based controls with self-diagnosis and LCD for display of operating status.
- 3. Over-and under-voltage and frequency protection, shutting down the inverter in compliance with UL1741.
- 4. Anti-islanding protection to prevent back-feeding inverter-generated power to the grid in the event of a utility outage.
- 5. User definable power tracking, matching the inverter to the array, as well as adjustable delay periods to customize system shut-down sequences.
- 6. Continuous power rating that equals or exceeds the PV array output.
- 7. Single phase-loss protection and shut down. If the utility power experiences a loss or voltage fluctuation in one or more phases, the inverter shall shut down until the condition is corrected.
- 8. Integral AC and DC disconnect switches.
- 9. Integral fused subarrays.

2.4 COMBINER BOXES

- A. Combiner boxes shall have the following characteristics: NEMA 3R enclosure, 10A or 15A input, 600 VDC, and UL listed.

2.5 DC DISCONNECT SWITCHES

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- A. The DC disconnect(s) shall be 600V DC rated, heavy duty and if used outdoors shall be NEMA 3R rated. DC disconnect switches shall be certified for use with PV systems.

## 2.6 TRANSFORMERS

- A. Provide dry type, enclosed and ventilated transformers as indicated herein. Transformers shall be compatible with the inverter, as supplied by Xantrex Technologies, or approved equal.
- B. Transformers shall be designed for outdoor use.
- C. Each transformer shall incorporate an electrostatic shield for the attenuation of voltage spikes, line noise, and transients.
- D. Each transformer shall terminate in copper bus bar.
- E. Transformers shall be designed, constructed and rated in accordance with UL, CSA, NEMA, ANSI, IEEE and OSHA standards.
- F. Transformer enclosures shall be UL/NEMA Type 2 and UL 3R Listed with the addition of a weather shield and shall be so marked on the transformer. Efficiency shall be 97% greater, 80° C temperature rise rated.
- G. Transformer enclosures shall be grounded per the National Electric Code.

## 2.7 WIRING/CONDUIT ELECTRONIC MOUNTING

- A. All system wiring shall be in accordance with all applicable sections of the National Electric Code (NEC). The wires used shall have a temperature rating of 90° C or higher.
- B. All outdoor electrical conduits shall be rigid galvanized with NEMA 3R enclosures and watertight connections. Indoor conduits shall be EMT.

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- C. Exposed cables outdoors shall have type USE-2 insulation and shall be UV resistant and shall be clearly so marked.
- D. Conduits run across any roofs shall be mounted on high density polyethylene (HDPE) supports, such as Pipe Pier ®, or approved equal. Where possible, conduits run across roofs shall be no less than 12" above the roof surface.

## 2.8 DATA ACQUISITION/METERING

- A. Data Acquisition System (DAS) shall be provided as part of the PV Systems. The DAS shall include instrumentation that allows the measurement of:
  1. Ambient temperature
  2. Wind speed
  3. Plane or array of solar irradiation
  4. AC system power output
- B. The DAS shall include a data-logger, modem for data retrieval, NEMA 4 or 3R enclosure, temperature measuring device, anemometer, and solar sensor. AC kWh measurement equipment must be revenue grade and meet the requirements of ANSI C12 per NJOCE requirements..
- C. The DAS shall have real-time Internet display of the following information:
  1. Instantaneous system output in KW
  2. Instantaneous irradiation in watts/square foot
  3. Instantaneous ambient temperature
  4. Instantaneous wind speed
  5. Daily system output in kWh - Any day and day to hour
  6. Monthly system output in kWh - any month and month to date
  7. Annual System Output in kWh - any year and year to date
  8. Graphical comparison of projected system output to actual output

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- D. The DAS shall include interactive information Kiosk/Monitoring Station at the Local Unit Facility (ies) to display all DAS information in real time. A central DAS monitor shall be provided to the Authority Main office, which has the ability to view all Local Unit Facility(ies) PV systems. Educational Local Unit Facility(ies), such as College, High School and Middle School facilities, shall be provided with a second DAS monitor for educational purposes, if requested.
- E. Company shall run CAT-5 cables, install power outlet and any other necessary equipment to DAS kiosk/flat screen TV, if unavailable.
- F. Local Unit shall determine final location of DAS kiosk/flat screen TV. Contractors are required to provide DAS kiosk/flat screen TV and all ancillary services outlined in item E at the site selected by the Local Unit. In the event the solar installation is at a site that is not the ideal location for the kiosk/flat screen monitor installation (i.e. firehouse or public works garage) the local unit shall designate a replacement site.

## 2.9 MOUNTING SYSTEMS

- A. All mounting systems used on flat roofs shall be ballasted non-penetrating systems.
- B. All parking lot canopy systems shall be designed as to not impede parking movements or reduce parking spaces. Designs with minimal column supports (Cantilever Designs) are preferred over systems with multiple columns.
- C. A minimum clearance of 9ft shall be maintained at the lowest point of the parking canopy structure, although the Successful Respondent shall be willing to accommodate requests of minimum clearances up to 15ft. Final canopy clearances should be coordinated with Local Units.

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- D. All canopies within this RFP should be assumed to be between 9ft to 15ft minimum clearance unless labeled as "High Canopy". High Canopy indicates a proposed height in excess of 15ft.
- E. Mounting systems shall be constructed of only corrosion resistant materials, including aluminum, stainless steel and galvanized steel.
- F. Wind uplift resistance shall be certified to meet wind gust requirements and codes for that area, included in the design of the system, and be verified in writing by a Professional Engineer licensed in the State of New Jersey.
- G. All parking lot canopies/car port structures and sloped roof systems must include devices which will prevent ice dams and ice falling hazards.
- H. Respondent shall provide lighting in parking areas that meets or exceeds existing light levels. Respondent shall measure and document existing light levels prior to the installation of any new equipment.

## PART 3 EXECUTION

### 3.1 INSTALLATION REQUIREMENTS

- A. All required over-current protection devices shall be included in the system and accessible for maintenance. Each shall have trip ratings no greater than the derated ampereage of the conductor it protects.
- B. All electrical connections and terminations shall be fully tightened, secured, and strain relieved as appropriate.
- C. All mounting equipment shall be installed to the manufacturer's specifications.
- D. Installation should be organized and neat. Module connections and wiring should be neatly prepared and easily accessed by service persons.

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- E. All cables, conduit, exposed conductors, and electrical boxes should be secured and supported according to code requirements.
- F. All national and local electric and building code requirements shall be met.
- G. System switching and metering equipment shall be accessible to qualified personnel for resetting or repair, and regular monitoring for data retrieval.
- H. [Roof installations only] The PV system installation shall maintain roof and structural integrity. The loading impact of the array, wind, snow, etc., shall be determined safe for the installation. The Company shall provide a certification from a Licensed NJ Architect or Engineer stating that the roof integrity is maintained as described above. The Company will provide a letter from the roof contractor and/or roofing manufacturer indicating that the roof warranty is not affected by the installation of the PV system or will provide a replacement warranty of equivalent value.
- I. The PV system shall maintain the integrity of the building electrical system. The Company shall carefully inspect the electrical system to ensure against harmonic distortion, fault protection issues, and interconnect problems.
- J. Supply-side connections of the inverters to building AC power shall be at the utility service entrance location in each building per NEC Article 690.64 (A) and NEC Article 230.82(6). Load-side connections of inverters to building AC power shall comply with all requirements of NEC Article 690.64(B) (1) through (7). All electrical equipment required for connection of the inverter to the distribution shall be mounted on the wall adjacent to the main panel board or a location approved by the County. All routing of raceways and wiring from the roof area to the service entrance location shall be run concealed internal to the building unless prior approval from the Local Unit(s) or their representative(s) is received.

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- E. Array mounting hardware supplied by the Company shall be compatible with the site considerations and environment. Special attention shall be paid to minimizing the risk from exposed fasteners, sharp edges, and potential damage to the modules or support structures. Corrosion resistance and durability of the mechanical hardware shall be emphasized – the use of stainless steel fasteners and aluminum support structures are required. The use of ferrous metals, wood and plastic components is not acceptable. Pipe supports made of UV-rated plastic curb-type standoffs are acceptable.
- F. The Company shall ensure installing subcontractors (if used) are familiar with manufacturer's installation guidelines.

### 3.3 DELIVERY, STORAGE AND HANDLING

- A. Deliver PV modules and system components to their final locations in protective wrappings, containers, and other protection that will exclude dirt and moisture and prevent damage from construction operations. Remove protection only after equipment is safe from such hazards.
- B. The Company shall observe the following precautions during delivery and handling:

1. [For Roof Installations only] Prior to start of work inspection of roof shall be conducted by the Company to identify and document existing deficiencies in the roof. Any damage to the roof surface following the roof inspection shall be deemed the responsibility of the Company and shall be repaired at their sole expense.
2. [For Roof Installations only] Modules may be delivered in containers that cannot be easily supported by the roof. The Company shall insure proper placement of point loads on the roof for equipment staging and installation.
3. [For Roof Installations only] The Company shall maintain the integrity of the roof surface during delivery, handling and installation, including laying out mats, insulation/plywood layers, etc.

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- K. All walls, ceilings, etc. internal to the building damaged/altered by this work shall be replaced/repared to match the existing surrounding surfaces in their existing condition prior to the work performed after all installations are complete.
  - L. All installations of equipment & raceways shall be coordinated and approved by the County prior to start of any work. Company must contact the County a minimum of three (3) days prior to the start of any installations to perform a walk-through of all proposed routings and locations.
  - M. A time-lapse "webcam" that views daily construction activities at the Local Unit Facilities must be provided, installed and be configured for access via the Authority's website. Connectivity with the Authority's website must be coordinated. The time-lapse "webcam" location will be determined by the Authority.
- ### 3.2 INSTALLATION STANDARDS
- A. System Installation shall conform to Manufacturers Installation Manual and approved project drawings and specifications.
  - B. All Local and NEC codes shall be observed.
  - C. Interruption of electrical power to other circuits shall be minimized and shall be scheduled in advance at a time that will minimize impacts on the occupants (if the interruptions are significant, permitted times may be restricted to night time only). Installation crews shall minimize disturbance (due to noise, dust, odors, moving of equipment) of building occupants and activities.
  - D. Sites shall be maintained and kept secure, free of excessive debris and in safe condition during the construction period. Site should be left "broom clean" after work is complete at the end of each work day. All work will comply with the National Electric Code, the National Fire Code, and the Uniform Building Code, and shall be inspected by the authorities having jurisdiction at appropriate phases

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4. Company's representative shall be onsite for all equipment or material deliveries. Owner's representative will not accept, unload or store project materials delivered to the site, and will refuse such deliveries.

- C. Cranes or rigging equipment shall operate in compliance with all local codes and requirements at the Company's expense.
- D. Each module shall be visually inspected for defects by the Company upon receipt.
- E. System Installations in Lighted Parking Areas shall be installed with lighting equipment installed or relocated to maintain existing lighting levels at all locations and surveillance visibility & quality. Company shall perform and submit for review, light level readings for existing parking areas prior to the start of any work in those parking areas and shall also submit a copy of a video showing visibility from surveillance cameras (if they exist). The Company shall provide a lighting and surveillance design for approval by the County and Site Owner's Representative prior to ordering or installation of same. All modifications are subject to review and approval of the County and the Site Owner's Representative.

### 3.4 ARRAY INSTALLATION

- A. The Company shall follow manufacturer's guidelines for the installation of the array components, including mounting hardware and PV modules.

### 3.5 WIRING CONNECTIONS

- A. The Company shall follow all applicable NEC Sections and manufacturer's wiring guidelines for wiring sizes and connections.

### 3.6 COMPONENT INSTALLATION

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- A. Major system components (modules, combiner boxes, disconnects, inverters, transformers, meters, etc.) shall be installed per all applicable NEC Sections and manufacturer's guidelines.

### 3.7 LABELING AND IDENTIFICATION

- A. For diagnostic and troubleshooting purposes, all array strings at the combiner boxes and the combiner boxes themselves shall be uniquely tagged and identified with such tagging on the as-built drawings which are to be provided by the contractor.

### 3.8 CLEANING

- A. PV modules shall be free of dirt and construction debris prior to system start up procedures.

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below. The Company may perform other performance tests as specified in the Commissioning Plan to support performance testing.

1. Prior to inverter startup, voltages will be recorded for each string, each sub-array, and the entire array. Measurements will be recorded and provided to the County in a clear, tabular format. Each voltage measurement will include the following ancillary data: the date; the time of day that the measurement was taken; a sample panel temperature at the time; the temperature at the time; and the solar irradiation at the time. The strings that make up each sub-array will be clearly identified on a drawing by number.
2. After inverter startup, current shall be recorded for each string, each sub-array, and the entire array. Measurements will be recorded and provided to the County in a clear, tabular format. Each voltage measurement will include the following ancillary data: the date; the time of day that the measurement was taken; a sample panel temperature at the time; the temperature at the time; and the solar irradiation at the time. The strings that make up each sub-array will be clearly identified on a drawing by number.
3. The Company shall verify the performance of the array by following the Commissioning Plan's test no less than thirty (30) days after system is operational. Should the system output fail to meet the requirements of this RFP, Company shall undertake, at its own expense, any necessary actions to achieve the required performance levels as set forth in this RFP.

### 4.2 DOCUMENTATION

- A. Prepare three (3) copies of Operating and Maintenance Manuals in hard cover binders and deliver to the engineer for review prior to turning over to each County. As a minimum the binders shall include:

1. A complete set of all approved submittals including shop drawings and product literature.
2. As built roof plans showing the final placement of all panels, combiner boxes, connections and conduit placement. [Roof installations only]
3. As built electrical plans, including three line diagrams, and elevation drawings showing the final placement of the electrical equipment.
4. Cleaning instructions for the PV panels.
5. Copies of all start-up procedure measurements.
6. Copies of all testing data and reports.
7. Troubleshooting Guidelines
8. System maintenance schedule and procedures.
9. Contact information for technical assistance and parts ordering.

Provide three (3) electronic versions of 4.2.A. on a CD ROM.

### 4.3 TRAINING

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## PART 4 PROCEDURES

### 4.1 System inspection and safety checks:

- A. The Company shall utilize a checklist submitted and approved by the County for start-up requirements and conduct a series of safety tests to ensure proper installation, safe operation and performance up to specification.

#### 1. Testing includes:

- (a) All inverter startup tests as specified by the inverter manufacturer in the inverter operation manual.
- (b) Actual power vs. predicted power
- (c) Loss of grid
- (d) Grid resume
- (e) Random module shading
- (f) Data monitoring check out
- (g) Measure Voc of every source circuit and log it
- (h) Measure ac power and compare to predicted power
- (i) Verify tightness of all wiring terminations
- (j) Verify proper marking and labeling of all wire terminations and enclosures
- (k) Verify shut-down procedures
- (l) Verify start-up procedures
- (m) Verify system 5-minute delay upon re-start
- (n) Verify PV array connectors are fully mated and wires neatly secured
- (o) Verify no debris on the modules, no damaged or broken modules

2. The Company shall correct any deficiencies uncovered by the testing prior to formal commissioning of the Systems.

3. Site shall be free of all tools and materials required for construction and installation.

- B. System Output Measurement: The Company will establish the initial system output to prove that the systems are performing as designed, and to establish a baseline to be used for warranty and the Guaranteed Minimum Output requirement. System output shall be based on PV (USA) Test Conditions (PTC). The system output will be verified after construction of the system has been completed, on a clear, sunny day. System output tests include the items shown

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- A. Provide four (4) copies per location of a Training Manual for operation and maintenance of each PV System.

1. Specify procedures to follow in the event of emergency.

- B. Conduct two (2) onsite training classes. Each class to be one (1) to two (2) hours in length and to accommodate ten (10) to twenty (20) students. The County will provide appropriate classroom space.

## PART 5 ADDITIONAL PROJECT SPECIFICATIONS: SYSTEM DESIGN REQUIREMENTS

5.1 The Systems shall be designed and constructed in accordance with all applicable regulations, codes and standards. The Company is expected to have familiarized itself with all applicable regulations, codes and standards, and must include a certification by the Company that the System design is in accordance with all applicable regulations, codes and standards.

5.2 The Systems shall be electric interactive and operate in parallel with the utility system, following the local electric utility's required design and installation standards for interconnection and net metering. Such interconnection to the electric utility and net metering shall comply with all applicable regulations, including the NUBPU's regulations. The Company agrees to manage application for all necessary approvals from the local electric distribution utility, including the submission of applications for interconnection of the Systems with the local electric distribution utility. The Company shall be responsible for all costs associated with the electrical interconnection of each site to the local electric distribution utility's system and net metering.

## PART 6

### Coordination

- A. The Company shall schedule all construction activities at the sites through each County's representative to avoid, to maximum extent, interference with other Companies and the County's operations and to meet specified completion dates. It is the responsibility of the Company to meet the Project Completion Date in coordination with the County's operating schedule. The Company shall coordinate all construction activities through the County's representative, based in part on the County calendar, to avoid interference with County's process and operations within site buildings.

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B. The Company shall coordinate, through the County's representatives, all interruptions of building services or shutdown of building systems and obtain, through the County's representatives, prior written approval of proposed schedule of interruptions or shut-downs.

1. If, in the County's opinion, any such interruption or shut-down will affect the life safety of building occupants, Company shall schedule interruption or shut-down at a time acceptable to the County, at times when classes are not in session, or after normal working hours.
2. The Company shall insure all equipment, materials, fittings, and similar items required are available before interrupting or shutting-down existing systems.
3. The Company shall notify all inspectors and representatives of utility companies, municipal officials, County representatives and similar parties by letter in advance of required changeovers, tie-ins, removals, and similar operations.
4. If the Company discovers Hazardous Materials during the inspection or construction of the System the Company shall notify the County and cease further work until permitted by the County.

C. Construction Schedule: Work shall be completed within the Project Completion Date established below.

1. The Company shall have access to the site and buildings during the full day, in coordination with the County's representative.

**PART 7 POST CONSTRUCTION REQUIREMENTS**

7.1 Throughout the term of the Agreement the Company shall be fully responsible for all maintenance, repair services, equipment replacements, and ongoing operation of the Systems, including the replacement of solar panels due to vandalism or damage. The Local Unit(s) will provide access to the Company to the buildings and roofs, as applicable, upon reasonable notice by the Company.

7.2 All operation and maintenance work shall be performed in a workmanlike manner and done in a manner that limits interference with the Local Unit(s)' use of their facilities. The Local Units shall undertake reasonable efforts to protect the Systems against theft, damage, vandalism or loss. The Local Unit(s) shall notify the Company of any damage that it is aware of that could reasonably be expected to adversely affect the operation of Systems.

7.3 The Local Units will provide access to the Company to the buildings and roofs, as applicable, upon reasonable notice by the Company.

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- B. ASTM D698 - Test Methods for Moisture-Density Relations of Soils and Soil-Aggregate Mixtures, Using 5.5 lb (2.49 Kg) Rammer and 12 inch (304.8 mm) Drop.
- C. ASTM D1556 - Test Method for Density of Soil in Place by the Sand-Cone Method.
- D. ASTM D1557 - Test Methods for Moisture-Density Relations of Soils and Soil-Aggregate Mixtures Using 10 lb (4.54 Kg) Rammer and 18 inch (457 mm) Drop.
- E. ASTM D2049 - Relative Density of Cohesionless Soils.
- F. ASTM D2167 - Test Method for Density and Unit Weight of Soil in Place by the Rubber Balloon Method.
- G. ASTM D2922 - Test Methods for Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth).
- H. ASTM D3017 - Test Methods for Moisture Content of Soil and Soil-Aggregate Mixtures.

**PART 2 PRODUCTS**

**2.1 ACCESSORIES - NIC**

**PART 3 EXECUTION**

**3.1 EXAMINATION**

- A. Verify subdrainage, dampproofing, or waterproofing installation has been inspected.
- B. Verify underground tanks are anchored to their own foundations to avoid flotation after backfilling.

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7.4 The Company shall be required to move or remove Systems' components when required for roof or equipment repair or replacement during the entire term of the Agreement. The Local Units will provide the contractor with at least two weeks' notice in the case of scheduled work and as much notice as possible in the event of emergency.

7.5 The Company shall be responsible for regularly monitoring the performance of the Systems to make sure that are operating properly.

**ADDITIONAL TECHNICAL SPECIFICATIONS**

**SECTION 02320  
BACKFILL**

This section includes backfilling required at building perimeter and site structures up to required subgrade elevations, fill under interior and exterior slabs-on-grade or pavement, and fill under landscaped areas. Backfilling for utilities within building proper is included within this section; backfilling for utilities outside building is included in Section 02324.

This section includes provision for Work performed using unit price payment method, when applicable.

**PART I GENERAL**

**1.1 SUMMARY**

- A. Section includes building perimeter and site structure backfilling to subgrade elevations; site filling and backfilling; fill under slabs-on-grade and paving.
- B. Related Sections:

1. Section 02324 - Trenching: Backfilling of utility trenches.

**1.2 REFERENCES**

- A. AASHTO T180 (American Association of State Highway and Transportation Officials) - Moisture-Density Relations of Soils Using a 10-lb (4.54 kg) Rammer and an 18-in. (457 mm) Drop.

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- C. Verify structural ability of unsupported walls to support loads imposed by fill.

**3.2 PREPARATION**

- A. Compact subgrade to density requirements for subsequent backfill materials.
- B. Cut out soft areas of subgrade not capable of compaction in place. Backfill with structural fill and compact to density equal to or greater than requirements for subsequent fill material.
- C. Scarify and proof roll subgrade surface to depth of 3 inches to identify soft spots; fill and compact to density equal to or greater than requirements for subsequent fill material.

**3.3 BACKFILLING**

- A. Backfill areas to contours and elevations with unfrozen materials.
- B. Systematically backfill to allow maximum time for natural settlement. Do not backfill over porous, wet, frozen or spongy subgrade surfaces.
- C. Structural Fill Place and compact materials in equal continuous layers not exceeding 6 inches.
- D. Employ placement method that does not disturb or damage other work.
- E. Maintain optimum moisture content of backfill materials to attain required compaction density.
- F. Backfill against supported foundation walls and beams. Do not backfill against unsupported foundation walls and beams.
- G. Backfill simultaneously on each side of unsupported foundation walls until supports are in place.

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- H. Remove surplus backfill materials from site.
- I. Leave fill material stockpile areas free of excess fill materials.

3.4 FIELD QUALITY CONTROL

- A. Testing: In accordance with ASTM D1557.
- B. When tests indicate Work does not meet specified requirements, remove Work, replace and retest.

Proof roll compacted fill surfaces under slabs-on-grade, sidewalks and paving.

3.5 PROTECTION OF FINISHED WORK

- A. Reshape and re-compact fills subjected to vehicular traffic.

END OF SECTION

SECTION 02324

EXCAVATION, TRENCHING & BACKFILLING FOR UTILITY SYSTEMS

PART 1 GENERAL

1.1 SUMMARY

- A. Section includes excavating trenches for utilities from 5 feet outside building to municipal utilities; compacted fill from top of utility bedding to subgrade elevations; and backfilling and compaction.
- B. Related Sections: (Delete sections not applicable to work)

- 1. Section 02320 - Backfill: General backfilling

1.2 REFERENCES

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1.5 COORDINATION

- A. Verify Work associated with lower elevation utilities is complete before placing higher elevation utilities.

PART 2 PRODUCTS

2.1 Satisfactory Materials

- A. Satisfactory materials shall comprise any materials classified by ASTM D 2487 as GW, GP, GM, GP-GM, GW-GM, GC, GP-GC, GM-GC, SW, SP, SM.

2.2 Unsatisfactory Materials

- A. Materials which do not comply with the requirements for satisfactory materials are unsatisfactory. Unsatisfactory materials also include man-made fills, trash, refuse, or backfills from previous construction. Unsatisfactory material also includes material classified as satisfactory which contains root and other organic matter, frozen material, and stones larger than 6 inches. The Engineer shall be notified of any contaminated materials.

2.3 Cohesionless and Cohesive Materials

- A. Cohesionless materials shall include materials classified in ASTM D 2487 as GW, GP, SW, and SP. Cohesive materials shall include materials classified as GC, SC, ML, CL, MH, and CH. Materials classified as GM and SM shall be identified as cohesionless only when the fines are nonplastic.

2.4 Rock

- A. Rock shall consist of boulders measuring 1/4 cubic yard or more and materials that cannot be removed without systematic drilling and blasting such as rock material in ledges, bedded deposits, unstratified masses and conglomerate deposits, and

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- A. AASHTO T189 (American Association of State Highway and Transportation Officials) - Moisture-Density Relations of Soils Using a 10-lb Rammer and an 18-in. Drop.

- B. ASTM C136 - Method for Sieve Analysis of Fine and Coarse Aggregates.

- C. ASTM D698 - Test Methods for Moisture-Density Relations of Soils and Soil-Aggregate Mixtures, Using 5.5 lb Rammer and 12 inch Drop.

- D. ASTM D1556 - Test Method for Density of Soil in Place by the Sand-Cone Method.

- E. ASTM D1557 - Test Methods for Moisture-Density Relations of Soils and Soil-Aggregate Mixtures Using 10 lb Rammer and 18 inch Drop.

- F. ASTM D2167 - Test Method for Density and Unit Weight of Soil in Place by the Rubber Balloon Method.

- G. ASTM D2922 - Test Methods for Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth).

- H. ASTM D3017 - Test Methods for Moisture Content of Soil and Soil-Aggregate Mixtures.

1.3 DEFINITIONS

- A. Utility: Any buried pipe, duct, conduit, or cable.
- B. Degree of Compaction: Shall be expressed as a percentage of the maximum density obtained by the test procedure presented in ASTM D 1557.

1.4 FIELD MEASUREMENTS

- A. Verify field measurements prior to fabrication.

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below ground concrete or masonry structures, exceeding 1/2 cubic meter 1/2 cubic yard in volume, except that pavements shall not be considered as rock.

2.5 Unyielding Material

- A. Unyielding material shall consist of rock and gravelly soils with stones greater than 3 inches any dimension or as defined by the pipe manufacturer, whichever is smaller.

2.6 Unstable Material

- A. Unstable material shall consist of materials too wet to properly support the utility pipe, conduit, or appurtenant structure.

2.7 Select Granular Material

- A. Select granular material shall consist of well-graded sand, gravel, crushed gravel, crushed stone or crushed slag composed of hard, tough and durable particles, and shall contain not more than 10 percent by weight of material passing a No. 200 mesh sieve and no less than 95 percent by weight passing the 1 inch sieve. The maximum allowable aggregate size shall be 6 inches, or the maximum size recommended by the pipe manufacturer, whichever is smaller.

2.8 Initial Backfill Material

- A. Initial backfill shall consist of select granular material or satisfactory materials free from rocks 6 inches or larger in any dimension or free from rocks of such size as recommended by the pipe manufacturer, whichever is smaller. When the pipe is coated or wrapped for corrosion protection, the initial backfill material shall be free of stones in excess of size as recommended by the pipe manufacturer.

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2.9 PLASTIC MARKING TAPE

- A. Plastic marking tape shall be acid and alkali-resistant polyethylene film, 6 inches wide with minimum thickness of 0.004 inch. Tape shall have a minimum strength of 1750 psi lengthwise and 1500 psi crosswise. The tape shall be manufactured with integral wires, foil backing or other means to enable detection by a metal detector when the tape is buried up to 3 feet deep. The tape shall be of a type specifically manufactured for marking and locating underground utilities. The metallic core of the tape shall be encased in a protective jacket or provided with other means to protect it from corrosion. Tape color shall be as specified in TABLE 1 and shall bear a continuous printed inscription describing the specific utility.

TABLE 1. Tape Color

Red	Electric
Yellow	Gas, Oil, Dangerous Materials
Orange	Telephone, Telegraph, Television, Police, and Fire Communications
Blue	Water Systems
Green	Sewer Systems

2.10 FOUNDATION MATERIAL

- A. Foundation material used for pipe bedding, from a minimum 6 inch distance below pipe invert to the lower quarter point of the pipe, shall be bank run sand and gravel or crushed stone. Pipe embedment material for the lower quarter point

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Determine elevation and position of string line from elevation and position of offset points or stakes located along pipe route. Do not locate pipe using side lines for line or grade.

- 3. As an alternative method, use laser-beam instrument with qualified operator to establish lines and grades.

B. Location of Pipe Lines:

- 1. Location and approximate depths of proposed pipe lines as required per the approved final design.
- 2. Engineer reserves right to make changes in lines, grades, and depths of pipe lines and manholes when changes are required for Project conditions.

3.2 PREPARATION

- A. Identify required lines, levels, contours, and datum locations.
- B. Protect plant life, lawns, rock outcroppings and other features remaining as portion of final landscaping.
- C. Protect bench marks, existing structures, fences, sidewalks, paving, and curbs from excavating equipment and vehicular traffic.
- D. Maintain and protect above and below grade utilities indicated to remain.
- E. Cut out soft areas of subgrade not capable of compaction in place. Backfill and compact to density equal to or greater than requirements for subsequent backfill material.

3.3 EXCAVATION

- A. Perform excavation within 24 inches of existing municipal utilities in accordance with utility's requirements.
- B. Limit of Excavation: Excavations shall be made to the approved lines which shall be of sufficient width outside the structures to give room for placing and removing forms for concrete and for forming pipe joints. Excavations for all structures shall not be plowed, scraped, or machine-dug closer than 3 inches to the finished subgrade. The last 3 inches of depth for all structures including pipe shall be removed with pick and shovel to the exact lines and grades just before

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to 12 inches above the top of the pipe shall be bank run sand and gravel. Crushed stone or gravel shall not be used as foundation material for truss pipe or PVC pipe.

- B. Bank run sand and gravel shall conform to the requirements of the New Jersey State Highway Department, latest revision, standard specifications for Type I, Class A bank run sand and gravel, while crushed stone shall conform to the requirements of the New Jersey State Highway Department Standard Specifications, Division 8, Section 8.1 Type 1, Class B. Frozen and lumpy material shall not be used.

2.11 ACCESSORIES

- A. Geotextile Fabric: Non-biodegradable, woven, manufactured by Akzo Nobel Geosynthetic Co., Huesker, Inc., Synthetic Industries, TC Mirafi, Tenax Corp., Tensar Earth Technologies, Inc. or approved equal.
- B. Filter Fabric: Non-biodegradable, woven manufactured by Akzo Nobel Geosynthetic Co., Huesker, Inc., Synthetic Industries, TC Mirafi, Tenax Corp., Tensar Earth Technologies, Inc. or approved equal.

PART 3 EXECUTION

3.1 LINES AND GRADES

A. Grades:

- 1. Lay pipes to lines and grades as required.
- 2. Maintain grade alignment of pipe using string line parallel with grade line and vertically above centerline of pipe. Establish string line on level batter boards at intervals of not more than 25 feet. Install batter boards spanning trench, rigidly anchored to posts driven into ground on both sides of trench. Set three adjacent batter boards before laying pipe to verify grades and line.

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placing foundation material, or pipe supports. Due allowance shall be made for excavating to a depth below the pipe invert to accommodate foundation material or pipe supports. Bell holes shall be hand exact for any pipe with bell dimension larger than the pipe barrel.

- C. Blasting of rock excavation will be permitted only on approval of methods and in compliance with applicable Federal, State and Local regulations.
- D. Excavation shall be performed to the lines and grades indicated. Rock excavation shall include removal and disposition of material defined as rock in paragraph MATERIALS. Earth excavation shall include removal and disposal of material not classified as rock excavation. During excavation, material satisfactory for backfilling shall be stockpiled in an orderly manner at a distance from the banks of the trench equal to 1/2 the depth of the excavation, but in no instance closer than 2 feet. Excavated material not required or not satisfactory for backfill shall be removed from the site or shall be disposed of as directed by the Engineer. Grading shall be done as may be necessary to prevent surface water from flowing into the excavation, and any water accumulating shall be removed to maintain the stability of the bottom and sides of the excavation. Unauthorized over-excavation shall be backfilled in accordance with paragraph BACKFILLING AND COMPACTION at no additional cost to the Authority, the Local Units and the County, as applicable.
- E. Trench Excavation Requirements: Trench walls more than five feet high shall be shored, cut back to a stable slope, or provided with equivalent means of protection for employees who may be exposed to moving ground or cave in. Trench walls which are cut back shall be excavated to at least the angle of repose of the soil. Shoring and bracing shall conform to the requirement of the "Construction Safety Code" of the Bureau of Engineering and Safety of the New Jersey Department of Labor and Industry and to OSHA requirements. Sheet, shore, and brace excavations to prevent danger to persons, structures and adjacent properties

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and to prevent caving, erosion, and loss of surrounding subsoil. Provide sheeting, shoring, bracing, or other protection to maintain stability of excavation. Design sheeting and shoring to be removed at completion of excavation work. Repair damage caused by failure of the sheeting, shoring, or bracing and for settlement of filled excavations or adjacent soil. Repair damage to new and existing Work from settlement, water or earth pressure or other causes resulting from inadequate sheeting, shoring, or bracing. Special attention shall be given to slopes which may be adversely affected by weather or moisture content. The trench width shall correspond to the requirements shown in the contract drawings. Where recommended trench widths are exceeded, redesign, stronger pipe, or special installation procedures shall be utilized by the Company. The cost of redesign, stronger pipe, or special installation procedures shall be borne by the Company without any additional cost to the Authority, the Local Units and the County, as applicable.

1. **Bottom Preparation:** The bottoms of trenches shall be accurately graded to provide uniform bearing and support for the bottom quadrant of each section of the pipe. Bell holes shall be excavated to the necessary size at each joint or coupling to eliminate point bearing. Stones of 6 inches or greater in any dimension, or as recommended by the pipe manufacturer, whichever is smaller, shall be removed to avoid point bearing.

2. **Removal of Unyielding Material:** Where overdepth is not indicated and unyielding material is encountered in the bottom of the trench, such material shall be removed 4 inches below the required grade and replaced with suitable materials as provided in paragraph **BACKFILLING AND COMPACTION**.

3. **Removal of Unstable Material:** Where unstable material is encountered in the bottom of the trench, such material shall be removed to the depth directed and replaced to the proper grade with select granular material as provided in paragraph **BACKFILLING AND COMPACTION**. When removal of unstable material is required due to the Company's fault or neglect in performing the work, the resulting material shall be excavated and replaced by the Company without additional cost to the Authority, the Local Units and the County, as applicable.

4. **Jacking, Boring, and Tunneling:** Unless otherwise indicated, excavation shall be by open cut except that sections of a trench may be jacked, bored, or tunneled if, in the opinion of the Engineer, the pipe, cable, or duct can be safely and properly installed and backfill can be properly compacted in such sections.

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drainage at all times. The ground surface at stockpile locations shall be cleared, grubbed, and sealed by rubber-tired equipment, excavated satisfactory and unsatisfactory materials shall be separately stockpiled. It shall not be placed close to the sides of excavations, where the weight of the material could create a surcharge on such sides, whether sheeted or not. Locations of stockpiles of satisfactory materials shall be subject to prior approval of the Engineer.

B. Stockpiles of satisfactory materials shall be protected from contamination which may destroy the quality and fitness of the stockpiled material. If the Company fails to protect the stockpiles, and any material becomes unsatisfactory, such material shall be removed and replaced with satisfactory material from approved sources at no additional cost to the Authority, the Local Units and the County, as applicable. Unsuitable material, or material in excess of that required fill, backfill for or other purpose, including any stored surplus shall be disposed of away from the site.

### 3.5 BACKFILLING AND COMPACTION

A. Backfill material shall consist of satisfactory material, select granular material, or initial backfill material as required. Backfill shall be placed in layers not exceeding 6 inches loose thickness for compaction by hand operated machine compactors, and 8 inches loose thickness for other than hand operated machines, unless otherwise specified. Each layer shall be compacted to at least 95 percent maximum density for cohesionless soils and 90 percent maximum density for cohesive soils, unless otherwise specified.

B. **Trench Backfill:** Trenches shall be backfilled to the grade shown. The trench shall be backfilled to 2 feet above the top of pipe prior to performing the required pressure tests. The joints and couplings shall be left uncovered during the pressure test. The trench shall not be backfilled until all specified tests are performed.

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5. Do not advance open trench more than 200 feet ahead of installed pipe.
6. Cut trenches sufficiently wide to enable installation and allow inspection. Remove water or materials that interfere with Work.
7. Excavate trenches to depth indicated as required per the approved final design. Provide uniform and continuous bearing and support for bedding material and pipe utilities.
8. Do not interfere with 45 degree bearing splay of foundations.
9. When Project conditions permit, slope side walls of excavation starting 2 feet above top of pipe. When side walls can not be sloped, provide sheeting and shoring to protect excavation as specified in this section.
10. When subsurface materials at bottom of trench are loose or soft, excavate to greater depth as directed by Engineer until suitable material is encountered, notify Engineer, and request instructions.
11. Hand trim for bell and spigot pipe joints. Remove loose matter.
12. Correct areas over excavated areas with compacted backfill as specified for authorized excavation or replace with fill concrete as directed by Engineer.

F. **Excavation for Appurtenances:** Excavation for manholes, catch-basins, inlets, or similar structures shall be of sufficient size to permit the placement and removal of forms for the full length and width of structure footings and foundations as shown. Rock shall be cleaned of loose debris and cut to a firm surface either level, stepped, or serrated, as shown or as directed. Loose disintegrated rock and thin strata shall be removed. Removal of unstable material shall be as specified above. When concrete or masonry is to be placed in an excavated area, special care shall be taken not to disturb the bottom of the excavation. Excavation to the final grade level shall not be made until just before the concrete or masonry is to be placed.

### 3.4 Storage and disposal

A. Excavated material, which is suitable and approved for backfill and fill shall be placed in storage piles unless or until it can be placed in the work. Stockpiles shall be kept in a neat and well drained condition, giving due consideration to

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1. **Replacement of Unyielding Material:** Unyielding material removed from the bottom of the trench shall be replaced with select granular material or initial backfill material.

2. **Replacement of Unstable Material:** Unstable material removed from the bottom of the trench or excavation shall be replaced with select granular material placed in layers not exceeding 6 inches loose thickness.

3. **Bedding and Initial Backfill:** Bedding shall be of the type and thickness shown. Initial backfill material shall be placed and compacted with approved tampers to a height of at least one foot above the utility pipe or conduit. The backfill shall be brought up evenly on both sides of the pipe for the full length of the pipe. Care shall be taken to ensure thorough compaction of the fill under the haunches of the pipe.

4. **Final Backfill:** The remainder of the trench, except for special materials for roadways, railroads and airfields, shall be filled with satisfactory material. Backfill material shall be placed and compacted as follows:

- a) Water flooding or jetting methods of compaction will not be permitted.
- b) **Sidewalks, Turfed or Seeded Areas and Miscellaneous Areas:** Backfill shall be deposited in layers of a maximum of 12 inch loose thickness, and compacted to 85 percent maximum density for cohesive soils and 90 percent maximum density for cohesionless soils. Water flooding or jetting methods of compaction will be permitted for granular noncohesive backfill material. Water jetting shall not be allowed to penetrate the initial backfill. This requirement shall also apply to all other areas not specifically designated above.

C. **Backfill for Appurtenances:** After the manhole, catch basin, inlet, or similar structure has been constructed and the concrete has been allowed to cure for a minimum of 3 days or as specified in the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction, current edition, backfill shall be placed in such a manner that the structure will not be damaged by the shock of falling earth. The backfill material shall be deposited and compacted as specified for final backfill, and shall be brought up evenly on all sides of the structure to prevent eccentric loading and excessive stress.

D. Employ placement method that does not disturb or damage foundation perimeter drainage, utilities in trench.

E. Maintain optimum moisture content of fill materials to attain required compaction density.

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- F. No backfill shall be placed until the structure has been inspected in place and approved. Backfilling shall be carried out as soon as possible after such approval.
- G. Do not leave more than 50 feet of trench open at end of working day.
- H. Protect open trench to prevent danger to the public.

3.6 SPECIAL REQUIREMENTS

- A. Special requirements for both excavation and backfill relating to the specific utilities are as follows:

1. Gas Distribution: Trenches shall be excavated to a depth that will provide not less than 18 inches of cover in rock excavation and not less than 24 inches of cover in other excavation.
2. Water Lines: Trenches shall be of a depth to provide a minimum cover of 4 feet from the existing ground surface, or from the indicated finished grade, whichever is lower, to the top of the pipe. For fire protection yard mains or piping, required depth of cover shall be in accordance with NEPA 24.
3. Electrical Distribution System: Direct burial cable and conduit or duct line shall have a minimum cover of 24 inches from the finished grade, unless otherwise indicated.
4. Plastic Marking Tape: Warning tapes shall be installed directly above the pipe, at a depth of 18 inches below finished grade unless otherwise shown.

3.7 DEWATERING

- A. The Company shall provide, operate and maintain satisfactory facilities and equipment including well points, and coffer-dams if necessary, with which to contain, collect and pump all water entering excavations or other parts of the work to suitable places for disposal. All excavations shall be kept free of water until the work or structure to be built therein is completed.

3.8 TESTING

- A. Testing shall be the responsibility of the Company and shall be performed at no additional cost to the Authority, the Local Units and the County, as applicable.

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specified at no additional cost to the Authority, the Local Units and the County, as applicable.

- E. Displacement of Sewers: After other required tests have been performed and the trench backfill compacted to the finished grade surface, the pipe shall be inspected to determine whether significant displacement has occurred. This inspection shall be conducted in the presence of the Engineer. Pipe sizes larger than 36 inches shall be entered and examined, while smaller diameter pipe shall be inspected by shining a light or laser between manholes or manhole locations, or by the use of television cameras passed through the pipe. If, in the judgment of the Engineer, the interior of the pipe shows poor alignment or any other defects that would cause improper functioning of the system, the defects shall be remedied as directed at no additional cost to the Authority, the Local Units and the County, as applicable.

3.9 PROTECTION OF FINISHED WORK

- A. Reshape and re-compact fills subjected to vehicular traffic during construction.
- B. All excavations for utilities shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, driveways, curbs, parkways and other public property disturbed in the course of the work shall be restored at the Company's expense in a manner satisfactory to the Authority, the Local Units and the County, as applicable.

END OF SECTION

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- B. Testing Facilities: Tests shall be performed by an approved commercial testing laboratory or may be tested by facilities furnished by the Company. No work requiring testing will be permitted until the facilities have been inspected and approved by the Engineer. The first inspection shall be at the expense of the County. Cost incurred for any subsequent inspection required because of failure of the first inspection will be charged to the Company.

- C. Testing of Backfill Materials: Classification of backfill materials shall be determined in accordance with ASTM D 2487 and the moisture-density relations of soils shall be determined in accordance with ASTM D 1557. A minimum of one soil classification and one moisture-density relation test shall be performed on each different type of material used for bedding and backfill.

- D. Field Density Tests: Tests shall be performed in sufficient numbers to ensure that the specified density is being obtained. A minimum of one field density test per lift of backfill for every 100 feet of installation shall be performed. One moisture density relationship shall be determined for every 1500 cubic yards of material used. Field in-place density shall be determined in accordance with ASTM D 1556, ASTM D 2167 or ASTM D 2922. When ASTM D 2922 is used, the calibration curves shall be checked and adjusted using the sand cone method as described in paragraph Calibration of the ASTM publication. ASTM D 2922 results in a wet unit weight of soil and when using this method, ASTM D 3017 shall be used to determine the moisture content of the soil. The calibration curves furnished with the moisture gauges shall be checked along with density calibration checks as described in ASTM D 3017. The calibration checks of both the density and moisture gauges shall be made at the beginning of a job, on each different type of material encountered, at intervals as directed by the Engineer. Copies of calibration curves, results of calibration tests, and field and laboratory density tests shall be furnished to the Engineer. Trenches improperly compacted shall be reworked to the depth directed, then refilled and compacted to the density

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SECTION 02700

PAVING AND SURFACING IMPROVEMENTS

PART 1 GENERAL

1.1 WORK INCLUDED

- A. Under this section, the Company is to provide all labor, materials and equipment required to construct and maintain roads, walkways, and related site improvements. Road work is to include all roads and parking areas, and is to incorporate subgrades, paving, and related work. Restoration of any existing roads, curbs or walkways damaged during the course of the work is also included.

1.2 REFERENCE

- A. Unless otherwise specified, all work under this section shall conform with the applicable provisions of the New Jersey Department of Transportation Standard Specifications for Road and Bridge construction, 2001, (NJDOTSS) as amended by any subsequent supplements. The attention of the bidders is specifically directed to provisions of such specifications, which are hereby made a part hereof, as fully set forth at length. All reference to methods of payment and basis of payment including asphalt price adjustment within these sections are hereby deleted.

- B. The Company is to comply with all local governing regulations if more stringent than herein specified.

1.3 SUBMITTALS

The Company shall submit for approval the pavement mix formula and material certifications that the base course I-2 and surface course I-5 meet the requirements of the NJDOT standard specifications.

The Company shall submit certification tickets for all materials delivered and installed at the site.

PART 2 PRODUCTS

2.1 MATERIALS

- A. Where additional subgrade material is required in connection with paving, it shall conform to the requirements for Type I-S dense graded aggregate material as outlined in the NJDOT standard specifications.

- B. Sub-base material shall conform to the requirements of the NJDOT standard specifications as identified in 2.1 A above.

- C. Bituminous stabilized base course paving material shall conform to the requirements of the NJDOT standard specifications for Mix I-2 bituminous stabilized base course.

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- D. Bituminous surface course paving material shall conform to the requirements of the NJDOT standard specifications for Mix 1-5 bituminous concrete.
- E. Concrete curbs and headers shall conform to the requirements of the NJDOT standard specifications, Section 605.
- F. Tack coat material for preparing all surfaces prior to pavement placement shall be in conformance with NJDOT standard specifications, Section 404.

**PART 3 EXECUTION**

**3.1 PAVED ROADWAYS AND PARKING AREAS**

**A. Final Subgrade Preparation**

Before placing any paving material, the existing topsoil shall be stripped and the remaining soil shall be proof rolled with a heavy static roller. Any soft zones shall be excavated and replaced with compacted sub-base material as defined above. The subgrades are to be brought to the required finished grades and elevations and compacted to 95 percent of its Modified Proctor Density established in accordance with ASTM Designation D1557. The Engineer is then to check the sub-grade. The Company is to place no stone, bituminous materials or concrete on any subgrade until it has been inspected and approved by the Engineer.

B. Subgrades for pavements, sidewalks, curbs and gutters, and other roadway structures are not to vary more than 1/4-inch from the specified grade and cross section. Variations within the above specified tolerances are to be compensating so that the average grade and cross sections specified are met.

C. Any castings within the area to be paved or graded are to be set to finished grade by the Company. Any concrete curbs disturbed are to be constructed by the Company and approved by the Engineer before any bituminous pavement is placed.

D. The subgrade is to be maintained in a satisfactory condition and properly furnished to the satisfaction of the Engineer. No material is to be placed upon the prepared subgrade until it has been inspected for proper depth and compaction and has met the approval of the Engineer. No materials are to be placed on the prepared subgrade if the subgrade is wet or frozen.

**E. Pavement Thickness**

Paved road and parking areas are to consist of a 4 inch thick Quarry Process Stone sub-base, a 6 inch thick bituminous concrete stabilized base course (Hot Mix No. 1-2) and a 2 inch thick bituminous concrete surface course top layer (Hot Mix No. 1-5).

**D. Placement of Bituminous Concrete Stabilized Base Course (Mix No. 1-2)**

The stabilized base is to be placed in accordance with the requirements of NJDOTSS. The material is to leave the plant at a temperature sufficient for workability under prevailing conditions. However, the temperature of the mixtures when laid is not to be less than that specified in Table 404-1 of NJDOTSS. The stabilized base course shall be placed in two-layers. The thickness is to be sufficient to obtain the compacted thickness indicated.

Initial rolling of the base course to be compacted is to be done with at least two rollers, one of which is to be a three-wheel roller of ten tons minimum and the other two or three axle tandem roller of eight tons minimum, operating immediately in back of the spreader. The second, third

and final rolling are to be performed with a two or three axle tandem roller until the mixture is thoroughly compacted to the satisfaction of the Engineer.

All trucks transporting Bituminous Concrete Stabilized Base material are to be covered with canvas. Also, no stabilized base material is to be laid unless the ambient temperature is above 25°F and rising.

Immediately prior to construction of subsequent pavement surface thereon, the base course is to be cleared of all loose and foreign material and all damaged areas are to be repaired to the satisfaction of the Engineer.

After the Bituminous Concrete Base Course has been placed, all manholes, valve boxes, catch basins, and driveway entrances (where curb exists) are to be ramped with stabilized base in a manner satisfactory to the Engineer.

If, prior to the placing of the surface pavement, material has to be removed because it has broken up, the Company is to remove the bad areas to the limits as specified by the Engineer. Once this area has been dug out, the Company is to furnish and lay bituminous stabilized base and compact as specified above.

**F. Placement of Bituminous Concrete Surface Course (Mix No. 1-5)**

After the Engineer has approved the placement of Base Course, the Surface Course of Bituminous Concrete Mix No. 1-5 is to be constructed to the thickness identified above.

G. Construction procedures, producing of bituminous concrete, equipment to be used, and procedures for laying the materials are to conform to Section 404 of the NJDOTSS. All equipment specified in the above section is to be of the proper type, and in satisfactory working condition, and used where required.

H. All trucks transporting bituminous concrete surface course material are to be covered with canvasses. Also, no surface course material is to be laid unless the ambient temperature is above 40°F and rising.

**I. Temperature of Longitudinal Bituminous Concrete Joints**

When a course of Bituminous Concrete is abuted to a previously laid course, the abutting surface of the latter is to be of a temperature of not less than 250°F, at the time the joint is made. If this is not achieved by making the joint before the first laid bituminous concrete has cooled, the Company is to use one or more joint heater devices. Such devices are to be of the infrared type or equal, and are to heat the abuted material uniformly to a temperature of not more than 275°F, treating in the upper ranges of these specified temperatures when atmospheric conditions are conducive to a more rapid cooling. All joint heating devices that apply a direct flame or have a harmful effect upon the bituminous concrete will be prohibited.

**3.2 REPAIRS AND PROTECTION**

A. The Company shall replace any damaged curbing with new curbing to match the existing curbing. Curb dimensions shall match existing.

B. Any pavement which is damaged during the construction shall be replaced. All pavement replacement shall be performed in strict accordance with requirements of the applicable governing agency.

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C. The Company is to repair or replace all broken or defective work as directed by the Engineer. He is to protect all work from damage until the acceptance of the work. Traffic is to be excluded from all concrete surfaces at least fourteen (14) days after placement. When construction traffic is permitted, the Company is to maintain all such concrete surfaces as clean as possible by removing all surfaces stains and spillage of materials as they occur.

D. The Company is to sweep all concrete surfaces and wash them free of stains, discolorations, dirt, and other foreign materials just prior to final inspection.

E. The Company is to be completely responsible for repairing any damage to roads caused by his transport operations. In general, roads used for hauling purposes are to be rebuilt as specified. Public roads are to remain operational, and necessary temporary and permanent repairs are to be made promptly upon notification of damage.

F. Should the Company fail to repair any damage to any roads caused by his operations within a reasonable time, the Authority, the Local Units and the County, as applicable may have the repairs made by others and will charge the actual cost of such repairs back to the Company.

END OF SECTION 02700

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**SECTION 16050  
BASIC ELECTRICAL MATERIALS AND METHODS  
PART 1 GENERAL**

**1.1 SUMMARY**

- A. Section includes grounding electrodes and conductors; equipment grounding conductors; bonding methods and materials; conduit and equipment supports; anchors and fasteners; nameplates and labels; wire markers & raceway markers.
- B. Section includes sealing and fireproofing of sleeves/openings between conduits, wireways, troughs, etc. and the structural or partition opening shall be the responsibility of the Company whose work penetrates the opening. The Company responsible shall hire individuals skilled in such work to do the sealing and fireproofing. These individuals hired shall normally and routinely be employed in the sealing and fireproofing occupation.

**1.2 REFERENCES**

- A. NECA (National Electrical Contractors Association) - Standard of Installation.
- B. NETA ATS (International Electrical Testing Association) - Acceptance Testing Specifications for Electrical Power Distribution Equipment and Systems.
- C. NFPA 99 (National Fire Protection Association) - Health Care Facilities.

**1.3 SYSTEM DESCRIPTION**

- A. Grounding of the PV system, equipment, and components shall comply with all requirements of Part V of NEC Article 690, as well as any applicable referenced sections of NEC Article 250.
- B. Electrical products are anchored and fastened to building elements and finishes as follows:
  1. Concrete Structural Elements: Use precast inserts and preset inserts.
  2. Steel Structural Elements: Use beam clamps or spring steel clips.
  3. Concrete Surfaces: Use self-drilling anchors and expansion anchors.
  4. Hollow Masonry, Plaster, and Gypsum Board Partitions: Use toggle bolts or hollow wall fasteners.
  5. Solid Masonry Walls: Use expansion anchors or preset inserts.
  6. Sheet Metal: Use sheet metal screws.
  7. Wood Elements: Use wood screws.

- C. Electrical components are identified as follows:
1. Nameplate for each electrical distribution and control equipment enclosure.
  2. Wire marker for each conductor at panelboard gutters and outlet junction boxes.
- 1.4 DESIGN REQUIREMENTS
- A. Select materials, sizes, and types of anchors, fasteners, and supports to carry the loads of equipment and raceway, including weight of wire and cable in raceway.
- 1.5 PERFORMANCE REQUIREMENTS
- A. Grounding System Resistance: Shall comply with NEC 250.56.
- 1.6 SUBMITTALS
- A. Test Reports: Indicate overall resistance to ground.
- 1.7 CLOSEOUT SUBMITTALS
- A. Project Record Documents: Record actual locations of components and grounding electrodes.
- 1.8 QUALIFICATIONS
- A. Manufacturer: Company specializing in manufacturing products specified in this section with minimum three years experience and with service facilities within 200 miles of project.
- 1.9 FIELD MEASUREMENTS
- A. Verify field measurements prior to fabrication.
- PART 2 PRODUCTS
- 2.1 ROD ELECTRODES (AS REQUIRED)
- A. Material: Copper.
- B. Diameter: Not less than 5/8" per NEC 250.52(5)(b).
- C. Length: Not less than 8' per NEC 250.52(5).
- 2.2 MECHANICAL CONNECTORS
- A. Description: Bronze connectors, suitable for grounding and bonding applications, in configurations required for particular installation.

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2.10 SEALING AND FIREPROOFING

A. Fire and/or Smoke rated Surfaces:

1. 3M CP 25NS or CP25SL caulk, 3M PS 195 wrap/strip with restricting collar, 3M CS 195 composite sheet, Pipe Shields Inc. series F fire barrier kits, Proset systems fire rated floor and wall penetrations, Insta-Foam Products Insta-Fire seal Firestop Foam, Dow Corning Fire Stop System, or an approved equal.
  2. All products must be UL listed or tested by an independent testing laboratory. Use a product that has a rating not less than the rating of the wall or floor being penetrated.
- B. Non-Rated Surfaces:
1. Use stamped steel, chrome plated, hinged, split ring escutcheons or floor/ceiling plates for covering openings in occupied areas where conduit is exposed.
  2. In exterior wall openings below grade, use a modular mechanical type seal consisting of interlocking synthetic rubber links shaped to continuously fill the annular space between the conduit and the cored opening or a water-stop type wall sleeve.
  3. At interior wall or floor openings use Tremco Dymonic, Sika Corp. Sikaflex 1a, Sonneborn Sonolastic NPL, or Mameco Vilken 116 urethane caulk or approved equal to effect the seal.

PART 3 EXECUTION

3.1 EXAMINATION

- A. Verify final backfill and compaction has been completed before driving rod electrodes.

3.2 INSTALLATION

A. Grounding and Bonding Installation:

1. Install rod electrodes at locations indicated. Install additional rod electrodes as required to achieve specified resistance to ground.
2. Provide grounding well pipe with cover at each rod location. Install well pipe top flush with finished grade.
3. Provide bonding to meet Regulatory Requirements.
4. Bond together metal siding not attached to grounded structure, bond to ground.
5. Provide isolated grounding conductor for circuits supplying personal computers and electronic equipment in IT room.
6. Equipment Grounding Conductor: Provide separate, insulated conductor within each feeder and branch circuit raceway. Terminate each end on suitable lug, bus, or bushing.

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2.3 EXOTHERMIC CONNECTIONS

- A. Product Description: Exothermic materials, accessories, and tools for preparing and making permanent field connections between grounding system components.

2.4 WIRE

- A. Material: Stranded or solid copper with insulation suitable for the operating environment.

2.5 ANCHORS AND FASTENERS

- A. Materials and Finishes: Corrosion resistant.

2.6 FORMED STEEL CHANNEL

- A. Description: PVC-coated galvanized steel.

2.7 NAMEPLATES AND LABELS

- A. Nameplates: Engraved three-layer laminated plastic, black letters on white background.

2.8 WIRE MARKERS

- A. Description: Cloth tape, split sleeve type wire markers.

2.9 CONDUIT MARKERS

- A. Description: Nameplate fastened with straps.

B. Color:

1. Photovoltaic System: Red lettering on white background.
- C. Legend:

1. Photovoltaic System: Photovoltaic

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7. Locate and install anchors, fasteners, and supports in accordance with NECA "Standard of Installation".
  8. Do not fasten supports to pipes, ducts, mechanical equipment, or conduit.
  9. Do not use spring steel clips and clamps.
  10. Do not use powder-actuated anchors.
  11. Obtain permission from Architect/Engineer before drilling or cutting structural members.
- B. Supports:

1. Fabricate supports from structural steel or formed steel members. Rigidly weld members or use hexagon-head bolts to present neat appearance with adequate strength and rigidity. Use spring lock washers under all nuts.
2. Install surface-mounted cabinets and panelboards with minimum of four anchors.
3. In wet and damp locations use steel channel supports to stand cabinets and panelboards 1 inch off wall.
4. Use sheet metal channel to bridge studs above and below cabinets and panelboards recessed in hollow partitions.

C. Identification Components:

1. Degrease and clean surfaces to receive nameplates and labels.
  2. Install nameplate and label parallel to equipment lines.
  3. Secure nameplate to equipment front using screws or adhesive.
  4. Secure nameplate to inside surface of door on panelboard that is recessed in finished locations.
  5. Conduit Marker Spacing: 10 feet on center.
  6. Identify underground conduits using one underground warning tape per trench at 3 inches below finished grade.
- D. Fire Rated Surface:

1. When the opening is through a fire rated wall, floor, ceiling or roof the opening must be sealed by installing a steel sleeve, minimum 12ga., through the opening and extending beyond a minimum of 1 inch. Further, the sleeve shall be large enough to allow a minimum of a 1 inch void between the sleeve and the item of penetration. The void shall be packed with an approved backing material and the ends of the sleeve sealed with a minimum of 1 inch of a listed fire-resistant silicone compound to a depth required to meet the fire rating of the structure penetrated.
2. Install approved product in accordance with the manufacturer's instructions where a pipe (i.e. cable tray, bus, cable bus, conduit, wireway, trough, etc.) penetrates a fire rated surface.

E. Non-Rated Surfaces:

1. When the opening is through a non-fire rated wall, floor, ceiling or roof the opening must be sealed using an approve type of material.
2. Use galvanized sheet metal sleeves in hollow wall penetrations to provide a backing for the sealant. Grout area around sleeve in masonry construction.

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3. Install escutcheons or floor/ceiling plates where pipe penetrates non-fire rated surfaces in occupied spaces. Occupied spaces for this paragraph include only those rooms with finished ceilings and the penetration occurs below the ceiling.

4. In exterior wall openings below grade, assemble rubber links of mechanical seal to the proper size for the pipe and tighten in place, in accordance with the manufacturer's instructions.

5. At interior partitions, pipe penetrations are required to be sealed for all tele/data/com rooms and similar spaces where the room pressure or odor transmission must be controlled. Apply sealant to both sides of the penetration in such a manner that the annular space between the pipe sleeve and the pipe is completely filled.

### 3.3 FIELD QUALITY CONTROL

A. Inspect and test in accordance with NETA ATS, except Section 4.

B. Grounding and Bonding: Perform inspections and tests listed in NETA ATS, Section 7.13.

## END OF SECTION

### SECTION 16123

#### BUILDING WIRE AND CABLE

#### PART 1 GENERAL

##### 1.1 SUMMARY

A. Section includes building wire and cable; nonmetallic-sheathed cable; direct burial cable; service entrance cable; armored cable; metal clad cable; and wiring connectors and connections.

##### 1.2 REFERENCES

A. NECA (National Electrical Contractors Association) - Standard of Installation.

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##### 1.5 CLOSEOUT SUBMITTALS

A. Project Record Documents: Record actual locations of components and circuits.

##### 1.6 QUALIFICATIONS

A. Manufacturer: Company specializing in manufacturing products specified in this section with minimum three years documented experience.

##### 1.7 FIELD MEASUREMENTS

A. Verify field measurements are as indicated.

##### 1.8 COORDINATION

A. Where wire and cable destination is indicated and routing is not shown, determine exact routing and lengths required.

B. Wire and cable routing indicated is approximate unless dimensioned.

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B. NETA ATS (International Electrical Testing Association) - Acceptance Testing Specifications for Electrical Power Distribution Equipment and Systems.

##### 1.3 WIRING METHODS AND PRODUCT REQUIREMENTS

A. Product Requirements: Use products as indicated and as follows:

1. Use stranded conductor for feeders and branch circuits 10 AWG and smaller.
2. Use stranded conductors for control circuits.
3. Use conductor not smaller than 12 AWG for power and lighting circuits.
4. Use conductor not smaller than 16 AWG for control circuits.
5. Use 10 AWG conductors for 20 ampere, 120 volt branch circuits longer than 90 feet.
6. Use 10 AWG conductors for 20 ampere, 277 volt branch circuits longer than 200 feet.

B. Wiring Methods: Use wiring methods indicated and as follows:

1. Concealed Dry Interior Locations: Use only building wire, Type THHN/THWN, XHHW insulation, in raceway, armored cable or metal clad cable.
2. Exposed Dry Interior Locations: Use only building wire, Type THW, THHN/THWN, XHHW insulation, in raceway.
3. Above Accessible Ceilings: Use only building wire, Type THW, THHN/THWN, XHHW insulation, in raceway, armored cable or metal clad cable.
4. Wet or Damp Interior Locations: Use only building wire, Type THW, THHN/THWN, XHHW insulation, in raceway, armored cable with jacket, or metal clad cable.
5. Exterior Locations: Use only building wire, Type THW, THHN/THWN, XHHW insulation, in raceway, direct burial cable, or service-entrance cable.
6. Exterior locations in cable trays, and interconnect wiring between PV panels shall be Type USL-2 and sunlight resistant. Cables shall be clearly marked as to suitability.

##### 4C. DESIGN REQUIREMENTS

1. Conductor sizes are based on copper unless indicated as aluminum or "AL".
2. If aluminum conductor is substituted for copper conductor, size to match circuit requirements for conductor ampacity and voltage drop.

##### 1.4 SUBMITTALS

A. Test Reports: Indicate procedures and values obtained.

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#### PART 2 PRODUCTS

##### 2.1 BUILDING WIRE

A. Manufacturers:

1. Anaconda.
  2. Essex Group Inc.
- B. Product Description: Single conductor insulated wire.
- C. Conductor: Copper.
- D. Insulation Voltage Rating: 600 volts.

##### 2.2 DIRECT BURIAL CABLE

A. Manufacturers:

1. Anaconda.
  2. Essex Group Inc.
  3. General Cable Co.
- B. Conductor: Copper.
- C. Insulation Voltage Rating: 600 volts.

##### 2.3 SERVICE ENTRANCE CABLE

A. Manufacturers:

1. Anaconda.
  2. Essex Group Inc.
  3. General Cable Co.
- B. Conductor: Copper

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C. Insulation Voltage Rating: 600 volts.

D. Insulation: Type RH or RHH.

#### 2.4 ARMORED CABLE

A. Manufacturers:

1. Anaconda.
2. Essex Group Inc.
3. General Cable Co.

B. Conductor: Copper.

#### 2.5 METAL CLAD CABLE

A. Manufacturers:

1. Anaconda.
2. Essex Group Inc.
3. General Cable Co.

B. Conductor: Copper.

C. Insulation Voltage Rating: 600 volts.

D. Insulation Temperature Rating: 60 degrees C.

E. Insulation Material: Thermoplastic.

F. Armor Material: Steel.

G. Armor Design: Interlocked metal tape.

### PART 3 EXECUTION

#### 3.1 EXAMINATION

A. Verify that interior of building has been protected from weather.

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E. Special Techniques--Building Wire in Raceway:

1. Pull all conductors into raceway at same time.
2. Use suitable wire pulling lubricant for building wire 4 AWG and larger.

F. Special Techniques--Cable:

1. Protect exposed cable from damage.
2. Support cables above accessible ceiling, using spring metal clips or [metal] [plastic] cable ties to support cables from structure [or ceiling suspension system]. Do not rest cable on ceiling panels.

3. Use suitable cable fittings and connectors.

G. Special Techniques--Direct Burial Cable:

1. Trench and backfill for direct burial cable installation as specified in Sections 02320 and 02324. Install warning tape along entire length of direct burial cable, within 3 inches of grade.

2. Use suitable direct burial cable fittings and connectors.

H. Special Techniques--Wiring Connections:

1. Clean conductor surfaces before installing jugs and connectors.
2. Make splices, taps, and terminations to carry full ampacity of conductors with no perceptible temperature rise.
3. Tape uninsulated conductors and connectors with electrical tape to 150 percent of insulation rating of conductor.
4. Use split bolt connectors for copper conductor splices and taps, 6 AWG and larger.
5. Use solderless pressure connectors with insulating covers for copper conductor splices and taps, 8 AWG and smaller.
6. Use insulated spring wire connectors with plastic caps for copper conductor splices and taps, 10 AWG and smaller.
7. Use suitable reducing connectors or mechanical connector adaptors for connecting aluminum conductors to copper conductors.

#### 3.5 WIRE COLOR

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B. Verify that mechanical work likely to damage wire and cable has been completed.

C. Verify that raceway installation is complete and supported.

#### 3.2 PREPARATION

A. Completely and thoroughly swab raceway before installing wire.

#### 3.3 EXISTING WORK

A. Remove exposed abandoned wire and cable, including abandoned wire and cable above accessible ceiling finishes. Patch surfaces where removed cables pass through building finishes.

B. Disconnect abandoned circuits and remove circuit wire and cable. Remove abandoned boxes if wire and cable servicing them is abandoned and removed. Provide blank cover for abandoned boxes which are not removed.

C. Ensure access to existing wiring connections which remain active and which require access. Modify installation or provide access panel as appropriate.

D. Extend existing circuits using materials and methods compatible with existing electrical installations, or as specified.

E. Clean and repair existing wire and cable which remain or is to be reinstalled.

#### 3.4 INSTALLATION

A. Route wire and cable as required to meet Project conditions.

B. Install wire and cable in accordance with the NECA "Standard of Installation."

C. Neatly train and lace wiring inside boxes, equipment, and panelboards.

D. Identify and color code wire and cable under provisions of Section 16050. Identify each conductor with its circuit number or other designation indicated.

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A. General

1. For wire sizes 10 AWG and smaller - wire shall be colored as indicated below.
2. For wire sizes 8 AWG and larger - identify wire with colored tape at all terminals, splices and boxes. Colors to be as indicated below.
3. Use black and red for single phase circuits at 120/240 volts, use black, red, and blue for circuits at 120/208 volts single or three phase and use orange, brown, and yellow for circuits at 277/480 volts single or three phase.

4. Neutral Conductors: White. Where there are two or more neutrals in one conduit, each shall be individually identified with the proper circuit.

5. Branch Circuit Conductors: Three or four wire home runs shall have each phase uniquely color coded.

6. Feeder Circuit Conductors: Each phase shall be uniquely color coded.

7. Ground Conductors: Green for 6 AWG and smaller. For 4 AWG and larger, identify with green tape at both ends and all visible points included in all junction boxes.

8. For DC circuits, all grounded circuit conductor insulation shall be white or gray.

9. For DC circuits, all ungrounded conductor insulation shall be either black or red. Chosen color shall be used consistently throughout the installation.

#### 3.6 FIELD QUALITY CONTROL

A. Inspect and test in accordance with NETA ATS, except Section 4.

B. Perform inspections and tests listed in NETA ATS, Section 7.3.1.

END OF SECTION

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SECTION 16130  
RACEWAY AND BOXES

PART 1 GENERAL  
1.1 SUMMARY

- A. Section includes conduit and tubing, surface raceways, wireways, outlet boxes, pull and junction boxes.

1.2 REFERENCES

- A. ANSI C80.3 - Electrical Metallic Tubing, Zinc Coated.
- B. ANSI C80.5 - Rigid Aluminum Conduit.
- C. NECA (National Electrical Contractor's Association) - "Standard of Installation"
- D. NEMA FB 1 (National Electrical Manufacturers Association) - Fittings, Cast Metal Boxes, and Conduit Bodies for Conduit and Cable Assemblies.
- E. NEMA OS 1 (National Electrical Manufacturers Association) - Sheet-steel Outlet Boxes, Device Boxes, Covers, and Box Supports.
- F. NEMA OS 2 (National Electrical Manufacturers Association) - Nonmetallic Outlet Boxes, Device Boxes, Covers and Box Supports.
- G. NEMA RN 1 (National Electrical Manufacturers Association) - Polyvinyl Chloride (PVC) Externally Coated Galvanized Rigid Steel Conduit and Intermediate Metal Conduit.
- H. NEMA TC 2 (National Electrical Manufacturers Association) - Electrical Plastic Tubing (EPT) and Conduit (EPC-40 and EPC-80).
- I. NEMA TC 3 (National Electrical Manufacturers Association) - PVC Fittings for Use with Rigid PVC Conduit and Tubing.

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2. Record actual locations and mounting heights of outlet, pull, and junction boxes.

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- J. NEMA 250 (National Electrical Manufacturers Association) - Enclosures for Electrical Equipment (1000 Volts Maximum).

1.3 SYSTEM DESCRIPTION

- A. Provide raceway and boxes at locations where required for splices, taps, wire pulling, equipment connections, and compliance with regulatory requirements. Provide raceway & boxes as required for complete wiring system.
- B. Outdoor Locations: Use galvanized conduit and intermediate metal conduit. Use cast metal outlet, pull, and junction boxes.
- C. Concealed and Exposed Dry Locations: Use electrical metallic tubing. Use flush mounting outlet box in finished areas. Use hinged enclosure for large pullboxes.

1.4 DESIGN REQUIREMENTS

- A. Minimum Raceway Size: 3/4 inch unless otherwise specified.

1.5 SUBMITTALS

- A. Product Data: Submit for the following Products:

1. Raceway fittings.
  2. Conduit bodies.
  3. Pull and junction boxes.
- B. Manufacturer's Installation Instructions: Submit application conditions and limitations of use stipulated by Product testing agency specified under Regulatory Requirements. Include instructions for storage, handling, protection, examination, preparation, and installation of Product.

1.6 CLOSEOUT SUBMITTALS

- A. Project Record Documents:

1. Record actual routing of conduits larger than 2 inch trade size.

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1.7 DELIVERY, STORAGE, AND HANDLING

- A. Protect conduit from corrosion and entrance of debris by storing above grade. Provide appropriate covering.

1.8 COORDINATION

- A. Coordinate mounting heights, orientation and locations of all raceways & enclosures with the engineer.

PART 2 PRODUCTS

2.1 METAL CONDUIT

- A. Manufacturers:

1. Wheatland Tube Company
  2. Allied Tube and Conduit
  3. Western Tube and Conduit Co.
- B. PVC-coated Galvanized Rigid Steel Conduit: NEMA RN-1.
- C. PVC-coated Intermediate Metal Conduit (IMC): NEMA RN-1.
- D. Fittings and Conduit Bodies: NEMA FB 1; all steel fittings.

2.2 PULL AND JUNCTION BOXES

- A. Manufacturers:

1. Hubbell Wiring Devices.
  2. Walker Systems Inc.
  3. The Wiremold Co.
- B. Sheet Metal Boxes: NEMA OS 1, galvanized steel.

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- C. Hinged Enclosures: As specified in Section 16131.
- D. Surface Mounted Cast Metal Box: NEMA 250, Type 4X; flat-flanged, surface mounted junction box:

1. Material: Galvanized cast iron.
2. Cover: Furnish with ground flange, neoprene gasket, and stainless steel cover screws.

**PART 3 EXECUTION**

**3.1 EXAMINATION**

- A. Verify outlet locations and routing and termination locations of raceway prior to rough-in.

**3.2 INSTALLATION**

- A. Install Work in accordance with NECA "Standard of Installation.
- B. Ground and bond raceway and boxes under provisions of Section 16050.
- C. Fasten raceway and box supports to structure and finishes under provisions of Section 16050.
- D. Identify raceway and boxes under provisions of Section 16050.
- E. Arrange raceway and boxes to maintain headroom and present neat appearance.

**3.3 INSTALLATION--RACEWAY**

- A. Raceway routing is shown in approximate locations unless dimensioned. Route as required to complete wiring system.
- B. Install nonmetallic conduit.
- C. Arrange raceway supports to prevent misalignment during wiring installation.

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- D. Support raceway using coated steel or malleable iron straps, lay-in adjustable hangers, clevis hangers, and split hangers.
- E. Group related raceway; support using conduit rack. Construct rack using steel channel specified in Section 16050.
- F. Do not support raceway with wire or perforated pipe straps. Remove wire used for temporary supports.
- G. Do not attach raceway to ceiling support wires or other piping systems.
- H. Construct wireway supports from steel channel specified in Section 16050.
- I. Route exposed raceway parallel and perpendicular to walls.
- J. Route raceway installed above accessible ceilings parallel and perpendicular to walls.
- K. Maintain adequate clearance between raceway and piping.
- L. Maintain 12 inch clearance between raceway and surfaces with temperatures exceeding 104 degrees F.
- M. Cut conduit square using saw or pipecutter; de-burr cut ends.
- N. Bring conduit to shoulder of fittings; fasten securely.
- O. Use conduit hubs or sealing locknuts to fasten conduit to sheet metal boxes in damp and wet locations and to cast boxes.
- P. Install no more than equivalent of three 90 degree bends between boxes. Use conduit bodies to make sharp changes in direction, as around beams. Use factory elbows for bends in metal conduit larger than 2 inch size.
- Q. Avoid moisture traps; provide junction box with drain fitting at low points in conduit system.

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- R. Provide suitable fittings to accommodate expansion and deflection where raceway crosses seismic, control and expansion joints.
  - S. Provide suitable pull string or cord in each empty raceway except sleeves and nipples.
  - T. Use suitable caps to protect installed conduit against entrance of dirt and moisture.
- 3.4 INSTALLATION--BOXES**
- A. Set wall mounted boxes at elevations to accommodate mounting heights indicated or specified in section for outlet device.
  - B. Adjust box location up to 10 feet to rough-in if required to accommodate intended purpose.
  - C. Install pull boxes and junction boxes above accessible ceilings and in unfinished areas only.
  - D. Inaccessible Ceiling Areas: Install outlet and junction boxes no more than 6 inches from ceiling access panel or from removable recessed luminaire.
  - E. Locate flush mounting box in masonry wall to require cutting of masonry unit corner only. Coordinate masonry cutting to achieve neat opening.
  - F. Do not install flush mounting box back-to-back in walls; provide minimum 6 inch separation. Provide minimum 24 hours separation in acoustic rated walls.
  - G. Secure flush mounting box to interior wall and partition studs. Accurately position to allow for surface finish thickness.
  - H. Use stamped steel bridges to fasten flush mounting outlet box between studs.

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- I. Install flush mounting box without damaging wall insulation or reducing its effectiveness.
  - J. Use adjustable steel channel fasteners for hung ceiling outlet box.
  - K. Do not fasten boxes to ceiling support wires or other piping systems.
  - L. Support boxes independently of conduit.
- 3.5 INTERFACE WITH OTHER PRODUCTS**
- A. Install conduit to preserve fire resistance rating of partitions and other elements, using materials and methods under the provisions of Section 16050.
  - B. Route conduit through roof openings for piping and ductwork or through suitable roof jack with pitch pocket.
- 3.6 ADJUSTING**
- A. Install knockout closures in unused openings in boxes.
- 3.7 CLEANING**
- A. Clean interior of boxes to remove dust, debris, and other material.
  - B. Clean exposed surfaces and restore finish.

END OF SECTION

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APPENDIX D

FORMS TO BE INCLUDED IN EXHIBIT A OF PROPOSALS

Appendix D-A-1-a<sup>15</sup> Proposal Form A-1-a; Authority Financing Option, PPA Price Quotation Sheet Program ..... D-A-1-a

Appendix D-A-1-b<sup>16</sup> Proposal Form A-1-b; Company Financing PPA Price PPA Price Quotation Sheet Program ..... D-A-1-b

Appendix D-A-2 Proposal Form A-2; Respondent Information / Cover Letter Form ..... D-A-2-1

Appendix D-A-3 Proposal Form A-3; Consent of Surety Form ..... D-A-3-1

Appendix D-A-4<sup>17</sup> Proposal Form A-4; Agreement for Proposal Security In Lieu of Proposal Bond ..... D-A-4-1

Appendix D-A-5<sup>18</sup> Proposal Form A-5; Proposal Bond ..... D-A-5-1

Appendix D-A-6 Proposal Form A-6; Ownership Disclosure Statement ..... D-A-6-1

Appendix D-A-7 Proposal Form A-7; Non-Collusion Affidavit ..... D-A-7-1

Appendix D-A-8 Proposal Form A-8; Consent to Investigation ..... D-A-8-1

Appendix D-A-9 Proposal Form A-9; Statement of Respondent's Qualifications ..... D-A-9-1

Appendix D-A-10 Proposal Form A-10; Acknowledgement of Receipt of Addenda (if any) ..... D-A-10-1

Appendix D-A-11 Proposal Form A-11; Sealed Proposal Checklist (See Exhibit 2) ..... D-A-11-1

Appendix D-A-12<sup>19</sup> Proposal Form A-12; Authorization for Background Check ..... D-A-12-1

<sup>15</sup> Use for Authority Financing Option. See Sections 1.2, 1.3, and 1.4 of RFP.  
<sup>16</sup> Use for Company Financing Option. See Sections 1.2, 1.3, and 1.6 of RFP.  
<sup>17</sup> Provide EITHER (i) Form A-4 (Proposal Funds) or (ii) Form A-3 (Proposal Bond); found in Appendices D-A-4 or D-A-5, as applicable. See Section 7.2(a) of RFP.  
<sup>18</sup> See prior footnote.  
<sup>19</sup> Provided by the Successful Respondent only, no later than [redacted] (07/01/2011). (00016370-1) D-1

PROPOSAL FORMS A-1  
 PPA PRICE QUOTATION SHEETS

FORM A-1-a: Authority Financing Option  
 FORM A-1-b: Company Financing Option

PROPOSAL FORM A-1-a  
 PPA PRICE QUOTATION SHEET  
 (Authority Financing Option)

A. Preliminary Information:

1. Respondent: \_\_\_\_\_

[List all entities if a joint venture, and identify lead entity]

2. Date: \_\_\_\_\_, 2011

3. Does Respondent intend to form a special purpose entity? \_\_\_\_\_

4. Has Respondent included its EPC contractor in subsection 1 above? \_\_\_\_\_  
 If not, please identify and include: \_\_\_\_\_

5. Respondent Contact Person:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_ Cell: \_\_\_\_\_

Signature: \_\_\_\_\_

B. Proposal

1. **General.** In submitting this "Proposal Form A-1-a PPA Price Quotation Sheet (Authority Financing Option)", Respondent represents that it (a) has read the Authority's "Request for Proposals for a Developer of Photovoltaic Systems with respect to certain Local Government Facilities in the County of Sussex, New Jersey" dated [Post Date] (the "RFP") in its entirety, (b) understands all of the terms and conditions set forth in the RFP with respect to this Proposal form, (c) agrees to be bound by such terms and conditions of the RFP in submitting this Proposal form as part of Respondent's Proposal, and (d) is intending to propose on the Series 2011 Program utilizing the Authority Financing Option. By executing this Proposal form, the Respondent Contact Person is authorized to bind the Respondent to all of the representations and terms of this Proposal form, and Respondent shall be so bound.

2. **Defined Terms and Proper Form.** Capitalized terms not defined in this Proposal form shall be as defined in the RFP.

3. Total Project Costs and Equity Contribution, if any:

(a) For purposes of arriving at the PPA Price, Respondent proposes that the Total Project Costs shall be \$ \_\_\_\_\_, the sum of:

- (i) Renewable Energy Project costs of \$ \_\_\_\_\_ (RFP Section 1.3(a)(i))<sup>20</sup>;
- (ii) Project Development Costs of \$ [Project Development Costs] million (RFP Section 1.3(a)(ii))<sup>20</sup>;
- (iii) One Year's Capitalized Interest for the Series 2011A Bonds (only) of \$ \_\_\_\_\_ (RFP Section 1.3(a)(iii))<sup>20</sup>; and
- (iv) Company Development Costs of \$ \_\_\_\_\_ (RFP Section 1.3(b)) (Only include if Respondent desires to finance these costs from Series 2011A Bonds; if not, insert \$0; if nothing filled in, Authority presumes \$0).

(b) The Respondent intends to finance the Total Project Costs set forth in subsection (a) above from:

- (i) \$ \_\_\_\_\_ par amount of Series 2011A Bonds;
- (ii) \$ \_\_\_\_\_ par amount of Series 2011B Note (only for Capitalized Interest)<sup>21</sup>; and
- (iii) Equity Contribution of \$ \_\_\_\_\_ (insert \$0 if no Equity Contribution; if nothing filled in, Authority presumes \$0, unless the Equity Contribution is required to be > \$0 in accordance with subsection (c) below). If Equity Contribution is \$0, skip subsection (d) and (e) below. If Equity Contribution is > \$0, then complete subsections (d) and (e) below.

(c) **IMPORTANT NOTE:** In accordance with RFP Section 1.3(d), the aggregate par amount of the Series 2011A Bonds and the Series 2011B Note cannot exceed \$50,000,000. Accordingly, any Proposal showing an aggregate par amount of Series 2011 Bonds in excess of \$50,000,000 shall be deemed to be a Proposal for \$50,000,000 in Series 2011 Bonds, with the balance to be supplied by the Respondent through an Equity Contribution.

<sup>20</sup> As may be adjusted in accordance with Section 4.1(c)(ii)(B) of the RFP.

<sup>21</sup> As may be adjusted in accordance with Section 4.1(c)(iii)(C) of the RFP.

<sup>22</sup> To the extent the Capitalized Interest is increased upon sale of the Series 2011A Bonds (see prior footnote) to an amount that would cause the aggregate Series 2011 Bonds to exceed \$50,000,000, then any such excess shall be payable by the Respondent as an Equity Contribution, thereby limiting the par amount of the Series 2011A Bonds to \$50,000,000. (00016370-1)

(d) Please check the box in (i) or (ii) below (or mark TBP, for to be provided, if not submitted with the Proposal), and attach the document to this Form A-1-a (RFP Section 1.3(c)).

(i) Equity Contribution Cash Commitment Attached: \_\_\_\_\_

(ii) Equity Contribution Consent of Surety Attached: \_\_\_\_\_

(e) Please summarize the structure and material terms of the box checked in clause (d) above (i.e., (i) or (ii)). Use attachments or reference to sections in the Proposal if necessary.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. PPA Price and related information. Respondent hereby proposes the following PPA Price, and related information, to perform the Company Services, which PPA Prices for each year of the PPA (including any adjustment and escalation factors below) shall be established in a PPA Price table to be included in the PPA.

(a) PPA Price. The following is Respondent's offer of the PPA Price to be charged through the Authority to each Series 2011 Local Unit expressed in dollars per kWh, from each such Series 2011 Local Unit's Commencement Date to, but excluding the first anniversary of such Commencement Date (exclusive of any adjustment or escalation factor):

PPA Price (\$ per kWh, from Commencement Date for one year), exclusive of escalation factor, if any, based upon a Series 2011 Bond TIC of 5.00%. \$ \_\_\_\_\_ /kWh

(b) Post Proposal Adjustment in PPA Price, expressed in dollars per kWh. The Respondent must set forth below the following two (2) adjustment factors to the PPA Price for the initial year of the PPA Price (from the Commencement Dates):

(i) The Project Development Cost (presently estimated at \$[Project Development Costs] million) portion of Total Project Costs will not be finally determined until the execution of Program Documents. The annual adjustment proposed shall be for each \$100,000 change for the Project Development Costs, either upward or downward, after such costs have been finally determined.

Recurring adjustment to annual PPA Price (\$ per kWh) for each \$100,000 of change in the Project Development Costs from \$[Project Development Costs] \$ \_\_\_\_\_ /kWh

(ii) The Respondent must set forth below an adjustment factor to the PPA Price in the initial year of the PPA Price (from the Commencement Dates) due to the fact that the TIC (expressed on D-A-1-a-3

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(b) \_\_\_\_\_ Level Principal Amortization, but per Revised Schedule Attached.

(c) \_\_\_\_\_ Revised Accelerated Amortization Schedule Attached.

6. County Security.

(a) Please either check (i) below, or both fill in the County Deficiency Amount in (ii) below and check the box and attach the document in (iii) below (RFP Section 1.3(g)(iv) - (ix)).

(i) County Deficiency Amount eliminated. \_\_\_\_\_

(ii) Insert County Deficiency Amount to be provided by Reimbursement Collateral, as County Security. \$ \_\_\_\_\_

(iii) Check box (A) or (B) below (or mark TBP, if not submitted with the Proposal), and attach same to Form A-1-a (RFP Section 1.3(g)(ix))

(A) County Security Cash Commitment Attached: \_\_\_\_\_

(B) County Security Consent of Surety Attached: \_\_\_\_\_

(b) If applicable, please explain how clause (a)(i) above has occurred under the structure of the Proposal. Alternatively, as applicable, summarize the structure and material terms of the box checked in clause (a)(ii) above. Use attachments or reference to sections in the Proposal if necessary.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Restoration Security.

(a) Please either check (i) below, or both fill in the Restoration Security amount in (ii) below and check the box and attach the document in (iii) below (RFP Section 7.2(c)).

(i) No Restoration Security Provided. \_\_\_\_\_

(ii) Insert Restoration Security amount to be provided Respondent. \$ \_\_\_\_\_

(iii) Check box (A) or (B) below, and attach same (or mark TBP, if not submitted with the Proposal) to Form A-1-a (RFP Section 7.2(c)(iii))

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D-A-1-a-5

the basis of yield to maturity) on the Series 2011 Bonds will not be finally determined until the sale date of the Series 2011A Bonds. The annual adjustment proposed shall be for each ten basis point (10 bp) change in such yield from the currently estimated 5.00% as included in this RFP or any addendum thereto issued by the Authority, either upward or downward, after such yield has been finally determined.

Recurring adjustment to annual PPA Price (\$ per kWh) for each 10 basis points change in the yield on the Series 2011 Bonds \$ \_\_\_\_\_ /kWh

Note that these adjustments, if necessary, shall occur prior to the application of any escalation factor contemplated by subsection (c) below, as this adjustment is intended to produce what would have been the PPA Price, prior to escalation, were the interest cost of the Series 2011 Bonds and the final Project Development Costs known at the time of the RFP.

(c) Escalation Factor. The PPA Price proposed in subsection (a) above, shall be increased for each remaining year of the PPA (other than the initial year from the Commencement Date), by the following, constant, escalation factor, expressed as an annual percentage increase from the prior year's PPA Price. If no escalation factor is being proposed, write none in the space below:

PPA Price fixed escalation factor for all subsequent years of PPA (expressed as an annual percentage increase from the prior year's PPA Price) \_\_\_\_\_ %

5. Accelerated Amortization of Series 2011A Bonds.

If the Respondent desires to repay the principal amount of the Series 2011A Bonds (through its Basic Lease Payment schedule) sooner than on a level principal basis, the Proponent must provide an alternative Basic Lease Payment Schedule using the principal amounts set forth in Exhibit E to this RFP (principal portion required, as the interest portion shall be established by the TIC of the Series 2011A Bonds). This accelerated amortization schedule shall be attached to this Form A-1-a, the box in subsection (c) below should be checked, and such revised schedule shall include the annual principal payments, semi-annual interest payments, and interest rates used in developing the revised amortization. Should the actual principal amount of the Series 2011 Bonds issued be less (more) than the principal amount set forth on Exhibit E to the RFP, then the accelerated amortization schedule proposed by the Respondent shall be reduced (increased), on a pro-rata basis for each maturity, to account for the lower (higher) par amount of Series 2011 Bonds actually issued. The adjusted amortization will be agreed upon by the Successful Respondent prior to the sale of the Authority's Series 2011A Bonds.

If level principal amortization is acceptable as is, then the Respondent need only check box (a) below. If due to an Equity Contribution, a large initial payment, or otherwise, the Respondent will use a level principal amortization schedule, but one different from that set forth on Exhibit E to this RFP, then check (b) below and provide the revised level principal amortization schedule.

(a) \_\_\_\_\_ Level Principal Amortization (Exhibit E) is acceptable.

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D-A-1-a-4

(A) Restoration Security Cash Commitment Attached: \_\_\_\_\_

(B) Restoration Security Consent of Surety Attached: \_\_\_\_\_

(b) If applicable, please explain how clause (a)(i) above has occurred under the structure of the Proposal. Alternatively, as applicable, summarize the structure and material terms of the box checked in clause (a)(ii) above. Use attachments or reference to sections in the Proposal if necessary.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Production of Electricity.

(a) Expected System Output. Please provide the expected solar output in kWh (ac), at each Series 2011 Local Unit Facility for each year of the 15 years of the Power Purchase Agreement duration. The basis for this calculation shall be determined by using PVWatts Version 1 based upon orientation and tilt angle of the specific system. Respondents are also directed to Article 4 of the RFP, Section 4(1)(c)(vii)(B), which sets a minimum percentage for all guarantees. (Respondents may provide the information requested below on separate sheets provided the format outlined in the charts below is adhered to)

(b) Guaranteed Output. Please provide the guaranteed output, in kWh (ac), at each Series 2011 Local Unit Facility for each year of the 15 years of the Power Purchase Agreement duration. The Company must guarantee annual electricity output for the specific system (Guaranteed Production Level). The Guaranteed Production Level must be ninety (90) percent of the expected electricity output. Respondents are also directed to Section 6.1 of the PPA, which sets forth a minimum percentage for all guarantees. (Respondents may provide the information requested below on separate sheets provided the format outlined in the charts below is adhered to)

[insert chart]

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D-A-1-a-6

9. **Material Changes.** Describe any proposed material changes to Program Documents below. If none are set forth, Respondent shall be presumed to have proposed no material changes to any Program Document. By the Authority's award to Respondent (conditional or otherwise), to the extent Respondent shall be determined by the Authority to be the Successful Respondent, the Authority shall not have accepted any such changes below, which if accepted in whole or in part or in modified form, shall only be evidenced by duly authorized, executed and delivered Program Documents reflecting such accepted changes.

(a) \_\_\_\_\_ No changes.

(b) Respondent proposes the following material changes to the following Program Documents identified below:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

[attach additional sheets as necessary]

10. **Additional Economic Benefits.** Describe any proposed additional economic benefits (and the corresponding changes to the PPA or any other Program Document) to the Authority and/or the Series 2011 Local Units as contemplated by Section 5.2 of the RFP. By the Authority's award to Respondent (conditional or otherwise), to the extent Respondent shall be determined by the Authority to be the Successful Respondent, the Authority shall not have accepted any such changes below, which if accepted in whole or in part or in modified form, shall only be evidenced by duly authorized, executed and delivered Program Documents reflecting such accepted changes.

(a) \_\_\_\_\_ None.

(b) Respondent proposes the following beneficial changes to be reflected in the Program Documents identified below:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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**PROPOSAL FORM A-1-b  
 PPA PRICE QUOTATION SHEET  
 (Company Financing Option)**

**A. Preliminary Information:**

1. Respondent: \_\_\_\_\_  
 \_\_\_\_\_  
 [List all entities if a joint venture, and identify lead entity]

2. Date: September \_\_, 2011

3. Does Respondent intend to form a special purpose entity? \_\_\_\_\_

4. Has Respondent included its EPC contractor in subsection 1 above? \_\_\_\_\_  
 If not, please identify and include: \_\_\_\_\_

5. Respondent Contact Person:

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_ Cell: \_\_\_\_\_  
 Signature: \_\_\_\_\_

**B. Proposal**

1. **General.** In submitting this "Proposal Form A-1-b PPA Price Quotation Sheet (Company Financing Option)", Respondent represents that it (a) has read the Authority's "Request for Proposals for a Developer of Photovoltaic Systems with respect to certain Local Government Facilities in the County of Sussex, New Jersey" dated [Post Date] (the "RFP") in its entirety, (b) understands all of the terms and conditions set forth in the RFP with respect to this Proposal form, (c) agrees to be bound by such terms and conditions of the RFP in submitting this Proposal form as part of Respondent's Proposal, and (d) is intending to propose on the Series 2011 Program utilizing the Authority Financing Option. By executing this Proposal form, the Respondent Contact Person is authorized to bind the Respondent to all of the representations and terms of this Proposal form, and Respondent shall be so bound.

2. **Defined Terms and Proper Form.** Capitalized terms not defined in this Proposal form shall be as defined in the RFP.

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[attach additional sheets as necessary]

10. **End of Term Fair Market Value Purchase Option.**

(a) **General.** The Power Purchase Agreement provides the Authority with an option to purchase the Renewable Energy Projects at each Local Unit Facility upon expiration of the term of the Power Purchase Agreement at fair market value. It is the Authority's position that applicable federal income tax law allows the Authority and the Respondent to estimate, at the time the agreement is entered into, the end of term fair market value of the Renewable Energy Projects for purposes of establishing a purchase option price ("Purchase Option Price"). Accordingly, the Respondent is requested (but not required) to provide its estimate of the end of term fair market value of all of the Renewable Energy Projects, which amount, if accepted by the Authority, which acceptance shall be at the Authority's sole discretion, would form the basis of the Authority's Purchase Option Price for all of the Renewable Energy Projects under the Power Purchase Agreement. Importantly, the Authority reserves the right to reject any proposed Purchase Option Price, in which event the subject agreement would supply refer to a purchase at fair market value to be determined.

(b) Please either fill in a dollar amount or the word "Formula" in (i) for each Renewable Energy Project (Respondents may provide the information requested below on separate sheets provided the format outlined in the charts below is adhered to), or check the box in (ii) below. In the event that a formula is proposed, please provide a complete description and explanation in (c) below.

(i) Provide Chart listing dollar amount or "Formula" for each Renewable Energy Project\*

\* - The amount can be stated as a fixed dollar amount, or represented by a formula.

(ii) No estimate of the Purchase Option Price provided Check here \_\_\_\_\_

(c) Explanation:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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3. **Total Project Cost; Company Financing Option structure:**

(a) For purposes of arriving at the PPA Price, Respondent proposes that the Total Project Costs shall be \$ \_\_\_\_\_, the sum of:

(iii) Renewable Energy Project costs of \$ \_\_\_\_\_ (RFP Section 1.5(a)(i));

(ii) Project Development Costs of \$1.2 million (RFP Section 1.5(a)(ii))<sup>22</sup>;

(iii) Company Development Costs of \$ \_\_\_\_\_ (RFP Section 1.5(b)).

(b) The Respondent intends to finance the Total Project Costs set forth in subsection (a) above from the following sources, the structure and material terms of which are as follows: Use attachments or reference to sections in the Proposal if necessary:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

4. **PPA Price and related information.** Respondent hereby proposes the following PPA Price, and related information, to perform the Company Services, which PPA Prices for each year of the PPA (including any adjustment and escalation factors below) shall be established in a PPA Price table to be included in the PPA.

(a) **PPA Price.** The following is Respondent's offer of the PPA Price to be charged through the Authority to each Series 2011 Local Unit expressed in dollars per kWh, from each such Series 2011 Local Unit's Commencement Date to, but excluding the first anniversary of such Commencement Date (exclusive of any adjustment or escalation factor):

PPA Price (\$ per kWh, from Commencement Date for one year), \_\_\_\_\_ \$/kWh, exclusive of escalation factor, if any

(b) **Post Proposal Adjustment in PPA Price, expressed in dollars per kWh.** The Respondent must set forth below the following one (1) adjustment factor to the PPA Price for the initial year of the PPA Price (from the Commencement Dates):

(i) The Project Development Cost (presently estimated at \$[Project Development Costs] million) portion of Total Project Costs will not be finally determined until the execution of Program Documents. The annual adjustment proposed shall be for each \$100,000 change for the Project Development Costs, either upward or downward, after such costs have been finally determined.

<sup>22</sup> As may be adjusted in accordance with Section 4.1(d)(iii)(B) of the RFP.  
 100016370-1 D-A-1-b-2



FORM A-2

THE MORRIS COUNTY IMPROVEMENT AUTHORITY
RESPONDENT INFORMATION/COVER LETTER FORM
( TO BE PLACED ON RESPONDENT'S LETTERHEAD )

Date:
Respondent:
Address:
Telephone:
Contact Person:

Type of Business Entity (Corporation, Partnership, Joint Venture, Other (Attach Agreement(s) governing or creating/organizing business entity):

A. GENERAL:

In submitting this Proposal, the Respondent warrants and represents that (capitalized words and terms shall have the meanings ascribed to such terms in the Request for Proposals):

1. (a) The Respondent has reviewed and understands the requirements set forth within the Proposal Specifications and, if selected, will carry out all of the provisions set forth within same.

(b) The Respondent has prepared its Proposal using a complete set of Proposal Documents, including all addenda to the Request for Proposals issued by the MCIA prior to the date established for submission of all Proposals.

(c) All information submitted in response to the Request for Proposals is accurate and factual and all representations made regarding the Respondent's willingness and ability to provide the required Services are true and correct.

(d) The name and title of the individuals who will be responding to questions on behalf of the Respondent are:

(e) Respondent has reviewed and accepted the provisions of Sections 1.1(D)(i)(A) and 5.6 of the RFP. Accordingly, Respondent is not relying on the Authority, the County, the Series 2011 Local Units nor any

If a joint venture, partnership or other form of organization is submitting this Proposal, all such firms shall be listed and each such participant shall execute this Respondent Information/Cover Letter.

(00016570-1) D-A-2-1

of their advisors regarding any federal or state tax matters set forth in the RFP, and Respondent shall consult, or has consulted, its own tax advisors regarding such matters.

(f) Respondent agrees to include with the submission of its Proposal a Consent of Surety for Construction Performance Security in the form attached to this letter provided by the Authority, and Consent of Surety for Restoration Performance Security, if any is included within Respondent's Proposal. Respondent also acknowledges that Construction Performance Bond must be in a form consistent with the form attached to this letter provided by the Authority.

(g) Respondent acknowledges that if selected for Conditional Award, it must provide the Authority with evidence of County Security.

If applicable: If the Proposal is being submitted by a joint venture or similar business entity of more than one firm and/or organization, list the members, firms or organizations and designate a solo contact person for the joint venture or organization below:

2. Except to the extent expressly disclosed in the Proposal, there has been no material adverse changes in the financial status of the Respondent since the date of the most recent financial data (including Forms 10-K and 10-Q) submitted as part of the response to this Proposal.

3. There is no action, suit or proceeding, at law or in equity, before or by any court or similar Governmental Body against the Respondent wherein any unfavorable decision, ruling or finding would adversely affect the ability of the Respondent to carry out the duties and obligations imposed upon it under the Power Purchase Agreement.

4. The Respondent is duly organized and validly existing in good standing and is duly qualified to transact business in each and every jurisdiction where such qualification is required to enable the Respondent to perform its obligations under the Power Purchase Agreement. Execution of the Power Purchase Agreement and the performance of all obligations thereunder, have been authorized by all required action of the Respondent, including any action required by any charter, by-laws, and/or partnership agreement, as the case may be, and any applicable laws which regulate the conduct of the Respondent's affairs. The execution of the Power Purchase Agreement and the performance of all obligations set forth in the Proposal Specifications and in each Power Purchase Agreement do not conflict with and do not constitute a breach of or an event of default under any charter, by-laws and/or partnership agreement, as the case may be, of the Respondent or any agreement, indenture, mortgage, contract or instrument to which the Respondent is a party or by which it is bound. Upon execution hereof and upon satisfaction of the conditions contained in the Request for Proposals and in such Power Purchase Agreement, the Power Purchase Agreement will constitute a valid, legally binding obligation of the Respondent, enforceable in accordance with its terms, except to the extent that the enforcement thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws relating to or limiting creditors' rights generally and the application of the general principles of equity.

5. There is no action, suit or proceeding, at law or in equity, before or by any court or similar Governmental Body against the Respondent wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the Respondent of its obligations under the Request for Proposals and/or under the Power Purchase Agreement or the other transactions contemplated thereby, or which, in any way, would materially adversely affect the validity or enforceability of the Power Purchase Agreement, or any other agreement or instrument entered into by Respondent in connection with the transactions contemplated thereby.

(00016570-1) D-A-2-2

FORM A-3

Forms of Construction Performance Bond and Consent of Surety

CONSTRUCTION PERFORMANCE BOND

In providing the below Construction Performance Bond, such Construction Performance Bond shall not contain any conditions to its issuance or any conditions to the obligations of the surety company issuing same, except as expressly provided in this form of Construction Performance Bond.

Date:

PRINCIPAL
SURETY
SURETY
SURETY

THE MORRIS COUNTY IMPROVEMENT AUTHORITY, OBLIGEE

KNOW ALL MEN BY THESE PRESENTS, that we, the PRINCIPAL and SURETIES above named, are held and firmly bound unto the above named OBLIGEE, in the just and full sum of (\$) for the payment of which sum well and truly to be made, the said PRINCIPAL and SURETIES bind themselves, their respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents. Provided, that, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the PRINCIPAL, for the payment of such sum only as is set forth opposite the name of such Surety at the end of this Bond.

WHEREAS, the PRINCIPAL has entered into a certain written agreement with the OBLIGEE, dated 2011 entitled, "Power Purchase Agreement," (the "Agreement"), whereby the PRINCIPAL shall provide construction related services to The Morris County Improvement Authority, which Power Purchase Agreement is by reference made a part hereof, as if set forth in full herein.

NOW THEREFORE, the condition of this obligation is such that, if the PRINCIPAL shall faithfully perform its obligations under the Power Purchase Agreement solely as they relate to the engineering, procurement of materials, construction and installation of the Renewable Energy Project at the series 2011 Local Unit Facilities, then this obligation shall be null and void commercial operation of the Renewable Energy Projects, otherwise it shall remain in full force and effect.

6. The Respondent has in its possession valid approvals, registrations or permits (or the Respondent will have such approvals, registrations or permits prior to or simultaneously with the execution of the Power Purchase Agreement) that, pursuant to Applicable Laws, permit the Respondent to provide the contingent Services as provided in the Request for Proposals and under and in accordance with the terms of the Power Purchase Agreement for the term of the Power Purchase Agreement.

7. The Proposal is submitted pursuant to due authorization by, and is in all respects binding upon, the Respondent. The Proposal is authorized to be prepared and submitted under and in accordance with the provisions of the documents and/or agreements which govern the Respondent's business activities.

8. No corporation, partnership, individual or association, officer, director, employee, manager, parent, subsidiary, affiliate or principal shareholder of the Respondent has been adjudicated to be in violation of any state or federal environmental law, or charged with or convicted of bribery, fraud, collusion, or any violation of any state or federal anti-trust or similar statute within the preceding five (5) years, or previously adjudged in contempt of any court order enforcing such laws.

9. The facility(ies) and equipment to be utilized by the Respondent in the performance of the Services meets or exceeds, in all material respects, the Technical Specifications as set forth in the Request for Proposals.

(NAME OF RESPONDENT)

By:

Name:

Title:

(SEAL)

(00016570-1) D-A-2-3

(00016570-1) D-A-3-1

PROVIDED, HOWEVER:

Whenever the PRINCIPAL shall be, and is, declared to be in default of its construction obligations under the Power Purchase Agreement by the OBLIGEE, the OBLIGEE having performed its construction obligations under the Power Purchase Agreement, the SURETIES may promptly remedy the default or shall promptly as follows:

- (1) Perform the construction obligations under the Power Purchase Agreement in accordance with the terms and conditions of the Power Purchase Agreement and for the elimination of any doubt it is made clear that this obligation shall not extend to any other services being provided under or in accordance with the terms and conditions of the Power Purchase Agreement other than the engineering, procurement of materials, construction and installation of the Renewable Energy Projects to the point of commercial operation, or
(2) Obtain a Proposal or Proposals for performance of the construction obligations under the Power Purchase Agreement in accordance with the terms and conditions of the Power Purchase Agreement, and upon a determination by SURETIES and the OBLIGEE of the lowest responsible Respondent, arrange for a contract between such Respondent and the OBLIGEE, and make available as services continue (even though there should be a default or a succession of defaults under the contract or contracts arranged under this paragraph) sufficient funds to pay the cost of performance of such said construction obligations; but not exceeding, including other costs and damages for which the SURETIES may be liable hereunder, the amount set forth in the first paragraph hereof.
(3) After investigation, determine the amount for which it may be liable to the OBLIGEE and, as soon as practicable after the amount is determined, tender payment therefor to the OBLIGEE.
(4) Without waiver of any rights of the OBLIGEE, notify the OBLIGEE of the denial of liability in whole or in part citing reasons therefor.

Notwithstanding any term or condition contained in the Power Purchase Agreement to the contrary, it is understood and agreed that the PRINCIPAL's and SURETIES' obligation under this bond shall not be assigned without the written consent of the PRINCIPAL and the SURETIES, which consent shall not unreasonably be withheld; provided however, that this bond may be assigned to a trustee in connection with the issuance of any debt obligations issued by the OBLIGEE for or with respect to the Services.

No right or action shall accrue on this bond to or for the use of any person or corporation other than the OBLIGEE named herein or their heirs, executors, administrators, or successors of the OBLIGEE.

The PRINCIPAL and the SURETIES shall not be liable to the OBLIGEE in the aggregate in excess of the penal sum above stated. Any payment made by the SURETIES in good faith under this bond shall reduce the bond amount stated by a like amount.

10016270-1 D-A-3-2

The SURETIES shall have no liability under this bond for any obligation of the PRINCIPAL to defend, pay for, assume responsibility with respect to or otherwise incur liability for any debt obligations issued by the OBLIGEE.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals on the date indicated above.

Limit: \$ \_\_\_\_\_ PRINCIPAL
Title
SURETY
Limit: \$ \_\_\_\_\_ Attorney-in-fact
SURETY
Limit: \$ \_\_\_\_\_ Attorney-in-fact
Countersigned:

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed and attested by a duly authorized officer, and its corporate seal to be hereto affixed this \_\_\_ day of \_\_\_ 2011.

ATTEST: (Name of Bank)
By: \_\_\_\_\_ By: \_\_\_\_\_
Name: \_\_\_\_\_ Name: \_\_\_\_\_
Title: \_\_\_\_\_ Title: \_\_\_\_\_
Date: \_\_\_\_\_ Date: \_\_\_\_\_

10016270-1 D-A-3-4

Any suit under this Bond must be instituted before the expiration of two (2) years from the date the PRINCIPAL ceased performing those obligations covered by this bond.

The SURETIES hereby stipulate and agree that no modifications, omissions or additions in or to the terms of the Power Purchase Agreement or in or to the specifications therefor should in any way affect the obligation of the SURETIES on this Bond.

Notice to the SURETIES shall be by certified or registered mail and sent to:

[NAME AND ADDRESS OF SURETY]

10016270-1 D-A-3-3

CONSENT OF SURETY

In completing this Consent of Surety, this Surety shall not add any conditions to its obligation to provide the Performance Bond referred to herein.

In consideration of the sum of One Dollar (\$1.00), lawful money of the United States, to it in hand paid, the receipt whereof is hereby acknowledged, [NAME OF SURETY] (hereinafter, the "Surety"), organized and existing under the laws of the State of New Jersey, the undersigned Surety, consents and agrees that if the Power Purchase Agreement, for which the preceding Proposal is made, be awarded to [NAME OF RESPONDENT] (hereinafter, the "Respondent") for the performance of or the supplying of certain services, or both, as more particularly set forth in said Proposal and described for purposes of this instrument as a Proposal for Services to the Morris County Improvement Authority (hereinafter, the "MCIA"), if Respondent shall enter into the Power Purchase Agreement, and upon the issuance of a Notice to Proceed by the MCIA, the undersigned Surety will become bound as Surety for the Respondent's faithful performance of the construction obligations regarding the engineering, procurement of materials, construction and installation of the Renewable Energy Projects to the point of commercial operation under the Power Purchase Agreement in accordance with the terms and conditions of the Power Purchase Agreement, for the avoidance of any doubt it is made explicitly clear that this Consent of Surety shall not cover any other performance obligations of Respondent or any other party set forth in the Power Purchase Agreement, and will include only the engineering, procurement of materials, construction and installation of Renewable Energy Projects to the point of commercial operation and will provide the Respondent with a Construction Performance Bond in the amount of \$ \_\_\_\_\_ in form and content and at the times provided in the Request for Proposals.

This Consent of Surety shall become effective on the date set forth below. The Surety hereby understands and unconditionally agrees that this Consent of Surety shall remain in effect for the Term of ninety (90) days, or until such Surety issues a Construction Performance Bond.

IN WITNESS WHEREOF, said Surety has caused these presents to be signed and attested by a duly authorized officer, and its corporate seal to be hereto affixed this \_\_\_ day of \_\_\_ 2011.

(A corporate acknowledgment and statement of authority to be attached hereto by the surety company.)

ATTEST:
By: \_\_\_\_\_ (Signature) \_\_\_\_\_ (Name of Surety)
Name: \_\_\_\_\_ By: \_\_\_\_\_
Title: \_\_\_\_\_ Date: \_\_\_\_\_
Date: \_\_\_\_\_

10016270-1 D-A-3-5

FORM A-4

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

AGREEMENT FOR PROPOSAL SECURITY IN LIEU OF PROPOSAL BOND

(THIS FORM IS TO BE COMPLETED IF THE RESPONDENT DOES NOT PROVIDE A PROPOSAL BOND WITH ITS PROPOSAL.)

This Proposal is accompanied by proposal security in the form of a Certified Check or Cashier's Check drawn on the

(name of banking institution)

(address of banking institution)

in the amount of Twenty Thousand (\$20,000) Dollars.

The undersigned Respondent hereby agrees that if this Proposal shall be accepted by The MORRIS COUNTY IMPROVEMENT AUTHORITY (MCIA) and the undersigned shall fail to execute and deliver the Services to be performed pursuant to the Power Purchase Agreement and provide the performance bond within ten (10) days of the issuance of a Notice to Proceed by the MCIA, and in accordance with the terms of this Proposal and with the requirements of the Contract Documents, then the undersigned shall be deemed to have abandoned the Power Purchase Agreement, and thereupon the Proposal and its acceptance shall be null and void. In such event, the certified or cashier's check herewith submitted as Proposal security shall be due and payable thereunder to the MCIA as liquidated damages; otherwise the said check or the amount thereof, shall be returned to the undersigned consistently upon the issuance of a Notice to Proceed, if any, by the MCIA, and the receipt by the MCIA of the Successful Respondent's performance bond.

The undersigned Respondent hereby understands and agrees that the Successful Respondent's performance bond shall be submitted to the MCIA upon the issuance of a Notice to Proceed, which may be issued by the MCIA at any time during the Term of the Power Purchase Agreement. The undersigned Respondent hereby understands and agrees that the MCIA shall retain the Successful Respondent's certified check or cashier's check submitted as proposal security until the issuance of a Notice to Proceed by the MCIA, and the receipt by the MCIA of the Successful Respondent's performance bond.

[NAME OF RESPONDENT]

By:

Name:

Title:

Attach Cashier's or Certified Check Payable to the order of The Morris County Improvement Authority here.

(00016570-1

D-A-4-1

Upon said termination, the Surety shall be discharged from all liability under this bond for any act or omission of the Principal.

SIGNED AND SEALED this \_\_\_ day of \_\_\_\_\_ 2011.

In the presence of:

PRINCIPAL (Seal)

WITNESS

TITLE

SURETY (Seal)

WITNESS

TITLE

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

PROPOSAL BOND

(THIS FORM IS TO BE COMPLETED IF THE RESPONDENT PROVIDES A PROPOSAL BOND WITH ITS PROPOSAL INSTEAD OF A CERTIFIED CHECK OR CASHIER'S CHECK.)

KNOW ALL MEN BY THESE PRESENTS, that, [NAME OF RESPONDENT], as Principal (hereinafter, the "Principal") and [NAME OF SURETY], a [Corporation] [Partnership] duly organized under the laws of the State of \_\_\_\_\_, as Surety (hereinafter, the "Surety"), are held and firmly bound unto THE MORRIS COUNTY IMPROVEMENT AUTHORITY, as Obligor (hereinafter, the "Obligor"), in the sum of TWENTY THOUSAND (\$20,000) DOLLARS lawful money of the United States of America, for which payment well and truly to be made, the said Principal and Surety bind themselves, our successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted or is about to submit to the Obligor a Proposal for the provision of certain Services, which Proposal is made a part hereof;

NOW THEREFORE, the Surety hereby understands that if the said Proposal is accepted and the Power Purchase Agreement be awarded to the Respondent, then prior to the expiration or termination hereof, said Principal will enter into the Power Purchase Agreement in writing and give bond with Surety acceptable to the Obligor for the faithful performance of the Power Purchase Agreement, or if the Principal shall fail to enter such agreement and give such bond, said Surety will pay to the Obligor, as liquidated damages, the difference, not to exceed the penal amount hereof, between the amount specified in said Proposal and such larger amount for which Obligor may in good faith contract with another party to perform the work covered by said Proposal.

The Surety hereby understands that if this Proposal shall be accepted and the Principal shall fail to execute and deliver the Services to be performed pursuant to the Power Purchase Agreement and provide the performance bond within ten (10) days of the issuance of a Notice to Proceed by the MCIA, and in accordance with the terms of this Proposal and with the requirements of the Contract Documents, then the Principal shall be deemed to have abandoned the Power Purchase Agreement, and thereupon the Proposal and its acceptance shall be null and void. In such event, Surety hereby agrees that the bond herewith submitted shall be due and payable thereunder to the MCIA as liquidated damages; otherwise the said bond shall be returned to the undersigned concurrently upon the issuance of a Notice to Proceed, if any, by the MCIA, and the receipt by the MCIA of the Successful Respondent's performance bond.

The Surety hereby understands and agrees that the Principal's performance bond shall be submitted to the MCIA upon the issuance of a Notice to Proceed. The Surety hereby understands and agrees that the MCIA shall retain the bond submitted herewith as Proposal security until the issuance of a Notice to Proceed by the MCIA, and the receipt by the MCIA of the Successful Respondent's performance bond.

It is agreed that this bond shall be effective on the date the Proposal is submitted and will continue in full force until the issuance of a Notice to Proceed by the MCIA, and the receipt by the MCIA of the Successful Respondent's performance bond, or until terminated as hereinafter provided in accordance with the Local Public Contracts Law.

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D-A-5-1

FORM A-6

MORRIS COUNTY IMPROVEMENT AUTHORITY STOCKHOLDER DISCLOSURE CERTIFICATION N.J.S.A. 52:25-24.2 (P.L. 1977 c.33)

FAILURE OF THE BIDDER/RESPONDENT TO SUBMIT THE REQUIRED INFORMATION IS CAUSE FOR AUTOMATIC REJECTION

CHECK ONE:

- I certify that the list below contains the names and home addresses of all stockholders holding 10% or more of the issued and outstanding stock of the undersigned.
I certify that no one stockholder owns 10% or more of the issued and outstanding stock of the undersigned.

Legal Name of Respondent's Business:

Check which business entity applies:

- Partnership, Corporation, Sole Proprietorship, Limited Partnership, Limited Liability Partnership, Limited Liability Corporation, Subchapter S Corporation, Other

Complete if the bidder/respondent is one of the 3 types of Corporations:

Date incorporated: Where Incorporated:

Business Address:

STREET ADDRESS CITY STATE ZIP

FAX # EMAIL TELEPHONE #

Listed below are the names and addresses of all stockholders, partners or individuals who own 10% or more of its stock of any class, or who own 10% or greater interest therein.

NAME HOME ADDRESS

NAME HOME ADDRESS

CONTINUE ON ADDITIONAL SHEETS IF NECESSARY: Yes No

Signature: Date:

Printed Name and Title:

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D-A-5-2

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D-A-6-1

MORRIS COUNTY IMPROVEMENT AUTHORITY  
NON-COLLUSION AFFIDAVIT

State of \_\_\_\_\_  
County of \_\_\_\_\_ ss:

I, \_\_\_\_\_ of the City of \_\_\_\_\_  
in the County of \_\_\_\_\_ and State of \_\_\_\_\_  
of full age, being duly sworn according to law on my oath depose and say that:

I am \_\_\_\_\_ of the firm of \_\_\_\_\_  
(Title or position) (Name of firm)

the bidder making this Proposal for the above named project, and that I executed the said proposal with full authority so to do; that said bidder has not, directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named project; and that all statements contained in said proposal and in this affidavit are true and correct, and made with full knowledge that the County of Sussex relies upon the truth of the statements contained in said proposal and in the statements contained in this affidavit in awarding the contract for the said project.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide employees or bona fide established commercial or selling agencies maintained by \_\_\_\_\_  
(name of contractor)

(N.J.S.A. 52:34-25)

Subscribed and sworn to  
before me this \_\_\_\_\_ day  
of \_\_\_\_\_

\_\_\_\_\_  
Signature  
Type or print name of affiant under Signature

Notary public of \_\_\_\_\_  
My Commission expires \_\_\_\_\_

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

CONSENT TO INVESTIGATION

The Respondent hereby gives its consent to The Morris County Improvement Authority ("MCIA") and/or to the County of Sussex, New Jersey (the "County"), or its authorized representatives, to investigate and verify all information contained in the Proposal submitted herewith in response to the Request for Proposals, dated \_\_\_\_\_ 2011, with respect to the provision of Services, including financial and law enforcement information relating to the Respondent. The Respondent agrees that all financial institutions, law enforcement agencies, and regulatory agencies are authorized to release information verifying those representations and/or submissions made by the Respondent. The Respondent further agrees that the MCIA and/or the County and/or its authorized representatives are authorized to inspect all premises and relevant records of the Respondent in order to verify information contained in the Proposal.

The Respondent agrees that a photocopy of this Consent to Investigation may be accepted by any agency or institution in lieu of the original.

Name of Respondent<sup>23</sup>:

Respondent's Address:

By: \_\_\_\_\_  
(Signature)

Name:

Title:

Date:

<sup>23</sup>If a joint venture, partnership or other form of organization is submitting this Proposal, all such firms shall be listed and each such participant shall execute this Form.

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

STATEMENT OF RESPONDENT'S QUALIFICATIONS

(This form must be completed and submitted with Proposal, one form for each entity if a joint proposal or joint venture)

- 1. If firm is a Corporation, list state of incorporation:  
\_\_\_\_\_
- 2. If firm is a Partnership, list names of partners:  
\_\_\_\_\_

All questions must be answered and the data given must be concise, comprehensive and acceptable to the Owner. Attach separate sheets wherever necessary to properly answer questions.

- 1. Firm name.
- 2. Principal address.
- 3. Year firm was organized.
- 4. Where and when incorporated.
- 5. Years of firm's experience in similar contracts.
- 6. List of comparable work completed by firm within the past 3 years and any jobs currently in progress. (note cost for each contract and beginning and completion dates.)
- 7. List default experience on previous contracts, within the past 10 years.
- 8. List present comparable contracts presently underway.
- 9. List of major equipment available for this contract.
- 10. Credit line (substantiated).
- 11. Two (2) years of most recent audited financial statements.

CONTINUATION SHEET  
STATEMENT OF RESPONDENT'S QUALIFICATIONS  
(This form must be completed and submitted with Proposal)

The undersigned hereby authorized any person, firm or corporation to furnish any information requested by the Owner verifying data submitted in the Statement of Qualification.

Date: \_\_\_\_\_  
Respondent

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

STATE OF \_\_\_\_\_

\_\_\_\_\_ being duly sworn, deposes and says that he is \_\_\_\_\_  
of \_\_\_\_\_ and that the answers to the foregoing questions and all statements therein  
contained are true and correct.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public

My commission expires: \_\_\_\_\_

FORM A-10

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

ACKNOWLEDGMENT OF RECEIPT OF ADDENDA

We hereby acknowledge receipt of the Request for Proposals, dated \_\_\_\_\_, 2011, and Addenda Nos. \_\_\_\_\_ through \_\_\_\_\_, inclusive.

[NAME OF RESPONDENT]'

By: \_\_\_\_\_  
(Signature)

Name:

Title:

FORM A-11

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

SEALED PROPOSAL CHECKLIST

*(This form must be submitted with Proposal)*

*Each Respondent is required to complete this check list of all items that are mandatory/required documents to be submitted with this Proposal*

[See Exhibit 2]

<sup>1</sup> If a joint venture, partnership or other formal organization or firm submits this Proposal, all such firms shall be listed and each such participant shall execute this Proposal Form.

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D-A-10-1

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D-A-11-1

FORM A-12

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

AUTHORIZATION FOR BACKGROUND CHECK

[Attach Authority's Form]

APPENDIX E-1

The following Basic Lease Payment schedule assumes (i) the Authority Financing involving all Local Unit Facilities and (ii) a Total Project Cost (and principal amount of the Series 2011 Bonds) of \$50,600,000:

\_\_\_\_\_  
Morris County Improvement Authority  
County of Morris Guaranteed Renewable Energy Program Lease  
Revenue Bonds (County of Sussex Program), Series 2011A & B (Federally Taxable)

See Authority website.

100016570-1

D-A-12-1

100016570-1

E-1

APPENDIX F

[To be supplied to Successful Respondent]

\* Basic Lease Payment Schedule derived from cost will be equal to the debt service payments and amortization schedule for the Series 2011 Bonds and the Series 2012 Notes, once determined. The Series 2011 Bonds are assumed to include normal principal payments on May 1, 2013 through and including May 1, 2017 and semiannual interest payments on May 1st and November 1st of each year, commencing on May 1, 2013 (the May 1, 2012 and November 1, 2012 interest payments will be paid by capitalized interest being funded through the Series 2011B Notes). The Series 2011B Notes are assumed to be issued on or after January of 2013 and will include a single payment of principal and interest on December 1, 2012. The interest rates included in this schedule correspond to the principal payments of the Series 2011 Bonds which are 3-months after each Basic Lease Payment date.

\*\* Basic Lease Payments are due 3 months prior to the payments on the Series 2011 Bonds.

The amortization of the Series 2011 Bonds shall be level principal over the fifteen year PPA unless the Company wishes to repay the principal sooner in accordance with Section 4.1(c)(iv) of the RFP. If the Company wishes to repay the principal sooner, it should provide an alternative Basic Lease Payment Schedule (principal portion required, as the interest portion shall be established by the interest cost of the Series 2011 Bonds) with its proposal submission, as required by Section 5 of Form A-1-a, based on the total principal amount of Series 2011 Bonds set forth in this Exhibit E. Should the actual total principal amount of the Series 2011 Bonds issued be less (more) than the principal portion set forth on this Exhibit E, then the accelerated amortization schedule proposed by the Respondent shall be reduced (increased), on a pro-rata basis for each maturity, to account for the lower (higher) par amount of Series 2011 Bonds actually issued. Such adjusted amortization schedule will be agreed upon by the Authority and the Successful Respondent prior to the sale of the Series 2011 Bonds. Please note, any adjusted amortization schedule may have an impact on the County Deficiency Amount calculation included in Appendix F since such calculation, as included in this RFP, is based on the amortization schedule included above.

**EXHIBIT C**

**[Attach copy of Local Finance Board Findings Resolution]**

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

---

**TITLE:**

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
CONCERNING THE REVIEW OF FINDINGS AND RECOMMENDATIONS OF THE  
LOCAL FINANCE BOARD PURSUANT TO LOCAL AUTHORITIES FISCAL  
CONTROL LAW AND OTHER APPLICABLE LAW, ALL IN CONNECTION WITH  
THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY  
PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES  
2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO  
EXCEED \$50,000,000**

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "*Series 2011B Notes*", and together with the Series 2011A Bonds, the previously defined "*Series 2011 Bonds*"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000;

**WHEREAS**, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

**WHEREAS**, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the "*Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance

with its terms, the "*Company Lease Agreement*") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "*BPU*"), whereby, among other things,

(I) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates

("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution

(collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

**WHEREAS**, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

**WHEREAS**, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent ("*Private Placement Agent*"), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*");
- (b) If the Series 2011 Bonds shall be sold by:
  - (I) Competitive sale, authorize the distribution of a notice of sale ("*Notice of Sale*"), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the "*Underwriter*"), or
  - (II) Negotiated sale, enter into a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds; and
- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*"), and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or

direct purchaser under the private sale methodology in clause (i) above, the "Sale Documents");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13;

**WHEREAS**, the Local Finance Board at a meeting held on August 18, 2011, did issue favorable findings (the "Findings") with respect to the Series 2011 Bonds, the Series 2011 Project and the other matters contemplated herein, a copy of which Findings are attached hereto as Exhibit A; and

**WHEREAS**, N.J.S.A. 40A:5A-7 requires, among other things, that the Commissioners of the Authority, within forty-five (45) days of receipt of the Findings, shall certify to the Local Finance Board by adoption of this resolution and by execution and delivery of that certain group affidavit attached hereto as Exhibit B and incorporated herein as if fully set forth at length (the "Group Affidavit") that such Commissioners have personally reviewed the Findings; and

**WHEREAS**, failure to comply with this requirement may subject the members of the Authority to the penalty provisions of N.J.S.A. 52:27BB-52.

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** Each Commissioner of the Authority, having personally reviewed the Findings, is hereby authorized to execute the Group Affidavit to such effect set forth in Exhibit B attached hereto.

**Section 2.** After execution of the Group Affidavit, the Authority will have complied with the requirements of N.J.S.A. 40A:5A-7 with respect to the Findings; accordingly, the Authority does hereby severally authorize and direct the Secretary of the Authority or Inglesino, Pearlman, Wyciskala & Taylor, LLC, counsel to the Authority, to submit to the Local Finance Board a certified copy of this resolution and such fully authorized and executed Group Affidavit evidencing the Authority's compliance therewith.

**Section 3.** This resolution shall take effect immediately.

**MOVED/SECONDED:**

Resolution moved by Commissioner Roe.

Resolution seconded by Commissioner Sandman.

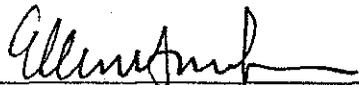
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez	X			
Roe	X			
Sandman	X			
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on October 19, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

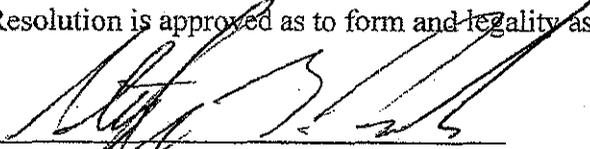
Attested to this 19<sup>th</sup> day of October, 2011

By: 

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of October 19, 2011

By:   
 Stephen B. Pearlman, Esq., Partner  
 Inglesino, Pearlman, Wyciskala & Taylor, LLC  
 Counsel to the Authority

**EXHIBIT A**

**COPY OF LOCAL FINANCE BOARD FINDINGS**



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO Box 803  
TRENTON, NJ 08625-0803

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

LORI GRIFA  
*Commissioner*

**LOCAL FINANCE BOARD  
RESOLUTION**

**WHEREAS**, a proposed project financing has been submitted to the Local Finance Board for review pursuant to N.J.S.A. 40A:5A-6 by the Morris County Improvement Authority; and

**WHEREAS**, the Local Finance Board has held a hearing pursuant to N.J.S.A. 40A:5A-7 on August 18, 2011, to review a proposed project financing in an amount not to exceed \$50,000,000 for the issuance of Guaranteed Renewable Energy Program Lease Revenue Bonds (County of Sussex Program); and

**WHEREAS**, the Local Finance Board has given consideration to those matters, to the extent applicable, as provided for by Law, and has examined estimates, computations or calculations made in connection with such submissions and has required the production of such papers, documents, witnesses or information and taken such action which it has deemed necessary for its review of such submission;

**NOW, THEREFORE, BE IT RESOLVED** that the Local Finance Board does hereby make the following findings:

- a) that the project cost has been determined by reasonable and accepted methods;
- b) that the method proposed for the funding of the project cost, proposed or maximum terms and provision of the financing and of a proposed service contract are not unreasonable nor impracticable, and would not impose an undue and unnecessary financial burden on the local inhabitants within the Authority's jurisdiction or would not materially impair the ability to pay promptly the principal of and the interest on the outstanding indebtedness thereof or to provide essential public services to the inhabitants thereof;
- c) that the proposed or maximum terms and conditions of the sale are, in light of current market conditions for obligations of similar quality, reasonable;

**BE IT FURTHER RESOLVED** that the Local Finance Board does not deem it necessary to make any of the recommendations with regard to this project financing which the Board is authorized to make pursuant to N.J.S.A. 40A:5A-8; and



Local Finance Board  
Morris County Improvement Authority  
August 18, 2011

**BE IT FURTHER RESOLVED** that the Morris County Improvement Authority shall, within 30 days of the closing date of the financing that is the subject of this resolution, file with the Executive Secretary of the Local Finance Board a statement setting forth a complete accounting of the actual issuance costs incurred by the Morris County Improvement Authority in undertaking the financing which statement shall include the following: the name of the Morris County Improvement Authority; the closing date of the financing; the total amount of the financing; the name of the professionals or others who provided services to the Morris County Improvement Authority in undertaking the financing; the estimated dollar amount for each type of issuance cost as set forth in the application submitted by the Morris County Improvement Authority to the Local Finance Board with regard to the financing; and the actual dollar amount for each type of issuance cost incurred by the Morris County Improvement Authority in undertaking the financing; and

**BE IT FURTHER RESOLVED** that the details of the issuance of any permanent bonds associated with this application as included in the term sheet (closing statement) shall be promptly provided to the Executive Secretary by forwarding a copy of said term sheet (closing statement); and

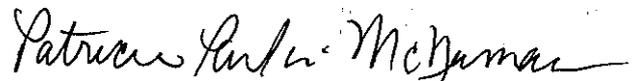
**BE IT FURTHER RESOLVED** that the Executive Secretary of the Local Finance Board is hereby authorized and directed to certify or endorse such documents or instruments as may be necessary, convenient or desirable in order to carry out the purpose and provisions of the Law and this Resolution; and

**BE IT FURTHER RESOLVED** that pursuant to N.J.S.A. 40A:5A-7, the governing body of the Authority shall provide to the Executive Secretary within 45 days of receipt of this resolution, the required Authority resolution and affidavit; and

**BE IT FURTHER RESOLVED** that this Resolution shall take effect immediately.

APPROVED BY:  
THE LOCAL FINANCE BOARD

DATE: August 18, 2011



PATRICIA PARKIN MCNAMARA  
EXECUTIVE SECRETARY  
LOCAL FINANCE BOARD



## State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS

101 SOUTH BROAD STREET

PO Box 803

TRENTON, NJ 08625-0803

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

LORI GRIFA  
*Commissioner*

### LOCAL FINANCE BOARD RESOLUTION

**WHEREAS**, a proposed county guarantee has been submitted to the Local Finance Board for review pursuant to N.J.S.A. 40A:5A-6 by the officials of the Morris County Improvement Authority; and

**WHEREAS**, the Local Finance Board has held a hearing pursuant to N.J.S.A. 40A:5A-7 on August 18, 2011, to review the county guarantee by and between the Morris County Improvement Authority and the County of Sussex in an amount not to exceed \$50,000,000 for the issuance of Guaranteed Renewable Energy Program Lease Revenue Bonds (County of Sussex Program); and

**WHEREAS**, the Local Finance Board has given consideration to those matters, to the extent applicable, as provided for by Law, and has examined estimates, computations or calculations made in connection with such submissions and has required the production of such papers, documents, witnesses or information and taken such action which it has deemed necessary for its review of such submission;

**NOW, THEREFORE, BE IT RESOLVED** that the Local Finance Board does hereby make the following findings:

- a) that the county guarantee has been determined by reasonable and accepted methods;
- b) that the county guarantee is not unreasonable nor impracticable, and would not impose an undue and unnecessary financial burden on the local inhabitants within the Authority's jurisdiction or would not materially impair the ability to pay promptly the principal of and the interest on the outstanding indebtedness thereof or to provide essential public services to the inhabitants thereof;

**BE IT FURTHER RESOLVED** that the Local Finance Board does not deem it necessary to make any of the recommendations with regard to this county guarantee which the Board is authorized to make pursuant to N.J.S.A. 40A:5A-8; and



Local Finance Board  
Morris County Improvement Authority  
August 18, 2011

**BE IT FURTHER RESOLVED** that the Executive Secretary of the Local Finance Board is hereby authorized and directed to certify or endorse such documents or instruments as may be necessary, convenient or desirable in order to carry out the purpose and provisions of the Law and this Resolution; and

**BE IT FURTHER RESOLVED** that pursuant to N.J.S.A. 40A:5A-7, the governing body of the Authority shall provide to the Executive Secretary within 45 days the required resolution and affidavit; and

**BE IT FURTHER RESOLVED** that this Resolution shall take effect immediately.

APPROVED BY:  
THE LOCAL FINANCE BOARD

DATE: August 18, 2011

  
PATRICIA PARKIN MCNAMARA  
EXECUTIVE SECRETARY  
LOCAL FINANCE BOARD

**EXHIBIT B**

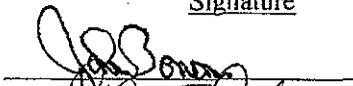
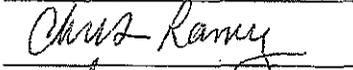
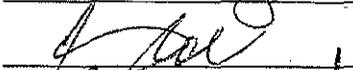
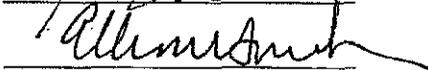
**GROUP AFFIDAVIT**

State of New Jersey :  
County of Morris :

We, the members of **THE MORRIS COUNTY IMPROVEMENT AUTHORITY**, being of full age and being duly sworn according to law, upon our oath depose and say:

1. We, the undersigned, are the duly appointed Commissioners of the Morris County Improvement Authority.

2. We, the undersigned, certify that, pursuant to N.J.S.A. 40A:5A-7, we have personally reviewed the findings and recommendations of the Local Finance Board issued pursuant to a meeting and hearing of the Local Finance Board on August 18, 2011 with respect to the Series 2011 Bonds, the Series 2011 Project and such other matters contemplated by the Authority's resolution adopted October 19, 2011 and entitled, " RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY CONCERNING THE REVIEW OF FINDINGS AND RECOMMENDATIONS OF THE LOCAL FINANCE BOARD PURSUANT TO LOCAL AUTHORITIES FISCAL CONTROL LAW AND OTHER APPLICABLE LAW, ALL IN CONNECTION WITH AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000".

<u>Name</u>	<u>Signature</u>
John Bonanni	
Frank T. Pinto, Jr.	
Christina Ramirez	
Glenn Roe	
Ellen Sandman	

Sworn to and subscribed before me  
this \_\_\_ day of October, 2011.

  
Notary Public  
State of New Jersey

**JANET M. DONALDSON**  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires Aug. 29, 2014

**EXHIBIT D**

**[Attach Letter Transmitting Findings to Local Finance Board]**

INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

ATTORNEYS AT LAW

600 PARSIPPANY ROAD  
PARSIPPANY, NEW JERSEY 07054  
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DEBORAH S. VERDERAME  
Direct: (973) 947-7127  
dverderame@iandplaw.com

December 7, 2011

**Via Federal Express**

Patricia McNamara  
Local Finance  
Dept. of Community Affairs  
101 South Broad St.  
Box 803  
Trenton, NJ 08625

Re: Morris County Improvement Authority's  
County of Sussex Guaranteed Renewable Energy Program  
Lease Revenue Bonds, Series 2011  
in the aggregate principal amount not to exceed \$50,000,000

Dear Ms. McNamara:

On behalf of the Secretary of the Morris County Improvement Authority (the "Authority"), as bond counsel to the Authority and pursuant to N.J.S.A. 40A:5A-7, enclosed please find the following in connection with the above referenced matter:

1. A resolution of the Authority, adopted October 19, 2011, entitled "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY CONCERNING THE REVIEW OF FINDINGS AND RECOMMENDATIONS OF THE LOCAL FINANCE BOARD PURSUANT TO LOCAL AUTHORITIES FISCAL CONTROL LAW AND OTHER APPLICABLE LAW, ALL IN CONNECTION WITH THE AUTHORITY'S 'COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011' IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000"
2. A Group Affidavit of the governing body of the Authority certifying the review of the findings and recommendations of the Local Finance Board, which was executed by all Commissioners in attendance at the October 19, 2011 meeting.

December 7, 2011  
Page 2

Please contact me should you require any further information. Thank you.

Sincerely,

Inglesino, Pearlman,  
Wyciskala & Taylor, LLC

By   
Deborah S. Verderame

Enclosure  
cc: John Bonanni

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

---

*TITLE:*

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
CONCERNING THE REVIEW OF FINDINGS AND RECOMMENDATIONS OF THE  
LOCAL FINANCE BOARD PURSUANT TO LOCAL AUTHORITIES FISCAL  
CONTROL LAW AND OTHER APPLICABLE LAW, ALL IN CONNECTION WITH  
THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY  
PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES  
2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO  
EXCEED \$50,000,000**

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatunny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "*Series 2011B Notes*", and together with the Series 2011A Bonds, the previously defined "*Series 2011 Bonds*"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000;

**WHEREAS**, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

**WHEREAS**, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the "*Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance

with its terms, the "*Company Lease Agreement*") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "*BPU*"), whereby, among other things,

(I) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates

("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "Company Documents");

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution

(collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

WHEREAS, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

WHEREAS, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent ("*Private Placement Agent*"), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*");
- (b) If the Series 2011 Bonds shall be sold by:
  - (I) Competitive sale, authorize the distribution of a notice of sale ("*Notice of Sale*"), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the "*Underwriter*"), or
  - (II) Negotiated sale, enter into a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds; and
- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*"), and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or

direct purchaser under the private sale methodology in clause (i) above, the "Sale Documents");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13;

**WHEREAS**, the Local Finance Board at a meeting held on August 18, 2011, did issue favorable findings (the "Findings") with respect to the Series 2011 Bonds, the Series 2011 Project and the other matters contemplated herein, a copy of which Findings are attached hereto as Exhibit A; and

**WHEREAS**, N.J.S.A. 40A:5A-7 requires, among other things, that the Commissioners of the Authority, within forty-five (45) days of receipt of the Findings, shall certify to the Local Finance Board by adoption of this resolution and by execution and delivery of that certain group affidavit attached hereto as Exhibit B and incorporated herein as if fully set forth at length (the "Group Affidavit") that such Commissioners have personally reviewed the Findings; and

**WHEREAS**, failure to comply with this requirement may subject the members of the Authority to the penalty provisions of N.J.S.A. 52:27BB-52.

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** Each Commissioner of the Authority, having personally reviewed the Findings, is hereby authorized to execute the Group Affidavit to such effect set forth in Exhibit B attached hereto.

**Section 2.** After execution of the Group Affidavit, the Authority will have complied with the requirements of N.J.S.A. 40A:5A-7 with respect to the Findings; accordingly, the Authority does hereby severally authorize and direct the Secretary of the Authority or Inglesino, Pearlman, Wyciskala & Taylor, LLC, counsel to the Authority, to submit to the Local Finance Board a certified copy of this resolution and such fully authorized and executed Group Affidavit evidencing the Authority's compliance therewith.

**Section 3.** This resolution shall take effect immediately.

**MOVED/SECONDED:**

Resolution moved by Commissioner Roe

Resolution seconded by Commissioner Sandman

**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez	X			
Roe	X			
Sandman	X			
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on October 19, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

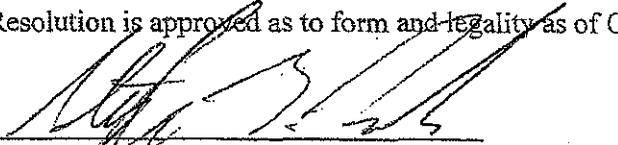
Attested to this 19<sup>th</sup> day of October, 2011

By: 

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of October 19, 2011

By:   
Stephen B. Peariman, Esq., Partner  
Inglesino, Peariman, Wyciskala & Taylor, LLC  
Counsel to the Authority

Resolution #11-47

**EXHIBIT A**

**COPY OF LOCAL FINANCE BOARD FINDINGS**



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO Box 803  
TRENTON, NJ 08625-0803

CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

LORI GRIFA  
Commissioner

LOCAL FINANCE BOARD  
RESOLUTION

**WHEREAS**, a proposed project financing has been submitted to the Local Finance Board for review pursuant to N.J.S.A. 40A:5A-6 by the Morris County Improvement Authority; and

**WHEREAS**, the Local Finance Board has held a hearing pursuant to N.J.S.A. 40A:5A-7 on August 18, 2011, to review a proposed project financing in an amount not to exceed \$50,000,000 for the issuance of Guaranteed Renewable Energy Program Lease Revenue Bonds (County of Sussex Program); and

**WHEREAS**, the Local Finance Board has given consideration to those matters, to the extent applicable, as provided for by Law, and has examined estimates, computations or calculations made in connection with such submissions and has required the production of such papers, documents, witnesses or information and taken such action which it has deemed necessary for its review of such submission;

**NOW, THEREFORE, BE IT RESOLVED** that the Local Finance Board does hereby make the following findings:

- a) that the project cost has been determined by reasonable and accepted methods;
- b) that the method proposed for the funding of the project cost, proposed or maximum terms and provision of the financing and of a proposed service contract are not unreasonable nor impracticable, and would not impose an undue and unnecessary financial burden on the local inhabitants within the Authority's jurisdiction or would not materially impair the ability to pay promptly the principal of and the interest on the outstanding indebtedness thereof or to provide essential public services to the inhabitants thereof;
- c) that the proposed or maximum terms and conditions of the sale are, in light of current market conditions for obligations of similar quality, reasonable;

**BE IT FURTHER RESOLVED** that the Local Finance Board does not deem it necessary to make any of the recommendations with regard to this project financing which the Board is authorized to make pursuant to N.J.S.A. 40A:5A-8; and



Local Finance Board  
Morris County Improvement Authority  
August 18, 2011

**BE IT FURTHER RESOLVED** that the Morris County Improvement Authority shall, within 30 days of the closing date of the financing that is the subject of this resolution, file with the Executive Secretary of the Local Finance Board a statement setting forth a complete accounting of the actual issuance costs incurred by the Morris County Improvement Authority in undertaking the financing which statement shall include the following: the name of the Morris County Improvement Authority; the closing date of the financing; the total amount of the financing; the name of the professionals or others who provided services to the Morris County Improvement Authority in undertaking the financing; the estimated dollar amount for each type of issuance cost as set forth in the application submitted by the Morris County Improvement Authority to the Local Finance Board with regard to the financing; and the actual dollar amount for each type of issuance cost incurred by the Morris County Improvement Authority in undertaking the financing; and

**BE IT FURTHER RESOLVED** that the details of the issuance of any permanent bonds associated with this application as included in the term sheet (closing statement) shall be promptly provided to the Executive Secretary by forwarding a copy of said term sheet (closing statement); and

**BE IT FURTHER RESOLVED** that the Executive Secretary of the Local Finance Board is hereby authorized and directed to certify or endorse such documents or instruments as may be necessary, convenient or desirable in order to carry out the purpose and provisions of the Law and this Resolution; and

**BE IT FURTHER RESOLVED** that pursuant to N.J.S.A. 40A:5A-7, the governing body of the Authority shall provide to the Executive Secretary within 45 days of receipt of this resolution, the required Authority resolution and affidavit; and

**BE IT FURTHER RESOLVED** that this Resolution shall take effect immediately.

APPROVED BY:  
THE LOCAL FINANCE BOARD

DATE: August 18, 2011

  
PATRICIA PARKIN MCNAMARA  
EXECUTIVE SECRETARY  
LOCAL FINANCE BOARD



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO Box 803  
TRENTON, NJ 08625-0803

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

LORI GRIFA  
*Commissioner*

LOCAL FINANCE BOARD  
RESOLUTION

**WHEREAS**, a proposed county guarantee has been submitted to the Local Finance Board for review pursuant to N.J.S.A. 40A:5A-6 by the officials of the Morris County Improvement Authority; and

**WHEREAS**, the Local Finance Board has held a hearing pursuant to N.J.S.A. 40A:5A-7 on August 18, 2011, to review the county guarantee by and between the Morris County Improvement Authority and the County of Sussex in an amount not to exceed \$50,000,000 for the issuance of Guaranteed Renewable Energy Program Lease Revenue Bonds (County of Sussex Program); and

**WHEREAS**, the Local Finance Board has given consideration to those matters, to the extent applicable, as provided for by Law, and has examined estimates, computations or calculations made in connection with such submissions and has required the production of such papers, documents, witnesses or information and taken such action which it has deemed necessary for its review of such submission;

**NOW, THEREFORE, BE IT RESOLVED** that the Local Finance Board does hereby make the following findings:

- a) that the county guarantee has been determined by reasonable and accepted methods;
- b) that the county guarantee is not unreasonable nor impracticable, and would not impose an undue and unnecessary financial burden on the local inhabitants within the Authority's jurisdiction or would not materially impair the ability to pay promptly the principal of and the interest on the outstanding indebtedness thereof or to provide essential public services to the inhabitants thereof;

**BE IT FURTHER RESOLVED** that the Local Finance Board does not deem it necessary to make any of the recommendations with regard to this county guarantee which the Board is authorized to make pursuant to N.J.S.A. 40A:5A-8; and



Local Finance Board  
Morris County Improvement Authority  
August 18, 2011

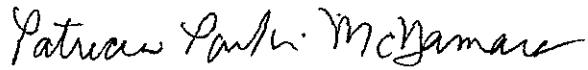
**BE IT FURTHER RESOLVED** that the Executive Secretary of the Local Finance Board is hereby authorized and directed to certify or endorse such documents or instruments as may be necessary, convenient or desirable in order to carry out the purpose and provisions of the Law and this Resolution; and

**BE IT FURTHER RESOLVED** that pursuant to N.J.S.A. 40A:5A-7, the governing body of the Authority shall provide to the Executive Secretary within 45 days the required resolution and affidavit; and

**BE IT FURTHER RESOLVED** that this Resolution shall take effect immediately.

APPROVED BY:  
THE LOCAL FINANCE BOARD

DATE: August 18, 2011

  
PATRICIA PARKIN MCNAMARA  
EXECUTIVE SECRETARY  
LOCAL FINANCE BOARD

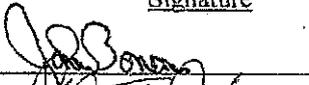
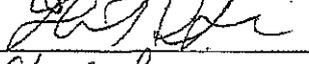
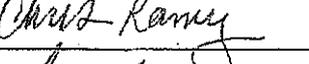
**EXHIBIT B**  
**GROUP AFFIDAVIT**

State of New Jersey :  
County of Morris :

We, the members of **THE MORRIS COUNTY IMPROVEMENT AUTHORITY**, being of full age and being duly sworn according to law, upon our oath depose and say:

1. We, the undersigned, are the duly appointed Commissioners of the Morris County Improvement Authority.

2. We, the undersigned, certify that, pursuant to N.J.S.A. 40A:5A-7, we have personally reviewed the findings and recommendations of the Local Finance Board issued pursuant to a meeting and hearing of the Local Finance Board on August 18, 2011 with respect to the Series 2011 Bonds, the Series 2011 Project and such other matters contemplated by the Authority's resolution adopted October 19, 2011 and entitled, " RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY CONCERNING THE REVIEW OF FINDINGS AND RECOMMENDATIONS OF THE LOCAL FINANCE BOARD PURSUANT TO LOCAL AUTHORITIES FISCAL CONTROL LAW AND OTHER APPLICABLE LAW, ALL IN CONNECTION WITH AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000".

<u>Name</u>	<u>Signature</u>
John Bonanni	
Frank T. Pinto, Jr.	
Christina Ramirez	
Glenn Roe	
Ellen Sandman	

Sworn to and subscribed before me  
this \_\_\_\_ day of October, 2011.

  
Notary Public  
State of New Jersey

**JANET M. DONALDSON**  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires Aug. 29, 2014

## CERTIFICATE OF AUTHORITY AS TO SIGNATURES AND NO LITIGATION

We, the undersigned officers of The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A.* 40:37A-44 *et seq.*, the "*Act*") and other applicable law, and in connection with the issuance this day by the Authority of its \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*"), **DO HEREBY CERTIFY** on behalf of the Authority as follows:

1. At the time of such signing and execution and on the date hereof, we were and are the duly chosen, qualified and acting officers of the Authority who are authorized to execute the Series 2011 Bonds, and are holding the respective offices indicated by our official titles on the signature page below.

2. As of the date hereof, (a) no litigation of any nature is now pending or, to the best of our knowledge, threatened (i) restraining or enjoining the issuance, sale or delivery of the Series 2011 Bonds, (ii) in any manner contesting or affecting the authority for the issuance of the Series 2011 Bonds, the authorization, execution, delivery, or performance of any of the resolutions adopted by the Authority, the "Bond Purchase Agreement" dated December 7, 2011 (the "*Purchase Agreement*") among the Authority, RBC Capital Markets LLC, as underwriter relating to the Series 2011 Bonds, and SunLight General Sussex Solar, LLC (the "*Company*") and the other Authority Financing Documents (as defined in the Purchase Agreement), or any other documents that have been executed by the Authority or any proceedings of the Authority, any of which have been taken in connection with the issuance of the Series 2011 Bonds, or (iii) in any manner contesting the validity of the Series 2011 Bonds, (b) neither the corporate existence of the Authority nor the title of any of the present officers thereof to their respective offices is being contested, and (c) no authority or proceedings for the issuance of the Series 2011 Bonds has or have been repealed, revoked or rescinded.

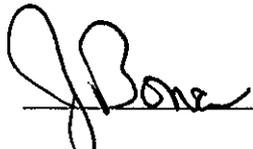
3. The seal impressed upon this certificate has been affixed, imprinted or reproduced upon the Series 2011 Bonds, and such seal is the legally adopted, proper and only official corporate seal of the Authority.

**[Remainder of this page intentionally left blank.]**

4. The Authority Financing Documents and all other documents to be executed in connection with the issuance of the Series 2011 Bonds have been executed by the undersigned holding the offices set opposite such names, and the signatures appurtenant thereto are the true and genuine specimen signatures of the undersigned.

[SEAL]

**IN WITNESS WHEREOF**, we have hereunto set our hands on behalf of the Authority, and the corporate seal of the Authority has hereunto been affixed, this 14th day of December, 2011.

<u>Signature</u>	<u>Name</u>	<u>Official Title</u>
	John Bonanni	Chairman
	Ellen M. Sandman	Secretary

**I HEREBY CERTIFY** that the signatures of the officers of the Authority that appear above are true and genuine, I know said officers, and know them to hold the respective offices set opposite their several signatures.

  
Stephen B. Pearlman, Esquire  
Inglesino, Pearlman, Wyciskala &  
Taylor, LLC  
Bond Counsel to the Authority

Dated: December 14, 2011

## CERTIFICATE OF AUTHORITY REGARDING AUTHORIZING RESOLUTIONS

I, ELLEN M. SANDMAN, Secretary of The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A.* 40:37A-44 *et seq.*, the "*Act*") and other applicable law, and in connection with the issuance this day by the Authority of its \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds"), **DO HEREBY CERTIFY** on behalf of the Authority as follows:

1. On October 19, 2011, the Authority adopted resolution number 11-37 entitled "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE EXECUTION OF A CONTRACT FOR GENERAL, BOND AND SPECIAL ENERGY COUNSEL SERVICES" (the "*Special Counsel Authorization Resolution*") a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Authority at a meeting duly called and held on October 19, 2011, and at which a quorum existed and acted throughout.

2. On February 28, 2011, the Authority adopted resolution number 11-08 entitled "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT WITH THE SUSSEX COUNTY AND CERTAIN OTHER MATTERS ALL IN CONNECTION WITH ESTABLISHING THE SUSSEX COUNTY RENEWABLE ENERGY PROGRAM" (the "*Shared Services Authorization Resolution*") a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the Authority at a meeting duly called and held on February 28, 2011, and at which a quorum existed and acted throughout.

3. As of the date hereof, the Special Counsel Authorization Resolution and the Shared Services Authorizing Resolution set forth above and attached hereto, have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Authority this 14th day of December, 2011.

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By:   
**Ellen M. Sandman**  
**Secretary**

**EXHIBIT A**

**[Attach Special Energy Counsel Authorization Resolution]**

RESOLUTION NO. 11-37

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

---

*TITLE:*

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
AUTHORIZING THE EXECUTION OF A CONTRACT FOR GENERAL, BOND  
AND SPECIAL ENERGY COUNSEL SERVICES**

**WHEREAS**, the Morris County Improvement Authority (the "Authority") has been duly created by resolution of the County of Morris (the "County"), State of New Jersey (the "State") and exists in good standing as a public body corporate and politic under and pursuant to all applicable law, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, as amended from time to time (codified at N.J.S.A. 40:37A-44 et seq., the "Act");

**WHEREAS**, in order to carry out the operations of the Authority, including without limitation the negotiation, sale and issuance of bonds, notes or other obligations of the Authority to finance projects permitted under the Act, the Authority needed to contract for the services of a general counsel, bond counsel and special energy counsel (the "Legal Counsel");

**WHEREAS**, as of January 1, 2006, N.J.S.A. 19:44A-20.1 et seq., commonly known as the "State Pay to Play" law, enacted by the New Jersey State Legislature shall become effective;

**WHEREAS**, pursuant to N.J.S.A. 19:44A-20.1 et seq., an authority may not award contracts with a value in excess of \$17,500.00 to a business entity which has made reportable contributions in excess of \$300.00, in the aggregate, to the member municipality's political parties or to any candidate's committee of any person serving in an elective public office of the member municipality when such contract was awarded, unless said business entity is awarded a contract under a "fair and open process" pursuant to N.J.S.A. 19:44A-20.1 et seq.; and

**WHEREAS**, a "fair and open process" constitutes the following: (1) public advertisement on the Authority's website or in the newspaper of a Request for Qualifications (hereinafter the "RFQ") with ten (10) calendar days notice prior to the receipt of responses to the RFQ; (2) award of contract under a process that provides for public solicitation of qualifications; (3) award of contract under publicly disclosed criteria established, in writing, by the municipality prior to the solicitation of qualifications; and (4) the Authority shall publicly open and announce the qualifications when awarded (the "Fair and Open Process");

**WHEREAS**, on September 16, 2011, a date ten days prior to the deadline for the Legal Counsel RFQ (the "RFQ Deadline") the Authority posted invitations to submit proposals for Legal Counsel services on its website (the "RFQ Request");

**WHEREAS**, on September 16, 2011 the responses to the RFQ Request were publicly read pursuant to the Fair and Open Process;

**WHEREAS**, the Authority desires to appoint Inglesino, Pearlman, Wyciskala & Taylor, LLC pursuant to a "fair and open process" pursuant to N.J.S.A. 19:44A-20.1 et seq. as General, Bond and Special Energy Counsel for a period of one (1) year;

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The Authority hereby appoints the following firm to perform the following services for the Authority for a one year period commencing October 19, 2011:

a. General Counsel:

Inglesino, Pearlman Wyciskala & Taylor  
600 Parsippany Road  
Parsippany, New Jersey 07054  
Contact: Stephen B. Pearlman, Esq.

b. Bond Counsel:

Inglesino, Pearlman Wyciskala & Taylor  
600 Parsippany Road  
Parsippany, New Jersey 07054  
Contact: Stephen B. Pearlman, Esq.

c. Special Energy Counsel:

Inglesino, Pearlman Wyciskala & Taylor  
600 Parsippany Road  
Parsippany, New Jersey 07054  
Contact: Stephen B. Pearlman, Esq.

**Section 2.** The Chairperson is hereby authorized and directed to execute a contract with Inglesino, Pearlman, Wyciskala & Taylor, LLC in the form attached hereto as Exhibit A, provided that the Chairperson take all actions necessary for such contracts

**Section 4.** This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

***MOVED/SECONDED:***

Resolution moved by Commissioner Sandman.

Resolution seconded by Commissioner Ramirez.

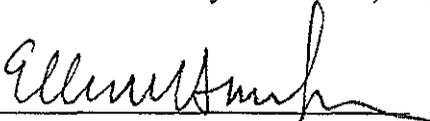
***VOTE:***

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez	X			
Roe	X			
Sandman	X			
Bonanni	X			

***ATTESTATION:***

This Resolution was acted upon at the Regular Meeting of the Authority held on October 19, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

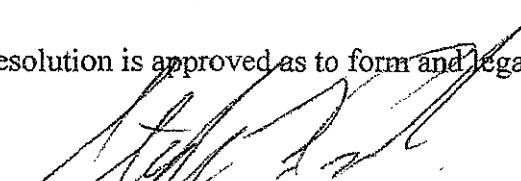
Attested to this 19th day of October, 2011

By: 

Secretary of the Authority

***FORM and LEGALITY:***

This Resolution is approved as to form and legality as of October 19, 2011

By:   
 Stephen B. Pearlman, Esq., Partner  
 Inglesino, Pearlman, Wyciskala & Taylor, LLC  
 Counsel to the Authority

**Exhibit A**  
**Professional Services Agreement**

**PROFESSIONAL SERVICES AGREEMENT**

between

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

and

**INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC**

This **PROFESSIONAL SERVICES AGREEMENT** made as of October 19, 2011, by and between the Morris County Improvement Authority, a public body politic and corporate created by the County of Morris (the "County") in the State of New Jersey (the "State") by resolution of the County's Board of Chosen Freeholders (the "Freeholder Board") adopted under and pursuant to the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State (codified at N.J.S.A. 40:37A-44 et seq., and as the same may be amended and supplemented from time to time, the "Act") and all other applicable law, having its principal corporate office at Administration & Records Building, P.O. Box 900, Morristown, New Jersey 07960-0900 (the "Authority") and Inglesino, Pearlman, Wyciskala & Taylor, LLC, having an office at 600 Parsippany Road, Parsippany, New Jersey 07054 ("IPWT").

**WITNESSETH**

**WHEREAS**, the Authority is in need of certain (i) general counsel services ("General Counsel") with respect to the daily management and operations of the Authority, (ii) bond counsel services ("Bond Counsel") with respect to the issuance and administration of bonds, notes or other obligations of the Authority (collectively, "Bonds"), and (iii) special energy program counsel services ("Special Energy Program Counsel" and together with General Counsel and Bond Counsel, "Counsel") with respect to the development, structuring and

implementation of the Authority's renewable energy program (the "Renewable Energy Program"); and

**WHEREAS**, IPWT possesses the experience necessary to perform the required Counsel services, and the Authority desires to retain IPWT as Counsel to perform such services, subject to the terms and conditions set forth herein; and

**WHEREAS**, this Professional Services Agreement is authorized to be entered into by the Authority without public advertising or bidding therefor pursuant to the provisions of the New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-5 (1)(a)(i);

**WHEREAS**, this Professional Services Agreement is subject to the "New Jersey Local Unit Pay-to-Play" Law, N.J.S.A. 19:44A-20.1 et seq. and, therefore, the Authority has established a competitive process (the "RFQ") to assure that all persons and/or firms are provided an equal opportunity to submit a qualification statement in response to the RFQ;

**WHEREAS**, Inglesino, Pearlman, Wyciskala & Taylor, LLC was selected as the successful respondent after review of all qualification statements submitted in connection with the RFQ.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

**Section 1. Retention of Counsel.**

The Authority hereby retains IPWT to serve as Counsel and IPWT hereby agrees to be retained by the Authority to furnish the services set forth in Paragraph 2 hereof in accordance with the terms set forth herein.

**Section 2. Services.**

The services to be performed by IPWT that are the subject of this Agreement are as follows:

(a) *General Counsel.* Those legal services (“General Counsel Services”) required by the Authority in connection with the daily operation and management of the Authority, exclusive of Bond Counsel Services (as hereinafter defined) and exclusive of Special Energy Counsel Services (as hereinafter defined); shall consist of those general legal services customarily provided by a General Counsel to a governmental entity of the size and scope commensurate with that of the Authority (except those related to Bond Counsel Services or Special Energy Counsel Services), including but not limited to:

- (i) Advice, preparation and assistance with respect to the budget of the Authority;
- (ii) Advice, preparation and assistance with respect to the By-Laws of the Authority;
- (iii) Advice, preparation and assistance with respect to resolutions of the Authority;
- (iv) Advice, preparation and assistance with respect to the minutes and the executive session minutes of meetings of the Authority;
- (v) Advice and assistance at meetings of the Authority, whether regular or special meetings of the Authority Board, or meetings called by a Member of the Authority Board or any Authority staff or officer;
- (vi) Advice, preparation and assistance with respect to publications of the Authority;

(vii) Advice, research and assistance with respect to the Act, all other applicable law, including compliance therewith and regulations promulgated thereunder, and including conflicts of Authority Board members or other officers or personnel or otherwise affecting the Authority, and including, where necessary, the issuance of legal opinions;

(viii) Advice and assistance with respect to projects undertaken by the Authority, if any; and

(ix) Advice, preparation and assistance with respect to the payment of bills or other obligations of the Authority, or the receipt of grants or other funds of the Authority.

(b) *Bond Counsel.* Those legal services (“Bond Counsel Services”) required by the Authority in connection with its negotiation, issuance and/or administration of Bonds, and shall consist of those legal services customarily provided by a Bond Counsel to a governmental entity of the size and scope commensurate with that of the Authority, including but not limited to:

(i) Advice and assistance with respect to Bond financings and other financial issues contemplated by the Authority;

(ii) Assistance in determining the amount, size and timing of Bonds contemplated by the Authority for its own requirements, if any, and as a conduit for other borrowers;

(iii) Assistance in formulating the credit structure, maturity schedule, call provisions and other terms and condition of Bonds;

(iv) Assistance in deciding whether each Bond issue can and/or should be sold on a negotiated, competitive, or private placement basis;

(v) Preparation of necessary legal documents concerning Bonds;

(vi) Examination of various Bond financing alternatives, including variable rate debt, interest rate swaps and other derivative products (if and when they become authorized under applicable State statute);

(vii) Assistance in the preparation of preliminary and final official statements or other marketing materials for Bonds, including review of demographic data and financial statistics included therein;

(viii) Preparation of Local Finance Board applications for financings and presentation of such applications to the Board of the Authority;

(ix) Assistance in the preparation and presentation of timely and adequate information on proposed Bond financings to the bond rating agencies to obtain the most favorable rating for each financing; to include assistance in maintaining a regular relationship between the Authority and the rating agencies for purposes of improving the process of obtaining ratings;

(x) Assistance in the evaluation of the terms of Bond financings, and recommendations to the Authority for acceptance, rejection or renegotiation with respect to sale bids or final pricing as applicable;

(xi) Assistance in such matters as Bond registration, printing, investment of proceeds and other matters related to the settlement and delivery of Bonds;

(xii) Assistance in the preparation and presentation of timely and adequate information on proposed Bond financings to institutions providing credit enhancement;

(xiii) Review of the issues involved in utilizing credit enhancement to lower debt service costs of Bonds;

(xiv) Attendance at meetings of the Authority, its staff if any, and with prospective conduit beneficiaries of Authority Bonds or programs on a periodic basis to discuss upcoming Bond financings and assist in development and implementation of new financing Bond issues or programs, provided, however, that unless such meeting or portion thereof is specifically delineated by the Chairperson or other Authority Board member as one involving Bond Counsel services, such services shall be deemed to be compensated as General Counsel services or Special Energy Counsel services, as applicable;

(xv) Assistance in the development of a comprehensive arbitrage rebate, planning and filing program for Bonds of the Authority, and all other tax-exemption related services applicable to Bonds;

(xvi) Review of the quality of the security proposed for each Bond financing;

(xvii) Assistance in the preparation and review of reports of accountants, engineers and other consultants to ensure that such reports adequately address technical, economic and financial risk factors affecting the legality and/or marketability of proposed Bond issues;

(xviii) Assistance in the coordination of the activities of professionals on the financing team for a Bond transaction, including preparation of schedules;

(xix) Assistance in the selection of and negotiation with investment banks as to the terms of any agreement for provision of underwriting services in connection with the purchase and sale of Bonds;

(xx) Assistance in the selection of and negotiation with other professionals whose services are needed in connection with any Bond issues; and

(xi) Provision of legal assistance including but not limited to interpretation of statutes, regulations, agreements and other documents, and the issuance of legal opinions as required by the Authority in the discharge of its responsibilities for implementation or administration of its Bond issues.

(c) *Special Energy Program Counsel.* Those legal services (“Special Energy Program Counsel Services” and together with General Counsel Services and Bond Counsel Services, “Counsel Services” or “Services”) required by the Authority in connection with its development, implementation and structuring of the Renewable Energy Program, excluding the negotiation, issuance and/or administration of Bonds in connection therewith (the “Renewable Energy Program Bonds”), which shall be deemed Bond Counsel Services, and which Special Energy Program Counsel services shall consist of those legal services customarily provided by a Counsel to a governmental entity of the size and scope commensurate with that of the Authority, including but not limited to:

(i) Advice and assistance with respect to the development, structuring and implementation of the Authority’s Renewable Energy Program, including all

actions in connection with the improvement or expansion of the Renewable Energy Program as the Authority may desire from time to time;

(ii) Advice and assistance with the selection and participation of the Renewable Energy Program participants, including the municipal, school district, county and local authority participants, the power purchase agreement providers, the installers, operators and maintainers of any renewable energy system, the renewable energy consultants, and any other working group member, or the negotiation of any documents therewith arising therefrom;

(iii) Advice and assistance with the financial, environmental and applicable local and state law components and impacts regarding the Renewable Energy Program, including the federal income tax, state regulatory and other impacts; and

(iv) Advice and assistance with the interests or application of laws, rules or regulations of any governmental stakeholder, including the Department of Community Affairs, the Board of Public Utilities, the Department of Education, or otherwise, or the negotiation of any documents therewith arising therefrom.

**Section 3. Term.** This Agreement shall be in force and effect for a period commencing October 19, 2011, and ending on the earlier of (a) October 18, 2012 or (b) such date as an authorized officer of the Authority shall execute an agreement with IPWT amending, supplementing or extending this Agreement.

**Section 4. Compensation.**

(a) IPWT shall be paid for General Counsel Services on an hourly rate basis, payable monthly on the basis of a detailed invoice outlining the services rendered, the person(s)

rendering each service, the time required for each task and the applicable rate for each person, up to the maximum rate of \$120 per hour, as such rate may be adjusted from time to time by resolution of the Authority Board. All time shall be calculated on the basis of increments of one-tenth of an hour. The invoice shall also include all reimbursable out of pocket expenses incurred, calculated without markup or overhead charges, and substantiated to the reasonable satisfaction of the Authority.

(b) IPWT shall be paid for Bond Counsel Services on a per Bond transaction basis, payable at or around the closing of the Bond transaction based on a fee agreed to by Bond Counsel and the Authority as early in the process of the Bond transaction as possible and practical (e.g., once the size, structure and scope of the Bond transaction have been formulated) and approved by a majority vote of the Authority Board. This fee shall be a capped or not to exceed fee based on all factors involving Bond Counsel services, including without limitation, the amount of work necessary to bring the Bond transaction to a successful closing based on the principal amount of the proposed Bonds, the risk involved in the Bond transaction, legal, financial or otherwise, the recoupment of program development costs, and an estimated amount for out of pocket disbursements calculated as set forth above for General Counsel Services. The actual fee paid to IPWT shall only be increased beyond the capped fee to another higher agreed upon fee by the Authority for unforeseen or other extraordinary reasons, as the Authority, in its sole discretion, may determine to warrant a higher capped fee. To the greatest extent possible, fees for Bond Counsel services shall be paid from the proceeds of Bond transactions. To the extent Bond transactions do not close, regardless of the reason, the Bond Counsel services shall be reimbursed at the maximum rate of \$120 per hour, calculated on the basis of increments of

one-tenth of an hour, plus reasonable out of pocket disbursements and expenses calculated in accordance with the payment of General Counsel Services set forth above.

(c) IPWT shall be paid for Special Energy Program Counsel Services in connection with the structuring, development and implementation of the Renewable Energy Program, on an hourly rate basis, payable monthly on the basis of a detailed invoice outlining the services rendered, the person(s) rendering each service, the time required for each task and the applicable rate for each person, up to the maximum rate of \$225 per hour, as such rate may be adjusted from time to time by resolution of the Authority Board. All time shall be calculated on the basis of increments of one-tenth of an hour. The invoice shall also include all reimbursable out of pocket expenses incurred, calculated without markup or overhead charges, and substantiated to the reasonable satisfaction of the Authority. IPWT and the Authority hereby agree that together with all other soft costs of the Renewable Energy Program, Special Energy Program Counsel Services payable to IPWT shall not exceed the greater of any available amounts so appropriated by the Authority, at the Authority's sole discretion.

(d) IPWT shall be reimbursed for Services performed by partners, associates and paralegals of IPWT, but shall not be reimbursed for any Services performed by secretaries or other office personnel. For partners, associates and paralegals performing Services to be paid at hourly rates in accordance herewith, IPWT shall be paid for such Services at such persons' standard hourly rates, up to the maximum rates set forth in this Agreement. IPWT shall supply the Authority with a schedule of such standard rates upon request of the Authority.

**Section 5. Subcontracts.** Counsel may not perform any portion of its Services through the use of special counsel, consultants and the like ("Subcontractors") without the prior written consent of the Authority.

**Section 6. Indemnification.** Counsel shall indemnify and hold harmless the Authority, its officers, directors, agents and servants from and against any and all claims, demands, suits, damages, recoveries, settlements, actions, costs, counsel fees, expenses, judgements or decrees arising from or as a result of negligent acts and/or omissions of Counsel, its agents, servants, independent contractors or Subcontractors.

**Section 7. Professional Liability Insurance.** Counsel shall secure and maintain, during the term of this Agreement, professional liability insurance against any claims for damages arising out of the improper discharge of its professional responsibilities in the minimum amount of three million dollars (\$3,000,000) per occurrence with a self-retention of not more than one million dollars (\$1,000,000) per occurrence.

**Section 8. Non-Discrimination and Affirmative Action.** Counsel shall comply with the requirements of all applicable statutes, laws and regulations regarding non-discrimination and affirmative action in the employment of workers, and in particular, with the provisions of New Jersey P.L. 1975, c. 127. (N.J.A.C. 17:27), including the following: (In this Section 8 the term "Contractor" refers to Counsel):

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising;

layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause;

The contractor or subcontractor, where applicable, will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation;

The contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and what it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing,

as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading, and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor or its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17:27).

**Section 9. Books and Records.** Counsel agrees to maintain proper books and records of its activities hereunder in a manner consistent with the ethical standards of the legal profession and the general practice of major law firms in the State. Such records should reflect all of the legal services and financial transactions hereunder of Counsel. The books and records shall be available for inspection by the Authority upon notice, for audit at the request of the Authority, and shall be maintained for the term of this Agreement.

**Section 10. Assignment.** Counsel shall not assign, transfer, convey or otherwise dispose of this Agreement or of any of its rights, obligations or duties hereunder, either in whole or in part, without the prior written consent of the Authority.

**Section 11. Assistance to Authority.** Counsel agrees that it will cooperate fully with the Authority in rendering such assistance as may be requested by the Authority in defense of any claim or other action brought against the Authority arising out of any Service provided hereunder.

**Section 12. Confidentiality.** All information obtained, learned, developed or filed in connection with its Services hereunder, including data contained in official files or records, shall be kept confidential by Counsel and shall not be disclosed to any third party except with the prior written consent of the Authority, or as authorized or required by law. All reports, information or data, furnished to or prepared, assembled or used by Counsel under this Agreement shall be kept confidential by Counsel, and shall not be published or made available to any person or party without the prior written consent of the Authority or as authorized or required by law.

**Section 13. Governing Law; Severability.** This Agreement shall be governed by and interpreted under the laws of the State, and to the extent any provision hereof shall be invalidated by a final court of competent jurisdiction, the remainder of this Agreement shall continue in full force and effect, unaffected by any such result.

**Section 14. No Claim Against Authority.** No claim whatsoever shall be made by Counsel against any Authority Board member, officer, agent, or employee of the Authority for, or on account of, anything done or omitted to be done by them or any of them in connection with this Agreement.

**Section 15. Amendment.** This Agreement may be supplemented or amended only by a written instrument signed by the parties hereto.

**Section 16. No Removal of Records from Premises Without Approval.** Where performance of this Agreement involves use by Counsel of public papers, files, data or records located at the Authority facilities or offices, Counsel shall not remove any such papers, files, data or records therefrom without the prior approval of the Authority.

**Section 17. Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original.

**IN WITNESS WHEREOF,** the parties have executed this Agreement as of the date hereinabove set forth.

**THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY**

By: \_\_\_\_\_  
**John Bonnani**  
**Chairperson**

**INGLESINO, PEARLMAN, WYCISKALA &  
TAYLOR, LLC**

By: \_\_\_\_\_  
**Stephen B. Pearlman**  
**Partner**

**EXHIBIT B**

**[Attach Bond Counsel Authorization Resolution]**

RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY

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***TITLE:***

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT  
WITH SUSSEX COUNTY AND CERTAIN OTHER MATTERS ALL IN  
CONNECTION WITH ESTABLISHING THE SUSSEX COUNTY RENEWABLE  
ENERGY PROGRAM**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State ("*Sussex County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of Sussex County and its affiliates, and the local governmental units within Sussex County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including Sussex County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, Sussex County has not created its own county improvement authority, and therefore pursuant to the Act, Sussex County may determine to utilize the services of another county improvement authority, including without

limitation the Authority, with the consent of both Sussex County, a beneficiary county under the Act, and Morris County, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, Sussex County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement shall be set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" to be entered into by Sussex County and the Authority (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*"), partially due to the fact that Sussex County does not have a county improvement authority and further, because Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (the "*Authority Consultants*") with respect to the myriad of issues involved in these programs;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, Sussex County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the

"Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning; and

**WHEREAS**, the Authority, together with the Consultants, shall solicit interest, through community outreach meetings with Local Units for participation in the Renewable Energy Program ("*Phase I*") and deliver to Sussex County a report detailing the results of their outreach meetings including without limitation, the size and scope of the proposed Renewable Energy Program (the "*Phase I Report*");

**WHEREAS**, Sussex County shall review the Phase I Report and if Sussex County determines to proceed with implementing the Renewable Energy Program ("*Phase II*"), evidence Sussex County's interest in proceeding with Phase II by executing and delivering to the Authority a certificate of an Authorized Officer (as defined in the Service Agreement) authorizing the Authority, its Authority Consultants, and if applicable the Sussex County Consultants to implement Phase II on behalf of Sussex County and the Local Units;

**WHEREAS**, Sussex County shall be responsible for all Consultant's fees in connection with Phase I in an amount not to exceed the amount set forth in Section 2 of the Service Agreement, upon an appropriation of Sussex County Funds in accordance with the terms of the Service Agreement, and, upon receipt of the certificate of a an Authorized Officer directing the Authority and its consultants to proceed with Phase II, Sussex County shall be responsible for all fees in connection with Phase II in accordance with the Authority Consultants' professional services agreements on file with the Authority;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no scheduled net cost to the Local Units.

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** Phase I of the Renewable Energy Program is hereby approved, and the Chairperson, Vice-Chairperson and the Treasurer of the Authority (including their designees, each an "*Authorized Officer*") along with the Authority Consultants are hereby authorized to implement Phase I of the Renewable Energy Program in accordance with the terms of the Service Agreement.

**Section 2.** The Authority Consultants are hereby authorized to submit invoices directly to Sussex County for their Authority Consultant fees in connection with Phase I in an amount not to exceed the amount set forth in Section 2 of the Service

Agreement, upon an appropriation of Sussex County Funds in accordance with the terms of the Service Agreement, and with respect to the Authority Consultants, all in accordance with their respective professional services agreements on file with the Authority.

**Section 3.** The Authorized Officers are each hereby severally authorized and directed to execute and deliver the Service Agreement with Sussex County in connection with the Renewable Energy Program, in the form attached hereto as **Exhibit A** with such changes thereto as the Authorized Officer, after consultation with the Consultants, determine to be in the best interests of the Authority, and take all such further actions in accordance with all applicable law, including without limitation the execution of such other certificates, instruments or documents, as any such Authorized Officer, in consultation with the Consultants, shall deem necessary, convenient or desirable by any such Authorized Officer to implement the Service Agreement.

**Section 4.** The Secretary or Assistant Secretary of the Authority are hereby authorized and directed, where required, to affix the corporate seal of the Authority and to attest to the signature of the Authorized Officer on the Service Agreement, including such other certificates, instruments or documents contemplated herein. Thereafter the Authorized Officer is hereby authorized and directed to deliver any such fully authorized, executed, delivered, and if applicable, attested and sealed certificates, instruments and documents to any interested party.

**Section 5.** All actions taken to date by the Authority and the Authority Consultants in connection with the Renewable Energy Program are hereby ratified, confirmed and approved.

**Section 6.** In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Morris County Board of Freeholders and the Sussex County Board of Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerks of the Morris County Board of Freeholders and Sussex County Board of Freeholders a certification from the respective Clerks stating that the minutes of this meeting have not been vetoed by the Director of the Morris County Board of Freeholders or the Sussex County Board of Freeholders, as applicable.

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**Section 7.** This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

**MOVED/SECONDED:**

Resolution moved by Commissioner Roe.

Resolution seconded by Commissioner Pinto.

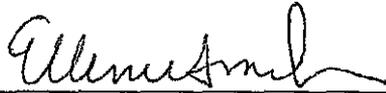
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez	X			
Roe	X			
Sandman	X			
Bonanmi	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on February 28, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

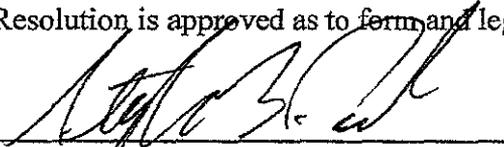
Attested to this 28th day of February, 2011

By: 

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of February 28, 2011.

By:   
 Stephen B. Pearlman, Esq., Partner  
 Inglesino, Pearlman, Wyciskala & Taylor, LLC  
 Counsel to the Authority

**EXHIBIT A**

**[Attach Form of Shared Services Agreement]**

**SERVICE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM)**

**By and Between**

**COUNTY OF SUSSEX, NEW JERSEY**

**and**

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

Dated as of March 1; 2011

This **SERVICE AGREEMENT (SUSSEX COUNTY RENEWABLE ENERGY PROGRAM)** (as the same may be amended and supplemented from time to time in accordance with its terms, and as further described in the preambles below, the "*Service Agreement*") is made and entered into as of March 1, 2011, by and between the **COUNTY OF SUSSEX, NEW JERSEY** ("*Sussex County*"), a political subdivision of the State of New Jersey (the "*State*"), with its principal corporate offices located at Sussex County Administrative Center, One Spring Street, Newton, New Jersey 07860, and **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the "*Authority*"), a public body corporate and politic of the State with its principal corporate offices located at Administration and Records Building, Morristown, New Jersey 07960, wherein it is agreed between the parties as follows:

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**WHEREAS**, the Authority has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, Sussex County desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of Sussex County and its affiliates, and the local governmental units within Sussex County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including Sussex County, the "*Local Units*");

**WHEREAS**, as of the date hereof, Sussex County has not created its own county improvement authority, and therefore pursuant to the Act, Sussex County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both Sussex County, a beneficiary county under the Act, and Morris County, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, Sussex County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the “*Shared Services Act*”), and all other applicable law, the terms of which agreement shall be set forth in this Service Agreement, partially due to the fact that Sussex County does not have a county improvement authority and further, because Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority’s energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (the “*Authority Consultants*”) with respect to the myriad of issues involved in these programs;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the “*Sussex County Consultants*”, if any, and together with the Authority Consultants, the “*Consultants*”; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, Sussex County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the “*Local Unit Facilities*”);

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no scheduled net cost to the Local Units;

**WHEREAS**, Sussex County shall provide financing in order to pay for the Consultants, which team shall be charged with developing and implementing the Renewable Energy Program for Sussex County in accordance with the terms set forth in the Service Agreement;

**WHEREAS**, any funds to be so provided by Sussex County is intended to be repaid with funds raised by the Authority through the issuance of permanent bonds of the Authority under the Renewable Energy Program, including without limitation the hereinafter defined Series 2011 Bonds, and toward that end, prior to the issuance of the Series 2011 Bonds, Sussex County shall either (i) adopt a bond ordinance (the "*Sussex County Bond Ordinance*") authorizing the issuance by Sussex County of a note or notes of Sussex County (the "*Sussex County Notes*") in an amount sufficient to pay all of the preliminary Consultant costs of the Renewable Energy Program necessary, desirable or convenient for the development and implementation of the Renewable Energy Program prior to the issuance of the Series 2011 Bonds (the "*Preliminary Program Costs*") or (ii) notify the Authority that Sussex County has sufficient funds on hand to pay the Authority Consultants for all Preliminary Program Costs prior to the issuance of the Series 2011 Bonds;

**WHEREAS**, the Authority, together with the Consultants, shall solicit interest, through community outreach meetings with Local Units for participation in the Renewable Energy Program ("Phase I") and deliver to Sussex County a report detailing the results of their outreach meetings including, the size and scope of the proposed Renewable Energy Program (the "*Phase I Report*");

**WHEREAS**, Sussex County shall review the Phase I Report and if Sussex County determines to proceed with implementing the Renewable Energy Program ("*Phase II*"), evidence Sussex County's interest in proceeding with Phase II by executing and delivering to the Authority a certificate of an Authorized Officer (as defined herein) authorizing the Authority, its Authority Consultants, and if applicable the Sussex County Consultants to implement Phase II on behalf of Sussex County and the Local Units;

**WHEREAS**, the terms and conditions of (i) Sussex County's initial funding of the Renewable Energy Program with a portion of the proceeds of the Sussex County Notes or from funds on hand, (ii) the disbursement of such funds for Renewable Energy Preliminary Program costs, (iii) the return of the funds to Sussex County upon the issuance of the Series 2011 Bonds, (iv) the financial protection to be afforded Sussex County from any potential draw under its hereinafter defined Sussex County Guaranty of the Series 2011 Bonds necessary for the financial success of the Renewable Energy Program, and (v) certain other related Renewable Energy Program issues shall be set forth in this Service Agreement by and between the Authority and Sussex County and acknowledge by Morris County, all pursuant to Section 36 of the Act (N.J.S.A. 40:37A-79), Section 4 of the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-4) and other applicable law;

**WHEREAS**, in order to implement and develop the Renewable Energy Program, the Consultants shall among other things: (i) determine the suitability of the Local Unit Facilities for the installation and operation of the Renewable Energy Projects, thereby also determining which Local Units shall participate in the one or more tranches of the Renewable Energy Program, the

first group of which shall be referred to herein as the "Series 2011 Local Units", (ii) verify, modify and/or develop the economic assumptions underlying the Renewable Energy Program, and (iii) draft, negotiate and finalize the various Program Documents (as hereinafter defined) required to implement the Renewable Energy Program, all under the direction of Sussex County and the Authority as set forth in the Service Agreement;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority shall finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all to be set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the Series 2011 Local Units to be selected by Sussex County, the Authority, and the Consultants, through the issuance by the Authority of one or more series of bonds entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable)" to be dated their date of delivery, Outstanding (as defined in the hereinafter defined Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) to be determined by Sussex County and the Authority (the "*Not to Exceed Amount*") prior to adoption of the Bond Resolution (the "*Series 2011 Bonds*");

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell one or more series of Series 2011 Bonds, in an amount up to the Not to Exceed Amount (the "*Series 2011 Bonds*") by negotiated sale after a competitive selection process, the terms of which sale shall be as set forth in that certain Bond Purchase Agreement to be dated the date of the pricing (the "*Bond Purchase Agreement*") between the underwriter(s) named therein and the Authority;

**WHEREAS**, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that Sussex County and the Authority determine to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms will be defined in the Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, and installation of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the "*Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority prior to the issuance of the Series 2011 Bonds, as may be amended and supplemented from time to time in accordance with its terms, including a Certificate of the Chairperson or the Treasurer of the

Authority, or any of their respective designees in writing (each an “*Authority Authorized Officer*”) of the Authority, dated the date of issuance of the Series 2011 Bonds (the “*Bond Resolution*”), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a “*Local Unit License Agreement*”, and collectively, the “*Local Unit License Agreements*”) with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, grounds and electrical systems (the “*Local Unit License*”), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“*BPU*”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include that certain “REQUEST FOR PROPOSALS FOR A DEVELOPER OF PHOTOVOLTAIC SYSTEMS WITH RESPECT TO CERTAIN LOCAL GOVERNMENT FACILITIES IN SUSSEX COUNTY OF SUSSEX, NEW JERSEY” to be issued by the Authority seeking proposals from prospective solar developers (as the same may be amended or supplemented, the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal (the “*Company Proposal*”) of the to be determined successful respondent to the Company Proposal (the “*Company*”), Sussex County and the Authority shall select the Company by the adoption of a conditional award resolution to be adopted upon selection to (y) design, permit, acquire, construct, install, operate and maintain the Renewable

Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
  
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”) between the Authority and the Company, and approved by each Series 2011 Local Unit, authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal and County Series 2011 Local Units under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the BPU, whereby, among other things,
  - (I) The Company shall establish a power purchase price based, in part, on the Authority’s covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, if any, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of

the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price at such terms having been established pursuant to the Company Proposal, the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase has been assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, the hereinafter defined Company Pledge Agreement, and the Company's obligations under any other Program Document assumed through one or more of the foregoing agreements, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory Sinking Fund Installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by Sussex County under the hereinafter defined Sussex County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory Sinking Fund Installments, if any) up to the Not to Exceed Amount, and interest (at interest rates not to exceed

the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of Sussex County finally to be adopted by the Board of Chosen Freeholders of Sussex County (the "*Sussex County Board of Freeholders*"), (ii) by a guaranty certificate to be executed by an authorized officer of Sussex County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Sussex County Guaranty Agreement*") by and between Sussex County and the Authority, as acknowledged by the Company setting forth, among other things, Sussex County's obligation to make any such principal (or sinking fund) guaranty payments in an aggregate principal amount equal to the Not to Exceed Amount and the interest thereon, all in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*Sussex County Guaranty*"), and all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80) and other applicable law;

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the Sussex County Guaranty shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed the Not to Exceed Amount, or (ii) Sussex County adopts and executes similar official action and documents constituting the Sussex County Guaranty;

**WHEREAS**, under the Sussex County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority may be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of Sussex County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, Sussex County for their payment obligations under their Sussex County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among the Company, County Security Provider, and the Authority, and acknowledged by Sussex County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the Sussex County Guaranty, and the Company Lease Agreement;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing either or both of Sussex County or Morris County to make payments to the Series 2011 Bondholders under the Sussex County Guaranty, which in turn causes the County Security to be drawn upon to reimburse Sussex County for all or a portion of any such Sussex County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent Sussex County and Morris County have been fully reimbursed for payments made by Sussex County under the Sussex County Guaranty;

**WHEREAS**, the Authority, with the consent of Sussex County may, depending on the Company Proposal, determine to initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, Sussex County's payment obligations under the Sussex County Guaranty should such Sussex County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created under (and as such terms are defined in) the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

**WHEREAS**, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011 to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of

issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the “*Company Continuing Disclosure Agreement*”) with the Authority and the Trustee, as dissemination agent (the “*Dissemination Agent*”) in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, Sussex County shall be required to enter into that certain “Sussex County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the “*Sussex County Continuing Disclosure Agreement*”; the Company Continuing Disclosure Agreement and the Sussex County Continuing Disclosure Agreement may be collectively referred to as the “*Continuing Disclosure Agreements*”) with the Authority and the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and Sussex County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall submit an application (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognized the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs, which Local Finance Board shall hear the Local Finance Board Application, and adopt a resolution providing positive findings;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall publicly offer the Series 2011 Bonds, in which public offering case the Authority:

- (a) shall authorize the distribution of that certain Preliminary Official Statement and which Preliminary Official Statement shall be “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and
- (b) shall execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds, in accordance with the Bond Purchase Agreement, and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the

Preliminary Official Statement, the Bond Purchase Agreement and any of the same or other offering or sale documents that may be required to effect the sale of the Series 2011 Bonds, the "*Sale Documents*"; and

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("*Section 13*") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to the Board of Freeholders of Sussex County and the Board of Freeholders of Morris County, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the Sussex County Guaranty, the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program Documents*"), and which report shall be accepted by the Board of Freeholders of Sussex County and by the Board of Freeholders of Morris County, each by resolution to be adopted pursuant to Section 13.

**NOW, THEREFORE**, in consideration of the foregoing, and certain other consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, Sussex County and the Authority do hereby covenant and agree with the other as follows:

**Section 1. Representations, Warranties, and Covenants.**

(a) Sussex County represents, warrants and covenants, for the benefit of the Authority and its agents, as follows:

(i) Sussex County is a political subdivision of the State.

(ii) The acting officials of Sussex County who are contemporaneously herewith performing or have previously performed any action contemplated in this Service Agreement either are or, at the time any such action was performed, were the duly appointed or elected officials of such County empowered by applicable State law and, if applicable, authorized by Sussex County to perform such actions. To the extent any such action was performed by an official no longer the duly acting official of such Sussex County, all such actions previously taken by such official are still in full force and effect.

(iii) Sussex County has full legal right, power and authority to execute, attest and deliver this Service Agreement and to carry out and consummate all transactions contemplated by this Service Agreement.

(iv) Sussex County hereby covenants that should it determine to hire Sussex County Consultants, such Sussex County Consultants shall act in an advisory capacity to Sussex County, the Authority and the Authority Consultants, but shall not interfere with the development and implementation of the Renewable Energy Program, unless the Authority and the Authority Consultants are developing and implementing the Renewable Energy Program in a manner not in agreement with the parameters of this Service Agreement, or otherwise deemed

by Sussex County to be in the best interests of Sussex County or the Local Units. Sussex County shall be responsible for the payment of all costs and expenses of any Sussex County Consultants.

(v) Sussex County hereby covenants that Sussex County is solely responsible for all fees in connection with the Renewable Energy Program, but solely within the limits set forth in Section 2 hereof, and further agrees that neither the Authority nor Morris County have any financial responsibility in connection with the Renewable Energy Program.

(b) The Authority represents, warrants, and covenants for the benefit of Sussex County and the Local Units as follows:

(i) The Authority is a public body corporate and politic created by Morris County in accordance with the Act.

(ii) The acting officials of the Authority who are contemporaneously herewith performing or have previously performed any action contemplated in this Service Agreement either are or, at the time any such action was performed, were the duly appointed or elected officials of such Authority empowered by applicable State law and, if applicable, authorized by the Authority to perform such actions. To the extent any such action was performed by an official no longer the duly acting official of such Authority, all such actions previously taken by such official are still in full force and effect.

(iii) The Authority has full legal right, power and authority to execute, attest and deliver this Service Agreement and to carry out and consummate all transactions contemplated by this Service Agreement.

(iv) The Authority shall make copies of this Service Agreement available to the Authority Consultants to ensure that the Authority Consultants adhere to the terms and provisions hereof.

(v) The Authority shall utilize its commercially reasonable efforts to cause Morris County to take any and all actions necessary, desirable or convenient in order to implement and develop the Renewable Energy Program for Sussex County, including all approvals under Section 13 of the Act.

(c) Sussex County and the Authority agree to develop and implement the Renewable Energy Program for the benefit of Local Units (which may include Sussex County, as Local Unit) in accordance with the terms of this Service Agreement, including the preambles hereof.

(d) Sussex County and the Authority covenant to file, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs, pursuant to the rules and regulation promulgated by the Director, a copy of this Service

Agreement and make a copy of this Service Agreement available to the public at the offices of Sussex County, Morris County and the Authority.

**Section 2. County Funds.** The Authority Consultants shall estimate and notify Sussex County of the amount of Preliminary Program Costs for which the Authority Consultants are seeking payment. Sussex County shall provide such funds, either through the adoption of the Sussex County Bond Ordinance and issuance of the Sussex County Notes, or from some other available source, such monies (including any interest earned thereon prior to disbursement, the "*Sussex County Funds*") to be held by Sussex County in a segregated account, and invested prior to disbursement and disbursed by Sussex County solely in accordance with Section 3 below. Sussex County shall be responsible for all Authority Consultant fees in connection with Phase I in an amount not to exceed \$25,000 in the aggregate for bond counsel and financial advisor services to Inglesino, Pearlman, Wyciskala & Taylor, LLC and NW Financial Group, LLC, respectively, and \$5,000 per site for energy engineering and energy service consulting services to Birdsell Services Group and Gabel Associates, and, upon receipt of the certificate of a Sussex County Authorized Officer directing the Authority and its consultants to proceed with Phase II in accordance with Section 4(a) hereof, Sussex County shall be responsible for the Authority's fee, if any as agreed to by the Authority and Sussex County, and all Consultants' fees and expenses in connection with Phase II, and with respect to the Authority Consultants, in accordance with the Authority Consultants' professional services agreements on file with the Authority.

**Section 3. Disbursement of Sussex County Funds.**

(a) Prior to the disbursement of any Sussex County Funds held by Sussex County, Sussex County may invest such funds in any securities permitted for investment in accordance with N.J.S.A. 40A:5-15.1 of the Local Fiscal Affairs Law. So long as Sussex County's account wherein Sussex County Funds shall be held is segregated from all other Sussex County accounts, the investment of such funds may be made in a commingled investment permitted by such provision of the Local Fiscal Affairs Law, such as the State's Cash Management Fund.

(b) Sussex County shall not disburse any Sussex County Funds for Preliminary Program Costs until and unless the Authority Consultants shall have filed with Sussex County Treasurer an invoice detailing the services provided by the respective Authority Consultant. Upon receipt of any such properly documented invoice, the Sussex County Treasurer shall promptly forward the required Sussex County Funds to the Authority Consultants. Sussex County shall make an accounting of all Sussex County Funds so disbursed to the Authority Consultants and shall provide a written report of same to the Sussex County Treasurer, the Sussex County Board of Freeholders and the Authority Treasurer on a periodic basis until all such Sussex County Funds have been fully disbursed.

(c) The Authority shall take all actions necessary, desirable or convenient to provide that a portion of the proceeds of the Bonds, and if practicable, the Series 2011 Bonds, shall be allocated to repay Sussex County the entirety of Sussex County Funds supplied by Sussex County promptly upon the issuance of such series of Bonds, and the Authority shall pay or cause the payment of such amounts at such time. Any interest earned on Sussex County

Funds and applied to the payment of Preliminary Project Costs shall not be repaid to Sussex County, provided however that any remaining interest not so applied shall be retained by Sussex County at the same time the principal of Sussex County Funds shall be repaid. Upon the repayment of all such Sussex County Funds to Sussex County, a final accounting of the receipt, investment and disbursement of all County Funds shall be made by Sussex County and delivered to the Authority Treasurer within a reasonable period of time after such final disbursement, which shall not exceed one (1) month.

(d) Sussex County shall be solely responsible for all Consultant fees in connection with the Renewable Energy Program but solely within the limits set forth in Section 2 hereof. If for any reason Sussex County does not pay any of the fees due and owing to the Consultants, neither the Authority nor Morris County shall be responsible for any of the fees in connection therewith.

#### **Section 4. Scope.**

(a) Sussex County hereby authorizes the implementation of Phase I of the Renewable Energy Program, including the development of the Phase I Report by the Authority Consultants. Sussex County shall review the Phase I Report and if Sussex County determines to proceed with implementing Phase II of the Renewable Energy Program, it shall cause the Sussex County Administrator, Sussex County Treasurer and/or Freeholder Director of the Sussex County Board of Freeholders (each a "*Sussex County Authorized Officer*") to execute and deliver to the Authority a certificate authorizing the Authority, its Authority Consultants, and if applicable the Sussex County Consultants to implement Phase II on behalf of Sussex County and the Local Units.

(b) Subject to subsection (a) above, Sussex County hereby authorizes and directs the Authority and the Authority Consultants to take all actions in connection with the Renewable Energy Program, including the issuance of the Series 2011 Bonds in an amount not to exceed the Not to Exceed Amount, including any other series of Bonds for any future tranches of the Renewable Energy Program, also including obtaining all approvals or consents needed to implement the Renewable Energy Program, and also including executing and delivering all Program Documents, as if the Authority Consultants were hired directly by Sussex County or a county improvement authority created by Sussex County, and such Authority Consultants shall be paid, in accordance with the terms of the professional services agreements on file with the Authority, by Sussex County in accordance with the terms hereof, provided that the following shall be complied with:

(i) Sussex County shall promptly approve the grouping of the Local Units, including the Series 2011 Local Units, and the number of tranches of the Renewable Energy Program, once a recommendation for same has been provided by the Authority and/or its Authority Consultants to Sussex County.

(ii) Sussex County shall promptly approve the form and filing of the Local Finance Board Application, once a recommendation for same has

been provided by the Authority and/or its Authority Consultants to Sussex County.

(iii) Sussex County shall promptly approve the form and issuance of the Company RFP, once a recommendation for same has been provided by the Authority and/or its Authority Consultants to Sussex County.

(iv) Sussex County shall provide at least one Sussex County Authorized Officer to be on the team that evaluates the proposals received pursuant to the Company RFP, and the Authority shall not award the Company RFP to the Company as the successful respondent until approved by Sussex County.

(v) Each of the Program Documents shall be approved by the Sussex County Board of Freeholders pursuant to Section 13 of the Act, after receipt of the Authority report related thereto required by Section 13 of the Act, prior to the execution and delivery thereof.

(vi) From time to time, the Authority Consultants shall report to one (1) or more of the Sussex County Authorized Officers regarding the status of the Renewable Energy Program, which report shall be no less frequent than monthly at the Authority's monthly meetings, promptly thereafter (if not before such meeting) to be delivered to such Sussex County Authorized Officer.

(vii) The Authority and the Authority Consultants shall respond to the Sussex County Authorized Officers, in a reasonable period of time and in a reasonable manner, whenever such Authority Consultants receive an inquiry from Sussex County regarding any issue concerning the Renewable Energy Program. To the extent the Authority and the Authority Consultants receive direction regarding the development and implementation of the Renewable Energy Program at variance from the direction undertaken to that point, the parties shall discuss any such issues, in an attempt to build a consensus direction. To the extent a consensus shall not be achieved, Sussex County's direction shall control on all matters other than applicable law. At all times, the Authority and its Authority Consultants shall act in conformity with the parameters established by this Service Agreement.

(viii) Any of the actions of Sussex County in clauses (i) – (iv), inclusive, of this Section 4(b) may be discharged, at the sole discretion of Sussex County, by an Sussex County Authorized Officer or the Sussex County Board of Freeholders.

**Section 5. Sussex County Guaranty.** Based on the interest of the Local Units, including the Series 2011 Local Units, for participation in the one or more tranches of the Renewable Energy Program, the Authority Consultants and the Authority shall advise the Sussex County Authorized Officers and if applicable, the Sussex County Consultants of the amount of

Sussex County Guaranty prior to the issuance of the Series 2011 Bonds or any other applicable series of Bonds, and in sufficient time for the Authority to receive all approvals for the issuance of the Series 2011 Bonds or such other series of Bonds, including without limitation the findings of the Local Finance Board. The Authority shall also provide, to Sussex County's reasonable satisfaction, the intended form of security to be provided under the Renewable Energy Program to the extent Sussex County Guaranty shall ever be drawn upon. Such form of security shall be determined by the Company Proposal, after the issuance of the Company RFQ, and shall be set forth in the Bond Resolution with respect to the County Security Fund provisions, which shall among other things detail the specific Reimbursement Collateral, if any. Upon Sussex County's receipt of such estimated amount and agreement between the Authority and Sussex County concerning such intended satisfactory security, Sussex County shall thereupon promptly take all actions necessary, desirable or convenient for the authorization, adoption, execution and delivery of Sussex County Guaranty, which Sussex County Guaranty shall remain in full force and effect (regardless of the termination of this Service Agreement, which obligation shall survive the termination hereof) for so long as any series of Bonds for which it shall provide security shall remain outstanding in accordance with the terms of any applicable Bond Resolution.

**Section 6. Reserved.**

**Section 7. Administrative Fees; Conditions Precedent to Sussex County Guaranty.**

(a) The Authority and/or Sussex County, at their respective discretion, may impose or waive reasonable administrative fees for their respective participation in the Renewable Energy Program, which may include, but need not be limited by, the costs of all out of pocket expenses, including payment of Consultants or any other professionals for services rendered in connection with the Renewable Energy Program, and a reasonable administrative fee to be charged by the Authority, approved by Sussex County, and initially sized into the Series 2011 Bonds and thereafter payable on an annual basis by the Company.

(b) Both the Authority and Sussex County acknowledge that the intent of the Renewable Energy Program is to pay for all costs and expenses thereof, including debt service on the Bonds, including the Series 2011 Bonds, prior to any economic benefit accruing to Local Units. Accordingly, to the extent estimated pro-formas of the Renewable Energy Program provided by the Authority, with the assistance of the Consultants, fail to demonstrate, to Sussex County's reasonable satisfaction, that all such costs can be so recovered prior to any economic benefit accruing to the Local Units, then Sussex County shall be relieved from its obligations hereunder to continue with the implementation of the Renewable Energy Program (but shall pay for all Consultant costs properly incurred to that point), including without limitation the provision of the Sussex County Guaranty, and Sussex County's inaction shall not give rise to an Event of Default (as hereinafter defined) under this Service Agreement; provided however that notwithstanding the foregoing in any such event, Sussex County acknowledges that any such Sussex County Funds previously provided to the Authority and disbursed by the Authority in accordance with the terms hereof for Preliminary Program Costs shall not be recoverable by

Sussex County from the Authority, in which case such lack of recovery shall not give rise to an Event of Default under this Service Agreement.

**Section 8. One or More Programs.** To the extent Local Unit demand for participation in the Renewable Energy Program continues after the issuance of the first series of Bonds, nothing herein shall be deemed to limit the Renewable Energy Program to a single tranche, program or series of Bonds, to the extent the Authority and Sussex County desire to continue the Renewable Energy Program in accordance with the terms hereof, or, as applicable, such amended, modified or supplemented terms that shall be set forth in any written amendment hereof duly authorized by both the Authority and Sussex County, and acknowledged by Morris County. To the extent the parties desire to continue the Renewable Energy Program, regardless of whether prior to Sussex County's receipt of a full accounting and repayment of all of Sussex County Funds or otherwise, the Authority and/or Sussex County may fund any Preliminary Program Costs of any such additional Renewable Energy Program from any available funds, and if from an additional series of County Notes or other Sussex County Funds, such applicable provisions hereunder shall be controlling on the parties. The Authority and Sussex County may also agree to extend the Renewable Energy Program to include the Authority's energy efficiency program, to the extent both parties agree to the terms of such additional program, and may incorporate the terms into this Service Agreement.

**Section 9. Events of Default.**

(a) Events of Default Defined. The following one or more events shall constitute "Events of Default" under this Service Agreement:

(i) Failure by the Authority or Sussex County to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, for a period of thirty (30) days, or such reasonably longer period not to exceed one hundred twenty (120) days if compliance is not possible within such shorter time period, after written notice specifying such failure and requesting that it be remedied is given to Sussex County or the Authority, as the defaulting party, unless the non-defaulting party shall agree in writing to an extension of such time prior to its expiration; or

(ii) Any representation, warranty or covenant made by or on behalf of Sussex County or the Authority contained herein, or in any instrument furnished in compliance with or with reference to this Service Agreement, is false or misleading in any material respect.

(b) Remedies. In the case of an Event of Default, the non-defaulting party may take whatever action at law or in equity may appear necessary, desirable or convenient to consummate the transaction contemplated by this Service Agreement, including without limitation enforcing the specific performance and observance of any obligation, agreement or covenant of Sussex County or the Authority, as the defaulting party, under this Service Agreement.

**Section 10. Miscellaneous.**

(a) Severability. In the event any provision of this Service Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(b) Amendments, Changes and Modifications. This Service Agreement may not be amended, supplemented or modified without the prior written consent of the Authority and Sussex County and acknowledged by Morris County.

(c) Further Assurances and Corrective Instruments. The Authority and Sussex County agree that they will, if necessary, execute, acknowledge and deliver, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Renewable Energy Program or for carrying out the expressed intention of this Service Agreement.

(d) Applicable Law. This Service Agreement shall be governed by and construed in accordance with the laws of the State.

(e) Authority and Sussex County Officers. Except as expressly provided herein, whenever under the provisions of this Service Agreement, either the approval of the Authority or Sussex County is required, or the Authority or Sussex County is required to take some action pursuant to the terms hereof or at the request of the other, such approval of such request shall be given, or such action shall be taken, as applicable, (i) for the Authority by the Chairman or the Treasurer of the Authority, or their written designee, each an authorized officer of the Authority hereunder, and (ii) for Sussex County by any member of the Sussex County Board of Freeholders, the County Administrator, the County Treasurer, each an authorized officer of Sussex County hereunder, and any other party hereto shall be authorized to rely upon any such approval or request.

(f) Captions. The captions or headings in this Service Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Service Agreement.

(g) Binding: Counterparts. This Service Agreement shall be binding upon the parties hereto only when duly executed by authorized officers on behalf of both Sussex County and the Authority together; provided, however, that each set of counterparts taken together shall constitute an original.

(h) No Personal Liability or Accountability. No covenant or agreement contained in this Service Agreement shall be deemed to be the covenant or agreement of any present, past or future officer, agent or employee of the Authority or Sussex County, in his or her individual capacity, and neither the officers, agents or employees of the Authority or Sussex County nor any official executing this Service Agreement shall be liable personally on this Service Agreement or be subject to any personal liability or accountability by reason of any transaction or activity relating to this Service Agreement.

(i) Gender. Use of the masculine, feminine or neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the other genders whenever and wherever appropriate.

(j) Receipt of Service Agreement. The parties hereto each acknowledge receipt of a signed, true and exact copy of this Service Agreement.

(k) Term. The term of this Service Agreement (i) shall commence upon the authorization, execution and delivery hereof by authorized officers of the parties hereto, and (ii) unless expressly set forth otherwise herein, shall terminate upon the full accounting and repayment of all Sussex County Funds in accordance with the terms hereof.

(l) Effective Date. This Service Agreement shall be effective (i) ten (10) days after adoption by the Authority of a resolution authorizing its execution, unless said authorizing resolution has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act, and (ii) upon adoption of a resolution by Morris County consenting to this Service Agreement.

IN WITNESS WHEREOF, each of Sussex County and the Authority has duly authorized the execution and delivery of this Service Agreement by the respective authorized officers thereof set forth below as of the date first above written.

**COUNTY OF SUSSEX**

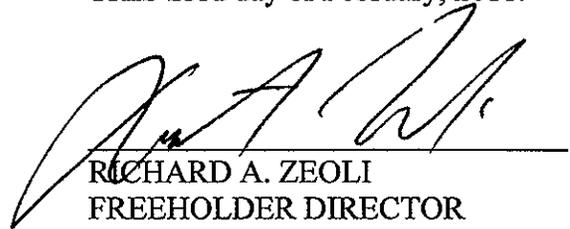
THE UNDERSIGNED, being Director of the Board of Chosen Freeholders of Sussex County, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED  
THIS 23rd day of February, 2011.

Attested by:



Diane S. Eakman, Deputy Clerk  
BOARD OF CHOSEN FREEHOLDERS



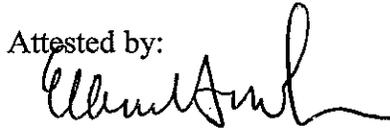
RICHARD A. ZEOLI  
FREEHOLDER DIRECTOR

**MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

THE UNDERSIGNED, being Chairman of the Improvement Authority of the County of Morris, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED  
THIS day of February, 2011.

Attested by:



ELLEN SANDMAN  
SECRETARY

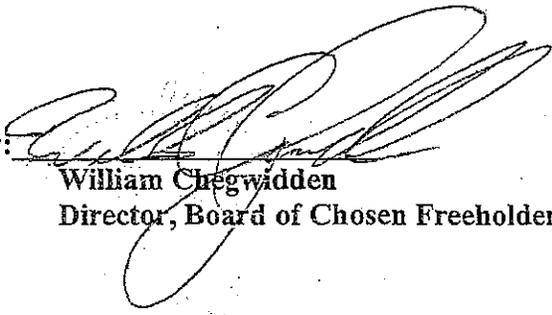


JOHN BONANNI  
CHAIRMAN

ACKNOWLEDGED AND CONSENTED TO  
THIS 16th DAY OF  
OF March, 2011 BY:

COUNTY OF MORRIS, NEW JERSEY

By:



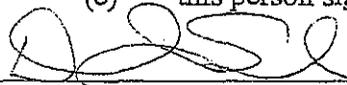
William Chigwidden

Director, Board of Chosen Freeholders, Morris County

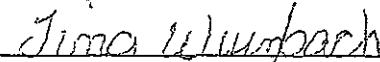
STATE OF NEW JERSEY )SS:  
COUNTY OF SUSSEX )

I CERTIFY that on February 23 2011 Diane S. Eakman personally appeared before me and acknowledged under oath, to my satisfaction that:

- (a) this person is the Deputy Clerk of the Board of Chosen Freeholders of Sussex County, the political subdivision named in this document;
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer who is the Director of the Board of Chosen Freeholders of Sussex County;
- (c) this document was signed and delivered as its voluntary act;
- (d) this person knows the proper seal of the corporation which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

  
\_\_\_\_\_  
**Diane S. Eakman, Deputy Clerk**  
**Board of Chosen Freeholders**

Sworn and subscribed before  
me this 23 day of February 2011

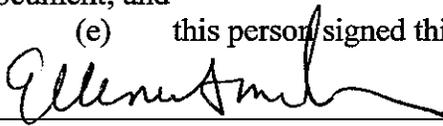
  
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**Tina Wurzbach**  
**Notary Public, New Jersey**  
**My Commission Expires 9-20-14**

STATE OF NEW JERSEY )SS:  
COUNTY OF MORRIS )

I CERTIFY that on March 16, 2011 **ELLEN SANDMAN** personally appeared before me and acknowledged under oath, to my satisfaction that:

- (a) this person is the Secretary of the Morris County Improvement Authority, the entity named in this document;
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer of the Authority, who is the Chairman of the Authority;
- (c) this document was signed and delivered as its voluntary act;
- (d) this person knows the proper seal of the corporation which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

  
\_\_\_\_\_  
**ELLEN SANDMAN**  
Secretary

Sworn and subscribed before  
me this 28<sup>th</sup> day of February 2011

  
\_\_\_\_\_

KIRSTEN A. SOSSIN  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires Sept. 15, 2011

**CERTIFICATE OF AUTHORITY AS TO  
SELECTION OF CONSULTING ENERGY ENGINEER**

I, ELLEN M. SANDMAN, Secretary of The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A.* 40:37A-44 *et seq.*, the "*Act*") and other applicable law, and in connection with the issuance this day by the Authority of its \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*"), **DO HEREBY CERTIFY** on behalf of the Authority as follows:

1. On November 12, 2008, the Authority adopted resolution number 08-28A entitled "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE DEVELOPMENT AND IMPLEMENTATION OF A RENEWABLE ENERGY PROGRAM AND THE SEEKING OF VARIOUS CONSULTANTS IN CONNECTION THEREWITH" (the "*RFP Resolution*") a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Authority at a meeting duly called and held on November 12, 2008, and at which a quorum existed and acted throughout.

2. Attached hereto as **Exhibit B** is a true and complete copy of the Authority's "REQUEST FOR PROPOSALS AND QUALIFICATION STATEMENTS dated November 12, 2008 for CONSULTING ENERGY SERVICES in connection with the RENEWABLE ENERGY PROGRAM of the MORRIS COUNTY IMPROVEMENT AUTHORITY" (the "*RFP*") relating to the procurement of Consulting Energy Engineering Services in connection with the Authority's Renewable Energy Program, all as defined in and contemplated by the RFP Resolution.

3. On December 10, 2008, the Authority adopted resolution number 08-31 entitled "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE EXECUTION OF A SERVICE AGREEMENT, AWARDED PHASE I OF THE RENEWABLE ENERGY PROJECTS AND CERTAIN OTHER MATTERS ALL IN CONNECTION WITH THE AUTHORITY'S RENEWABLE ENERGY PROGRAM" (the "*Phase I Resolution*") a copy of which is attached hereto as **Exhibit C**, which resolution was duly adopted by the Authority at a meeting duly called and held on December 10, 2008, and at which a quorum existed and acted throughout.

4. On January 14, 2009, the Authority adopted resolution number 09-03 entitled "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY

AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH METRO ENERGY SOLUTIONS, AWARDING PHASES 2 THROUGH 4 OF THE RENEWABLE ENERGY PROJECTS AND CERTAIN OTHER MATTERS ALL IN CONNECTION WITH THE AUTHORITY'S RENEWABLE ENERGY PROGRAM" (the "*Phase II-IV Resolution*") a copy of which is attached hereto as **Exhibit D**, which resolution was duly adopted by the Authority at a meeting duly called and held on January 14, 2009, and at which a quorum existed and acted throughout.

5. On November 30, 2009, the Authority adopted resolution number 09-51 entitled "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE EXTENSION OF A PROFESSIONAL SERVICES AGREEMENT WITH METRO ENERGY SOLUTIONS ON BEHALF OF A JOINT VENUTRE TEAM FOR THE COMPLETION OF THE PILOT PROGRAM, AND AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH GABEL ASSOCIATES ON BEHALF OF A JOINT VENUTRE TEAM FOR OTHER SERVICES TO BE PERFORMED IN 2010, ALL IN CONNECTION WITH THE AUTHORITY'S RENEWABLE ENERGY PROGRAM" (the "*Extension Resolution*") a copy of which is attached hereto as **Exhibit E**, which resolution was duly adopted by the Authority at a meeting duly called and held on November 30, 2009, and at which a quorum existed and acted throughout.

6. On April 20, 2010, the Authority adopted resolution number 10-17 entitled "RESOLUTION AMENDING THE SCOPE OF SERVICES TO BE PROVIDED BY THE CONSULTING ENERGY ENGINEER IN CONNECTION WITH THE AUTHORITY'S RENEWABLE ENERGY PROGRAM" (the "*Consulting Energy Engineer Services Resolution*") a copy of which is attached hereto as **Exhibit F**, which resolution was duly adopted by the Authority at a meeting duly called and held on April 20, 2010, and at which a quorum existed and acted throughout.

7. On June 16, 2010, the Authority adopted resolution number 10-27 entitled "RESOLUTION AUTHORIZING THE FURTHER AMENDMENT OF THE CONSULTING CONTRACT WITH THE AUTHORITY'S CONSULTING ENERGY ENGINEER IN CONNECTION WITH THE AUTHORITY'S RENEWABLE ENERGY PROGRAM" (the "*Amended Consulting Energy Engineer Services Resolution*") a copy of which is attached hereto as **Exhibit G**, which resolution was duly adopted by the Authority at a meeting duly called and held on June 16, 2010, and at which a quorum existed and acted throughout.

8. On November 23, 2010, the Authority adopted resolution number 10-42 entitled "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE IMPLEMENTATION OF AN ENERGY EFFICIENCY PROGRAM" (the "*Energy Efficiency Program Resolution*") a copy of which is attached hereto as **Exhibit H**, which resolution was duly adopted by the Authority at a meeting duly called and held on November 23, 2010, and at which a quorum existed and acted throughout.

9. On January 19, 2011, the Authority adopted resolution number 11-02 entitled

“RESOLUTION AMENDING AND RESTATING IN ITS ENTIRETY RESOLUTION 10-42 OF THE AUTHORITY ENTITLED, “RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE IMPLEMENTATION OF AN ENERGY EFFICIENCY PROGRAM”” (the “*Amended Energy Efficiency Program Resolution*”) a copy of which is attached hereto as **Exhibit I**, which resolution was duly adopted by the Authority at a meeting duly called and held on January 19, 2011, and at which a quorum existed and acted throughout.

10. On July 20, 2011, the Authority adopted resolution number 11-32 entitled “RESOLUTION AMENDING THE PROPOSAL OF GABEL ASSOCIATES AUTHORIZED BY A RESOLUTION ENTITLED, “RESOLUTION AMENDING AND RESTATING IN ITS ENTIRETY RESOLUTION 10-42 OF THE AUTHORITY ENTITLED, “RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE IMPLEMENTATION OF AN ENERGY EFFICIENCY PROGRAM”” (the “*Amended Proposal Resolution*”) a copy of which is attached hereto as **Exhibit J**, which resolution was duly adopted by the Authority at a meeting duly called and held on July 20, 2011, and at which a quorum existed and acted throughout.

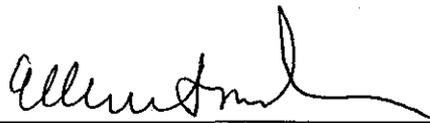
11. On October 19, 2011, the Authority adopted resolution number 11-50 entitled “RESOLUTION FURTHER AMENDING THE PROPOSAL OF GABEL ASSOCIATES AUTHORIZED BY A RESOLUTION ENTITLED, “RESOLUTION AMENDING AND RESTATING IN ITS ENTIRETY RESOLUTION 10-42 OF THE AUTHORITY ENTITLED, “RESOLUTION OF THE MORRIS COUNTY”” (the “*Further Amended Proposal Resolution*”) a copy of which is attached hereto as **Exhibit K**, which resolution was duly adopted by the Authority at a meeting duly called and held on October 19, 2011, and at which a quorum existed and acted throughout.

12. As of the date hereof, the RFP Resolution, the Phase I Resolution, the Phase II-IV Resolution, and the Extension Resolution, Consulting Energy Engineer Services Resolution, Amended Consulting Energy Engineer Services Resolution, Energy Efficiency Program Resolution, Amended Energy Efficiency Program Resolution, Amended Proposal Resolution, Further Amended Proposal Resolution, each set forth above and attached hereto, has not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Authority this 14th day of December, 2011.

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By: 

**Ellen M. Sandman  
Secretary**

**EXHIBIT A**

**RESOLUTION OF THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY AUTHORIZING  
THE DEVELOPMENT AND IMPLEMENTATION  
OF A RENEWABLE ENERGY PROGRAM AND THE  
SEEKING OF VARIOUS CONSULSTANTS IN  
CONNECTION THEREWITH**

WHEREAS, The Morris County Improvement Authority (including any successors and assigns, the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Board of Freeholders") of the County of Morris (the "County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the "Act") and other applicable law;

WHEREAS, the Authority desires to undertake the development and implementation of a program (the "Renewable Energy Program") for the financing, acquisition, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric facilities (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and local governmental units within the County, including without limitation municipalities, school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities; collectively, including the County, the "Local Units");

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, the Authority is seeking the County's financial assistance in taking the initial steps in order to develop and implement the Renewable Energy Program, which financial assistance is intended to be repaid with funds raised by the Authority through the issuance of permanent bonds of the Authority under the Renewable Energy Program (the "Bonds"), and toward that end, the Authority has requested that the County adopt a bond ordinance ("County Bond Ordinance") authorizing the issuance by the

County of a note or notes of the County (the "County Notes") in an amount sufficient to assist the Authority with funding all of the engineering, legal, financial advisory and other preliminary costs of the Renewable Energy Program necessary, desirable or convenient for the development and implementation of the Renewable Energy Program prior to the issuance of the Bonds (the "Preliminary Program Costs");

WHEREAS, the terms and conditions of (i) the County's initial funding of the Renewable Energy Program with a portion of the proceeds of the County Notes, (ii) the disbursement of such proceeds for Renewable Energy Program costs, (iii) the return of the funds to the County upon the issuance of the Authority Bonds, (iv) the financial protection to be afforded the County from any potential draw under its hereinafter defined County Guaranty of the Bonds necessary for the financial success of the Renewable Energy Program, (v) the recovery of certain costs from non-participating Local Units, and (v) certain other related Renewable Energy Program issues shall be set forth in a service agreement (the "County Service Agreement") by and between the Authority and the County, all pursuant to Section 36 of the Act (N.J.S.A. 40:37A-79) and other applicable law;

WHEREAS, in order to implement and develop the Renewable Energy Program, the Authority shall hire the services of an individual or corporate engineering and renewable energy consulting firm (the "Consulting Energy Engineer") under all applicable law, through one or more qualification based request for proposals (severally or individually, the "RFP"), to, among other things, (i) determine the suitability of the Local Unit Facilities for the installation and operation of the Renewable Energy Projects (the "Consulting Energy Auditing Services"; for purposes of the Renewable Energy Program, the Consulting Energy Engineer performing such services may be referred to, with respect to only such services, as the "Consulting Energy Auditor"), (ii) verify, modify and/or develop the economic assumptions underlying the Renewable Energy Program, and (iii) assist in the negotiation of the various agreements required to implement the Renewable Energy Program (together with the Consulting Energy Auditing Services, collectively, the "Consulting Energy Services");

WHEREAS, the RFP shall not be issued unless and until the Authority and its professional consultants provide the County with a presentation of the initial concepts for the development and implementation of the Renewable Energy Program (the "Initial County Presentation") and the County determines that it is in the best interest of the Local Units for the Authority to proceed with the Renewable Energy Program;

WHEREAS, the Authority shall not (i) award the RFP, or any phase thereof, unless and until an appropriation has been made, either by the County through the County Bond Ordinance or otherwise, and (ii) award the RFP in an amount in excess of the limitation stated in the County Bond Ordinance or any other available source (the "RFP Award Limitations");

WHEREAS, the Authority, together with the Consulting Energy Engineer, and its other professional consultants, shall solicit interest, through community outreach

meetings, from Local Units for participation in the Renewable Energy Program ("Phase I"), and to the extent required by any Local Unit, the Authority, on behalf of itself and any such agents, may have to execute a preliminary license and access agreement ("Preliminary License") with any such Local Unit, particularly if required by any such Local Unit for the Consulting Energy Auditing Services ("Phase I Documents");

WHEREAS, upon the determination of Local Unit participation in the Renewable Energy Program, it is presently contemplated that the Authority would implement the Renewable Energy Program through either or both of the following options, or some hybrid thereof, depending on the nature of the renewable energy and municipal financing markets, the interests of the respective Local Units, and whatever other factors shall be deemed relevant by the Consulting Energy Engineer and or the Authority's other professional consultants and determined by the Authority and the County to be in their best interests and that of the Local Units prior to the issuance of the Bonds;

WHEREAS, under the first option under consideration for implementation of the Renewable Energy Program (the "Private Option"), the Authority shall enter into a license, access, receipt, sale and other services agreement, or other agreement with each participating Local Unit (each agreement a "Local Unit License") that would, among other things, provide the Authority and/or its assignees the right to (i) access certain Local Unit Facilities of such Local Unit, (ii) design, acquire, finance, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the renewable energy produced from such Renewable Energy Projects, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects to the Local Unit, either directly or through the Authority, all pursuant to N.J.S.A. 40:37A-77 of the Act and other applicable law;

WHEREAS, the Authority shall, in accordance with the competitive contracting provisions of the Local Public Contracts Law, particularly N.J.S.A. 40A:11-4-1 through 4.5, inclusive, or 40A:11-5(6), as applicable, procure the services of a private developer (the "Company") to design, acquire on behalf of the Authority, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities, and sell all or a portion of the renewable energy generated thereby to the Local Units, either directly or through the Authority, and if excess renewable energy is available, to the market, all on a turnkey, guaranteed maximum price basis, or on some other basis that makes economic sense and limits downside risk to the Authority and the County, with such Renewable Energy Program terms to be set forth in (i) a license of the necessary portion of each Local Unit Facilities' site (each a "Company License") granted by the Authority (itself a recipient of the Local Unit License) to the Company, (ii) a lease of the Renewable Energy Project (the "Company Equipment Lease") from the Authority, as owner and lessor, to the Company, as lessee, structured in such a manner as to convey Federal income tax ownership of the Renewable Energy Project to the Company, and (iii) an operating, maintenance and marketing agreement (the "Company Service Agreement", together with the Company License, the Company Equipment Lease and any other agreement that includes the Authority and the Company as parties that the Authority shall

deem necessary, desirable or convenient to implement the Renewable Energy Program, including without limitation any power purchase agreement that may encompass one or more provisions of the foregoing, the "Company Documents"), pursuant to which the Company would operate and maintain the Renewable Energy Project, and market and sell all or a designated portion of the energy generated thereby, which sale shall be initially to the Authority for the benefit of the Local Units, or directly to the Local Units, with any excess energy sold to the market;

WHEREAS, as the Federal income tax ownership of the Renewable Energy Projects would be conveyed to the Company under the Private Option in order to maximize the economic benefits generated by the Renewable Energy program, whereby the Authority shall seek to obtain the maximum share of such economic benefits to cover all costs of the Renewable Energy Program, including without limitation the payment of debt service on the Bonds issued to finance the Renewable Energy Projects, and convey the balance of any such obtained economic benefits to or for the benefit of the Local Units, unless Federal tax law permits otherwise the Bonds shall be issued on a taxable basis for purposes of Section 103 of the Internal Revenue Code of 1986, as amended (the "Code");

WHEREAS, under the second option under consideration for implementation of all or a portion of the Renewable Energy Program (the "Public Option"), the Authority shall finance the acquisition of the Renewable Energy Projects with a series of Bonds, the gross income of which shall be excludable for Federal income tax purposes under Section 103 of the Code, and the Authority, the Local Units, and any private entity procured in accordance with applicable law shall allocate the responsibility for designing, acquiring, installing, operating, and maintaining the Renewable Energy Projects, so long as ownership of the Renewable Energy Projects shall be with the Authority or the Local Units, and the Local Units shall use the renewable energy produced thereby at their Local Unit Facilities, all pursuant to one or more loan, lease, license, service or other agreements (collectively, the "Local Unit Agreements") by and between or among all such applicable entities under the Act and other applicable law;

WHEREAS, under the Private Option, the Public Option, or some other option that may be a composite of one or more of the foregoing (each an "Option" under the Renewable Energy Program), the Bonds shall also be issued in accordance with (i) the terms of a bond resolution adopted by the governing body of the Authority (the "Bond Resolution") in accordance with Section 17 of the Act (N.J.S.A. 40:37A-60) and (ii) all other applicable law, to finance the Renewable Energy Projects and other allowable costs of the Renewable Energy Program, including without limitation any such costs financed on an interim basis by the County, all pursuant to terms of the Service Agreement;

WHEREAS, under any Option, in accordance with the terms of the Bond Resolution, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Bonds, in addition to any security that may be provided from payments under any Company Documents, or, only if desired by certain Local Units, particularly school districts, from payments under any Local Unit debt instrument, shall

be in addition, fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County on the face of each Bond and (iii) as may be required by any rating agency, underwriter, Bond purchaser or other entity that will allow the Authority to sell the Bonds at the lowest possible cost to the Local Units, an agreement setting forth the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the ordinance (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), prior to the issuance of the Bonds, the Authority will have made a detailed report of the Renewable Energy Program to the Board of Freeholders, which report will include, without limitation, descriptions of the Service Agreement, the Bonds, the Bond Resolution, County Guaranty, and as applicable Local Unit License and Company Documents or Local Unit Agreements (collectively, the "Program Documents").

**NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Authority as follows:**

**Section 1.** Upon completion of the Initial County Presentation, the Chairman of the Authority, or his designee (each an, "Authorized Officer"), is hereby authorized to post the RFP on the Authority website, in such form and with such terms and conditions, after consultation with the Consultants, that any such Authorized Officer determines to be in the best interests of the Authority, which posting shall state the copies of the RFP are available from the Authority upon written request.

**Section 2.** Upon receipt of the responsive proposals to the RFP (the "Proposals"), the Authority and its professional consultants shall review the Proposals and, either hold a special meeting to discuss same, or make a recommendation to the governing body of the Authority as to the Proposal that would be the most beneficial to the Renewable Energy Program, the Authority, the County and the prospective participant Local Units (the "Successful Respondent"). The Authority shall not make an award of the Successful Respondent unless and until all of the RFP Award Limitations have been satisfied. The award of the Successful Respondent shall be made by the governing body of the Authority at an Authority public meeting.

**Section 3.** Each Authorized Officer is hereby authorized to take such other actions as may be deemed necessary, desirable or convenient in carrying out the intentions of this resolution, the RFP and the initial development and implementation of the Renewable Energy Program, including without limitation requesting the County to commence taking one or more of the official actions contemplated herein, reaching out to all Local Units to inform and educate them regarding the merits of the Renewable Energy Program, and engage in such discussions with other government officials, including the Department of Community Affairs and the Board of Public Utilities, as shall be beneficial to the Renewable Energy Program, the Authority, the County, and the prospective

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participant Local Units.

**Section 3.** All actions taken to date by the Authority, the Authority's bond counsel, DeCotiis, FitzPatrick, Cole & Wisler, LLP, and the Authority's financial advisor, Acacia Financial Group, Inc., are hereby ratified and approved.

**Section 5.** This resolution shall take effect immediately.

**MOVED/SECONDED:**

Resolution moved by Commissioner SANDMAN.

Resolution seconded by Commissioner Bonanni.

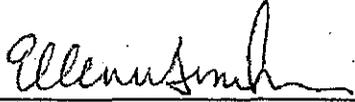
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Krich	X			
Ramirez	X			
Roe	X			
Sandman				X
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on November 12, 2008 at the Authority's principal corporate office in Morristown, New Jersey.

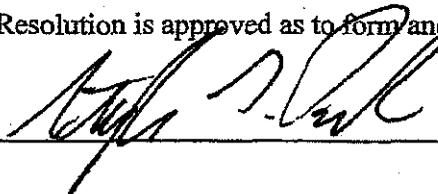
Attested to this 12<sup>th</sup> day of November, 2008

By: 

*Assistant* Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of November 12, 2008

By: 

Resolution #08-28A

**Stephen B. Pearlman, Esq., Partner**  
**DeCotiis, FitzPatrick, Cole & Wisler, LLP**  
**Counsel to the Authority**

**EXHIBIT B**

**REQUEST FOR PROPOSALS  
AND QUALIFICATION STATEMENTS**

**dated November 12, 2008  
for**

**CONSULTING ENERGY SERVICES**

**in connection with the RENEWABLE ENERGY PROGRAM of the  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

**DUE DATE: Wednesday, November 26, 2008  
3:00 p.m., Prevailing Time**

**THIS PROCUREMENT PROCESS IS NOT GOVERNED BY THE LOCAL PUBLIC  
CONTRACTS LAW OR OTHER BIDDING LAW,  
but is subject to the NEW JERSEY LOCAL UNIT PAY-TO-PLAY LAW**

**Issued by:**

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

**Morristown, New Jersey**

## ARTICLE I

### INTRODUCTION AND GENERAL INFORMATION

#### Section 1.1. Introduction and Purpose.

The Morris County Improvement Authority (the "**Authority**") was created in 2002 by the Board of Chosen Freeholders of Morris County (the "**County**"), New Jersey (the "**State**") as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law (codified at N.J.S.A. 40:37A-44-1 et seq., the "**Act**"). The Authority's office (the "Authority's Office") is located at:

Morris County Improvement Authority, Administration and Records Building, 5th Floor, P.O. Box 900, Court Street, Morristown, New Jersey 07963-0900.

The Authority desires to undertake the development and implementation of a program (the "**Renewable Energy Program**") for the planning, design, financing, acquisition, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric facilities (collectively, the renewable energy capital equipment and facilities, the "**Renewable Energy Projects**") for and on behalf of the County and local governmental units within the County, including without limitation municipalities, school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities; collectively, including the County, the "**Local Units**").

The Renewable Energy Projects to be procured under the Renewable Energy Program are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "**Local Unit Facilities**").

In order to implement and develop the Renewable Energy Program, the Authority has issued this "REQUEST FOR PROPOSALS AND QUALIFICATION STATEMENTS" dated November 12, 2008 (as this document may be amended or supplemented, the "**RFP**") for the procurement of one or more individual, partnership, corporate or other engineering and renewable energy consulting firms (collectively, the "**Consulting Energy Engineer**").

As more particularly described in Article II of this RFP below, the Consulting Energy Engineer shall perform the following "**Consulting Energy Services**" for the Authority under the Renewable Energy Program:

- (i) Attend the Local Unit Outreach Meetings scheduled for December 11, 2008, one meeting for school districts, and the other meeting for all other Local Units ("**Phase 1**");
- (ii) Determine the suitability of the Local Unit Facilities for the installation and operation of the Renewable Energy Projects (the "**Consulting Energy Auditing Services**" or "**Phase 2**"; for purposes of the Renewable Energy Program, the Consulting Energy Engineer performing such services may be referred to, with respect to only such services, as the "**Consulting Energy Auditor**");
- (iii) Develop, verify, and/or modify the economic assumptions underlying the Renewable Energy Program ("**Phase 3**"); and
- (iv) Assist in the negotiation of the various agreements required to implement the Renewable Energy Program ("**Phase 4**").

Respondents may issue Proposals to the Authority for one or more (including all) Phases of the Consulting Energy Services. The Authority reserves the right to award separate Phases of this RFP to one or more Respondents, with such allocation to be in the sole determination of the Authority. In the case of the Consulting Energy Auditing Services, depending on demand for the Renewable Energy Program, the Authority may determine to award that Phase 2 of this RFP to several Consulting Energy Auditors. Where subcontractors or sub-consultants are to be utilized for any Consulting Energy Services, Respondents shall include in their Proposals for each subcontractor or sub-consultant the same information requested of the Respondent.

The Authority is presently developing the Renewable Energy Program, and is looking to the Consulting Energy Engineer, along with the Authority's standing professional advisors, its counsel (DeCotiis, FitzPatrick, Cole & Wisler, LLP, led by Stephen B. Peariman, Esq.) and financial advisor (Acacia Financial Group, Inc., led by Noreen P. White), to guide and assist the Authority in that development. The Renewable Energy Program is presently contemplated for development and implementation along the lines set forth in that certain "Service Agreement (Renewable Energy Program)", draft dated November 12, 2008 (the "**County Service Agreement**") between the County and the Authority, attached to this RFP as **Exhibit A**. All Respondents should read the draft County Service Agreement, although the Authority cautions the Respondents that such draft is not in final form, and the scope and nature of the Renewable Energy Program may change from that presently contemplated as information is received from the County, the Local Units, the State and any other stakeholder.

Any individual, partnership, corporate or other engineering and renewable energy consulting firm (the "**Respondent**") that is interested in performing Consulting Energy Services as Consulting Energy Engineer for the Authority's Renewable Energy Program shall submit a written response to this RFP in accordance with the submittal requirements set forth herein (including certain submittal options), including Article III hereof, together with the Proposal cover letter set forth in **Exhibit C** hereto (collectively, the "**Proposal**").

The Authority shall review, in its sole discretion, Proposals only from those Respondents that submit Proposals that include all the information required to be included as described in this RFP.

From all timely Proposals received, the Authority intends first to qualify Respondents (i) that possess the professional, financial and administrative capabilities to provide the Consulting Energy Services, and (ii) agree to be bound by and meet the other terms and conditions of the RFP, as determined by the Authority. Once the Authority has qualified Respondents, the Authority shall select one or more Respondents to provide Consulting Energy Services, which award shall only be set forth in a services contract ("**Services Contract**") setting forth the terms of such Consulting Energy Services, which Services Contract shall be based on the RFP and the Proposal of the successful Respondents, and which award shall not be effective until such Services Contract(s) shall be executed by authorized officers of both the Authority and the respective successful Respondents.

The selection of qualified and successful Respondents is not subject to the bidding provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.*, or any other applicable bidding law; provided however that the selection is subject to the "New Jersey Local Unit Pay-to-Play" Law, N.J.S.A. 19:44A-20.4 *et seq.* According to such New Jersey Local Unit Pay-to-Play Law, the Authority shall post notice of the existence of this RFP on its website at least ten (10) days' prior to receipt of Proposals. Such notice shall be in the form set forth in **Exhibit B** attached hereto. The Authority has structured this procurement process to ensure that each Respondent is provided an equal opportunity to submit a Proposal in response to the RFP. The Authority is not required to enter into a Services Contract with any Respondent. Accordingly, the Authority may reject all Proposals, waive any nonconformities to the RFP requirements, award and execute one or more Services Contracts, and/or take whatever other action shall be available to the Authority, at law or equity, as the Authority, in its sole discretion, deems to be in the best interests of the Authority and the Renewable Energy Program described under the RFP, including the potential Renewable Energy Program participants.

This RFP has become available to the public on November 12, 2008 at 10 a.m., Prevailing Time. The RFP shall be obtained or inspected in person at the Authority's Office between the hours of 10 a.m. and 4 p.m., Prevailing Time, or by calling the Authority at (973) 285-6047, or by requesting a copy of same via e-mail sent to jbonanni@co.morris.nj.us or via fax (973-285-6464).

In order to review or obtain a copy of this RFP and to be considered a successful Respondent, all potential Respondents must provide the Authority with the name, address, e-mail address and phone number of their designated contact person (the "Contact Person"). To the extent the Authority, in its sole discretion, determines to amend, modify, supplement, revoke or alter any other material term or condition of this RFP, including without limitation the procurement process or the criteria for qualification or award, which rights are hereby expressly reserved to the Authority, the Authority will make all commercially reasonable efforts to communicate any such change to each potential Respondent prior to the due date of this RFP through e-mail or other notification distributed to the Contact Persons.

By submitting a Proposal, each such Respondent, without any other act, acknowledges and agrees to comply with each of the terms and conditions of this RFP, and further agrees to abide by, without protest or cause of action, any determination made by the Authority hereunder, including the qualification and award determinations made hereunder.

Any inconsistency between the notice and this RFP shall be governed by the terms of this RFP.

**Section 1.2. Procurement Process and Schedule.**

The procurement process for the Consulting Energy Engineer commences with the issuance of this RFP. The steps involved in the process and the anticipated completion dates are set forth in the following anticipated Procurement Schedule. The Authority reserves the right to, among other things, amend, modify, alter, or terminate the Procurement Schedule, whereupon the Authority shall provide notice of such action to all Contact Persons, on behalf of the Respondents.

**ANTICIPATED PROCUREMENT SCHEDULE**

Date (on or about)	Activity
November 12, 2008	Issuance of RFP
November 19, 2008	Last Day for Respondents to Submit Written RFP Questions
November 20, 2008	Pre-Submission of Proposal Conference Call
November 24, 2008	Authority Response to Written Questions
November 26, 2008	Receipt of Proposals
December 10, 2008	Authority Meeting, Award of Phase 1 to Successful Respondent(s) (No Services Contract Required)
December 11, 2008	Outreach Meeting with Local Units
December 22, 2008	County BAN in place and end of estoppel period; Award of Other Phases to Successful Respondent(s), Subject to Execution of Services Contract(s)

All Respondents are invited and entitled to attend, either in person or by conference call (on a call-in number to be disseminated to all Contact Persons prior to such conference call) a Pre-Submission of Proposal Conference to be held at the Authority's Office, at 3 P.M. on November 20, 2008. The Authority will endeavor to answer any Respondent questions at such time, and will, if time permits, receive comments from Respondents on the on the RFP.

To the extent the Respondent desires to submit a written question regarding the RFP or otherwise communicate with the Authority during the procurement process, the Contact Person shall, no later than November 19, 2008, at 5:00 p.m., Prevailing Time, (i) e-mail the question / information to the Authority, c/o John Bonanni at [jbbonanni@co.morris.nj.us](mailto:jbbonanni@co.morris.nj.us), and (ii) fax the same question / information to the Authority, c/o John Bonanni, at (973) 285-6464, and (iii) send a copy to Ryan Scerbo, Esq. via e-mail at [RScerbo@decotiislaw.com](mailto:RScerbo@decotiislaw.com) and via fax at (201) 928-0588. Please do not call the Authority for information, as written questions that the Authority determines to be of general application may be disseminated to all potential Respondents.

### **Section 1.3. Submission of Proposals.**

In order for a Respondent's Proposal to be considered under this RFP procurement process, each such Respondent must comply with the following:

(a) Each Proposal shall be fully authorized, complete in accordance with the terms of this RFP, and executed by an authorized officer of the Respondent.

(b) Each Proposal shall be timely submitted to, and be received at the Authority's Office on or before **3:00 p.m., Prevailing Time, on November 26, 2008. Proposals will not be accepted by facsimile transmission or e-mail.**

(c) An **original and nine (9) copies** of each Proposal shall be enclosed in sealed envelopes bearing the name and address of the Respondent (including multiple persons or firms, if applicable), the date of the submission of the Proposal, and the informational heading "Proposal for Consulting Energy Services submitted to Morris County Improvement Authority", all on the outside of any such sealed envelope. Each Proposal shall be dated and addressed to the Authority.

### **Section 1.4. Representations, Warranties, and Covenants of Respondents.**

Each Respondent, by submitting a Proposal based on this RFP, represents, warrants and covenants to the Authority as follows:

(a) The Respondent has the right power and authority to submit the Proposal, receive any award, and perform the Consulting Energy Services for which such Proposal shall be submitted.

(b) The Respondent has read the RFP and all Exhibits, and acknowledges and agrees to be bound by all of the terms and conditions hereof, including without limitation those regarding ability to perform award of Consulting Energy Services, without issue or protest, as the Proposal is a voluntary submission by Respondent at the sole cost and expense of Respondent, and all Proposals shall be considered property of the Authority. Respondent, by submitting any Proposal, hereby waives any such rights regarding the foregoing to which it may otherwise be entitled.

(c) The Respondent has a continuing obligation to update the Authority regarding any material misstatement or omission in any Proposal submitted to the Authority.

**Section 1.5. Rights of Authority.**

(a) The Authority reserves all rights to make one or more awards to Respondents that have submitted Proposals in accordance with the terms of this RFP, or to reject all Proposals, or to waive any irregularities in any Proposal or in its submission, or to waive any of the procurement process contemplated hereby, or to materially change the Renewable Energy Program from that contemplated in the County Service Agreement, or to take such other action as the Authority, in its sole discretion, determines to be in the best interests of the Authority, the County, the Local Units and the Renewable Energy Program.

**ARTICLE II**

**SCOPE OF CONSULTING ENERGY SERVICES**

**Section 2.1. Generally.**

Section 1.1 generally sets forth the various Phases for which a Respondent may submit a Proposal. Article II shall describe those Phases in greater detail. A Respondent may submit a single Proposal for one or more (including all) Phases of this RFP.

**Section 2.2. Phase 1.**

**Attend the Local Unit Outreach Meetings scheduled for December 11, 2008, one meeting for school districts, and the other meeting for all other Local Units.**

(a) The Authority has scheduled two (2) meetings at County locations on December 11, 2008, in order to solicit interest of the various Local Units for participation in the Renewable Energy Program. The Consulting Energy Engineer must send knowledgeable representatives to such meetings, and shall assist the

Authority and its standing professional advisors in presenting the parameters of the Renewable Energy Program to the Local Units, and to answer questions from the Local Units.

(b) The Authority has allocated no more than \$2,500 for these Consulting Energy Services, and anticipates awarding Phase 1 to a Consulting Energy Engineer on or about December 10, 2008 without the need for a Services Contract. To the extent a Respondent desires to forego compensation for Phase 1, it shall expressly so state in their Proposal. Respondents should note the short turn-around time period from the award of this Phase 1 until the requested participatory Local Unit outreach meetings.

### **Section 2.3 Phase 2 (The Consulting Energy Auditing Services).**

#### **Determine the suitability of the Local Unit Facilities for the installation and operation of the Renewable Energy Projects.**

(a) The Consulting Energy Auditor (i.e., the Consulting Energy Engineer performing Consulting Energy Auditing Services) shall undertake site-visits of Local Unit Facilities for the Local Units selected by the Authority, at such Local Unit Facilities selected by the Authority and the Local Units, for the Renewable Energy Projects selected by the Authority and the Local Units, and determine the suitability of same for installation and operation of such Renewable Energy Projects.

(b) The Consulting Energy Auditor shall comply with any requirements of State or other grant programs for these services, to the extent funds to pay for all or a portion of these services shall be available.

(c) The Consulting Energy Auditor shall prepare a report promptly (within a week) after each Local Unit Facility site-visit, which report shall be addressed to and considered the property of the Authority, and which report shall at a minimum set forth the amount and location of useable space for Renewable Energy Project installation and operation at each such Local Unit Facility, if any (i.e., unsuitable sites should also be listed, along with a brief description of the reason for such unsuitability), and any special factors concerning the suitability of such Local Unit Facility for the installation and operation of Renewable Energy Projects (whether it be direction of sunlight, ability of structure of Local Unit Facility to support Renewable Energy Projects, or otherwise).

(d) The Consulting Energy Auditor shall periodically submit such reports to the Authority, no less frequently than weekly after their preparation, and be available for phone conferences or meetings to discuss same with the Authority and its advisors, including other Consulting Energy Engineers. Such reports shall not be disclosed to any third party without the express written consent of the Authority, except that any Local Unit for which a site-visit has been performed shall be entitled to a copy of such report.

(e) The County is marketing the Renewable Energy Program to all Local Units within the County, although the demand for same is unclear at this time. Accordingly, for this Phase 2, the Respondent for Consulting Energy Auditing Services shall provide a not-to-exceed price quote for:

(i) Task 1. Visiting, evaluating, and reporting on each of the following number of Local Unit Facilities (which may vary in size and scope, facts that cannot be ascertained at this time) in accordance with this RFP, which quote should include all costs and expenses of the Respondent, along with all costs and expenses of all subcontractors or sub-consultants:

- (A) 50-100 Local Unit Facilities;
- (B) 100-200 Local Unit Facilities; or
- (C) 200-300 Local Unit Facilities.

Please note in any Proposal if such evaluation reports can be issued sooner than required above. Should demand exceed 300 Local Unit Facilities, the Consulting Energy Auditor may be entitled to a change order at a mutually agreeable price, or alternatively, the Authority may determine to select other Consulting Energy Auditors.

(f) The Authority anticipates funding this Phase 2 from monies to be provided by the County through a bond anticipation note (the "BAN") or other available County Funds as defined and contemplated under the County Service Agreement. The BAN shall be authorized by the County's adoption of a note ordinance, which is scheduled to occur in November, 2008, and the estoppel period for which is scheduled to be completed on or about December 22, 2008, at which time the County Service Agreement, if executed, contemplates the funding of the Consulting Energy Auditing Services that will allow the Authority to enter into a Services Contract for this Phase 2. The Authority may also look to reimburse itself for all or a portion of the Consulting Energy Auditing Services from available State or other grant monies.

#### **Section 2.4 Phase 3.**

##### **Develop, verify, and/or modify the economic assumptions underlying the Renewable Energy Program.**

(a) The Consulting Energy Engineer will need to produce pro-forma schedules that demonstrate the savings to be afforded Local Units with respect to various Renewable Energy Projects to be sited on, in or about their Local Unit Facilities. Although the Authority, along with its standing professional advisors, its counsel and financial advisors, will provide the Consulting Energy Engineer with certain of the assumptions underlying any such pro-forma schedules, particularly regarding municipal finance elements, the Authority working group team requires the assistance of the Consulting Energy Engineer to provide estimated data and modeling on the amount of renewable energy generated by the various Renewable Energy Projects, the cost of same, and as applicable, the requirements

for private entities to participate in the Private Option contemplated by the County Service Agreement, and any other relevant information in generating such pro-forma schedules, such that the costs of the Renewable Energy Program, including debt service, are more than offset by the renewable energy savings realized through the implementation thereof.

(b) The Authority shall continue to market the Renewable Energy Program to the Local Units beyond the December 11, 2008 outreach meeting, and shall require the assistance of the Consulting Energy Engineer, along with that of the Authority's standing professionals, its counsel and financial advisor, in those efforts. This task may include attendance at further outreach meetings, meetings or calls with particular Local Units concerning their Local Unit Facilities and participation in the Renewable Energy Program, attendance at Authority or County Freeholder meetings presenting reports or updates on the progress of the Renewable Energy Program, the development or refinement of marketing materials, and the production of pro-forma schedules demonstrating the projected energy savings from implementing the Renewable Energy Program at one or more of their Local Unit Facilities.

(c) Accordingly, for this Phase 3, the Respondent for this Phase shall provide, in their Proposal, a not-to-exceed price quote for:

(i) Task 1. All of the Consulting Energy Services set forth in Phase 3, which price quote can be submitted in the Proposal on either an hourly or fixed fee basis.

(d) The Authority anticipates receiving an appropriation for the funding for Phase 3 through the BAN or other available County Funds, as defined, contemplated and to be conveyed to the Authority as set forth in the County Service Agreement, which shall allow the Authority to enter into a Services Contract with the Consulting Energy Engineer for Phase 3. However, the funding of payment under the Services Contract for Phase 3 may not be available until and unless the Authority Bonds contemplated by the County Service Agreement are issued (to the extent insufficient demand exists for the Renewable Energy Program from the Local Units, there would be no need for issuance of the Authority Bonds). Respondents should note in their Proposal whether their acceptance of Phase 3 under these conditional payment provisions is acceptable to the Respondent.

## **Section 2.5 Phase 4.**

### **Assist in the negotiation of the various agreements required to implement the Renewable Energy Program.**

(a) The agreements presently contemplated to be entered into by the Authority in order to implement the Renewable Energy Program, depending on the option for implementation ultimately selected (multiple options being a possibility), are set forth in concept in the County Service Agreement. As the Renewable

Energy Program develops, the nature of these agreements may change, and the Respondent should be aware of same. The Authority anticipates that the agreements shall be drafted by counsel to the Authority with the input of the Authority, the Authority's financial advisor, the Consulting Energy Engineer, and as applicable, the County, the Local Units and their representatives, and any private purveyor contemplated by the County Service Agreement. In drafting and negotiating these agreements, the Authority and its working group team require the assistance of the Consulting Energy Engineer in all technical and other relevant aspects of the Renewable Energy Program that the Consulting Energy Engineer deems relevant from their experience in implementing Renewable Energy Projects (even if not previously undertaken through a similar Renewable Energy Program), including those related to the procurement documents for any such private purveyor, the planning, design, installation, operation and maintenance of the Renewable Energy Projects, the security typically provided by any private purveyor, and the representations, warranties, covenants and other relevant provisions of any such agreements.

(b) Accordingly, for this Phase 4, the Respondent for this Phase shall provide, in their Proposal, a not-to-exceed price quote for:

(i) Task 1. All of the Consulting Energy Services set forth in Phase 4, which price quote can be submitted in the Proposal on either an hourly or fixed fee basis.

(c) Similar to Phase 3, the Authority anticipates receiving an appropriation for the funding for Phase 4 through the BAN or other available County Funds, as defined, contemplated and to be conveyed to the Authority as set forth in the County Service Agreement, which shall allow the Authority to enter into a Services Contract with the Consulting Energy Engineer for Phase 4. However, the funding of payment under the Services Contract for Phase 4 may not be available until and unless the Authority Bonds contemplated by the County Service Agreement are issued (to the extent insufficient demand exists for the Renewable Energy Program from the Local Units, there would be no need for issuance of the Authority Bonds). Respondents should note in their Proposal whether their acceptance of Phase 4 under these conditional payment provisions is acceptable to the Respondent.

## **Section 2.6 Supplemental Phase.**

(a) The Authority may have need for additional Consulting Energy Engineer services related to the Renewable Energy Program, but such services are neither expressly referred to nor otherwise contemplated above, such as review of possible legislation.

(b) Accordingly, for this Supplemental Phase, the need for which may or may not arise, the Respondent for this Phase shall provide, in their Proposal, a not-to-exceed price quote for:

(i) Task 1. All of the Consulting Energy Services set forth in this Supplemental Phase, which price quote shall be submitted in the Proposal on an hourly basis.

### ARTICLE III

#### PROPOSAL SUBMISSION REQUIREMENTS

##### Section 3.1. General Requirements.

(a) The Proposal submitted by a Respondent must meet or exceed the professional, administrative and financial qualifications set forth in this Article III and shall incorporate the information requested below.

(b) In addition to the information required as described below, a Respondent may submit supplemental information that it feels may be useful in evaluating its Proposal. Respondents are encouraged to be clear, factual, and concise in their presentation of information.

##### Section 3.2. Content and Form of Proposal.

(a) Proposal Format. Proposal content and completeness is an important criterion in the evaluation process. In order to streamline the evaluation process and ensure that all Proposals are evaluated on an equal basis, it is required that Proposals adhere to the standard format outlined below for presentation of the requested information.

<u>Section</u>	<u>Section Title</u>
	Proposal Cover Letter ( <b>Exhibit C</b> to this RFP).
	Cover (if applicable)
	Table of Contents
1	Introduction/Executive Summary/General Information
2	Qualifications
3	Fee Proposal for Consulting Energy Services
4	Supplemental Information, if any.

(b) Proposal Content

(I) *Proposal Cover Letter.*

The Proposal Cover Letter must be executed by an authorized officer of the Respondent in the form substantially set forth as **Exhibit C** hereto.

(II) *Introduction/Executive Summary/General Information (Section 1 of the Proposal).*

This section of the Proposal should contain a brief summary of both the background of the Respondent and its key personnel, highlighting the benefits the Respondent believes it can contribute to the Authority. Identify the Phases responded to in the Proposal, and provide a list of the personnel the firm proposes to utilize for this contract and identify their individual qualifications. The following information, with respect to each Respondent (reference to Respondent shall also mean each subcontract and sub-consultant, if any), should also be included in this section of the Proposal. Principals shall mean ten percent (10%), or greater, owners of Respondent or where applicable, affiliates.

(A) Name, address and telephone number of the Respondent submitting the Proposal pursuant to this RFP, and the contact information for the Contact Person going forward.

(B) A description of the business organization (i.e., corporation, partnership, joint venture, etc.) of each Respondent, its ownership and its organizational structure.

(C) The number of years Respondent has been in business under the present name, and the number of years it is under current management.

(D) A statement that the Respondent is in compliance with all applicable affirmative action (or similar) requirements with respect to its business activities, together with evidence of such compliance.

(E) Any judgments, claims or suits pending or outstanding against Respondent. If yes, please explain.

(F) A statement as to whether Respondent, affiliates or any of their respective principals are now, or have, in the past three years, been the subject of any federal or State investigations or proceeding or any Security and Exchange Authority regulatory investigation or proceeding, and if so, please indicate the nature of that investigation or proceeding.

(G) Whether Respondent, affiliates, or any of their respective principals are now or has been involved in any bankruptcy or re-organization proceedings in the last ten (10) years. If yes, please explain.

(H) Confirm appropriate federal, if applicable, and State licenses to perform Consulting Energy Services in the Proposal.

(iii) *Qualifications (Section 2 of the Proposal)*

(A) Set forth the experience of the Respondent, and/or key personnel of the Respondent, regarding the ability to provide the various Consulting Energy Services contemplated in this RFP, including without limitation, Respondent's involvement with the planning, design, installation, financing, forecasting (see elsewhere in this RFP regarding generation of pro-forma schedules), operation and/or maintenance of Renewable Energy Projects.

(B) Set forth Respondent's experience with local government entities such as the Authority, the County and the Local Units, regardless if related to Renewable Energy Projects. Please list all Local Government Units within Morris County for which you presently provide services.

(C) Set forth any potential or existing conflicts, or any other issue that may preclude the Respondent from performing the Consulting Energy Services (for which the Proposal is seeking award at the highest standard).

(D) Any other information the Respondent deems pertinent and that demonstrates an ability to perform the requested Consulting Energy Services for which Respondent has submitted a Proposal.

(iv) *Fee Proposal for Consulting Energy Services (Section 3 of the Proposal).*

Respondents should provide firm quotes for the respective one or more Phases for which Respondent is seeking to provide Consulting Energy Services, in the manner set forth in Sections 2.2 through 2.6 above, inclusive. Also, to the extent Respondent is seeking to provide Consulting Energy Services on more than one Phase, please include reference to a discount if selected for multiple phases, if applicable.

(v) *Supplemental Information, if any (Section 4 of the Proposal).*

Respondents should feel free to concisely set forth any other relevant information not required by this RFP of which the Authority should be made aware in selecting one or more Consulting Energy Engineers for the various Phases contemplated in this RFP.

## **ARTICLE IV**

### **CRITERIA FOR EVALUATION**

#### **Section 4.1. Generally.**

In order to submit a successful Proposal, Respondents shall demonstrate that they are a multi-disciplined engineering firm or firms, capable of providing in-house expertise in the fields of renewable energy systems engineering, including without limitation: structural, civil, mechanical, electrical, instrumentation and control, environmental, and other engineering services associated with renewable energy systems. Respondents to Phases 3 and 4 of this RFP should also possess economic and financial modeling capabilities, knowledge concerning utility tariffs, Solar Renewable Energy Certificates, PJM market and the State Interconnection Rules, and technical aspects associated with development of renewable energy systems. Respondents will need to demonstrate that they have the continuing capabilities to perform these Consulting Energy Services.

#### **Section 4.2. Criteria for Award.**

In determining which Respondents shall be awarded the respective Phases of this RFP, which determination each Respondent acknowledges shall be in the sole discretion of the Authority, the Authority may utilize the following criteria, weighted as the Authority determines. The Authority shall not be obligated to reveal to any third party, including Respondents, any of its deliberations in reaching a decision on the award of any Phase, although the Authority shall deliberate in good faith.

(a) The qualifications, expertise and experience of the Respondents, including the staffing and ability to utilize key personnel of the Respondents, together with Respondents' understanding and grasp of the purpose and intent of the Renewable Energy Program, to perform the various Consulting Energy Services contemplated by this RFP.

(b) The fee quotes of the Respondents in accordance with Article II of this RFP.

(c) Any prior positive experience of the Authority, the County, the Local Units or their professionals with the Respondent. If no prior experience exists, the

Authority's determination of whether the Respondent shall constitute a service friendly partner and shall read the scope and underlying purpose of this RFP and the Renewable Energy Program broadly to assist and otherwise serve the best interests of the Authority, the County, and the Local Units.

(d) The completeness of the Proposal.

(e) Any problematic ancillary issues that may arise in the Proposal or subsequent thereto, such as potential conflicts.

(f) Any other factors that the Authority, in its sole discretion, shall determine to be in the best interests of the Authority, the County, the Local Units, and the Renewable Energy Program.

**EXHIBIT C**

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
AUTHORIZING THE EXECUTION OF A SERVICE AGREEMENT,  
AWARDING PHASE I OF THE RENEWABLE ENERGY PROJECTS AND  
CERTAIN OTHER MATTERS ALL IN CONNECTION WITH THE  
AUTHORITY'S RENEWABLE ENERGY PROGRAM**

**WHEREAS**, The Morris County Improvement Authority (including any successors and assigns, the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Board of Freeholders") of the County of Morris (the "County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the "Act") and other applicable law;

**WHEREAS**, the Authority desires to undertake the development and implementation of a program (the "Renewable Energy Program") for the financing, acquisition, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric facilities (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and local governmental units within the County, including without limitation municipalities, school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities; collectively, including the County, the "Local Units");

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, the Authority is seeking the County's financial assistance in taking the initial steps in order to develop and implement the Renewable Energy Program, which financial assistance is intended to be repaid with funds raised by the Authority through the issuance of permanent bonds of the Authority under the Renewable Energy Program (the "Bonds"), and toward that end, the Authority has requested that the County adopt a bond ordinance ("County Bond Ordinance") authorizing the issuance by the

County of a note or notes of the County (the "County Notes") in an amount sufficient to assist the Authority with funding all of the engineering, legal, financial advisory and other preliminary costs of the Renewable Energy Program necessary, desirable or convenient for the development and implementation of the Renewable Energy Program prior to the issuance of the Bonds (the "Preliminary Program Costs");

**WHEREAS**, the terms and conditions of (i) the County's initial funding of the Renewable Energy Program with a portion of the proceeds of the County Notes, (ii) the disbursement of such proceeds for Renewable Energy Program costs, (iii) the return of the funds to the County upon the issuance of the Authority Bonds, (iv) the financial protection to be afforded the County from any potential draw under its hereinafter defined County Guaranty of the Bonds necessary for the financial success of the Renewable Energy Program, (v) the recovery of certain costs from non-participating Local Units, and (v) certain other related Renewable Energy Program issues shall be set forth in a service agreement (the "County Service Agreement") by and between the Authority and the County, all pursuant to Section 36 of the Act (N.J.S.A. 40:37A-79) and other applicable law;

**WHEREAS**, in order to implement and develop the Renewable Energy Program, the Authority shall hire the services of an individual or corporate engineering and renewable energy consulting firm (the "Consulting Energy Engineer") under all applicable law, through one or more qualification based request for proposals (severally or individually, the "RFP"), to, among other things, (i) determine the suitability of the Local Unit Facilities for the installation and operation of the Renewable Energy Projects (the "Consulting Energy Auditing Services"; for purposes of the Renewable Energy Program, the Consulting Energy Engineer performing such services may be referred to, with respect to only such services, as the "Consulting Energy Auditor"), (ii) verify, modify and/or develop the economic assumptions underlying the Renewable Energy Program, and (iii) assist in the negotiation of the various agreements required to implement the Renewable Energy Program (together with the Consulting Energy Auditing Services, collectively, the "Consulting Energy Services");

**WHEREAS**, the RFP shall not be issued unless and until the Authority and its professional consultants provide the County with a presentation of the initial concepts for the development and implementation of the Renewable Energy Program (the "Initial County Presentation") and the County determines that it is in the best interest of the Local Units for the Authority to proceed with the Renewable Energy Program;

**WHEREAS**, the Authority shall not (i) award the RFP, or any phase thereof, unless and until an appropriation has been made, either by the County through the County Bond Ordinance or otherwise, and (ii) award the RFP in an amount in excess of the limitation stated in the County Bond Ordinance or any other available source (the "RFP Award Limitations");

**WHEREAS**, the Authority, together with the Consulting Energy Engineer, and its other professional consultants, shall solicit interest, through community outreach

meetings, from Local Units for participation in the Renewable Energy Program ("Phase I"), and to the extent required by any Local Unit, the Authority, on behalf of itself and any such agents, may have to execute a preliminary license and access agreement ("Preliminary License") with any such Local Unit, particularly if required by any such Local Unit for the Consulting Energy Auditing Services ("Phase I Documents");

**WHEREAS**, upon the determination of Local Unit participation in the Renewable Energy Program, it is presently contemplated that the Authority would implement the Renewable Energy Program through either or both of the following options, or some hybrid thereof, depending on the nature of the renewable energy and municipal financing markets, the interests of the respective Local Units, and whatever other factors shall be deemed relevant by the Consulting Energy Engineer and or the Authority's other professional consultants and determined by the Authority and the County to be in their best interests and that of the Local Units prior to the issuance of the Bonds;

**WHEREAS**, under the first option under consideration for implementation of the Renewable Energy Program (the "Private Option"), the Authority shall enter into a license, access, receipt, sale and other services agreement, or other agreement with each participating Local Unit (each agreement a "Local Unit License") that would, among other things, provide the Authority and/or its assignees the right to (i) access certain Local Unit Facilities of such Local Unit, (ii) design, acquire, finance, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the renewable energy produced from such Renewable Energy Projects, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects to the Local Unit, either directly or through the Authority, all pursuant to N.J.S.A. 40:37A-77 of the Act and other applicable law;

**WHEREAS**, the Authority shall, in accordance with the competitive contracting provisions of the Local Public Contracts Law, particularly N.J.S.A. 40A:11-4-1 through 4.5, inclusive, or 40A:11-5(6), as applicable, procure the services of a private developer (the "Company") to design, acquire on behalf of the Authority, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities, and sell all or a portion of the renewable energy generated thereby to the Local Units, either directly or through the Authority, and if excess renewable energy is available, to the market, all on a turnkey, guaranteed maximum price basis, or on some other basis that makes economic sense and limits downside risk to the Authority and the County, with such Renewable Energy Program terms to be set forth in (i) a license of the necessary portion of each Local Unit Facilities' site (each a "Company License") granted by the Authority (itself a recipient of the Local Unit License) to the Company, (ii) a lease of the Renewable Energy Project (the "Company Equipment Lease") from the Authority, as owner and lessor, to the Company, as lessee, structured in such a manner as to convey Federal income tax ownership of the Renewable Energy Project to the Company, and (iii) an operating, maintenance and marketing agreement (the "Company Service Agreement", together with the Company License, the Company Equipment Lease and any other

agreement that includes the Authority and the Company as parties that the Authority shall deem necessary, desirable or convenient to implement the Renewable Energy Program, including without limitation any power purchase agreement that may encompass one or more provisions of the foregoing, the "Company Documents"), pursuant to which the Company would operate and maintain the Renewable Energy Project, and market and sell all or a designated portion of the energy generated thereby, which sale shall be initially to the Authority for the benefit of the Local Units, or directly to the Local Units, with any excess energy sold to the market;

**WHEREAS**, as the Federal income tax ownership of the Renewable Energy Projects would be conveyed to the Company under the Private Option in order to maximize the economic benefits generated by the Renewable Energy program, whereby the Authority shall seek to obtain the maximum share of such economic benefits to cover all costs of the Renewable Energy Program, including without limitation the payment of debt service on the Bonds issued to finance the Renewable Energy Projects, and convey the balance of any such obtained economic benefits to or for the benefit of the Local Units, unless Federal tax law permits otherwise the Bonds shall be issued on a taxable basis for purposes of Section 103 of the Internal Revenue Code of 1986, as amended (the "Code");

**WHEREAS**, under the second option under consideration for implementation of all or a portion of the Renewable Energy Program (the "Public Option"), the Authority shall finance the acquisition of the Renewable Energy Projects with a series of Bonds, the gross income of which shall be excludable for Federal income tax purposes under Section 103 of the Code, and the Authority, the Local Units, and any private entity procured in accordance with applicable law shall allocate the responsibility for designing, acquiring, installing, operating, and maintaining the Renewable Energy Projects, so long as ownership of the Renewable Energy Projects shall be with the Authority or the Local Units, and the Local Units shall use the renewable energy produced thereby at their Local Unit Facilities, all pursuant to one or more loan, lease, license, service or other agreements (collectively, the "Local Unit Agreements") by and between or among all such applicable entities under the Act and other applicable law;

**WHEREAS**, under the Private Option, the Public Option, or some other option that may be a composite of one or more of the foregoing (each an "Option" under the Renewable Energy Program), the Bonds shall also be issued in accordance with (i) the terms of a bond resolution adopted by the governing body of the Authority (the "Bond Resolution") in accordance with Section 17 of the Act (N.J.S.A. 40:37A-60) and (ii) all other applicable law, to finance the Renewable Energy Projects and other allowable costs of the Renewable Energy Program, including without limitation any such costs financed on an interim basis by the County, all pursuant to terms of the Service Agreement;

**WHEREAS**, under any Option, in accordance with the terms of the Bond Resolution, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Bonds, in addition to any security that may be provided from payments under any Company Documents, or, only if desired by certain Local Units,

particularly school districts, from payments under any Local Unit debt instrument, shall be in addition, fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County on the face of each Bond and (iii) as may be required by any rating agency, underwriter, Bond purchaser or other entity that will allow the Authority to sell the Bonds at the lowest possible cost to the Local Units, an agreement setting forth the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the ordinance (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), prior to the issuance of the Bonds, the Authority will have made a detailed report of the Renewable Energy Program to the Board of Freeholders, which report will include, without limitation, descriptions of the Service Agreement, the Bonds, the Bond Resolution, County Guaranty, and as applicable Local Unit License and Company Documents or Local Unit Agreements (collectively, the "Program Documents");

**WHEREAS**, on November 12, 2008 the Authority posted notice on its website of the issuance of an RFP for Consulting Energy Engineer; and

**WHEREAS**, on November 26, 2008 the Authority received 5 responses to its RFP, which included 9 firms, certain of which firms joined together for the submission of joint proposals (each a "Proposal"), which Proposals were reviewed and discussed by the Authority and its other professional consultants at a special public meeting of the Authority on December 3, 2008, as continued.

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The Chairperson and the Treasurer of the Authority (including their designees, each an "Authorized Officer") are each hereby severally authorized and directed to execute and deliver the County Service Agreement, in the form attached hereto as Exhibit A with such changes as the Authorized Officer, after consultation with the hereinafter defined Consultants, determine to be in the best interests of the Authority, and take all such further actions in accordance with all applicable law, including without limitation the execution of such other certificates, instruments or documents, as any such Authorized Officer, in consultation with the Authority's bond counsel, DeCotiis, FitzPatrick, Cole & Wisler, LLP, the Authority's financial advisor, Acacia Financial Group, Inc., and the Consulting Energy Engineer receiving the award for Phase 1 as set forth in Section 3 below (the "Consultants"), shall deem necessary, convenient or desirable by any such Authorized Officer to implement the County Service Agreement (collectively, the "County Service Agreement Documents").

**Section 2.** The Secretary and the Assistant Secretary of the Authority are hereby authorized and directed, where required, to affix the corporate seal of the Authority and to attest to the signature of the Authorized Officer on any such County

Service Agreement Documents, including such other certificates, instruments or documents contemplated herein. Thereafter the Authorized Officer is hereby authorized and directed to deliver any such fully authorized, executed, delivered, and if applicable, attested and sealed certificates, instruments and documents to any interested party.

**Section 3.** Based on its review of the Proposals, the Authority hereby determines to award the Consulting Energy Services for Phase 1 (as detailed in the RFP) to Metro Energy Solutions of West Caldwell, New Jersey, on behalf of the joint venture team of Metro Energy Solutions, Gable Associates, and PMK Group, a division of Birdsall Engineering Group, as Consulting Energy Engineer for that Phase 1 portion of the Renewable Energy Program. As the RFP has set a limit of \$2500 for Phase 1 services, and as the successful respondent has waived the Phase 1 fee, the Authority may make this award prior to the final adoption and enactment into law of the County Bond Ordinance. Subsequent Phases of the RFP may not be awarded until such County Bond Ordinance is in place (or other provision is made for an appropriation), but in any event only up to the RFP Award Limitations. The successful respondent for Phase 1 shall expressly understand that the Authority may never receive the contemplated appropriation from the County Bond Ordinance under the Service Agreement, for whatever reason, and that any work undertaken by the successful respondent beyond Phase 1 of the RFP is taken without any obligation of award or compensation to be provided by the Authority to such successful respondent, either in contract or in equity. The Authority especially wishes to express its appreciation to the other respondents submitting Proposals, each of which submitted thoughtful Proposals that will assist the Authority in implementing the Renewable Energy Program. As the Phase 1 services are outlined in the RFP, the Local Unit outreach meetings are scheduled for this week, and the successful respondent has waived its Phase 1 fee, the Authority shall not require a professional services agreement with such successful respondent for Phase 1 services., and in lieu thereof, and in recognition of the limits set forth in this Section 3, such successful respondent shall receive, and acknowledge receipt, via e-mail or otherwise, of a copy of this resolution.

**Section 4.** All actions taken to date by the Authority, the Authority's bond counsel, DeCotiis, FitzPatrick, Cole & Wisler, LLP, and the Authority's financial advisor, Acacia Financial Group, Inc., including but not limited to the distribution and form of the RFP are hereby ratified, confirmed and approved.

Section 5. This resolution shall take effect immediately.

**MOVED/SECONDED:**

Resolution moved by Commissioner Krich.

Resolution seconded by Commissioner Roe.

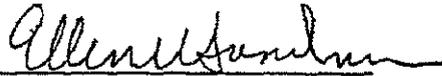
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Krich	X			
Ramirez	X			
Roe	X			
Sandman	X			
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on December 10, 2008 at the Authority's principal corporate office in Morristown, New Jersey.

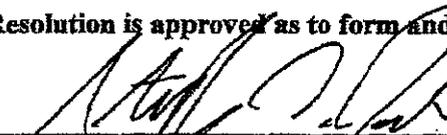
Attested to this 10<sup>th</sup> day of December, 2008

By: 

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of December 10, 2008

By:   
Stephen B. Pearlman, Esq., Partner  
DeCotiis, FitzPatrick, Cole & Wisler, LLP  
Counsel to the Authority

**EXHIBIT D**

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES  
AGREEMENT WITH METRO ENERGY SOLUTIONS, AWARDING PHASES 2  
THROUGH 4 OF THE RENEWABLE ENERGY PROJECTS AND CERTAIN  
OTHER MATTERS ALL IN CONNECTION WITH THE AUTHORITY'S  
RENEWABLE ENERGY PROGRAM**

**WHEREAS**, The Morris County Improvement Authority (including any successors and assigns, the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Board of Freeholders") of the County of Morris (the "County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the "Act") and other applicable law;

**WHEREAS**, the Authority desires to undertake the development and implementation of a program (the "Renewable Energy Program") for the financing, acquisition, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric facilities (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and local governmental units within the County, including without limitation municipalities, school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities; collectively, including the County, the "Local Units");

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, the Authority is seeking the County's financial assistance in taking the initial steps in order to develop and implement the Renewable Energy Program, which financial assistance is intended to be repaid with funds raised by the Authority through the issuance of permanent bonds of the Authority under the Renewable Energy Program (the "Bonds"), and toward that end, the Authority has requested that the County

adopt a bond ordinance ("County Bond Ordinance") authorizing the issuance by the County of a note or notes of the County (the "County Notes") in an amount sufficient to assist the Authority with funding all of the engineering, legal, financial advisory and other preliminary costs of the Renewable Energy Program necessary, desirable or convenient for the development and implementation of the Renewable Energy Program prior to the issuance of the Bonds (the "Preliminary Program Costs");

**WHEREAS**, the terms and conditions of (i) the County's initial funding of the Renewable Energy Program with a portion of the proceeds of the County Notes, (ii) the disbursement of such proceeds for Renewable Energy Program costs, (iii) the return of the funds to the County upon the issuance of the Authority Bonds, (iv) the financial protection to be afforded the County from any potential draw under its hereinafter defined County Guaranty of the Bonds necessary for the financial success of the Renewable Energy Program, (v) the recovery of certain costs from non-participating Local Units, and (v) certain other related Renewable Energy Program issues are set forth in a service agreement (the "County Service Agreement") dated January 5, 2009 by and between the Authority and the County, all pursuant to Section 36 of the Act (N.J.S.A. 40:37A-79) and other applicable law;

**WHEREAS**, in order to implement and develop the Renewable Energy Program, the Authority shall hire the services of an individual or corporate engineering and renewable energy consulting firm (the "Consulting Energy Engineer"), through the qualification based request for proposals and qualification statements dated November 12, 2008 (the "RFP"), to, among other things, (i) to solicit interest, through community outreach meetings, from Local Units for participation in the Renewable Energy Program ("Phase 1"), (ii) determine the suitability of the Local Unit Facilities for the installation and operation of the Renewable Energy Projects (the "Consulting Energy Auditing Services" or "Phase 2"; for purposes of the Renewable Energy Program, the Consulting Energy Engineer performing such services may be referred to, with respect to only such services, as the "Consulting Energy Auditor"), (iii) to develop, verify, and/or modify the economic assumptions underlying the Renewable Energy Program ("Phase 3"), and (iv) to assist in the negotiation of the various agreements required to implement the Renewable Energy Program ("Phase 4" and together with Phase 1, Phase 2 and Phase 3, the "Consulting Energy Services");

**WHEREAS**, the RFP was issued after the Authority and its professional consultants provided the County with a presentation of the initial concepts for the development and implementation of the Renewable Energy Program (the "Initial County Presentation") and the County determined that it is in the best interest of the Local Units for the Authority to proceed with the Renewable Energy Program;

**WHEREAS**, on November 12, 2008 the Authority posted notice on its website of the issuance of the RFP for Consulting Energy Engineer; and

**WHEREAS**, on November 26, 2008 the Authority received 5 responses to its RFP, which included 9 firms, certain of which firms joined together for the submission of

joint proposals (each a "Proposal"), which Proposals were reviewed and discussed by the Authority and its other professional consultants at a special public meeting of the Authority on December 3, 2008, as continued;

**WHEREAS**, the Authority was not authorized to (i) award the RFP, or any phase thereof, unless and until an appropriation has been made, either by the County through the County Bond Ordinance or otherwise, and (ii) award the RFP in an amount in excess of the limitation stated in the County Bond Ordinance or any other available source (the "RFP Award Limitations");

**WHEREAS**, as the RFP has set a limit of \$2500 for Phase 1 services, and as the successful respondent has waived the Phase 1 fee, the Authority made the Phase 1 award on December 10, 2008, prior to the final adoption and enactment into law of the County Bond Ordinance;

**WHEREAS**, based on its review of the Proposals, the Authority awarded the Consulting Energy Services for Phase 1 to Metro Energy Solutions of West Caldwell, New Jersey ("Metro Energy", on behalf of the joint venture team of Metro Energy Solutions, Gable Associates ("Gable"), and PMK Group, a division of Birdsall Services Group ("BSG" and collectively with Metro Solutions and Gable, "Metro"), as Consulting Energy Engineer for Phase 1 portion of the Renewable Energy Program;

**WHEREAS**, on January 5, 2009, subsequent to the December 10, 2008 final adoption of the County Bond Ordinance, the County and the Authority executed the County Service Agreement;

**WHEREAS**, upon the determination of Local Unit participation in the Renewable Energy Program, it is presently contemplated that the Authority would implement the Renewable Energy Program through either or both of the following options, or some hybrid thereof, depending on the nature of the renewable energy and municipal financing markets, the interests of the respective Local Units, and whatever other factors shall be deemed relevant by the Consulting Energy Engineer and or the Authority's other professional consultants and determined by the Authority and the County to be in their best interests and that of the Local Units prior to the issuance of the Bonds;

**WHEREAS**, under the first option under consideration for implementation of the Renewable Energy Program (the "Private Option"), the Authority shall enter into a license, access, receipt, sale and other services agreement, or other agreement with each participating Local Unit (each agreement a "Local Unit License") that would, among other things, provide the Authority and/or its assignees the right to (i) access certain Local Unit Facilities of such Local Unit, (ii) design, acquire, finance, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the renewable energy produced from such Renewable Energy Projects, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects to the Local Unit, either directly or through the Authority, all pursuant to N.J.S.A. 40:37A-77 of the Act and other applicable

law;

**WHEREAS**, the Authority shall, in accordance with the competitive contracting provisions of the Local Public Contracts Law, particularly N.J.S.A. 40A:11-4-1 through 4.5, inclusive, or 40A:11-5(6), as applicable, procure the services of a private developer (the "Company") to design, acquire on behalf of the Authority, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities, and sell all or a portion of the renewable energy generated thereby to the Local Units, either directly or through the Authority, and if excess renewable energy is available, to the market, all on a turnkey, guaranteed maximum price basis, or on some other basis that makes economic sense and limits downside risk to the Authority and the County, with such Renewable Energy Program terms to be set forth in (i) a license of the necessary portion of each Local Unit Facilities' site (each a "Company License") granted by the Authority (itself a recipient of the Local Unit License) to the Company, (ii) a lease of the Renewable Energy Project (the "Company Equipment Lease") from the Authority, as owner and lessor, to the Company, as lessee, structured in such a manner as to convey Federal income tax ownership of the Renewable Energy Project to the Company, and (iii) an operating, maintenance and marketing agreement (the "Company Service Agreement", together with the Company License, the Company Equipment Lease and any other agreement that includes the Authority and the Company as parties that the Authority shall deem necessary, desirable or convenient to implement the Renewable Energy Program, including without limitation any power purchase agreement that may encompass one or more provisions of the foregoing, the "Company Documents"), pursuant to which the Company would operate and maintain the Renewable Energy Project, and market and sell all or a designated portion of the energy generated thereby, which sale shall be initially to the Authority for the benefit of the Local Units, or directly to the Local Units, with any excess energy sold to the market;

**WHEREAS**, as the Federal income tax ownership of the Renewable Energy Projects would be conveyed to the Company under the Private Option in order to maximize the economic benefits generated by the Renewable Energy program, whereby the Authority shall seek to obtain the maximum share of such economic benefits to cover all costs of the Renewable Energy Program, including without limitation the payment of debt service on the Bonds issued to finance the Renewable Energy Projects, and convey the balance of any such obtained economic benefits to or for the benefit of the Local Units, unless Federal tax law permits otherwise the Bonds shall be issued on a taxable basis for purposes of Section 103 of the Internal Revenue Code of 1986, as amended (the "Code");

**WHEREAS**, under the second option under consideration for implementation of all or a portion of the Renewable Energy Program (the "Public Option"), the Authority shall finance the acquisition of the Renewable Energy Projects with a series of Bonds, the gross income of which shall be excludable for Federal income tax purposes under Section 103 of the Code, and the Authority, the Local Units, and any private entity procured in accordance with applicable law shall allocate the responsibility for designing, acquiring, installing, operating, and maintaining the Renewable Energy Projects, so long as

ownership of the Renewable Energy Projects shall be with the Authority or the Local Units, and the Local Units shall use the renewable energy produced thereby at their Local Unit Facilities, all pursuant to one or more loan, lease, license, service or other agreements (collectively, the "Local Unit Agreements") by and between or among all such applicable entities under the Act and other applicable law;

**WHEREAS**, under the Private Option, the Public Option, or some other option that may be a composite of one or more of the foregoing (each an "Option" under the Renewable Energy Program), the Bonds shall also be issued in accordance with (i) the terms of a bond resolution adopted by the governing body of the Authority (the "Bond Resolution") in accordance with Section 17 of the Act (N.J.S.A. 40:37A-60) and (ii) all other applicable law, to finance the Renewable Energy Projects and other allowable costs of the Renewable Energy Program, including without limitation any such costs financed on an interim basis by the County, all pursuant to terms of the Service Agreement;

**WHEREAS**, under any Option, in accordance with the terms of the Bond Resolution, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Bonds, in addition to any security that may be provided from payments under any Company Documents, or, only if desired by certain Local Units, particularly school districts, from payments under any Local Unit debt instrument, shall be in addition, fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County on the face of each Bond and (iii) as may be required by any rating agency, underwriter, Bond purchaser or other entity that will allow the Authority to sell the Bonds at the lowest possible cost to the Local Units, an agreement setting forth the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the ordinance (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), prior to the issuance of the Bonds, the Authority will have made a detailed report of the Renewable Energy Program to the Board of Freeholders, which report will include, without limitation, descriptions of the Service Agreement, the Bonds, the Bond Resolution, County Guaranty, and as applicable Local Unit License and Company Documents or Local Unit Agreements (collectively, the "Program Documents");

**WHEREAS**, with the Service Agreement now in place, the Authority now desires to award Phase 2, Phase 3 and Phase 4 of the Consulting Energy Services;

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The Chairperson and the Treasurer of the Authority (including their designees, each an "Authorized Officer") are each hereby severally authorized and directed to execute and deliver a Consulting Energy Engineer professional services agreement (the "Consulting Energy Engineer Professional Services Agreement") with

Metro in connection with the Consulting Energy Services, in the form attached hereto as Exhibit A, with such changes as the Authorized Officer, after consultation with the hereinafter defined Consultants, determine to be in the best interests of the Authority, and take all such further actions in accordance with all applicable law, including without limitation the execution of such other certificates, instruments or documents, as any such Authorized Officer, in consultation with the Authority's bond counsel, DeCotiis, FitzPatrick, Cole & Wisler, LLP, and the Authority's financial advisor, Acacia Financial Group, Inc., (the "Consultants"), shall deem necessary, convenient or desirable by any such Authorized Officer to implement the Consulting Energy Engineer Professional Services Agreement (collectively, the "Award Documents").

**Section 2.** The Secretary and the Assistant Secretary of the Authority are hereby authorized and directed, where required, to affix the corporate seal of the Authority and to attest to the signature of the Authorized Officer on any such Award Documents, including such other certificates, instruments or documents contemplated herein. Thereafter the Authorized Officer is hereby authorized and directed to deliver any such fully authorized, executed, delivered, and if applicable, attested and sealed certificates, instruments and documents to any interested party.

**Section 3.** Based on its review of the Proposals and upon the execution and delivery of the Award Documents, the Authority has determined to award Phase 2, Phase 3, and Phase 4 (Phase 1 being the subject of a previous award) of the Consulting Energy Services to Metro Energy Solutions of West Caldwell, New Jersey, on behalf of the joint venture team of Metro Energy Solutions, Gable Associates, and PMK Group, a division of Birdsell Services Group, as Consulting Energy Engineer for the Renewable Energy Program. It is hereby recognized that together with all other soft costs of the Renewable Energy Program, Consulting Energy Services payable to Metro shall not exceed, in the aggregate, the greater of (i) the initial \$500,000 appropriation made available to the Authority from the County pursuant to the County Service Agreement dated January 5, 2009, (ii) additional amounts made available by the County upon replenishment of the initial or any subsequent \$500,000 or other amount so earmarked for the Renewable Energy Program from a portion of the proceeds of any Bonds, or otherwise, or (iii) from any other available amounts so appropriated by the Authority, at the Authority's sole discretion.

**Section 4.** All actions taken to date by the Authority, the Authority's bond counsel, DeCotiis, FitzPatrick, Cole & Wisler, LLP, and the Authority's financial advisor, Acacia Financial Group, Inc., including but not limited to the distribution and form of the RFP are hereby ratified, confirmed and approved.

Section 5. This resolution shall take effect immediately.

**MOVED/SECONDED:**

Resolution moved by Commissioner Roe.

Resolution seconded by Commissioner Pinto.

**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez	X			
Roe	X			
Sandman	X			
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on January 14, 2009 at the Authority's principal corporate office in Morristown, New Jersey.

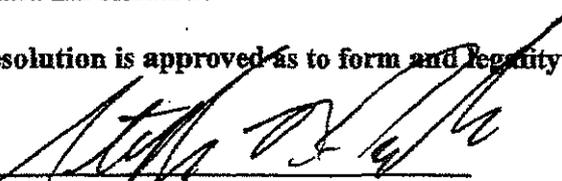
Attested to this 14<sup>th</sup> day of January, 2009

By: 

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of January 14, 2009

By: 

Stephen B. Pearlman, Esq., Partner  
DeCotiis, FitzPatrick, Cole & Wisler, LLP  
Counsel to the Authority

**EXHIBIT E**

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

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**TITLE:**

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE EXTENSION OF A PROFESSIONAL SERVICES AGREEMENT WITH METRO ENERGY SOLUTIONS ON BEHALF OF A JOINT VENTURE TEAM FOR THE COMPLETION OF THE PILOT PROGRAM, AND AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH GABEL ASSOCIATES ON BEHALF OF A JOINT VENTURE TEAM FOR OTHER SERVICES TO BE PERFORMED IN 2010, ALL IN CONNECTION WITH THE AUTHORITY'S RENEWABLE ENERGY PROGRAM**

WHEREAS, The Morris County Improvement Authority (including any successors and assigns, the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Board of Freeholders") of the County of Morris (the "County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the "Act") and other applicable law;

WHEREAS, the Authority has undertaken the development and implementation of a program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications or other work required or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities; collectively, including the County, the "Local Units");

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local

Units (collectively, the "Local Unit Facilities");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing (the "Capital Improvement Projects" and together with the Renewable Energy Projects and any project to complete such projects, the "Projects");

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to assist the Authority with funding all of the engineering, legal, financial advisory and other preliminary costs of the Renewable Energy Program necessary, desirable or convenient for the development and implementation of the Renewable Energy Program (the "Preliminary Program Costs") prior to the issuance of the first series of bonds in an aggregate principal amount not to exceed \$30 million that shall finance the initial portion of the Renewable Energy Program (the "Pilot Series Bonds"), on January 5, 2009 the Authority and the County entered into that certain "Service Agreement (Renewable Energy Program)" dated as of January 1, 2009 (as the same may be amended or supplemented from time to time in accordance with its terms, the "County Service Agreement"), all pursuant to Section 36 of the Act (N.J.S.A. 40:37A-79) and other applicable law;

**WHEREAS**, in order to assist in the development and implementation of the Renewable Energy Program, and pursuant to a qualification based request for proposals and qualification statements dated November 12, 2008 (the "Consulting Energy Engineer RFP") that also complied with the (i) "fair and open" process pursuant to the "New Jersey Local Unit Pay-to-Play Law" (codified at N.J.S.A. 19:44A-20.1, *et seq.* and as amended and supplemented from time to time, the "State Pay to Play Law") and (ii) the professional services exception set forth in the "Local Public Contracts Law" (codified at N.J.S.A. 40A:11-1 *et seq.*, the "Public Contracts Law"), specifically, N.J.S.A. 40A:11-5(1)(a)(i), the Authority has hired the services of Metro Energy Solutions of West Caldwell, New Jersey ("Metro Energy", on behalf of the joint venture team of Metro Energy Solutions, Gabel Associates ("Gabel"), and PMK Group, a division of Birdsall Services Group ("BSG" and collectively with Metro Solutions and Gabel, the "Pilot Consulting Energy Engineer"), to provide consulting energy engineer and renewable energy services outlined as Phases 1-4, inclusive, in the Consulting Energy Engineer RFP (the "Pilot Consulting Energy Engineering Services");

**WHEREAS**, the Pilot Consulting Energy Engineer entered into that certain "Professional Services Agreement" dated as of January 14, 2009 (the "Original Services

**Agreement**") to perform the Pilot Consulting Energy Engineering Services related to the Pilot Series Bonds, which Original Services Agreement, pursuant to applicable law, expires within one year of its making, on January 13, 2010;

**WHEREAS**, the Authority anticipates that the Pilot Series Bonds shall not be issued prior to January 13, 2010, the end of the term of the Original Services Agreement;

**WHEREAS**, during the development of the Renewable Energy Program and prior to the issuance of the Pilot Series Bonds, (i) the Authority and its various consultants, including the Pilot Consulting Energy Engineer, have gained tremendous knowledge and experience concerning all facets of the Renewable Energy Program, which knowledge cannot be replicated in the open market as the Renewable Energy Program is the first of its kind in the State, and (ii) the Authority has expended or incurred significant Preliminary Program Cost funds in attaining that knowledge and experience;

**WHEREAS**, in view of the fact that (i) the Pilot Consulting Energy Engineer was originally obtained through a "fair and open" process in accordance with the State Pay to Play Law, (ii) the Pilot Consulting Energy Engineer possesses the unique knowledge and experience set forth above, and (iii) the Authority does not anticipate the issuance of the Pilot Series Bonds prior to the expiration of the Original Services Agreement, the Authority desires to amend the Original Services Agreement (as amended and supplemented, the "**Amended 2009-2010 Services Agreement**") to retain the Pilot Consulting Energy Engineer under substantially the same terms and conditions as the Original Services Agreement (including pricing, and other than timing) under an "unfair and open" process that also complies with the professional services exception to the Public Contracts Law through the earlier of (y) the issuance of the Pilot Series Bonds and the completion of all Pilot Consulting Energy Engineering Services related thereto or (z) January 12, 2011;

**WHEREAS**, in view of the fact that the two principals involved with Metro Energy are no longer working at Metro Energy, one having joined Gabel, and the other having left to establish a new practice with a firm unrelated to the Pilot Consulting Energy Engineer team, the Authority desires to further set forth in the Amended 2009-2010 Services Agreement that Gabel shall be the lead firm involved in the Pilot Consulting Energy Engineer team;

**WHEREAS**, the Authority anticipates that with a Local Unit waiting list for participation in the Renewable Energy Program of over thirty (30), that the Authority will move forward with the Renewable Energy Program in 2010, and accordingly shall require, among other services, the services of a consulting energy engineering team to perform services in connection with the continuance of the next phase of the Renewable Energy Program substantially similar to the Pilot Consulting Energy Engineering Services; and

**WHEREAS**, for the same reasons set forth above relating to the Amended 2009-2010 Services Agreement, especially in view of the fact that there is more knowledge to be learned through the closing of the Pilot Series Bonds, the Authority desires to retain, through an "unfair and open" process and the professional services exception to the Public Contracts Law, the joint venture team of Gabel and BSG (the "**Consulting Energy Engineer**") to perform consulting energy engineering services substantially similar to the Pilot Consulting Energy Engineering Services (the "**Consulting Energy Engineering Services**") under substantially the same terms and conditions as the Original Services Agreement (including pricing, and other than timing) for the period commencing with the completion of the pilot Renewable Energy Program and the issuance of the Pilot Series Bonds, and ending within one (1) year thereafter, as required by the Public Contracts Law, all to be set forth in a Professional Services Agreement between the Authority and the Consulting Energy Engineer (the "**Services Agreement**").

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The Chairperson and the Treasurer of the Authority (including their designees, each an "Authorized Officer") are each hereby severally authorized and directed to negotiate, execute and deliver (a) the Amended 2009-2010 Services Agreement with the Pilot Consulting Energy Engineer, with Gabel as the lead firm and (b) the Services Agreement (collectively, the "**Agreements**") with the Consulting Energy Engineer in such form as contemplated by the preambles hereof (primarily with substantially similar terms, including pricing and other than timing, as the Original Services Agreement, and in an "unfair and open" process under the State Pay to Play Law for the reasons set forth above, and in accordance with the professional services exception to the Public Contracts Law), with such final form to be determined by the Authorized Officer, after consultation with counsel, to be in the best interests of the Authority, the Local Units and its Renewable Energy Program, and take all such further actions in connection therewith in accordance with all applicable law, including without limitation the execution of such other certificates, instruments or documents, as any such Authorized Officer, in consultation with counsel, shall deem necessary, convenient or desirable by any such Authorized Officer to implement the Agreements.

**Section 2.** The Secretary and the Assistant Secretary of the Authority are hereby authorized and directed, where required, to affix the corporate seal of the Authority and to attest to the signature of the Authorized Officer on any such Agreements, including such other certificates, instruments or documents contemplated herein. Thereafter the Authorized Officer is hereby authorized and directed to deliver any such fully authorized, executed, delivered, and if applicable, attested and sealed certificates, instruments and documents to any interested party. publication

**Section 3.** Notwithstanding Section 1 above, (a) the Services Agreement shall not be entered into until sufficient funds are available through any source, including without limitation any combination of available Authority funds, the County Service

Agreement, federal or State grants funds, or any bond resolution providing an appropriation for a series of bonds in connection with the Renewable Energy Program and (b) the Services Agreement may provide an additional scope of services related to construction management services, if economical and otherwise in the best interests of the Authority, the Local Units, the County, or the Renewable Energy Program..

**Section 4.** All actions taken to date in connection with the Agreements by the Authority, the Authority's bond counsel, DeCotiis, FitzPatrick, Cole & Wisler, LLP, and the Authority's financial advisor, Acacia Financial Group, Inc., are hereby ratified, confirmed and approved.

[remainder of page intentionally left blank]

**Section 5.** This resolution shall take effect immediately.

**MOVED/SECONDED:**

Resolution moved by Commissioner Roe.

Resolution seconded by Commissioner Pinto.

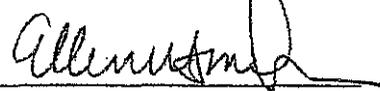
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez	X			
Roe	X			
Sandman	X			
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on November 30 at the Authority's principal corporate office in Morristown, New Jersey.

Attested to this 30<sup>th</sup> day of November, 2009

By: 

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of November 30, 2009

By: 

Stephen B. Pearlman, Esq., Partner  
DeCotiis, FitzPatrick, Cole & Wisler, LLP  
Counsel to the Authority

**EXHIBIT F**

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

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***TITLE:***

**RESOLUTION AMENDING THE SCOPE OF SERVICES TO BE PROVIDED BY  
THE CONSULTING ENERGY ENGINEER IN CONNECTION WITH THE  
AUTHORITY'S RENEWABLE ENERGY PROGRAM**

**WHEREAS**, The Morris County Improvement Authority (including any successors and assigns, the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Board of Freeholders*") of the County of Morris (the "*County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the "*Act*") and other applicable law;

**WHEREAS**, on November 30, 2009 the Authority adopted Resolution No. 09-51 (the "*Original 2010 Consulting Energy Engineer Authorizing Resolution*"), authorizing the execution of a Services Agreement (as defined in the Original 2010 Consulting Energy Engineer Authorizing Resolution, but defined herein as the "*Original 2010 Services Agreement*") with the Consulting Energy Engineer (as defined in the Original 2010 Consulting Energy Engineer Authorizing Resolution) to perform Consulting Energy Engineering Services (as defined in the Original 2010 Consulting Energy Engineer Authorizing Resolution, but defined herein as the "*Original 2010 Consulting Energy Engineering Services*") for the one year term set forth therein; and

**WHEREAS**, (i) as the Authority is in need of a construction manager in connection with the oversight of the application of the primary portion of the proceeds of the Authority's \$21,600,000 aggregate principal amount of "County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2009A" dated February 18, 2010 (the "*Series 2009A Bonds*", and such construction manager services shall be defined as the "*Construction Manager Services*"), the Authority desires to amend the scope of the Original 2010 Consulting Energy Engineering Services to be performed by the Consulting Energy Engineer under the Original 2010 Services Agreement to include the Construction Manager Services (as so amended, the "*2010 Consulting Energy Engineering Services*"), and (ii) the Authority further desires to amend the Original 2010 Services Agreement (as so amended, the "*2010 Services Agreement*"), to reflect the proposed scope and pricing for the 2010 Consulting Energy Engineering Services to be

performed by the Consulting Energy Engineer in accordance with the proposal of Gabel Associates dated, April 13, 2010 (the "*Proposal*"), a copy of which is attached hereto as **Exhibit A**.

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The Chairperson, Vice-Chairperson and the Treasurer of the Authority (including their designees, each an "*Authorized Officer*") are each hereby severally authorized and directed to negotiate, execute and deliver the 2010 Services Agreement with the Consulting Energy Engineer, which shall include the scope of services for the Construction Management Services and the pricing reflected in the Proposal, with such final form of the 2010 Services Agreement to be determined by the Authorized Officer, after consultation with counsel, to be in the best interests of the Authority, and such Authorized Officer is hereby further authorized to take all such further actions in connection therewith in accordance with all applicable law, including without limitation the execution of such other certificates, instruments or documents, as any such Authorized Officer, in consultation with counsel, shall deem necessary, convenient or desirable by any such Authorized Officer to implement the 2010 Services Agreement.

**Section 2.** The Secretary and the Assistant Secretary of the Authority are hereby authorized and directed, where required, to affix the corporate seal of the Authority and to attest to the signature of the Authorized Officer on any such 2010 Services Agreement, including such other certificates, instruments or documents contemplated herein. Thereafter the Authorized Officer is hereby authorized and directed to deliver any such fully authorized, executed, delivered, and if applicable, attested and sealed certificates, instruments and documents to any interested party.

**Section 3.** Notwithstanding Section 1 above, the 2010 Services Agreement shall not be entered into until sufficient funds are available through any source, including without limitation any combination of available Authority funds, County funds through that certain "Service Agreement (Renewable Energy Program)" dated as of January 1, 2009 (the "*County Service Agreement*") between the Authority and the County or otherwise, federal or State grants funds, or any bond resolution providing an appropriation for a series of bonds in connection with the Renewable Energy Program. Each Authorized Officer is hereby further severally authorized, after consultation with counsel, to negotiate, execute and deliver an amendment to the County Service Agreement, to the extent and in such form as such Authorized Officer shall deem necessary, desirable or convenient to provide for such appropriation of funds or for any other reason contemplated by this resolution.

**Section 4.** All actions taken to date in connection with the 2010 Services Agreement by the Authority and the Authority's counsel, DeCotiis, FitzPatrick & Cole, LLP, are hereby ratified, confirmed and approved.

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**MOVED/SECONDED:**

Resolution moved by Commissioner Roe.

Resolution seconded by Commissioner Pinto.

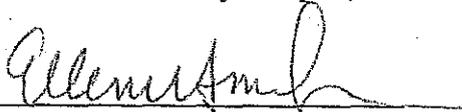
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez	X			
Roe	X			
Sandman	X			
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on April 20th at the Authority's principal corporate office in Morristown, New Jersey.

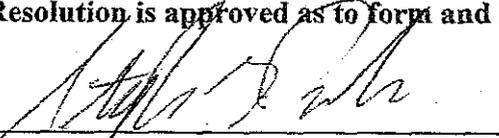
Attested to this 20<sup>th</sup> day of April, 2010

By: 

Secretary of the Authority

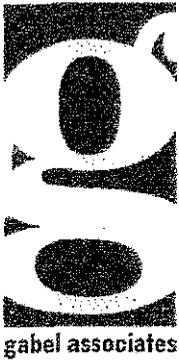
**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of April 20, 2010

By:   
Stephen B. Pearlman, Esq., Partner  
DeCotiis, FitzPatrick & Cole, LLP  
Counsel to the Authority

**EXHIBIT A**

**[Attach copy of Proposal]**



## **Proposal to Provide Energy Consulting Services to Morris County Improvement Authority**

April 13, 2010

### **Introduction**

Gabel Associates is pleased to provide this proposal to assist the Morris County Improvement Authority in implementing additional phases of its successful county wide solar project.

Gabel Associates' recent involvement in the MCIA's pilot program and our understanding of the emerging renewable industry and our extensive experience in project development, in conjunction with our unique economic, financial and regulatory knowledge, will allow MCIA to expand on its recent success to develop its solar projects in the most successful and effective way possible.

In order to complete the engineering and technical activities required for these services, we have included Birdsall Services Group/PMK (BSG-PMK) a New Jersey licensed professional engineering firm, on a subcontractor basis in this proposal. BSG-PMK has extensive technical experience related to photovoltaic power systems, which will supplement the financial, marketplace, and project development expertise of Gabel Associates. BSG-PMK will provide technical support as required with the project.

With respect to renewable development, Gabel Associates has assisted in the development of New Jersey's most significant solar projects including the Pilot Phase of the Morris County county-wide solar program, the Atlantic City Convention Center, Rutgers University, the New Jersey Meadowlands Commission, Ocean City, and many other renewable projects. Gabel Associates is also active in policy and regulatory matters related to renewable development in the State of New Jersey.

The firm has specialized capabilities in order to effectively address the unique requirements of a public entity. Specifically, Gabel Associates possesses extensive expertise in the following areas:

- Renewable project development;
- Procurement documents and approaches that conform to public contracting law;
- Comprehensive economic and financial analysis;
- Solar Renewable Energy Certificate ("SREC") marketplace;

- Regulatory matters and;
- Identification of financial support at the state, federal, and utility level

This proposal provides the following information for your consideration:

- 1) Scope of Services
- 2) Fee Proposal

Attachments:

- 3) Detailed Scope of Services
- 4) Team Qualifications
- 5) Project Team

### **1) Scope of Services**

Consistent with the approach used during the Pilot Program, each round of the RFP activity will have the following summary scope. A detailed explanation of each Phase of the Scope of Services is attached.

Phase 1: General Introduction of Solar to local units and outreach presentations

Phase 2: Solar Feasibility Study

Phase 3: Economic Modeling

Phase 4: RFP Process

Phase 5: Project Management/Construction Administration

The Project Management/Construction Administration element is applicable to both completion of the Pilot Project as well as subsequent rounds of the program.

### **2) Proposed Fees**

Based on the above scope, Gabel Associates proposes to charge the following fees for each Service.

Consistent with the fee approach used in the Pilot Phase, fees are primarily on a per site basis, as well as a fixed fee.

<b>Phase #</b>	<b>Activity</b>	<b>Proposed Fees</b>
1	General Introduction to Solar and Out Reach Presentation (Scope of Services: Items 1 and 2)	\$0
2	Solar Feasibility Study, Economic modeling and participant selection (Scope of Services: Items 3 and 4)	\$5,000 per site
3	RFP Process (Scope of Services: Items 5 through 9)	\$90,000, plus \$4,000 per site
4	Project Management (Scope of Services: Item 10)	\$8,500 per month for the term of construction

The fee structure outlined above has been developed based on a review of the total numbers of hours tracked from the first round of the Morris County Pilot Program and a projection of the hours for future rounds assuming an expedited process and economies related to "lessons learned" from the Pilot. Our fees are fixed on a per site basis and, as a result, Gabel Associates assumes the risk of additional hours expended on the project.

For comparison purposes 1,727 hours were expended during the Pilot Project while the above fees reflect an anticipated 1,300 hours (exclusive of project management).

Our detailed scope of services, qualifications and project team are described in the attached.

We appreciate the opportunity to provide this proposal to the Morris County Improvement Authority. Please feel free to call me at (732) 296-0770 with any questions regarding this proposal.

Sincerely,

Steven Gabel  
President

## **Attachment 1**

### **Detailed Scope of Services:**

1. County Level – Discussion with County personnel regarding the “Morris Model” for solar programs and the critical financial / technical issues involved in formulating a favorable aggregation of solar projects.
  - a. Introduction of Solar Model
    - i. Financing Structure
    - ii. Contract Arrangements
    - iii. Economics of Solar Systems
    - iv. Economic Drivers
      1. Composition of Local Unit Facilities
        - a. Importance of “Anchor” Facility
        - b. Impact of Capital Improvements
    - v. Technical Issues
      1. Roofing issues
      2. Factors affecting sizing
  - b. Discuss Approach to Local Units
    - i. Letter to Survey Interest
    - ii. Selection Process
2. Local Unit Level – Introduction to Solar Program (Solar Outreach Program) and education of Local Unit personnel regarding the “Morris Model” for solar programs and the critical financial / technical issues involved in formulating a favorable aggregation of solar projects
  - a. Financing Structure
  - b. Contract Arrangements
  - c. Economics of Solar Systems
    - i. Economic Drivers
    - ii. Composition of Local Unit Facilities
      1. Importance of “Anchor” Facility
      2. Impact of Capital Improvements
  - d. Technical Issues
    - i. Roofing issues
    - ii. Factors affecting sizing
3. Feasibility Study
  - a. Initial Selection of Candidates
    - i. Anchor Facility
    - ii. Capital Improvement Requirements
    - iii. Roofing Condition / Warranty
  - b. Feasibility Study of Initial Candidates
    - i. Prepare an Engineering Feasibility Study

1. Site Visit – investigate roof dimensions, orientation, shading issues, electrical service and interviews with site personnel.
  2. Roof – Review roof condition and configuration to identify potential roof integrity / warranty issues.
  3. Conceptual Design and Layout of the Solar System.
  4. Review permitting requirements.
  5. Preliminary Design of Size and Energy Production of the Solar System.
  6. Prepare Preliminary Cost Estimate.
  - ii. Prepare an Economic Feasibility Study
    1. Use a Customized Financial Model to Evaluate the Value Streams Associated with the Solar Project.
      - a. Assumptions – Cost of money, Forecast SREC Values, Forecast Future Local Utility Rates
    2. Prepare a Business Plan that is Consistent with the Goals and Objectives of the County / Local Units.
    3. Obtain Load Data for each Local Unit Facility.
    4. Prepare a sensitivity analysis to demonstrate the impact of a range of variables upon overall project economic feasibility.
  - iii. Prepare a Feasibility Study report of Findings, Analysis and Recommendations.
  - iv. Present the Feasibility Report to County.
  - c. Modify Selection of Solar Program Candidates Based Upon Feasibility Study of Initial Candidates
  - d. Prepare Final Feasibility Study of Final Candidates
    - i. Engineering Study of Added Candidates – site visit, roof review, permitting requirements, preliminary design and cost estimate.
    - ii. Economic Study of Final Candidates, including Added Candidates.
4. Identify Potential Sources of Funds (grants and incentives) and Assist in the Application Process and Securing of such Funding.
  5. Develop and Prepare an RFP that will be used to Solicit Proposals
    - a. Prepare Initial Draft
    - b. Participate in Meetings to Finalize RFP
    - c. Identify Qualified Solar Developers
  6. Attend pre-bid Conference
    - a. Answer Solar Developer Questions at Conference
    - b. Coordinate site visits for bidders
    - c. Attend site visits (following pre-proposal conference)
    - d. Answer Formal Questions Submitted by Solar Developers

7. Evaluation of Proposals
  - a. Attend Bid Opening
  - b. Evaluation Scoring Matrix
    - i. Prepare Scoring Matrix
    - ii. Receive Comments
    - iii. Finalize Scoring Matrix
  - c. Review Of Proposals
    - i. Initial Review of Technical and Economic Aspects of Proposals
    - ii. Solar Developer Interviews
      1. Prepare list of Questions for Solar Developers based upon Initial Reviews.
      2. Attend Interviews of Solar Developers
      3. Prepare Summaries of Solar Developer Responses to Questions at interviews
      4. Follow-up with Solar Developers on Outstanding Issues
      5. Finalize Interview Summaries
    - iii. Perform Final Review of Technical Aspects of Proposals
    - iv. Perform Final Economic Analysis of Proposals
    - v. Complete Evaluation Scoring Matrix based upon Technical and Economic Review
      1. Discuss Evaluation Matrix with County Team
      2. Finalize Evaluation Matrix based upon County Team Comments
  - d. Solar Proposal Evaluation Report
    - i. Prepare draft of Outline
    - ii. Prepare first draft of Report
      1. Executive Summary, Overview, Financial Structure and Economics
      2. Technical Evaluation
    - iii. Review Comments of County Team
    - iv. Finalize Report
      1. Technical Evaluation of Proposals
      2. Economic Evaluation of Proposals
        - a. Detailed Forecast of Local Utility Rates by Local Unit Facility
        - b. Forecast of Energy savings by Local Unit Facility
      3. Evaluation Scoring Matrix
      4. Recommendation of Winning Solar Developer
8. Contracts / Agreements
  - a. Purchase Power Agreement (PPA)
    - i. Prepare draft of PPA

- ii. Review comments of County Team Finalize PPA for inclusion in RFP
  - iii. Other Contracts / Agreements
  - iv. Review drafts and provide comments
  - v. Review Final versions
- 9. Finalize Contracts / Agreements with Winning Solar Developer
  - a. Participate in meetings with Solar Developer
  - b. Review various document versions and provide comments
  - c. Discuss various issues with Solar Developer and resolve issues
- 10. Project Management Services Overseeing work of Winning Solar Developer
  - a. Conduct Pre-construction meeting with Developer, contractors, and County personnel.
  - b. Provide weekly supervision and management specific to construction projects.
  - c. Track and report progress of assigned projects to the County's Project Manager.
  - d. Review construction drawings and contracts.
  - e. Coordinate Developer's contractors.
  - f. Coordinate and run weekly job meetings.
  - g. Oversee, anticipate and coordinate the flow of construction in order to meet projected schedules.
  - h. Prepare a weekly report that summarizes the work completed and reflects any changes to the construction schedule.
  - i. Provide project close-out at the conclusion of the installation to verify that the solar system is installed and operating.

## Attachment 2

### Statement of Qualifications and Project Team Attachment

#### **Team Qualifications**

##### Gabel Associates

Gabel Associates, Inc. is an energy, environmental and public utility consulting firm with its principal office located in Highland Park, New Jersey.

The firm provides its expertise to a wide variety of clients involved in virtually every sector of the energy industry. Our client list includes individual governmental, commercial and industrial end users, federal and public agencies, aggregated groups of customers, public utility commissions, power plant owners and operators, wholesale suppliers and utilities.

The firm has substantial and unique experience and expertise related to financial, project management, economic, technical, marketplace, environmental and regulatory issues with respect to renewable and energy efficiency initiatives.

Steven Gabel, the President of Gabel Associates, started the firm in 1993 with the goal of providing a wide range of economic, technical, regulatory and marketplace advice and analysis in the energy and environmental industries.

Due to the firm's high level of activity in project development and its unique economic and financial capabilities, combined with its participation in policy development in various proceedings at the New Jersey Board of Public Utilities, Gabel Associates brings special expertise to the development of renewable projects.

Gabel Associates has substantial experience and expertise in servicing public and private sector clients in New Jersey and addressing their unique needs and requirements. Gabel Associates is an industry leader in the following areas: comprehensive feasibility assessment of renewable and traditional energy projects; renewable and energy efficiency project evaluation, development, and management; detailed economic and financial analysis; energy procurement activities; regulatory matters; contract negotiation; environmental matters; energy, solar renewable energy certificate (SREC) and carbon market analysis and sale; and the interconnection, operations and market rules of the regional transmission organizations, especially PJM.

With respect to renewable development, Gabel Associates has assisted in the development of New Jersey's most significant solar projects including the Atlantic City Convention Center, Rutgers University, Ocean City, the Morris County county-wide solar program, and many other renewable projects.

Firm President Steven Gabel served on the Governor's Renewable Energy Task Force, which is the basis for New Jersey's renewable portfolio standard, and continues to serve on the State's Clean Energy Council, and various subcommittees of the Council. These groups evaluate issues related to the development of a successful and robust renewable market.

We feel that Gabel Associates' understanding of the renewable energy markets and project development, in conjunction with our unique economic and financial expertise, allows our clients to reach its goals in the most successful and effective way possible.

Our various areas of expertise are described below.

### **Renewable Project Development**

Gabel Associates has been deeply involved in all stages of renewable project development. We provide support to clients for project development activities, including comprehensive evaluation of financial, economic, marketplace, environmental and regulatory issues; developed, financing and procurement; contract negotiations; project management; and SREC and REC sales.

The firm conducts feasibility evaluations of potential sites, including a size and cost estimate for the renewable energy system, identification of general site issues, costs, benefits, and the internal rate of return associates with the project. We evaluate the appropriate financing and contractual structure for each project, including self ownership or a Purchase Power Agreement (PPA) model. In addition, we provide oversight of project installation, sale of RECs and other environmental products, and secure utility, state and federal financial support.

Utilizing our strong analytical capabilities, we evaluate the technical, economic, and financial viability of different renewable projects while also taking into consideration the goals and risk tolerance of each client. We conduct comprehensive economic, financial, and sensitivity analysis surrounding all renewable options to determine the internal rate of return and payback of each project. We also identify any potential technical issues or obstacles related to development.

The following summarizes the firm's active role in implementing renewable initiatives:

#### **Solar Projects**

- Atlantic City Convention Center (ACCC) – Gabel Associates assisted the ACCC with all aspects of its solar project. The ACCC is installing a large roof system that is over 2 MW in size -- the largest single-building solar project in the U.S. to date. The firm has supported the ACCC with grant attainment, Request for

Proposal (RFP) design, RFP evaluation, financial and technical analysis, as well as Power Purchase Agreement (PPA) negotiation.

- Rutgers University – Gabel Associates assisted Rutgers University with the development of a 1.3 MW ground mounted solar system. This is currently the largest solar project on any single campus in the country. The firm provided economic and financial analysis for the project. Gabel Associates helped prepare the RFP document and has been entrusted to evaluate proposals to determine the winning bidder. The firm also helped the University to successfully obtain a \$4.8 million grant to help support the project.
- State of New Jersey – Gabel Associates serves as the Energy Consultant to the State of New Jersey, through the State's Office of Energy Savings within the Treasury Department. The firm is assisting the State in developing a program to solicit solar vendor offers under a PPA model for multiple State buildings, including project feasibility criteria and RFP terms and conditions.
- Ocean City - Gabel Associates assisted the City of Ocean City with the development of its 544 kW solar project. Ocean City is a nearly fully developed resort and barrier island community comprising approximately seven square miles, situated in the northeastern portion of Cape May County. The goal of Ocean City is to offset its electricity usage through the installation of roof top solar systems on four municipal buildings. The firm provided support for all project activities, including economic evaluations, RFP preparation, and the attainment of financial assistance in the form of rebates from the Board of Public Utilities' Office of Clean Energy.
- Morris County Improvement Authority - Gabel Associates provided consulting services to MCIA to develop and implement a county-wide Renewable Energy Program. The financing structure of the Program is unique because Morris County is the first county in the country to finance solar PV projects through a public/private lease arrangement that secures all available federal tax benefits, while using low cost county debt. The MCIA Solar Program is 3.2 MW of PV capacity that includes nineteen county and school district facilities located throughout the county. The unique financial structure allows these facilities to gain the benefits of solar power, even though many of the facilities would not have been considered effective sites for solar PV systems independently.

Gabel Associates' consulting services included the development of the financing structure, the design of the RFP, the evaluation of the responses to the RFP, comprehensive financial and economic analysis and assistance in finalizing the PPA.

- Department of Veterans Affairs (VA) – Gabel Associates is assisting the VA with solar feasibility assessments for 4 locations in New Jersey. The firm has completed preliminary pre-screening activities as well as detailed feasibility studies.
- Wildwood Convention Center – The firm is currently assisting the Wildwood Convention Center (WCC) in procuring and contracting for a solar facility. The firm is supporting the WCC with RFP design, RFP evaluation, financial and technical analysis, as well as PPA negotiation that protects the interests of the WCC.
- Atlantic Cape Community College – Gabel Associates provided consulting services to ACCC to develop and implement a Solar Renewable Energy Initiative. The ACCC Solar Initiative includes 2.3 MW of multiple solar parking canopy systems, which will be installed at ACCC's Mays Landing and Cape May campuses.

Gabel Associates' consulting services included feasibility studies, the attainment of a state grant, the design of the RFP, the evaluation of the responses to the RFP, comprehensive financial and economic analysis and assistance in finalizing the PPA.

- Wayne Township Board of Education - Gabel Associates is providing turnkey development services in connection with the Wayne Township Board of Education's initiative to install roof-top and potentially ground-mounted solar renewable energy projects on and around the elementary, middle and high schools in its jurisdiction. Turnkey services include: initial feasibility assessments at each of 10 school sites, identify sites where cost-effective projects are feasible, develop RFP terms and conditions; conduct vendor site visits; technical and financial evaluation of vendor bids; negotiation of power purchase agreement between the vendor and Board of Education; and project management during construction phase through project commissioning.
- New Jersey Meadowlands Commission - In 2006, the New Jersey Meadowlands Commission (NJMC) announced a major initiative to develop renewable energy projects in its District. Gabel Associates has been actively involved in helping the NJMC to implement this initiative. With Gabel Associates' support, the NJMC released an RFP for a large solar project that will be built on a landfill within the NJMC district. Our role includes financial and technical analysis, grant accomplishment, RFP preparation and evaluation, and contract negotiation. We are also assisting the NJMC with a solar canopy project which will be located in the parking lot. In addition, the firm has also been asked to evaluate the potential for solar systems on several municipalities in the area.

- Rockland Capital – Gabel Associates is assisting Rockland Capital with the development of a 4 MW solar project at the BL England generating station in Cape May County. The firm is assisting with all project development activities including feasibility, comprehensive economic and financial analysis, RFP preparation, interconnection issues, and the sale of solar renewable energy certificates.
- Hudson County – Gabel Associates assisted Hudson County with the development of a 24 kW solar system, which will be located on the roof of the Hudson Plaza building. The firm is helping the County through the rebate application process as well as the vendor selection process.
- Mazza and Sons, Inc. – Gabel Associates assisted Mazza & Sons, Inc., a regional recycling center, in the evaluation of an offer submitted by a vendor to install, own, operate and maintain a 280 kW solar facility at its site. This included financial analysis and PPA negotiations.
- Clayton Companies – Gabel Associates assisted Clayton Companies with the development of a 370 kW solar system and is currently developing a second similarly sized system. The firm assists with financial analysis, vendor selection, contract review, and SREC marketing activities.
- Philadelphia Water Department - Gabel Associates has recently been selected to help the Department develop an understanding of the key elements in RFP development for a solar PPA.

#### Wind Projects

- Atlantic City Convention Center (ACCC) – Gabel Associates is helping the ACCC with the potential installation of a wind turbine. The firm assisted with the preparation of a feasibility study, which included detailed economic and financial analysis. Gabel Associates will also partake in the bid evaluation process and contract negotiations.
- Bayshore Regional Sewerage Authority – Gabel Associates is assisting the Authority with the development of its wind project. The firm will be involved in all stages of project progression including the preparation of economic and financial analysis, evaluation of bids, and negotiation of a contract that best serves the Authority's needs.
- Department of Veterans Affairs (VA) – Gabel Associates is assisting the VA with wind feasibility assessments for 5 locations in New Jersey. The firm has

completed preliminary pre-screening activities as well as detailed feasibility studies.

#### Landfill Gas-to-Energy Projects

- Burlington County (BC) – Gabel Associates provided consulting services to BC in support of the development of its 7.5 MW renewable landfill gas generating facilities. Gabel Associates provided support throughout the RFP process and contract negotiations, including an analysis to support project financing. The firm helped the County apply for and realize grant money under the various New Jersey Board of Public Utilities Office of Clean Energy programs. The firm is also overseeing the marketing of energy, capacity, and renewable energy certificates (RECs) by the developer. The firm also assisted with PJM interconnection issues.
- Atlantic City Utilities Authority (ACUA) – Gabel Associates assisted ACUA in negotiating a series of agreements with a private vendor for the installation and operation of a three unit landfill gas-to-energy (LFGE) project totaling 5.4 MW. In addition, Gabel Associates assisted in renegotiating the economics of the first three LFGE units, while providing the framework for the expansion of the project beyond the original three units. Gabel Associates' services also included assistance in realizing a rebate from the NJBPU, the evaluation of both the direct and market based financial benefits and the negotiation of agreement terms that minimize risk consistent with ACUA objectives.
- Salem County Utilities Authority (SCUA) – Gabel Associates assisted SCUA in negotiating an agreement with a private vendor for the installation and operation of a 1.9 MW landfill gas-to-energy project. Gabel Associates' services included assistance in realizing a rebate from the Board of Public Utilities' Office of Clean Energy, the performance of a financial analysis, and the negotiation of agreement terms that minimize risk consistent with SCUA objectives.
- Middlesex County Utilities Authority (MCUA) – Gabel Associates provides consulting support to MCUA for its 18 MW landfill gas-to-energy project including power contracting, PJM issues and financial and technical analysis to support purchase of the facility.
- Ocean County Landfill (Landfill Energy Systems) – Gabel Associates assisted the Ocean County Landfill with the marketing of the energy, capacity, and RECs associated with its 9 MW landfill gas-to-energy project. The firm also assisted with the attainment of a \$1.5 grant. The firm also assisted with PJM interconnection issues.

- Cape May County Municipal Utilities Authority (CMCMUA) – Gabel Associates assisted the CMCMUA with the marketing of RECs associated with its 300 kW landfill gas-to-energy facility.

### **Renewable Energy Certificate Market Expertise**

Gabel Associates is involved in the renewable market place, participating in transactions, and following its progress on a regular basis.

Gabel Associates is directly involved in sales activity (as well as SREC policy development) and maintains a supply/demand analysis to forecast REC and SREC values and trends. With respect to solar, we develop and implement a marketing strategy that capitalizes on SREC value. The firm has assisted many clients with the marketing and sale of SRECs and RECs including Rutgers University, Clayton Companies, Burlington County, Landfill Energy Systems, Covanta Energy, American Ref-Fuel, and the Cape May County Municipal Utilities Authority.

Through firm President Steven Gabel's participation of the Governor's Renewable Task Force in New Jersey, Gabel Associates is also directly involved in the development of renewable energy policy in the region. Mr. Gabel also serves on the New Jersey Clean Energy Council, which reviews policy relative to New Jersey's renewable energy and energy efficiency initiatives. He serves on the Renewable Energy Committee of the Clean Energy Council. He also serves on several subcommittees of the Clean Energy Council related to renewable portfolio standards and alternative compliance payments. This knowledge will allow the firm to provide strategic advice based on current market conditions and regulations.

Gabel Associates provides assistance to clients in demonstrating compliance with renewable criteria, addressing a host of contractual issues and helping clients apply for and realize grant money under the various New Jersey Board of Public Utilities Office of Clean Energy programs. With respect to solar projects, the firm has assisted several entities with the development of their solar initiatives. These clients include Ocean City, the New Jersey Meadowlands Commission, ACCC, Hudson County, Clayton Companies, Mazza and Sons, Inc., and Rutgers University. Gabel Associates has supported these clients with the grant application process and has provided advice on how to develop each project in the most cost effective manner possible.

Gabel Associates has assisted clients in regulatory activities and qualification of projects as renewable resources in New Jersey as well as assisting clients in REC and energy trading activities. These clients have included Rutgers University, Covanta Energy, Magellan Resources Group, American Ref-Fuel, Landfill Energy Systems, and the Cape May County Utilities Authority.

The firm also participates in the PJM GATS (Generation Attribute Tracking System) Committee deliberations. The GATS Committee is intended to provide a cost effective means of demonstrating renewable compliance with a variety of state policies and regulations.

### **Project Management and Construction Administration**

Due to Gabel Associates' familiarity with project installation activities, the firm is able to provide project management and construction administration during the development phase of energy projects.

Through this role, we serve as our client's representative and oversee project installation activities. The firm provides on-site support through the commencement of commercial operation to assure timely and efficient installation. Gabel Associates has assisted clients with project oversight services for renewable and energy efficiency projects including the Atlantic City Convention Center and the New Jersey Meadowlands Commission.

In addition, Joe Santaiti, Vice President of Gabel Associates, has assisted many clients with this service, including:

- Alpine, Borough – Mr. Santaiti was the solar consultant for Alpine's 5 kW solar project at the Municipal Building. His responsibilities included financial analysis, coordination of preparation of a bid specification, administration of the bid process, and project management oversight.
- Lacey School District – As a subcontractor, Mr. Santaiti assisted in the development of the project 1.4 MW solar project. Mr. Santaiti managed the process of bid specification development through project management oversight.
- Northwest Bergen Utilities Authority (NWBCUA) – Mr. Santaiti was the solar consultant for NWBCUA's 300 kW solar project at the Water Treatment Facility. His responsibilities included financial analysis, coordination of preparation of a bid specification, administration of the bid process, and project management oversight.
- Teaneck, Township – Mr. Santaiti was the solar consultant for Teaneck's 72 kW solar project at the Community Center (67 kW) and Fire House (5 kW) Buildings. His responsibilities included financial analysis, coordination of preparation of a bid specification, administration of the bid process, and project management oversight.

- Upper Saddle River Board of Education – Mr. Santaiti was the solar consultant for Upper Saddle River School District's 85 KW roof replacement and integrated solar installation. His responsibilities included coordination of solar feasibility, financial analysis, preparation of a bid specification, administration of the bid process, and project management oversight.

### **Energy Market Analysis and Forecasting**

Gabel Associates has provided extensive market analysis for a wide range of clients. The firm has supplied ongoing data and intelligence regarding natural gas and power market trends, regional transmission organizations and state activities.

Gabel Associates conducts detailed monthly and quarterly reports that monitor market change and price volatility. The firm monitors the wholesale electric and natural gas markets on a daily basis and maintains extensive databases that track historical market prices and current market trends.

Since the firm has in-depth understanding of energy markets and industry fundamentals, we are able to provide our clients with forecasts of wholesale and retail electricity, natural gas, and renewable attribute pricing. We have also assisted in the development of strategies for sales of power in the wholesale markets, including contract negotiation, to maximize benefits to our clients.

The firm has provided long-term New Jersey electric utility tariff rate forecasting for numerous clients including Keyspan Energy Services, Schweitzer-Mauduit International, Inc., Tosco/Linden Refinery, Honeywell, Hartz Mountain Industries, and others in support of project development, litigation support, or contract negotiations.

### **Economic Dispatch Model Capabilities**

Gabel Associates has a proprietary dispatch model coordinated with our RTO pricing database which permits us to perform dispatch analysis for generating stations or similar applications driven by market thresholds. Our dispatch model allows us to determine the number of hours a unit will run and the revenues generated based upon locational marginal pricing (LMP), minimum run times, cost of generation, plant capacity, startup time and other related factors. This ability can help clients determine the most economic operating profile for their generation facilities.

### **Power Sales Activities and Contract Negotiation**

Gabel Associates has extensive experience in evaluating and negotiating long-term power purchase agreements, including direct involvement in eleven out of thirteen of Non Utility Generation (NUG) restructuring agreements approved by the New Jersey

Board of Public Utilities. We have participated in the analysis and negotiation of numerous long-term power purchase agreements.

Gabel Associates has been deeply involved in power sales from individual generation units. This has included:

- restructuring of long term power purchase agreements;
- sale of energy from units into the day-ahead and real-time markets;
- sale of capacity into PJM's new Reliability Pricing Model (RPM) market;
- bilateral contracting of capacity, energy and ancillary services from waste-to-energy facilities, landfill gas-to-energy facilities, and fossil fuel fired facilities;
- evaluation of power contracts issues (such as unit contingent sales, security and delivery issues);
- sales of renewable energy certificates on a bilateral basis, and;
- conducting comprehensive request for proposals for generation units

Gabel Associates has assisted in the development of strategies for sales of energy and RECs in the wholesale markets, including contract negotiation, to maximize benefits to our clients. The firm is skilled at evaluating and revising contract language in a way that profits and protects our clients. Gabel Associates is regularly and extremely involved in the ever-changing energy market.

Due to Gabel Associates' widespread understanding of the marketplace, we have the ability to help our clients identify and act at the optimum time to sell or buy energy.

The firm provides expert advice on the right time to enter the market, always taking into consideration the potential risks involved.

#### **Regulatory and Utility Ratemaking Knowledge**

Gabel Associates' two principals, Mr. Steven Gabel and Mr. Robert Chilton, were involved in electric and natural gas utility regulatory and ratemaking for many years in the regulatory arena before entering private practice. Both are economists with utility rate design and tariff expertise. Both Messrs. Gabel and Chilton have been responsible for reviewing every aspect of public utility rate cases and, where necessary, sponsoring testimony in that regard.

In addition to in-depth knowledge of public utility ratemaking in a fully regulated regulatory model, Mr. Gabel and Mr. Chilton were intimately involved in all phases of the deregulation of the energy industry in New Jersey, commencing with the development of New Jersey's off-tariff rate agreement (OTRA) law in the mid-1990's and subsequent deregulation law (EDECA) enacted in 1999.

Mr. Gabel and Mr. Chilton also played instrumental roles in the regulatory proceedings that followed to implement energy industry restructuring in New Jersey and retail choice for electricity and natural gas in the State in particular. These proceedings included implementation of regulations, as well as rate unbundling and stranded cost proceedings. Mr. Gabel testified and provided expert advice on numerous occasions on behalf of end user and power plant owner clients in those proceedings. Mr. Chilton was the Director of New Jersey's Energy Division in the Board of Public Utilities during that period responsible for overseeing the litigation and negotiation of all related electricity and natural gas deregulation rate cases, and developing and implementing third party supplier rules, and provider-of-last-resort utility rate structures. Accordingly, the firm brings experience and expertise in all forms of regulatory models and industry structures.

Mr. Richard Preiss, Vice President of Gabel Associates, also has an extensive background in utility regulation and rate strategy. Mr. Preiss has served as an expert witness in rate unbundling, stranded cost, restructuring and basic generation proceedings, as well as provided expert testimony on revenue requirements and tariff design in utility rate cases.

Gabel Associates has provided expert testimony on public utility regulatory, policy and economic matters. Specifically, Steven Gabel, Robert Chilton and Richard Preiss have testified on the following issues: electric, natural gas and water policy issues; the deregulation of the electric and natural gas industries; revenue requirements; tariff design; basic generation service for both electric and natural gas; and, cost recovery issues.

**Project Development and Economic Analysis/Cogeneration, Thermal Energy and Energy Efficiency**

We provide support to clients for project development activities. Our role has included market valuation, financial analysis, feasibility analysis, fuel price, electric and renewable energy certificate market forecasts, tariff analysis, standby service evaluations, carbon and emission trading issues, project sensitivity analysis, interconnect issues, regional transmission organization wholesale evaluations, energy contract negotiations and other strategic issues. Gabel Associates has assisted clients with respect to the evaluation and implementation of numerous power generation, energy efficiency, and cogeneration (or combined heat and power) projects.

We have participated in the analysis and negotiation of numerous long-term power purchase agreements including the Atlantic City Convention Center, Eagle Point Cogeneration, Newark Bay Cogeneration, the Burlington County Landfill Gas Project, Camden Cogen, Milford Power, Bayonne Cogen and Parlin Cogen.

The firm is currently providing energy efficiency evaluations to the New Jersey Meadowlands Commission and to the State of New Jersey, Department of Treasury.

Gabel Associates has extensive CHP experience and has supported many clients during all phases of project development including feasibility studies, economic and financial analysis, and implementation. These clients include the State of New Jersey (Trenton Cogen district), the Wayne New Jersey Board of Education, Reveille Entertainment, Schweitzer-Mauduit International, Cogen Technologies, PGE Generation, Garden State Paper Company, Newark Bay Cogen, Parlin Cogen, Milford Cogen, Lakewood Cogen, El Paso, East Coast Power, Schering Plough, Con Ed Development and Purenergy.

Gabel Associates has been involved in a myriad of thermal contract issues including the restructuring of ten of New Jersey's large cogeneration contracts with thermal hosts and utilities.

The firm was engaged by the New Jersey Board of Public Utilities Office of Clean Energy to prepare a marketplace assessment associated with its CHP grant program, and to make recommendations on improvements to the program to provide for greater CHP project development. By gathering widespread data through surveys and interviews, we were able to assess the market penetration of this advanced technology. Through this assessment, Gabel Associates was able to identify fundamental flaws within the program, which allowed the State to improve the financing process and enhance CHP activities.

### **Regional Transmission Issues**

Gabel Associates participates in various PJM committees and working groups including the Members Committee, Electricity Market Committee, Market Implementation Committee, and the Reliability Committee. These groups are where emerging issues, business and market rules are debated and decided.

In this capacity, Gabel Associates provides reporting, analysis, and advice to advance our clients' business objectives. As a result, Gabel Associates maintains up to date detailed expertise in the operation of the region's electric transmission system and wholesale energy markets, which serve as the foundation for electricity costs and reliability. The firm is well positioned to provide expert and timely advice with respect to developments and trends in regional energy market conditions.

PJM uses locational marginal pricing (LMP) to determine hourly energy costs. This pricing method reflects the value of the energy at each specific location and time it is delivered. Gabel Associates closely monitors the power market and maintains extensive databases on LMP data. Through a Microsoft Access-based model, the firm compiles historical pricing records on the real-time and day-ahead markets, which date back to 1998 for real-time and 2000 for day-ahead. We are able to consolidate the PJM posted data into our own database, which greatly facilitates the calculation process. Through our model, we have the ability to undertake advanced analysis of PJM markets including price duration curves, locational analysis, or other configurations on request of a client for all buses in the PJM territory.

Gabel Associates has extensive knowledge on the PJM Demand Response Program and has in-depth understanding of the rules and practices surrounding the program.

### **Environmental Expertise**

Gabel Associates is engaged in environmental matters that affect the power generation industry. The firm keeps up to date on all environmental issues that can potentially impact our clients. Gabel Associates is deeply involved in the Regional Greenhouse Gas Initiative (RGGI), serving as a stakeholder in the development process. RGGI is a cooperative effort by Northeastern and Mid-Atlantic states, including New Jersey, to reduce carbon dioxide emissions. To address this important environmental issue, the RGGI participating states are developing a regional strategy for controlling emissions, which entails implementing a cap-and-trade system. Gabel Associates is an active contributor in this effort, participating as a stakeholder and attending meetings on a regular basis.

Gabel Associates has played a substantial role on behalf of the Independent Energy Producers of New Jersey, the trade association for New Jersey's power generation industry, in the development of greenhouse gas emission reduction strategies in the region, including active participation in the development of New Jersey's greenhouse gas strategy following the passage of the Global Warming Response Act in June of 2007; development of CO2 emission trading legislation in New Jersey (A4559 signed by the Governor in January 2008); and the development of RGGI rules in the region.

Gabel Associates has participated in all major air quality issues affecting power generators for the past ten years. This includes participation in the development of the regional greenhouse gas initiative with New Jersey and other states in the northeast; development of the NOx budget program; review of the State Implementation Plan (SIP) submitted by the State of New Jersey; review of Ozone Transport Commission (OTC) policy; participation in development of NOx control policy during the High Electric Demand (HED policy); development of policy promoting cogeneration; and participation in the Mercury Emission Task Force and related policy development. Gabel Associates

has also participated in legislative deliberations related to these issues. Gabel Associates also has participated in reviews of regional and state solid waste plan activity.

### **Electric and Natural Gas Procurement Activities**

Gabel Associates has been involved in energy procurement since the introduction of retail competition in the energy industry, and was involved in wholesale power procurement even prior to that time. Our capabilities include data collection, development of procurement strategies, risk management, preparation of procurement documents, and operating procurement programs.

Gabel Associates has also been entrusted to manage the procurement of electricity and/or natural gas supplies for hundreds of commercial, industrial, and public sector clients including the State of New Jersey, over 400 school districts in New Jersey, the Passaic Valley Sewerage Commission, the Port Authority of New York and New Jersey, the New Jersey Sports and Exposition Authority, the County of Hudson, the County of Burlington, an aggregation comprised of 14 Sewerage and Municipal Utilities Authorities, Devils Arena Entertainment, Selective Insurance, Bay State Milling, Schweitzer-Maudit, AGFA Corporation, Captive Plastics, Sabert Corporation, Paradigm Packaging, Telecordia Technologies, the Port Authority Transit Corporation, as well as dozens of other private and public sector entities. Through these roles, we have been entrusted to manage significant volumes of data and to interact with complex organizations.

The firm has the ability to manage large quantities of data and has hands-on experience in conducting large-scale energy procurements. Gabel Associates technical approach in energy procurement is to effectively manage the economic risk inherent in procurement of electricity and natural gas; leading to cost effective procurement in a timely manner. Gabel Associates has managed thousands of accounts and is able to move adroitly to capture market timing opportunities under a rigorous modeling of markets and pricing.

The firm has significant, direct experience in energy procurement activities, in data management, in detailed analysis of risks and costs, and in the preparation and review of request for proposals (RFPs) and energy contracts. Gabel Associates possesses strong management support capabilities, which is demonstrated by the firm's leadership role on numerous energy procurement projects.

Gabel Associates has specific skills, experience and attributes that clearly demonstrate our ability to perform energy procurement activities, including:

- Gabel Associates is the consultant/program administrator for the Alliance for Competitive Energy Services (ACES) and has aggregated the purchase of electric and natural gas supply for over 400 New Jersey school districts (over 6,500 accounts) through a procurement system. Gabel Associates provides

comprehensive consulting services, including data collection, bid preparation and account savings analysis. The electric aggregation was the first electronic energy purchasing program approved by the New Jersey Department of Community Affairs.

As Consultant/Administrator, we collect and analyze all utility usage data; design and distribute a Request for Bids document; provide notice of award to suppliers; provide savings and rate analysis; and address all third party supply issues.

- Gabel Associates has successfully guided the State of New Jersey through numerous large electric and natural gas procurements over the past seven years. Gabel Associates is currently providing consulting services to the State of New Jersey in connection with both its green-e electric power procurement and its New Jersey Consolidated Energy Savings Program aggregation project. Consulting services being provided to the State include assistance with the development of procurement strategy, the preparation on RFP, account usage history collection and compilation, and bid evaluation in connection with more than 400 of the State's natural gas accounts and more than 3,000 of its electric accounts.
- Gabel Associates administers and manages an electric aggregation called the New Jersey Sewerage and Municipal Utility Authority Electrical Supply Aggregation (NJSMUAESA), which is comprised of 14 members totaling over 130 accounts.
- Gabel Associates assisted the Passaic Valley Sewerage Commission with procurement activities for electricity and natural gas.
- Gabel Associates has developed and managed electric procurement activities for the Association of Independent Colleges and Universities in New Jersey (AICUNJ) since 2000, working closely with individual members to prepare an RFP, compile and analyze account usage data, encourage responses from competitive electric suppliers, analyze bids and assist Members in understanding their new contracts.
- Gabel Associates has been entrusted to manage the procurement of electricity and natural gas supplies for the New Jersey Sports and Exposition Authority (NJSEA). We purchased power on behalf of the Authority, as well as provided strategic energy advice.
- The firm procured electricity for the Port Authority Transit Corporation (PATCO). PATCO is responsible for providing rail transportation between Philadelphia, Pennsylvania and Southern New Jersey.
- Gabel Associates was selected to manage natural gas procurement activities for the Northern Burlington County Natural Gas Consortium consisting of 16 school

districts and approximately 80 individual natural gas accounts, including preparation of an RFB, compilation and analysis of usage data by account and by district, interfacing with gas suppliers, and analysis of bids.

- Gabel Associates has also assisted many other public clients with procurement activities including Hudson and Burlington County (New Jersey) as well as the Port Authority of New York and New Jersey.

Gabel Associates has the capability to obtain large volumes of account usage history through an Electronic Data Interface (EDI) medium on behalf of customers. Gabel Associates engages in electronic transactions with registered utilities for the receipt of large volumes of account usage data. Our EDI capability allows us to obtain large volumes of account usage history on behalf of customers in an efficient and timely manner, ultimately leading to a more expeditious, lower-cost and higher-quality RFP.

Gabel Associates was also the first energy agent registered with the State of New Jersey pursuant to the Electric Discount and Energy Competition Act ("EDECA"), and we continue currently as a registered energy agent in good standing with the New Jersey Board of Public Utilities (Registration No. EA-0021). In addition, in December 2002 Gabel Associates became the first registered energy consultant in the State.

In addition, Gabel Associates has distinct technical capabilities that differentiate our services from other firms. We possess extensive knowledge in complementary areas which greatly enhances our procurement capabilities. The following highlights some areas of expertise that support successful procurement activities:

- Wholesale Energy Market Insight – Although procurement activities reside on the retail side; we are deeply involved in wholesale market activities, which supports our retail expertise. Our understanding extends beyond the retail component, allowing the firm to provide extra insight regarding retail transactions. The firm is expert on regional transmission organization (RTO) market operations, including transmission, energy, and capacity rules, which set the foundation of electric power costs.
- Utility Tariff and Regulatory Expertise – The firm has long standing expertise in utility tariffs, giving us the ability to analyze utility tariffs for our clients. Since the firm has in-depth understanding of tariff fundamentals, we are able to provide our clients with forecasts of retail electricity and natural gas pricing and recognize tariff savings opportunities.
- Data Access and Modeling Capabilities -- Gabel Associates has the capability to obtain large volumes of account usage history through an electronic data platform on behalf of customers. This capability allows the firm to access significant quantities of data, which is then analyzed and organized into a structured

database. The method increases efficiency and allows for the successful management and analysis of thousands of accounts.

In terms of modeling capabilities, Gabel Associates conducts detailed monthly and quarterly reports that monitor market change and price volatility. The firm monitors the wholesale electric and natural gas markets on a daily basis and maintains extensive databases that track historical market prices and current market trends. Specifically, the firm has been compiling historical pricing records on wholesale energy prices in a Microsoft Access-based model since 1998. By consolidating the data into our own database, it greatly facilitates the calculation process. Through our model, we have the ability to undertake advanced analysis of wholesale markets including price duration curves, locational analysis, or other configurations on request of a client.

*Environmental Market Activities* – As environmental issues have moved to the forefront, Gabel Associates is up to date on all issues that can potentially impact our clients. The cost of environmental compliance – particularly carbon compliance costs embedded in electric prices – is becoming a more significant component of electric costs. Gabel Associates is deeply involved in environmental markets, including carbon, NOx, SO2, and renewable energy certificate (REC) markets, and understands their movement and impact on electric prices.

#### **Identification of Incentives for Energy Initiatives**

There is a substantial and unprecedented level of public policy all pushing in the same direction of promoting energy efficiency and renewable energy, reducing greenhouse gas emissions, and promoting jobs in a green economy.

The firm identifies and evaluates state, utility, private, and federal funding opportunities and financial incentives for renewable energy, energy efficiency, and conservation measures. We have undertaken this service for numerous clients include Rutgers University, the New Jersey Meadowlands Commission, and Burlington County.

We help identify potential grant funding and financing sources for the projects endorsed by our clients and assess their respective eligibility criteria, funding limits, and application procedures, content requirements and schedules,

Gabel Associates remains current on funding opportunities and tracks all available state, federal, utility, and local funding opportunities.

#### **Birdsall Services Group/PMK Group**

Birdsall Services Group, Inc. (BSG) is comprised of five professional engineering business units, each known as leaders in their respective engineering and consulting fields.

Recognized as one of the fastest growing engineering firms in the United States, BSG's mission is to build relationships, provide solutions, and satisfy goals for its clients as well as its employees and strategic business partners.

BSG provides full service Energy Consulting on both sides of the meter; the supply side and the demand side. Our diverse professional staff, including Professional Engineers (PE), Mechanical Engineers (ME), Certified Energy Managers (CEM), LEED-Accredited Professionals, and Facilities Specialists, has extensive experience and expertise in all aspects of energy management, including energy efficiency analysis, energy master planning, procurement of energy, alternative energy sources, and building commissioning.

BSG's comprehensive internal engineering and consulting resources and technical expertise is coupled with a client management structure that allows us to provide one point of contact for our clients. This client-focused philosophy enables us to better serve our clients with more timely and cost effective solutions.

Since the early 1900's, BSG business units have been providing engineering and consulting services to several core and ancillary markets including healthcare, education, government, developers, theme parks, architects, attorneys, and construction managers. Additional ancillary markets include non-profit organizations, financial institutions, utilities, marinas, and real estate and insurance professionals.

BSG companies have been serving clients throughout New Jersey, New York, Connecticut, and Pennsylvania with quality engineering and consulting services. Our comprehensive spectrum of energy services includes the following:

- Renewable Energy Feasibility
- Energy Master Planning
- Energy Efficiency – SmartStart
- Energy Procurement
- LEED Consulting
- Building Commissioning/Retro-Commissioning
- Sustainable Engineering & Design
- Greenhouse Gas Inventories
- Review and Verification of Greenhouse Gas Emissions Data
- Corporate Strategies for Greenhouse Gas Data Management
- Modeling and Measurement Programs
- Cost Benefit Analysis of Greenhouse Gas Reduction Strategies
- Project Financing Assistance & Utility Rebate Analysis
- Project Management & Administration

BSG can assist in making an initial determination as to whether a renewable energy project is economically, technically, and practically viable for your facility. BSG's energy

professionals have a tremendous amount of experience with renewable energy, dating back to the 1980s when solar technology was first used to heat hot water. BSG has multiple clients that have embarked on large-scale renewable energy projects including the installation of a fuel cell to power multiple buildings on a college campus, digester gas from a solid waste utility that is used to power the plant's operation, and a 450 kilowatt solar project that will generate rebates from the Clean Energy Program that will exceed \$2 million and save our clients more than \$50,000 per year in electric energy costs.

As a New Jersey Board of Public Utilities approved Energy Consultant, Agent, and Private Aggregator, as well as a firm that recognizes the impact of greenhouse gas emissions on the environment and the need for sustainable design in new and existing structures, BSG offers solutions that satisfy the intent of the State Plan, Smart Growth, and Energy Master Plan.

We recognize the spiraling energy costs and their impact on the private and public sectors, as well as the desire to evaluate sources of renewable energy, while moving to a "carbon neutral" state. Our diverse professional staff has extensive experience and expertise in all aspects of energy management, climate strategies, and sustainable engineering.

### Attachment 3

#### Project Team

##### Gabel Associates

The following Gabel Associates personnel would be engaged in meeting the energy consulting needs of Branchburg:

##### ***Steven Gabel*** ***President***

Steven Gabel is President of Gabel Associates. Gabel Associates is a consulting firm which assists clients in strategic energy issues, regulatory matters and negotiations with utilities and other energy suppliers. Gabel Associates currently provides energy planning, procurement and financial advice, strategic analysis and expert testimony to a wide range of public and private sector clients.

Steven Gabel serves on the Governor's Renewable Energy Task Force as well as the New Jersey Clean Energy Council. He also served on the Energy Master Plan Task Force and the Governor's Deferred Balance Task Force.

Steven Gabel has provided extensive expert testimony on energy and public utility issues and has participated actively in restructuring issues in New Jersey, PJM and the New York ISO. He is an economist with a background in pricing, industrial organization, public policy and the history of economic thought.

From 1983 to 1990, Steven Gabel served as the Director of the Electric Division of the New Jersey Board of Public Utilities, where he worked extensively on various utility rate cases and developed and implemented rate setting, alternative energy, demand side management, incentive regulation, cost of service and tariff design initiatives.

From 1990 to 1993 he served as Director of Solid Waste Management at the New Jersey Board of Public Utilities and the New Jersey Department of Environmental Protection and Energy, where he directed the policies and activities of the only comprehensive economic and environmental solid waste program in the nation.

##### ***Robert Chilton*** ***Executive Vice President***

From 1995 to January 2000, Robert Chilton served as Director of the Division of Energy of the New Jersey Board of Public Utilities. Prior to that appointment, he held the position of Director of the Electric Division from 1990 to 1995. Chilton was instrumental

in the development and implementation of the landmark Electric Discount and Energy Competition Act, which deregulated the electric and natural gas industries in New Jersey. He has a B.S. in Environmental Science and a Master's degree in Economics from Rutgers University.

Mr. Chilton has been a principal of Gabel Associates since leaving the NJBPU in January 2000. He oversees the firm's energy procurement activities, and has served as the Project Team leader for energy procurement activities on behalf of a number of clients, including the County of Hudson, the Township of Parsippany, the MUA, State of New Jersey, the New Jersey Sports and Exposition Authority and the Port Authority of New York and New Jersey. Mr. Chilton has also led the financial evaluation and procurement of numerous renewable energy projects

***Richard Preiss***  
***Vice President***

Richard Preiss is Vice President of Gabel Associates. Mr. Preiss joined Gabel Associates in May 2003, after many years with Jersey Central Power and Light Co (JCP&L). Mr. Preiss' educational background includes a BS in Electrical Engineering, a MS in Electric Power Engineering and a MBA in Finance.

Mr. Preiss has over 30 years of combined experience in the electric utility industry and previously worked for American Electric Power, General Public Utilities and FirstEnergy.

Since joining Gabel Associates, Mr. Preiss has been involved in the renewable energy marketplace, both in the development of renewable energy policy in the region and in assisting clients in maximizing value from their renewable energy projects. Specifically, Mr. Preiss has provided assistance to clients in successfully implementing renewable energy projects such as landfill gas to energy, solar photovoltaic and wind turbine projects. Finally, Mr. Preiss has assisted clients in the procurement of electric generation services.

Mr. Preiss has an extensive background in utility regulation and rate strategy. His responsibilities have included ratemaking principles, revenue requirement analysis, cost of service studies, tariff design, distribution engineering, power contracting, transmission services and power marketing. Before his departure from JCP&L he was most recently involved with the development of the utility's auction for procurement of Basic Generation Service, served as an expert witness in JCP&L's rate unbundling, stranded cost and restructuring proceeding, and provided expert testimony on revenue requirements in JCP&L's most recent base rate case.

***Joseph Santaiti***  
***Vice President***

Joseph Santaiti, Vice President of Gabel Associates, has more than 15 years experience in the energy industry. He has assisted clients in identifying measures to become more energy efficient as well as implementing sustainable projects. Mr. Santaiti possesses wide-ranging technical and engineering consulting experience regarding the coordination and oversight of renewable energy assessments and development, energy audits, project management, and implementation of energy conservation measures.

Prior to joining Gabel Associates, Mr. Santaiti was a founding partner of an independent energy engineering and consulting company. Through his role as Vice President of Engineering and Construction, he was responsible for overseeing and coordinating all project management and engineering resources at the firm. Mr. Santaiti was involved at every level of the business process, including financial analysis, engineering, legal review, design engineering oversight, project implementation, auditing, and utility interfacing.

Mr. Santaiti has worked with clients in both the public and private sectors. Mr. Santaiti assisted clients in developing energy efficiency, cogeneration, or renewable projects including Bergen County, Montclair State University, Trump Plaza Hotel and Casino, the State of New Jersey, the Morris County Improvement Authority, and the Atlantic City Convention Center.

***Greg Tyson***  
***Vice President***

Greg Tyson is Vice President of Gabel Associates. Mr. Tyson assists Gabel Associates' clients with analysis of wholesale and retail power market issues and implementation of business ventures in the energy industry, primarily supporting on-site generation and renewable energy projects. In addition, Mr. Tyson supports client-specific issues related to environmental regulations, including existing and proposed legislation at the state, regional and national level.

From 2000 to 2008, Mr. Tyson worked at Henwood Energy Services / Global Energy Decisions / Ventyx, where he spearheaded product development in web-based delivery of data and analysis for energy industry clients. After Global Energy Decisions acquired Henwood Mr. Tyson moved into a Senior Consulting role, providing long-term emission price and wholesale energy price forecasts as well as strategic outlooks and scenario analysis for North American markets.

Prior to 2000, Mr. Tyson worked in the semiconductor manufacturing industry, where he leveraged emerging database programming tools into custom analytical software for statistical process control, just-in-time inventory management, machine scheduling, and inventory risk analysis. These tools were utilized to maximize uptime, and product delivery at OEM, R&D and manufacturing facilities throughout the industry.

**Bryan Hayward**  
**Chief Technical Officer and Vice President**

Mr. Hayward has 15 years experience in conducting detailed analysis and modeling of energy markets. He provides consulting services to public and private sector clients in the areas of energy conservation, cost reduction, and project planning. Mr. Hayward is also skilled at completing comprehensive economic and financial analysis related to energy project development. He has created advanced modeling software to manage real time databases for large aggregation groups for the purpose of purchasing electricity, natural gas and other energy services. These software models were integral to the first successful aggregated customer energy program in the State of New Jersey. He has also developed software to model regional energy pricing data. In addition, Mr. Hayward is proficient at performing analyses and economic evaluations for various technologies. His innovative and creative manner allows him to develop unique solutions to increase the speed and reliability of an array of energy consulting services.

Mr. Hayward joined Gabel Associates 1994. In this position, he serves the role of primary analyst and is responsible for conducting or overseeing economic and technical analysis for the firm. He specializes in developing software systems that can manage large quantities of data and are used for analyzing a wide range of projects, including aggregation group management. He conducts economic evaluations of clients' energy consumption and provides analysis of energy saving alternatives. Mr. Hayward also performs research on energy issues related to the development of public and private projects, including federal and local regulatory issues, contractual, and financial issues. Mr. Hayward graduated from Rutgers College where he earned a Bachelor of Arts degree.

**Kenneth Esser**  
**Senior Associate**

Kenneth Esser, Senior Associate of Gabel Associates, is responsible for managing project development activities in the renewable and energy efficiency markets and for evaluating energy and environmental policy issues at the State and Federal levels.

Prior to joining the firm in January 2010, Mr. Esser served in various energy leadership roles. Most recently he held the position of Chief Energy Advisor to the Governor where he developed and managed statewide energy policy initiatives, including the State's first Energy Master Plan in 13 years. As author of the document, he conducted research and analysis on a wide range of energy issues, managed the stakeholder process, and developed clean energy policies and implementation strategies.

He implemented innovative and aggressive policies that helped to establish New Jersey as a national and global leader in energy efficiency and renewable energy development.

He also worked closely with staff and stakeholders to develop financing policies and plans for solar, and other renewable energy and alternative energy technologies.

Mr. Esser gained regulatory and environmental expertise through his role as Policy Advisor for Energy and Economic Growth at the New Jersey Department of Environmental Protection (DEP). He managed policy development and legislative strategies on climate change initiatives, including the Regional Greenhouse Gas Initiative (RGGI), the first greenhouse gas cap and trade program in the United States. Specifically, he negotiated elements of New Jersey's participation in RGGI, including trading rules, standards of participation, offset rules, legislation, and the allocation and use of auction proceeds.

He also provided policy advice and research to the DEP Commissioner and Deputy Commissioner on issues concerning energy efficiency, climate change, renewable energy, brownfields redevelopment, sustainability, and economic growth.

Mr. Esser has a B.A. in Political Science from Rutgers University.

***George Braulke***  
***Manager ISO Services***

George Braulke is our principle representative who covers PJM and NYISO committee and working group meetings. George has over 30 years of electric utility systems experience. He was Manager, Energy Risk Analysis for General Public Utilities, where he was responsible for the scheduling of generation. He also led the development and implementation of decision analysis models for hedging short-term energy price and quantity risks. During the time "customer choice" of retail electric energy supply became available in Pennsylvania and New Jersey, he led the development and implementation of equitable energy reconciliation processes (after the fact "true ups" of load and supply) for the alternate energy suppliers participating in GPU's service territory. He also led the successful on-time implementation of work process changes required by the PJM energy market restructuring (e.g. locational marginal pricing and the two-settlement system). He earned a Masters of Business Administration (with a concentration in Quantitative Analysis) from Seton Hall University and a Bachelor of Science in Electrical Engineering from Pennsylvania State University, and has also completed specialized training in the PJM electricity market and in the field of energy risk management.

***Holly Minogue***  
***Associate***

Holly Minogue has been employed at Gabel Associates since 2003. Ms. Minogue is extremely active in supporting clients with issues related to the emergence of renewable energy markets. She facilitates the marketing and selling of the renewable

attributes associated with renewable projects, such as solar, landfill gas-to-energy, and waste-to-energy. She also tracks the supply and demand of renewable commodities in the region in order to provide strategic and intelligent advice to clients.

Ms. Minogue is active in the renewable energy marketplace, helping clients analyze the potential value associated with renewable energy certificates (RECs). She participates in energy and renewable attribute trading activities as well as identifies potential funding opportunities for renewable projects. She is also knowledgeable on greenhouse gas issues and has assisted clients with carbon offset matters. She tracks, analyzes, and forecasts REC and carbon prices on a regular basis.

Ms. Minogue also conducts comprehensive analysis of transactions in both the wholesale and retail energy markets. Ms. Minogue closely monitors the electricity and natural gas markets and provides detailed analysis on current and future pricing. She maintains extensive databases on energy usage and prices and prepares frequent reports on current market conditions.

In addition, Ms. Minogue also focuses on current environmental activities, such as the development of the Regional Greenhouse Gas Initiative and state Renewable Portfolio Standards. She has extensive expertise in carbon cap-and-trade issues and renewable energy policy in the region. She has a Bachelor of Arts in Communication from Rutgers University.

***Alexis Kennedy***  
***Associate***

Alexis Kennedy, Associate at Gabel Associates, graduated from Rutgers University with a B.A. in Economics. She joined Gabel Associates in September 2009 and provides support services for several different projects. The tasks that Ms. Kennedy has performed include economic analysis and research on renewable energy policy.

Currently, Ms. Kennedy is focusing on research on energy bills currently in discussion in Congress. She is also active in the renewable energy market and has investigated the renewable portfolio standards of various states. She is knowledgeable on the topic of state and federal energy incentives, including combined heat and power.

Prior to her role at Gabel Associates, Ms. Kennedy graduated from Rutgers University where she majored in Economics and minored in Women's and Gender Studies. She is an Institute for Women's Leadership Scholar and has extensive experience in writing grant proposals, budgeting, planning events, researching, writing reports, and speaking publicly. Ms. Kennedy is also a Henry Rutgers Scholar and received recognition from the University for her senior honors thesis on economic development programs in Brazil. A portion of her thesis is to be published next year, in Oxfam's academic journal, "Gender and Development" published by Routledge.

**Birdsall Services Group/PMK Group**

The following BSG-PMK personnel would be engaged in meeting the energy consulting needs of Branchburg:

***Frederick G. Fastiggi, CEM***  
***Vice President of Energy Services***

Mr. Fastiggi is Vice President of the Energy discipline at BSG-PMK and has over two decades of experience integrating the specialized and inter-dependent areas of auditing energy usage, quantifying project economics, design and engineering of energy solutions, project development, securing project finance, construction management and post-construction operations, and maintenance of energy infrastructure.

His expertise covers the areas of project economic feasibility, utility tariff analysis, fuel and electric procurement services, facility auditing, lighting and HVAC applications, and the development of capital projects dealing with distributed generation, cogeneration, district energy, and thermal energy storage.

Mr. Fastiggi's consulting experience includes working as the Regional Development Director for the largest third party owner of 500KW to 25MW distributed energy systems in the United States. There he was responsible for the commercial development of the equivalent of 30+MW of distributed or central energy systems in their portfolio. His consulting experience also includes extensive work on diversified energy assignments working for both Fortune 100 industrials and several public utilities.

He was a founder and served as Vice President of Development and Energy Solutions for PSEG Energy Technologies (a \$500 million, wholly-owned subsidiary of the Public Service Enterprise Group). There he was part of their senior management team, which managed their mechanical and electrical contracting business (among the ten largest in the United States). He was directly responsible for the development and asset management of PSEG Energy Technologies' \$100+ million portfolio of energy infrastructure projects serving the commercial and industrial sectors. He managed both their Distributed Generation business unit and their Technical Services group, which provided engineering and construction management services to internal and external customers.

Mr. Fastiggi has extensive experience in the development of Combined Heat and Power and District Energy projects. He has worked on the development of CHP projects ranging in size from 75KW to 150MW. Among his many development projects include the turn key design build effort for a 20MW combined cycle generating facility at the Middlesex County Utility Authority waste water treatment and landfill facility in Sayreville, NJ, a combustion turbine-based CHP plant making 7MW of electric and

process steam for Toray Plastics in North Kingstown, RI, a central heating (7MMBTU/hr) and cooling (800 tons) plant for NFL Films in Mt. Laurel, NJ and a district heating and cooling plant for the University of the Arts in Philadelphia, PA.

**David J. Harding**  
***Commissioning Agent***

David J. Harding is a Commissioning Agent in our Energy Division and has over 25 years of experience in the educational, industrial, pharmaceutical, and hospital environments, providing long-range master planning for new development and leadership of major construction and renovation projects from design through commissioning.

Mr. Harding's expertise covers a breadth of new construction, including pharmaceutical research facilities, athletic recreation centers, catheterization labs, performing art centers, and specialty manufacturing. Additional successes include delivering design build mechanical systems installations for robotic spray booths, radiant heating, class one hundred clean rooms, natatoriums, and archival storage.

His commissioning experience includes delivering a fully commissioned million square foot major pharmaceutical research facility four weeks ahead of schedule, as well as commissioning a state-of-the-art \$12 million performing arts center. Other major projects include a New Jersey based newly patented trans-dermal patch manufacturing facility.

Before joining BSG-PMK, he was employed with a prominent New Jersey engineering firm as Project Director for their Professional Services Group, where he provided design build services and commissioning for a diversified client base.

Additionally, Mr. Harding was the Associate Director of Facilities at Seton Hall University for 14 years. While there, he designed and implemented a consolidated materials warehouse with a half million dollar computerized inventory, oversaw two consecutive five-year improvement master plans, and assisted with investigative efforts while directing the 2000 fire restoration project.

**Thomas J. Brys, CEP, CEM, CDSM, CSDP**  
***Technical Director***

Mr. Brys is the Technical Director of the Energy discipline at BSG-PMK. He has developed energy efficiency projects and relationships with public and private customers throughout the tri-state area since 1993. Focusing on both the supply-side and the demand-side of the meter, his expertise lies in the identification, analysis, and delivery of energy-related infrastructure improvements and cost-saving energy efficiency measures. Mr. Brys has successfully developed and managed renewable energy design, building commissioning, and energy management projects on behalf of hundreds of

clients. Additionally, Mr. Brys has an extensive background in the field of direct digital controls for building management applications.

Mr. Brys has developed and managed projects for clients that include K-12 school districts; higher education; state, county, and municipal government; and healthcare, pharmaceutical, and petrol-chemical industries.

***Jessica Vogel***  
***Staff Engineer***

Ms. Vogel is a Staff Engineer in our Energy discipline. Her responsibilities include the assisted design of various mechanical systems, as well as performing building evaluations for new and renovated commercial, institutional, and industrial buildings. Ms. Vogel also performs the engineering services necessary to qualify for a variety of New Jersey utility-sponsored rebate and incentive programs.

***Robert M. Gerard, CHMM***  
***Chief Marketing Officer***

Robert M. Gerard currently serves as Chief Marketing Officer at Birdsall Services Group. In this capacity, Mr. Gerard is directly responsible for the development and implementation of corporate marketing and business development. He is also responsible for the firm's strategic planning activities and future acquisitions.

Since 1999, Mr. Gerard has also directed the firm's involvement with energy management and the aggregated procurement of electric and natural gas. Additionally, he has developed client-wide sustainable energy master plans that include energy efficiency, sustainable (green) building standards, greenhouse gas emissions, renewable energy, and energy procurement.

Mr. Gerard currently serves as a Board Member of New Jersey Alliance for Action, a Board Member of Monmouth Medical Center, former Chairman and current Board Member of Monmouth Medical Center Foundation, a Board Member of the Monmouth County Conservation Foundation, and a Board Member of the Independent College Fund of New Jersey.

***Daniel Swayze, P.E., C.M.E.***  
***Chief Operating Officer***

Mr. Swayze is Chief Operating Officer for BSG-PMK. In this capacity, he is responsible for operational oversight for all project and client delivery services.

As a Professional Engineer, he has over 14 years of consulting and municipal engineering experience in the planning, design, construction, and project management of a wide

variety of civil capital improvement and infrastructure projects, including sanitary and storm sewers, pumping stations, water mains, sewage and water treatment facilities, and roadway improvements.

Mr. Swayze has designed and managed several development projects including schools, office parks, warehouse facilities, and public works garages. His experience includes construction administration and management, public meeting attendance and presentation, municipal board representation, preparation of utility feasibility studies, wastewater management plans, stormwater design reports, NJDOT Grant applications, and development application reviews and reports. His experience also includes contract negotiations, capital budgeting and business case preparation.

**EXHIBIT G**

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

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**TITLE:**

**RESOLUTION AUTHORIZING THE FURTHER AMENDMENT OF THE  
CONSULTING CONTRACT WITH THE AUTHORITY'S CONSULTING  
ENERGY ENGINEER IN CONNECTION WITH THE AUTHORITY'S  
RENEWABLE ENERGY PROGRAM**

**WHEREAS**, The Morris County Improvement Authority (including any successors and assigns, the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Board of Freeholders*") of the County of Morris (the "*County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the "*Act*") and other applicable law;

**WHEREAS**, for the reasons set forth therein, on November 30, 2009 the Authority adopted Resolution No. 09-51 (the "*Original 2010 Consulting Energy Engineer Authorizing Resolution*"), authorizing the execution of a Services Agreement (as defined in the Original 2010 Consulting Energy Engineer Authorizing Resolution, but defined herein as the "*Original 2010 Services Agreement*") on a non-fair and open basis in accordance with N.J.S.A. 19:44A-20.4 *et seq.*, with the Consulting Energy Engineer (as defined in the Original 2010 Consulting Energy Engineer Authorizing Resolution) to perform Consulting Energy Engineering Services (as defined in the Original 2010 Consulting Energy Engineer Authorizing Resolution, but defined herein as the "*Original 2010 Consulting Energy Engineering Services*") for the one year term set forth therein; and

**WHEREAS**, (i) as the Authority was and continues to be in need of a construction manager in connection with the oversight of the application of the primary portion of the proceeds of the Authority's \$21,600,000 aggregate principal amount of "County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2009A" dated February 18, 2010 (the "*Series 2009A Bonds*"), and such construction manager services shall be defined as the "*Construction Manager Services*"), the Authority authorized the amendment of the scope of the Original 2010 Consulting Energy Engineering Services to be performed by the Consulting Energy Engineer under the Original 2010 Services Agreement to include the Construction Manager Services (as so

amended, both by the hereinafter defined Supplemental 2010 Consulting Energy Engineer Authorizing Resolution and hereby, the “2010 Consulting Energy Engineering Services”), all as set forth in the Authority’s resolution no. 10-017 adopted April 20, 2010 and entitled “RESOLUTION AMENDING THE SCOPE OF SERVICES TO BE PROVIDED BY THE CONSULTING ENERGY ENGINEER IN CONNECTION WITH THE AUTHORITY’S RENEWABLE ENERGY PROGRAM” (the “*Supplemental 2010 Consulting Energy Engineer Authorizing Resolution*”), and (ii) the Authority further desires to amend the Original 2010 Services Agreement (as so amended, both by the Supplemental 2010 Consulting Energy Engineer Authorizing Resolution and hereby, the “*2010 Services Agreement*”), to reflect the proposed scope and pricing for the 2010 Consulting Energy Engineering Services to be performed by the Consulting Energy Engineer in accordance with the proposal of Gabel Associates dated, April 13, 2010 (the “*Proposal*”), a copy of which is attached hereto as **Exhibit A**.

**NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Authority as follows:**

**Section 1.** The Chairperson, Vice-Chairperson and the Treasurer of the Authority (including their designees, each an “*Authorized Officer*”) are each hereby severally authorized and directed to negotiate, execute and deliver the 2010 Services Agreement with the Consulting Energy Engineer, which shall include the scope of services including the Construction Management Services and the pricing reflected in the Proposal, with such final form of the 2010 Services Agreement to be determined by the Authorized Officer, after consultation with counsel, to be in the best interests of the Authority, and such Authorized Officer is hereby further authorized to take all such further actions in connection therewith in accordance with all applicable law, including without limitation the execution of such other certificates, instruments or documents, as any such Authorized Officer, in consultation with counsel, shall deem necessary, convenient or desirable by any such Authorized Officer to implement the 2010 Services Agreement.

**Section 2.** The Secretary and the Assistant Secretary of the Authority are hereby authorized and directed, where required, to affix the corporate seal of the Authority and to attest to the signature of the Authorized Officer on any such 2010 Services Agreement, including such other certificates, instruments or documents contemplated herein. Thereafter the Authorized Officer is hereby authorized and directed to deliver any such fully authorized, executed, delivered, and if applicable, attested and sealed certificates, instruments and documents to any interested party.

**Section 3.** Notwithstanding Section 1 above, the 2010 Services Agreement shall not be entered into until sufficient funds are available through any source, including without limitation any combination of available Authority funds, County funds through that certain “Service Agreement (Renewable Energy Program)” dated as of January 1, 2009 (as amended, the “*County Service Agreement*”) between the Authority and the County or otherwise, federal or State grants funds, or any bond resolution providing an appropriation for a series of bonds in connection with the Renewable Energy Program.

**Section 4.** All actions taken to date in connection with the 2010 Services Agreement by the Authority and the Authority's counsel are hereby ratified, confirmed and approved.

[remainder of page intentionally left blank]

**Section 5.** This resolution shall take effect immediately.

**MOVED/SECONDED:**

Resolution moved by Commissioner Bonanni.

Resolution seconded by Commissioner Roe.

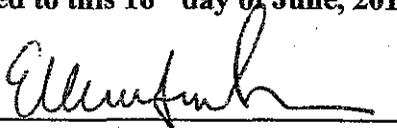
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez				X
Roe	X			
Sandman	X			
Bonanni	X via conference call			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on June 16th at the Authority's principal corporate office in Morristown, New Jersey.

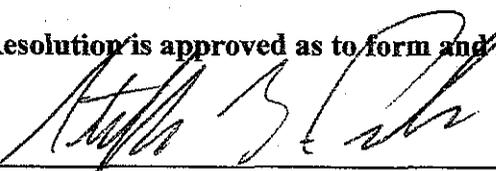
Attested to this 16<sup>th</sup> day of June, 2010

By: 

Secretary of the Authority

**FORM and LEGALITY:**

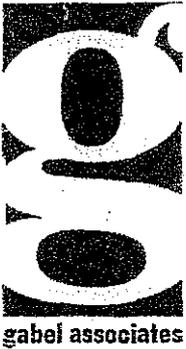
This Resolution is approved as to form and legality as of June 16, 2010

By: 

Stephen B. Pearlman, Esq.,  
Counsel to the Authority

**EXHIBIT A**

**[Attach copy of Proposal]**



**Proposal to Provide Energy Consulting Services to Morris County  
Improvement Authority**

April 13, 2010

**Introduction**

Gabel Associates is pleased to provide this proposal to assist the Morris County Improvement Authority in implementing additional phases of its successful county wide solar project.

Gabel Associates' recent involvement in the MCIA's pilot program and our understanding of the emerging renewable industry and our extensive experience in project development, in conjunction with our unique economic, financial and regulatory knowledge, will allow MCIA to expand on its recent success to develop its solar projects in the most successful and effective way possible.

In order to complete the engineering and technical activities required for these services, we have included Birdsall Services Group/PMK (BSG-PMK) a New Jersey licensed professional engineering firm, on a subcontractor basis in this proposal. BSG-PMK has extensive technical experience related to photovoltaic power systems, which will supplement the financial, marketplace, and project development expertise of Gabel Associates. BSG-PMK will provide technical support as required with the project.

With respect to renewable development, Gabel Associates has assisted in the development of New Jersey's most significant solar projects including the Pilot Phase of the Morris County county-wide solar program, the Atlantic City Convention Center, Rutgers University, the New Jersey Meadowlands Commission, Ocean City, and many other renewable projects. Gabel Associates is also active in policy and regulatory matters related to renewable development in the State of New Jersey.

The firm has specialized capabilities in order to effectively address the unique requirements of a public entity. Specifically, Gabel Associates possesses extensive expertise in the following areas:

- Renewable project development;
- Procurement documents and approaches that conform to public contracting law;
- Comprehensive economic and financial analysis;
- Solar Renewable Energy Certificate ("SREC") marketplace;

- Regulatory matters and;
- Identification of financial support at the state, federal, and utility level

This proposal provides the following information for your consideration:

- 1) Scope of Services
- 2) Fee Proposal

Attachments:

- 3) Detailed Scope of Services
- 4) Team Qualifications
- 5) Project Team

### **1) Scope of Services**

Consistent with the approach used during the Pilot Program, each round of the RFP activity will have the following summary scope. A detailed explanation of each Phase of the Scope of Services is attached.

Phase 1: General introduction of Solar to local units and outreach presentations

Phase 2: Solar Feasibility Study

Phase 3: Economic Modeling

Phase 4: RFP Process

Phase 5: Project Management/Construction Administration

The Project Management/Construction Administration element is applicable to both completion of the Pilot Project as well as subsequent rounds of the program.

### **2) Proposed Fees**

Based on the above scope, Gabel Associates proposes to charge the following fees for each Service.

Consistent with the fee approach used in the Pilot Phase, fees are primarily on a per site basis, as well as a fixed fee.

Phase #	Activity	Proposed Fees
1	General Introduction to Solar and Out Reach Presentation (Scope of Services: Items 1 and 2)	\$0
2	Solar Feasibility Study, Economic modeling and participant selection (Scope of Services: Items 3 and 4)	\$5,000 per site
3	RFP Process (Scope of Services: Items 5 through 9)	\$90,000, plus \$4,000 per site
4	Project Management (Scope of Services: Item 10)	\$8,500 per month for the term of construction

The fee structure outlined above has been developed based on a review of the total numbers of hours tracked from the first round of the Morris County Pilot Program and a projection of the hours for future rounds assuming an expedited process and economies related to "lessons learned" from the Pilot. Our fees are fixed on a per site basis and, as a result, Gabel Associates assumes the risk of additional hours expended on the project.

For comparison purposes 1,727 hours were expended during the Pilot Project while the above fees reflect an anticipated 1,300 hours (exclusive of project management).

Our detailed scope of services, qualifications and project team are described in the attached.

We appreciate the opportunity to provide this proposal to the Morris County Improvement Authority. Please feel free to call me at (732) 296-0770 with any questions regarding this proposal.

Sincerely,

Steven Gabel  
President

## Attachment 1

### Detailed Scope of Services:

1. County Level – Discussion with County personnel regarding the “Morris Model” for solar programs and the critical financial / technical issues involved in formulating a favorable aggregation of solar projects.
  - a. Introduction of Solar Model
    - i. Financing Structure
    - ii. Contract Arrangements
    - iii. Economics of Solar Systems
    - iv. Economic Drivers
      1. Composition of Local Unit Facilities
        - a. Importance of “Anchor” Facility
        - b. Impact of Capital Improvements
    - v. Technical Issues
      1. Roofing issues
      2. Factors affecting sizing
  - b. Discuss Approach to Local Units
    - i. Letter to Survey Interest
    - ii. Selection Process
2. Local Unit Level – Introduction to Solar Program (Solar Outreach Program) and education of Local Unit personnel regarding the “Morris Model” for solar programs and the critical financial / technical issues involved in formulating a favorable aggregation of solar projects
  - a. Financing Structure
  - b. Contract Arrangements
  - c. Economics of Solar Systems
    - i. Economic Drivers
    - ii. Composition of Local Unit Facilities
      1. Importance of “Anchor” Facility
      2. Impact of Capital Improvements
  - d. Technical Issues
    - i. Roofing issues
    - ii. Factors affecting sizing
3. Feasibility Study
  - a. Initial Selection of Candidates
    - i. Anchor Facility
    - ii. Capital Improvement Requirements
    - iii. Roofing Condition / Warranty
  - b. Feasibility Study of Initial Candidates
    - i. Prepare an Engineering Feasibility Study

1. Site Visit – investigate roof dimensions, orientation, shading issues, electrical service and interviews with site personnel.
  2. Roof – Review roof condition and configuration to identify potential roof integrity / warranty issues.
  3. Conceptual Design and Layout of the Solar System.
  4. Review permitting requirements.
  5. Preliminary Design of Size and Energy Production of the Solar System.
  6. Prepare Preliminary Cost Estimate.
- ii. Prepare an Economic Feasibility Study
    1. Use a Customized Financial Model to Evaluate the Value Streams Associated with the Solar Project.
      - a. Assumptions – Cost of money, Forecast SREC Values, Forecast Future Local Utility Rates
    2. Prepare a Business Plan that is Consistent with the Goals and Objectives of the County / Local Units.
    3. Obtain Load Data for each Local Unit Facility.
    4. Prepare a sensitivity analysis to demonstrate the impact of a range of variables upon overall project economic feasibility.
  - iii. Prepare a Feasibility Study report of Findings, Analysis and Recommendations.
  - iv. Present the Feasibility Report to County.
- c. Modify Selection of Solar Program Candidates Based Upon Feasibility Study of Initial Candidates
- d. Prepare Final Feasibility Study of Final Candidates
  - i. Engineering Study of Added Candidates – site visit, roof review, permitting requirements, preliminary design and cost estimate.
  - ii. Economic Study of Final Candidates, including Added Candidates.
4. Identify Potential Sources of Funds (grants and incentives) and Assist in the Application Process and Securing of such Funding.
  5. Develop and Prepare an RFP that will be used to Solicit Proposals
    - a. Prepare Initial Draft
    - b. Participate in Meetings to Finalize RFP
    - c. Identify Qualified Solar Developers
  6. Attend pre-bid Conference
    - a. Answer Solar Developer Questions at Conference
    - b. Coordinate site visits for bidders
    - c. Attend site visits (following pre-proposal conference)
    - d. Answer Formal Questions Submitted by Solar Developers

7. Evaluation of Proposals
  - a. Attend Bid Opening
  - b. Evaluation Scoring Matrix
    - i. Prepare Scoring Matrix
    - ii. Receive Comments
    - iii. Finalize Scoring Matrix
  - c. Review Of Proposals
    - i. Initial Review of Technical and Economic Aspects of Proposals
    - ii. Solar Developer Interviews
      1. Prepare list of Questions for Solar Developers based upon Initial Reviews.
      2. Attend Interviews of Solar Developers
      3. Prepare Summaries of Solar Developer Responses to Questions at interviews
      4. Follow-up with Solar Developers on Outstanding Issues
      5. Finalize Interview Summaries
    - iii. Perform Final Review of Technical Aspects of Proposals
    - iv. Perform Final Economic Analysis of Proposals
    - v. Complete Evaluation Scoring Matrix based upon Technical and Economic Review
      1. Discuss Evaluation Matrix with County Team
      2. Finalize Evaluation Matrix based upon County Team Comments
  - d. Solar Proposal Evaluation Report
    - i. Prepare draft of Outline
    - ii. Prepare first draft of Report
      1. Executive Summary, Overview, Financial Structure and Economics
      2. Technical Evaluation
    - iii. Review Comments of County Team
    - iv. Finalize Report
      1. Technical Evaluation of Proposals
      2. Economic Evaluation of Proposals
        - a. Detailed Forecast of Local Utility Rates by Local Unit Facility
        - b. Forecast of Energy savings by Local Unit Facility
      3. Evaluation Scoring Matrix
      4. Recommendation of Winning Solar Developer
8. Contracts / Agreements
  - a. Purchase Power Agreement (PPA)
    - i. Prepare draft of PPA

- ii. Review comments of County Team Finalize PPA for inclusion in RFP
  - iii. Other Contracts / Agreements
  - iv. Review drafts and provide comments
  - v. Review Final versions
9. Finalize Contracts / Agreements with Winning Solar Developer
- a. Participate in meetings with Solar Developer
  - b. Review various document versions and provide comments
  - c. Discuss various issues with Solar Developer and resolve issues
10. Project Management Services Overseeing work of Winning Solar Developer
- a. Conduct Pre-construction meeting with Developer, contractors, and County personnel.
  - b. Provide weekly supervision and management specific to construction projects.
  - c. Track and report progress of assigned projects to the County's Project Manager.
  - d. Review construction drawings and contracts.
  - e. Coordinate Developer's contractors.
  - f. Coordinate and run weekly job meetings.
  - g. Oversee, anticipate and coordinate the flow of construction in order to meet projected schedules.
  - h. Prepare a weekly report that summarizes the work completed and reflects any changes to the construction schedule.
  - i. Provide project close-out at the conclusion of the installation to verify that the solar system is installed and operating.

## Attachment 2

### Statement of Qualifications and Project Team Attachment

#### Team Qualifications

##### Gabel Associates

Gabel Associates, Inc. is an energy, environmental and public utility consulting firm with its principal office located in Highland Park, New Jersey.

The firm provides its expertise to a wide variety of clients involved in virtually every sector of the energy industry. Our client list includes individual governmental, commercial and industrial end users, federal and public agencies, aggregated groups of customers, public utility commissions, power plant owners and operators, wholesale suppliers and utilities.

The firm has substantial and unique experience and expertise related to financial, project management, economic, technical, marketplace, environmental and regulatory issues with respect to renewable and energy efficiency initiatives.

Steven Gabel, the President of Gabel Associates, started the firm in 1993 with the goal of providing a wide range of economic, technical, regulatory and marketplace advice and analysis in the energy and environmental industries.

Due to the firm's high level of activity in project development and its unique economic and financial capabilities, combined with its participation in policy development in various proceedings at the New Jersey Board of Public Utilities, Gabel Associates brings special expertise to the development of renewable projects.

Gabel Associates has substantial experience and expertise in servicing public and private sector clients in New Jersey and addressing their unique needs and requirements. Gabel Associates is an industry leader in the following areas: comprehensive feasibility assessment of renewable and traditional energy projects; renewable and energy efficiency project evaluation, development, and management; detailed economic and financial analysis; energy procurement activities; regulatory matters; contract negotiation; environmental matters; energy, solar renewable energy certificate (SREC) and carbon market analysis and sale; and the interconnection, operations and market rules of the regional transmission organizations, especially PJM.

With respect to renewable development, Gabel Associates has assisted in the development of New Jersey's most significant solar projects including the Atlantic City Convention Center, Rutgers University, Ocean City, the Morris County county-wide solar program, and many other renewable projects.

Firm President Steven Gabel served on the Governor's Renewable Energy Task Force, which is the basis for New Jersey's renewable portfolio standard, and continues to serve on the State's Clean Energy Council, and various subcommittees of the Council. These groups evaluate issues related to the development of a successful and robust renewable market.

We feel that Gabel Associates' understanding of the renewable energy markets and project development, in conjunction with our unique economic and financial expertise, allows our clients to reach its goals in the most successful and effective way possible.

Our various areas of expertise are described below.

### **Renewable Project Development**

Gabel Associates has been deeply involved in all stages of renewable project development. We provide support to clients for project development activities, including comprehensive evaluation of financial, economic, marketplace, environmental and regulatory issues; developed, financing and procurement; contract negotiations; project management; and SREC and REC sales.

The firm conducts feasibility evaluations of potential sites, including a size and cost estimate for the renewable energy system, identification of general site issues, costs, benefits, and the internal rate of return associates with the project. We evaluate the appropriate financing and contractual structure for each project, including self ownership or a Purchase Power Agreement (PPA) model. In addition, we provide oversight of project installation, sale of RECs and other environmental products, and secure utility, state and federal financial support.

Utilizing our strong analytical capabilities, we evaluate the technical, economic, and financial viability of different renewable projects while also taking into consideration the goals and risk tolerance of each client. We conduct comprehensive economic, financial, and sensitivity analysis surrounding all renewable options to determine the internal rate of return and payback of each project. We also identify any potential technical issues or obstacles related to development.

The following summarizes the firm's active role in implementing renewable initiatives:

### **Solar Projects**

- Atlantic City Convention Center (ACCC) – Gabel Associates assisted the ACCC with all aspects of its solar project. The ACCC is installing a large roof system that is over 2 MW in size – the largest single-building solar project in the U.S. to date. The firm has supported the ACCC with grant attainment, Request for

Proposal (RFP) design, RFP evaluation, financial and technical analysis, as well as Power Purchase Agreement (PPA) negotiation.

- Rutgers University – Gabel Associates assisted Rutgers University with the development of a 1.3 MW ground mounted solar system. This is currently the largest solar project on any single campus in the country. The firm provided economic and financial analysis for the project. Gabel Associates helped prepare the RFP document and has been entrusted to evaluate proposals to determine the winning bidder. The firm also helped the University to successfully obtain a \$4.8 million grant to help support the project.
- State of New Jersey – Gabel Associates serves as the Energy Consultant to the State of New Jersey, through the State's Office of Energy Savings within the Treasury Department. The firm is assisting the State in developing a program to solicit solar vendor offers under a PPA model for multiple State buildings, including project feasibility criteria and RFP terms and conditions.
- Ocean City - Gabel Associates assisted the City of Ocean City with the development of its 544 kW solar project. Ocean City is a nearly fully developed resort and barrier island community comprising approximately seven square miles, situated in the northeastern portion of Cape May County. The goal of Ocean City is to offset its electricity usage through the installation of roof top solar systems on four municipal buildings. The firm provided support for all project activities, including economic evaluations, RFP preparation, and the attainment of financial assistance in the form of rebates from the Board of Public Utilities' Office of Clean Energy.
- Morris County Improvement Authority - Gabel Associates provided consulting services to MCIA to develop and implement a county-wide Renewable Energy Program. The financing structure of the Program is unique because Morris County is the first county in the country to finance solar PV projects through a public/private lease arrangement that secures all available federal tax benefits, while using low cost county debt. The MCIA Solar Program is 3.2 MW of PV capacity that includes nineteen county and school district facilities located throughout the county. The unique financial structure allows these facilities to gain the benefits of solar power, even though many of the facilities would not have been considered effective sites for solar PV systems independently.

Gabel Associates' consulting services included the development of the financing structure, the design of the RFP, the evaluation of the responses to the RFP, comprehensive financial and economic analysis and assistance in finalizing the PPA.

- Department of Veterans Affairs (VA) – Gabel Associates is assisting the VA with solar feasibility assessments for 4 locations in New Jersey. The firm has completed preliminary pre-screening activities as well as detailed feasibility studies.
- Wildwood Convention Center – The firm is currently assisting the Wildwood Convention Center (WCC) in procuring and contracting for a solar facility. The firm is supporting the WCC with RFP design, RFP evaluation, financial and technical analysis, as well as PPA negotiation that protects the interests of the WCC.
- Atlantic Cape Community College – Gabel Associates provided consulting services to ACCC to develop and implement a Solar Renewable Energy Initiative. The ACCC Solar Initiative includes 2.3 MW of multiple solar parking canopy systems, which will be installed at ACCC's Mays Landing and Cape May campuses.

Gabel Associates' consulting services included feasibility studies, the attainment of a state grant, the design of the RFP, the evaluation of the responses to the RFP, comprehensive financial and economic analysis and assistance in finalizing the PPA.

- Wayne Township Board of Education - Gabel Associates is providing turnkey development services in connection with the Wayne Township Board of Education's initiative to install roof-top and potentially ground-mounted solar renewable energy projects on and around the elementary, middle and high schools in its jurisdiction. Turnkey services include: initial feasibility assessments at each of 10 school sites, identify sites where cost-effective projects are feasible, develop RFP terms and conditions; conduct vendor site visits; technical and financial evaluation of vendor bids; negotiation of power purchase agreement between the vendor and Board of Education; and project management during construction phase through project commissioning.
- New Jersey Meadowlands Commission - In 2006, the New Jersey Meadowlands Commission (NJMC) announced a major initiative to develop renewable energy projects in its District. Gabel Associates has been actively involved in helping the NJMC to implement this initiative. With Gabel Associates' support, the NJMC released an RFP for a large solar project that will be built on a landfill within the NJMC district. Our role includes financial and technical analysis, grant accomplishment, RFP preparation and evaluation, and contract negotiation. We are also assisting the NJMC with a solar canopy project which will be located in the parking lot. In addition, the firm has also been asked to evaluate the potential for solar systems on several municipalities in the area.

- Rockland Capital – Gabel Associates is assisting Rockland Capital with the development of a 4 MW solar project at the BL England generating station in Cape May County. The firm is assisting with all project development activities including feasibility, comprehensive economic and financial analysis, RFP preparation, interconnection issues, and the sale of solar renewable energy certificates.
- Hudson County – Gabel Associates assisted Hudson County with the development of a 24 kW solar system, which will be located on the roof of the Hudson Plaza building. The firm is helping the County through the rebate application process as well as the vendor selection process.
- Mazza and Sons, Inc. – Gabel Associates assisted Mazza & Sons, Inc., a regional recycling center, in the evaluation of an offer submitted by a vendor to install, own, operate and maintain a 280 kW solar facility at its site. This included financial analysis and PPA negotiations.
- Clayton Companies – Gabel Associates assisted Clayton Companies with the development of a 370 kW solar system and is currently developing a second similarly sized system. The firm assists with financial analysis, vendor selection, contract review, and SREC marketing activities.
- Philadelphia Water Department - Gabel Associates has recently been selected to help the Department develop an understanding of the key elements in RFP development for a solar PPA.

#### Wind Projects

- Atlantic City Convention Center (ACCC) – Gabel Associates is helping the ACCC with the potential installation of a wind turbine. The firm assisted with the preparation of a feasibility study, which included detailed economic and financial analysis. Gabel Associates will also partake in the bid evaluation process and contract negotiations.
- Bayshore Regional Sewerage Authority – Gabel Associates is assisting the Authority with the development of its wind project. The firm will be involved in all stages of project progression including the preparation of economic and financial analysis, evaluation of bids, and negotiation of a contract that best serves the Authority's needs.
- Department of Veterans Affairs (VA) – Gabel Associates is assisting the VA with wind feasibility assessments for 5 locations in New Jersey. The firm has

completed preliminary pre-screening activities as well as detailed feasibility studies.

#### Landfill Gas-to-Energy Projects

- Burlington County (BC) – Gabel Associates provided consulting services to BC in support of the development of its 7.5 MW renewable landfill gas generating facilities. Gabel Associates provided support throughout the RFP process and contract negotiations, including an analysis to support project financing. The firm helped the County apply for and realize grant money under the various New Jersey Board of Public Utilities Office of Clean Energy programs. The firm is also overseeing the marketing of energy, capacity, and renewable energy certificates (RECs) by the developer. The firm also assisted with PJM interconnection issues.
- Atlantic City Utilities Authority (ACUA) – Gabel Associates assisted ACUA in negotiating a series of agreements with a private vendor for the installation and operation of a three unit landfill gas-to-energy (LFGE) project totaling 5.4 MW. In addition, Gabel Associates assisted in renegotiating the economics of the first three LFGE units, while providing the framework for the expansion of the project beyond the original three units. Gabel Associates' services also included assistance in realizing a rebate from the NJBPU, the evaluation of both the direct and market based financial benefits and the negotiation of agreement terms that minimize risk consistent with ACUA objectives.
- Salem County Utilities Authority (SCUA) – Gabel Associates assisted SCUA in negotiating an agreement with a private vendor for the installation and operation of a 1.9 MW landfill gas-to-energy project. Gabel Associates' services included assistance in realizing a rebate from the Board of Public Utilities' Office of Clean Energy, the performance of a financial analysis, and the negotiation of agreement terms that minimize risk consistent with SCUA objectives.
- Middlesex County Utilities Authority (MCUA) – Gabel Associates provides consulting support to MCUA for its 18 MW landfill gas-to-energy project including power contracting, PJM issues and financial and technical analysis to support purchase of the facility.
- Ocean County Landfill (Landfill Energy Systems) – Gabel Associates assisted the Ocean County Landfill with the marketing of the energy, capacity, and RECs associated with its 9 MW landfill gas-to-energy project. The firm also assisted with the attainment of a \$1.5 grant. The firm also assisted with PJM interconnection issues.

- Cape May County Municipal Utilities Authority (CMCMUA) – Gabel Associates assisted the CMCMUA with the marketing of RECs associated with its 300 kW landfill gas-to-energy facility.

#### **Renewable Energy Certificate Market Expertise**

Gabel Associates is involved in the renewable market place, participating in transactions, and following its progress on a regular basis.

Gabel Associates is directly involved in sales activity (as well as SREC policy development) and maintains a supply/demand analysis to forecast REC and SREC values and trends. With respect to solar, we develop and implement a marketing strategy that capitalizes on SREC value. The firm has assisted many clients with the marketing and sale of SRECs and RECs including Rutgers University, Clayton Companies, Burlington County, Landfill Energy Systems, Covanta Energy, American Ref-Fuel, and the Cape May County Municipal Utilities Authority.

Through firm President Steven Gabel's participation of the Governor's Renewable Task Force in New Jersey, Gabel Associates is also directly involved in the development of renewable energy policy in the region. Mr. Gabel also serves on the New Jersey Clean Energy Council, which reviews policy relative to New Jersey's renewable energy and energy efficiency initiatives. He serves on the Renewable Energy Committee of the Clean Energy Council. He also serves on several subcommittees of the Clean Energy Council related to renewable portfolio standards and alternative compliance payments. This knowledge will allow the firm to provide strategic advice based on current market conditions and regulations.

Gabel Associates provides assistance to clients in demonstrating compliance with renewable criteria, addressing a host of contractual issues and helping clients apply for and realize grant money under the various New Jersey Board of Public Utilities Office of Clean Energy programs. With respect to solar projects, the firm has assisted several entities with the development of their solar initiatives. These clients include Ocean City, the New Jersey Meadowlands Commission, ACCC, Hudson County, Clayton Companies, Mazza and Sons, Inc., and Rutgers University. Gabel Associates has supported these clients with the grant application process and has provided advice on how to develop each project in the most cost effective manner possible.

Gabel Associates has assisted clients in regulatory activities and qualification of projects as renewable resources in New Jersey as well as assisting clients in REC and energy trading activities. These clients have included Rutgers University, Covanta Energy, Magellan Resources Group, American Ref-Fuel, Landfill Energy Systems, and the Cape May County Utilities Authority.

The firm also participates in the PJM GATS (Generation Attribute Tracking System) Committee deliberations. The GATS Committee is intended to provide a cost effective means of demonstrating renewable compliance with a variety of state policies and regulations.

#### **Project Management and Construction Administration**

Due to Gabel Associates' familiarity with project installation activities, the firm is able to provide project management and construction administration during the development phase of energy projects.

Through this role, we serve as our client's representative and oversee project installation activities. The firm provides on-site support through the commencement of commercial operation to assure timely and efficient installation. Gabel Associates has assisted clients with project oversight services for renewable and energy efficiency projects including the Atlantic City Convention Center and the New Jersey Meadowlands Commission.

In addition, Joe Santaiti, Vice President of Gabel Associates, has assisted many clients with this service, including:

- Alpine, Borough – Mr. Santaiti was the solar consultant for Alpine's 5 kW solar project at the Municipal Building. His responsibilities included financial analysis, coordination of preparation of a bid specification, administration of the bid process, and project management oversight.
- Lacey School District – As a subcontractor, Mr. Santaiti assisted in the development of the project 1.4 MW solar project. Mr. Santaiti managed the process of bid specification development through project management oversight.
- Northwest Bergen Utilities Authority (NWBCUA) – Mr. Santaiti was the solar consultant for NWBCUA's 300 kW solar project at the Water Treatment Facility. His responsibilities included financial analysis, coordination of preparation of a bid specification, administration of the bid process, and project management oversight.
- Teaneck, Township – Mr. Santaiti was the solar consultant for Teaneck's 72 kW solar project at the Community Center (67 kW) and Fire House (5 kW) Buildings. His responsibilities included financial analysis, coordination of preparation of a bid specification, administration of the bid process, and project management oversight.

- Upper Saddle River Board of Education – Mr. Santaïti was the solar consultant for Upper Saddle River School District's 85 KW roof replacement and integrated solar installation. His responsibilities included coordination of solar feasibility, financial analysis, preparation of a bid specification, administration of the bid process, and project management oversight.

#### **Energy Market Analysis and Forecasting**

Gabel Associates has provided extensive market analysis for a wide range of clients. The firm has supplied ongoing data and intelligence regarding natural gas and power market trends, regional transmission organizations and state activities.

Gabel Associates conducts detailed monthly and quarterly reports that monitor market change and price volatility. The firm monitors the wholesale electric and natural gas markets on a daily basis and maintains extensive databases that track historical market prices and current market trends.

Since the firm has in-depth understanding of energy markets and industry fundamentals, we are able to provide our clients with forecasts of wholesale and retail electricity, natural gas, and renewable attribute pricing. We have also assisted in the development of strategies for sales of power in the wholesale markets, including contract negotiation, to maximize benefits to our clients.

The firm has provided long-term New Jersey electric utility tariff rate forecasting for numerous clients including Keyspan Energy Services, Schweitzer-Mauduit International, Inc., Tosco/Linden Refinery, Honeywell, Hartz Mountain Industries, and others in support of project development, litigation support, or contract negotiations.

#### **Economic Dispatch Model Capabilities**

Gabel Associates has a proprietary dispatch model coordinated with our RTO pricing database which permits us to perform dispatch analysis for generating stations or similar applications driven by market thresholds. Our dispatch model allows us to determine the number of hours a unit will run and the revenues generated based upon locational marginal pricing (LMP), minimum run times, cost of generation, plant capacity, startup time and other related factors. This ability can help clients determine the most economic operating profile for their generation facilities.

#### **Power Sales Activities and Contract Negotiation**

Gabel Associates has extensive experience in evaluating and negotiating long-term power purchase agreements, including direct involvement in eleven out of thirteen of Non Utility Generation (NUG) restructuring agreements approved by the New Jersey

Board of Public Utilities. We have participated in the analysis and negotiation of numerous long-term power purchase agreements.

Gabel Associates has been deeply involved in power sales from individual generation units. This has included:

- restructuring of long term power purchase agreements;
- sale of energy from units into the day-ahead and real-time markets;
- sale of capacity into PJM's new Reliability Pricing Model (RPM) market;
- bilateral contracting of capacity, energy and ancillary services from waste-to-energy facilities, landfill gas-to-energy facilities, and fossil fuel fired facilities;
- evaluation of power contracts issues (such as unit contingent sales, security and delivery issues);
- sales of renewable energy certificates on a bilateral basis, and;
- conducting comprehensive request for proposals for generation units

Gabel Associates has assisted in the development of strategies for sales of energy and RECs in the wholesale markets, including contract negotiation, to maximize benefits to our clients. The firm is skilled at evaluating and revising contract language in a way that profits and protects our clients. Gabel Associates is regularly and extremely involved in the ever-changing energy market.

Due to Gabel Associates' widespread understanding of the marketplace, we have the ability to help our clients identify and act at the optimum time to sell or buy energy.

The firm provides expert advice on the right time to enter the market, always taking into consideration the potential risks involved.

#### **Regulatory and Utility Ratemaking Knowledge**

Gabel Associates' two principals, Mr. Steven Gabel and Mr. Robert Chilton, were involved in electric and natural gas utility regulatory and ratemaking for many years in the regulatory arena before entering private practice. Both are economists with utility rate design and tariff expertise. Both Messrs. Gabel and Chilton have been responsible for reviewing every aspect of public utility rate cases and, where necessary, sponsoring testimony in that regard.

In addition to in-depth knowledge of public utility ratemaking in a fully regulated regulatory model, Mr. Gabel and Mr. Chilton were intimately involved in all phases of the deregulation of the energy industry in New Jersey, commencing with the development of New Jersey's off-tariff rate agreement (OTRA) law in the mid-1990's and subsequent deregulation law (EDECA) enacted in 1999.

Mr. Gabel and Mr. Chilton also played instrumental roles in the regulatory proceedings that followed to implement energy industry restructuring in New Jersey and retail choice for electricity and natural gas in the State in particular. These proceedings included implementation of regulations, as well as rate unbundling and stranded cost proceedings. Mr. Gabel testified and provided expert advice on numerous occasions on behalf of end user and power plant owner clients in those proceedings. Mr. Chilton was the Director of New Jersey's Energy Division in the Board of Public Utilities during that period responsible for overseeing the litigation and negotiation of all related electricity and natural gas deregulation rate cases, and developing and implementing third party supplier rules, and provider-of-last-resort utility rate structures. Accordingly, the firm brings experience and expertise in all forms of regulatory models and industry structures.

Mr. Richard Preiss, Vice President of Gabel Associates, also has an extensive background in utility regulation and rate strategy. Mr. Preiss has served as an expert witness in rate unbundling, stranded cost, restructuring and basic generation proceedings, as well as provided expert testimony on revenue requirements and tariff design in utility rate cases.

Gabel Associates has provided expert testimony on public utility regulatory, policy and economic matters. Specifically, Steven Gabel, Robert Chilton and Richard Preiss have testified on the following issues: electric, natural gas and water policy issues; the deregulation of the electric and natural gas industries; revenue requirements; tariff design; basic generation service for both electric and natural gas; and, cost recovery issues.

#### Project Development and Economic Analysis/Cogeneration, Thermal Energy and Energy Efficiency

We provide support to clients for project development activities. Our role has included market valuation, financial analysis, feasibility analysis, fuel price, electric and renewable energy certificate market forecasts, tariff analysis, standby service evaluations, carbon and emission trading issues, project sensitivity analysis, interconnect issues, regional transmission organization wholesale evaluations, energy contract negotiations and other strategic issues. Gabel Associates has assisted clients with respect to the evaluation and implementation of numerous power generation, energy efficiency, and cogeneration (or combined heat and power) projects.

We have participated in the analysis and negotiation of numerous long-term power purchase agreements including the Atlantic City Convention Center, Eagle Point Cogeneration, Newark Bay Cogeneration, the Burlington County Landfill Gas Project, Camden Cogen, Milford Power, Bayonne Cogen and Parlin Cogen.

The firm is currently providing energy efficiency evaluations to the New Jersey Meadowlands Commission and to the State of New Jersey, Department of Treasury.

Gabel Associates has extensive CHP experience and has supported many clients during all phases of project development including feasibility studies, economic and financial analysis, and implementation. These clients include the State of New Jersey (Trenton Cogen district), the Wayne New Jersey Board of Education, Reveille Entertainment, Schweitzer-Mauduit International, Cogen Technologies, PGE Generation, Garden State Paper Company, Newark Bay Cogen, Parlin Cogen, Milford Cogen, Lakewood Cogen, El Paso, East Coast Power, Schering Plough, Con Ed Development and Pureenergy.

Gabel Associates has been involved in a myriad of thermal contract issues including the restructuring of ten of New Jersey's large cogeneration contracts with thermal hosts and utilities.

The firm was engaged by the New Jersey Board of Public Utilities Office of Clean Energy to prepare a marketplace assessment associated with its CHP grant program, and to make recommendations on improvements to the program to provide for greater CHP project development. By gathering widespread data through surveys and interviews, we were able to assess the market penetration of this advanced technology. Through this assessment, Gabel Associates was able to identify fundamental flaws within the program, which allowed the State to improve the financing process and enhance CHP activities.

#### Regional Transmission Issues

Gabel Associates participates in various PJM committees and working groups including the Members Committee, Electricity Market Committee, Market Implementation Committee, and the Reliability Committee. These groups are where emerging issues, business and market rules are debated and decided.

In this capacity, Gabel Associates provides reporting, analysis, and advice to advance our clients' business objectives. As a result, Gabel Associates maintains up to date detailed expertise in the operation of the region's electric transmission system and wholesale energy markets, which serve as the foundation for electricity costs and reliability. The firm is well positioned to provide expert and timely advice with respect to developments and trends in regional energy market conditions.

PJM uses locational marginal pricing (LMP) to determine hourly energy costs. This pricing method reflects the value of the energy at each specific location and time it is delivered. Gabel Associates closely monitors the power market and maintains extensive databases on LMP data. Through a Microsoft Access-based model, the firm compiles historical pricing records on the real-time and day-ahead markets, which date back to 1998 for real-time and 2000 for day-ahead. We are able to consolidate the PJM posted data into our own database, which greatly facilitates the calculation process. Through our model, we have the ability to undertake advanced analysis of PJM markets including price duration curves, locational analysis, or other configurations on request of a client for all buses in the PJM territory.

Gabel Associates has extensive knowledge on the PJM Demand Response Program and has in-depth understanding of the rules and practices surrounding the program.

### **Environmental Expertise**

Gabel Associates is engaged in environmental matters that affect the power generation industry. The firm keeps up to date on all environmental issues that can potentially impact our clients. Gabel Associates is deeply involved in the Regional Greenhouse Gas Initiative (RGGI), serving as a stakeholder in the development process. RGGI is a cooperative effort by Northeastern and Mid-Atlantic states, including New Jersey, to reduce carbon dioxide emissions. To address this important environmental issue, the RGGI participating states are developing a regional strategy for controlling emissions, which entails implementing a cap-and-trade system. Gabel Associates is an active contributor in this effort, participating as a stakeholder and attending meetings on a regular basis.

Gabel Associates has played a substantial role on behalf of the Independent Energy Producers of New Jersey, the trade association for New Jersey's power generation industry, in the development of greenhouse gas emission reduction strategies in the region, including active participation in the development of New Jersey's greenhouse gas strategy following the passage of the Global Warming Response Act in June of 2007; development of CO<sub>2</sub> emission trading legislation in New Jersey (A4559 signed by the Governor in January 2008); and the development of RGGI rules in the region.

Gabel Associates has participated in all major air quality issues affecting power generators for the past ten years. This includes participation in the development of the regional greenhouse gas initiative with New Jersey and other states in the northeast; development of the NO<sub>x</sub> budget program; review of the State Implementation Plan (SIP) submitted by the State of New Jersey; review of Ozone Transport Commission (OTC) policy; participation in development of NO<sub>x</sub> control policy during the High Electric Demand (HED policy); development of policy promoting cogeneration; and participation in the Mercury Emission Task Force and related policy development. Gabel Associates

has also participated in legislative deliberations related to these issues. Gabel Associates also has participated in reviews of regional and state solid waste plan activity.

### Electric and Natural Gas Procurement Activities

Gabel Associates has been involved in energy procurement since the introduction of retail competition in the energy industry, and was involved in wholesale power procurement even prior to that time. Our capabilities include data collection, development of procurement strategies, risk management, preparation of procurement documents, and operating procurement programs.

Gabel Associates has also been entrusted to manage the procurement of electricity and/or natural gas supplies for hundreds of commercial, industrial, and public sector clients including the State of New Jersey, over 400 school districts in New Jersey, the Passaic Valley Sewerage Commission, the Port Authority of New York and New Jersey, the New Jersey Sports and Exposition Authority, the County of Hudson, the County of Burlington, an aggregation comprised of 14 Sewerage and Municipal Utilities Authorities, Devils Arena Entertainment, Selective Insurance, Bay State Milling, Schweitzer-Maudit, AGFA Corporation, Captive Plastics, Sabert Corporation, Paradigm Packaging, Telecordia Technologies, the Port Authority Transit Corporation, as well as dozens of other private and public sector entities. Through these roles, we have been entrusted to manage significant volumes of data and to interact with complex organizations.

The firm has the ability to manage large quantities of data and has hands-on experience in conducting large-scale energy procurements. Gabel Associates technical approach in energy procurement is to effectively manage the economic risk inherent in procurement of electricity and natural gas; leading to cost effective procurement in a timely manner. Gabel Associates has managed thousands of accounts and is able to move adroitly to capture market timing opportunities under a rigorous modeling of markets and pricing.

The firm has significant, direct experience in energy procurement activities, in data management, in detailed analysis of risks and costs, and in the preparation and review of request for proposals (RFPs) and energy contracts. Gabel Associates possesses strong management support capabilities, which is demonstrated by the firm's leadership role on numerous energy procurement projects.

Gabel Associates has specific skills, experience and attributes that clearly demonstrate our ability to perform energy procurement activities, including:

- Gabel Associates is the consultant/program administrator for the Alliance for Competitive Energy Services (ACES) and has aggregated the purchase of electric and natural gas supply for over 400 New Jersey school districts (over 6,500 accounts) through a procurement system. Gabel Associates provides

comprehensive consulting services, including data collection, bid preparation and account savings analysis. The electric aggregation was the first electronic energy purchasing program approved by the New Jersey Department of Community Affairs.

As Consultant/Administrator, we collect and analyze all utility usage data; design and distribute a Request for Bids document; provide notice of award to suppliers; provide savings and rate analysis; and address all third party supply issues.

- Gabel Associates has successfully guided the State of New Jersey through numerous large electric and natural gas procurements over the past seven years. Gabel Associates is currently providing consulting services to the State of New Jersey in connection with both its green-e electric power procurement and its New Jersey Consolidated Energy Savings Program aggregation project. Consulting services being provided to the State include assistance with the development of procurement strategy, the preparation on RFP, account usage history collection and compilation, and bid evaluation in connection with more than 400 of the State's natural gas accounts and more than 3,000 of its electric accounts.
- Gabel Associates administers and manages an electric aggregation called the New Jersey Sewerage and Municipal Utility Authority Electrical Supply Aggregation (NJSMUAESA), which is comprised of 14 members totaling over 130 accounts.
- Gabel Associates assisted the Passaic Valley Sewerage Commission with procurement activities for electricity and natural gas.
- Gabel Associates has developed and managed electric procurement activities for the Association of Independent Colleges and Universities in New Jersey (AICUNJ) since 2000, working closely with individual members to prepare an RFP, compile and analyze account usage data, encourage responses from competitive electric suppliers, analyze bids and assist Members in understanding their new contracts.
- Gabel Associates has been entrusted to manage the procurement of electricity and natural gas supplies for the New Jersey Sports and Exposition Authority (NJSEA). We purchased power on behalf of the Authority, as well as provided strategic energy advice.
- The firm procured electricity for the Port Authority Transit Corporation (PATCO). PATCO is responsible for providing rail transportation between Philadelphia, Pennsylvania and Southern New Jersey.
- Gabel Associates was selected to manage natural gas procurement activities for the Northern Burlington County Natural Gas Consortium consisting of 16 school

districts and approximately 80 individual natural gas accounts, including preparation of an RFB, compilation and analysis of usage data by account and by district, interfacing with gas suppliers, and analysis of bids.

- Gabel Associates has also assisted many other public clients with procurement activities including Hudson and Burlington County (New Jersey) as well as the Port Authority of New York and New Jersey.

Gabel Associates has the capability to obtain large volumes of account usage history through an Electronic Data Interface (EDI) medium on behalf of customers. Gabel Associates engages in electronic transactions with registered utilities for the receipt of large volumes of account usage data. Our EDI capability allows us to obtain large volumes of account usage history on behalf of customers in an efficient and timely manner, ultimately leading to a more expeditious, lower-cost and higher-quality RFP.

Gabel Associates was also the first energy agent registered with the State of New Jersey pursuant to the Electric Discount and Energy Competition Act ("EDECA"), and we continue currently as a registered energy agent in good standing with the New Jersey Board of Public Utilities (Registration No. EA-0021). In addition, in December 2002 Gabel Associates became the first registered energy consultant in the State.

In addition, Gabel Associates has distinct technical capabilities that differentiate our services from other firms. We possess extensive knowledge in complementary areas which greatly enhances our procurement capabilities. The following highlights some areas of expertise that support successful procurement activities:

- Wholesale Energy Market Insight – Although procurement activities reside on the retail side; we are deeply involved in wholesale market activities, which supports our retail expertise. Our understanding extends beyond the retail component, allowing the firm to provide extra insight regarding retail transactions. The firm is expert on regional transmission organization (RTO) market operations, including transmission, energy, and capacity rules, which set the foundation of electric power costs.
- Utility Tariff and Regulatory Expertise – The firm has long standing expertise in utility tariffs, giving us the ability to analyze utility tariffs for our clients. Since the firm has in-depth understanding of tariff fundamentals, we are able to provide our clients with forecasts of retail electricity and natural gas pricing and recognize tariff savings opportunities.
- Data Access and Modeling Capabilities -- Gabel Associates has the capability to obtain large volumes of account usage history through an electronic data platform on behalf of customers. This capability allows the firm to access significant quantities of data, which is then analyzed and organized into a structured

database. The method increases efficiency and allows for the successful management and analysis of thousands of accounts.

In terms of modeling capabilities, Gabel Associates conducts detailed monthly and quarterly reports that monitor market change and price volatility. The firm monitors the wholesale electric and natural gas markets on a daily basis and maintains extensive databases that track historical market prices and current market trends. Specifically, the firm has been compiling historical pricing records on wholesale energy prices in a Microsoft Access-based model since 1998. By consolidating the data into our own database, it greatly facilitates the calculation process. Through our model, we have the ability to undertake advanced analysis of wholesale markets including price duration curves, locational analysis, or other configurations on request of a client.

*Environmental Market Activities* – As environmental issues have moved to the forefront, Gabel Associates is up to date on all issues that can potentially impact our clients. The cost of environmental compliance – particularly carbon compliance costs embedded in electric prices -- is becoming a more significant component of electric costs. Gabel Associates is deeply involved in environmental markets, including carbon, NOx, SO2, and renewable energy certificate (REC) markets, and understands their movement and impact on electric prices.

#### **Identification of Incentives for Energy Initiatives**

There is a substantial and unprecedented level of public policy all pushing in the same direction of promoting energy efficiency and renewable energy, reducing greenhouse gas emissions, and promoting jobs in a green economy.

The firm identifies and evaluates state, utility, private, and federal funding opportunities and financial incentives for renewable energy, energy efficiency, and conservation measures. We have undertaken this service for numerous clients include Rutgers University, the New Jersey Meadowlands Commission, and Burlington County.

We help identify potential grant funding and financing sources for the projects endorsed by our clients and assess their respective eligibility criteria, funding limits, and application procedures, content requirements and schedules,

Gabel Associates remains current on funding opportunities and tracks all available state, federal, utility, and local funding opportunities.

#### **Birdsall Services Group/PMK Group**

Birdsall Services Group, Inc. (BSG) is comprised of five professional engineering business units, each known as leaders in their respective engineering and consulting fields.

Recognized as one of the fastest growing engineering firms in the United States, BSG's mission is to build relationships, provide solutions, and satisfy goals for its clients as well as its employees and strategic business partners.

BSG provides full service Energy Consulting on both sides of the meter; the supply side and the demand side. Our diverse professional staff, including Professional Engineers (PE), Mechanical Engineers (ME), Certified Energy Managers (CEM), LEED-Accredited Professionals, and Facilities Specialists, has extensive experience and expertise in all aspects of energy management, including energy efficiency analysis, energy master planning, procurement of energy, alternative energy sources, and building commissioning.

BSG's comprehensive internal engineering and consulting resources and technical expertise is coupled with a client management structure that allows us to provide one point of contact for our clients. This client-focused philosophy enables us to better serve our clients with more timely and cost effective solutions.

Since the early 1900's, BSG business units have been providing engineering and consulting services to several core and ancillary markets including healthcare, education, government, developers, theme parks, architects, attorneys, and construction managers. Additional ancillary markets include non-profit organizations, financial institutions, utilities, marinas, and real estate and insurance professionals.

BSG companies have been serving clients throughout New Jersey, New York, Connecticut, and Pennsylvania with quality engineering and consulting services. Our comprehensive spectrum of energy services includes the following:

- Renewable Energy Feasibility
- Energy Master Planning
- Energy Efficiency – SmartStart
- Energy Procurement
- LEED Consulting
- Building Commissioning/Retro-Commissioning
- Sustainable Engineering & Design
- Greenhouse Gas Inventories
- Review and Verification of Greenhouse Gas Emissions Data
- Corporate Strategies for Greenhouse Gas Data Management
- Modeling and Measurement Programs
- Cost Benefit Analysis of Greenhouse Gas Reduction Strategies
- Project Financing Assistance & Utility Rebate Analysis
- Project Management & Administration

BSG can assist in making an initial determination as to whether a renewable energy project is economically, technically, and practically viable for your facility. BSG's energy

professionals have a tremendous amount of experience with renewable energy, dating back to the 1980s when solar technology was first used to heat hot water. BSG has multiple clients that have embarked on large-scale renewable energy projects including the installation of a fuel cell to power multiple buildings on a college campus, digester gas from a solid waste utility that is used to power the plant's operation, and a 450 kilowatt solar project that will generate rebates from the Clean Energy Program that will exceed \$2 million and save our clients more than \$50,000 per year in electric energy costs.

As a New Jersey Board of Public Utilities approved Energy Consultant, Agent, and Private Aggregator, as well as a firm that recognizes the impact of greenhouse gas emissions on the environment and the need for sustainable design in new and existing structures, BSG offers solutions that satisfy the intent of the State Plan, Smart Growth, and Energy Master Plan.

We recognize the spiraling energy costs and their impact on the private and public sectors, as well as the desire to evaluate sources of renewable energy, while moving to a "carbon neutral" state. Our diverse professional staff has extensive experience and expertise in all aspects of energy management, climate strategies, and sustainable engineering.

### Attachment 3

#### **Project Team**

##### Gabel Associates

The following Gabel Associates personnel would be engaged in meeting the energy consulting needs of Branchburg:

##### ***Steven Gabel*** ***President***

Steven Gabel is President of Gabel Associates. Gabel Associates is a consulting firm which assists clients in strategic energy issues, regulatory matters and negotiations with utilities and other energy suppliers. Gabel Associates currently provides energy planning, procurement and financial advice, strategic analysis and expert testimony to a wide range of public and private sector clients.

Steven Gabel serves on the Governor's Renewable Energy Task Force as well as the New Jersey Clean Energy Council. He also served on the Energy Master Plan Task Force and the Governor's Deferred Balance Task Force.

Steven Gabel has provided extensive expert testimony on energy and public utility issues and has participated actively in restructuring issues in New Jersey, PJM and the New York ISO. He is an economist with a background in pricing, industrial organization, public policy and the history of economic thought.

From 1983 to 1990, Steven Gabel served as the Director of the Electric Division of the New Jersey Board of Public Utilities, where he worked extensively on various utility rate cases and developed and implemented rate setting, alternative energy, demand side management, incentive regulation, cost of service and tariff design initiatives.

From 1990 to 1993 he served as Director of Solid Waste Management at the New Jersey Board of Public Utilities and the New Jersey Department of Environmental Protection and Energy, where he directed the policies and activities of the only comprehensive economic and environmental solid waste program in the nation.

##### ***Robert Chilton*** ***Executive Vice President***

From 1995 to January 2000, Robert Chilton served as Director of the Division of Energy of the New Jersey Board of Public Utilities. Prior to that appointment, he held the position of Director of the Electric Division from 1990 to 1995. Chilton was instrumental

in the development and implementation of the landmark Electric Discount and Energy Competition Act, which deregulated the electric and natural gas industries in New Jersey. He has a B.S. in Environmental Science and a Master's degree in Economics from Rutgers University.

Mr. Chilton has been a principal of Gabel Associates since leaving the NJBPU in January 2000. He oversees the firm's energy procurement activities, and has served as the Project Team leader for energy procurement activities on behalf of a number of clients, including the County of Hudson, the Township of Parsippany, the MUA, State of New Jersey, the New Jersey Sports and Exposition Authority and the Port Authority of New York and New Jersey. Mr. Chilton has also led the financial evaluation and procurement of numerous renewable energy projects

***Richard Preiss***  
***Vice President***

Richard Preiss is Vice President of Gabel Associates. Mr. Preiss joined Gabel Associates in May 2003, after many years with Jersey Central Power and Light Co (JCP&L). Mr. Preiss' educational background includes a BS in Electrical Engineering, a MS in Electric Power Engineering and a MBA in Finance.

Mr. Preiss has over 30 years of combined experience in the electric utility industry and previously worked for American Electric Power, General Public Utilities and FirstEnergy.

Since joining Gabel Associates, Mr. Preiss has been involved in the renewable energy marketplace, both in the development of renewable energy policy in the region and in assisting clients in maximizing value from their renewable energy projects. Specifically, Mr. Preiss has provided assistance to clients in successfully implementing renewable energy projects such as landfill gas to energy, solar photovoltaic and wind turbine projects. Finally, Mr. Preiss has assisted clients in the procurement of electric generation services.

Mr. Preiss has an extensive background in utility regulation and rate strategy. His responsibilities have included ratemaking principles, revenue requirement analysis, cost of service studies, tariff design, distribution engineering, power contracting, transmission services and power marketing. Before his departure from JCP&L he was most recently involved with the development of the utility's auction for procurement of Basic Generation Service, served as an expert witness in JCP&L's rate unbundling, stranded cost and restructuring proceeding, and provided expert testimony on revenue requirements in JCP&L's most recent base rate case.

***Joseph Santaiti***  
***Vice President***

Joseph Santaiti, Vice President of Gabel Associates, has more than 15 years experience in the energy industry. He has assisted clients in identifying measures to become more energy efficient as well as implementing sustainable projects. Mr. Santaiti possesses wide-ranging technical and engineering consulting experience regarding the coordination and oversight of renewable energy assessments and development, energy audits, project management, and implementation of energy conservation measures.

Prior to joining Gabel Associates, Mr. Santaiti was a founding partner of an independent energy engineering and consulting company. Through his role as Vice President of Engineering and Construction, he was responsible for overseeing and coordinating all project management and engineering resources at the firm. Mr. Santaiti was involved at every level of the business process, including financial analysis, engineering, legal review, design engineering oversight, project implementation, auditing, and utility interfacing.

Mr. Santaiti has worked with clients in both the public and private sectors. Mr. Santaiti assisted clients in developing energy efficiency, cogeneration, or renewable projects including Bergen County, Montclair State University, Trump Plaza Hotel and Casino, the State of New Jersey, the Morris County Improvement Authority, and the Atlantic City Convention Center.

***Greg Tyson***  
***Vice President***

Greg Tyson is Vice President of Gabel Associates. Mr. Tyson assists Gabel Associates' clients with analysis of wholesale and retail power market issues and implementation of business ventures in the energy industry, primarily supporting on-site generation and renewable energy projects. In addition, Mr. Tyson supports client-specific issues related to environmental regulations, including existing and proposed legislation at the state, regional and national level.

From 2000 to 2008, Mr. Tyson worked at Henwood Energy Services / Global Energy Decisions / Ventyx, where he spearheaded product development in web-based delivery of data and analysis for energy industry clients. After Global Energy Decisions acquired Henwood Mr. Tyson moved into a Senior Consulting role, providing long-term emission price and wholesale energy price forecasts as well as strategic outlooks and scenario analysis for North American markets.

Prior to 2000, Mr. Tyson worked in the semiconductor manufacturing industry, where he leveraged emerging database programming tools into custom analytical software for statistical process control, just-in-time inventory management, machine scheduling, and inventory risk analysis. These tools were utilized to maximize uptime, and product delivery at OEM, R&D and manufacturing facilities throughout the industry.

***Bryan Hayward***  
***Chief Technical Officer and Vice President***

Mr. Hayward has 15 years experience in conducting detailed analysis and modeling of energy markets. He provides consulting services to public and private sector clients in the areas of energy conservation, cost reduction, and project planning. Mr. Hayward is also skilled at completing comprehensive economic and financial analysis related to energy project development. He has created advanced modeling software to manage real time databases for large aggregation groups for the purpose of purchasing electricity, natural gas and other energy services. These software models were integral to the first successful aggregated customer energy program in the State of New Jersey. He has also developed software to model regional energy pricing data. In addition, Mr. Hayward is proficient at performing analyses and economic evaluations for various technologies. His innovative and creative manner allows him to develop unique solutions to increase the speed and reliability of an array of energy consulting services.

Mr. Hayward joined Gabel Associates 1994. In this position, he serves the role of primary analyst and is responsible for conducting or overseeing economic and technical analysis for the firm. He specializes in developing software systems that can manage large quantities of data and are used for analyzing a wide range of projects, including aggregation group management. He conducts economic evaluations of clients' energy consumption and provides analysis of energy saving alternatives. Mr. Hayward also performs research on energy issues related to the development of public and private projects, including federal and local regulatory issues, contractual, and financial issues. Mr. Hayward graduated from Rutgers College where he earned a Bachelor of Arts degree.

***Kenneth Esser***  
***Senior Associate***

Kenneth Esser, Senior Associate of Gabel Associates, is responsible for managing project development activities in the renewable and energy efficiency markets and for evaluating energy and environmental policy issues at the State and Federal levels.

Prior to joining the firm in January 2010, Mr. Esser served in various energy leadership roles. Most recently he held the position of Chief Energy Advisor to the Governor where he developed and managed statewide energy policy initiatives, including the State's first Energy Master Plan in 13 years. As author of the document, he conducted research and analysis on a wide range of energy issues, managed the stakeholder process, and developed clean energy policies and implementation strategies.

He implemented innovative and aggressive policies that helped to establish New Jersey as a national and global leader in energy efficiency and renewable energy development.

He also worked closely with staff and stakeholders to develop financing policies and plans for solar, and other renewable energy and alternative energy technologies.

Mr. Esser gained regulatory and environmental expertise through his role as Policy Advisor for Energy and Economic Growth at the New Jersey Department of Environmental Protection (DEP). He managed policy development and legislative strategies on climate change initiatives, including the Regional Greenhouse Gas Initiative (RGGI), the first greenhouse gas cap and trade program in the United States. Specifically, he negotiated elements of New Jersey's participation in RGGI, including trading rules, standards of participation, offset rules, legislation, and the allocation and use of auction proceeds.

He also provided policy advice and research to the DEP Commissioner and Deputy Commissioner on issues concerning energy efficiency, climate change, renewable energy, brownfields redevelopment, sustainability, and economic growth.

Mr. Esser has a B.A. in Political Science from Rutgers University.

***George Braulke***  
***Manager ISO Services***

George Braulke is our principle representative who covers PJM and NYISO committee and working group meetings. George has over 30 years of electric utility systems experience. He was Manager, Energy Risk Analysis for General Public Utilities, where he was responsible for the scheduling of generation. He also led the development and implementation of decision analysis models for hedging short-term energy price and quantity risks. During the time "customer choice" of retail electric energy supply became available in Pennsylvania and New Jersey, he led the development and implementation of equitable energy reconciliation processes (after the fact "true ups" of load and supply) for the alternate energy suppliers participating in GPU's service territory. He also led the successful on-time implementation of work process changes required by the PJM energy market restructuring (e.g. locational marginal pricing and the two-settlement system). He earned a Masters of Business Administration (with a concentration in Quantitative Analysis) from Seton Hall University and a Bachelor of Science in Electrical Engineering from Pennsylvania State University, and has also completed specialized training in the PJM electricity market and in the field of energy risk management.

***Holly Minogue***  
***Associate***

Holly Minogue has been employed at Gabel Associates since 2003. Ms. Minogue is extremely active in supporting clients with issues related to the emergence of renewable energy markets. She facilitates the marketing and selling of the renewable

attributes associated with renewable projects, such as solar, landfill gas-to-energy, and waste-to-energy. She also tracks the supply and demand of renewable commodities in the region in order to provide strategic and intelligent advice to clients.

Ms. Minogue is active in the renewable energy marketplace, helping clients analyze the potential value associated with renewable energy certificates (RECs). She participates in energy and renewable attribute trading activities as well as identifies potential funding opportunities for renewable projects. She is also knowledgeable on greenhouse gas issues and has assisted clients with carbon offset matters. She tracks, analyzes, and forecasts REC and carbon prices on a regular basis.

Ms. Minogue also conducts comprehensive analysis of transactions in both the wholesale and retail energy markets. Ms. Minogue closely monitors the electricity and natural gas markets and provides detailed analysis on current and future pricing. She maintains extensive databases on energy usage and prices and prepares frequent reports on current market conditions.

In addition, Ms. Minogue also focuses on current environmental activities, such as the development of the Regional Greenhouse Gas Initiative and state Renewable Portfolio Standards. She has extensive expertise in carbon cap-and-trade issues and renewable energy policy in the region. She has a Bachelor of Arts in Communication from Rutgers University.

***Alexis Kennedy***  
***Associate***

Alexis Kennedy, Associate at Gabel Associates, graduated from Rutgers University with a B.A. in Economics. She joined Gabel Associates in September 2009 and provides support services for several different projects. The tasks that Ms. Kennedy has performed include economic analysis and research on renewable energy policy.

Currently, Ms. Kennedy is focusing on research on energy bills currently in discussion in Congress. She is also active in the renewable energy market and has investigated the renewable portfolio standards of various states. She is knowledgeable on the topic of state and federal energy incentives, including combined heat and power.

Prior to her role at Gabel Associates, Ms. Kennedy graduated from Rutgers University where she majored in Economics and minored in Women's and Gender Studies. She is an Institute for Women's Leadership Scholar and has extensive experience in writing grant proposals, budgeting, planning events, researching, writing reports, and speaking publicly. Ms. Kennedy is also a Henry Rutgers Scholar and received recognition from the University for her senior honors thesis on economic development programs in Brazil. A portion of her thesis is to be published next year, in Oxfam's academic journal, "Gender and Development" published by Routledge.

**Birdsall Services Group/PMK Group**

The following BSG-PMK personnel would be engaged in meeting the energy consulting needs of Branchburg:

***Frederick G. Fastiggi, CEM***  
***Vice President of Energy Services***

Mr. Fastiggi is Vice President of the Energy discipline at BSG-PMK and has over two decades of experience integrating the specialized and inter-dependent areas of auditing energy usage, quantifying project economics, design and engineering of energy solutions, project development, securing project finance, construction management and post-construction operations, and maintenance of energy infrastructure.

His expertise covers the areas of project economic feasibility, utility tariff analysis, fuel and electric procurement services, facility auditing, lighting and HVAC applications, and the development of capital projects dealing with distributed generation, cogeneration, district energy, and thermal energy storage.

Mr. Fastiggi's consulting experience includes working as the Regional Development Director for the largest third party owner of 500KW to 25MW distributed energy systems in the United States. There he was responsible for the commercial development of the equivalent of 30+MW of distributed or central energy systems in their portfolio. His consulting experience also includes extensive work on diversified energy assignments working for both Fortune 100 industrials and several public utilities.

He was a founder and served as Vice President of Development and Energy Solutions for PSEG Energy Technologies (a \$500 million, wholly-owned subsidiary of the Public Service Enterprise Group). There he was part of their senior management team, which managed their mechanical and electrical contracting business (among the ten largest in the United States). He was directly responsible for the development and asset management of PSEG Energy Technologies' \$100+ million portfolio of energy infrastructure projects serving the commercial and industrial sectors. He managed both their Distributed Generation business unit and their Technical Services group, which provided engineering and construction management services to internal and external customers.

Mr. Fastiggi has extensive experience in the development of Combined Heat and Power and District Energy projects. He has worked on the development of CHP projects ranging in size from 75KW to 150MW. Among his many development projects include the turn key design build effort for a 20MW combined cycle generating facility at the Middlesex County Utility Authority waste water treatment and landfill facility in Sayreville, NJ, a combustion turbine-based CHP plant making 7MW of electric and

process steam for Toray Plastics in North Kingstown, RI, a central heating (7MMBTU/hr) and cooling (800 tons) plant for NFL Films in Mt. Laurel, NJ and a district heating and cooling plant for the University of the Arts in Philadelphia, PA.

**David J. Harding**  
***Commissioning Agent***

David J. Harding is a Commissioning Agent in our Energy Division and has over 25 years of experience in the educational, industrial, pharmaceutical, and hospital environments, providing long-range master planning for new development and leadership of major construction and renovation projects from design through commissioning.

Mr. Harding's expertise covers a breadth of new construction, including pharmaceutical research facilities, athletic recreation centers, catheterization labs, performing art centers, and specialty manufacturing. Additional successes include delivering design build mechanical systems installations for robotic spray booths, radiant heating, class one hundred clean rooms, natatoriums, and archival storage.

His commissioning experience includes delivering a fully commissioned million square foot major pharmaceutical research facility four weeks ahead of schedule, as well as commissioning a state-of-the-art \$12 million performing arts center. Other major projects include a New Jersey based newly patented trans-dermal patch manufacturing facility.

Before joining BSG-PMK, he was employed with a prominent New Jersey engineering firm as Project Director for their Professional Services Group, where he provided design build services and commissioning for a diversified client base.

Additionally, Mr. Harding was the Associate Director of Facilities at Seton Hall University for 14 years. While there, he designed and implemented a consolidated materials warehouse with a half million dollar computerized inventory, oversaw two consecutive five-year improvement master plans, and assisted with investigative efforts while directing the 2000 fire restoration project.

**Thomas J. Brys, CEP, CEM, CDSM, CSDP**  
***Technical Director***

Mr. Brys is the Technical Director of the Energy discipline at BSG-PMK. He has developed energy efficiency projects and relationships with public and private customers throughout the tri-state area since 1993. Focusing on both the supply-side and the demand-side of the meter, his expertise lies in the identification, analysis, and delivery of energy-related infrastructure improvements and cost-saving energy efficiency measures. Mr. Brys has successfully developed and managed renewable energy design, building commissioning, and energy management projects on behalf of hundreds of

clients. Additionally, Mr. Brys has an extensive background in the field of direct digital controls for building management applications.

Mr. Brys has developed and managed projects for clients that include K-12 school districts; higher education; state, county, and municipal government; and healthcare, pharmaceutical, and petrol-chemical industries.

***Jessica Vogel***  
***Staff Engineer***

Ms. Vogel is a Staff Engineer in our Energy discipline. Her responsibilities include the assisted design of various mechanical systems, as well as performing building evaluations for new and renovated commercial, institutional, and industrial buildings. Ms. Vogel also performs the engineering services necessary to qualify for a variety of New Jersey utility-sponsored rebate and incentive programs.

***Robert M. Gerard, CHMM***  
***Chief Marketing Officer***

Robert M. Gerard currently serves as Chief Marketing Officer at Birdsall Services Group. In this capacity, Mr. Gerard is directly responsible for the development and implementation of corporate marketing and business development. He is also responsible for the firm's strategic planning activities and future acquisitions.

Since 1999, Mr. Gerard has also directed the firm's involvement with energy management and the aggregated procurement of electric and natural gas. Additionally, he has developed client-wide sustainable energy master plans that include energy efficiency, sustainable (green) building standards, greenhouse gas emissions, renewable energy, and energy procurement.

Mr. Gerard currently serves as a Board Member of New Jersey Alliance for Action, a Board Member of Monmouth Medical Center, former Chairman and current Board Member of Monmouth Medical Center Foundation, a Board Member of the Monmouth County Conservation Foundation, and a Board Member of the Independent College Fund of New Jersey.

***Daniel Swayze, P.E., C.M.E.***  
***Chief Operating Officer***

Mr. Swayze is Chief Operating Officer for BSG-PMK. In this capacity, he is responsible for operational oversight for all project and client delivery services.

As a Professional Engineer, he has over 14 years of consulting and municipal engineering experience in the planning, design, construction, and project management of a wide

variety of civil capital improvement and infrastructure projects, including sanitary and storm sewers, pumping stations, water mains, sewage and water treatment facilities, and roadway improvements.

Mr. Swayze has designed and managed several development projects including schools, office parks, warehouse facilities, and public works garages. His experience includes construction administration and management, public meeting attendance and presentation, municipal board representation, preparation of utility feasibility studies, wastewater management plans, stormwater design reports, NJDOT Grant applications, and development application reviews and reports. His experience also includes contract negotiations, capital budgeting and business case preparation.

**EXHIBIT H**

RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY

---

**TITLE:**

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
AUTHORIZING THE IMPLEMENTATION OF AN ENERGY EFFICIENCY  
PROGRAM**

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, the Authority has developed a program (the "*Original Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications or other work required or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Original Renewable Energy Projects*") for and on behalf of the County and local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities; collectively, including the County, the "*Local Units*"), all as an authorized purpose under N.J.S.A. 40:37A-54(a) of the Act;

**WHEREAS**, pursuant to the Original Renewable Energy Program, the Authority issued its \$21,600,000 aggregate principal amount of "County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2009A" dated February 18, 2010 to finance 3.2 MW of Original Renewable Energy Projects (in the form of PV solar panels and related equipment) for 7 Local Units at 15 sites within and including the County, where substantial environmental and financial benefits were secured;

**WHEREAS**, on October 20, 2010 the Authority adopted resolution No. 10-41 authorizing the implementation of the second tranche of its Original Renewable Energy Program;

**WHEREAS**, the Authority intends to expand its Original Renewable Energy Program (as so expanded, the "*Renewable Energy Program*") to include the development and implementation of energy savings improvement programs ("*ESIP*") contemplated by Chapter 4 of the Pamphlet Laws of 2009 of the State, and the acts amendatory thereof and supplemental thereto (the "*ESIP Act*"), Local Finance Board Notice 2009-11, June 12, 2009, *Implementing an Energy Savings Improvement Program, P.L. 2009, c.4*, for and on behalf of Local Units (including ESIP, the "*Renewable Energy Projects*") and other applicable law (collectively, the "*ESIP Law*"), all as a further authorized purpose under N.J.S.A. 40:37A-54(a) of the Act;

**WHEREAS**, the Renewable Energy Projects procured under the ESIP portion of the Authority's Renewable Energy Program (the "*ESIP Projects*") are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the ESIP Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems (the "*Capital Improvement Projects*") and together with the ESIP Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*");

**WHEREAS**, Gabel Associates, on behalf of itself and Birdsall Services Group (collectively, the "*Consulting Energy Engineer*") and with the review and preliminary approval of the Authority's energy counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC and the Authority's energy financial advisor, NW Financial Group (collectively, the "*ESIP Consultants*"), has submitted to the Authority a proposal with respect to the implementation and development of the ESIP dated October 15, 2010, a copy of which is attached as Exhibit A hereto (the "*ESIP Proposal*");

**WHEREAS**, the primary goal of the ESIP is to identify, finance, develop and implement the energy efficiency measures for and on behalf of the Local Units with respect to their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, the Authority contemplates the issuance of revenue bonds (the "*Bonds*") to be issued by the Authority pursuant to the Act, the ESIP Law, and other applicable law pursuant to the terms of a bond resolution (the "*Bond Resolution*"), such

Bonds to be secured in the first instance by payments to be made by the ESIP participating Local Units, then followed by payments to be made, if any, from the unconditional full faith and credit guaranties of such Local Units (the "*Local Unit Guaranties*") pursuant to Section 37 of the Act (codified at N.J.S.A. 40:37A-80, "*Section 37*"), and ultimately, by the unconditional full faith and credit guaranty of the County (the "*County Guaranty*", and together with the Local Unit Guaranties, the "*Guaranties*") pursuant to Section 37;

**WHEREAS**, the Consulting Energy Engineer, and the services related thereto (the "*Original Consulting Energy Engineering Services*") in connection with the Original Renewable Energy Program, all as set forth in a Services Agreement with the Consulting Energy Engineer (prior to the amendment contemplated hereby, the "*Prior Consulting Energy Engineer Services Agreement*") have been procured originally through a fair and open process undertaken in accordance with N.J.S.A. 19:44A-20.4 *et seq.*, and the professional services exception to the Local Public Contracts Law, and subsequently extended on a non-fair and open basis pursuant to such law and in accordance with such exception to the Local Public Contracts Law, all as such Original Consulting Energy Engineering Services were authorized by several resolutions of the Authority: (i) Resolution No. [08-28A adopted November 12, 2008] [09-44 adopted May 12, 2009], (ii) Resolution No. 09-51 adopted November 30, 2009, (iii) Resolution No. 10-17 adopted April 20, 2010, and (iv) Resolution No. 10-27 adopted June 16, 2010;

**WHEREAS**, the Authority further desires to utilize the services of the ESIP Consultants in developing and implementing the ESIP, and thereby desires to (i) amend the Prior Consulting Energy Engineer Services Agreement (as so amended hereby, the "*Consulting Energy Engineer Services Agreement*"), and (ii) utilize and apply the provisions of the Authority's existing professional services agreements with the other ESIP Consultants, all to reflect the increased scope of services contemplated by the ESIP in accordance with the terms of the ESIP Proposal and the ESIP Law.

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The ESIP, as outlined in the attached ESIP Proposal and within the parameters of the ESIP Law, is hereby initially approved as an authorized and desirable purpose for this Authority pursuant to N.J.S.A. 40:37A-54(a) of the Act, subject to the further approvals to be obtained in connection with the development and implementation of the ESIP, including without limitation the resolution required by N.J.S.A. 40: 37A-56 of the Act from the Morris County Board of Freeholders, and as applicable the Guaranties of the ESIP participating Local Units and the County, along with the findings of the Local Finance Board pursuant to N.J.S.A. 40A:5A-6, 7 and 8. Further, the Chairperson, Vice-Chairperson and the Treasurer of the Authority (including their designees, each an "*Authorized Officer*") are hereby authorized to implement the ESIP in accordance with the terms of the ESIP Proposal. The ESIP Consultants are hereby further authorized to assist the Authorized Officers and the Authority with respect to the implementation and development of the ESIP.

**Section 2.** The Authorized Officers are each hereby severally authorized and directed to negotiate, execute and deliver the amendment to the Prior Consulting Energy Engineer Services Agreement with the Consulting Energy Engineer contemplated hereby, which shall include the scope of services and the pricing reflected in the ESIP Proposal, with such final form of the Consulting Energy Engineer Services Agreement to be determined by the Authorized Officer, after consultation with counsel, to be in the best interests of the Authority and the participating Local Units, and such Authorized Officer is hereby further authorized to take all such further actions in connection therewith in accordance with all applicable law, including without limitation the execution of such other certificates, instruments or documents, as any such Authorized Officer, in consultation with counsel, shall deem necessary, convenient or desirable by any such Authorized Officer to implement the Consulting Energy Engineer Services Agreement.

**Section 3.** The Secretary and the Assistant Secretary of the Authority are hereby authorized and directed, where required, to affix the corporate seal of the Authority and to attest to the signature of the Authorized Officer on any such Consulting Energy Engineer Services Agreement, including such other certificates, instruments or documents contemplated herein. Thereafter the Authorized Officer is hereby authorized and directed to deliver any such fully authorized, executed, delivered, and if applicable, attested and sealed certificates, instruments and documents to any interested party.

**Section 4.** All actions taken to date by the Authority and the ESIP Consultants in connection with the ESIP are hereby ratified, confirmed and approved, and the Authorized Officers and the ESIP Consultants are hereby severally authorized and directed to develop and implement the ESIP, subject to the further approvals and consents to be obtained contemplated by Section 1 above..

**Section 5.** In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Morris County Board of Freeholders and the Sussex County Board of Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Morris County Board of Freeholders stating that the minutes of this meeting have not been vetoed by the Director of the Morris County Board of Freeholders.

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**Section 6.** This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

**MOVED/SECONDED:**

Resolution moved by Commissioner Pinto.

Resolution seconded by Commissioner Roe.

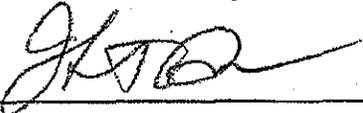
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez	X			
Roe	X			
Sandman				X
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on November 23, 2010 at the Authority's principal corporate office in Morristown, New Jersey.

Attested to this 23rd day of November, 2010

By: 

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of November 23, 2010

By:   
 Stephen B. Pearlman, Esq., Partner  
 Inglesino, Pearlman, Wyciskala & Taylor, LLC  
 Counsel to the Authority

**EXHIBIT A**

**[Attach Form of ESIP Proposal]**

**Exhibit A**

[Form of ESIP Proposal]

On File With The Authority

**EXHIBIT I**

RESOLUTION NO. 11-02

RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY

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**TITLE:**

**RESOLUTION AMENDING AND RESTATING IN ITS ENTIRETY  
RESOLUTION 10-42 OF THE AUTHORITY ENTITLED, "RESOLUTION OF  
THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE  
IMPLEMENTATION OF AN ENERGY EFFICIENCY PROGRAM"**

WHEREAS, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

WHEREAS, the Authority has developed a program (the "*Original Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications or other work required or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Original Renewable Energy Projects*") for and on behalf of the County and local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities; collectively, including the County, the "*Local Units*"), all as an authorized purpose under N.J.S.A. 40:37A-54(a) of the Act;

WHEREAS, in order to implement the Original Renewable Energy Program, the Authority and the County entered into that certain "Service Agreement (Renewable Energy Program)" dated as of January 1, 2009 (the "*Original Service Agreement*"), as amended by that certain "Amendment No. 1 to Service Agreement (Renewable Energy Program)" dated as of May 1, 2010 ("*Amendment No. 1 to Service Agreement*"), and together with the Original Service Agreement, the "*Prior Service Agreement*"), all

pursuant to Section 36 of the Act (N.J.S.A. 40:37A-79) and other applicable law (capitalized terms not defined herein shall have the meanings ascribed to such terms in the Original Service Agreement, as amended and supplemented hereby, if applicable), pursuant to which the County advanced funds to the Authority of \$800,000 in the aggregate for the Original Renewable Energy Program;

**WHEREAS**, pursuant to the Original Renewable Energy Program, the Authority issued its \$21,600,000 aggregate principal amount of "County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2009A" dated February 18, 2010 to finance 3.2 MW of Original Renewable Energy Projects (in the form of PV solar panels and related equipment) for 7 Local Units at 15 sites within and including the County, where substantial environmental and financial benefits were secured;

**WHEREAS**, on October 20, 2010 the Authority adopted resolution no. 10-041 authorizing the implementation of the second tranche of its Original Renewable Energy Program;

**WHEREAS**, the Authority intends to expand its Original Renewable Energy Program (as so expanded, the "*Renewable Energy Program*") to include the development and implementation of energy savings improvement programs ("*ESIP*") contemplated by Chapter 4 of the Pamphlet Laws of 2009 of the State, and the acts amendatory thereof and supplemental thereto (the "*ESIP Act*"), Local Finance Board Notice 2009-11, June 12, 2009, *Implementing an Energy Savings Improvement Program, P.L. 2009, c.4*, for and on behalf of Local Units (including ESIP, the "*Renewable Energy Projects*") and other applicable law (collectively, the "*ESIP Law*"), all as a further authorized purpose under N.J.S.A. 40:37A-54(a) of the Act;

**WHEREAS**, the Renewable Energy Projects procured under the ESIP portion of the Authority's Renewable Energy Program (the "*ESIP Projects*") are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the ESIP Projects, to finance, design, permit, acquire, construct, renovate and install certain other capital improvements to or for the Local Unit Facilities that do not constitute ESIP Projects (the "*Capital Improvement Projects*" and together with the ESIP Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*");

**WHEREAS**, Gabel Associates, on behalf of itself and Birdsall Services Group (collectively, the "*Consulting Energy Engineer*") and with the review and preliminary approval of the Authority's energy counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC and the Authority's energy financial advisor, NW Financial Group (including the Consulting Energy Engineer, collectively, the "*ESIP Consultants*"), has submitted to the

Authority a proposal with respect to the implementation and development of the ESIP dated October 15, 2010, a copy of which is attached as Exhibit A hereto (the "ESIP Proposal");

**WHEREAS**, the primary goal of the ESIP is to identify, finance, develop and implement the energy efficiency measures for and on behalf of the Local Units with respect to their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, the Authority contemplates the issuance of revenue bonds (the "ESIP Bonds") to be issued by the Authority pursuant to the Act, the ESIP Law, and other applicable law pursuant to the terms of a bond resolution (the "Bond Resolution"), such Bonds to be secured in the first instance by payments to be made by the ESIP participating Local Units, then followed by payments to be made, if any, from the unconditional full faith and credit guaranties of or on behalf of such Local Units (the "Local Unit Guaranties") pursuant to Section 37 of the Act (codified at N.J.S.A. 40:37A-80, "Section 37"), other ESIP Program guaranties that may be available to guaranty a certain amount of energy savings under the ESIP Program, if applicable (the "ESIP Program Guaranties") and ultimately, by the unconditional full faith and credit guaranty of the County (the "County Guaranty", and together with the Local Unit Guaranties and the ESIP Program Guaranties, the "Guaranties") pursuant to Section 37;

**WHEREAS**, the Consulting Energy Engineer, and the services related thereto (the "Original Consulting Energy Engineering Services") in connection with the Original Renewable Energy Program, all as set forth in a Services Agreement with the Consulting Energy Engineer (prior to the amendment contemplated hereby, the "Prior Consulting Energy Engineer Services Agreement") have been procured originally through a fair and open process undertaken in accordance with N.J.S.A. 19:44A-20.4 *et seq.*, and the professional services exception to the Local Public Contracts Law, and subsequently extended on a non-fair and open basis pursuant to such law and in accordance with such exception to the Local Public Contracts Law, all as such Original Consulting Energy Engineering Services were authorized by several resolutions of the Authority: (i) Resolution No. 08-28A adopted November 12, 2008, (ii) 09-44 adopted May 12, 2009, (iii) Resolution No. 09-51 adopted November 30, 2009, (vi) Resolution No. 10-017 adopted April 20, 2010, and (v) Resolution No. 10-27 adopted June 16, 2010;

**WHEREAS**, the Authority further desires to utilize the services of the ESIP Consultants in developing and implementing the ESIP, and thereby desires to (i) amend the Prior Consulting Energy Engineer Services Agreement (as so amended hereby, the "Consulting Energy Engineer Services Agreement"), and (ii) utilize and apply the provisions of the Authority's existing professional services agreements with the other ESIP Consultants, all to reflect the increased scope of services contemplated by the ESIP in accordance with the terms of the ESIP Proposal and the ESIP Law;

**WHEREAS**, the Authority and the County desire that the Prior Service Agreement be further amended by that certain "Amendment No. 2 to Service Agreement (Renewable Energy Program)" ("*Service Agreement Amendment No. 2*", and together with the Prior Service Agreement, as further amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") to provide for the additional advancement of funds from the County to the Authority for the development of the ESIP Program, particularly services of the Consulting Energy Engineer under the Consulting Energy Engineer Services Agreement and, if any funds are available, to be provided by any other ESIP Consultant in connection with the ESIP Program, in the aggregate amount of \$150,000, which funds shall be appropriated by the County from any available source; and

**WHEREAS**, the Authority does hereby intend to amend and restate in its entirety resolution no 10-42 entitled, "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE IMPLEMENTATION OF AN ENERGY EFFICIENCY PROGRAM" adopted by the Authority on November 23, 2010.

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** (a) Subject to subsection (b) below, the Authority hereby agrees as follows in this subsection (a). The ESIP, as outlined in the attached ESIP Proposal and within the parameters of the ESIP Law, is hereby initially approved as an authorized and desirable purpose for this Authority pursuant to N.J.S.A. 40:37A-54(a) of the Act, subject to the further approvals to be obtained in connection with the development and implementation of the ESIP, including without limitation the resolution required by N.J.S.A. 40: 37A-56 of the Act from the Morris County Board of Freeholders, and as applicable the Guaranties, along with the findings of the Local Finance Board pursuant to N.J.S.A. 40A:5A-6, 7 and 8. Further, the Chairperson, Vice-Chairperson and the Treasurer of the Authority (including their designees, each an "*Authorized Officer*") are hereby severally authorized to (i) implement the ESIP in accordance with the terms of the ESIP Proposal and (ii) toward that end, execute the Service Agreement Amendment No. 2 in substantially the form attached as Exhibit B hereto, with such changes thereto as the Authorized Officer shall determine, after consultation with the ESIP Consultants, which execution thereto by such Authorized Officer shall dispositively determine the authorization of any such changes. The ESIP Consultants are hereby further authorized to assist the Authorized Officers and the Authority with respect to the implementation and development of the ESIP.

(b) As the Service Agreement Amendment No. 2 has a maximum appropriation of \$150,000 for the ESIP, unless the Authority appropriates additional funds for the ESIP from another source, the actions taken in implementing the ESIP, including those of the ESIP Consultants, shall be limited to the \$150,000 or such other appropriated amount otherwise agreed to by the Authority. In implementing this policy, the Consulting Energy Engineer shall agree in the Consulting Energy Engineer Services Agreement that it shall perform outreach services for the ESIP at no cost to the Authority,

and further, that the Consulting Energy Engineer shall cap the subsequent services through the development of the ESIP plan at the \$150,000 so appropriated. Notwithstanding the foregoing, to the extent subsequent appropriations are made by the Authority for the ESIP and/or the Bonds are issued by the Authority (which action shall itself provide an appropriation) for the ESIP, any additional services performed by the Consulting Energy Engineer beyond the \$150,000 cap, and any services performed by the other ESIP Consultants, shall be paid either out of any such subsequent appropriation and/or the proceeds of the Bonds, at the Authority's option.

**Section 2.** The Authorized Officers are each hereby severally authorized and directed to negotiate, execute and deliver the amendment to the Prior Consulting Energy Engineer Services Agreement with the Consulting Energy Engineer contemplated hereby, which shall include the scope of services and the pricing reflected in the ESIP Proposal, with such final form of the Consulting Energy Engineer Services Agreement to be determined by the Authorized Officer, after consultation with counsel, to be in the best interests of the Authority and the participating Local Units, and such Authorized Officer is hereby further authorized to take all such further actions in connection therewith in accordance with all applicable law, including without limitation the execution of such other certificates, instruments or documents, as any such Authorized Officer, in consultation with counsel, shall deem necessary, convenient or desirable by any such Authorized Officer to implement the Consulting Energy Engineer Services Agreement.

**Section 3.** The Secretary and the Assistant Secretary of the Authority are hereby authorized and directed, where required, to affix the corporate seal of the Authority and to attest to the signature of the Authorized Officer on any such Service Agreement Amendment No. 2 and Consulting Energy Engineer Services Agreement, including such other certificates, instruments or documents contemplated herein. Thereafter the Authorized Officer is hereby authorized and directed to deliver any such fully authorized, executed, delivered, and if applicable, attested and sealed certificates, instruments and documents to any interested party.

**Section 4.** All actions taken to date by the Authority and the ESIP Consultants in connection with the ESIP are hereby ratified, confirmed and approved, and the Authorized Officers and the ESIP Consultants are hereby severally authorized and directed to develop and implement the ESIP, subject to the further approvals and consents to be obtained contemplated by Section 1 above.

**Section 5.** In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Morris County Board of Freeholders, by the end of the fifth business day following this meeting or as soon as possible thereafter, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Morris County Board of Freeholders stating that the minutes of this meeting have not been vetoed by the Director of the Morris County Board of Freeholders.

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**Section 6.** This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

**MOVED/SECONDED:**

Resolution moved by Commissioner Sandman.

Resolution seconded by Commissioner Roe.

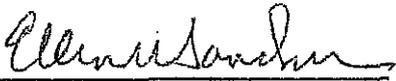
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez	X			
Roe	X			
Sandman	X			
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on January 19, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

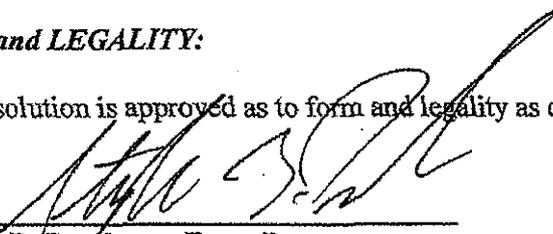
Attested to this 19th day of January, 2011

By: 

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of January 19, 2011

By:   
Stephen B. Pearlman, Esq., Partner  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Counsel to the Authority

**Exhibit A**

[Form of ESIP Proposal]

On File With The Authority

**EXHIBIT B**

**[Attach Form of Service Agreement Amendment No. 2]**

**AMENDMENT NO. 2 TO SERVICE AGREEMENT  
(RENEWABLE ENERGY PROGRAM)**

**By and Between**

**COUNTY OF MORRIS, NEW JERSEY**

**and**

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

Dated as of January 1, 2011

This **AMENDMENT NO. 2 TO SERVICE AGREEMENT (RENEWABLE ENERGY PROGRAM)** (the "*Service Agreement Amendment No. 2*") is made and entered into as of the first day of May, 2010, by and between the **COUNTY OF MORRIS, NEW JERSEY** (the "*County*"), a political subdivision of the State of New Jersey (the "*State*"), with its principal corporate offices located at Administration and Records Building, Morristown, New Jersey 07960, and **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the "*Authority*"), a public body corporate and politic of the State with its principal corporate offices located at Administration and Records Building, Morristown, New Jersey 07960, wherein it is agreed between the parties as follows:

---

**WHEREAS**, the Authority has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Board of Freeholders*") of the County on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*") and other applicable law;

**WHEREAS**, the Authority has developed a program (the "*Original Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications or other work required or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Original Renewable Energy Projects*") for and on behalf of the County and local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities; collectively, including the County, the "*Local Units*"), all as an authorized purpose under N.J.S.A. 40:37A-54(a) of the Act;

**WHEREAS**, in order to implement the Original Renewable Energy Program, the Authority and the County entered into that certain "Service Agreement (Renewable Energy Program)" dated as of January 1, 2009 (the "*Original Service Agreement*"), as amended by that certain "Amendment No. 1 to Service Agreement (Renewable Energy Program)" dated as of May 1, 2010 ("*Amendment No. 1 to Service Agreement*"), and together with the Original Service Agreement, the "*Prior Service Agreement*"), all pursuant to Section 36 of the Act (N.J.S.A. 40:37A-79) and other applicable law (capitalized terms not defined herein shall have the meanings ascribed to such terms in the Original Service Agreement, as amended and supplemented hereby, if applicable), pursuant to which the County advanced funds to the Authority of \$800,000 in the aggregate for the Original Renewable Energy Program;

**WHEREAS**, pursuant to the Original Renewable Energy Program, the Authority issued its \$21,600,000 aggregate principal amount of "County of Morris Guaranteed Renewable Energy

Program Lease Revenue Bonds, Series 2009A" dated February 18, 2010 (the "*Series 2009A Bonds*") to finance 3.2 MW of Original Renewable Energy Projects (in the form of PV solar panels and related equipment) for 7 Local Units at 15 sites within and including the County, where substantial environmental and financial benefits were secured;

**WHEREAS**, on October 20, 2010 the Authority adopted resolution no. 10-041 authorizing the implementation of the second tranche of its Original Renewable Energy Program;

**WHEREAS**, the Authority intends to expand its Original Renewable Energy Program (as so expanded, the "*Renewable Energy Program*") to include the development and implementation of energy savings improvement programs ("*ESIP*") contemplated by Chapter 4 of the Pamphlet Laws of 2009 of the State, and the acts amendatory thereof and supplemental thereto (the "*ESIP Act*"), Local Finance Board Notice 2009-11, June 12, 2009, *Implementing an Energy Savings Improvement Program, P.L. 2009, c.4*, for and on behalf of Local Units (including ESIP, the "*Renewable Energy Projects*") and other applicable law (collectively, the "*ESIP Law*"), all as a further authorized purpose under N.J.S.A. 40:37A-54(a) of the Act;

**WHEREAS**, the Renewable Energy Projects procured under the ESIP portion of the Authority's Renewable Energy Program (the "*ESIP Projects*") are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the ESIP Projects, to finance, design, permit, acquire, construct, renovate and install certain other capital improvements to or for the Local Unit Facilities that do not constitute ESIP Projects (the "*Capital Improvement Projects*" and together with the ESIP Projects and any completion project for any of the foregoing, the "*Projects*");

**WHEREAS**, due to the time and amount of Preliminary Program Costs incurred in the development and implementation of the Original Renewable Energy Program prior to the issuance of the Series 2009A Bonds, the Authority was unable to repay the \$500,000 in County Funds from the proceeds of the Series 2009A Bonds, and moreover, pursuant to Service Agreement Amendment No. 1, the Authority has requested, and the County has appropriated, another \$300,000 in County Funds (for an aggregate of \$800,000) to pay for other costs in connection with the continued development and implementation of the Original Renewable Energy Program (the "*Original Program Costs*"); and

**WHEREAS**, pursuant to Service Agreement Amendment No. 2 (together with the Prior Service Agreement, and as further amended or supplemented from time to time in accordance with its terms, the "*Service Agreement*") and in order to pay for a portion of the Preliminary Program Costs associated with the ESIP, the Authority has requested, and the County has appropriated, another \$150,000 in County Funds (for an aggregate of \$950,000) (together with the Original Program Costs, the "*Program Costs*");

WHEREAS, the Authority anticipates (i) issuing future series of Bonds pursuant to the Renewable Energy Program for the benefit of additional Local Units, and (ii) repaying such County Funds from a combination of a portion of the proceeds of such future series of Bonds and/or a grant from the United States Department of Energy (the "DOE Grant"), and additional monies that may be received in connection with the Series 2009A Bonds.

NOW, THEREFORE, the County and the Authority do hereby covenant and agree with the other as follows:

**Section 1. Amendments and Supplements to Original Service Agreement.**

(a) Section 3(c) of the Original Service Agreement is hereby amended and supplemented to replace the term (i) "Preliminary Project Costs" with the term "Preliminary Program Costs" and (ii) Renewable Energy Program with the term "Renewable Energy Program", as defined herein.

(b) All references in the Original Service Agreement to "Preliminary Program Costs" shall be deemed to be references to "Program Costs" (as defined herein), which shall include all such Preliminary Program Costs.

(c) Notwithstanding the provisions of Section 3(c) of the Original Service Agreement, and in accordance with the provisions of Section 7 thereof, the Authority shall determine whether to repay the County Funds advanced by the County from a series of Bonds, from the DOE Grant, from some other available source, including from a source related to the Series 2009A Bonds, or from some combination of the foregoing, it being the Authority's desire to repay such County Funds to or on behalf of the County as soon as possible from any such available source, while being mindful of the need to implement a successful Renewable Energy Program for the Local Units. Both parties hereto acknowledge that the failure to repay County Funds from the Series 2009A Bonds, or as applicable, from any future series of Bonds, to the extent each such future determination is made in the best interests of the Renewable Energy Program, shall not constitute an "Event of Default" under the hereinafter defined Service Agreement.

**Section 2. No Further Amendments.** No further provision of the Prior Service Agreement shall be amended or supplemented by this Service Agreement Amendment No. 2, which other provisions shall remain in full force and effect with respect to the Prior Service Agreement, as amended by this Service Agreement Amendment No. 2 (collectively, together with any further amendments or supplements in accordance with its terms, the "Service Agreement"). Accordingly such other provisions of the Prior Service Agreement, including without limitation Section 9 thereof, shall apply to this Service Agreement Amendment No. 2.

**Section 3. Effective Date.** This Service Agreement Amendment No. 2, having been authorized in accordance with Section 9(b) of the Original Service Agreement, shall be effective immediately upon its authorization, execution and delivery by the parties hereto.

**IN WITNESS WHEREOF**, each of the County and the Authority has duly authorized the execution and delivery of this Service Agreement Amendment No. 2 by the respective authorized officers thereof set forth below as of the date first above written.

**COUNTY OF MORRIS**

THE UNDERSIGNED, being Director of the Board of Freeholders of the County, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED  
THIS \_\_\_ day of January, 2011.

Attested by:

\_\_\_\_\_  
DIANE M. KETCHUM  
CLERK OF THE BOARD

\_\_\_\_\_  
FREEHOLDER DIRECTOR

**MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

THE UNDERSIGNED, being Chair of the Authority, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED  
THIS \_\_\_ day of January, 2011.

Attested by:

\_\_\_\_\_  
ELLEN SANDMAN  
SECRETARY

\_\_\_\_\_  
JOHN BONANNI  
CHAIR

STATE OF NEW JERSEY )SS:  
COUNTY OF MORRIS )

I CERTIFY that on January \_\_, 2011 **DIANE M. KETCHUM** personally appeared before me and acknowledged under oath, to my satisfaction that:

- (a) this person is the Clerk of the Board of Freeholders of the County, the political subdivision of the State named in this document;
  - (b) this person is the attesting witness to the signing of this document by the proper corporate officer of the County, who is the Director of the Board of Freeholders of the County;
  - (c) this document was signed and delivered as its voluntary act;
  - (d) this person knows the proper seal of the County that was affixed to this document;
- and
- (e) this person signed this proof to attest to the truth of these facts.

\_\_\_\_\_  
**DIANE M. KETCHUM**  
Clerk of the Board

Sworn and subscribed before  
me this \_\_\_\_\_ day of January, 2011

\_\_\_\_\_

STATE OF NEW JERSEY )SS:  
COUNTY OF MORRIS )

I CERTIFY that on January \_\_, 2011 ELLEN SANDMAN personally appeared before me and acknowledged under oath, to my satisfaction that:

- (a) this person is the Secretary of the Authority, the public body corporate and politic named in this document;
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer of the Authority, who is the Chair of the Authority;
- (c) this document was signed and delivered as its voluntary act;
- (d) this person knows the proper seal of the Authority that was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

---

**ELLEN SANDMAN**  
Secretary

Sworn and subscribed before  
me this \_\_\_\_\_ day of June, 2011.

---

**EXHIBIT J**

RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY

---

**TITLE:**

**RESOLUTION AMENDING THE PROPOSAL OF GABEL ASSOCIATES  
AUTHORIZED BY A RESOLUTION ENTITLED, "RESOLUTION  
AMENDING AND RESTATING IN ITS ENTIRETY RESOLUTION 10-42 OF  
THE AUTHORITY ENTITLED, "RESOLUTION OF THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY AUTHORIZING THE IMPLEMENTATION OF  
AN ENERGY EFFICIENCY PROGRAM"**

WHEREAS, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

WHEREAS, the Authority has developed a program (the "*Original Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications or other work required or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Original Renewable Energy Projects*") for and on behalf of the County and local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities; collectively, including the County, the "*Local Units*"), all as an authorized purpose under N.J.S.A. 40:37A-54(a) of the Act;

WHEREAS, in order to implement the Original Renewable Energy Program, the Authority and the County entered into that certain "Service Agreement (Renewable Energy Program)" dated as of January 1, 2009 (the "*Original Service Agreement*"), as amended by that certain "Amendment No. 1 to Service Agreement (Renewable Energy

Program)" dated as of May 1, 2010 ("*Amendment No. 1 to Service Agreement*", and together with the Original Service Agreement, the "*Prior Service Agreement*"), all pursuant to Section 36 of the Act (N.J.S.A. 40:37A-79) and other applicable law (capitalized terms not defined herein shall have the meanings ascribed to such terms in the Original Service Agreement, as amended and supplemented hereby, if applicable), pursuant to which the County advanced funds to the Authority of \$800,000 in the aggregate for the Original Renewable Energy Program;

**WHEREAS**, pursuant to the Original Renewable Energy Program, the Authority issued its \$21,600,000 aggregate principal amount of "County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2009A" dated February 18, 2010 to finance 3.2 MW of Original Renewable Energy Projects (in the form of PV solar panels and related equipment) for 7 Local Units at 15 sites within and including the County, where substantial environmental and financial benefits were secured;

**WHEREAS**, on October 20, 2010 the Authority adopted resolution no. 10-041 authorizing the implementation of the second tranche of its Original Renewable Energy Program;

**WHEREAS**, the Authority intends to expand its Original Renewable Energy Program (as so expanded, the "*Renewable Energy Program*") to include the development and implementation of energy savings improvement programs ("*ESIP*") contemplated by Chapter 4 of the Pamphlet Laws of 2009 of the State, and the acts amendatory thereof and supplemental thereto (the "*ESIP Act*"), Local Finance Board Notice 2009-11, June 12, 2009, *Implementing an Energy Savings Improvement Program, P.L. 2009, c.4*, for and on behalf of Local Units (including ESIP, the "*Renewable Energy Projects*") and other applicable law (collectively, the "*ESIP Law*"), all as a further authorized purpose under N.J.S.A. 40:37A-54(a) of the Act;

**WHEREAS**, the Renewable Energy Projects procured under the ESIP portion of the Authority's Renewable Energy Program (the "*ESIP Projects*") are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the ESIP Projects, to finance, design, permit, acquire, construct, renovate and install certain other capital improvements to or for the Local Unit Facilities that do not constitute ESIP Projects (the "*Capital Improvement Projects*" and together with the ESIP Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*");

**WHEREAS**, Gabel Associates, on behalf of itself and Birdsall Services Group (collectively, the "*Consulting Energy Engineer*") and with the review and preliminary approval of the Authority's energy counsel, Inglesino, Pearlman, Wyciskala & Taylor,

LLC and the Authority's energy financial advisor, NW Financial Group (including the Consulting Energy Engineer, collectively, the "*ESIP Consultants*"), submitted to the Authority a proposal with respect to the implementation and development of the ESIP dated October 15, 2010 (the "*Original ESIP Proposal*");

**WHEREAS**, the ESIP Proposal did not provide billing rates and therefore billing rates were subsequently provided to the Authority through an amendment to ESIP Proposal, a copy of which is attached as **Exhibit A** hereto (the "*Amended ESIP Proposal*" and together with the Original ESIP Proposal, the "*ESIP Proposal*");

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The Original ESIP Proposal is hereby amended to include the following billing rates:

Principal:	\$265
Executive:	\$225
Associate:	\$140
Project Director:	\$175
Project Manager:	\$150
Energy Engineer:	\$150
Junior Engineer:	\$100

**Section 2.** The Chairperson, Vice-Chairperson and the Treasurer of the Authority (including their designees, each an "*Authorized Officer*") are hereby severally authorized and directed to execute any amendment to be determined by the Authorized Officer, after consultation with counsel, necessary to implement the Amended ESIP Proposal.

**Section 3.** All actions taken to date by the Authority and the ESIP Consultants in connection with the ESIP Proposal are hereby ratified, confirmed and approved, and the Authorized Officers and the ESIP Consultants are hereby severally authorized and directed to develop and implement the Amended ESIP Proposal.

**Section 4.** In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Morris County Board of Freeholders, by the end of the fifth business day following this meeting or as soon as possible thereafter, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Morris County Board of Freeholders stating that the minutes of this meeting have not been vetoed by the Director of the Morris County Board of Freeholders.

**Section 5.** This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

**MOVED/SECONDED:**

Resolution moved by Commissioner Roe.

Resolution seconded by Commissioner Pinto.

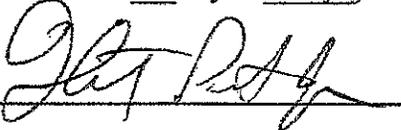
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez				X
Roe	X			
Sandman				X
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on July 20, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

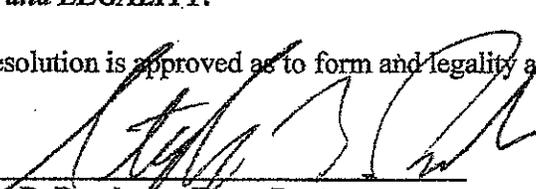
Attested to this 20th day of July, 2011

By: 

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of July 20, 2011

By: 

Stephen B. Pearlman, Esq., Partner  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Counsel to the Authority

**EXHIBIT A**

**[Attach Form of Amended ESIP Proposal]**

# Gabel Associates

Pursuant to the Gabel Associates Proposal to Provide Energy Consulting Services to the Morris County Improvement Authority dated October 15, 2010 attached please find the fee schedule to be used for hourly billing up to the capped amount of \$150,000.

## Fee Schedule

Principal:	\$265
Executive:	\$225
Associate:	\$140
Project Director:	\$175
Project Manager:	\$150
Energy Engineer:	\$150
Junior Engineer:	\$100

Time charges: all time is billed on an hourly basis at the rates set forth above. All time is rounded to the nearest quarter hour.

For Work performed on a time and expense basis, the hourly rate(s) specified in Agreement shall incorporate all overheads and Company shall not be billed for the word processing, computer, and secretarial or clerical time. Company shall reimburse Consultant for necessary photocopying, toll calls, fax transmissions, mailing, or other costs as may be approved by the Company in advance. Travel expenses, meals, and accommodations shall not be charged to the Company unless agreed to prior to any such expense being incurred. No commuting expenses shall be charged to the Company.

**EXHIBIT K**

RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY

---

**TITLE:**

**RESOLUTION FURTHER AMENDING THE PROPOSAL OF GABEL  
ASSOCIATES AUTHORIZED BY A RESOLUTION ENTITLED,  
"RESOLUTION AMENDING AND RESTATING IN ITS ENTIRETY  
RESOLUTION 10-42 OF THE AUTHORITY ENTITLED, "RESOLUTION OF  
THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE  
IMPLEMENTATION OF AN ENERGY EFFICIENCY PROGRAM", AS  
PREVIOUSLY AMENDED ON JULY 20, 2011**

WHEREAS, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

WHEREAS, the Authority has developed a program (the "*Original Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications or other work required or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Original Renewable Energy Projects*") for and on behalf of the County and local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities; collectively, including the County, the "*Local Units*"), all as an authorized purpose under N.J.S.A. 40:37A-54(a) of the Act;

WHEREAS, in order to implement the Original Renewable Energy Program, the Authority and the County entered into that certain "Service Agreement (Renewable Energy Program)" dated as of January 1, 2009 (the "*Original Service Agreement*"), as

amended by that certain "Amendment No. 1 to Service Agreement (Renewable Energy Program)" dated as of May 1, 2010 ("*Amendment No. 1 to Service Agreement*"), and together with the Original Service Agreement, the "*Prior Service Agreement*", all pursuant to Section 36 of the Act (N.J.S.A. 40:37A-79) and other applicable law (capitalized terms not defined herein shall have the meanings ascribed to such terms in the Original Service Agreement, as amended and supplemented hereby, if applicable), pursuant to which the County advanced funds to the Authority of \$800,000 in the aggregate for the Original Renewable Energy Program;

**WHEREAS**, pursuant to the Original Renewable Energy Program, the Authority issued its \$21,600,000 aggregate principal amount of "County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2009A" dated February 18, 2010 to finance 3.2 MW of Original Renewable Energy Projects (in the form of PV solar panels and related equipment) for 7 Local Units at 15 sites within and including the County, where substantial environmental and financial benefits were secured;

**WHEREAS**, on October 20, 2010 the Authority adopted resolution no. 10-041 authorizing the implementation of the second tranche of its Original Renewable Energy Program;

**WHEREAS**, the Authority intends to expand its Original Renewable Energy Program (as so expanded, the "*Renewable Energy Program*") to include the development and implementation of energy savings improvement programs ("*ESIP*") contemplated by Chapter 4 of the Pamphlet Laws of 2009 of the State, and the acts amendatory thereof and supplemental thereto (the "*ESIP Act*"), Local Finance Board Notice 2009-11, June 12, 2009, *Implementing an Energy Savings Improvement Program, P.L. 2009, c.4*, for and on behalf of Local Units (including ESIP, the "*Renewable Energy Projects*") and other applicable law (collectively, the "*ESIP Law*"), all as a further authorized purpose under N.J.S.A. 40:37A-54(a) of the Act;

**WHEREAS**, the Renewable Energy Projects procured under the ESIP portion of the Authority's Renewable Energy Program (the "*ESIP Projects*") are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the ESIP Projects, to finance, design, permit, acquire, construct, renovate and install certain other capital improvements to or for the Local Unit Facilities that do not constitute ESIP Projects (the "*Capital Improvement Projects*" and together with the ESIP Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*");

**WHEREAS**, Gabel Associates, on behalf of itself and Birdsall Services Group (collectively, the "*Consulting Energy Engineer*") and with the review and preliminary

approval of the Authority's energy counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC and the Authority's energy financial advisor, NW Financial Group (including the Consulting Energy Engineer, collectively, the "*ESIP Consultants*"), submitted to the Authority a proposal with respect to the implementation and development of the ESIP dated October 15, 2010 (the "*Original ESIP Proposal*");

**WHEREAS**, the ESIP Proposal did not provide billing rates and therefore on July 20, 2011 the Authority adopted a resolution entitled, "RESOLUTION AMENDING THE PROPOSAL OF GABEL ASSOCIATES AUTHORIZED BY A RESOLUTION ENTITLED, "RESOLUTION AMENDING AND RESTATING IN ITS ENTIRETY RESOLUTION 10-42 OF THE AUTHORITY ENTITLED, "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE IMPLEMENTATION OF AN ENERGY EFFICIENCY PROGRAM" establishing billing rates through an amendment to ESIP Proposal (the "*First Amended ESIP Proposal*" and together with the Original ESIP Proposal, the "*Amended ESIP Proposal*");

**WHEREAS**, the Authority desires to amend the ESIP Proposal for an additional responsibility ("*Task 1*") for a not to exceed fee of \$12,000.00 through a second amendment to the Amended ESIP Proposal, a copy of which is attached hereto as Exhibit A (the "*Second Amended ESIP Proposal*" and together with the Amended ESIP Proposal, the "*ESIP Proposal*");

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The Amended ESIP Proposal is hereby amended to include the following responsibilities set forth on Exhibit A as part of Task 1 for a not to exceed fee of \$12,000.00.

**Section 2.** The Authority expects to finance a portion of the cost of the Projects with the proceeds of bonds (the "*Bonds*") to be issued after the adoption of this resolution by the Authority. If the Authority or the County pays any of the costs of the Projects prior to the issuance of the Bonds, the Authority reasonably expects to reimburse such expenditures with the proceeds of the Bonds. The maximum principal amount of debt to be issued to finance the cost of the Projects is approximately \$10,000,000, plus, if applicable, the cost of acquisition plus capitalized interest.

**Section 3.** The Chairperson, Vice-Chairperson and the Treasurer of the Authority (including their designees, each an "*Authorized Officer*") are hereby severally authorized and directed to execute any amendment to be determined by the Authorized Officer, after consultation with counsel, necessary to implement the Second Amended ESIP Proposal.

**Section 4.** All actions taken to date by the Authority and the ESIP Consultants in connection with the ESIP Proposal are hereby ratified, confirmed and

approved, and the Authorized Officers and the ESIP Consultants are hereby severally authorized and directed to develop and implement the Second Amended ESIP Proposal.

**Section 5.** In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Morris County Board of Freeholders, by the end of the fifth business day following this meeting or as soon as possible thereafter, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Morris County Board of Freeholders stating that the minutes of this meeting have not been vetoed by the Director of the Morris County Board of Freeholders.

**Section 6.** This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

**MOVED/SECONDED:**

Resolution moved by Commissioner Sandman.

Resolution seconded by Commissioner Roe.

**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez	X			
Roe	X			
Sandman	X			
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on October 19, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

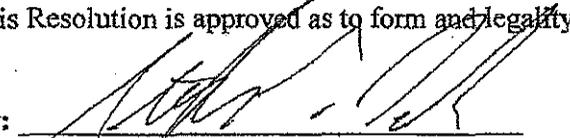
Attested to this 19th day of October, 2011

By: 

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of October 19, 2011

By: 

Stephen B. Pearlman, Esq., Partner  
 Inglesino, Pearlman, Wyciskala & Taylor, LLC  
 Counsel to the Authority

**EXHIBIT A**

**[Attach Form of Second Amended ESIP Proposal]**



October 19, 2011

To: Morris County Improvement Authority

The purpose of this letter is to provide the Morris County Improvement Authority (MCIA) with an update on the status of its County-Wide ESIP Program and propose next steps including a proposal from Gabel Associates to implement a reformulated ESIP approach.

#### Project Progress

On January 31, 2011 and February 15, 2011 Gabel Associates, Birdsall Services Group, Inglesino, Pearlman, Wyciskala & Taylor, LLC and NW Financial Group (collectively, the "ESIP Consultants"), conducted outreach meetings for all Morris County Local Units, including County, Municipal and Public School entities. The outreach presentation given at those meetings requested that Local Units provide a completed interest form, allowing the ESIP Consultants to determine the level of interest for participation as well as the amount of information currently available for each Local Unit i.e. has an audit been completed through the Local Government Energy Audit Program (LGEA).

By May 24, 2011, the ESIP Consultants had received 31 completed Interest Forms, comprised of 12 interested Local Units with LGEA audits and 18 interested Local Units without LGEA audits. The ESIP Consultants gathered audits from the New Jersey Office of Clean Energy and from Local Units and compiled the measures from individual audits into one spreadsheet for economic analysis.

The ESIP Consultants also provided guidance to the Local Units without LGEA audits on how to participate in the LGEA Program.

After discussions with the MCIA at the May 24, 2011 and June 16, 2011 MCIA meetings the ESIP Consultants conducted economic analyses for each of the eight Local Units deemed feasible as ESIP projects. The eight Local Units include Mine Hill Board of Education; Morris Hills Board of Education; Parsippany School District; Chatham Borough; Randolph Board of Education; Rockaway Township; Chester Board of Education; and, Township of Hanover.

The following three local units did not meet ESIP requirements of having sufficient savings to cover debt service over the 15 year term: Chatham School District; Denville Board of Education; and, Denville Township.

The ESIP Consultants calculated economics for these eight Local Units under two scenarios:

1. Implementing all Energy Conservation Measures (ECMs) using the 15 year ESIP financing structure
2. Implementing only those Energy Conservation Measures (ECMs) that would be beneficial under the provisions of the County Guaranteed Leasing Program (CGLP) and New Jersey State Contract Law.

The CGLP program limits municipalities to financing over a ten year maximum term. State Contract Law limits school districts to financing over a five year maximum term. Therefore,

The ESIP Consultants calculated the economics under Scenario 1 with the initial intent of implementing the most ECMs possible while still maintaining a positive 15 year Net Present Value (NPV). This strategy enables Local Units to maximize the number of capital projects implemented - including those that may have reached the end of their useful lives - while remaining cash-flow neutral or positive.

The ESIP Consultants calculated the economics for Scenario 2, which included only ECMs with a ten year and under simple payback for municipalities and a five year and under simple payback for school districts, per CGLP program and New Jersey Contract Law restrictions.

After performing economic analyses for all eight local units (three municipalities and five school districts) under the two scenarios, the ESIP Consultants presented the results and recommendation to the MCIA at the July 20, 2011 Board meeting.

#### Recommended Approach for the Municipalities and County facilities:

The ESIP Consultants recommended County Government and Municipalities pursue either the County Guaranteed Leasing Program (CGLP) or a traditional Improvement Authority Bond issuance to finance the preferred Energy Conservation Measures. This is largely due to the fact that municipality/county government have no financing term restrictions and may finance projects over ten year periods. As such, adding the additional ESIP related costs and required timing elements are not necessary and therefore a more efficient and economic strategy is to finance the measures through traditional means over the term that makes the most economic sense to the Local Unit.

#### Recommended Approach for School Districts:

School Districts should pursue an ESIP approach in order to implement their desired ECMs. School Districts are only permitted by law to finance projects over a five year period unless

they pass a referendum and get voter approval. Financing over five years excludes many ECMs from being implemented due to their longer payback periods. Should the School Districts decide to pursue an ESIP approach, they will be able to prioritize projects based on their own internal goals to either maximize cashflow or the number of projects implemented. The ESIP approach allows school districts this flexibility because the project will be financed over a fifteen year period.

### Next Steps

After the above investigation and analysis of the ESIP program, the process of a County-wide initiative and potential strategies for implementation, we propose the following strategy be implemented:

For School Districts:

1. The ESIP Consultants will act as an Owner's Representative on behalf of the MCIA and its School District Local Units to implement a competitive contracting RFP process for the purpose of selecting an Energy Savings Company (ESCO). ESCOs are full service firms that essentially act as general contractors and manage the various elements and subcontractors necessary to implement an ESIP. The RFP may also enable "Do It Yourself" (DIY) providers to submit responses so that the MCIA can evaluate the benefits of such proposals.

The ESIP Consultants would be responsible for providing all consulting services related to development and implementation of the RFP process including but not limited to drafting the RFP, facilitation of pre-bid meeting, responding to questions and answers, oral interviews, drafting the evaluation report, review and clarification of the business terms of ESIP performance contracts, and construction administrative services during project construction.

For Municipal and County Local Units:

1. The ESIP Consultants will assist the Municipal and County Local Units in implementing their desired capital projects through the County Guarantee Leasing Program, coordinated by the MCIA Financial Advisor. This will include availing the services of the ESIP Consultants to the Local Units for purposes of implementation.

The process has been altered from the approach previously discussed whereby the MCIA and ESIP Consultants were pursuing a "Do It Yourself" (DIY) approach. This revised approach addresses the concern of the MCIA to have Local Units provide a guarantee for the Bonds. To address this concern and provide some comfort to the Local Unit and MCIA, the RFP will require the ESCO or DIY provider to provide an energy savings guarantee to the Local Unit.

The next steps in the ESIP Consultants' proposed plan include:

1. Meet with each of the Local Units individually to discuss our analysis and recommendations;
2. Work in conjunction with the MCIA Financial Advisor to assist the Municipality and County Local Units in participating in the CGLP; and,
3. Develop an RFP to procure an ESCO for the participating School Districts. The proposed scope of work is outlined below.

If this strategy is acceptable to the MCIA, the ESIP Consultants propose the following scope of work and fee structure:

### **Task 1: Local Unit Meetings**

Unlike the outreach presentation to local units in the solar program or ESIP program, Gabel Associates will meet with the eleven Local Units outlined above individually to advise each on the appropriate course of action based on the results of the economic analyses and program research. With respect to the three Local Units recommended for another strategy, in conjunction with the MCIA financial adviser, Gabel will advise each Local Unit on other more suitable incentive and funding programs available for participation. For the five School Districts recommended to proceed with an ESIP Gabel will provide the following additional tasks.

### **Task 2: RFP Process**

The RFP process will conform to the public procurement requirements of the State of New Jersey procurement laws and DCA guidelines (including full notice, and transparent evaluation of proposals). At the same time Gabel Associates will assure that the process is consistent (and is developed in coordination) with the MCIA's procurement requirements.

- Develop and administer a request for proposals (RFP) pursuant to the New Jersey Department of Community Affairs' guidelines that will be used to solicit proposals, from which the MCIA can select a qualified ESCO to design and install the selected ECMs. This process will include:
  - a. Working with each local unit to collect the necessary documents required for the implementation of an ESIP including but not limited to the Local Government Energy Audit, discuss if any Energy Conservation Measures have been implemented since the date of the of audit, and goals and items of critical need of the school district;
  - b. Draft a request for proposals (RFP) that will identify the technical, financial, performance, and contractual issues that proposers must adhere to their proposals;
  - c. Hold a pre-bid meeting for interested proposers where we can answer questions and coordinate site visits for interested vendors;

- d. Evaluate the proposals from a technical, economic and financial perspective. This evaluation will include both price and non-price factors to assure that the MCIA executes an agreement with a proposer that is financially and technically capable, and provides economic value. Gabel Associates would prepare an evaluation matrix, including weighting factors, to serve as a basis for the decision of the MCIA to designate a contract award. Based upon this comprehensive evaluation, Gabel Associates would prepare a draft recommendation report, discuss the report with MCIA, finalize the report and help the MCIA award a contract to the selected proposer;
  - e. Review proposed contracts and provide comments on their provisions to assure that the interests of the MCIA are advanced and;
  - f. Finalize the contract award with the chosen vendor.
- Provide comprehensive technical, economic and financial analysis to support project development activities;

### **Task 3: Construction Administration (CA) Services**

Once the proposer is selected Gabel Associates would provide Construction Administration Services with respect to the ESIP project in order to coordinate with the Successful Respondent on construction status, pre-construction planning and equipment staging issues. Our Construction Administration Services would also include providing on-site supervision and running weekly or bi-weekly job meetings, as well as to provide an oversight of the flow of construction materials to minimize the impact upon the MCIA and Local Units.

Our construction administration staff specializes in energy efficiency related projects and would act as a liaison between the Successful Respondent and the MCIA/Local Units. Gabel Associates will provide advisory services that provide the client with periodic status reports on the timing of the project and to advise the client on coordination and timing issue. Services include:

- Coordinate and Attend Pre-construction meeting with the Successful Respondent, contractors, and personnel.
- Provide weekly general project oversight specific to construction projects to report back to client and a prepare a weekly or periodic report that summarizes the work completed and reflects any changes to the construction schedule based on information received from the Successful Respondent.
- Track and report progress of assigned projects to the MCIA.
- Coordinate and run weekly project status meetings.
- On behalf of the client oversee the Successful Respondents' flow of construction in order to meet projected schedules.
- Provide oversight of the Successful Respondent's project close-out at the conclusion of the installation to document that the ECMs are installed and operating.

**Proposed Fees**

Task #	Activity	Fees Due
1	Local Unit Meetings to develop their individualized plan	Billed hourly not to exceed \$12,000
2	Development of procurement documents associated with obtaining the services of an ESCO	\$75,000, plus \$4,000 per site
<b>Total</b>	<b>Not to Exceed Price Quote including all services outlined above (based on 15 sites)</b>	<b>\$147,000</b>

The price for Task 3: Construction Administration Services will be determined when the size and scope of the project is determined.

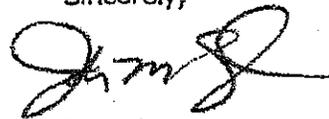
Fees for Task 1 shall be paid upon completion of each Local Unit meeting, billed monthly. Fees for Task 2 shall be paid in three installments: at the execution of the ESCO agreement; at the issuance of the RFP; and, upon completion of the evaluation report.

The above fees may be rolled into the Energy Savings Obligation Bonds.

These fees do not include independent pre and post third party verification of Energy Savings Plan. The fees for independent verification cannot be bonded through the Energy Savings Obligations Bonds.

We appreciate the opportunity to present the MCIA with this update and revised proposal.

Sincerely,



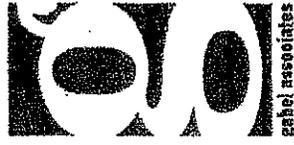
Joseph Santaiti  
Vice President



# Morris County Improvement Authority

County Wide Energy Savings  
Improvement Program

# Recommendation



- Municipalities and County Facilities utilize the County Guaranteed Leasing Program or a traditional Improvement Authority Bond Issuance to finance the preferred Energy Conservation Measures at their site.
- School Districts utilize the aggregated ESIP to fund the preferred Energy Conservation Measures at their site.

# Local Units



## Recommended for ESIP

1. Chester Board of Education
2. Mine Hill Board of Education
3. Morris Hills Board of Education
4. Parsippany School District
5. Randolph Board of Education

## Recommended for Alternative Financing Plan

1. Chatham Borough
2. Rockaway Township
3. Township of Hanover

# Tasks

- Meet with each Local Unit individually to review their projects and advise on the appropriate course of action
- Develop and Implement a Request for Proposal (RFP) process to procure the services of an Energy Services Company (ESCO) or a “Do It Yourself” (DIY) provider to implement the ESIP
- Evaluate proposals from ESCO and DIY providers
- Perform Construction Administration Services



**CERTIFICATE OF AUTHORITY AS TO  
SELECTION OF UNDERWRITER**

I, ELLEN M. SANDMAN, Secretary of The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A.* 40:37A-44 *et seq.*, the "*Act*") and other applicable law, and in connection with the issuance this day by the Authority of its \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds"), **DO HEREBY CERTIFY** on behalf of the Authority as follows:

1. Pursuant to *N.J.S.A.* 19:44A-20.1 *et seq.* (the "Pay to Play law"), the Authority may not award a contract with a value in excess of \$17,500.00 to a business entity which has made reportable contributions in excess of \$300.00, in the aggregate, to the member municipality's political parties or to any candidate's committee of any person serving in an elective public office of the member municipality when such contract was awarded, unless said business entity is awarded a contract under a "fair and open process" pursuant to *N.J.S.A.* 19:44A-20.1 *et seq.* (the "*Fair and Open Process*"). In the absence of a Fair and Open Process, the Authority may obtain certifications required by the Pay to Play Law that state no reportable contributions have been made in excess of \$300.00 and a business entity disclosure pursuant to *N.J.S.A.* 40A:11-51 (collectively, the "Certifications").

2. On July 24, 2002, the Authority adopted a resolution entitled, "RESOLUTION ADOPTING A POLICY FOR THE SELECTION OF UNDERWRITERS AND OTHER ANCILLARY SERVICE PROVIDERS IN CONNECTION WITH THE SALE OF SECURITIES," (the "*Policy RFQ*") a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Authority at a meeting duly called and held on July 24, 2002, and at which a quorum existed and acted throughout.

3. On April 19, 2011, the Authority adopted a resolution entitled "RESOLUTION APPROVING A QUALIFIED LIST OF UNDERWRITERS FOR AUTHORITY SECURITIES TRANSACTION IN ACCORDANCE WITH THE AUTHORITY'S UNDERWRITER SELECTION POLICY AND A FAIR AND OPEN PROCESS," (the "*2011 Qualified List*") a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the Authority at a meeting duly called and held on April 19, 2011, and at which a quorum existed and acted throughout.

4. On October 26, 2011, the County of Sussex consented to the Authority's award of the Underwriter and Solar Developer by adopting a resolution entitled, "RESOLUTION PROVIDING CONSENT OF SUSSEX COUNTY TO SOLAR DEVELOPER AND UNDERWRITER AWARDS OF MORRIS COUNTY IMPROVEMENT AUTHORITY IN CONNECTION WITH SUCH AUTHORITY'S 2011 RENEWABLE ENERGY PROGRAM UNDERTAKEN ON BEHALF OF SUSSEX COUNTY" (the "*Underwriter and Solar Developer County Consent Resolution*"), a copy of which is attached hereto as **Exhibit C**, which resolution was adopted by the County at a meeting duly called and held on October 26, 2011, and at which a quorum existed and acted throughout.

5. On October 27, 2011, the Authority appointed RBC Capital Markets LLC as Underwriter by adopting Resolution No. 11-52 entitled, "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY APPOINTING AN UNDERWRITER IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROGRAM) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000" (the "*Award Resolution*"), a copy of which is attached hereto as **Exhibit D**, which resolution was duly adopted by the Authority at a meeting duly called and held on October 27, 2011, and at which a quorum existed and acted throughout.

6. As of the date hereof, the Policy RFQ, the 2011 Qualified List and the Award Resolution, each set forth above and attached hereto, have not been altered, amended, supplemented or repealed, and as such, remain in full force and effect.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Authority this 14th day of December, 2011.

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By:   
\_\_\_\_\_  
**Ellen M. Sandman**  
**Secretary**

**EXHIBIT A**

**[Attach copy of Policy RFQ]**

**RESOLUTION NO. 02-10**

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

---

*TITLE:*

**RESOLUTION ADOPTING A POLICY FOR THE SELECTION OF  
UNDERWRITERS AND OTHER ANCILLARY SERVICE PROVIDERS IN  
CONNECTION WITH THE SALE OF SECURITIES**

**WHEREAS**, the Morris County Improvement Authority (the "Authority") has been duly created by resolution of the County of Morris (the "County"), State of New Jersey (the "State") and exists in good standing as a public body corporate and politic under and pursuant to all applicable law, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, as amended from time to time (codified at N.J.S.A. 40:37A-44 et seq., the "Act");

**WHEREAS**, from time to time, the Authority will be issuing its bonds, notes or other obligations (collectively, the "Securities") to finance various projects of the Authority permitted under the Act (the "Projects");

**WHEREAS**, the Authority may need the services of one or more underwriters and/or other service providers in order to effect the issuance of Securities for Projects; and

**WHEREAS**, it is in the best interests of the Authority to set forth in advance a policy (the "Policy") for the selection of underwriters and ancillary service providers in connection with the issuance of Securities to finance Projects.

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The Policy, in the form attached hereto as Exhibit A, is hereby adopted to be the policy of the Authority for all prospective financing transactions of the Authority involving the issuance of Securities to finance Projects requiring the services of underwriters and/or the ancillary service providers set forth in the Policy.

**Section 2.** This resolution shall take effect immediately.

***MOVED/SECONDED:***

Resolution moved by Commissioner Ramirez.

Resolution seconded by Commissioner Roe.

***VOTE:***

Commissioner	Yes	No	Abstain	Absent
Bonanni	X			
Ramirez	X			
Roe	X			
Sandman	X			
Rosenberg	X			

***ATTESTATION:***

This Resolution was acted upon at the Regular Meeting of the Authority held on July 24, 2002 at the Authority's principal corporate office in Morristown, New Jersey.

Attested to this 24<sup>th</sup> day of July, 2002

By: Chris Ramirez

Secretary of the Authority

***FORM and LEGALITY:***

This Resolution is approved as to form and legality as of July 24, 2002

By: Stephen B. Pearlman  
 Stephen B. Pearlman, Esq., Partner  
 DeCotijs, FitzPatrick, Gluck & Cole, LLP  
 Counsel to the Authority

[EXHIBIT A]

**Morris County Improvement Authority**

**Policy regarding the selection of Underwriters  
and certain ancillary service providers  
in connection with the sale of Securities by the Authority**

as of July 24, 2002

**I. Purpose:** The purpose of this policy (the "Policy") is to set forth the standards to be used in procuring the services of underwriters and certain ancillary service providers in connection with the authorization, sale and issuance of bonds, notes or other obligations ("Securities") by the Morris County Improvement Authority (the "Authority").

**II. Conflict.** The Commissioners of the Authority (collectively, the "Board") shall abstain on all votes on resolutions to be adopted by the Authority in connection with the authorization, sale and issuance of Securities or any project to be financed by any such Securities ("Project"), but only if any such Commissioners, their spouse or any other dependants have a material financial interest in (i) any such Project or (ii) any of the service providers selected by the Authority or otherwise working in connection with the authorization, sale and issuance of any such Securities.

**III. Underwriters:** Periodically, the Authority shall solicit and receive written qualifications from firms to serve as any manner of underwriter in connection with the authorization, sale or issuance of Securities. The Commissioners of the Authority shall adopt a resolution authorizing a qualified list of underwriters. This qualified list shall be prepared by or on behalf of the Chairperson from among, and after the review of, the underwriting firm responses to the request for qualifications. Underwriters may be added to this qualified list from time to time for any reason by further resolution of the Commissioners of the Authority, but only upon underwriter submission and Authority review in the manner similar to that of the periodic process detailed above. Underwriters may be removed from the list of qualified underwriters by resolution of the Commissioners of the Authority for any reason, including without limitation securities law investigations, violations or any other action or inaction by the underwriting firm that might adversely affect the Authority's ability to sell Securities in the most advantageous manner to its clients, or that would otherwise adversely affect the Authority. From this qualified list, the Chairperson, with the consent of a majority of the Board, shall select one or more underwriters for particular transactions where underwriting services are required. Fees for underwriting services shall be established through negotiation by or on behalf of the Chairperson, with the consent of a majority of the Board, with the selected underwriter. The Chairperson, with the consent of a majority of the Board, may select one or more co-managing underwriters for a particular transaction, whose allocation of Securities (along with the allocation of the senior managing underwriter) shall also be selected by the Chairperson, with the consent of a majority of the Board, and whose compensation (as determined by the Chairperson, with the consent of a majority of the Board) shall not exceed that of the senior-managing underwriter. The Chairperson, with

the consent of a majority of the Board, may reserve the right to approve counsel for any such underwriter and any such counsel's fee for services. The Authority may, from time to time, offer Securities for public sale if the circumstances, as determined by the Chairperson, with a consent of a majority of the Board, warrant a public sale.

**IV. Fiduciaries:** The Chairperson, with the consent of the Board, may select one or more of a trustee, paying agent, registrar, escrow agent, tender agent or other fiduciary from among the banks or other financial institutions authorized under the laws of the State of New Jersey and the Authority's Cash Management Plan to perform such fiduciary services in connection with the authorization, sale or issuance of Securities. One authorized institution may perform multiple fiduciary, credit, liquidity, remarketing or other roles in a single transaction, so long as counsel to the Authority advises the Authority that no conflict then exists. The Chairperson, with the consent of the Board, shall establish the fee for any such fiduciary services. The Chairperson, with the consent of the Board, may reserve the right to approve counsel for any such fiduciary and any such counsel's fee for services.

**V. Others:** To the extent the services of rating agencies, bond insurers, liquidity providers, credit providers, credit enhancers, remarketing agents, verification agents, auctioneers, printers, binders, engineers, architects, providers of feasibility studies or other service providers are required in connection with the authorization, sale or issuance of Securities, the Chairperson, with the consent of the Board, may select such service provider for any particular transaction and may negotiate a fee for services. To the extent services are required to be performed on behalf of other parties to a transaction involving Securities, the Chairperson with the consent of the Board, may approve or provide limits on the fees for such services.

**VI. Miscellaneous:**

1. The Authority continues to encourage underwriters to bring ideas, products and Projects to the Authority. To the greatest extent possible, the Authority will look to utilize the services of such underwriters for any resultant transactions.
2. All fees for services negotiated under this Policy are subject to all transaction approvals, including without limitation, as applicable, the Local Finance Board and where applicable, the County of Morris.
3. The Chairperson, in negotiating the fees for any services under this Policy, may take into account any factors the Chairperson deems relevant, including without limitation the size, risk and complexity of the transaction, as well as the experience and ability of the service provider, with all such actions of the Chairperson being ultimately subject to the approval of a majority of the Board.
4. Where the Chairperson is authorized to act under this Policy, the Chairperson may act, with or without the consultation of counsel, financial advisor or other Authority consultants, as the Chairperson shall deem necessary, desirable or convenient to effect the Policy, with all such actions of the Chairperson being ultimately subject to the approval of a majority of the Board.

5. The underwriters, fiduciaries and all other service providers in this Policy are under a continual obligation to immediately notify the Authority of any material change in the personnel, financial affairs, litigation or other legal situation or any other material factor that the Authority would deem relevant in securing and continuing the services of that particular service provider.

**EXHIBIT B**

**[Attach copy of 2011 Qualified List]**

RESOLUTION NO. 11-13

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

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**TITLE:**

**RESOLUTION APPROVING A QUALIFIED LIST OF UNDERWRITERS FOR  
AUTHORITY SECURITIES TRANSACTION IN ACCORDANCE WITH THE  
AUTHORITY'S UNDERWRITER SELECTION POLICY AND A FAIR AN  
OPEN PROCESS**

**WHEREAS**, The Morris County Improvement Authority (including any successors and assigns, the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Board of Freeholders") of the County of Morris (the "County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the "Act") and other applicable law;

**WHEREAS**, from time to time, the Authority will be issuing its bonds, notes or other obligations (collectively, the "Securities") to finance various projects of the Authority permitted under the Act (the "Projects");

**WHEREAS**, the Authority may need the services of one or more underwriters in order to effect the issuance of Securities for Projects; and

**WHEREAS**, by resolution no 02-10 adopted July 24, 2002 and entitled "RESOLUTION ADOPTING A POLICY FOR THE SELECTION OF UNDERWRITERS AND OTHER ANCILLARY SERVICE PROVIDERS IN CONNECTION WITH THE SALE OF SECURITIES," the Authority has adopted a policy (the "Policy") directing that a request for underwriting qualifications ("RFQ") be issued by the Authority from time to time as the initial action required under the Policy for the selection of underwriters in connection with the issuance of Securities to finance Projects;

**WHEREAS**, as of January 1, 2006, N.J.S.A. 19:44A-20.1 *et seq.*, commonly known as the "State Pay to Play Law" became effective;

**WHEREAS**, pursuant to the State Pay to Play Law, the Authority may not award contracts with a value in excess of \$17,500.00, to a business entity, including an underwriter, which has made reportable contributions in excess of \$300.00, in the aggregate, to certain political parties or candidate committees of persons serving in an

elective public office when such contract was awarded, unless said business entity is awarded a contract under a "fair and open process" pursuant to the State Pay to Play Law;

**WHEREAS**, a "fair and open process" constitutes the following: (i) public advertisement on the Authority's website or in the newspaper of a Request for Qualifications (hereinafter the "Fair and Open RFQ") with ten (10) calendar days notice prior to the receipt of responses to the Fair and Open RFQ; (ii) award of contract under a process that provides for public solicitation of qualifications; (iii) award of contract under publicly disclosed criteria established, in writing, by the Authority prior to the solicitation of qualifications; and (iv) the Authority shall publicly open and announce the qualifications when awarded (the "Fair and Open Process") ;

**WHEREAS**, pursuant to the State Pay to Play Law, a qualified list of underwriters selected pursuant to a Fair and Open Process is valid for a period of one (1) year from the date of appointment;

**WHEREAS**, the Authority issued a Fair and Open RFQ on April 1, 2011 for the selection of a pool of underwriters for a period of one year from April 19, 2011 to the various underwriting firms detailed in a report (the "2011 Report") of Acacia Financial Group Inc. (the "Financial Advisor"), a copy of which is attached hereto as Exhibit A;

**WHEREAS**, nine (9) of the underwriting firms detailed in the 2011 Report responded to the Fair and Open RFQ no later than the Fair and Open RFQ deadline of April 12, 2011; and

**WHEREAS**, the Financial Advisor has recommended in its 2011 Report that the Authority select all nine (9)] underwriting firm respondents as qualified underwriting firms (the "2011 Qualified List", a copy of which is attached hereto as Exhibit B) to be selected for particular Securities transactions in accordance with the Policy, all as detailed in the 2011 Report;

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The issuance of the Fair and Open RFQ by the Chairperson and the Treasurer of the Authority (including their designees, each an "Authorized Officer") in connection with the issuance of the Fair and Open RFQ is hereby ratified and approved. All actions taken to date by the Authorized Officer, the Financial Advisor and Inglesino, Pearlman, Wyciskala & Taylor, LLC in connection with the Fair and Open RFQ are hereby ratified and approved.

**Section 2.** In accordance with the terms of the Policy the Authority hereby accepts the 2011 Report of the Financial Advisor and hereby approves the 2011 Qualified List as the qualified list of underwriting firms to participate in the purchase of Authority Securities to finance Projects in the manner set forth in the Policy. This 2011 Qualified List may be amended, supplemented or otherwise modified from time to time in accordance with the terms of the Policy.

**Section 3.** In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Board of Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Board of Freeholders a certification from the respective Clerks stating that the minutes of this meeting have not been vetoed by the Director of the Board of Freeholders.

**Section 4.** This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

**MOVED/SECONDED:**

Resolution moved by Commissioner Roe.

Resolution seconded by Commissioner Sandman.

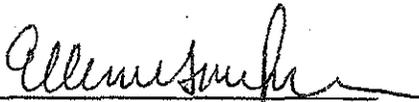
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez	X			
Roe	X			
Sandman	X			
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on April 19, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

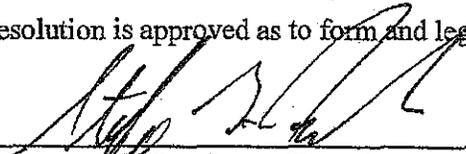
Attested to this 19<sup>th</sup> day of April, 2011

By: 

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of April 19, 2011

By: 

Stephen B. Pearlman, Esq., Partner  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Counsel to the Authority

**EXHIBIT A**

**The 2011 Report**



Four Greentree Centre, Suite 206  
13000 Lincoln Drive West  
Marlton, NJ 08053  
t: 856-234-2265  
f: 856-234-6697

26 Park Street, Suite 2010  
Montclair, NJ 07042  
t: 973-509-3990  
f: 973-509-1033

VIA ELECTRONIC MAIL

## MEMORANDUM

**To:** Morris County Improvement Authority  
**From:** Jennifer G. Edwards, *Managing Director*  
Richard B. Lopatin, *Vice President*  
**Date:** April 18, 2011  
**Re:** Review of Underwriter Qualifications

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### Background

Acacia Financial Group, Inc. ("Acacia") on behalf of the Morris County Improvement Authority ("MCIA") prepared a Request for Qualifications ("RFQ"), pursuant to a fair and open process, to permit the MCIA to develop a pool of qualified firms to serve as managers on its financings ("Qualified List"). On April 1, 2011, the MCIA posted the RFQ (Attachment A) on its website. Additionally, Acacia notified via electronic mail the availability of the RFQ on the website. This notification was sent to those firms that had previously indicated an interest in providing underwriting services to the MCIA (Attachment B).

The responses to the RFQ were due on Tuesday, April 12, 2011 at 1:00 p.m. The MCIA received responses from nine (9) firms. Attachment C lists the responding firms and summarizes the key information provided by each firm.

### Review

The RFQ required each firm to address the following in their submittal:

- Description of the firm and capabilities
- Qualifications and relevant experience
- Staffing levels
- Personnel
- New Jersey Tax-Exempt or Taxable Bond and Note Experience
- National Experience
- Energy Experience
- Firm's commitment to public finance
- References
- New Jersey Presence
- Conflicts
- Regulatory Investments/Litigation
- Affirmative Action
- Other Information

Acacia reviewed each of the RFQs and evaluated the responses in light of each firm's ability to provide the necessary services to serve as either senior manager or co-manager on future MCIA financings. In addition, Acacia reviewed each proposal to ensure all questions were answered and all materials and certifications were included in the RFQ response. The criteria used in evaluating the responses were:

- A. Capability of the firm to perform the required services, including knowledge of and experience in the New Jersey and national tax-exempt municipal markets, commitment to public finance, prior underwriting performance, and quality and timeliness of work.
- B. Training, education, and relevant experience of the individuals to be assigned.
- C. Ability to effectively market municipal obligations, particularly those similar in structure and credit to the MCIA's bonds, including but not limited to the ability to distribute those obligations on a national basis and statewide in New Jersey.
- D. Financial capacity to underwrite the issues.

**Recommendation**

Based on the responses to the RFQ, Acacia has determined that each of the responding firms meet the qualification requirements to serve as either senior manager or co-manager and recommend that each of the responding firms be placed on the Qualified List for the provision of underwriting services to the MCIA. Each firm has the expertise in the types of financing the MCIA may undertake in the future. The Qualified List is comprised of a variety of firms with differing talents, ensuring the MCIA will be able to match a future financing with an appropriate underwriter.

Attachment A

**NOTE:** The Morris County Improvement Authority will consider Qualification Statements only from firms or organizations that have demonstrated the capability and willingness to provide high quality services in the manner described in this Request for Qualifications.

**REQUEST FOR QUALIFICATIONS**

**FOR BOND UNDERWRITER**

**2011**

**ISSUE DATE:** *April 1, 2011*

**DUE DATE:** *April 12, 2011*

**Issued by:**

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

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## GLOSSARY

The following definitions shall apply to and are used in this Request for Qualifications:

"MCIA" or "Authority" - refers to the Morris County Improvement Authority, a public body corporate and politic of the State of New Jersey organized and existing under the County Improvement Authorities Law, N.J.S.A. 40:37A-44 *et seq.*

"Qualification Statement" - refers to the complete responses to this RFQ submitted by the Respondents.

"Qualified Respondent" - refers to those Respondents who (in the sole judgment of the Authority) have satisfied the qualification criteria set forth in this RFQ.

"RFQ" - refers to this Request for Qualifications, including any amendments thereof or supplements thereto.

"RFP" - refers to Request for Proposal

"Respondent" or "Respondents" - refers to the interested firm(s) that submit a Qualification Statement.

## SECTION 1

### INTRODUCTION AND GENERAL INFORMATION

#### 1.1. Introduction and Purpose.

The Morris County Improvement Authority was created in accordance with the provisions of the Act and by ordinance of the County Board of Chosen Freeholders duly adopted on April 10, 2002. The Authority is a public body corporate and politic, constituting a political subdivision of the State, and was established as an instrumentality exercising public and essential governmental functions to provide for the public convenience, benefit and welfare and shall have perpetual succession. Under the terms of the Act, the Authority has the power, among others, to acquire, construct, renovate and install any "Public Facility", as such term is defined in the Act, to issue its bonds, notes or other obligations to finance or refinance the costs of such Public Facilities and to purchase bonds, bond anticipation notes or other notes or obligations of the Authority out of any funds available therefore. The Authority is governed by a five member Board of Commissioners appointed by the County Board of Chosen Freeholders.

The Authority is soliciting Qualification Statements from interested firms for the provision of Bond Underwriter services, as more particularly described herein. Through a Request for Qualification process described herein, firms interested in assisting the Authority with the provision of such services must prepare and submit a Qualification Statement in accordance with the procedure and schedule in this RFQ. The Authority will review Qualification Statements only from those firms that submit a Qualification Statement, which includes all the information required to be included as described herein (in the sole judgment of the Authority). The Authority intends to qualify firm(s) that possesses the professional, financial and administrative capabilities to provide the proposed services.

#### 1.2. Procurement Process and Schedule.

As of January 1, 2006, N.J.S.A. 19:44A-20.1 *et seq.*, commonly known as the "State Pay to Play Law" became effective. Pursuant to the State Pay to Play Law, the Authority may not award contracts with a value in excess of \$17,500.00, including an agreement to purchase bonds, to a business entity, including an underwriter, which has made reportable contributions in excess of \$300.00, in the aggregate, to certain political parties or candidate committees of persons serving in an elective public office when such contract was awarded, unless said business entity is awarded a contract under a "fair and open process" pursuant to the State Pay to Play Law.

A "fair and open process" constitutes the following: (i) public advertisement on the Authority's website or in the newspaper of a Request for Qualifications (the "RFQ") with ten (10) calendar days notice prior to the receipt of responses to the RFQ; (ii) award of contract under a process that provides for public solicitation of qualifications; (iii) award of contract under publicly disclosed criteria established, in writing, by the Authority prior to the solicitation of qualifications; and (iv) the Authority shall publicly open and announce the qualifications when awarded.

By resolution no 02-10 adopted July 24, 2002 and entitled "Resolution Adopting a Policy for the Selection of Underwriters and other Ancillary Service Providers in connection with the Sale of Securities," the Authority has adopted a policy directing that a request for underwriting qualifications be issued by the Authority from time to time as the initial action required under the Policy for the selection of underwriters

in connection with the issuance of Securities to finance Projects;

The Authority desires to appoint a qualified list of underwriters for the purchase of bonds from time to time through a "fair and open process" and in accordance with the Policy, all to be governed by the State Pay to Play Law, the Policy and other applicable law.

The Authority has structured a procurement process that seeks to obtain the desired results described above, while establishing a competitive process to assure that each firm is provided an equal opportunity to submit a Qualification Statement in response to the RFQ. Qualification Statements will be evaluated in accordance with the criteria set forth in this RFQ, which will be applied in the same manner to each Qualification Statement received.

Qualification Statements will be reviewed and evaluated by the Authority and its financial advisor. The Qualification Statements will be reviewed to determine if the Respondent has met the minimum professional, administrative and financial areas described in this RFQ. Based upon the totality of the information contained in the Qualification Statement, including information about the reputation and experience of each Respondent, the Authority will (in its sole judgment) determine which Respondents are qualified (from professional, administrative and financial standpoints). Respondents that meet the requirements of the RFQ (in the sole judgment of the Authority) will be designated as a Qualified Respondent and may be given the opportunity to submit a detailed Proposal in response to any subsequent RFP's that may be issued by the Authority.

Qualification Statements will be evaluated based upon several factors, including but not limited to the following:

- A. Capability of the firm to perform the required services, including knowledge of and experience in the New Jersey and national tax-exempt and taxable municipal markets, commitment to public finance, prior underwriting performance, and quality and timeliness of work.
- B. Training, education, and relevant experience of the individuals to be assigned.
- C. Ability to effectively market municipal obligations, particularly those similar in structure and credit to the MCIA's bonds, including but not limited to the ability to distribute those obligations on a national basis and statewide in New Jersey.
- D. Financial capacity to underwrite the issues.

The MCIA may, at its discretion, conduct interviews with one or more responding firms. The MCIA reserves the right to solicit additional information regarding a qualified firm's participation in debt issuances that occur subsequent to its response to this RFQ. The MCIA may take into consideration any other information, including information not requested in this RFQ or not included in the statements received.

For each sale, a pre-pricing consensus scale, along with the views of all members of the management team and the rationale for determining the consensus scale, must be submitted to the MCIA and its financial advisor, at least twenty-four hours prior to the anticipated pricing. During the pricing of the Bonds, the senior book running manager will be required to submit periodic written reports indicating the status of orders

place. A final pricing report, sales/distribution reports and copies of proposed allocations and closing memoranda must also be provided to the MCIA. Additional reports and information may also be required.

This RFQ shall not be construed as an offer or acceptance of any kind on behalf of the MCIA. Any contractual arrangement will be evidenced by a legally valid bond purchase agreement executed on behalf of the MCIA upon completion of the negotiations described above.

Upon receipt by the MCIA of the responses to the RFQ, all such responses shall be deemed the property of the MCIA and as such the information contained therein may be subject to public disclosure.

All communications concerning this RFQ or the RFQ process shall be directed to the Authority's Designated Contact Person at the address set forth below.

Designated Contact Person:  
Glenn Roe, Commissioner  
The Morris County Improvement Authority  
Administration and Records Building  
P.O. Box 900  
10 Court Street  
Morristown, New Jersey 07963-0900  
Tel: 973-285-6085

Subsequent to issuance of this RFQ, the Authority (through the issuance of addenda to all firms that have received a copy of the RFQ) may modify, supplement or amend the provisions of this RFQ in order to respond to inquiries received from prospective Respondents or as otherwise deemed necessary or appropriate by (and in the sole judgment of) the Authority.

#### TABLE 1

#### ANTICIPATED PROCUREMENT SCHEDULE

ACTIVITY	DATE
1. Issuance of Request for Qualifications	<i>April 1, 2011</i>
2. Receipt of Qualification Statements	<i>April 12, 2011</i>
3. Public Reading of Qualification Statements	<i>April 12, 2011</i>
4. Authority Review of Recommendations; Designation of Qualified Respondents	<i>April 19, 2011</i>
<b>1.3. <u>Conditions Applicable to RFQ.</u></b>	

Upon submission of a Qualification Statement in response to this RFQ, the Respondent acknowledges and consents to the following conditions relative to the submission and review and consideration of its Qualification Statement:

- This document is an RFQ and does not constitute an RFP.
- This RFQ does not commit the Authority to issue an RFP.
- All costs incurred by the Respondent in connection with responding to this RFQ shall be borne solely by the Respondent.
- The Authority reserves the right (in its sole judgment) to reject for any reason any and all responses and components thereof and to eliminate any and all Respondents responding to this RFQ from further consideration for this procurement.
- The Authority reserves the right (in its sole judgment) to reject any Respondent that submits incomplete responses to this RFQ, or a Qualification Statement that is not responsive to the requirements of this RFQ.
- The Authority reserves the right (in its sole judgment) to determine those Respondents that are qualified to submit Qualification Statements in response to the RFQ.
- The Authority reserves the right, without prior notice, to supplement, amend, or otherwise modify this RFQ, or otherwise request additional information.
- All Qualification Statements shall become the property of the Authority and will not be returned.
- All Qualification Statements will be made available to the public at the appropriate time, as determined by the Authority (in the exercise of its sole discretion) in accordance with law.
- Responses to this RFQ are the property of the MCIA and will be "public records". Responses that are labeled "confidential", or that contain information identified as "confidential", will not be acceptable for consideration by the Authority.
- Any and all Qualification Statements not received by the Authority by *1:00 p.m.* Prevailing Time on *April 12, 2011* will be rejected.
- Neither the Authority, nor their respective staffs, consultants or advisors shall be liable for any claims or damages resulting from the solicitation or preparation of the Qualification Statement, nor will there be any reimbursement to Respondents for the cost of preparing and submitting a Qualification Statement or for participating in this procurement process.

**1.4. Rights of Authority.**

The Authority reserves, holds and may exercise, at its sole discretion, the following rights and options with regard to this RFQ and the procurement process in accordance with the provisions of applicable law:

- To determine that any Qualification Statement received complies or fails to comply with the terms of this RFQ.

- To supplement, amend or otherwise modify the RFQ through issuance of addenda to all prospective Respondents who have received a copy of this RFQ.
- To waive any technical non-conformance with the terms of this RFQ.
- To change or alter the schedule for any events called for in this RFQ upon the issuance of notice to all prospective Respondents who have received a copy of this RFQ.
- To conduct investigations of any or all of the Respondents, as the Authority deems necessary or convenient, to clarify the information provided as part of the Qualification Statement and to request additional information to support the information included in any Qualification Statement.
- To suspend or terminate the procurement process described in this RFQ at any time (in its sole discretion.) If terminated, the Authority may determine to commence a new procurement process or exercise any other rights provided under applicable law without any obligation to the Respondents.

The Authority shall be under no obligation to complete all or any portion of the procurement process described in this RFQ.

**1.5. Addenda or Amendments to RFQ.**

During the period provided for the preparation of Qualification Statements, the Authority may issue addenda, amendments or answers to written inquiries. Those addenda will be noticed by the Authority and will constitute a part of the RFQ. All responses to the RFQ shall be prepared with full consideration of the addenda issued prior to the designated submission date.

**1.6. Cost of Preparation.**

Each Qualification Statement and all information required to be submitted pursuant to the RFQ shall be prepared at the sole cost and expense of the respondent. There shall be no claims whatsoever against the Authority, its staff or consultants for reimbursement for the payment of costs or expenses incurred in the preparation of the Qualification Statement or other information required by the RFQ.

**1.7. Format.**

Responses should cover all information requested in this RFQ.

Responses which in the judgment of the Authority fail to meet the requirements of the RFQ or which are in any way conditional, incomplete, obscure, contain additions or deletions from requested information, or contain errors may be rejected.

## SECTION 2

### SUBMISSION REQUIREMENTS

#### 2.1. General Requirements.

The Qualification Statement submitted by the Respondent shall include the professional, administrative and financial qualifications set forth in this Section 2 and incorporate the information requested below.

In addition to the information required as described below, a Respondent may submit supplemental information that it feels may be useful in evaluating its Qualification Statement. Respondents are encouraged to be clear, factual, and concise in their presentation of information.

#### 2.2. Content and Form of Qualification Statement Response

- a. Format. Qualification Statement content and completeness will be important criteria in the evaluation process. In order to streamline the evaluation process and insure that all Qualification Statements are evaluated on an equal basis, it is required that Qualification Statements adhere to the standard format outlined below for presentation of the requested information.

Section Title

Letter of Transmittal

Table of Contents

Letter of Intent & Certification

Qualifications and Relevant Experience

- b. Content

- i. Letter of Transmittal

The Respondent must provide a Letter of Transmittal signed by the individual who is authorized to commit the firm to the scope of services of this RFQ. This letter must incorporate the following:

- An acknowledgment of receipt of this RFQ stating that it is understood that all conditions contained in this RFQ may be incorporated into any resulting contract.
- A statement acknowledging that all information contained in the Qualification Statement is factual and accurate.
- A statement acknowledging that the individual signing the letter of transmittal has the authority to commit the firm to all the provisions contained in this RFQ and the firm's corresponding Qualification Statement.
- A statement of the Respondent's willingness to enter into the Contract for Underwriter Services.

ii. Section 1: An executed Letter of Intent (See Appendix A).

iii. Section 2: Qualifications and Relevant Experience

This section of the Qualification Statement should contain a summary of the background of the firm and key personnel, highlighting the benefits the firm believes it can contribute to the Authority as Underwriter. Also included in this section, if applicable, shall be a detailed description of any lawsuits during the past five (5) years in which any of the key personnel identified in Section 2 of the Qualification Statement are or were a party, including a description thereof, which relates in any way to any services rendered by such key personnel.

2.1 Description of Firm and Capabilities: Provide the Authority with one (1) copy of your most recent annual report. Provide a brief description of your firm and its capabilities, including:

a) history, ownership and capital structure; capital position, including total capital, equity capital, net capital for the past two years, excess net capital as of the date of the most recent filing with the NASD, maximum amount of bonds your firm may underwrite based on excess net capital and details of any ownership by foreign corporations with an interest exceeding 5%;

b) marketing and distribution capabilities, including a description of your primary and secondary market trading operations and sales force;

2.2 Staffing Levels: Detail the staffing levels of your public finance department including principals, associates and analysts as of the date of this RFQ. Please explain in detail any significant changes in the size or organization of your public finance activities.

2.3 Personnel: Provide a résumé for each person who you anticipate assigning to the Authority's matters, indicating the role each would have in assisting the Authority. Please be specific for the following duties:

- a) Senior Banker
- b) Day-to-day responsibilities
- d) Analytical support
- c) Marketing, trading and sales
- e) Other responsibilities

2.4 New Jersey Bond and Note Experience: Summarize your experience since January 1, 2008 as underwriter on bond issues (tax-exempt or taxable) for counties, independent authorities and agencies and municipalities of the State of New Jersey. In tabular form, please provide the name of the issuers, par amounts, issuance dates, maturity dates, whether the sales were negotiated or competitive and your role. This detailed listing should be included as Appendix A to your Qualification Statement.

2.5 National Experience: Summarize your firm's experience since January 1, 2008 as underwriter on bond issues (tax-exempt or taxable) for municipal governments outside of New Jersey. In tabular form, please provide the name of the issuers, par amounts,

issuance dates, maturity dates, whether the sales were negotiated or competitive and your role. This detailed listing should be included as Appendix B to your Qualification Statement.

2.6 Energy Experience: Summarize your experience since January 1, 2008 as underwriter on renewable energy related bond issues and other types of energy related transactions for counties, independent authorities and agencies and municipalities. In tabular form, please provide the name of the issuers, par amounts, issuance dates, maturity dates, whether the sales were negotiated or competitive and your role. This detailed listing should be included as Appendix C to your Qualification Statement.

2.7 Summarize your firm's commitment to public finance: Describe the organization of public finance activities within the firm and detail any significant changes in public finance staffing levels since January 2010.

2.8 References: Provide three references (including issuer name, contact person with title, address and telephone number) for whom you have provided underwriter services over the past two years. Indicate your role and a list of financing transactions completed for the referenced client.

2.9 New Jersey Presence. Provide information on the (a) number and location of any branches your firm has in New Jersey and (b) number of public finance investment bankers, sales and trading professionals employed by your firm in New Jersey.

2.10 Conflicts. Describe any existing or potential conflicts of interest your firm might have, or which reasonably might arise, due to your involvement in Authority financing. Please also provide a statement that if a conflict arises, subsequent to being designated as a Qualified Respondent, that such Qualified Respondent will notify the Authority in writing of such conflict.

2.11 Regulatory Investigations/Litigation: Provide details of any criminal investigation or pertinent litigation pending against your firm or members of your municipal bond or public finance departments.

2.12 With respect to the MCIA, describe your firm's compliance with MSRB rule G-37 and G-38.

2.13 Affirmative Action: The successful Underwriter shall be required to comply with the requirements of P.L. 1975, c. 127 (affirmative action requirements) and submit an employee information report or certificate of employee information report approval from the New Jersey Department of the Treasury. This requirement will be addressed upon execution of the agreement to provide services to the Authority.

2.14 Other Information. Please discuss any other factors not mentioned above that you believe are relevant to the Authority's selection of your firm.

SECTION 3

INSTRUCTIONS TO RESPONDENTS

Submission of Qualification Statements.

Respondents must submit their Qualification Statement to the following Designated Contact Persons:

Glenn Roe, Commissioner The Morris County Improvement Authority Administration and Records Building 10 Court Street Morristown, New Jersey 07963-0900 e-mail: <a href="mailto:groe@co.morris.nj.us">groe@co.morris.nj.us</a>	Jennifer G. Edwards, Managing Director Acacia Financial Group, Inc. Four Greentree Centre, Suite 206 13000 Lincoln Drive West Marlton, NJ 08053 e-mail: <a href="mailto:jedwards@acaciafn.com">jedwards@acaciafn.com</a>
Please submit four (4) copies of your Qualification Statements to the Authority and one (1) copy to the Authority's financial advisor by mail or hand delivery. In addition, please send by e-mail an additional copy (in pdf form) of the Qualification Statement to the above email addresses.	

Qualification Statements must be received by the Authority no later than *1:00 p.m.* (prevailing time) on *April 12, 2011*, and originals must be mailed or hand-delivered. Qualification Statements forwarded by facsimile will not be accepted.

To be responsive, Qualification Statements must provide all requested information, and must be in strict conformance with the instructions set forth herein. Qualification Statements and all related information must be bound, and signed and acknowledged by the Respondent.

APPENDIX A

LETTER OF INTENT & CERTIFICATION

(Note: To be typed on Respondent's Letterhead. No modifications may be made to this letter)

[insert date]

The Morris County Improvement Authority  
Administration and Records Building  
P.O. Box 900  
10 Court Street  
Morristown, New Jersey 07963-0900

Attn: John Bonanni, Chairman

Dear Mr. Bonanni:

The undersigned, as Respondent, has (have) submitted the attached Qualification Statement in response to a Request for Qualifications (RFQ), issued by the Morris County Improvement Authority ("Authority"), dated [insert date], in connection with underwriter services.

(Name of Respondent) HEREBY STATES:

1. The Qualification Statement contains accurate, factual and complete information. We affirm that the contents of our Qualification Statement (which Qualification Statement is incorporated herein by reference) are accurate, factual and complete to the best of our knowledge and belief and that the Qualification Statement is submitted in good faith upon express understanding that any false statement may result in the disqualification of (Name of Respondent).
2. (Name of Respondent) agrees (agree) to participate in good faith in the procurement process as described in the RFQ and to adhere to the Authority's procurement schedule.
3. (Name of Respondent) acknowledges (acknowledge) that all costs incurred by it (them) in connection with the preparation and submission of the Qualification Statement submitted in response to the RFQ, or any negotiation which results there from shall be borne exclusively by the Respondent.
4. (Name of Respondent) hereby declares (declare) that the only persons participating in this Qualification Statement as Principals are named herein and that no person other than those herein mentioned has any participation in this Qualification Statement or in any contract to be entered into with respect thereto. Additional persons may subsequently be included as participating Principals, but only if acceptable to the Authority. (Name of Respondent) declares that this Qualification Statement is made without connection with any other person, firm or parties who has submitted a Qualification Statement, except as expressly set forth below and that it has been prepared and has been submitted in good faith and without collusion or fraud.

5. (Name of Respondent) acknowledges and agrees that the Authority may modify, amend, suspend and/or terminate the procurement process (in its sole judgment). In any case, the Authority shall have any liability to the Respondent for any costs incurred by the Respondent with respect to the procurement activities described in this RFQ.

6. (Name of Respondent) acknowledges that any contract executed with respect to the provision of underwriting services must comply with all applicable affirmative action and similar laws. Respondent hereby agrees to take such actions as are required in order to comply with such applicable laws.

7. (Name of Respondent) acknowledges and agrees that it will be obligated to satisfy the requirements set forth in Section Two of this RFQ at the time of submission of its Qualification Statement. The Respondent hereby states that (as of the date hereof) it has a reasonable expectation that it will be able to satisfy such criteria and requirements as of the date of its submittal.

(Respondent shall sign and complete the space provided below. If a joint venture, appropriate officers of each company shall sign.)

(Signature of Chief Executive Officer)

\_\_\_\_\_  
(Typed Name and Title)

\_\_\_\_\_  
(Typed Name of Firm)

Dated: \_\_\_\_\_

**CERTIFICATIONS**

In addition to responding to the foregoing items, this firm certifies that:

- A. The firm's position as underwriter in the proposed issuances will not create any conflict of interest for the firm or any of its officers or employees to be assigned.
- B. The firm is an equal opportunity employer and does not discriminate against applicants or employees on the basis of race, color, religion, sex, age, disability, national origin, or ancestry.
- C. The firm is not currently in violation of or under any investigation or review for a violation of any state or federal law or regulation that might have a material adverse impact on the firm's ability to serve if selected.
- D. The firm understands and agrees that during the time it is a member of the group of qualified firms it will not be eligible to serve as financial advisor to the Authority, and that it does not, and will not during that time, have a financial interest in any firm providing financial advisory services to the Authority.

Firm: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2011

Attachment B

Links to the Request For Qualifications were sent to the following underwriters:

1. Bank of America Merrill Lynch
2. Citigroup Global Markets Inc.
3. PNC Capital Markets LLC
4. Raymond James & Associates, Inc.
5. RBC Capital Markets
6. Roosevelt & Cross Incorporated
7. TD Securities LLC
8. Wells Fargo Securities

Attachment C



**EXHIBIT B**

**The 2011 Qualified List**

1. Bank of America Merrill Lynch
2. Citigroup Global Markets Inc.
3. Morgan Stanley
4. PNC Capital Markets LLC
5. Raymond James & Associates, Inc.
6. RBC Capital Markets
7. Roosevelt & Cross Incorporated
8. TD Securities
9. Wells Fargo Securities

**EXHIBIT C**

**[Attach Underwriter and Solar Developer County Consent Resolution]**

**RESOLUTION RE: RESOLUTION PROVIDING CONSENT OF SUSSEX COUNTY TO SOLAR DEVELOPER AND UNDERWRITER AWARDS OF MORRIS COUNTY IMPROVEMENT AUTHORITY IN CONNECTION WITH SUCH AUTHORITY'S 2011 RENEWABLE ENERGY PROGRAM UNDERTAKEN ON BEHALF OF SUSSEX COUNTY**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*"); and

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by Resolution No. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "*Act*"), and other applicable law; and

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Chosen Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program; and

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "*Shared Services Act*"), and all other applicable law, the terms of which Agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County; and

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*"); and

**WHEREAS**, on April 19, 2011, the Authority adopted a Resolution pursuant to the Act, the Contracts Law and all other applicable law, seeking proposals from qualified solar developers for the implementation of the Renewable Energy Program entitled "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE ISSUANCE OF ONE OR MORE REQUEST FOR PROPOSALS PURSUANT TO THE LOCAL PUBLIC CONTRACTS LAW N.J.S.A. 40A:11-4.1(k) IN CONNECTION WITH THE AUTHORITY'S RENEWABLE ENERGY PROGRAM" (the "Authority RFP Authorizing Resolution"); and

**WHEREAS**, on July 27, 2011, the County adopted a Resolution pursuant to the Act, the competitive contracting provisions of the Local Public Contracts Law (codified at N.J.S.A. 40A:11-1 et seq., the "Contracts Law") and all other applicable law, seeking proposals from qualified solar developers for the implementation of the Renewable Energy Program entitled "RESOLUTION OF THE COUNTY OF SUSSEX AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS PURSUANT TO THE LOCAL PUBLIC CONTRACTS LAW N.J.S.A. 40A:11-4.1(k) IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX RENEWABLE ENERGY PROGRAM" (the "County RFP Authorizing Resolution" and together with the Authority RFP Authorizing Resolution, the "RFP Authorizing Resolutions"); and

**WHEREAS**, pursuant to the RFP Authorizing Resolutions, the Authority issued that certain "Request for Proposals for a Developer of Photovoltaic Systems with respect to certain Local Government Facilities in the County of Sussex, New Jersey" dated September 8, 2011 (as amended and supplemented, the "RFP"); and

**WHEREAS**, on October 13, 2011, the due date for proposals pursuant to the RFP, the Authority received two (2) proposals (each a "Proposal") in response to the RFP from: (1) SunEdison and Ray Angelini, Inc. ("SunEdison/RAI") and (2) SunLight General Capital and Power Partners MasTec ("SunLight General Capital"; and the Proposals from SunEdison/RAI and SunLight General Capital, the "Proposals from the Potential Solar Developer Respondents"); and

**WHEREAS**, the Proposal from SunEdison/RAI was delivered late and therefore withdrawn by SunEdison RAI; and

**WHEREAS**, upon review, the Proposal from SunLight General Capital as a Potential Solar Developer Respondent was deemed compliant with the requirements of the RFP; and

**WHEREAS**, the Authority's evaluation team has evaluated the Proposal from the Potential Solar Developer Respondent in that certain "Solar Proposal Evaluation Report Sussex County Renewable Energy Program Proposals of October 13, 2011 Prepared for Morris County Improvement Authority" dated October 24, 2011 (a copy of which is attached hereto as **Exhibit A**, the "Evaluation Report") and has recommended the award of the Successful Respondent (as defined in the RFP) to SunLight General Capital; and

**WHEREAS**, in order to purchase the Series 2011A Bonds and the Series 2011B Note (collectively, the "Series 2011 Bonds") from the Authority on a negotiated basis pursuant to a Bond purchase agreement (the "**Bond Purchase Agreement**"), market and resell the Bonds to the public as part of an initial public offering, all as permitted pursuant to N.J.S.A. 40:37A-62 of the Act, the Authority needs to contract for the services of an underwriter for its Series 2011 Bonds (the "**Underwriter RFP**"); and

**WHEREAS**, as of January 1, 2006, N.J.S.A. 19:44A-20.1 et seq., commonly known as the "**State Pay to Play Law**" became effective; and

**WHEREAS**, pursuant to the State Pay to Play Law, the Authority may not award contracts with a value in excess of \$17,500.00, including the Bond Purchase Agreement, to a business entity, including an underwriter, which has made reportable contributions in excess of \$300.00, in the aggregate, to certain political parties or candidate committees of persons serving in an elective public office when such contract was awarded, unless said business entity is awarded a contract under a "fair and open process" pursuant to the State Pay to Play Law; and

**WHEREAS**, a "fair and open process" constitutes the following: (i) public advertisement on the Authority's website or in the newspaper of a Request for Qualifications (hereinafter the "**Fair and Open RFQ**") with ten (10) calendar days notice prior to the receipt of responses to the RFQ; (ii) award of contract under a process that provides for public solicitation of qualifications; (iii) award of contract under publicly disclosed criteria established, in writing, by the Authority prior to the solicitation of qualifications; and (iv) the Authority shall publicly open and announce the qualifications when awarded; and

**WHEREAS**, by Resolution No. 02-10 adopted July 24, 2002 and entitled "Resolution Adopting a Policy for the Selection of Underwriters and other Ancillary Service Providers in connection with the Sale of Securities," the Authority has adopted a policy directing that a request for underwriting qualifications ("**RFQ Policy**") be issued by the Authority from time to time as the initial action required under the Policy for the selection of underwriters in connection with the issuance of Securities to finance Projects; and

**WHEREAS**, pursuant to the RFQ Policy and a Authority Resolution adopted April 19, 2011 and entitled "RESOLUTION APPROVING A QUALIFIED LIST OF UNDERWRITERS FOR AUTHORITY SECURITIES TRANSACTION IN ACCORDANCE WITH THE AUTHORITY'S UNDERWRITER SELECTION POLICY AND A FAIR AN OPEN PROCESS", the Authority established the 2011 qualified list of underwriters (the "**2011 Qualified List**"); and

**WHEREAS**, the Authority desires to appoint an underwriter for the purchase of the Bonds pursuant to the Bond Purchase Agreement through a "fair and open process" and in accordance with the RFQ Policy and the 2011 Qualified List the terms thereof, all to be governed by the State Pay to Play Law, the Policy and other applicable law; and

**WHREAS**, the Authority, on the County's behalf, solicited bids from the 2011 Qualified List for underwriter services in connection with the Bonds and received two bids from: (1) Wells Fargo Bank and (2) RBC Capital Markets LLC.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF SUSSEX, NEW JERSEY**, as follows:

**Section 1.** Pursuant to Section 4 of the County RFP Authorizing Resolution the County hereby consents to the Authority's award, in accordance with the competitive contracting provisions of the Local Public Law and the process contemplated in the preambles hereof, of the Successful Respondent for the RFP to SunLight General Capital in accordance with the SunLight General Capital Proposal. The County consents to the Authority's making of the award to Sunlight General Capital which award shall not be binding on the Authority or the County until the Program Documents (as defined in the RFP), including without limitation the incorporation of the terms of the SunLight General Capital Proposal, shall have been executed, adopted and delivered by the Authority and the other parties thereto. The County hereby consents to

the issuance of the Bonds by the Authority to finance the Renewable Energy Projects contemplated by and defined in the RFP and contemplated by the SunLight General Capital Proposal. The County Administrator, Freeholder Director and Clerk of the Board of Chosen Freeholders of the County or their designee (each an, "Authorized Officer"), are hereby severally authorized to execute and deliver to the other parties thereto the Program Documents, that relate to the County, incorporating the terms of the SunLight General Capital Proposal, and (b) take such other action in connection with the matters set forth in clauses (a) above, including without limitation the execution and delivery of such other certificates, instruments or other document in connection therewith or otherwise contemplated thereby, as the Authorized Officer, after consultation with counsel, energy consultant or financing consultant (the "RFP Consultants"), shall determine to be in the best interests of the Authority, the County, or the Series 2011 Local Units (as defined in the RFP) in implementing the Renewable Energy Program.

**Section 2.** Pursuant to the RFQ Policy and the State Pay to Play Law, the County hereby consents to the selection of RBC Capital Markets LLC as the Underwriter in connection with the Bonds.

**Section 3.** All actions taken to date by the Authority, the Authorized Officers and the RFP Consultants, with respect to the matters set forth in or contemplated by this Resolution, are hereby ratified and approved.

**Section 4.** This Resolution shall be effective immediately.

**Section 5.** This Resolution shall be forwarded to the County Administrator; County Treasurer; County Counsel; John Bonanni, Morris County Improvement Authority, Morris County Administration and Records Building, Court Street, Morristown, NJ 07960; and Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204 Parsippany, NJ 07054-3715.

Certified as a true copy  
Resolution adopted by the  
Board of Chosen Freeholders  
on the 26<sup>th</sup> day of October, 2011.

  
Elaine A. Morgan, Clerk  
Board of Chosen Freeholders  
Sussex County

RECORD OF VOTE						
FREEHOLDER	AYE	NAY	ABST	ABS	MOVE	SEC
Crabb	✓				✓	
Spacc	✓					
Vanden	✓					✓
Zellman	✓					
Zaoli	✓					

ABST - Abstain  
MOVE - Resolution Moved

ABS - Absent  
SEC - Resolution Seconded

**EXHIBIT A**  
**EVALUATION REPORT**

# **Solar Proposal Evaluation Report**

**Morris County Improvement Authority  
Sussex County Renewable Energy Program,  
(County of Sussex Program) Series 2011  
Proposals of October 13, 2011**

**Prepared for  
Morris County Improvement Authority  
and Sussex County**

Prepared by:  
Sussex County Evaluation Team  
October 24, 2011

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## Attachments

Sussex Program Solar Savings Summary

ATT. 1

Evaluation Matrix	ATT. 2
Savings by Local Unit Facility	ATT. 3
Load Served by Solar for Each Local Unit Facility	ATT. 4
Sensitivity Analysis	ATT. 5
Interview Questions	ATT. 6

# **Morris County Improvement Authority Sussex County Renewable Energy Program (County of Sussex) Series 2011**

## **1. Executive Summary**

This Report is being provided pursuant to the requirements of the competitive contracting provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-4.1(k)), Public School Contracts Law, specifically, (N.J.S.A. 18A:18A-4.1(k)); Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services* (LFB Notice 2008-20); the Board of Public Utilities (BPU) protocol for measuring energy savings in PPA agreements (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines, Dated February 20, 2009*), and Local Finance Board Notice 2009-10, dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements* (LFB Notice 2009-10).

Attached is a Service Agreement ("Agreement"), regarding the Sussex County Renewable Energy Program, between the County of Sussex, New Jersey ("Sussex") and the Morris County Improvement Authority ("Authority"). The Agreement has been entered into pursuant to the interlocal services act and county improvement authority law. Pursuant to the Agreement, Sussex, which has not created its own county improvement authority, has determined to use the services of the Authority, which has developed and implemented a renewable energy program for Morris County, to develop and implement a renewable energy program for Sussex County. The Authority will act as the conduit for issuing bonds to finance the Sussex Renewable Energy Program and Sussex will provide the guaranty regarding the repayment of those bonds.

On September 8, 2011, the Authority issued a Request for Proposals (RFP), as amended, for a Power Purchase Agreement (PPA) for the design, acquisition, installation, tax ownership, commissioning, operation, and maintenance of solar systems (Solar Systems) to be located at certain county and local government facilities (Local Unit Facilities) across Sussex. Below is a complete list of all participating Local Units included in the RFP:

1. Byram Township School District
2. County of Sussex
3. Frankford Township Board of Education
4. Franklin Borough Board of Education
5. Fredon Township
6. Green Township Board of Education
7. Hardyston Board of Education
8. High Point Regional Board of Education

9. Kittatinny Regional School District
10. Lenape Valley Regional Board of Education
11. Newton Board of Education
12. Sussex County Technical School
13. Town of Newton

The goal of Sussex is to implement solar renewable energy projects that are environmentally responsible and economically beneficial to the County, its Local Units, and its citizens.

The Authority, on behalf of Sussex, intends to enter into a long-term (fifteen (15) year) PPA with the Successful Solar Respondent (Successful Respondent) to purchase solar electric power produced from installed renewable energy projects located at certain Local Unit Facilities for the Local Units identified above. Under a PPA, a developer designs and installs solar projects and the site energy user purchases the electricity produced at a fixed rate per kilowatt hour (kWh). A county or local government can only enter into a PPA if the PPA price is lower than the delivered cost of power from the local electric utility company. In a typical PPA, a Local Unit will, for a portion of its energy needs, save on its energy bills, and will be, to the greatest extent possible, insulated from energy market fluctuation, construction risks, operational risks, and financial risks.

Pursuant to the Agreement, Sussex has determined to use the professional services of the Consultants that administered the Morris County renewable energy program to provide those same services to Sussex in the development and implementation of its Renewable Energy program. The Sussex Evaluation Team (Evaluation Team) is comprised of: John Eskilson, Dennis McConnell and Bernard Re of Sussex; Steve Pearlman, Esq. and Deborah Verderame, Esq. of Inglesino, Pearlman, Wyciskala & Taylor, LLC; Tom Brys and Gerry Genna, of Birdsall Services Group; Douglas Bacher and Heather Litzebauer of NW Financial Group, LLC; and Steven Gabel, Richard Preiss and Cadence Bowden of Gabel Associates. The Evaluation Team assisted in developing and implementing the RFP, and administered the procurement process as well as a comprehensive evaluation of qualified proposals on the basis of price and non-price criteria.

This process was undertaken in accordance with competitive contracting provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-4.1(k)) and on behalf of the board of education Local Units, the Public Schools Contracts Law (N.J.S.A. 18A:18A-4.1(k)) of the State of New Jersey (the "State"), all pursuant to (i) Local Finance Board Notice 2008-20, December 3, 2008, Contracting for Renewable Energy Services, (ii) the Board of Public Utilities protocol for measuring energy savings in PPA agreements (Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines, Dated February 20, 2009), (iii) Local Finance Board Notice 2009-10 dated June 12, 2009, Contracting for Renewable Energy Services: Update on Power Purchase Agreements and applicable law.

Sussex received a proposal from one (1) Solar Respondent (Respondent): SunLight General Capital and Power Partners MasTec (SunLight/MasTec). In addition, shortly after the time for submission of proposals (i.e. 1:00 PM, Eastern time, October 13, 2011), a second Respondent arrived to submit a proposal. When informed that the submission period had closed and Sussex could not accept the second proposal, the second Respondent inquired as to the publicly announced PPA price submitted by SunLight/MasTec. When informed of the subject PPA price, the second Respondent indicated that their proposal was not competitive with the proposal of SunLight/MasTec, declined to leave their proposal and left.

The one (1) Respondent submitted the required RFP documents and, based on Phase I requirements (compliance with the minimum terms of the RFP), was deemed compliant. The SunLight/MasTec proposal, therefore, qualified to be further evaluated under Phase II (technical and economic evaluation) requirements. The Evaluation Team has undertaken an economic and technical review of the proposals to evaluate them in accordance with established criteria under Phase II evaluation. The Evaluation Team considered and weighed the following:

- Financial benefits;
- Technical design;
- Project experience;
- Vendor qualifications; and,
- Financial strength.

The SunLight/MasTec team possesses high quality management, installation capabilities, and sound solar development experience. In addition, the SunLight/MasTec proposal provides Sussex benefits in the following key areas:

1. It provides substantial direct energy cost savings;
2. It provides the Local Units the potential for additional savings through the sharing of revenues from the sale of Solar Renewable Energy Certificates (SRECs) and other environmental benefits;
3. Due to SunLight/MasTec's proposed capital investment, which reduces the required size of the Authority bonds, it provides a strong level of protection for Sussex from financial risk;
4. It provided additional financial protection for Sussex in the form of a Debt Service Reserve Fund; and,
5. It includes a restoration security providing for additional Local Unit protection at the end of contract.

Over the fifteen (15) years of the PPA, the SunLight/MasTec proposal yields nominal benefits of \$5.6 million or net present value (NPV) benefits of \$4.0 million. These

benefits have been calculated under the conservative assumption that bond interest rates will be at 5.0%. The RFP also required Respondents to submit an adjustment factor to the PPA Price to account for a change in the bond rate from the assumed level of 5.0% to the actual bond issuance rate. Based upon SunLight's adjustment factor and the current expectation for the bond issuance rate (4.6%), the SunLight/MasTec proposal would yields nominal benefits of \$5.9 million or net present value (NPV) benefits of \$4.3 million.

The Respondent provided a financial structure limiting the financial risk to Sussex (as the guarantor of the bonds) and the mitigated risk to the Authority as the conduit bond issuer. By offering to self-finance a substantial portion of the overall cost of the renewable energy projects in the amount of \$7.6 million, the SunLight/MasTec proposal allows the Authority, on behalf of Sussex, to significantly reduce its bond size. The Authority's \$26 million in bonds will be combined with SunLight/MasTec's \$7.6 million self-financing to finance the total project cost (\$33.6 million). The SunLight/MasTec proposal also protects Sussex from the potential risk of reductions in the price of SRECs. Moreover, by self-financing a portion of the total cost of the project this protection has a very high degree of certainty. In addition, SunLight/MasTec proposed to post a \$1.5 million reserve, funded with an equity contribution from the company, to provide additional financial protection to Sussex.

The Evaluation Team recognizes the value of the financial provisions of the SunLight/MasTec proposal in terms of the protection of Sussex, its guaranty and its bond rating. The preservation of this bond rating provides future economic benefits to Sussex and its citizens and businesses by allowing Sussex, through the Authority, to borrow money at low interest rates due to its Aa2 rating. Accordingly, a high premium is placed on its protection. The financial protections of the SunLight/MasTec proposal, including a significant reduction in the size of the Authority bond amounts, on behalf of Sussex, *provides a strong and distinguishing level of protection which, in combination with other factors considered, lead to the recommended selection.*

The RFP reserves the right for Sussex to conduct interviews with qualified Respondents. After reviewing all aspects of the submitted proposals, in particular the savings in energy costs preferred by Sussex and as required under applicable law (see the details in Section 8(a) and as reflected in the Evaluation Matrix through Phase II), the Evaluation Team decided to conduct an interview with SunLight/MasTec to better understand their proposal. Based on the results of the Phase II and Phase III evaluation, the Evaluation Team recommends that the proposal of SunLight/MasTec be accepted (see **Attachment 2** for the Evaluation Matrix). The SunLight/MasTec proposal results in significant savings on energy costs for the participating Local Units, and strong financial protections for the Authority and Sussex.

Members of the Sussex Evaluation Team have significant experience in evaluating proposals from solar developers submitted in response to similarly structured solar renewable energy programs. That experience has been drawn upon in the evaluation of the SunLight/MasTec proposal. The scoring in the Evaluation Matrix (see

**Attachment 2)** identifies SunLight/MasTec as a well qualified Respondent providing great overall value to Sussex. SunLight/MasTec's proposal scored 94 out of 100 points.

Given that there was only one (1) proposal officially received (as mentioned above a second proposal (which was withdrawn) arrived after the closing time for submission of proposals and could not be accepted), the Evaluation Team considered the possibility of rejecting the SunLight proposal and rebidding the RFP. For the following reasons, the Evaluation Team recommended not to rebid the RFP:

1. A major element supporting the financing and pricing of solar projects is the ability of the solar developer to capture the Federal benefit of the 1603 Grant. Since the 1603 Grant expires at the end of calendar year 2011, the timing of the RFP process was such to allow the solar developer the opportunity to capture this benefit. The Evaluation Team judged that there was not sufficient time to rebid the RFP and provide this opportunity. Without the benefit of the 1603 Grant, the Evaluation Team believes there would be a negative impact on the proposal pricing.
2. The SREC market has experienced a significant downturn in pricing and an increase in volatility. Given the current SREC market, the Evaluation Team judged the pricing of the SunLight proposal to be consistent with that market.
3. SunLight/MasTec is known to be a quality solar team with a successful security structure as part of their proposals. They have been the successful solar team on several county renewable energy programs. As such, SunLight/MasTec is familiar with the documentation required to close and execute the transaction, which is critical to realizing the 1603 Grant.
4. The SunLight/MasTec proposal provides a significant level of energy cost savings for the Local Units, while providing Sussex with important financial protections through its equity contribution which reduces the amount of the bonds required to be issued and its debt service reserve fund, which taken together virtually eliminate the potential for a Sussex deficiency should SunLight/MasTec default.

**Accordingly, the Evaluation Team recommends that the Authority select SunLight/MasTec as the Successful Respondent, subject to clarification of the SREC sharing issue discussed in Section 12, page 28.**

The evaluation of "price and non-price" factors allowed by law permits and supports this recommendation.

SunLight/MasTec has proposed to install and operate solar systems at seventeen Local Unit Facilities. The basic terms and benefits of the SunLight/MasTec proposal are as follows:

1. A fifteen (15) year PPA, with a first year rate of \$0.099 per kWh and annual escalation of 3% which results in a final price of \$0.150 in Year 15.
2. A 6.678 MW solar system. This is expected to generate approximately 8.0 million kWh per year. The solar energy will serve approximately 46% of the combined load for all Local Unit Facilities (see **Attachment 4**) based, conservatively, on the guaranteed level of solar generation.
3. Based upon the PPA Price in the SunLight/MasTec proposal, participating Local Unit Facilities will realize, in aggregate, an annual energy cost savings of approximately \$280,000 in the first year and these savings are expected to grow to approximately \$488,000 in the last year of the PPA (see **Attachment 3**). When based upon a less conservative, current bond issuance rate, with an adjusted PPA Price, the participating Local Unit Facilities would realize, in aggregate, an annual energy cost savings of approximately \$301,000 in the first year and these savings are expected to grow to approximately \$516,000 in the last year of the PPA.
4. Based upon the PPA Price in the SunLight/MasTec proposal, over the fifteen year term of the PPA, the Local Units, in aggregate, will realize \$5.6 million in energy cost savings on a nominal basis (\$4.0 million on a NPV basis) (see **Attachment 5**). When based upon a less conservative, current bond issuance rate, with an adjusted PPA Price, over the fifteen year term of the PPA, the Local Units, in aggregate, would realize \$5.9 million in energy cost savings on a nominal basis (\$4.3 million on a NPV basis).
5. Participating Local Unit Facilities will realize an average rate reduction, for the portion of their electricity purchased through this program, of 28% relative to utility delivered power in the first year.
6. A significant reduction in the amount of Authority bonds required to fund the renewable energy projects, on behalf of Sussex, to an amount of approximately \$26.0 million; which creates significant financial security to Sussex and the Authority.
7. A \$1.5 million reserve fund, funded with an equity contribution from the company, provides additional financial protection to Sussex and the Authority.
8. A stable and known cost of electricity for fifteen years allows for budgetary certainty for the participating Local Units.
9. Potential use of the locally manufactured solar panels of MX Solar, a New Jersey based solar panel company.

10. Restoration Security of \$375,000 to provide additional protection to the Local Units that will be set aside to cover the cost of system removal at the end of the term if such option is selected.
11. Sharing of SREC revenue benefits.
12. An educational component including an educational program, with the ability to access operational data for the solar systems via a web enabled system.

The above benefits may be recalculated after the sale of the Authority bonds if materially different from the estimate in this report.

## 2. Overview of the Sussex County Renewable Energy Program

The following is a brief synopsis describing the Morris County Improvement Authority, Sussex County Renewable Energy Program, Series 2011 (Solar Initiative) as outlined in the RFP.

On September 8, 2011, the Authority issued a Request for Proposals (RFP), as amended, for a Power Purchase Agreement (PPA) for the design, acquisition, installation, tax ownership, commissioning, operation, and maintenance of solar systems (Solar Systems) to be located at certain county and local government facilities (Local Unit Facilities) across Sussex County (Sussex). See Section 4 for a list of the final participating Local Units and Local Unit Facilities.

The goal of Sussex is to implement Renewable Energy Projects including Solar Systems that are both environmentally responsible and economically beneficial.

The RFP's total size (kW dc) of the Solar Systems at Sussex's thirteen (13) local units and seventeen (17) Local Unit Facilities was estimated to be 6.7 MW, thus reducing the carbon footprints of the Local Unit Facilities for the term of the agreement and, potentially, beyond.

Sussex intends to enter into a long-term (fifteen (15) year) PPA with the Successful Respondent to purchase solar electric power produced from installations located on some, or all, of the Local Unit Facilities identified above. Sussex does not intend to enter into a PPA unless the cost of the PPA is lower than the delivered cost of power from the local electric utility company.

In evaluating proposals, the Evaluation Team used a Proposal Evaluation Matrix (Matrix) to rank Respondents (see **Attachment 2**). The Matrix includes a three step process:

1. Phase I is a checklist to determine if the Respondent has included all required documentation and information in their proposal. Once all requirements have been met, a Respondent is deemed compliant and qualifies to move to the Phase II of the evaluation. As the RFP makes clear, if a Respondent does not meet the Phase I requirements, it does not receive further consideration.
2. Phase II is a weighted rating of the value provided by the proposal across several categories (financial benefits, technical design, experience, qualifications and financial strength) and evaluation factors within those categories.
3. Phase III is an interview of the Respondents and final evaluation.

The Respondent with the top ranking in Phase II and III, after being determined to be in compliance with the requirements of Phase I, will be recommended for award as the

Successful Respondent. The purpose of this Evaluation Report is to provide the Authority and Sussex with a full evaluation of qualified proposals, and to recommend which proposal provides the greatest value to the Authority, Sussex County and the Local Units.

### **3. Financial Structure for the Sussex County Renewable Energy Program**

The following is a brief synopsis of the financial structure as provided in the RFP.

The Authority will issue taxable bonds, on behalf of and guaranteed by Sussex County, to finance the solar systems to be designed and installed by a private solar developer for the benefit of the Local Units. This structure offers the opportunity for the Successful Respondent to maintain the tax ownership of the investment and will allow them to access the low cost of capital available in the public markets, through Sussex County's "Aa2" credit rating.

The benefits of the federal tax benefits (which Sussex cannot take as a public entity) and low cost county debt have been combined in Sussex's Solar Initiative.

This structure provides the Successful Respondent with the opportunity to take advantage of federal tax benefits (such as the 1603 Treasury Grant or the 30% renewable energy investment tax credit and five year accelerated depreciation). The Successful Respondent will also own and monetize SRECs realized through New Jersey's Renewable Portfolio Standard (RPS) Program. The value realized from the sale of SRECs in the competitive market is a major component supporting the financing of a solar project. The Successful Respondent will take on the responsibility and risk of managing SREC sales.

The Authority will enter into a series of license agreements with the local governments that desire renewable energy, to gain access to their roof and/or ground space and parking lots for the installation of solar panels. After the Authority issues the Sussex County guaranteed bonds, on behalf of Sussex, to finance the solar projects, the Authority will lease the solar panels to the competitively procured Successful Respondent, structuring that lease in such a way as to provide the Successful Respondent with an opportunity to become the tax owner of the solar projects.

The Successful Respondent, in turn, makes lease payments to the Authority to fully pay the debt service on the Authority bonds. Through a PPA, the Successful Respondent sells the electricity generated by the solar projects through the Authority back to the local government entities at a rate below the local utility tariff. The Successful Respondent must either provide some form of security to Sussex, or eliminate the need for it. As part of the RFP process, the Respondents had to include either a County Security Amount (CSA), or an alternate structure that would minimize or eliminate the CSA, to provide security that the lease payments will be made and that the Authority and Sussex have adequate financial protection.<sup>1</sup> The CSA calculates the difference between the lease payments and the revenue the Successful Respondent earns through SREC sales and PPA payments. This is to ensure that if the Successful Respondent

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<sup>1</sup> See page 9 of the RFP Section 1.3.

defaults in any year during the fifteen year contract, Sussex will have sufficient reserve in the form of the CSA, together with remaining SREC and PPA revenues, to pay the remaining debt service (assuming the continuation of PPA payments and conservatively estimated SREC revenue streams).

The RFP also permitted Respondents to propose alternate structures using their own sources of financing.

This financing structure, in effect, allows the Successful Respondent to design, construct, own and operate the solar systems, assume the burdens of the project (pay the debt service and provide security), and embed its costs and revenue streams into a fixed, indexed sales price for the solar energy generated.

The program allows Local Units to demonstrate environmental responsibility while realizing economic benefits. The PPA offers a reduction in current energy costs for a portion of the Local Units energy needs and long term stability of energy prices.

#### 4. RFP Preliminary Solar System Size

The original RFP, as released on September 8, 2011, contained the results of a preliminary feasibility assessment, as performed by Sussex's Energy Consultants. This assessment estimated the technical potential for Solar Systems at fourteen (14) Local Units and eighteen (18) Local Unit Facilities. Released on September 20, 2011 Addendum 1, provided changes to the original Local Unit Facility list and system sizes.

The tranche list as included in the original RFP was as follows:

LU #	Local Unit	Facility	Local Unit Facility Solar KW Size			TOTAL
			Roof Mounted	Parking Canopy	Ground Mounted	
1	Byram Township School District	Byram Lakes Elem./ Int. School	38	455	0	493
2	County of Sussex	SC Judicial Center - Parking Deck	0	468	0	468
		Wheatworth Facility	0	0	149	149
		Main Library	0	0	100	100
3	Frankford BOE	Frankford Township School	0	0	309	309
4	Franklin Borough BOE	Franklin Elementary School	123	104	0	227
5	Fredon Township	Civic Center	61	0	0	61
6	Green Township	Green Hills School	157	0	0	157
7	Hardyston Township	Hardyston Middle School	0	0	612	612
8	High Point Regional BOE	High Point Regional High School	453	0	0	453
9	Kittatinny Regional SD	Kittatinny Regional High School	187	173	0	360
10	Lafayette Township BOE	Lafayette Township School	49	0	206	255
11	Lenape Valley BOE	Lenape Valley High School	0	393	774	1,167
12	Newton BOE	Merriam Avenue School	105	242	0	347
		Newton High School	222	124	0	346
13	Sussex County Technical School	Main Building and Parking Lots	112	290	792	1,194
14	Town of Newton	DPW Complex	73	0	0	73
		Wastewater Treatment - Moran Street	0	0	109	109
<b>TOTAL</b>			<b>1,580</b>	<b>2,249</b>	<b>3,051</b>	<b>6,880</b>

The total system size across the above fourteen (14) local units was 6.880 MW. However, Addendum 1 released on September 20, 2011 decreased the system size from 6.880 MW to 6.681 MW. The following Local Unit Facilities were removed or amended as part of Addendum 1:

- Lafayette Township School (49 kW roof mounted system and 206 kW ground mounted system)
- Frankford Township School (309 kW ground mounted system)

The following represents the tranche list as updated through Addendum 1 to the RFP:

LU #	Local Unit	Facility	Local Unit Facility Solar KW Size			TOTAL
			Roof Mounted	Parking Canopy	Ground Mounted	
1	Byram Township School District	Byram Lakes Elem./ Int. School	38	456	0	494
2	County of Sussex	SC Judicial Center -	0	468	0	468
		Parking Deck	0	0	149	149
		Wheatsworth Facility	0	0	100	100
3	Frankford BOE	Main Library	0	0	100	100
		Frankford Township School	0	0	362	362
4	Franklin Borough BOE	Franklin Elementary School	123	104	0	227
5	Fredon Township	Civic Center	61	0	0	61
6	Green Township	Green Hills School	157	0	0	157
7	Hardyston Township	Hardyston Middle School	0	0	612	612
8	High Point Regional BOE	High Point Regional High School	453	0	0	453
9	Kittatinny Regional SD	Kittatinny Regional High School	187	173	0	360
11	Lenape Valley BOE	Lenape Valley High School	0	393	775	1,168
12	Newton BOE	Merriam Avenue School	105	242	0	347
		Newton High School	223	124	0	347
13	Sussex County Technical School	Main Building and Parking Lots	112	290	792	1,194
14	Town of Newton	DPW Complex	73	0	0	73
		Wastewater Treatment - Moran Street	0	0	109	109
<b>TOTAL</b>			<b>1,532</b>	<b>2,250</b>	<b>2,899</b>	<b>6,681</b>
<b>Percentage</b>			<b>22.9%</b>	<b>33.7%</b>	<b>43.4%</b>	<b>100.0%</b>

Therefore, after the Addendum 1 changes, the total system size of the Sussex County program includes thirteen (13) Local Units and seventeen (17) Local Unit Facilities, with a solar system size of 6.681 MW.

## **5. PPA Pricing Design**

Sussex requested one PPA Price and index from the Respondents for the entire project. Respondents are required to insure that every Local Unit Facility is included in the response. Respondents were provided the option of submitting a proposal based upon public (County) financing, private financing or a combination in accordance with the RFP. Respondents were also required to provide two price adjustment factors to be used to adjust PPA rates upward or downward based on the final project development costs and the final interest rate on the debt service determined at the closing of project financing.

## **6. Respondent Response to RFP**

The Authority received a proposal in response to the RFP from the following one (1) Respondent:

1. SunLight General Capital and Power Partners MasTec (SunLight/MasTec)

The proposal was determined by counsel to Sussex to have met the Phase I requirements of the RFP and was further evaluated under the Phase II evaluation.

Key information from the conforming proposal submitted by SunLight/MasTec is summarized below.

Note: Shortly after the time for submission of proposals (i.e. 1:00 PM, Eastern time, October 13, 2011), a second Respondent arrived to submit a proposal. When informed that the submission period had closed and Sussex could not accept the second proposal, the second Respondent inquired as to the publicly announced PPA price submitted by SunLight/MasTec. When informed of the subject PPA price, the second Respondent indicated that their proposal was not competitive with the proposal of SunLight/MasTec, declined to leave their proposal and left.

SunLight/MasTec proposed a fifteen (15) year PPA term to install solar at all seventeen (17) Local Unit Facilities. The total size of the solar systems to be installed is 6.7 MW dc. The total project cost is \$33.6 million although SunLight/MasTec offered to reduce the bond size to \$26.0 million through a \$7.6 million capital investment in the project. The capital investment would be provided in conjunction with the issuance of the Authority bonds.

SunLight/MasTec's first year PPA price is \$0.099 per kWh. The annual escalation rate is 3%. SunLight/MasTec offered SREC sharing at 50% of the upside on SRECs above \$300 after Year 5 to maturity, a debt service reserve fund of \$1.5 million, and restoration security of \$375,000.

## 7. Proposal Evaluation Matrix

Once proposals are deemed compliant based on Phase I requirements, the proposals are subject to Phase II and III evaluation in accordance with the process defined in the RFP. The evaluation was conducted in accordance with an evaluation matrix, which is based on a total potential score of 100. The Matrix is broken into the following criteria and weighting factors:

Financial Benefits (50)	NPV of Benefits Option - Sharing of Benefits Non-Material Changes to Program Documents
Technical Design/Approach (10)	Output Guarantee (kWh) Design Strategy Project Team Approach O&M Plan and Approach
Respondent Experience (10)	Project Management Contractor Expertise Project Experience New Jersey Experience
Financial Strength (20)	Financial Capability/Strength of Provider Financial Risk
Oral Interview Evaluation (10)	Presentation Explanation Key Factors Understanding Financial Factors/SREC Market

## **8. Financial Benefits Evaluation**

The Sussex County Renewable Energy Program has been developed and implemented with no capital cost to the Local Units. In addition to this benefit, below is a summary of the financial benefits section of the Phase II evaluation. Proposals were evaluated and awarded points in the Matrix based on their responses to the following criteria: NPV of benefits; sharing of benefits; and, non-material changes to documents. Since there was only one compliant bid, Gabel Associates completed the Phase II evaluation based upon their experience with other County solar programs.

### **a. NPV of Benefits**

Local Units realize economic benefits from the installation of renewable energy projects through the savings in energy costs by purchasing electricity from the solar project rather than from the local electric utility.

In calculating energy cost savings, the Evaluation Team compares a forecast of the cost of the local utility tariff rate electricity delivered to the Local Unit Facility that is avoided by purchasing the solar generation from the renewable energy projects at the PPA rate proposed by the Respondent and multiplies the difference by the expected solar output. This yields the projected savings in energy costs realized through the installation of the renewable energy projects.

It is important to note that the energy cost savings are calculated at the guaranteed level of solar generation (90% of the expected level). Thus, the level of energy cost savings are stated on a conservative basis. Actual energy cost savings to the Local Unit Facilities are likely to exceed the levels indicated in this Evaluation Report.

The forecast of the avoided cost of the local utility tariff rate is the result of a detailed analysis of each utility tariff by each of its components over the fifteen year term of the PPA. This detailed analysis takes into account many factors, including the following:

1. Those components of the utility tariff rate that are not avoided as a result of the solar installation. For example, the customer charge and a portion of demand charges are not avoided through the purchase of solar energy generated by the solar systems. In addition, if the local unit facility is purchasing the commodity component of electric supply in the competitive market, it is assumed that the local utility will continue this practice in the development of their non-solar electricity costs.
2. The most recent energy market fundamentals (ex. New York Mercantile Exchange futures, Energy Information Administration long term escalation rates and environmental and RPS programs such as the SREC program) are incorporated to provide the best indication of future energy market costs.

3. The impact on future energy costs of national, state and regional environmental initiatives currently being considered (ex. carbon credits). The forecast includes the low Environmental Protection Agency estimate for carbon legislation originally slated to start in 2012 but pushed out to 2015.
4. The impact that general energy market escalation will have upon long-term energy prices.

To calculate the NPV benefits provided by each proposal, guaranteed production values were used. In addition, a 5.00% discount rate was assumed to calculate NPV of benefits; which was the assumed interest cost of the Authority bonds in the RFP. This also assumes an average retail electric escalation of 3.6%.

**Attachment 1** summarizes the PPA pricing (first year PPA price and annual escalation) proposed by the conforming Respondents.

Sussex's energy cost savings are also shown in **Attachment 1**. The savings calculations in **Attachment 1** are shown in both NPV and nominal dollars, however, the most appropriate way to compare the value of projects is on a NPV basis to recognize the time value of money and the opportunity cost of capital.

Over the fifteen (15) years of the PPA, the SunLight/MasTec proposal yields nominal benefits of \$5.6 million or net present value (NPV) benefits of \$4.0 million. These benefits have been calculated under the conservative assumption that bond interest rates will be at 5.0%. The RFP also required Respondents to submit an adjustment factor to the PPA Price to account for a change in the bond rate from the assumed level of 5.0% to the actual bond issuance rate. Based upon SunLight's adjustment factor and the current expectation for the bond issuance rate (4.6%), the SunLight/MasTec proposal would yields nominal benefits of \$5.9 million or net present value (NPV) benefits of \$4.3 million.

The Respondent with the highest NPV of benefits (SunLight/MasTec) earned the maximum number of points (40) in the Matrix for this criterion.

A sensitivity analysis of the NPV benefits was also conducted by evaluating changes in the average electric rate escalation and is provided in **Attachment 5**. The results show that the SunLight/MasTec proposal will provide significant levels of energy cost savings, even assuming no escalation in the average electric rate.

#### **a. Option – Sharing of Benefits**

The RFP asked the Respondents whether they would be willing to share additional benefits with Sussex. As an example of such benefits, the RFP listed (a) sharing of SREC market revenues, (b) sharing in any Federal or State tax benefits, (c) sharing in other financial / environmental market value, (d) end on contract provisions beyond

those identified in the RFP and (e) any other additional services that would provide value to Sussex.

As it relates to the sharing in SREC market revenues, the level of this potential benefit and the probability of it occurring are very difficult to determine since it depends on future SREC prices. SREC prices will depend on the level of SREC supply and the cost and efficiency of new solar projects at that time. Scoring was based on whether or not SREC sharing was proposed and how beneficial the sharing would be to Sussex.

### **SunLight/MasTec**

SunLight/MasTec offered the following additional benefits:

1. SREC sharing in the amount of 50% of the upside of SRECs above \$300 after Year 5.
2. Should other environmental attributes arise in the future from these projects, SunLight/MasTec proposed to share in the proceeds from the sale of such attributes.
3. Should a change in law result in significantly more favorable tax treatment, SunLight/MasTec would use best efforts to share with Sussex.
4. Finally, they would deliver an educational program about the science and benefits of solar systems, including solar energy science kits, teacher training about renewable energy, the ability to access operational data and personnel to promote the educational program.

SunLight/MasTec was awarded the maximum value of five (5) points for this sharing proposal.

### **b. Non-Material Changes to Program Documents**

SunLight/MasTec proposed no changes to the program documents and received the maximum number of points in this section of the Matrix.

## 9. Technical Design/Approach

The evaluation of the technical design/approach has several elements including output guarantees, construction schedules, project team approach, and operation and maintenance plans. Below is a technical review of the proposal. The Proposal was evaluated and awarded points in the Matrix based on the responses to the following criteria: output guarantee, design strategy, project team approach, and operations and maintenance (O&M) plan and strategy.

### a. Output Guarantee (MWH)

The Respondent provided the output guarantees required in the RFP and were therefore awarded maximum points for this requirement. Below is a description of the Respondent's design strategy including their total system size and output.

#### SunLight/MasTec

Total System Size	Total System Output
6.678 MW	7,998 MWh

SunLight/MasTec's proposed capacity was compared with the conceptual site plans provided in the RFP. SunLight/MasTec based their proposal 100% on the Birdsall conceptual layouts without exception. The total system size is within 3kw of the conceptual site plans due to round-off differences. The SunLight/MasTec proposal will provide a 4.5% increase in kWh, over Birdsall's calculated production numbers. All system sizes and productions are within 90% of consumption at the facilities with the exception of Lenape Valley that will generate 90.5%. This is acceptable.

### b. Design Strategy

Below is a description of the proposal design strategy. The Respondent was evaluated based on the major system components and design of the systems. The Respondent received the maximum points for this requirement.

#### SunLight/MasTec

SunLight/MasTec's PV design followed the Birdsall concept layout exactly. This includes roof mounted PV panels, ground mounted PV panels, and parking canopies. Below is a description of the Major system components proposed by Sunlight/MasTec. All information was not included in the proposal but was provided in the oral interview. They are using quality products in all areas. The evaluation team accepts SunLight/MasTec's design and system components.

System Component	Manufacturer
PV Modules	Trina/Canadian/ MX Solar
Inverters	SMA/PV Powered
Mounting Systems	Allied Building, Panel Claw, Grizzly Bear
Canopy System	Baja/Protek/ Solar Ventures
DAS	Noveda or Deck

### **c. Project Team Approach**

Below is a description of the proposer's project team approach. Based on their responses, they were awarded the maximum points for this requirement.

Sunlight/MasTec's project team approach seemed well organized and complete. They have an experienced team which has completed similar large solar projects. In addition, they have also been the successful proposer at Somerset County Improvement Authority Tranche 2, Mercer County Improvement Authority for Mercer County Community College and Morris County Improvement Authority Tranche 2. All of the design and engineering will be completed by MasTec. They are a national energy contractor with experience, and technical depth to complete this project successfully. They have a plan to schedule installations with minimal disruptions, will be staffing locally, and plan on bringing in experienced solar contractors. They plan on meeting with local units for communications sessions, to assess the best time to schedule installations, and will be open on canopy designs to meet the needs of local units.

### **d. Operations and Maintenance Plan and Approach**

Below is a description of the proposal's O&M plan and approach. Based on their response, the respondent was awarded the maximum points for this requirement.

The operations and maintenance will be monitored on a daily basis by an inverter level monitoring package. This will provide the latest data for system performance and availability. It will also provide any error messages from the inverters, regarding the system operation, mal-function, and inverter status or system fault. The data acquisition system (DAS) will be designed for remote web based operation and the data will be transferred to a third party server via the internet.

SunLight MasTec also provided a comprehensive Operation and Maintenance procedures document at the oral interview. They have an acceptable approach for O&M.

## **10. Respondent Experience**

The evaluation of respondent experience has several elements including: project management, contractor experience, project experience, and New Jersey experience. Below is a summary of the SunLight/MasTec proposal.

### **a. Project Management**

SunLight/MasTec demonstrated their ability to successfully manage the project through the involvement of well qualified/experienced management, supervisory, and key staff. The respondent was awarded the maximum points for this requirement.

### **b. Contractor Experience**

SunLight/MasTec has teamed with very experienced and technically qualified EPC's. The maximum number of points for this section in the evaluation matrix is awarded.

### **c. Project Experience**

SunLight/MasTec has demonstrated extensive project experience with respect to similar types of projects in New Jersey and other States. Maximum number of points awarded for this section.

### **d. New Jersey Experience**

The SunLight/MasTec team has won other County Renewable Energy Program awards to implement solar systems. They and their contractors are well experienced in New Jersey. SunLight/MasTec has established an office in NJ to implement solar systems and will establish a second office in Sussex County, to maintain and enhance their NJ experience. The maximum number of points have been awarded for evaluation in this section.

## **11. Financial Strength**

The evaluation of the financial strength of the proposals has two (2) elements including financial capability/strength of provider and financial risk to Sussex. Below is a summary of the Respondent's proposal.

### **a. Financial Capability/Strength of Respondent**

Below is a description of the financial capability and the financial strength of the Respondent. The Respondents received the maximum amount of points for this section.

#### **SunLight/MasTec**

SunLight has financed 3.7 MW of projects since 2009 and has an additional 12.1 MW scheduled over the next year. SunLight's current equity is over \$10 million and they recently launched the SunLight General Solar Fund Two in the amount of \$30 million. Power Partners MasTec, LLC is a wholly-owned subsidiary of MasTec, Inc. a minority business enterprise with over 9,000 employees and annual revenues of \$2.3 billion (2010). MasTec has over \$500 million in bonding capacity. MasTec will provide the construction bond for the project installation. SunLight/MasTec has provided sufficient financial information and an adequate finance package.

### **b. County Security/Deficiency Amount**

Financial risk to Sussex specifically concerns proposals where the Authority is committing funds to the solar project and Sussex is committing its guaranty on those funds. A second, but much less significant, financial risk involves whether the solar developer is willing to offer a restoration security.

SunLight/MasTec has proposed to use the public financing approach which imposes a financial risk upon Sussex, however, their proposal to self-finance a substantial portion of the overall cost of the renewable energy projects has significantly reduced that risk by effectively eliminating the need to fund a County Security Amount (CSA). The SunLight/MasTec proposal has been structured such that, using the conservative SREC assumptions provided by the Authority, a CSA of approximately \$1.0 million exists only during the first year. For the majority of the program (years 2 through 15) there is no CSA and, in fact, a cushion is provided in each of the subject years.

In addition, SunLight/MasTec has proposed a \$1.5 million reserve fund to provide additional financial protection to Sussex. This reserve fund exceeds the annual bond service requirements. Finally, the SunLight/MasTec proposal offered a performance security of \$375,000 which would be built up through setting aside \$75,000 a year for five years beginning in Year 11 (a positive for Sussex). The SunLight/MasTec proposal allows the bond size to be significantly reduced and limit its associated risk to Sussex with a very high degree of certainty. Since there is still some financing risk to the

Sussex, the SunLight/MasTec proposal has been awarded less than the maximum number of points in this rating category.

The SunLight/MasTec Proposal reduced the bond size from \$33.6 million to approximately \$26.0 million by proposing to self finance \$7.6 million. This approach reduces financial risk to Sussex by reducing the amount of the Authority bonds required to be issued to approximately \$26.0 million. The smaller size of the Authority bond reduces the Sussex exposure and provides strong SREC price risk protection as the balance of transaction revenues (i.e. SRECs and PPA payments) should this Respondent default, are estimated to be fully sufficient to make all debt service payments on the bonds in all but the first year. In addition, the SunLight/MasTec proposal includes a \$1.5 million reserve fund to provide additional financial protection to Sussex.

## 12. Phase III Evaluation

The RFP reserves the right for Sussex to conduct interviews with qualified Respondents. After reviewing all aspects of the submitted proposals, in particular the savings in energy costs preferred by Sussex and as required under applicable law (see the details in Section 8(a) and as reflected in the Evaluation Matrix through Phase II), the Evaluation Team decided to conduct an interview with SunLight/MasTec to explore all aspects of their proposal.

Prior to the interview, the Evaluation Team provided a list of issues (see **Attachment 6**) that they wanted SunLight/MasTec to address at the interview. SunLight/MasTec did an excellent job during their presentation and was able to explain all key issues as well as demonstrating an understanding of financial matters. Additionally, during the interview, the potential for the monetized sharing of SREC value in the early years (year 1 through 5) was discussed. The possible tax implications of such sharing will be reviewed. Pending the result of that review, SunLight/MasTec indicated that they would be open to the monetized sharing of SREC value in the early years. SunLight/MasTec received the maximum number of points for this criterion of the Evaluation Matrix.

### **13. Recommendation – Successful Respondent**

In recommending a Successful Respondent, the Evaluation Team uses the Proposal Evaluation Matrix to rank the Respondents.

The SunLight/MasTec team possesses high quality management, installation capabilities, and sound solar development experience. In addition, the SunLight/MasTec proposal provides Sussex benefits in the following key areas:

1. It provides substantial direct energy cost savings;
2. It provides the Local Units the potential for additional savings through the sharing of revenues from the sale of Solar Renewable Energy Certificates (SRECs) and other environmental benefits;
3. Due to SunLight/MasTec's proposed capital and in kind equity investment, which reduces the required size of the Authority bond issuance, it provides a strong level of protection for Sussex from financial risk;
4. It provided additional financial protection for Sussex in the form of a Debt Service Reserve Fund; and,
5. It includes a restoration security providing for additional Local Unit protection at the end of contract.

Over the fifteen (15) years of the PPA, the SunLight/MasTec proposal yields nominal benefits of \$5.6 million or net present value (NPV) benefits of \$4.0 million. These benefits have been calculated under the conservative assumption that bond interest rates will be at 5.0%. The RFP also required Respondents to submit an adjustment factor to the PPA Price to account for a change in the bond rate from the assumed level of 5.0% to the actual bond issuance rate. Based upon SunLight's adjustment factor and the current expectation for the bond issuance rate (4.6%), the SunLight/MasTec proposal would yield nominal benefits of \$5.9 million or net present value (NPV) benefits of \$4.3 million.

The Respondent provided a financial structure limiting the financial risk to Sussex. By offering to self-finance a substantial portion of the overall cost of the renewable energy projects in the amount of \$7.6 million, the SunLight/MasTec proposal allows the Authority, on behalf of Sussex, to significantly reduce its bond size. The Authority's \$26.0 million in bonds will be combined with SunLight/MasTec's \$7.6 million self-financing to finance the total project cost (\$33.6 million). The SunLight/MasTec proposal also protects Sussex (which will be providing its guaranty on the Authority bonds) from the potential risk of reductions in the price of SRECs. Moreover, by self-financing a portion of the total cost of the project, this protection has a very high degree of certainty. In addition, SunLight/MasTec proposed to post a \$1.5 million

reserve, funded with an equity contribution from the company, to provide additional financial protection to Sussex.

The Evaluation Team recognizes the value of the financial provisions of the SunLight/MasTec proposal in terms of the protection of Sussex, its guaranty and its bond rating. The preservation of this bond rating provides future economic benefits to Sussex and its citizens and businesses by allowing the Authority to borrow money at low interest rates due to its "Aa2" rating. Accordingly, a high premium is placed on its protection. The financial protections of the SunLight/MasTec proposal, including a significant reduction in the size of the Authority bond amounts, on behalf of Sussex, provides a strong and distinguishing level of protection which, in combination with other factors considered, lead to the recommended selection.

The overall Matrix scoring identified SunLight/MasTec as the Respondent providing the greatest value. Based on the above discussions, the evaluation indicates that SunLight/MasTec's proposal scored 94 out of a total of 100 points. The proposal scoring is shown in **Attachment 4**.

**Accordingly, the Evaluation Team recommends that the Authority select SunLight/MasTec as the Successful Respondent, subject to clarification of the SREC sharing issue discussed in Section 12, page 28.** This will result in estimated aggregate annual benefits of approximately \$280,000 in the first year, total savings of \$4.0 million (NPV) over the life of the PPA, and average rate reductions for electricity purchased through this program of 35% relative to utility delivered power. These benefits will be recalculated after the sale of bonds and may likely increase due to the conservative assumptions used in this analysis.

The evaluation of "price and non-price" factors allowed by law permits and supports this recommendation.

**Attachment 1**  
**Sussex County Program Solar Savings Summary**

**Sussex County Renewable Energy Program**

**Proposal Evaluation**  
**October 20, 2011**

Respondent	KW	PPA Rate	Escalation	Solar Savings	
				Nominal (\$)	NPV (\$)
Sunlight General Capital/Power Partners MasTec	6.678	\$0.099	3.0%	\$5,565,316	\$3,979,057

## Attachment 2

### Evaluation Matrix

#### Sussex County Renewable Energy Program Proposal Evaluation Matrix

**Phase I - RFP Requirements Checklist**

**Phase II - Proposal Evaluation**

**Phase III - Short List Evaluation**

**Attachment 2**

**Page 1 of 2**

October 18, 2011

Requirement Checklist	SunLight/MasTec
PPA Price Quotation Sheet (Form A-1):	
- PPA Price & Escalation	Y
- Total Project Cost	Y
- Amortization Schedule	Y
- Structural/Interconnection Adjustment Factor	Y
- Additional Economic Benefits	Y
Appendix D Forms:	
- Respondent Information (Form A-2)	Y
- Proposal Security in lieu of Bond (Form A-4)	Y
- Proposal Bond (Form A- 5)	Y
- Ownership Disclosure Statement (Form A-6)	Y
- Non-Collusion Affidavit (Form A-7)	Y
- Consent to Investigation (Form A-8)	Y
- Relevant Experience	Y
- Respondent's Qualifications (Form A-9)	Y
- Receipt of Addenda (Form A-10)	Y
- Sealed Proposal Checklist (Form A-11)	Y
- County Deficiency Amount (Exhibit F)	Y
Form of PPA (Private Option Only)	Y
Business Registration Certificate	Y
<b>QUALIFY (Y/N)</b>	<b>Y</b>

**Sussex County Renewable Energy Program  
Proposal Evaluation Matrix**

Attachment 2  
Page 2 of 2

Phase I - RFP Requirements Checklist  
Phase II - Proposal Evaluation  
Phase III - Short List Evaluation

October 20, 2011

Phase II Category	Evaluation Factor	WEIGHTING	SunLight/MasTec
Financial Benefits (50)	NPV of Benefits	40	40
	Option - Sharing of Benefits	5	4
	Material Changes to Program Documents	5	5
Technical Design / Approach (10)	Output Guarantee (KWH)	3	3
	Design Strategy	3	3
	Project Team Approach	2	2
	O&M Plan and Approach	2	2
Proposer Experience (10)	Project Management	2	2
	Contractor Expertise	3	3
	Project Experience	3	3
	New Jersey Experience	2	2
Financial Strength (20)	Financial Capability / Strength of Provider	5	5
	Financial Risk to the County	15	10
<b>TOTAL PHASE II</b>		<b>90</b>	<b>84</b>

Phase III Category	Evaluation Factor	WEIGHTING	SunLight/MasTec
Short List Evaluation (10)	Presentation	2	2
	Explanation Key Factors	3	3
	Understanding Financial Factors / SREC Market	5	5
<b>TOTAL PHASE III</b>		<b>10</b>	<b>10</b>

<b>Overall Evaluation</b>			
<b>TOTAL PHASE II and III</b>		<b>100</b>	<b>94</b>

**Attachment 3**  
Savings by Local Unit Facility

Bidder	Local Unit Facility	Life of Project Nominal Savings	Life of Project NPV Savings	Annual Savings		Nominal Savings on Solar Energy Purchased		Nominal Savings Total Electric Costs	
				Year 1	Year 15	Year 1	Year 15	Year 1	Year 15
	Byram Twp BOE- Byram Lakes Elementary School	\$443,936.15	\$326,109.32	\$22,496.69	\$38,227.21	28.20%	31.96%	15.92%	16.82%
	Frankford Twp BOE- Frankford Twp School	\$344,058.20	\$252,250.31	\$17,099.34	\$30,033.51	26.33%	31.14%	18.69%	20.60%
	Franklin Borough BOE- Franklin Elementary School	\$204,122.99	\$149,964.68	\$10,350.07	\$17,559.27	29.50%	33.14%	10.71%	11.22%
	Fredon Township Civic Center	\$63,597.32	\$46,787.94	\$3,205.27	\$5,418.41	28.79%	33.13%	21.68%	23.24%
	Green Twp SD BOE- Green Hills School	\$159,462.79	\$117,807.49	\$8,442.03	\$13,147.96	32.58%	34.10%	7.20%	7.02%
	Hardyston SD BOE- Hardyston Middle School	\$619,969.72	\$455,985.72	\$31,718.19	\$52,897.39	27.75%	31.36%	17.29%	18.22%
	High Point Reg SD BOE- High Point Regional HS	\$443,764.35	\$327,635.22	\$23,374.44	\$36,778.34	32.68%	34.41%	8.00%	7.66%
	Kittatinny Reg SD BOE- Kittatinny Regional HS	\$367,529.54	\$271,620.18	\$19,511.36	\$30,223.64	33.03%	34.30%	5.79%	5.61%
Sunlight/PPM	Lenape Valley Reg BOE- Lenape Valley Regional HS	\$308,179.72	\$215,439.62	\$14,571.57	\$35,783.88	7.50%	13.07%	6.16%	10.00%
	Newton Public Schools BOE- Merrim Ave School	\$288,872.85	\$211,593.43	\$14,264.24	\$25,420.50	25.82%	30.78%	20.44%	22.71%
	Newton Public Schools BOE- Newton HS	\$304,081.28	\$223,268.46	\$15,339.68	\$26,263.55	27.69%	31.81%	15.92%	17.05%
	Sussex County Judicial Center	\$498,706.59	\$367,063.50	\$25,611.06	\$42,477.65	34.16%	37.33%	11.91%	12.13%
	Sussex County Main Library	\$113,542.99	\$83,445.21	\$5,742.53	\$9,773.74	30.34%	34.54%	22.49%	23.87%
	Sussex County Technical School	\$1,062,236.16	\$777,386.72	\$51,834.31	\$93,898.12	25.89%	31.22%	20.76%	23.34%
	Sussex County Wheatsworth Facility	\$176,674.89	\$129,795.72	\$8,941.10	\$15,258.83	31.96%	36.02%	16.38%	17.21%
	Town of Newton- Departement of Public Works 1	\$54,098.26	\$39,376.82	\$2,049.40	\$4,849.31	17.00%	27.00%	13.00%	20.00%
	Town of Newton- Wastewater Treatment Plant	\$112,482.70	\$82,851.12	\$5,819.52	\$9,489.32	32.56%	34.83%	5.39%	5.37%
	<b>Total</b>	<b>\$5,565,316.50</b>	<b>\$4,078,351.45</b>	<b>\$280,370.80</b>	<b>\$487,500.62</b>	<b>28.00%</b>	<b>31.00%</b>	<b>15.00%</b>	<b>16.00%</b>

## Attachment 4

### Load Served by Solar by Local Unit Facility

#### Sussex County Renewable Energy Program

#### Local Unit Facility - Solar Statistics October 20, 2011

Local Unit	Annual Electric	Sunlight General Capital/Power Partners MasTec		Electric Load Served by Solar Generation** (%)	
	Metered Load* (KWH)	Expected	Guaranteed		
		kW	kWh	kWh	
Byram Twp BOE- Byram Lakes Elementary School	906,080	493	568,442	511,598	56%
Fredon Township Civic Center	83,771	61	70,045	63,040	75%
Frankford Twp BOE- Frankford Twp School	579,200	362	456,677	411,009	71%
Franklin Borough BOE- Franklin Elementary School	669,667	227	261,757	235,581	35%
Green Twp SD BOE- Green Hills School	747,360	157	183,426	165,083	22%
Hardyston SD BOE- Hardyston Middle School	1,395,427	612	774,471	697,024	50%
High Point Reg SD BOE- High Point Regional HS	1,938,792	453	513,808	462,427	24%
Kittatinny Reg SD BOE- Kittatinny Regional HS	2,225,026	360	417,047	375,344	17%
Lenape Valley Reg BOE- Lenape Valley Regional HS	1,586,751	1187	1,436,317	1,292,686	81%
Newton Public Schools BOE- Merriam Ave School	447,360	347	393,380	354,043	79%
Newton Public Schools BOE- Newton HS	784,465	346	392,673	353,405	45%
Sussex County Technical School	1,626,600	1194	1,449,254	1,304,328	80%
Sussex County Judicial Center	1,381,120	468	534,829	481,346	35%
Sussex County Main Library	153,800	100	126,514	113,863	74%
Sussex County Wheatworth Facility***	346,840	149	197,492	177,743	51%
Town of Newton- Departement of Public Works	183,778	79	84,024	75,621	41%
Town of Newton- Wastewater Treatment Plant	751,200	109	138,121	124,309	17%
<b>total</b>	<b>15,807,037</b>	<b>6,678.00</b>	<b>7,998,277</b>	<b>7,198,450</b>	<b>46%</b>

\* Metered load is based on total consumption at the site, including meters that solar energy will not be interconnected to.

\*\* Electric Load Served by Solar Generation is based on Guaranteed kwh production

\*\*\*Sussex County's Wheatworth Facility's electric consumption is estimated

# Attachment 5

## Sensitivity Analysis

### Sussex County Renewable Energy Program

#### Estimated Savings Summary October 20, 2011

Discount Rate of 5%, Average Retail Electric Rate of 3.6%

Respondent	Solar Savings	
	Nominal (\$)	NPV (\$)
Sunlight General Capital & Power Partners MasTec	\$5,565,316	\$3,979,057

Discount Rate of 5%, Average Retail Electric Rate of 6%

Respondent	Solar Savings	
	Nominal (\$)	NPV (\$)
Sunlight General Capital & Power Partners MasTec	\$10,492,725	\$7,144,229

Discount Rate of 5%, Average Retail Electric Rate of 0%

Respondent	Solar Savings	
	Nominal (\$)	NPV (\$)
Sunlight General Capital & Power Partners MasTec	\$1,403,826	\$1,340,664

# **Attachment 6**

## **Interview Questions**

### **Sussex County Solar Program Interview Questions**

#### **SunLight General Capital / Power Partners MasTec October 19, 2011**

Sussex County would like to have a general discussion on the following items to better understand the basis for the Response to Request for Proposals:

1. Financial strength of Proposer.
2. Proposed solar project financing approach. Specific discussion regarding:
  - a. Equity contribution of \$7.6 million.
  - b. Debt Service Reserve Fund account of \$1.5 million.
  - c. CDA calculation:
    - i. O&M value.
3. Discuss plans to realize 1603 grant.
4. Proposer view of current and future SREC market.
5. Expected solar production - basis for expected output.
6. Guaranteed solar production.
  - a. How and when measured.
  - b. Financial implications of production shortfall.
7. Additional economic benefits:
  - a. SREC sharing:
    - i. 50% sharing above \$300 per SREC after year 5.
    - ii. How and when measured.
    - iii. Financial sharing mechanism
  - b. Refund bonds for savings
    - i. 50% sharing resulting from refunding
    - ii. Financial sharing mechanism
  - c. Other currently unidentified environmental benefits - Discuss potential
8. Fair market value purchase option tax implications and potential formula approach.
9. Proposer experience and qualifications.

10. "Technical Drawings and Specifications" section of the proposal, section 1.3.1 (Clarifications and Assumptions): Discuss items - 3 (module pricing timing), 7 (work schedule requirement) and 12 (Construction impediments and impact on PPA price).

The following are technical questions to be discussed that will help Sussex County better understand the basis for the Response to Request for Proposals:

1. I reviewed all of the proposed system productions estimates and compared them to the facilities consumption data. All system sizes and productions are within 90.5% of total consumption. Lenape Valley was the highest at 90.5%, all other were less than 90%.
2. Under Section 4 of the Sunlight Proposal (Technical Drawings and Specification) Power Partners MasTec Section 1.3.1 Item 13. Power Partners assumes the rooftop sites do not require any upgrades and are structurally sufficient to accept ballasted racking system.

Our Technical specification: Appendix C, Part 3 Section H. Roof installations: states contractor shall maintain roof integrity with installation.

3. Power Partners MasTec's List of contracts underway states "see attached". Is the attached the meant to be SunLight's list of projects underway or is there another list?
4. The proposal includes Business registrations forms for Pfister Energy Inc., Helios Solar Energy, LLC, and Lighton Elec, Inc. Please describe how these firms will be involved in this project?
5. Describe your installation strategy to minimize disruptions at schools and other facilities? What is the construction schedule you plan of follow for the project timeline?
6. **What specific manufacturer are you using for?**

System Component	Manufacturer
PV Modules	
Inverters	
Mounting Systems	
Canopy System	
DAS	

7. How will the operations be monitored after installation is completed? What is the response time for error messages? Problems with the system? Who do you plan on using? What is the maintenance plan you have for all site?

**EXHIBIT D**

**[Attach Award Resolution]**

## RESOLUTION NO. 11-52

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

---

**TITLE:****RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
APPOINTING AN UNDERWRITER IN CONNECTION WITH THE AUTHORITY'S  
COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE  
REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROGRAM) (FEDERALLY  
TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED  
\$50,000,000**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, the Authority shall finance the Renewable Energy Projects for the Local Units at the Local Unit Facilities through the issuance of bonds, notes or other obligations in the aggregate amount not to exceed \$50,000,000 (the "*Series 2011 Bonds*"), all as contemplated by N.J.S.A. 40:37A-60 of the Act, which Series 2011 Bonds shall be guaranteed by the County, and which Series 2011 Bonds shall not be guaranteed by Morris County;

**WHEREAS**, in order to purchase the Series 2011 Bonds from the Authority on a negotiated basis pursuant to a Bond Purchase Agreement (the "*Bond Purchase Agreement*"), market and resell the Series 2011 Bonds to the public as part of an initial public offering, all as permitted pursuant to N.J.S.A. 40:37A-62 of the Act, the Authority needs to contract for the services of an underwriter for its Series 2011 Bonds (the "*Underwriter RFP*");

**WHEREAS**, as of January 1, 2006, N.J.S.A. 19:44A-20.1 *et seq.*, commonly known as the "*State Pay to Play Law*" became effective;

**WHEREAS**, pursuant to the State Pay to Play Law, the Authority may not award contracts with a value in excess of \$17,500.00, including the Bond Purchase Agreement, to a business entity, including an underwriter, which has made reportable contributions in excess of \$300.00, in the aggregate, to certain political parties or candidate committees of persons serving in an elective public office when such contract was awarded, unless said business entity is awarded a contract under a "fair and open process" pursuant to the State Pay to Play Law;

**WHEREAS**, a "fair and open process" constitutes the following: (i) public advertisement on the Authority's website or in the newspaper of a Request for Qualifications (hereinafter the "*Fair and Open RFQ*") with ten (10) calendar days notice prior to the receipt of responses to the RFQ; (ii) award of contract under a process that provides for public solicitation of qualifications; (iii) award of contract under publicly disclosed criteria established, in writing, by the Authority prior to the solicitation of qualifications; and (iv) the Authority shall publicly open and announce the qualifications when awarded;

**WHEREAS**, by resolution no 02-10 adopted July 24, 2002 and entitled "Resolution Adopting a Policy for the Selection of Underwriters and other Ancillary Service Providers in

connection with the Sale of Securities,” the Authority has adopted a policy directing that a request for underwriting qualifications (“*RFQ Policy*”) be issued by the Authority from time to time as the initial action required under the Policy for the selection of underwriters in connection with the issuance of Securities to finance Projects;

**WHEREAS**, pursuant to the RFQ Policy and a Authority resolution adopted April 19, 2011 and entitled “RESOLUTION APPROVING A QUALIFIED LIST OF UNDERWRITERS FOR AUTHORITY SECURITIES TRANSACTION IN ACCORDANCE WITH THE AUTHORITY’S UNDERWRITER SELECTION POLICY AND A FAIR AN OPEN PROCESS”, the Authority established the 2011 qualified list of underwriters (the “*2011 Qualified List*”);

**WHEREAS**, the Authority desires to appoint an underwriter for the purchase of the Series 2011 Bonds pursuant to the Bond Purchase Agreement through a “fair and open process” and in accordance with the RFQ Policy and the 2011 Qualified List the terms thereof, all to be governed by the State Pay to Play Law, the Policy and other applicable law;

**WHEREAS**, the Authority, on the County’s behalf, solicited bids from the 2011 Qualified List for underwriter services in connection with the Series 2011 Bonds and received two bids from: (1) Wells Fargo Bank and (2) RBC Capital Markets LLC; and

**WHEREAS**, on October 26, 2011, the County adopted a resolution (the “*County Consent Resolution*”) consenting to the Authority’s award to the Underwriter set forth in Section 1 below.

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** Pursuant to the RFQ Policy and the State Pay to Play Law, and based on the recommendation of NW Financial Group, LLC, the financial advisor for the Authority for the Series 2011 Bonds, issued by NW Financial Group, LLC after having undertaken the Authority’s process outlined in the preambles hereof on behalf of the Authority, the Authority hereby designates RBC Capital Markets LLC as Underwriter in connection with the Series 2011 Bonds, provided however, that no legal agreement between the Authority and the Underwriter shall exist unless and until a formally executed Bond Purchase Agreement shall be signed by the parties thereto.

**Section 2.** All actions taken to date by the Authority, the Authorized Officers, the County and the Authority’s consultants with respect to the matters set forth in or contemplated by this resolution, have been consented to by the County through the adoption of its County Consent Resolution, and further, are hereby ratified and approved by the Authority.

**Section 3.** In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Board of Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Board of

Freeholders a certification from the respective Clerks stating that the minutes of this meeting have not been vetoed by the Director of the Board of Freeholders.

**Section 4.** This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

**MOVED/SECONDED:**

Resolution moved by Commissioner Pinto.

Resolution seconded by Commissioner Sandman.

**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez	X			
Roe	X			
Sandman	X			
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Special Meeting of the Authority held on October 27, 2011 at the Authority's principal corporate office in Morristown, New Jersey, with inclusion of members by phone conference.

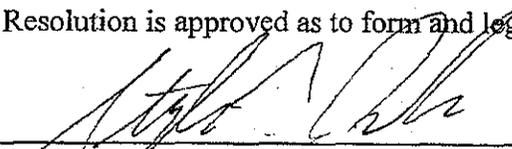
Attested to this 27<sup>th</sup> day of October, 2011

By: 

Asst. Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of October 27, 2011

By:   
 Stephen B. Pearlman, Esq., Partner  
 Inglesino, Pearlman, Wyciskala & Taylor, LLC

**Counsel to the Authority**

**CERTIFICATE OF AUTHORITY AS TO  
SELECTION OF COMPANY, as solar developer**

I, ELLEN M. SANDMAN, Secretary of The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A.* 40:37A-44 *et seq.*, the "*Act*") and other applicable law, and in connection with the issuance this day by the Authority of its \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds"), which Series 2011 Bonds were sold by the Authority to the underwriter set forth in that certain "Bond Purchase Agreement" dated December 7, 2011 (the "*Purchase Agreement*" between such parties; capitalized terms not defined in this certificate shall have the respective meanings ascribed to such terms in the Purchase Agreement) **DO HEREBY CERTIFY** on behalf of the Authority as follows:

1. On July 20, 2011, the Authority adopted resolution number 11-30 entitled "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS PURSUANT TO THE LOCAL PUBLIC CONTRACTS LAW *N.J.S.A.* 40A:11-4.1(K) IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX RENEWABLE ENERGY PROGRAM" (the "*RFP Resolution*") a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Authority at a meeting duly called and held on July 20, 2011, and at which a quorum existed and acted throughout, pursuant to which the Authority authorized the issuance of the request for proposals for the procurement of a solar developer for the Authority's Renewable Energy Program (the *RFP*).

2. Attached hereto as **Exhibit B** is a true and complete copy of the approval of the Office of the State Comptroller dated August 23, 2011 (the "*OSC Approval*"), to issue the Original RFP.

3. Attached hereto as **Exhibit C** is a true and complete copy of the "REQUEST FOR PROPOSALS For a Developer of Photovoltaic Systems with respect to certain Local Government Facilities in the County of Morris, New Jersey" dated September 8, 2011 (the "*RFP*") for the procurement of a solar developer for the Authority's Renewable Energy Program.

4. Attached hereto as **Exhibit D** is a true and complete copy of the non-confidential portion of "SunLight General Capital proposal for the Morris County Improvement Authority Sussex County Renewable Energy Program, Series 2011 dated October 13, 2011" (the "*Company Proposal*") issued and delivered by Sunlight General Capital, on behalf of a to be

created special purpose entity (the “*Company*”), and relating to the procurement of a solar developer for the Authority’s Renewable Energy Program.

5. Attached hereto as **Exhibit E** is a true and complete copy of the “Solar Proposal Evaluation Report” dated October 24, 2011 (the “*Original Consulting Energy Engineer Report*”) issued and delivered by the Consulting Energy Engineer and relating to the procurement of a solar developer for the Authority’s Renewable Energy Program through the review and comparison of proposals, including the Company Proposal, issued and delivered to the Authority by prospective solar developers.

6. On October 27, 2011, the Authority adopted resolution number 11-51 entitled “RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY DETERMINING THE SUCCESSFUL RESPONDENT TO THE SOLAR DEVELOPER REQUEST FOR PROPOSALS IN CONNECTION WITH THE AUTHORITY’S COUNTY OF SUSSEX RENEWABLE ENERGY PROGRAM” (the “*Award Resolution*”) a copy of which is attached hereto as **Exhibit F**, which resolution was duly adopted by the Authority at a meeting duly called and held on October 27, 2011, and at which a quorum existed and acted throughout, pursuant to which the Authority awarded the solar developer services for its Renewable Energy Program to the Company.

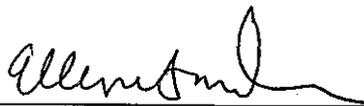
7. Attached as **Exhibit G** is be a true and complete copy of the “Savings Update” (together with the Original Consulting Energy Engineer Report, as so modified in the Savings Update, the “*Consulting Energy Engineer Report*”) dated December 13, 2011, issued and delivered by the Consulting Energy Engineer and relating to the procurement of a solar developer for the Authority’s Renewable Energy Program through the review and comparison of proposals, including the Company Proposal, issued and delivered to the Authority by prospective solar developers, and updated for the final pricing for the Series 2011 Bonds.

8. As of the date hereof, the RFP Resolution and the Award Resolution, each set forth above and attached hereto, have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Authority this  
14th day of December, 2011.

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By:   
\_\_\_\_\_  
**Ellen M. Sandman**  
**Secretary**

**EXHIBIT A**

**[Attach RFP Resolution]**

RESOLUTION NO. 11-30

RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY

---

**TITLE:**

RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS  
PURSUANT TO THE LOCAL PUBLIC CONTRACTS LAW  
N.J.S.A. 40A:11-4.1(k) IN CONNECTION WITH THE  
AUTHORITY'S COUNTY OF SUSSEX RENEWABLE ENERGY PROGRAM

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall

exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, the Authority, in accordance with Department of Community Affairs Division of Local Government Services (hereinafter the "*Division*") Local Finance Notice ("*LFN*") 2008-20, dated December 3, 2008, and LFN 2009-10, dated June 12, 2009, N.J.S.A. 40A:11-4.1 through 4.5, inclusive, of the Local Public Contracts Law, and/or other applicable law and through a competitive contracting request for proposal process (the "*Company RFP*"), shall have procured the services of one or more private renewable energy developers (collectively the "*Company*") to (a) design, acquire, construct, install, operate and maintain the Renewable Energy Projects and (b) design, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for certain designated Local Unit Facilities;

WHEREAS, pursuant to N.J.S.A. 40A:11-4.3a, in order to initiate a competitive contracting process and issue the Company RFP, the Authority must first adopt a resolution authorizing the use of competitive contracting; and

**WHEREAS**, in order to comply with N.J.S.A. 40A:11-4.3b, the Authority shall select a successful respondent from the Company RFP process through the adoption of a resolution by the Authority.

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The Chair of the Authority, the Vice-Chair of the Authority, the Treasurer of the Authority, or their designee (each an "Authority Authorized Officer"), or at the direction of an Authority Authorized Officer, any of the Authority's consulting energy engineer, and/or the Authority's counsel and financial advisor for the Renewable Energy Program, (collectively, the "Consultants") are hereby severally authorized to (a) issue the Company RFP, individually or as more than one Company RFP, in substantially the form attached hereto as Exhibit A, with such changes thereto as an Authority Authorized Officer, each severally authorized to issue the Company RFP, shall in their sole discretion determine to be in the best interests of the Authority, the Local Units, the County of Sussex and the Renewable Energy Program, (b) post the notice of the Company RFP (Exhibit 1 to the Company RFP) and the Company RFP on the Authority website, and (c) from time to time issue any addenda to the Company RFP, if required desirable or convenient to conclude the selection process, all in such form and with such terms and conditions that any such Authority Authorized Officer shall determine, in their sole discretion, after consultation with the Consultants, to be compliant with the Act, N.J.S.A. 19:44A-20.1 et seq., and other applicable law and otherwise in the best interests of Authority, the County of Sussex and/or the Local Units in the development and implementation of the Renewable Energy Program, which posting shall state, at a minimum, that copies of Company RFP are available from the Authority upon written request.

**Section 2.** Upon receipt of the responsive proposals to the Company RFP (the "Company Proposals"), one or more of the Authority Authorized Officers and its Consultants along with the County shall review the Company Proposals on the basis of the Evaluation Criteria as defined and set forth in the Section 6.2 of the Company RFP.

**Section 3.** Prior to making a recommendation to the governing body of the Authority and the County as to the selection of a Company Proposal that would be the most beneficial to the development and implementation of the Renewable Energy Program, the Authority, the County of Sussex and the Local Units (the "Company RFP Successful Respondent") the Authority shall cause the preparation of a report evaluating and recommending the award of a contract or contracts pursuant to N.J.S.A. 40A:11-4.5d.

**Section 4.** The award of the Company RFP to the Company RFP Successful Respondent shall be made by the governing body of the Authority and the County at a subsequent Authority and County, respectively, public meeting, unless otherwise delegated in a subsequent resolution of the Authority or the County.

**Section 5.** Each Authority Authorized Officer and at their direction, the Consultants, are hereby severally authorized to take such other actions as may be deemed, in their sole discretion, to be necessary, desirable or convenient in carrying out the intentions of this

resolution with respect to the Company RFP for the development and implementation of the Renewable Energy Program.

**Section 6.** All actions taken to date by the Authority, the Authorized Officers and the Consultants, with respect to the matters set forth in or contemplated by this resolution, are hereby ratified and approved.

**Section 7.** In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the County of Sussex Board of Freeholders and the County of Morris Board of Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Sussex County Clerk of the Board of Freeholders and the Morris County Clerk of the Board of Freeholders, a certification from the respective Clerks stating that the minutes of this meeting have not been vetoed by the respective Director of the Board of Freeholders.

Section 8: This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

**MOVED/SECONDED:**

Resolution moved by Commissioner Pinto.

Resolution seconded by Commissioner Roe.

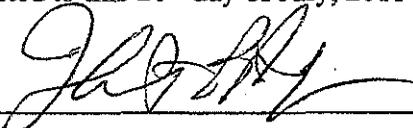
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez				X
Roe	X			
Sandman				X
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on July 20, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

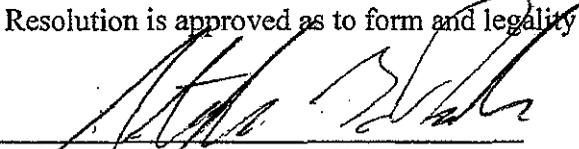
Attested to this 20<sup>th</sup> day of July, 2011

By: 

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of July 20, 2011

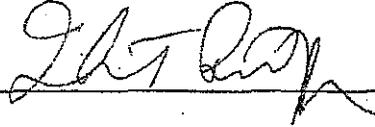
By: 

Stephen B. Pearlman, Esq., Partner  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Counsel to the Authority

CERTIFICATION

I, Frank T. Pinto, Jr., Secretary of the Morris County Improvement Authority hereby certify that the foregoing **RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS PURSUANT TO THE LOCAL PUBLIC CONTRACTS LAW N.J.S.A. 40A:11-4.1(k) IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX RENEWABLE ENERGY PROGRAM** is a true copy of a resolution adopted by the governing body of the Authority on July 20, 2011.

MORRIS COUNTY IMPROVEMENT AUTHORITY

By:  \_\_\_\_\_

Dated: July 20, 2011

**Exhibit A**

Form of RFP  
See Closing Item 19c

**EXHIBIT B**

**[Attach OSC Approval]**

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**From:** McKeon, Karen [Karen.McKeon@OSC.state.nj.us]  
**Sent:** Tuesday, August 23, 2011 11:00 AM  
**To:** Deborah S. Verderame  
**Subject:** RE: Morris County Improvement Authority

Debbie,

Our office has completed its review of the Morris County Improvement Authority's procurement of a Photovoltaic Systems Developer with respect to certain local government facilities in the County of Sussex (OSC Contract No. 7) and the RFP is approved for advertisement.

Please forward a copy of the signed, executed contract to my attention twenty business days after it is awarded. Thank you.

Karen

**Karen McKeon**  
Staff Attorney  
Office of the State Comptroller  
P.O. Box 024  
Trenton, NJ 08625  
(609) 633-2189  
(609) 292-2017 Fax  
[karen.mckeon@osc.state.nj.us](mailto:karen.mckeon@osc.state.nj.us)

***CONFIDENTIALITY NOTICE***

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**EXHIBIT C**

**[Attach RFP]**

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**THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

**MORRIS COUNTY RENEWABLE ENERGY PROGRAM  
(County of Sussex Program),  
SERIES 2011**

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**REQUEST FOR PROPOSALS**

**For a Developer of Photovoltaic Systems with Respect to Certain Local  
Government Facilities in the County of Sussex, New Jersey**

**dated September 8, 2011**

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**THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
MORRIS COUNTY RENEWABLE ENERGY PROGRAM  
(COUNTY OF SUSSEX PROGRAM), SERIES 2011**

**REQUEST FOR PROPOSALS**

**For a Developer of Photovoltaic Systems with respect to certain Local Government  
Facilities in the County of Sussex, New Jersey  
Dated September 8, 2011**

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<sup>1</sup> Required if Proposal utilizes Authority Financing Option.  
[00016570-5]

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<sup>2</sup> Required if Proposal utilizes Company Financing Option.

<sup>3</sup> Provide EITHER (i) Form A-4 (Proposal Funds) or (ii) Form A-5 (Proposal Bond); found in Appendices D-A-4 or D-A-5, as applicable. See Section 7.2(a) of RFP.

<sup>4</sup> See prior footnote.

<sup>5</sup> Provided by Successful Bidder only. To be supplied upon award of Successful Bidder.

**EXHIBIT 1**

*to be posted on the Authority's website, and delivered to the Daily Record, the Star Ledger and the New Jersey Herald, the Authority's papers of record, for publication, all on September 8, 2011*

**NOTICE OF RFP**

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
MORRIS COUNTY RENEWABLE ENERGY PROGRAM (COUNTY OF SUSSEX  
PROGRAM), SERIES 2011**

---

**REQUEST FOR PROPOSALS**

**For a Developer of Photovoltaic Systems with Respect to Certain Local Government  
Facilities in the County of Sussex, New Jersey**

**Dated September 8, 2011**

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***IMPORTANT, RESPONDENTS MUST REGISTER.  
SEE BELOW FOR DETAILS.***

---

The Morris County Improvement Authority ("*Authority*") has issued a "Request for Proposals for a Developer of Photovoltaic Systems with respect to certain Local Government Facilities in the County of Sussex, New Jersey" dated September 8, 2011 (the "*RFP*"). Capitalized terms not defined in this Notice of RFP shall be defined as set forth in the RFP. The RFP was authorized for issuance pursuant to resolution of the Authority adopted by its governing body on July 20, 2011, a copy of which is attached in **Appendix A** to the RFP. The RFP may be downloaded from the Authority's website (<http://www.co.morris.nj.us/improvement/>), or a hard copy may be obtained from the Chairman of the Authority at the following address for a fee of fifty dollars (\$50.00):

The Morris County Improvement Authority  
Administration and Records Building  
10 Court Street  
P.O. Box 900  
Morristown, New Jersey 07963-0900  
Attention: John Bonanni, Chairman  
T: (973) 285-6047

F: (973) 285-5266  
[solarenergy@co.morris.nj.us](mailto:solarenergy@co.morris.nj.us)

Timely, complete and conforming responses (“*Proposals*”) submitted by photovoltaic development firms (“*Respondents*”) in response to the RFP shall be reviewed, evaluated and considered by the Authority and its consultants, with respect to the Municipal Series 2011 Local Units, pursuant to the competitive contracting provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-4.1(k)), with respect to the Board of Education Series 2011 Local Units, the Public Schools Contracts Law (N.J.S.A. 18A:18A-4.1(k)) of the State of New Jersey (the “*State*”), and on behalf of the County Series 2011 Local Unit, the State College Contracts Law (N.J.S.A. 18A:64-52 *et seq.*), all pursuant to (i) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services (“LFB Notice 2008-20”)*, (ii) the Board of Public Utilities protocol for measuring energy savings in PPA Agreements (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines, Dated February 20, 2009*), (iii) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements* (the “*LFB Notice 2009-10*”, and together with LFB Notice 2008-20, the “*Local Finance Board Notices*”) and applicable law. Proposals are also being solicited through, and the RFP is being issued in accordance with, a fair and open process pursuant to the State Pay to Play Law, N.J.S.A.19:44A-20.1 *et seq.*

Under the competitive contracting provisions of applicable law, the Authority is not bound to select the lowest responsible bidder, although the PPA Price, the elimination or minimization of the County Deficiency Amount, and as applicable, the provision of County Security to fund any such County Deficiency Amount, and the ability to perform the other Company Services, are each significant factors of the RFP. The Authority reserves the right to conduct interviews with any or all of the Respondents, prior to the award of a contract, for clarification of any response to the RFP. See Section 6.2 of the RFP for the Evaluation Criteria (defined in such Section) that shall serve as the basis for the contract award (see Section 6.3 of the RFP) pursuant to the RFP. The Respondent who receives the contract award from the Authority to provide the Company Services shall be known as the “*Successful Respondent*” or the “*Company*” for purposes of the RFP.

## ***REGISTRATION***

In order to be considered as the Successful Respondent and in order to access certain important information on the Authority’s website needed to prepare its Proposal, each Respondent must register with the Authority providing information pursuant to Section 2.3 of the RFP, including the following: (i) a statement that such Respondent intends to submit a Proposal, and (ii) providing the name of its contact person (the “*Respondent Contact Person*”) and contact information (**name, company, address, phone, cell, fax, and e-mail address**) for any and all communication with the Respondent during the RFP timeframe. Any changes to any information in the RFP, including any future addenda amending or supplementing any terms, shall be both posted on the Authority’s website (<http://www.co.morris.nj.us/improvement/>) and issued, via fax or e-mail, to the Respondent Contact Person. Registration should occur

immediately upon downloading the RFP from the website or otherwise receiving a copy of the RFP from the Authority. Registration should be made by e-mailing the required information in clauses (i) and (ii) above to John Bonanni at [solarenergy@co.morris.nj.us](mailto:solarenergy@co.morris.nj.us) and/or mailing a copy to John Bonanni at the address referenced above. Please reference MCIA/Sussex Solar Program.

One original and nine (9) copies of a fully authorized, completed (in accordance with the terms of this RFP, including Section 7.1 thereof), executed and sealed (either opaque envelopes or boxes may be used if necessary or desirable, so long as the Respondent and RFP are clearly marked on the outside) Proposal are due from Respondents by 1:00 p.m., Eastern time, October 13, 2011 (time is of the essence), to be delivered to John Eskilson, the Sussex County Administrator, at the address set forth earlier in this Notice of RFP. See Section 5.4 of the RFP for additional requirements regarding the submission of the Proposal and actions to occur on the Due Date, including Section 5.4(j) of the RFP regarding the option for submitting an additional redacted version of the Proposal under OPRA, if applicable. Should there be any conflict in terms between the Notice of RFP and the RFP, the provisions of the RFP shall control.

All comments and questions concerning any facet of the RFP, including the corresponding procedures and requirements, must be addressed in writing, at the time established in the Proposed Schedule for the Series 2011 Program set forth in **Exhibit 3** to the RFP:

(i) If via hard copy, to John Eskilson, the Sussex County Administrator, at the address set forth earlier in this Notice of RFP;

(ii) If via e-mail, to Deborah S. Verderame, Esq. of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Counsel for the Authority: [dverderame@iandplaw.com](mailto:dverderame@iandplaw.com).

A Pre-Proposal Submission Meeting shall be held for the benefit of all potential Respondents by the Authority and its consultants in the Freeholder Meeting Room, 1<sup>st</sup> Floor, Sussex County Administrative Center, One Spring Street, Newton, New Jersey, at 10:00 a.m. on September 13, 2011. Please see Section 2.3 of the RFP for registration. Potential Respondents are **STRONGLY** encouraged to take part in the Pre-Proposal Submission Meeting. The Authority is considering allowing Respondents to participate in the Pre-Proposal Submission Meeting via teleconference and information concerning this option will be provided to Respondents at the time they register pursuant to Section 2.3 of the RFP. Respondents are also encouraged to have, at a minimum, the persons responsible for coordinating the financing and technical components of any Proposal in attendance at the Pre-Proposal Submission Meeting.

Potential Respondents who, prior to each site tour, shall have sent a list of attendees to the Authority, via e-mail to John Bonanni at [solarenergy@co.morris.nj.us](mailto:solarenergy@co.morris.nj.us) and Jessica Vogel, CBCP, Birdsall Services Group at [jvogel@birdsall.com](mailto:jvogel@birdsall.com), shall have an opportunity to inspect the Local Unit Facilities for the Series 2011 Local Units, upon or in which the Program Renewable Energy Projects are to be developed, at the dates and times set forth in the RFP.

The Authority reserves the right to reject specific Proposals if not submitted by the time, date, and manner and at the place designated in the RFP, or if not completed in conformance with the terms of the RFP. The Authority further reserves the right to waive any defects in specific Proposals that the Authority, in its sole discretion and in accordance with law, determines to be immaterial to the purposes of the Authority, the County, the Series 2011 Local Units and/or the Series 2011 Program. The Authority further reserves the right to reject all Proposals or otherwise take such action that the Authority, in its sole discretion and in accordance with law, shall determine to be in the best interests of the Authority, the County, the Series 2011 Local Units and/or the Series 2011 Program. The Authority anticipates that due to Local Finance Board Notices, it is possible the Authority will reject all Proposals should the PPA purchase price for electricity submitted in each Proposal be in excess of the existing delivered cost of electrical power from the Local Distribution Companies, which in the case of the Local Unit Facilities for the Lafayette Township Board of Education, is the Sussex Rural Electric Cooperative, and in the case of the Local Unit Facilities for the other Series 2011 Local Units, is the Jersey Central Power & Light Company.

Each submitted Proposal, without any further act, shall be deemed to be the property of the Authority, and shall be submitted and if applicable, presented, at the cost and expense of the Respondent, without reimbursement for any portion thereof from the Authority. Respondents shall comply with the requirements of P.L. 1975, c.127 (N.J.A.C. 17:27 *et seq.*). See Section 7.5 of the RFP.

This Notice of RFP has been issued and posted on the Authority's website by order of John Bonanni, Chairman, Morris County Improvement Authority, this 8<sup>th</sup> day of September, 2011, all pursuant to an authorizing resolution of the Authority adopted July 20, 2011.

**EXHIBIT 2  
RESPONDENT CHECK-LIST**

Pursuant to Section 7.1 of the RFP, the following is a check-list of all items that each Respondent must submit with their Proposal (except as set forth below) in order for their Proposal to be reviewed, considered, and reported on by or on behalf of the Authority in accordance with the provisions of the RFP. Capitalized terms not defined in this check-list shall be as defined in the RFP.

(1) The following documents shall be considered mandatory items that shall be submitted as part of the Proposal, and failure to submit any one or more of the following shall be automatically deemed by the Authority to be a fatal defect in the Proposal, which fatal defect cannot be cured, and the Proposal shall be rejected as unresponsive to the RFP.

**CHECK**

- (a) Forms A-1-a<sup>6</sup> and/or A-1-b<sup>7</sup> ..... ( )
- (b) Forms A-2 and A-3<sup>8</sup> ..... ( )
- (c) Forms A-4 **OR** A-5<sup>9</sup> ..... ( )
- (d) Forms A-6 through A-11<sup>10</sup> ..... ( )
- (e) Construction Consent of Surety<sup>11</sup> ..... ( )

(2) The following documents shall be considered mandatory items that shall be submitted prior to any award to the Successful Respondent pursuant to Section 6.3(a) of the RFP, but not later than the date of award (and, therefore, may or may not be submitted at the time of the Proposal, which, if submitted after the original Proposal, shall nonetheless be deemed part of the Proposal, so long as received prior to any award pursuant to Section 6.3(a) of the RFP; see also conditional award under Section 6.5 of the RFP), and failure to ultimately submit any one or more of the following may be deemed by the Authority to be a fatal defect in the Proposal (even if submitted after the original Proposal), which if determined to be a fatal defect that cannot be cured, the Proposal shall be rejected as unresponsive to the RFP.

**CHECK**

- (a) Notice of Classification ..... ( )
- (b) Total Amount of Uncompleted Contracts Form DPMC701 ..... ( )
- (c) Public Works Contractor Certificate ..... ( )
- (d) Evidence of County Security ..... ( )
- (e) Business Registration Certificate (*RFP Section 7.6(b)*) ..... ( )

<sup>6</sup> Use for Authority Financing Option; found in Appendix D-A-1-a. See Sections 1.2, 1.3, and 1.4 of RFP. If multiple Proposals are being submitted, use this Form for each Proposal utilizing the Authority Financing Option.

<sup>7</sup> Use for Company Financing Option; found in Appendix D-A-1-b. See Sections 1.2, 1.5, and 1.6 of RFP. If multiple Proposals are being submitted, use this Form for each Proposal utilizing the Company Financing Option.

<sup>8</sup> Found in Appendices D-A-2 and D-A-3.

<sup>9</sup> Provide EITHER (i) Form A-4 (Proposal Funds) or (ii) Form A-5 (Proposal Bond); found in Appendices D-A-4 or D-A-5, as applicable. See Section 7.2(a) of RFP.

<sup>10</sup> Found in Appendices D-A-6 through D-A-11, inclusive.

<sup>11</sup> See Section 7.2(b) of RFP

(3) If and to the extent the Respondent determines to make an Equity Contribution (RFP Section 1.3(c)), the submission of **ONE** of the following shall be considered a mandatory item that shall be submitted as part of the Proposal, or else the Authority shall deem the Respondent as not having exercised its option to provide an Equity Contribution.

(a) Equity Contribution Cash Commitment (*RFP Section 1.3(c)(i)*) .....(  )

OR

(b) Equity Contribution Consent of Surety (*RFP Section 1.3(c)(ii)*) .....(  )

(4) The submission of **ONE** of the following forms of evidencing the provision of Reimbursement Collateral, as County Security to fund the County Deficiency Amount (unless eliminated) shall be considered a mandatory item that shall be submitted as part of the Proposal, or failing that, by November 1, 2011. See Section 1.3(g)(xix) for the effect of the insufficiency of the items provided, or the failure to provide any such items on a timely basis.

(a) County Security Cash Commitment (*RFP Section 1.3(g)(xix)(B)*) .....(  )

OR

(b) County Security Consent of Surety (*RFP Section 1.3(g)(xix)(C)*) .....(  )

(5) If and to the extent the Respondent exercises the Restoration Security option (RFP Section 7.2(c)), the submission of **ONE** of the following shall be considered a mandatory item that shall be submitted as part of the Proposal, or else the Authority shall deem the Respondent as not having exercised its option to provide Restoration Security.

(a) Restoration Security Cash Commitment (*RFP Section 7.2(c)(iii)(A)*) .(  )

OR

(b) Restoration Security Consent of Surety (*RFP Section 7.2(c)(iii)(B)*)...(  )

(6) Please note that **ONLY** the Successful Respondent will be required to submit Form A-12 found in **Appendix D-A-12**.

As the Authority's goal is to ensure the greatest number of complete Proposals for review, consideration and reporting, notwithstanding any provision in the RFP to the contrary, registered Respondents should submit questions, in writing, to Deborah S. Verderame, Esq., of Inglesino, Pearlman, Wyciskala & Taylor, LLC, at [dverderame@iandplaw.com](mailto:dverderame@iandplaw.com) with respect to this check-list, and the necessary documents to be submitted in connection with any such Respondent's Proposal. The Authority and its consultants will not answer any question that

would in any way prejudice one Respondent over another. To the extent any such question has general relevance, the Authority will report the question with the appropriate response to all Respondent Contact Persons.

**EXHIBIT 3**

**PROPOSED SCHEDULE FOR SERIES 2011 PROGRAM**

1. Package to County of Sussex with Section 56 Resolution and Guaranty Ordinance .....July 1, 2011
2. Submit RFP to Office of State Comptroller commencing 30 day period .....July 8, 2011
3. Birdsall/Gabel to finish site work and complete list of local units .....July 13, 2011
4. Morris County to adopt Section 56 Resolution.....July 13, 2011
5. Authority Board Meeting regarding adoption of resolution authorizing issuance of RFP to obtain a Successful Respondent and LFB Authorizing Resolution .....July 20, 2011
6. LFB Application Due.....July 20, 2011
7. County of Sussex to adopt Section 56 Resolution as a beneficiary County and first reading on Guaranty Ordinance .....July 27, 2011
8. Sussex County to finally adopt Guaranty Ordinance ..... August 10, 2011
9. LFB Hearing ..... August 10, 2011
10. Issue RFP for Solar Provider and post Notice of RFP..... September 8, 2011
11. Post Draft Program Documents, including PPA on MCIA website ..... September 8, 2011
12. Hold Respondent RFP Meeting .....September 13, 2011
13. All Local Unit Facilities open, 8 a.m. – 3 p.m.,..... September 13 to September 19, 2011
14. Written Questions from Respondents Due ..... September 23, 2011
15. Authority Responses to Respondent Questions are posted..... September 29, 2011
16. Respondent Proposals Due .....October 13, 2011
17. Authority reserved dates for interviews with all qualified Respondents ..... October 19 and 20, 2011
18. Authority consults with Series 2011 Local Units on PPA price and proposed Successful Respondent.....October 27, 2011

19. Authority Meeting to award Successful Respondent and authorize final forms of Program Documents.....November 2, 2011
20. Authority Completes Competitive Contracting Report and publish on Authority web-site .....November 7, 2011
21. County Meeting to adopt Section 56 Resolution for County Security Agreement, if necessary, and approve Successful Respondent .....November 9, 2011
22. Clarify all final terms of PPA and Company Lease Agreement with Company; Series 2011 Local Units to have approved Local Unit License Agreement .....by November 11, 2011
23. Mail Preliminary Official Statement for Series 2011 Bonds.....November 21, 2011
24. Sell Series 2011A Bonds; Execute final OS, Accept Bid.....November 29, 2011
25. Pre-Close Series 2011A Bonds..... December 13, 2011
26. Close Series 2011A Bonds..... December 14, 2011
27. Renewable Energy Projects Installation  
(RFP **Appendix C**, Sections 1.6, 6.27(C))..... by December 14, 2012

## ARTICLE I

### INTRODUCTION, OVERVIEW, FINANCING OPTIONS AND DEFINITIONS

#### Section 1.1 Introduction and Overview.

(a) The Program. The Morris County Improvement Authority (the “*Authority*”), in combination with and for the County of Sussex, New Jersey (the “*County*”), has created its “Sussex County Renewable Energy Program” (the “*Program*”). The Program seeks to develop photovoltaic and other renewable energy systems (including any related electrical modifications, the maintenance of existing warranties and other work necessary, desirable or convenient for the installation of such systems, the “*Renewable Energy Projects*”) for certain local government buildings, parking canopy and other structures, and lands (the “*Local Unit Facilities*”) owned or controlled by local governments within and including the County (the “*Local Units*”).

The Program shall be implemented over time, developing Renewable Energy Projects for the Local Unit Facilities of a limited group of Local Units participating in each segment or tranche of the Program. From time to time, the Program may also fund certain capital improvement projects for one or more Local Units (the “*Capital Improvement Projects*”, and together with the Renewable Energy Projects, the “*Projects*”) participating in any such tranche of the Program.

On February 18, 2010, the Authority financed approximately 3.2 MW of photovoltaic and related system Renewable Energy Projects for seven (7) Local Units at fifteen (15) Local Unit Facilities (the “*Series 2010 Program*”). The Authority is currently undertaking a second tranche of its Renewable Energy Program for Morris County (the “*Morris County Series 2011 Program*”). The Series 2010 Program and the Morris County Series 2011 Program are unrelated to the hereinafter defined Series 2011 Program, which is the subject of this RFP (as hereinafter defined).

(b) The Series 2011 Program; the Series 2011 Local Units.

The 2011 tranche of the Program (the “*Series 2011 Program*”) consists of developing photovoltaic and related system Renewable Energy Projects (there are no Capital Improvement Projects in the Series 2011 Program) for the following fourteen (14) Local Units (the “*Series 2011 Local Units*”):

*Fredon Township, Town of Newton, Byram Township School District, Frankford Township Consolidated Schools, Franklin Borough Board of Education, Green Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Regional Board of Education,*

*Newton Board of Education, Sussex County Technical School and County of Sussex.*

(c) The Renewable Energy Projects. The Series 2011 Program shall develop photovoltaic and related system Renewable Energy Projects at the following eighteen (18) Local Unit Facilities for the fourteen (14) Series 2011 Local Units (see (i)(A) – (C) below), which include any related electrical modifications, the maintenance of existing warranties and other work necessary, desirable or convenient for the installation of such systems, all as more particularly described in **Appendix B-1** to this RFP. **Appendix B-1** to this RFP includes the Conceptual Site Plans designating the specific portion of the Local Unit Facilities where Renewable Energy Projects can be located, which plans have been based upon a preliminary feasibility assessment performed by the Authority's energy engineering consultants to identify the technical potential for each of the Renewable Energy Projects. Further, based upon this assessment, the Authority estimates these Renewable Energy Projects shall produce, in the aggregate, approximately 6.882 MW of electricity. The Authority understands that detailed site review and proposed Renewable Energy Project designs by or on behalf of Respondents (as hereinafter defined), including assessment of roof and building conditions, panel selection, shading analysis, etc., may change the final Renewable Energy Project scope and the kW capacities indicated below at any of these Local Unit Facilities. As the Successful Respondent (as hereinafter defined) is required to maintain existing roof warranties for roof type Renewable Energy Projects, **Appendix B-1** to this RFP also includes the applicable roof warranty information obtained by or on behalf of the Authority from the Local Units. Note that the costs for Renewable Energy Projects submitted by the Successful Respondent shall be firm when submitted in Section B3(a)(i) of Form A-1 (as defined herein) of the Proposal, and shall be incorporated into the Program Documents. Accordingly, the Successful Respondent bears the total risk of actual costs increasing from the time of the submission of their Proposal, and stands to gain the entire benefit from costs decreasing during such timeframe.

(i) The following sets forth the list of Local Unit Facilities for the Series 2011 Local Units:

**EXHIBIT A**

**Morris County Improvement Authority**

not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

a. **Series 2011 Municipal Local Units**

1. *Fredon Township (<http://www.twp.rfredon.nj.us>)*

Civic Center (Roof, 61.18 kw)  
436 Route 64  
Fredon, NJ

2. *Town of Newton (<http://www.newtontownhall.com/>)*

Wastewater Treatment Plant (Ground, 109.48 kw)  
Moran Street  
Newton, NJ

Department of Public Works (Roof, 73.37 kw)  
Moran Street  
Newton, NJ

**b. Series 2011 Board of Education Local Units**

1. *Byram Township Board of Education (<http://www.byramschools.org>)*

Byram Lakes Elementary School (Roof, 38.41 Kw, Canopy, 455.4 kw)  
11 Mansfield Drive  
Stanhope, NJ

2. *Frankford Township Board of Education (<http://www.frankfordschool.org>)*

Frankford Township School (Ground 309.12 kw)  
2 Pines Rd  
Branchville, NJ

3. *Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*

Franklin Elementary School (Roof 123.05 kw, Canopy 103.5 kw)  
50 Washington Avenue  
Franklin, NJ

4. *Green Township Board of Education (<http://greenhills.org>)*

Green Hills School (Roof 157.09 kw)  
69 Mackerly Rd  
Greendell, NJ

5. *Hardyston School District Board of Education* (<http://www.htps.org>)

Hardyston Middle School (Ground 611.8 kw)  
183 Wheatsworth Rd  
Hamburg, NJ

6. *High Point Regional School District Board of Education* (<http://www.hpregional.org>)

High Point Regional High School (Roof 453.33 kw)  
299 Pidgeon Hill Rd  
Sussex, NJ

7. *Kittatinny Regional School District Board of Education* (<http://www.krhs.net>)

Kittatinny Regional High School (Roof 186.99 kw, Canopy 172.5 kw)  
77 Halsey Rd  
Newton, NJ

8. *Lafayette Township School District Board of Education*  
(<http://www.ltes.org>)

Lafayette Township School (Roof 48.76 kw, Ground 206.08 kw)  
178 Beaver Run Rd  
Lafayette, NJ

9. *Lenape Valley Regional Board of Education* (<http://lvhs.org/>)

Lenape Valley Regional High School (Canopy, 393.3 kw, Ground 774.64 kw)  
28 Sparta Road  
Stanhope, NJ

10. *Newton Public Schools Board of Education* (<http://www.newtonnj.org>)

Merriam Avenue School (Canopy, 241.5 kw, Roof 104.65 kw)  
81 Merriam Ave  
Newton, NJ

Newton High School (Roof, 222.41 kw, Canopy, 124.2 kw)  
44 Ryerson Ave  
Newton, NJ

c. **Series 2011 County Local Units**

1. *Sussex County Technical School* (<http://www.sussex.tec.nj.us/>)

Sussex County Technical School (Roof, 112.24 kw, Canopy, 289.8 kw, Ground, 792.12 kw)  
105 North Church Road  
Sparta, NJ

2. *County of Sussex* (<http://www.sussex.nj.us>)

Main Library (Ground, 100.28 kw)

125 Morris Turnpike  
Newton, NJ

Sussex County Judicial Center Parking Deck (Canopy, 468.05 kw)  
43 High Street  
Newton, NJ

Wheatsworth Facility (Ground, 149.04 kw)  
201 Wheatsworth Rd  
Hamburg, NJ

(d) The RFP. As part of the Series 2011 Program, the Authority has issued this “Request for Proposals for a Developer of Photovoltaic Systems with respect to certain Local Government Facilities in the County of Sussex, New Jersey” dated September 8, 2011 (including any addenda issued by the Authority that would amend or supplement this document, the “RFP”). The RFP was authorized for issuance pursuant to resolution of the Authority adopted by its governing body on July 20, 2011, a copy of which is attached in **Appendix A** to this RFP.

(e) Proposals. Photovoltaic development firms (“Respondents”) interested in (i) performing the various Company Services (as hereinafter defined) for the Authority and the Series 2011 Local Units outlined in this RFP, and other obligations, and (ii) enjoying the benefits and other rights, all as detailed in the Company Documents (as hereinafter defined) to be authorized, executed or acknowledged, as applicable, and delivered by the Successful Respondent, may submit one or more written proposals (each a “Proposal”) to the Authority no later than the deadline, and within the various requirements and parameters set forth in this RFP.

(f) Review and Evaluation of Proposals. Timely, complete and conforming Proposals submitted by Respondents in response to this RFP shall be reviewed, evaluated and considered by the Authority and its consultants, with respect to the Municipal Series 2011 Local Units, pursuant to the competitive contracting provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-4.1(k)), with respect to the Board of Education Series 2011 Local Units, the Public Schools Contracts Law (N.J.S.A. 18A:18A-4.1(k)) of the State of New Jersey (the “State”), and on behalf of the County Series 2011 Local Unit, the State College Contracts Law (N.J.S.A. 18A:64-52 *et seq.*), all pursuant to (i) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (ii) the Board of Public Utilities (“BPU”) protocol for measuring energy savings in power purchase agreements (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines, Dated February 20, 2009*), (iii) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements* (the “LFB Notice 2009-10”, and together with LFB Notice 2008-20, the “Local Finance Board Notices”) and applicable law. Proposals are also being solicited through, and this RFP is being issued in accordance with, a fair and open process pursuant to the State Pay to Play Law, N.J.S.A. 19:44A-20.1 *et seq.*

Under the competitive contracting provisions of applicable law, the Authority is not bound to select the lowest responsible bidder, although the PPA Price (as defined in Section 1.8(b) herein), the elimination or minimization of the County Deficiency Amount (as hereinafter defined), and as applicable, the provision of Reimbursement Collateral, as County Security (as such terms are hereinafter defined) to fund any such County Deficiency Amount, and the ability to perform the other Company Services, are each significant factors of this RFP. The Authority reserves the right to conduct interviews with any or all of the qualified Respondents, prior to any award of a contract(s), for clarification of any response to this RFP. See Section 6.2 of this RFP for the Evaluation Criteria (as defined in Section 1.8(b) herein) that shall serve as the basis (see Section 6.3 of this RFP) for the award pursuant to this RFP. The Respondent that shall receive the award by the Authority to provide the services required by this RFP (the “*Company Services*”), which Company Services shall be set forth in the Company Documents, shall be known as the “*Successful Respondent*” or the “*Company*” for purposes of this RFP.

(g) Registration of Respondents Required. In order to be considered as the Successful Respondent and in order to access certain important information on the Authority’s website needed to prepare its Proposal, each Respondent must register with the Authority providing information pursuant to Section 2.3 of this RFP, including the following: (i) a statement that such Respondent intends to submit a Proposal, and (ii) providing its Respondent Contact Person (as defined in Section 1.8(b) herein) and contact information (**name, company, address, phone, cell, fax, and e-mail address**) for any and all communication with the Respondent during this RFP timeframe. Any changes to any information in this RFP, including any future addenda amending or supplementing any terms, shall be both posted on the Authority’s website (<http://www.co.morris.nj.us/improvement/>) and issued, via fax or e-mail, to the Respondent Contact Person. Registration should occur immediately upon downloading this RFP from the website or otherwise receiving a copy of this RFP from the Authority or otherwise. Registration should be made by e-mailing the required information in clauses (i) and (ii) above to John Bonanni at [solarenergy@co.morris.nj.us](mailto:solarenergy@co.morris.nj.us) and/or mailing a copy to John Eskilson at the address referenced in subsection (h) below. Please reference MCLIA/Sussex Solar Program.

(h) Copies and Due Date of Proposals.

(i) One original and nine (9) copies of a fully authorized, completed, executed and sealed (boxes may be used if necessary or desirable, so long as the Respondent and RFP are clearly marked on the outside) Proposal are due from Respondents by 1:00 p.m., Eastern time (time is of the essence), on the Due Date (as defined in Section 1.8(b) hereof), to be delivered to the following address:

(i) The Morris County Improvement Authority Energy Program  
c/o Sussex County, New Jersey  
Sussex County Administrative Center  
One Spring Street

Newton, New Jersey 07860  
Attention: John H. Eskilson, County Administrator

(ii) See Section 5.4 of this RFP for additional requirements regarding the submission of the Proposal and actions to occur on the Due Date, including subsection (j) of Section 5.4 regarding the option for submitting an additional redacted version of the Proposal under OPRA (as hereinafter defined), if applicable.

(i) Comments and Questions. All comments and questions concerning any facet of this RFP, including the corresponding procedures and requirements for submitting the Proposal, must be addressed in writing, no later than the time established in the Proposed Schedule for the Series 2011 Program set forth in **Exhibit 3** to this RFP,

(i) if via hard copy, to the following address:

The Morris County Improvement Authority Energy Program  
c/o Sussex County, New Jersey  
Sussex County Administrative Center  
One Spring Street  
Newton, New Jersey 07860  
Attention: John H. Eskilson, County Administrator; or

(ii) If via e-mail, to Deborah S. Verderame, Esq., of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Counsel for the Authority: [dverderame@iandplaw.com](mailto:dverderame@iandplaw.com).

(j) Site-Tours. Potential Respondents shall have an opportunity to inspect the Local Unit Facilities for the Series 2011 Local Units, upon or in which the Projects are to be developed, at the dates and times, and upon the conditions, all as set forth in Section 3.3 of this RFP.

(k) Rejection: Waiver. The Authority reserves the right to reject any Proposals that are not submitted by the time, date, and manner and at the place designated in this RFP, or if not completed in conformance with the terms of this RFP. The Authority further reserves the right to waive any defects in specific Proposals that the Authority, in its sole discretion and in accordance with applicable law, determines to be immaterial to the purposes of the Authority, the County, the Series 2011 Local Units and/or the Series 2011 Program. The Authority further reserves the right to reject all Proposals or otherwise take such action that the Authority, in its sole discretion and in accordance with law, shall determine to be in the best interests of the Authority, the County, the Series 2011 Local Units and/or the Series 2011 Program. The Authority anticipates that due to the Local Finance Board Notices, the Authority would likely reject all Proposals should the PPA purchase price for electricity submitted in each Proposal be in excess of the existing delivered cost of electrical power from the local electric

utility distribution companies, which in the case of the Local Unit Facilities for the Lafayette Township Board of Education, is the Sussex Rural Electric Cooperative, and in the case of the Local Unit Facilities for the other Series 2011 Local Units, is the Jersey Central Power & Light Company.

(l) Proposals are Property of the Authority; OPRA.

(i) Each Proposal, without any further act, shall be deemed to be the property of the Authority, and shall be prepared, reviewed, finalized, submitted and if applicable, presented, at the sole cost and expense of the Respondent, without payment or reimbursement for any portion thereof by or on behalf of the Authority.

(ii) Each Respondent, by submitting its Proposal and without any further act, acknowledges that the Proposal, now a public document owned by the Authority, is subject to review by the general public under the Open Public Records Act, constituting Chapter 73 of the Pamphlet Laws of 1963 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 47:1A-1 *et seq.*, "OPRA").

(iii) To the extent the Respondent desires to claim that a portion of its Proposal constitutes trade secrets and proprietary commercial or financial information that is expressly precluded from public disclosure pursuant to N.J.S.A. 47:1A-1.1 of OPRA or such other applicable exception to OPRA, and therefore such portion should be withheld from public disclosure, such Respondent must comply with the provisions of Section 5.4(j) of this RFP.

**Section 1.2 Financing Options.**

(a) In determining the PPA Price and other requirements of the Proposal, including the funding of the various Renewable Energy Projects, each Respondent may, at its option, utilize the Authority Financing Option, as defined in Section 1.3(e) of this RFP, and/or the Company Financing Option, as defined in Section 1.5(c) of this RFP.

(b) If the Respondent selects the Authority Financing Option, it must submit Form A-1-a, which is found in **Appendix D-A-1-a** to this RFP (and described in Section 4.1 of this RFP), as part of Exhibit A to be attached to the Respondent's Proposal.

(c) If the Respondent selects the Company Financing Option, it must submit Form A-1-b, which is also found in **Appendix D-A-1-b** to this RFP (and also described in Section 4.1 of this RFP), as part of Exhibit A to be attached to the Respondent's Proposal.

(d) If multiple alternative Proposals are to be submitted by a Respondent, they will need to submit as part of their Proposal (among other things), Form A-1-a, or Form A-1-b,

as applicable, for each Proposal alternative. Note that in accordance with Section 5.4(a)(iv) of this RFP, each Respondent may submit up to three (3) alternative Proposals using the Authority Financing Option, and up to one (1) Proposal using the Company Financing Option. Pursuant to Section 1.3(g)(xviii), Respondents submitting under both Option F-1 and Option F-2 are deemed to have submitted one (1) Proposal under the Authority Financing Option, and a second alternative Proposal under the Authority Financing Option. Finally, Respondents are encouraged, but not required, to submit a Proposal under each of the Authority Financing Option and the Company Financing Option.

### **Section 1.3 Authority Financing Option.**

(a) Each Respondent may submit a Proposal utilizing funds provided by the Authority through the issuance of the Authority's hereinafter defined Series 2011 Bonds to finance all or a portion of the following, all of which must be provided for if utilizing the Authority Financing Option, and all as shall be designated by the Respondent in its Proposal

(i) The cost of the Renewable Energy Projects for the Series 2011 Local Units (there are no Capital Improvement Projects for the Series 2011 Local Units), which cost shall be determined by the Respondent in their Proposal, within the parameters of this RFP, including Section 1.1(c) and **Appendix B-1** hereof;

(ii) The sum of the following amounts: (A) the costs incurred by or on behalf of the Authority, the County or the Series 2011 Local Units, including consultants, in developing the Series 2011 Program, (B) the cost of issuing the Series 2011 Bonds, including all first year administrative costs, and (C) construction management costs to be incurred by the Authority in overseeing the construction and implementation of the Renewable Energy Projects by the Successful Respondent (collectively and under the Authority Financing Option, the "*Project Development Costs*"), which Project Development Costs have been estimated at the time of this RFP by the Authority to total \$1,225,000, to be adjusted in accordance with Section 4.1(c)(iii)(B) of this RFP; and

(iii) Capitalized interest for one (1) year (i.e., two (2) semi-annual interest payments) on the Series 2011A Bonds (as hereinafter defined), to be funded through the issuance of the Series 2011B Note (as hereinafter defined) ("*Capitalized Interest*").

(b) The Respondent may also determine to finance reserves, its own soft costs, including development fees and that of its consultants, or other related amounts with the proceeds of a portion of the Series 2011A Bonds, so long as the Respondent provides for same in its Proposal (under the Authority Financing Option, the "*Company Development Costs*"). None of the Authority, the County or the Series 2011 Local Units are responsible for these Company Development Costs, which are the sole obligation of the Respondent, although the Authority

shall provide for Company Development Costs in its earmarking of Series 2011 Bond proceeds if requested by the Respondent in its Proposal and if permitted in accordance with subsection (d) below.

(c) Subject to subsection (d) below, the Respondent may, at its option, finance one hundred percent (100%) of the costs and expenses set forth in subsections (a) and, if applicable, (b) above (collectively, and under the Authority Financing Option, the “*Total Project Costs*”) through the issuance of the Authority’s Series 2011 Bonds, or such lesser amount as the Respondent shall determine. However, to the extent the Respondent determines to finance less than one hundred percent (100%) of the Total Project Costs through the issuance of the Series 2011 Bonds (either at Respondent’s option, or as a result of subsection (d) below), the Respondent shall provide an equity contribution (which can be in the form of a debt obligation incurred by or on behalf of the Respondent, so long as any equity stakeholders or debt obligees agree to subordinate their rights to be repaid to the Authority’s rights to receive Basic Lease Payments (as defined in Section 1.8(b) herein) under the Company Lease Agreement, as such terms are hereinafter defined, the “*Equity Contribution*”) to cover the balance of the Total Project Costs.

(i) If the Equity Contribution is cash to be provided upon the signing of the PPA or a covenant for the Company (or affiliate) to provide cash in the future, the Respondent must provide to the Authority at the time of submission of Respondent’s Proposal (the “*Equity Contribution Cash Commitment*”) (A) details regarding the source, timing and any conditions regarding the provision of the cash (e.g. on deposit in a bank account, or to come from Program Agreement revenues received over time), and (B) an irrevocable commitment to provide same, whereupon the Authority will determine the reasonableness and likelihood of receiving that cash.

(ii) If the Equity Contribution is some non-cash form of security from a third-party (even if that third-party, upon Company action or inaction, will provide cash, such as a letter of credit), (A) an irrevocable commitment letter to provide such security, along with (B) the material terms regarding the source, timing and any conditions for the provision of such security (collectively, the “*Equity Contribution Consent of Surety*”) from the source of the Equity Contribution must be provided to the Authority at the time of submission of Respondent’s Proposal.

(iii) If notwithstanding the Equity Contribution Cash Commitment or the Equity Contribution Consent of Surety, the Authority determines the plan for the funding of cash or other security to be unreasonable or unlikely to actually occur, or if no Equity Contribution Cash Commitment or Equity Contribution Consent of Surety, as applicable, is provided with the Proposal upon its submission, then the Authority will weight negatively the Respondent’s ability to fund the Equity Contribution. The Authority will allow

the Respondent to provide either the Equity Contribution Cash Commitment or Equity Contribution Consent of Surety, if not provided with the Proposal, no later than November 1, 2011. Any post-Proposal submission of the Equity Contribution Cash Commitment or Equity Contribution Consent of Surety runs the added risk of the Authority and its consultants not having sufficient review time to adequately determine the reasonableness or likelihood of the realization of the Equity Contribution proposed by the Respondent.

(d) Notwithstanding the provisions of subsection (c) above, due to constraints of applicable law, the Authority shall not issue the Series 2011 Bonds in an amount in excess of fifty million dollars (\$50,000,000).

(e) Utilizing the Series 2011 Bonds, and as applicable, other sources, to fund the costs and expenses set forth in this Section 1.3 of this RFP shall be known as the "*Authority Financing Option*".

(f) The Local Finance Board, Division of Local Government Services, State Department of Community Affairs (the "*Local Finance Board*") has taken all required official action to authorize the Authority Financing Option under the Series 2011 Program, including the issuance of the Series 2011 Bonds. This RFP has been approved by the Office of the State Comptroller for issuance, including the Authority Financing Option. The County has taken all official action required for it to participate in the Series 2011 Program, including the Authority Financing Option. The Authority has taken all official action, except for the adoption of the Bond Resolution, which action is scheduled for July 20, 2011, and except for the award of the Successful Respondent and the approval of the final terms of the Series 2011 Bonds, in order to implement the Series 2011 Program, including the Authority Financing Option. The Series 2011 Local Units have each adopted resolutions expressing their interest in participating in the Series 2011 Program, including the Authority Financing Option, and are scheduled to take final official action upon the Authority's award of the Successful Respondent to this RFP. The Authority anticipates that all of these remaining official actions shall occur, well within the timeframes for Series 2011A Bond closing established in the Proposed Schedule for the Series 2011 Program set forth in **Exhibit 3** to this RFP.

(g) The Authority Financing Option is structured as follows.

(i) Bond Resolution. Pursuant to the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the "*Act*"), including Sections 17-19 thereof (N.J.S.A. 40:37A-60, 61 and 62), and other applicable law, on September 20, 2011, the governing body of the Authority is scheduled to adopt its "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 (SUSSEX COUNTY PROGRAM) AND ADDITIONAL BONDS OF THE MORRIS COUNTY

IMPROVEMENT AUTHORITY”, as such resolution may be amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the “*Bond Resolution*”). The form of Bond Resolution is set forth in **Appendix A** to this RFP.

(ii) Series 2011 Bonds. The Bond Resolution shall authorize one or more series of bonds and notes entitled “County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series 2011 (County of Sussex Program) (Federally Taxable)” dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the “*Series 2011 Bonds*”). In accordance with the Proposed Schedule for the Series 2011 Program set forth in **Exhibit 3** to this RFP, the Authority anticipates issuing a series of Series 2011 Bonds (the “*Series 2011A Bonds*”) to fund all of the Total Project Costs, if under \$50,000,000, except for Capitalized Interest for the Series 2011A Bonds, on or about November 3, 2011. The Authority shall finance the Capitalized Interest for the Series 2011A Bonds in one or more series of Series 2011 Bonds (collectively, the “*Series 2011B Note*”) to be issued simultaneously with the Series 2011A Bonds, and prior to the respective semi-annual interest payment dates for the Series 2011A Bonds coming due on June 15, 2012 and December 15, 2012.

(iii) Company Lease Agreement. The principal of, redemption premium, if any, and interest on the Series 2011A Bonds shall be payable from Basic Lease Payments to be made by the Company (i.e., the Successful Respondent) under that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the Series 2011A Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor of the Renewable Energy Projects, and the Company, as lessee. The form of Company Lease Agreement is set forth in **Appendix A** to this RFP.

(iv) Basic Lease Payments – Series 2011A Bonds.

The principal of the Series 2011A Bonds shall be due each June 15, commencing June 15, 2013, through and including June 15, 2027. The interest on the Series 2011A Bonds shall be due and payable each June 15 and December 15, commencing June 15, 2012 through and including June 15, 2027, although the June 15 and December 15 interest payments on the Series 2011A Bonds payable in 2012 shall be paid from the Capitalized Interest provided from the principal of the Series 2011B Note. Basic Lease Payments to pay the

principal of and interest on the Series 2011A Bonds shall be due each January 15 and July 15, commencing January 15, 2013, through and including June 15, 2027. The Basic Lease Payments have been purposely established five (5) months' prior to the corresponding Series 2011A Bond principal and interest payment dates. The estimated Basic Lease Payments allocable to debt service on the Series 2011A Bonds is set forth in **Appendix E** to this RFP.

(v) Basic Lease Payment – Series 2011B Note.

The principal of and interest on the Series 2011B Note shall be due, in full, on the first Basic Lease Payment date, January 15, 2013. The estimated Basic Lease Payment allocable to debt service on the Series 2011B Note is also set forth in **Appendix E** to this RFP.

(vi) Additional Lease Payments. In addition to Basic Lease Payments, the Company is responsible for payment of certain Additional Lease Payments as defined under the Company Lease Agreement, which includes an Authority's Annual Administrative Fee (as defined in Section 1.8(b) herein). Any further administrative expenses incurred by or on behalf of the Authority during the term of the Company Lease Agreement, including the annual fees of the trustee (the "*Trustee*") for the Series 2011 Bonds (in an amount not to exceed \$5,000 per annum until the Series 2011 Bonds have been fully paid off), any late payment fees, or prepayment, through redemption or mandatory acceleration (due to a Company default) of the Series 2011 Bonds. The first year annual fee of \$20,000, along with a one-time Authority acceptance fee, shall be payable from a portion of the proceeds of the Series 2011A Bond issue and are included in the Project Development Costs.

(vii) County Guaranty. The Series 2011 Bonds shall also be secured by a full faith and credit guaranty (the "*County Guaranty*") of the County under Section 37 of the Act (N.J.S.A. 40:37A-80) and in accordance with the terms of that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011A Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*"). The form of County Guaranty Agreement is set forth in **Appendix A** to this RFP. As the County is presently rated AA(2), the Authority anticipates the Series 2011 Bonds shall be rated AAA. The Series 2011A Bonds shall be offered to the public through a public underwriting. The Authority anticipates that the Series 2011B Note shall be issued directly to, and held by, the County, for its under one (1) year term.

(viii) Company Continuing Disclosure Agreement. As a materially obligated person through its Basic Lease Payment obligation under the Company Lease Agreement in accordance with applicable Federal securities law, the Company shall be obligated to authorize, execute, and deliver with the Authority and the Trustee, as dissemination agent, that certain “Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the Series 2011A Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the “*Company Continuing Disclosure Agreement*”). The form of Company Continuing Disclosure Agreement is set forth in **Appendix A** to this RFP. The Company obligations under the Company Continuing Disclosure Agreement are expected to be contiguous in length with the final maturity of the Series 2011 Bonds, which is expected to be approximately the same as the fifteen (15) year PPA.

(ix) Principal Amortization and Interest Rates.

The principal amortization, and interest rates used in the Basic Lease Payment schedule set forth in **Appendix E** to this RFP is based upon a level principal amortization of \$50,000,000, the maximum Total Project Cost to be funded by the Authority under this RFP, and a total interest cost (“*TIC*”) of 5.00%. See Section 4.1(c)(iv) of this RFP, which allows the Respondent to amortize the principal of the Series 2011A Bonds (and therefore the Basic Lease Payment schedule allocable thereto) on an accelerated basis (i.e., sooner than a level principal payback). This TIC is approximately 50 basis points above current market conditions for the taxable Series 2011A Bonds in order to provide some hedge against rising interest rates from the date of this RFP through the anticipated sale date of the Series 2011A Bonds. Also see Article IV for the interest rate adjustment factor (up or down), post Proposal submission, for the PPA Price, which allows the Respondent to propose a PPA Price and be held harmless for movement in interest rates in the taxable municipal market from the date of Proposal submission until the Series 2011A Bonds are sold. The TIC for the Series 2011B Note shall be derived from the first maturity of the Series 2011A Bonds.

(x) Tax Structure. The Company Lease Agreement is structured as a conditional sale of the Renewable Energy Projects by the Authority, as State law owner, to the Company, as State law lessee, for Federal income tax purposes. Assuming conditional sale treatment under the Internal Revenue Code of 1986, as amended, including the regulations promulgated pursuant thereto (the “*Code*”), the Company may be entitled to the items in clauses (A) and (B) below, provided the Respondent should note the disclaimer in clause (C) below:

(A) Thirty percent (30%) investment tax credit (or Section 1603 grant in lieu thereof; see Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 as extended by *The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (H.R. 4853)* approved by Congress in December 2010 (i.e., the stimulus bill, “ARRA”, applicability of which to be determined by Company) and Section 4 of IRS Notice 2009-52, 2009-25 I.R.B. 1) (the “ITC”); and

(B) five (5) year accelerated depreciation for Renewable Energy Projects and other available benefits, if applicable (the “Accelerated Depreciation”).

**(C) BY REGISTERING FOR RECEIPT OF THIS RFP, AND WITHOUT ANY FURTHER ACT, EACH POTENTIAL AND ACTUAL RESPONDENT ACKNOWLEDGES THAT SUCH RESPONDENTS SHOULD CONSULT WITH, AND RELY UPON, THEIR OWN TAX ADVISORS IN CONNECTION WITH ALL FEDERAL AND STATE TAX MATTERS IN THIS RFP, INCLUDING THE INTERPRETATION OF THE COMPANY LEASE AGREEMENT AND ANY OTHER PROGRAM DOCUMENTS, AND THAT NONE OF THE AUTHORITY, THE COUNTY, THE SERIES 2011 LOCAL UNITS, NOR THEIR ADVISORS, ARE RENDERING ANY ADVICE OR OPINION IN CONNECTION WITH SUCH TAX MATTERS**

(xi) Local Unit License Agreements. Prior to the issuance of the Series 2011A Bonds, the Authority will have authorized, executed and delivered a “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the Series 2011A Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a “*Local Unit License Agreement*”, and collectively, the “*Local Unit License Agreements*”) with each Series 2011 Local Unit. Each Local Unit License Agreement shall be acknowledged by the Company. The form of the master Local Unit License Agreements is set forth in **Appendix A** to this RFP. The Local Unit License Agreement shall designate the location of the Local Unit Facilities and the Renewable Energy Projects, and allow the Authority and its designee through the Company Lease Agreement and the PPA (as hereinafter defined), the Company, on site to design, permit, acquire, construct, install, operate and maintain the respective Renewable Energy Projects for the Series 2011 Local Units.

(xii) PPA. Under the terms of the Company Lease Agreement and that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011A Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "PPA") between the Authority and the Company, the Company shall sell to the Authority the electricity generated by the respective Renewable Energy Projects at the PPA Price for the fifteen (15) year term allowed or permitted under applicable law. The form of the PPA is set forth in **Appendix A** to this RFP. The obligation to receive and utilize this electricity at the respective Local Unit Facilities, and to pay for same, is passed through to the respective Local Units from the Authority in accordance with the terms of the Local Unit License Agreements. Accordingly, under the terms of the Company Lease Agreement, the PPA, and the Local Unit License Agreements, the Company shall be entitled to:

- (A) Solar Renewable Energy Certificates ("SRECs") generated from the Renewable Energy Projects; and
- (B) The PPA Price payments made by the Series 2011 Local Units.

(xiii) End of Lease Term Options. At the end of the lease term under the Company Lease Agreement, the Company shall purchase the Renewable Energy Projects for nominal consideration. To the extent permitted by then applicable law, the Company has the option to extend the PPA with either the Authority and/or the applicable Series 2011 Local Units, to the extent the parties can agree upon a new PPA price for the balance of the useful life of the Renewable Energy Projects. Alternatively, such parties could agree to a fair market value sale of the Renewable Energy Projects from the Company to the Authority and/or the applicable Series 2011 Local Units. If terms cannot be reached for either option, the Company is responsible for both removing the Renewable Energy Projects and restoring the roofs or other applicable property to the condition that existed prior to the Local Unit License Agreements.

(xiv) Company Default. Under the terms of this RFP (see Section 7.2(a)) and the Company Lease Agreement, the Company is required to post a Construction Performance Bond (as defined in Section 1.8(b) herein) for the construction and installation of the Renewable Energy Projects. Should the Company default under its Basic Lease Payment obligations, the Authority anticipates that the County would be required to pay the principal of and interest on the Series 2011 Bonds pursuant to its County Guaranty. Although under this Company default scenario, the Company would have lost its rights with respect to the Renewable Energy Projects under the Company Documents, the Authority

anticipates that it would invoke the provisions of the Construction Performance Bond to complete the construction and installation of the Renewable Energy Projects. If, alternatively, the Renewable Energy Projects were already installed, or after completion of construction and installation of same to the extent the Construction Performance Bond were called upon, the Authority anticipates allowing the Series 2011 Local Units to continue receiving the benefit of their fifteen (15) year bargain under the terms of their respective Local Unit License Agreements (i.e., receive solar energy and pay for it at the PPA Price).

(xv) County Deficiency Amount. In a Company default scenario, the Authority would be entitled to all SREC and PPA revenues, less an amount necessary to hire a developer to operate and maintain the Renewable Energy Projects, and less any administrative costs of the Authority (such net revenue shall be known as the “*Default Revenues*”). Due to the unavailability to the Authority of all Federal tax benefits, the Authority anticipates that the amounts paid by the County under its County Guaranty would not be wholly offset by the Default Revenues. This difference shall be known as the “*County Deficiency Amount*”.

(xvi) Eliminate, Minimize, and/or Fund the County Deficiency Amount. Although in a Company default scenario the Authority may attempt to replace the defaulting Company with a substitute developer that might accept the same material terms under the Company Documents, the Authority and the County cannot rely on that occurrence. Accordingly, the Authority is requiring the Respondent to do any of the following, all of which are acceptable to the Authority, although the Authority’s preference is stated in the following order:

- (A) Eliminate the County Deficiency Amount;
- (B) Minimize the County Deficiency Amount; if it is not eliminated, then the Respondent must fund it; or
- (C) Fund the County Deficiency Amount.

(xvii) Reimbursement Collateral; County Security; County Security Agreement.

Funding the County Deficiency Amount can occur at closing upon issuance of the Series 2011A Bonds, over time through a covenant to fund, or some combination thereof. Funding at closing is preferable to the Authority. The provision of immediately available funds in the form of cash, an irrevocable letter of credit, or otherwise is preferable to the Authority. Other non-immediately available funding sources, such as Company parent guarantees, are acceptable at

the option of the Authority. The funding sources shall be known as the “*Reimbursement Collateral*”, as such amounts shall be earmarked to reimburse the County for any payments under the County Guaranty (the “*County Security*”). The Authority is not imposing a debt service coverage ratio on the Respondents, although greater coverage is preferable to the Authority over lesser coverage. Reimbursement Collateral received as County Security for the County Deficiency Amount shall be deposited with the Trustee in the County Security Fund created under the Bond Resolution (although not pledged to the Series 2011 Bondholders), and may be released over time, as established in the Proposal, if agreed to by the Authority, especially as the potential County Guaranty obligation reduces as the Series 2011 Bonds are repaid. It may be necessary for the Company to enter into an agreement (the “*County Security Agreement*”) concerning the Reimbursement Collateral as County Security, such as a letter of credit and reimbursement agreement with a third-party provider (the “*County Security Provider*”) of any such Reimbursement Collateral as County Security. Since the form of such Reimbursement Collateral is up to the Respondent, if required depending on the nature of the Proposal and the Reimbursement Collateral being offered, the Authority cannot impose a form of County Security Agreement to provide County Security. If the Respondent is required to execute a County Security Agreement in order to produce the Reimbursement Collateral as County Security, the form of the County Security Agreement is subject to the reasonable acceptance of the terms thereof by the Authority and the County, and a form of which must be included with the Proposal.

(xviii) Sizing the County Deficiency Amount. To the extent the Respondent is unable to eliminate the County Deficiency Amount, the Respondent must determine the size of the County Deficiency Amount to be funded using SREC amounts no greater than the minimum SREC values set forth in either Option F-1 or Option F-2 in **Appendix F** to this RFP. The option selected shall be considered the base case (using both options shall be considered the base case, plus the submission of an alternative Proposal – see Section 5.4(a)(iv) of this RFP for the maximum number of alternative Proposals the Authority is required to review). “*Option F-1*”, attached hereto in Appendix F, provides for a higher County Deficiency Amount, but allows for the release of excess funds in the County Security Fund as soon as the amount on deposit exceeds the remaining debt service obligations on the Outstanding Series 2011 Bonds (at 100% coverage, unless the Respondent offers a higher debt service coverage ratio in its Proposal). “*Option F-2*”, attached hereto in Appendix F, presumes the Respondent is sufficiently incentivized under the Code to avoid the recapture provisions during the initial five (5) year period. Therefore, although the initial County Deficiency Amount is lower under Option F-2, the amount in the County Security Fund does not release to the Company until after the noted recapture period. There are a number of adjustment factors set forth in **Appendix F** that will alter the Amount of the County Deficiency Amount, including without

limitation the par amount and amortization of the Series 2011 Bonds, the TIC on the Series 2011 Bonds, the PPA Price offered by Respondent, and even the SREC values, assuming Respondent desires to utilize more conservative SREC values than those set forth in **Appendix F**. The assumption of minimum SREC values for the calculation of the County Deficiency Amount shall have NO EFFECT on the Respondent's view of SRECs in determining its PPA Price, as this County Deficiency Amount calculation assumes the minimum SREC values for the sole purpose of providing security to the County, should it ever have to make payment under its County Guaranty.

(xix) County Security Cash Commitment; County Security Consent of Surety.

(A) If the County Deficiency Amount has not been eliminated, after calculating the County Deficiency Amount in clause (xviii) above, the Respondent is required to provide Reimbursement Collateral, as County Security for and in the amount of the County Deficiency Amount.

(B) If the Reimbursement Collateral, as County Security for and in the amount of the County Deficiency Amount is cash to be provided upon the signing of the PPA or a covenant for the Company (or affiliate) to provide cash in the future, the Respondent must provide to the Authority at the time of submission of Respondent's Proposal (the "*County Security Cash Commitment*") (I) details regarding the source, timing and any conditions regarding the provision of the cash (e.g. on deposit in a bank account, or to come from Program Agreement revenues received over time), and (II) an irrevocable commitment to provide same, whereupon the Authority will determine the reasonableness and likelihood of receiving that cash.

(C) If the Reimbursement Collateral, as County Security for and in the amount of the County Deficiency Amount is some non-cash form of security from a third-party (even if that third-party, upon Company action or inaction, will provide cash, such as a letter of credit), (I) an irrevocable commitment letter to provide such security, along with (II) the material terms regarding the source, timing and any conditions for the provision of such security (collectively, the "*County Security Consent of Surety*") from the County Security Provider to provide the funds or other security that comprises the Reimbursement Collateral must be provided to the Authority at the time of submission of Respondent's Proposal.

(D) If notwithstanding the County Security Cash Commitment or the County Security Consent of Surety, the Authority determines the plan for the funding of cash or other security to be unreasonable or unlikely to actually occur, or if no County Security Cash Commitment or County Security Consent of Surety, as applicable, is provided with the Proposal upon its submission, then the Authority will weight negatively the Respondent's ability to fund the County Deficiency Amount. The Authority will allow the Respondent to provide either the County Security Cash Commitment or County Security Consent of Surety, if not provided with the Proposal, no later than November 1, 2011. Any post-Proposal submission of the County Security Cash Commitment or County Security Consent of Surety runs the added risk of the Authority and its consultants not having sufficient review time to adequately determine the reasonableness or likelihood of the realization of the County Security proposed by the Respondent.

(xx) Company Pledge Agreement. In order to protect the County, the Authority shall require the Respondent and/or the owner of one hundred percent (100%) of the special purpose or other Respondent affiliated entity that shall become the Company to enter into that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011A Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the managing member (or equivalent in a non-limited liability company form of corporate governance) of the Company in favor of the Trustee, and acknowledged and accepted by the Company. The form of the Company Pledge Agreement is set forth in **Appendix A** to this RFP.

#### **Section 1.4 Company Services Under the Authority Financing Option.**

(a) The Company Services under the Authority Financing Option are set forth in the obligations of the Company under the Company Lease Agreement, the PPA, the Local Unit License Agreements, the Company Continuing Disclosure Agreement, the Company Pledge Agreement, and as applicable, the County Security Agreement (collectively, under the Authority Financing Option, the "*Company Documents*").

(b) The Company Documents, together with the Authority's Bond Resolution and the County Guaranty Agreement, shall be collectively referred to under the Authority Financing Option as the "*Program Documents*". The Successful Respondent shall be prepared

to exercise the rights, and perform all of the duties and obligations of the Company as set forth in the Program Documents.

### **Section 1.5 Company Financing Option.**

(a) Each Respondent may submit a Proposal utilizing funds provided by or on behalf of the Company. There are no Series 2011 Bonds to be issued by the Authority under the Company Financing Option. Funds provided by or on behalf of the Company, whether in the form of equity, mezzanine debt, senior and/or subordinated debt, and/or otherwise, shall, at a minimum, be sufficient to provide for the following, as shall be designated by the Respondent in its Proposal

(i) The cost of the Renewable Energy Projects for the Series 2011 Local Units (there are no Capital Improvement Projects for the Series 2011 Local Units), which cost shall be determined by the Respondent in their Proposal;

(ii) The sum of the following amounts: (A) the costs incurred by or on behalf of the Authority, the County or the Series 2011 Local Units, including consultants, in developing the Series 2011 Program, and (B) construction management costs to be incurred by or on behalf of the Authority in overseeing the construction and implementation of the Renewable Energy Projects by the Successful Respondent (collectively and under the Company Financing Option, the "*Project Development Costs*"), which Project Development Costs have been estimated at the time of this RFP by the Authority to total \$1,225,000, to be adjusted in accordance with Section 4.1(d) of this RFP. As there are no Series 2011 Bonds under the Company Financing Option, there is no costs of issuing the Series 2011 Bonds to be provided for under the Company Financing Option, resulting in a lower Project Development Cost; and

(iii) Similarly, there is no need to provide for capitalized interest under the Company Financing Option.

(b) The Respondent may also determine to finance reserves, its own soft costs, including development fees and that of its consultants, or such other amounts as it shall deem necessary, desirable or convenient in connection with the Series 2011 Program, regardless of whether the Respondent provides for same in its Proposal (the "*Company Development Costs*"). None of the Authority, the County or the Series 2011 Local Units is responsible for these Company Development Costs, which are the sole obligation of the Respondent.

(c) Utilizing equity and/or debt (or otherwise) provided by or on behalf of the Company to fund the costs and expenses set forth in this Section 1.5 of this RFP shall be known as the "*Company Financing Option*".

(d) This RFP has been approved by the Office of the State Comptroller for issuance, including the Company Financing Option. The County has taken all official action required for it to authorize the Series 2011 Program, including the Company Financing Option. The Authority has taken all official action for it to participate in the Series 2011 Program, including the Company Financing Option, except for the award of the Successful Respondent and the approval of the final terms of the Company Financing Documents in order to implement the Series 2011 Program, including the Company Financing Option. The Series 2011 Local Units have each adopted resolutions expressing their interest in participating in the Series 2011 Program, including the Company Financing Option, and are scheduled to take final official action upon the Authority's award of the Successful Respondent to this RFP. The Authority anticipates that all of these remaining official actions shall occur, well within the timeframes for closing established in the Proposed Schedule for the Series 2011 Program set forth in **Exhibit 3** to this RFP.

(e) The Company Financing Option is structured as follows.

(i) PPA. Under the Company Financing Option, the Company is providing and/or obtaining through a third party its own financing for one hundred percent (100%) of the costs and expenses set forth in subsections (a) and, if applicable, (b) above (collectively, and under the Company Financing Option, the "*Total Project Costs*") in the form of equity, mezzanine debt, senior and/or subordinated debt, and/or otherwise. Accordingly, the Company should, to the greatest extent practicable, utilize the form documents required by its funding source(s) (the "*Company Funding Documents*"). Nevertheless, to the extent the material risk sharing provisions of the PPA are different from those set forth in the attached form of the PPA as set forth in **Appendix A** to this RFP, (A) such material deviations should be identified in the Proposal, (B) such material deviations may be viewed as a negative factor in the Evaluation Criteria pursuant to Section 6.2 of this RFP, and (C) the Respondent should note if it would be using the form PPA provided, or its own form of PPA, in which latter case such PPA form (along with any other material documents to be executed or acknowledged by the Authority, the County and/or the Series 2011 Local Units) shall be provided as part of the Proposal. If the Respondent is using the form PPA provided in **Appendix A** to this RFP, such PPA shall be adjusted to provide the requisite license and other provisions required to make such document work in conjunction with the Local Unit License Agreements.

(ii) Local Unit License Agreements. The Local Unit License Agreements shall continue to provide their primary purposes under the Company Financing Option; i.e., allowing the Company site access to design, permit, acquire, construct, install, operate, and maintain the Renewable Energy Projects, while providing the Local Units with the right and obligation to use and pay for the electricity generated thereby at the PPA Price. The form of the master Local Unit License Agreement is set forth in **Appendix A** to this RFP. The

master Local Unit License Agreement shall be adjusted to conform to the PPA utilized under the Company Financing Option.

(iii) Allocation of Benefits. Under the PPA and the Local Unit License Agreements, as among the Authority, the County, the Series 2011 Local Units, and the Company, so long as the Company is not in default under the Company Documents as hereinafter defined, the Company shall be entitled to all of the following under the Company Financing Option:

- (A) The ITC;
- (B) Accelerated Depreciation;
- (C) SRECs generated from the Renewable Energy Projects; and
- (D) The PPA Price payments made by the Series 2011 Local Units.

(iv) Analogous Provisions to Company Financing Documents under the Authority Financing Option. The Company Financing Documents under the Company Financing Option shall include provisions, as adjusted for the difference in financing structure, similar to those set forth in Section 1.3(g)(vi), and Section 1.3(g)(x) – (xiv) inclusive.

**Section 1.6 Company Services Under the Company Financing Option.**

(a) The Company Services under the Company Financing Option are set forth in the obligations of the Company under the PPA, the Local Unit License Agreements, and the Company Funding Documents (collectively, under the Company Financing Option, the “*Company Documents*” or the “*Program Documents*”). The Successful Respondent shall be prepared to exercise the rights, and perform all of the duties and obligations of the Company as set forth in the Program Documents.

(b) The Company shall not be obligated to submit the Company Funding Documents as part of the Proposal, unless the Company Funding Documents have a material effect on provisions of the other Program Documents under the Company Financing Option. In such instance, the Company shall either (i) supply the relevant Company Funding Documents as part of the Proposal or (ii) provide excerpts of the relevant provisions thereof as part of the Proposal.

**Section 1.7 Material Changes to RFP.** The Series 2011 Program differs from the Series 2010 Program, in addition to different Local Units, Local Unit Facilities, and Renewable Energy Projects, in the following material ways:

(a) The Series 2011 Program includes a Company Financing Option. See Sections 1.5 and 1.6 to this RFP.

(b) **Appendix F** to this RFP has been added to provide Respondents with minimum SREC values in determining the County Deficiency Amount. See Section 1.3(g)(xviii) of this RFP regarding the options available in sizing the County Deficiency Amount.

(c) Section 5.4(j) of this RFP provides for the Respondent to submit an additional redacted version of its Proposal in order to invoke an applicable OPRA exception regarding certain information contained in the Proposal.

**Section 1.8 Definitions.**

(a) The following terms defined Article I of this RFP shall, for all purposes of this RFP, have the meanings set forth in the following Sections of Article I of this RFP.

Act.....	1.3(g)(i)
Accelerated Depreciation.....	1.3(g)(x)(B)
Authority .....	1.1(a)
Authority Financing Option.....	1.3(e)
Board of Education Series 2011 Local Units.....	1.1(b)(ii)
Bond Resolution.....	1.3(g)(1)
BPU.....	1.1(f)
Capital Improvement Projects.....	1.1(a)
Capitalized Interest .....	1.3(a)(iii)
Company .....	1.1(f)
Company Continuing Disclosure Agreement .....	1.3(g)(viii)
Company Development Costs (Authority Financing Option) .....	1.3(b)
Company Development Costs (Company Financing Option) .....	1.5(b)
Company Documents (Authority Financing Option) .....	1.4(a)
Company Documents (Company Financing Option) .....	1.6(a)
Company Financing Option.....	1.5(c)
Company Funding Documents .....	1.5(e)(i)
Company Lease Agreement.....	1.3(g)(iii)
Company Pledge Agreement .....	1.3(g)(xx)
Company Services .....	1.1(f)
County.....	1.1(a)
County Deficiency Amount .....	1.3(g)(xv)
County Guaranty .....	1.3(g)(vii)
County Guaranty Agreement.....	1.3(g)(vii)
County Security .....	1.3(g)(xvii)
County Security Agreement.....	1.3(g)(xvii)
County Security Cash Commitment .....	1.3(g)(xix)(B)

County Security Consent of Surety.....	1.3(g)(xix)(C)
County Security Provider.....	1.3(g)(xvii)
County Series 2011 Local Unit.....	1.1(b)(iii)
Default Revenues .....	1.3(g)(xv)
Equity Contribution .....	1.3(c)
Equity Contribution Cash Commitment .....	1.3(c)(i)
Equity Contribution Consent of Surety .....	1.3(c)(ii)
ITC .....	1.3(g)(x)(A)
LFB Notice 2008-20 .....	1.1(f)
LFB Notice 2009-10 .....	1.1(f)
Local Finance Board .....	1.3(f)
Local Finance Board Notices.....	1.1(f)
Local Unit .....	1.1(a)
Local Unit Facilities.....	1.1(a)
Local Unit License Agreements.....	1.3(g)(xi)
Municipal Series 2011 Local Units.....	1.1(b)(i)
Option F-1 .....	1.3(g)(xviii)
Option F-2 .....	1.3(g)(xviii)
OPRA.....	1.1(l)(ii)
PPA .....	1.3(g)(xii)
Program.....	1.1(a)
Program Documents (Authority Financing Option) .....	1.4(b)
Program Documents (Company Financing Option) .....	1.6(a)
Project Development Costs (Authority Financing Option) .....	1.3(a)(ii)
Project Development Costs (Company Financing Option) .....	1.5(a)(ii)
Projects.....	1.1(a)
Proposals .....	1.1(e)
Reimbursement Collateral .....	1.3(g)(xvii)
Renewable Energy Projects .....	1.1(a)
Respondents .....	1.1(e)
RFP .....	1.1(d)
Series 2010 Program.....	1.1(a)
Series 2011 Bonds.....	1.3(g)(ii)
Series 2011A Bonds.....	1.3(g)(ii)
Series 2011B Note .....	1.3(g)(ii)
Series 2011 Local Units .....	1.1(b)
Series 2011 Program .....	1.1(b)
SRECs.....	1.3(g)(xii)(A)
State.....	1.1(f)
Successful Respondent.....	1.1(f)
TIC .....	1.3(g)(ix)
Total Project Costs (under Authority Financing Option) .....	1.3(c)
Total Project Costs (under Company Financing Option) .....	1.5(e)(i)
Trustee.....	1.3(g)(vi)

(b) The following terms defined Articles II - VII of this RFP shall, for all purposes of this RFP, have the meanings set forth in the following Sections of this RFP.

Construction Consent of Surety .....	7.2(b)(i)
Construction Performance Bond.....	7.2(b)(ii)
Construction Security.....	7.2(b)(ii)
Due Date .....	5.4(a)
Evaluation Criteria .....	6.2
Form A-1 .....	4.1(a)
PPA Price (under Authority Financing Option).....	4.1(c)(iii)(A)
PPA Price (under Company Financing Option).....	4.1(d)(iii)(A)
Proposal Bond.....	7.2(a)
Proposal Funds.....	7.2(a)
Proposal Security .....	7.2(a)
Restoration Security Cash Commitment.....	7.2(c)(iii)(A)
Restoration Security Consent of Surety .....	7.2(c)(iii)(B)
Restoration Security .....	7.2(c)

(c) The following additional terms shall have the following respective meanings for all purposes of this RFP.

“*Annual Administrative Fee*” shall mean an amount equal to \$20,000 per annum for each year of the Company Lease Agreement.

“*Authority Contact Person*” shall mean, individually or collectively, those persons set forth in Section 2.2 of this RFP that shall be the sole point of Authority contact during the RFP process for prospective Respondents.

“*Basic Lease Payments*” shall mean that portion of the lease payments, designated as such, due and payable by the Company (i.e., the Successful Respondent) to or on behalf of the Authority under the Company Lease Agreement that are paid on the schedule set forth in **Appendix E** to pay the principal of and interest on the Series 2011 Bonds, and which amounts are estimated in **Appendix E**, and are to be established in accordance with this RFP upon the authorization, execution and delivery of the Program Documents, as such amounts may be adjusted in the Proposal of the Successful Respondent.

“*Commencement Date*” shall mean, individually or collectively, as the case may be, with respect to each Series 2011 Local Unit, the date on which the Company shall have filed with the Trustee for the Series 2011 Bonds the REP Acceptance Certificate, as such term is defined in the Company Lease Agreement, certifying that all of the Renewable Energy Projects for such Series 2011 Local Unit (on multiple Local Unit Facilities, if applicable), have been completed and accepted. Accordingly there shall be eleven (11) Commencement Dates on which the respective Series 2011 Local Units shall commence paying their PPA Price. Notwithstanding

the foregoing, the Authority may, at its sole discretion, determine to establish an earlier Commencement Date for certain Series 2011 Local Units, by written notification of same to the Company, the Trustee for the Series 2011 Bonds, and the affected Series 2011 Local Unit, but only with respect to the completed Renewable Energy Projects for the Local Unit Facilities of such Series 2011 Local Unit, and only in the event the Authority determines that the Acceptance Certificates (which require completion of all such Renewable Energy Projects for a Series 2011 Local Unit) are being unduly delayed for some reason not within the control of the Company.

*“Financing Option(s)”* shall mean, individually or collectively, as the case may be, the Authority Financing Option or the Company Financing Option.

*“Respondent Contact Person”* shall mean the one or more persons identified by potential Respondents as the contact person(s) for such Respondent to receive all future communication from the Authority during the RFP process, which Respondent has received a copy of this RFP and has registered in accordance with the provisions of Section 2.3 of this RFP.

## ARTICLE II

### INITIAL ACTION BY RESPONDENTS

#### Section 2.1 RFP.

(a) The RFP may be downloaded by Respondents from the Authority's website (<http://www.co.morris.nj.us/improvement/>). AS SOON AS RESPONDENTS DOWNLAOD THIS RFP, PLEASE REGISTER IN ACCORDANCE WITH SECTION 2.3 OF THIS RFP.

(b) Alternatively, hard copies may be obtained from the Chairman of the Authority for a fee of fifty dollars (\$50.00) each at the following address, but only upon simultaneous registration in accordance with Section 2.3 of this RFP:

- (i) The Morris County Improvement Authority  
Administration and Records Building  
10 Court Street  
P.O. Box 900  
Morristown, New Jersey 07963-0900  
Attention: John Bonanni, Chairman

T: (973) 285-6047

F: (973) 285-5266

[solarenergy@co.morris.nj.us](mailto:solarenergy@co.morris.nj.us)

(c) In making copies of this RFP available on the terms set forth in this Section 2.1, the Authority's sole purpose is to obtain Proposals from Respondents in order to select a Successful Respondent. In making this RFP available, the Authority is not intending to confer, and shall not confer, a license or grant of its consent or permission as to any other use of this RFP by potential Respondents.

#### Section 2.2 Authority Contact Persons.

(a) All comments and questions concerning any facet of this RFP, including the corresponding procedures and requirements, must be addressed, in writing, at the times established in the Proposed Schedule for the Series 2011 Program set forth in **Exhibit 3** to this RFP, and as follows to the following Authority Contact Persons:

- (i) If via hard copy, to John Bonanni, the Authority Chairman, at the address set forth in Section 2.1(B)(i) of this RFP;

(ii) If via e-mail, to Deborah S. Verderame, Esq. of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Counsel to the Authority, at [dverderame@iandplaw.com](mailto:dverderame@iandplaw.com).

(b) The Authority, in its sole discretion and in accordance with law, reserves the right to respond or not, and if it chooses to respond, to make such question and answers available to the entire group of potential Respondents, through a posting of questions and answers on its website, through an addendum to this RFP, through an e-mail to the Respondent Contact Persons, or otherwise.

(c) The Authority and its advisors shall not respond to any questions or comments concerning this RFP by telephone or during an in-person meeting prior to the award to the Successful Respondent, except for the forum of any interviews authorized and conducted by the Authority; provided, however, that this shall not preclude the Authority and its advisors from seeking clarification of a particular Proposal received from a Respondent through any available means, in order to assist the Authority in its Evaluation Criteria analysis, all as contemplated by Section 6.2 of this RFP.

### **Section 2.3 Respondent Registration.**

(a) In order to be considered as the Successful Respondent and in order to access certain important information on the Authority's website needed to prepare its Proposal, each Respondent must register with the Authority providing information pursuant to Section 2.3 of this RFP, including the following: (i) a statement that such Respondent intends to submit a Proposal, and (ii) providing its Respondent Contact Person (as defined in Section 1.8(b) herein) and contact information (**name, company, address, phone, cell, fax, and e-mail address**) for any and all communication with the Respondent during this RFP timeframe. In addition, registration is recommended (iii) in order to attend the Pre-Proposal Submission Meeting discussed in Section 3.2 of this RFP. There is no penalty for registering as a Respondent, and then ultimately determining in good faith not to submit a Proposal. **ACCORDINGLY ALL POTENTIAL RESPONDENTS ARE ENCOURAGED TO REGISTER IMMEDIATELY UPON RECEIVING A COPY OF THE RFP.**

(b) Any changes to any information in this RFP, including any future addenda amending or supplementing any terms hereof, shall be both posted on the Authority's website (<http://www.co.morris.nj.us/improvement/>) and issued, via fax or e-mail, to the Respondent Contact Person. Registration should occur immediately upon downloading this RFP from the website or otherwise receiving a copy of this RFP from the Authority. Registration should be made by e-mailing the required information in clauses (i) and (ii), and if applicable, clause (iii) of Section 2.3(a) above to John Bonanni at [solarenergy@co.morris.nj.us](mailto:solarenergy@co.morris.nj.us) and/or mailing a copy to John Bonanni at the address set forth in Section 2.1(b)(i) of this RFP. Please reference MCIA/Sussex Solar Program.

## ARTICLE III

### PROPOSED SCHEDULE

#### Section 3.1. RFP and Notice of RFP.

The RFP and the Notice of RFP were authorized for issuance pursuant to resolution of the Authority adopted by its governing body on July 20, 2011, a copy of which is attached in **Appendix A** to this RFP. The Notice of RFP is set forth as **Exhibit 1** to this RFP, and was posted on the Authority's website (<http://www.co.morris.nj.us/improvement/>), and delivered to the *Daily Record, the Star Ledger and The New Jersey Herald*, the Authority's papers of record, for publication, all on September 8, 2011. Should there be any conflict in terms between the Notice of RFP and this RFP, the provisions of this RFP shall control. This RFP shall be made available in accordance with the terms of Section 2.1 of this RFP from its date until the Due Date for all Proposals.

#### Section 3.2 Pre-Proposal Submission Meeting

A Pre-Proposal Submission Meeting shall be held for the benefit of all potential Respondents by the Authority and its consultants in the Freeholder Meeting Room, 1<sup>st</sup> Floor, Sussex County Administrative Center, One Spring Street, Newton, New Jersey, at 10:00 a.m. on September 13, 2011. Please see Section 2.3 of this RFP for registration requirements. Potential Respondents are **STRONGLY** encouraged to take part in the Pre-Proposal Submission Meeting. The Authority is considering allowing Respondents to participate in Pre-Proposal Submission Meeting via teleconference and information concerning this option will be provided to Respondents at the time they register pursuant to Section 2.3 of this RFP. Respondents are also encouraged to have, at a minimum, the persons responsible for coordinating the financing and technical components of any Proposal in attendance at the Pre-Proposal Submission Meeting. The Authority does not anticipate having any representatives of the Series 2011 Local Units present at such Pre-Proposal Submission Meeting.

#### Section 3.3 Site Tours of Local Unit Facilities

(a) The Authority shall make the Local Unit Facilities available for inspection at the times set forth in subsection (b) below by the prospective Respondents that have registered in accordance with Section 2.3 hereof.

(b) Potential Respondents that, prior to each site tour, shall have sent a list of attendees to the Authority, via e-mail to John Bonanni at [solarenergy@co.morris.nj.us](mailto:solarenergy@co.morris.nj.us) and and Jessica Vogel, CBCP, Birdsall Services Group at [jvogel@birdsall.com](mailto:jvogel@birdsall.com), shall have an opportunity to inspect the Local Unit Facilities for the Series 2011 Local Units, upon or in which the Renewable Energy Projects are to be developed, at the dates and times set forth below. Such list should include all agents and advisors of the potential Respondents that in the potential

Respondent's sole discretion shall need to view these Local Unit Facilities in order to submit an informed Proposal.

(i) See chart below:

<b>SCIA - Site Visit Schedule</b>		
<b>Day 1 - September 13th</b>		
	<b>Location</b>	<b>Address</b>
10:00 am-11:30 am	RFP Meeting	
12:00 noon-12:45 pm	Franklin Borough BOE - Franklin Elementary School	50 Washington Avenue, Franklin
Lunch		
2:00 pm - 2:45 pm	Hardyston Township BOE - Hardyston Middle School	183 Wheatsworth Road, Hardyston
3:15 pm - 4:00 pm	County of Sussex - Wheatsworth Facility	201 Wheatsworth Road, Hardyston
<b>Day 2 - September 14th</b>		
	<b>Location</b>	<b>Address</b>
8:00 am-8:45 am	Lafayette Township BOE - Lafayette Township Regional High School	178 Beaver Run Road, Lafayette
9:15 am-10:15 am	High Point Regional BOE - High Point Regional High School	299 Pidgeon Hill Road, Wantage
10:45 am - 11:30 am	Sussex County Technical School	105 North Church Road, Sparta
Lunch		
2:00 pm - 2:45 pm	Frankford BOE - Frankford Township School	2 Pines Road, Frankford
3:15 pm - 4:00 pm	County of Sussex - Main Library	125 Morris Turnpike, Frankford
<b>Day 3 - September 15th</b>		
	<b>Location</b>	<b>Address</b>
8:00 am - 8:45 am	Kittatinny Regional School District - Kittatinny Regional High School	77 Halsey Road, Newton
9:15 am - 10:00 am	Lenape Valley BOE - Lenape Valley Regional High School	28 Sparta Road, Stanhope
10:30 am - 11:30 am	Byram Township School District - Byram Lakes Elementary School	11 Mansfield Drive, Stanhope
Lunch		
1:00 pm - 2:00 pm	Green Township BOE - Green Hills School	69 Mackerley Road, Newton
2:30 pm - 3:30 pm	Township of Fredon - Fredon Civic Center	436 State Route 94, Fredon
<b>Day 4 - September 16th</b>		
	<b>Location</b>	<b>Address</b>

8:30 am - 9:30 am	Newton BOE - Newton High School	44 Ryerson Avenue, Newton
10:00 am - 10:45 am	Newton BOE - Merriam Avenue Elementary School	81 Merriam Avenue, Newton
11:15pm - 12:00 noon	Sussex County - Court House & Parking Deck	43 High Street, Newton
Lunch		
1:30 pm - 2:30 pm	Town of Newton - Wastewater Treatment Plant	Moran Street, Newton
3:00 pm - 3:30 pm	Town of Newton - Department of Public Works	Moran Street, Newton
<b>Day 5 - September 19th</b>		
	<b>Location</b>	<b>Address</b>
9:00 am - 10:00 am	***Make-up Day***	
10:30 am - 11:30 am	***Make-up Day***	
Lunch		
1:00 pm - 2:00 pm	***Make-up Day***	
2:30 pm - 3:30 pm	***Make-up Day***	

(c) The locations of such site tours for each Local Unit Facility shall be as set forth in Section 1.1(c) of this RFP. The Authority anticipates that representatives of both the Authority and the respective Series 2011 Local Units shall participate in these site tours, and that plans and site drawings, as available, and other background information concerning the Local Unit Facilities shall be available on the Authority's website prior to each site tour, and possibly available at such site tours. Any such background information shall be deemed to be incorporated in this RFP, as if fully set forth herein, and shall be a part of this RFP. Respondent Contact Persons shall be notified, via e-mail, of any updates or changes to such posted background information, or with respect to any change in the site tour meeting times and locations.

(d) While the Series 2011 Local Units shall make their Local Unit Facilities available to Respondents at the designated times set forth in subsection (b) above, none of the Authority, the County, nor such Series 2011 Local Units accept any responsibility regarding potential injury to person or property of Respondents or any of their accompanying contract parties and/or guests during such site tours. Respondents and any such guests should take care in participating in the site tours, especially in moving on roofs, parking lots or grounds and in handling any electrical equipment. By participating in such site tours, all Respondents and any such guests are deemed to have assumed any and all risks associated with such participation, and all Respondents and any such guests that attend site tours expressly waive any claims or rights related to any of the foregoing that may arise out of the participation by Respondents and any such guests in such site tours. All Respondents and any such guests have been granted a license to attend these site tours for each Local Unit Facility, fully revocable by the Authority or the respective Series 2011 Local Units for any action or inaction deemed inconsistent with policies

of the respective Series 2011 Local Units then in effect for visitors, including dress code, noise, safety and the like.

**Section 3.4 Proposed Schedule for Series 2011 Program**

(a) The Authority's proposed schedule for the remainder of the Series 2011 Program is set forth in **Exhibit 3** to this RFP.

(b) The Authority reserves the right to change this schedule from time to time, as circumstances warrant, and no Respondent shall rely on this schedule as a commitment on the part of the Authority to proceed within that time-frame, although the Authority will use commercially reasonable efforts to meet that schedule.

## ARTICLE IV

### CERTAIN INFORMATION TO BE INCLUDED IN PROPOSALS

#### Section 4.1 Pricing and Other Terms of Forms A-1-a and A-1-b.

(a) Respondents shall be required to submit, as a portion of Exhibit A to their Proposal (see Section 7.1 of this RFP), a fully completed "Form A-1-a, Authority Financing Option, PPA Price Quotation Sheet" (with respect to the Authority Financing Option, "*Form A-1-a*") and/or "Form A-1-b, Company Financing Option, PPA Price Quotation Sheet" (with respect to the Company Financing Option, "*Form A-1-b*"), as the case may be, which forms are set forth in **Appendix D-A-1-a** and **Appendix D-A-1-b**, respectively, to this RFP. References in this RFP to "*Form A-1*" shall be deemed to be references to both Form A-1-a and Form A-1-b. Form A-1-a shall be completed by the Respondent in accordance with the provisions set forth in the subsections (b) and (c) of this Section 4.1 below. Form A-1-b shall be completed by the Respondent in accordance with the provisions set forth in the subsections (b) and (d) of this Section 4.1 below. All Respondents must completely fill out Section A, subsections 1, 2, 3, and 4 of Form A-1, and Section B, subsections 3, 4, 5, 6, 7 (even if to check the no changes box) and 8, 9 and 10 (even if to check the none box) of Form A-1.

(b) *Section A of Form A-1.* Section A, subsections 1, 2, 3, 4, and 5 of Form A-1 are self-explanatory, although any joint venture or other joint arrangement should identify all entities in the Respondent line item of subsection 1, along with a designation of which entity shall be the managing or lead entity.

(c) *Section B of Form A-1-a (Authority Financing Option).*

(i) Subsections 1 and 2. These subsections provide general information, and no information is required to be filled out by the Respondent.

(ii) Subsection 3.

(A) Subsection 3(a). Respondents must base their PPA Price (including any escalation), in part, on the Total Project Costs. See Section 1.3(a) – (c), inclusive, of this RFP to determine the Total Project Costs that must be filled out in Section B(3)(a) of Form A-1-a. Note the adjustment footnotes on Form A-1-a, and the references back to the RFP. Regarding Company Development Costs of Section B(3)(a)(iv) of Form A-1-a, please note that while Respondents may include development fees in that amount, Section 509(d) of the Company Lease Agreement limits when such funds can be drawn by the Company (i.e., after all of the Renewable Energy Projects have been constructed and are operational).

(B) Subsection 3(b) and (c). See Section 1.3(c) and (d) of this RFP. Respondents shall determine what percentage, of the Total Project Costs, shall be funded with the net proceeds of the Series 2011 Bonds, mindful of the aggregate limitation of \$50,000,000, and what balance, if any, shall be funded from an Equity Contribution. Note that the Series 2011B Note is only being issued for one (1) year's worth of Capitalized Interest on the Series 2011A Bonds. The amount of this Capitalized Interest should be based on the Total Project Cost funded with the Series 2011A Bonds, as determined by the Respondent, established at the TIC interest rate. Note that as stated in Section B(3)(c) of Form A-1-a, any principal amount of Series 2011 Bonds set forth in a Respondent's Proposal in excess of \$50,000,000 shall be automatically converted into an (additional) Equity Contribution of the Respondent.

(C) Subsections 3(d) and (e). See Section 1.3(c)(i), (ii), and (iii) of this RFP. Respondents that have determined to make an Equity Contribution, shall (I) provide either the Equity Contribution Cash Commitment, or the Equity Contribution Consent of Surety, as applicable, in a form that shall be reasonably acceptable to the Authority and (II) check the appropriate box in Section B(3)(c)(i) or (ii) of Form A-1-a. If the appropriate form is not supplied with the Proposal, the Respondent should so note same in the Proposal, and estimate an approximate delivery date for such form, which date shall be no later than November 1, 2011. The structure and material terms of the applicable form submitted or to be submitted shall be set forth by the Respondent in Section B(3)(d) of Form A-1-a.

(iii) Subsection 4.

(A) Subsection 4(a). Each Respondent must determine the annual dollar price or prices, per kWh (the "*PPA Price*"), at which the Respondent will agree to sell all of the electricity generated from all of the Renewable Energy Projects to the eleven (11) Series 2011 Local Units. The Respondent must set forth this single PPA Price applicable to all eleven (11) Series 2011 Local Units, in \$ per kWh, (assuming a TIC of 5.00% for the Series 2011 Bond portion of the Authority Financing Option), from the Commencement Date applicable to each Series 2011 Local Unit (i.e., when all of the Renewable Energy Projects for a particular Series 2011 Local Unit have been completed) for one

year from the applicable Commencement Date, to but excluding the first anniversary of such Commencement Date. With eighteen (18) Local Units Facilities and fourteen (14) Series 2011 Local Units, there shall be only fourteen (14) Commencement Dates.

(B) Subsection 4(b)(i). The Authority reserves the right to increase or decrease the amount of the Project Development Costs, and will pass through such increase or decrease in a comparable post-Proposal submission adjustment to the PPA Price (see Section B4(b)(i) of Form A-1-a). Any such post-Proposal submission adjustment will not impact the evaluation of the Proposals and the determination of the Successful Respondent. As such, the only Respondent that the subject adjustment will be discussed with, is the Successful Respondent. In Section B(4)(b)(i) of Form A-1-a, Respondents must set forth an adjustment factor to the PPA Price for each \$100,000 change in the Project Development Costs in the initial year of the PPA Price (from the Commencement Dates) due to the fact that the Project Development Costs (presently estimated at \$1,225,000 million) portion of Total Project Costs will not be finally determined until the execution of Program Documents (see **Exhibit 3** to this RFP for the estimated Series 2011 Bond sale and closing schedule). Such Project Development Costs may increase or decrease, so Respondents should carefully select this adjustment factor, as the ultimate PPA Price shall be increased or decreased by such adjustment factor, and the intent is to hold the Successful Respondent harmless from any such increase, and to prevent the Successful Respondent from receiving a windfall from any such decrease.

(C) Subsection 4(b)(ii). As the TIC payable on the Series 2011 Bonds will not be determined until the sale date of the Series 2011A Bonds, the Authority will pass through to the Successful Respondent the actual TIC on the Series 2011A Bonds. In Section B(4)(b)(ii) of the Form A-1-a, Respondent must set forth an adjustment factor to the PPA Price in the initial year of the PPA Price (from the Commencement Dates) to adjust for any change in the interest rate (computed on the basis of the aggregate yield to maturity, or "TIC," as described below) on the Series 2011 Bonds from the current TIC rate of 5.00% (computed as the rate, compounded semi-annually, necessary to discount the debt service payments on the Series 2011A Bonds to the purchase price for the Series 2011A Bonds). Such TIC may increase or decrease, so Respondents should carefully select this adjustment factor, as the

ultimate PPA Price shall be increased or decreased by such adjustment factor, and the intent is to hold the Successful Respondent harmless from any such increase, and to prevent the Successful Respondent from receiving a windfall from any such decrease. The Authority intends to sell the Series 2011B Note simultaneously with the Series 2011 A Bonds. For purposes of its Proposal, the Respondent can assume the same TIC for the Series 2011B Note as for the Series 2011A Bonds.

For example, if at the time of the sale of the Series 2011 Bonds, when all numbers are finalized, assume interest rates on the Series 2011 Bonds (calculated as the "True Interest Cost," as described below) were to decrease to 5.00% from the 5.33% estimated in the RFP over the life of the Series 2011 Bonds, resulting in a total interest cost savings of approximately \$1,095,000. Also assume that Project Development Costs increased from \$1,225,000.00 to \$1,500,000.00. Combining the two, there would be a net decrease in costs of \$820,000 (\$1,095,000 - \$275,000). If the annual PPA Price adjustment factor proposed by the Respondent for each \$5,000 change in cost was \$.000029, since there were three hundred and sixty (360) changes of \$5,000 in order to give back the extra \$820,000 actually saved when final cost numbers came in, the PPA Price would be decreased, before the escalation factor were to be applied, by .0104 cents (\$.000029 X 360). The converse would be true, and the PPA Price would be automatically adjusted higher by .0104 cents, if the \$820,000 net reduction in cost were in fact a net increase in cost to be included in or borne by the Series 2011 Bonds.

(D) Subsection 4(c). Section B(4)(c) of Form A-1-a allows the Respondent to propose an escalation factor (Respondents can fill in "none" if no escalation is proposed) expressed as a percentage of the increase in the PPA Price over the prior year PPA Price. In order to determine the PPA Price (plus any escalation factor), Respondents should consider, at a minimum, all of the Program benefits to the Successful Respondent, including without limitation, the size of the transaction, funding supplied from the Authority at below commercially available costs of capital, the Federal tax benefits, SRECs, and the PPA Price initially established by the Respondent.

(E) If either of the adjustments set forth in sub-clause (B) (Project Development Costs) or (C) (TIC) above results in a net increase in cost to the Company, the annual PPA Price

shall be automatically increased (such increase to be reflected in the PPA Price table to be included in the PPA) by the recurring upward adjustment in the annual PPA Price proposed by the Successful Respondent in Section B(4)(b) of Form A-1. If either of the adjustments results in a net decrease in cost to the Company, the annual PPA Price shall be automatically decreased (such decrease to be reflected in the PPA Price table to be included in the PPA) by the recurring downward adjustment in the annual PPA Price proposed by the Successful Respondent in Section (B)(4)(b) of Form A-1. Note that this adjustment shall occur prior to the application of any escalation factor contemplated in sub-clause (D) above, as this adjustment is intended to produce what would have been the PPA Price, prior to escalation, were the interest cost of the Series 2011 Bonds and the final Project Development Costs known at the time of this RFP. Each Respondent expressly acknowledges that by the submission of their respective Proposals, and without any further act, any such adjustment (increase or decrease) in the PPA Price from that set forth in Section B(4)(a) of Form A-1 shall be automatically binding on the Successful Respondent, and that any such adjustment shall not serve as the basis for any non-Successful Respondent to challenge any award under this RFP. Unless specified otherwise in a Respondent's Proposal, the information set forth by the Respondent in Sections B(4)(a), (b) and (c) of Form A-1-a shall be based on the amortization schedule set forth in **Appendix E** to this RFP. The amortization schedule set forth in **Appendix E** provides for a level amortization of principal. As noted in clause (iv) below, Respondents may propose an accelerated amortization schedule.

(iv) Subsection 5. The Respondent can accept the level principal amortization schedule for the Series 2011A Bonds, as reflected in the mirror Basic Lease Payment structure set forth in Exhibit E to the RFP, by checking box (a) in Section B(5) of the Form A-1-a. If the Respondent desires a level principal amortization schedule, but on a reduced principal amount of Series 2011A Bonds (e.g., due to an Equity Contribution), or after one (1) or more initial large payments, then the Respondent shall check box (b) in Section B(5) of the Form A-1-a, and provide the revised schedule attached to the Form A-1-a. Alternatively, if the Respondent desires an accelerated principal amortization schedule, then the Respondent shall check box (c) in Section B(5) of the Form A-1-a, and provide the revised schedule attached to the Form A-1-a.

(v) Subsection 6. See Sections 1.3(g)(xv) – (xix), inclusive, to determine whether the County Deficiency Amount can be eliminated,

or if not eliminated, minimized. If the County Deficiency Amount cannot be eliminated, it must be funded. See sub-clause (B) below.

(A) If the County Deficiency Amount can be eliminated through the financing structure proposed by the Respondent in their Proposal, the Respondent should check box (i) in Section B(6)(a) of Form A-1-a, and set forth the reasoning for same in Section B(6)(b) of Form A-1-a.

(B) Respondents that have identified a County Deficiency Amount of > \$0, regardless of whether minimized, shall (I) provide either the County Security Cash Commitment, or the County Security Consent of Surety, as applicable, in a form that shall be reasonably acceptable to the Authority and (II) check the appropriate box in Section B(6)(a)(iii) ((A) or (B)) of Form A-1-a. If the appropriate form is not supplied with the Proposal, the Respondent should so note same in the Proposal, and estimate an approximate delivery date for such form, which date shall be no later than November 1, 2011. The structure and material terms of the applicable form submitted or to be submitted shall be set forth by the Respondent in Section B(6)(b) of Form A-1-a.

(vi) Subsection 7. See Sections 7.2(c) to determine whether the Respondent shall exercise its option to provide Restoration Security. If the option to provide Restoration Security is to be properly exercised, and to receive a positive Evaluation Criteria, it must be funded. See sub-clause (B) below.

(A) If the Respondent is not providing any Restoration Security in their Proposal, the Respondent should check box (i) in Section B(7)(a) of Form A-1-a, and set forth the reasoning for same in Section B(7)(b) of Form A-1-a.

(B) Respondents that desire a positive Evaluation Criteria by providing Restoration Security shall (I) provide either the Restoration Security Cash Commitment, or the Restoration Security Consent of Surety, as applicable, in a form that shall be reasonably acceptable to the Authority and (II) check the appropriate box in Section B(7)(a)(iii) ((A) or (B)) of Form A-1-a. If the appropriate form is not supplied with the Proposal, the Respondent should so note same in the Proposal, and estimate an approximate delivery date for such form, which date shall be no later than November 1, 2011. The structure and material terms of

the applicable form submitted or to be submitted shall be set forth by the Respondent in Section B(7)(b) of Form A-1-a.

(vii) Subsection 8.

(A) Subsection 8(a). Section B(8)(a) of Form A-1-a requires that the Respondent set forth the amount of electricity to be generated by each of the Renewable Energy Projects for each Series 2011 Local Unit on each Program Local Unit Facility, measured in kW (dc), and post inversion, annual kWh (ac) for each year of the fifteen (15) year PPA.

(B) Subsection 8(b). Section B(8)(b) of Form A-1-a requires that Respondents set forth the guaranteed amount of electricity to be generated by the Renewable Energy Projects for each Series 2011 Local Unit, measured in kW (dc), and post inversion, annual kWh (ac) for each year of the fifteen (15) year PPA. A true-up payment is required of the Company under the PPA in the event any such production is not met. In such instance, the difference between the PPA Price, and the amount paid by the Series 2011 Local Unit to the existing local electric utility distribution provider (i.e. which in the case of the Local Unit Facilities for the Lafayette Township Board of Education, is the Sussex Rural Electric Cooperative, and in the case of the Local Unit Facilities for the other Series 2011 Local Units, is the Jersey Central Power & Light Company) for the amount of electricity guaranteed, but not provided, by the Successful Respondent, is the true-up amount owed by the Company under the PPA. Note that the PPA also provides an offset in the PPA Price, to the extent any such true-up payment is not timely made by the Company under the PPA. Please take particular note of Section 6.1 of the PPA, including the minimum output guarantees.

(viii) Subsection 9. Section B(9) of Form A-1-a allows Respondents to propose material changes to Program Documents, if any. Please note that in accordance with Section 5.1(f) and 6.2(k) (Evaluation Criteria) of this RFP, any changes that adversely affect the Series 2011 Program (as determined by the Authority) are strongly discouraged. By the Authority's award (conditional or otherwise) to a Successful Respondent, the Authority shall not have accepted any such changes, which if accepted by the Authority in whole or in part or in modified form, shall only be evidenced by duly authorized, executed and delivered Program Documents reflecting such accepted changes. Unless the Authority specifically accepts any such material changes in writing, Respondents should deem all requested changes denied. If there are no material changes being

proposed, Respondents should check the box in Section B(9)(a) marked no changes.

Notwithstanding the foregoing, should Respondents strongly desire Program Document changes, the Authority will consider any Program Document changes proposed during the question and answer period. If accepted by the Authority, in its sole discretion, such changes would be available to all Respondents. The Authority reserves the sole and exclusive right to accept, reject or modify any and all such changes proposed by a Respondent during the question and answer period. Any changes received either in Form A-1-a, or outside of the question and answer time period, will be dealt with as noted in the paragraph above.

(xi) Subsection 10. Section B(10) of Form A-1-a allows Respondents to propose additional economic benefits, as contemplated by Section 5.2 of this RFP. If there are no additional economic benefits being proposed, Respondents should check the box in Section B(10)(a) marked none.

(x) Subsection 11. Section B(11) of Form A-1-a allows Respondents, at their option, the ability to provide early termination and end of term fair market value purchase option prices or formulas for each of the Renewable Energy Projects. The Authority reserves the right as to whether it desires to include any such prices in the Program Documents.

(d) *Section B of Form A-1-b (Company Financing Option).*

(i) Subsections 1 and 2. These subsections provide general information, and no information is required to be filled out by the Respondent.

(ii) Subsection 3.

(A) Subsection 3(a). Respondents must base their PPA Price (including any escalation), in part, on the Total Project Costs. See Section 1.5(a) – (e), inclusive, of this RFP to determine the Total Project Costs that must be filled out in Section B(3)(a) of Form A-1-b. Note the adjustment footnotes on Form A-1-b, and the references back to the RFP.

(B) Subsection 3(b). Respondents should set forth the sources, structure, and material terms of the County Financing Option, so that the Authority can receive comfort that the funds to implement the Renewable Energy Projects for the Series 2011 Local Units at the Local Unit Facilities will be timely available and sufficient to allow the Successful Respondent to

complete construction and reach the Commencement Dates for all Series 2011 Local Units by the one (1) year anniversary of executing and delivering the PPA.

(iii) Subsection 4.

(A) Subsection 4(a). Each Respondent must determine the annual dollar price or prices, per kWh (the “PPA Price”), at which the Respondent will agree to sell all of the electricity generated from all of the Renewable Energy Projects to the eleven (11) Series 2011 Local Units. The Respondent must set forth this single PPA Price applicable to all fourteen (14) Series 2011 Local Units, in \$ per kWh, from the Commencement Date applicable to each Series 2011 Local Unit (i.e., when all of the Renewable Energy Projects for a particular Series 2011 Local Unit have been completed) for one year from the applicable Commencement Date, to but excluding the first anniversary of such Commencement Date. With eighteen (18) Local Units Facilities and fourteen (14) Series 2011 Local Units, there shall be only fourteen (14) Commencement Dates.

(B) Subsection 4(b)(i). The Authority reserves the right to increase or decrease the amount of the Project Development Costs, and will pass through such increase or decrease in a comparable post-Proposal submission adjustment to the PPA Price (see Section B4(b)(i) of Form A-1-b). Any such post-Proposal submission adjustment will not impact the evaluation of the Proposals and the determination of the Successful Respondent. As such, the only Respondent that the subject adjustment will be discussed with, is the Successful Respondent. In Section B(4)(b)(i) of Form A-1-b, Respondents must set forth an adjustment factor to the PPA Price in the initial year of the PPA Price (from the Commencement Dates) due to the fact that the Project Development Costs (presently estimated at \$1.2 million) portion of Total Project Costs will not be finally determined until the execution of Program Documents (see **Exhibit 3** to this RFP for the estimated closing schedule for the Program Documents, including the PPA). Such Project Development Costs may increase or decrease, so Respondents should carefully select this adjustment factor, as the ultimate PPA Price shall be increased or decreased by such adjustment factor, and the intent is to hold the Successful Respondent harmless from any such increase, and to prevent the Successful Respondent from receiving a windfall from any such decrease.

(C) Subsection 4(c). Section B(4)(c) of Form A-1-b allows the Respondent to propose an escalation factor (Respondents can fill in "none" if no escalation is proposed) expressed as a percentage of the increase in the PPA Price over the prior year PPA Price. In order to determine the PPA Price (plus any escalation factor), Respondents should consider, at a minimum, all of the Program benefits to the Successful Respondent, including without limitation, the size of the transaction, the Federal tax benefits, SRECs, and the PPA Price initially established by the Respondent.

(iv) Subsection 5. See Sections 7.2(c) to determine whether the Respondent shall exercise its option to provide Restoration Security. If the option to provide Restoration Security is to be properly exercised, and to receive a positive Evaluation Criteria, it must be funded. See sub-clause (B) below.

(A) If the Respondent is not providing any Restoration Security in their Proposal, the Respondent should check box (i) in Section B(5)(a) of Form A-1-b, and set forth the reasoning for same in Section B(5)(b) of Form A-1-b.

(B) Respondents that desire a positive Evaluation Criteria by providing Restoration Security shall (I) provide either the Restoration Security Cash Commitment, or the Restoration Security Consent of Surety, as applicable, in a form that shall be reasonably acceptable to the Authority and (II) check the appropriate box in Section B(5)(a)(iii) ((A) or (B)) of Form A-1-b. If the appropriate form is not supplied with the Proposal, the Respondent should so note same in the Proposal, and estimate an approximate delivery date for such form, which date shall be no later than November 1, 2011. The structure and material terms of the applicable form submitted or to be submitted shall be set forth by the Respondent in Section B(5)(b) of Form A-1-b.

(v) Subsection 6.

(A) Subsection 6(a). Section B(6)(a) of Form A-1-b requires that the Respondent set forth the amount of electricity to be generated by each of the Renewable Energy Projects for each Series 2011 Local Unit on each Program Local Unit Facility, measured in kW (dc), and post inversion, annual kWh (ac) for each year of the fifteen (15) year PPA.

(B) Subsection 6(b). Section B(6)(b) of Form A-1-b requires that Respondents set forth the guaranteed amount of electricity to be generated by the Renewable Energy Projects for each Series 2011 Local Unit, measured in kW (dc), and post inversion, annual kWh (ac) for each year of the fifteen (15) year PPA. A true-up payment is required of the Company under the PPA in the event any such production is not met. In such instance, the difference between the PPA Price, and the amount paid by the Series 2011 Local Unit to the existing local electric utility distribution provider (i.e. which in the case of the Local Unit Facilities for the Lafayette Township Board of Education, is the Sussex Rural Electric Cooperative,, and in the case of the Local Unit Facilities for the other Series 2011 Local Units, is the Jersey Central Power & Light Company) for the amount of electricity guaranteed, but not provided, by the Successful Respondent, is the true-up amount owed by the Company under the PPA. Note that the PPA also provides an offset in the PPA Price, to the extent any such true-up payment is not timely made by the Company under the PPA. Please take particular note of Section 6.1 of the PPA, including the minimum output guarantees.

(vi) Subsection 7. Section B(7) of Form A-1-b allows Respondents to propose material changes to Program Documents, if any. Please note that in accordance with Section 5.1(f) and 6.2(k) (Evaluation Criteria) of this RFP, any changes that adversely affect the Series 2011 Program (as determined by the Authority) are strongly discouraged. By the Authority's award (conditional or otherwise) to a Successful Respondent, the Authority shall not have accepted any such changes, which if accepted by the Authority in whole or in part or in modified form, shall only be evidenced by duly authorized, executed and delivered Program Documents reflecting such accepted changes. Unless the Authority specifically accepts any such material changes in writing, Respondents should deem all requested changes denied. If there are no material changes being proposed, Respondents should check the box in Section B(7)(a) marked no changes.

Notwithstanding the foregoing, should Respondents strongly desire Program Document changes, the Authority will consider any Program Document changes proposed during the question and answer period. If accepted by the Authority, in its sole discretion, such changes would be available to all Respondents. The Authority reserves the sole and exclusive right to accept, reject or modify any and all such changes proposed by a Respondent during the question and answer period. Any changes received either in Form A-1-b, or outside of the

question and answer time period, will be dealt with as noted in the paragraph above.

(vii) Subsection 8. Section B(8) of Form A-1-b allows Respondents to propose additional economic benefits, as contemplated by Section 5.2 of this RFP. If there are no additional economic benefits being proposed, Respondents should check the box in Section B(8)(a) marked none.

(viii) Subsection 9. Section B(9) of Form A-1-b allows Respondents, at their option, the ability to provide early termination and end of term fair market value purchase option prices or formulas for each of the Renewable Energy Projects. The Authority reserves the right as to whether it desires to include any such prices in the Program Documents.

#### **Section 4.2. Renewable Energy Projects.**

(a) The Authority is providing technical specifications attached as **Appendix C** to this RFP as a preliminary guide for the final design of the Renewable Energy Projects. Respondents must maintain the existing roof warranties associated with each of the Series 2011 Local Unit Facilities, as detailed in **Appendix B-1** to this RFP. These plans should be considered as the minimum requirements to satisfy this RFP. The technical design proposed by the Respondents must meet the Authority's goals as indicated in this RFP. This preliminary Renewable Energy Project configuration is being provided to Respondents as a guide only and Respondents are not bound by the configuration set forth in **Appendix C** to this RFP.

(b) Respondents are encouraged to propose innovative (but achievable) Renewable Energy Project designs to maximize the value of the Renewable Energy Projects to the Authority and its Series 2011 Local Units. However, the Renewable Energy Projects must meet the technical specifications set forth in **Appendix C** to this RFP including maintaining the existing roof warranties associated with each of the Series 2011 Local Unit Facilities as set forth in **Appendix B-1**, must comply with all BPU Clean Energy Program technical and administrative requirements, and must satisfy aesthetic considerations as determined by the Authority and the Series 2011 Local Units.

(c) The Authority is aware that the removal of trees at certain Local Unit Facilities could increase the size of the Renewable Energy Projects. Respondents should submit their proposals based upon existing conditions at Program Local Unit Facilities. The Authority intends to work with the Successful Respondent and the Series 2011 Local Units to determine a reasonable number of trees that could be removed at certain Local Unit Facilities to allow for an increase in the overall size of the Renewable Energy Projects.

#### **Section 4.3. Reserved [No Capital Improvement Projects for the Series 2011 Program]**

## ARTICLE V

### PROCEDURES FOR SUBMISSION OF PROPOSALS

#### Section 5.1 Substantive Requirements for Proposals.

In order to be responsive, Proposals must include all of the information required in this Section 5.1 of this RFP. Notwithstanding the foregoing, Section 5.1(f) is included in this Section of this RFP because if such changes are to be proposed to the Program Documents, they must be disclosed at the time of the submission of the Proposal, and be included in the Proposal. Accordingly, the inclusion of Section 5.1(f) in the following litany is NOT intended to require that a Respondent submits material changes to the Program Documents (note that material changes to Program Documents are negatively viewed in the Section 6.2 Evaluation Criteria).

(a) Proposals must include the legal name of the Respondent and a statement identifying the Respondent as a sole proprietor, joint venture, partnership, single purpose entity, corporation or other legal entity, as appropriate. The Proposal must indicate whether or not the Respondent intends to form a special purpose entity to own and operate the Renewable Energy Projects, and the proposed ownership structure of that special purpose entity (including the entity(ies) that would execute the Company Pledge Agreement). The original Proposal shall be executed by the person or persons legally authorized to bind the Respondent. A Proposal by a limited liability company or corporation shall further set forth the state of organization or incorporation, as applicable, and whether the Respondent is qualified to transact business in the State as a foreign corporation or other business entity. The Company will be required to have a business registration certificate by the execution of all Program Documents (see <http://www.state.nj.us/treasury/revenue/busregcert.shtml> ). A Proposal submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Respondent.

(b) Proposals must also include the following information about the Respondent:

(i) *Respondent History / Qualification.* Provide a detailed history of Respondent and a statement of qualifications including a description of comparable services provided for comparable projects including dates. Respondent must demonstrate a minimum of three (3) years experience for design, construction, and installation of Renewable Energy Projects of a similar size and scope (not all joint venture partners need comply, although lack of experience of the entire team can be considered negatively in the Evaluation Criteria), and provide at least three (3) references, including contact information, for projects of similar size and scope.

(ii) *Financial Qualifications.* Provide evidence that Respondent has the financial ability to perform the required Company Services.

Respondent must provide complete financial statements, including the following statements for the current fiscal year-to-date and the prior fiscal year: balance statement (detailing cash and cash equivalents, current assets, current liabilities, stockholder equity), statement of operations (detailing pre-tax earnings) and statement of cash flows. The Respondent shall also submit any other information that the Respondent believes to be relevant to demonstrate its financial strength. In the case of a subsidiary, statements must provide information with respect to the operating entity. The Authority reserves the right to submit the financial statements to the rating agencies in connection with the rating agencies review of an Authority's Series 2011 Bonds. The rating agencies have agreed to keep the content of said financial statements confidential, although the Authority shall not be responsible to Respondent should the rating agencies act in a different manner.

(c) Proposals must also include the following:

(i) Proposed PPA Price and other pricing elements specified in Section 4.1 and **Appendix D** (Form A-1) of this RFP, including without limitation Total Project Cost, a component breakout of Total Project Cost, and the amount of electricity generated by each of the Renewable Energy Projects, measured in kW (dc), and post inversion, annual kWh (ac);

(i) Proposed Renewable Energy Project Technical Design consistent with Sections 4.2 and 4.3 and **Appendix C** of this RFP;

(iii) Proposal and Construction Bonding requirements consistent with Section 7.2 of this RFP; and

(iv) Insurance Requirements consistent with Section 7.3 of this RFP.

(d) The following attachments must be included in the Proposal.

(i) Proposal Form A-1 PPA Price Quotation Sheet(s)<sup>12</sup>

(ii) Proposal Form A-2 Respondent Information / Cover Letter Form;

(iii) Proposal Form A-3 Consent of Surety Form

(iv) Proposal Form A-4<sup>13</sup> Agreement for Proposal Security In Lieu of Proposal Bond;

<sup>12</sup> Proposal Form A-1-a for the Authority Financing Option, and Proposal Form A-1-b for the Company Financing Option

<sup>13</sup> Provide EITHER (i) Form A-4 (Proposal Funds) or (ii) Form A-5 (Proposal Bond); found in Appendices D-A-4 or D-A-5, as applicable. See Section 7.2(a) of RFP.

- (v) Proposal Form A-5<sup>14</sup> Proposal Bond;
- (vi) Proposal Form A-6 Ownership Disclosure Statement;
- (vii) Proposal Form A-7 Non-Collusion Affidavit;
- (viii) Proposal Form A-8 Consent to Investigation;
- (ix) Proposal Form A-9 Statement of Respondent's Qualifications;
- (x) Proposal Form A-10 Acknowledgement of Receipt of Addenda (if any);
- (xi) Proposal Form A-11 Sealed Proposal Checklist (See **Exhibit 2**);

(f) The Authority has taken great care to craft the Series 2011 Program, and as discussed elsewhere in this RFP, has received virtually all approvals of the applicable governing bodies, including the State, for this Series 2011 Program. Accordingly, the Authority shall not look to accept any material changes to the forms of the Program Documents attached as **Appendix A** to this RFP, and Respondents should be aware that any such proposed changes could be a negative factor in any Evaluation Criteria. However, if a Respondent believes it is absolutely necessary to materially change any of the terms and provisions of the Program Documents set forth in **Appendix A** to this RFP (and this includes any of Respondent's team, such as the County Security Provider), Respondent *must* include said changes in its Proposal at the time of submission, along with a detailed explanation clearing setting forth justification for the proposed changes (See Section B(9) of Form A-1-a, and Section B(7) of Form A-1-b). The Authority reserves the right, in its sole discretion and in accordance with applicable law, to determine whether or not to accept or reject any proposed material changes to the form of such Program Agreements.

### **Section 5.2 Permitted Inclusions in Proposals.**

In addition to the items that must be included in the Proposals as set forth in Section 5.1 of this RFP, the following items may be included, each to be considered an option under applicable competitive contracting law. To the extent, pursuant to this Section 5.2, other items are included in submitted Proposals, the Authority may consider any such potential inclusion a positive or negative factor in its Evaluation Criteria, depending on the nature of the inclusion. The Authority reserves the right in its sole discretion and in accordance with applicable law to determine whether or not to accept or reject any permitted inclusion in the Proposals as part of

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<sup>14</sup> See prior footnote.  
[00016570-5]

the Series 2011 Program, regardless of any perceived benefits to the Authority and/or the Series 2011 Local Units.

(a) The Respondent may include a form of the proposed County Security Agreement, so long as it meets the minimum criteria for such County Security Agreement as outlined in Section 1.3(g)(xvii) of this RFP. In preparing or causing the preparation of any such County Security Agreement, Respondents should cause their County Security Provider, if any, to be mindful of Section 5.1(f) of this RFP. It is also acceptable, and shall not be evaluated as a negative factor in the Evaluation Criteria, for a Respondent to include a general form of County Security Agreement from any such County Security Provider, so long as it is clearly marked as such, thereby making it clear to both the Authority and any Successful Respondent that such document is a general form, and is not intended to be providing material changes to other Program Documents strongly discouraged by Section 5.1(f) of this RFP.

(b) Respondents may include a summary of any additional benefits to be provided to the Authority and/or the Series 2011 Local Units beyond that set forth in the Program Documents. The Respondents are encouraged to be creative in the benefits offered. In addition to the benefits afforded to the Authority by the PPA Price, such benefits offered might include the following: (i) a sharing in the SREC market revenues realized, (ii) a sharing in any federal or State tax benefits realized, (iii) a sharing in any other financial / environmental market value realized, (iv) end of contract provisions and options beyond those included in the Program Documents (i.e., (A) extension of PPA if permitted under applicable law, upon then applicable to be determined terms, such as PPA Price, (B) sale of Renewable Energy Projects to Series 2011 Local Units for fair market value, or (C) removal of Renewable Energy Projects from Local Unit Facilities by and for the Company), and (v) additional services to be performed by the Respondent in addition to the Company Services. The Authority is mindful of tax considerations, and is willing to consider commercially reasonable arrangements to provide same.

(c) Optimally, the Authority would prefer to share, on an equitable to be determined basis, any future, but at this time unknown financial / environmental benefits attributable to the Renewable Energy Projects or the Series 2011 Program, including but not limited to the refunding of any Series 2011 Bonds, either by the Authority or the Successful Respondent, and any savings generated by such refunding. In the event such benefits are not easily monetized, a sharing methodology would need to be developed at the time of any precipitating event. The Respondents may desire to include in their Proposals, as part of Section 5.2(b), any suggested allocation or other offers regarding these concepts, to be worked into the Program Documents if amenable to the Authority and the Series 2011 Local Units.

### **Section 5.3 Proposals Governed by Applicable Law.**

In order for the Authority to consider a Proposal, any such Proposal, and the terms it proposes with respect to the Company Services, must comply with all applicable law, including

the procurement law of the State. The Authority suggests that each Respondent take particular note of the following:

(a) The provisions of Article I of this RFP that guided the structure of this Series 2011 Program, and to which the Authority must adhere.

(b) Any Successful Respondent and its subcontractors, if any, must comply with all "Buy American" statutes and regulations, including N.J.S.A. 40A:11-18. Given the lack of regulations interpreting N.J.S.A. 40A:11-18, the Authority reserves the right to accept non-domestic materials under this RFP in accordance with guidance provided by N.J.S.A. 52:33-2 and 52:33-3 in the event: (i) it determines the use of domestic materials is "impractical" or "inconsistent with the public interest;" (ii) it determines that the cost of using domestic materials is "unreasonable;" or (iii) domestic materials of the class or kind sought are not mined, produced, or manufactured, as the case may be, in the United States in commercial quantities and of a quality satisfactory to the Authority.

(c) Respondent(s) shall not offer any gratuities, favors, or anything of monetary value to any official or employee of the Authority, any Authority consultant working on this RFP or the State for the purpose of influencing consideration of any Proposal. Any attempt shall be reported to the proper law enforcement authorities.

#### **Section 5.4 Procedural Requirements and Other Matters for Proposals.**

(a) One original and nine (9) copies of a fully authorized, completed (in accordance with the terms of this RFP, including Section 7.1 hereof), executed and sealed (either opaque envelopes or boxes may be used if necessary or desirable, so long as the Respondent and RFP are clearly marked on the outside) Proposal are due from Respondents by 1:00 p.m., Eastern time, October 13, 2011 (time is of the essence, the "*Due Date*"), to be delivered to the following address:

(ii) The Morris County Improvement Authority Energy Program  
c/o Sussex County, New Jersey  
Sussex County Administrative Center  
One Spring Street  
Newton, New Jersey 07860  
Attention: John H. Eskilson, County Administrator

(ii) Immediately thereafter, Proposals will be opened and acknowledged as timely received. For each such Proposal, the Respondent, PPA price and escalation factors (per each alternative submitted) shall be publicly read by or on behalf of the Authority. No further action is required to be taken on the due date. Proposals received after that time and date will be returned unopened. The Respondents shall assume full responsibility for timely delivery at the location designated for the receipt of Proposals.

(iii) See Section 5.4(j) of this RFP for the option of submitting a redacted version of the Proposal under OPRA.

(iv) Each Respondent may submit up to three (3) alternative Proposals using the Authority Financing Option, and up to one (1) Proposal using the Company Financing Option, for a total of four (4) Proposals. Assuming each of the up to four (4) Proposals conform to the requirements of this RFP, the Authority will review, consider and report on all such Proposals submitted. Pursuant to Section 1.3(g)(xviii), Respondents submitting under both Option F-1 and Option F-2 are deemed to have submitted one (1) Proposal under the Authority Financing Option, and a second alternative Proposal under the Authority Financing Option (leaving the Respondent with the ability to submit one (1) more alternative Proposal under each of the Authority Financing Option and the Company Financing Option). Respondents are encouraged, but not required, to submit a Proposal under each of the Authority Financing Option and the Company Financing Option. The Authority may, in its sole discretion, determine to review, consider and report on (A) Proposals in excess of the maximum number and type of permitted Proposals and/or (B) non-conforming Proposals (with defects other than fatal defects under applicable law), particularly if such Proposals provide the Authority, the County, the Series 2011 Local Units and/or the Series 2011 Program with one (1) or more of the Evaluation Criteria to a material degree not found in the other Proposals.

(b) The Proposal should be accompanied by a PDF of the Proposal on a CD-ROM or other disc or flash drive.

(c) All comments and questions concerning any facet of this RFP, including the corresponding procedures and requirements for submitting the Proposal, must be addressed in writing, no later than the time established in the Proposed Schedule for the Series 2011 Program set forth in **Exhibit 3** to this RFP,

(i) if via hard copy, to the following address:

(iii) The Morris County Improvement Authority Energy Program  
c/o Sussex County, New Jersey  
Sussex County Administrative Center  
One Spring Street  
Newton, New Jersey 07860  
Attention: John H. Eskilson, County Administrator; or

(ii) If via e-mail, to Deborah S. Verderame, Esq., of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Counsel for the Authority, at [dverderame@iandplaw.com](mailto:dverderame@iandplaw.com)

(d) Oral or telephonic Proposals, and letter Proposals (without meeting the requirements of this RFP) are invalid and will not receive consideration by the Authority.

(e) The Authority presumes that Submission of a Proposal signifies careful examination of this RFP by the Respondent, and a complete understanding by the Respondent of the nature, extent and location of the Company Services to be performed as part of the Series 2011 Program, and a thorough due diligence of the Local Unit Facilities of the Series 2011 Local Units with respect to the contemplated Renewable Energy Projects. Accordingly, prior to submitting a Proposal, each Respondent shall make all investigations and examinations necessary to ascertain conditions and requirements affecting provision of the proposed Company Services. Failure to make such investigation and examinations shall not relieve the Successful Respondent of the obligation to comply, in every detail, with all provisions and requirements, nor shall it be a basis for any claim whatsoever for alteration in any provision required by this RFP or the Program Documents.

(f) During the RFP process and prior to the award to a Successful Respondent, no contact shall be made by any prospective Respondent, or any of their agents or advisors or contract parties, including subcontractors and counsel, with any board member or staff of the Authority, the County or the Series 2011 Local Units, or any of their agents, advisors or contract parties, except (i) as expressly provided for in this RFP (e.g., Local Unit Facility site tours, design review by Local Unit Facility roof warrantors) and (ii) in compliance with Section 5.4(c) and 5.5 of this RFP. Failure to abide by these guidelines is cause for an automatic rejection of an otherwise qualified Proposal. Respondents are responsible for the actions of their agents, advisors or contract parties.

(g) The Proposals and any information made a part of the Proposals shall become part of the Authority official files without any obligation on the Authority's part to compensate, or return them to, the individual Respondent(s).

(h) This RFP and the Successful Respondent's Proposal may, by reference, become part of any formal contract between the Authority and Respondent, including any Program Document. Only the due authorization, execution and delivery by the Successful Respondent, the Authority, and any other party or parties to the Program Documents creates a valid and binding obligation of all such entities, notwithstanding any award to a Successful Respondent, which award is and shall be conditional until and unless such Program Documents are so authorized, executed and delivered. The Successful Respondent is not entitled to any excess Series 2011 Bond authorization capacity, although the Authority may utilize same in the Series 2011 Program, but at the Authority's sole discretion.

(i) The following is the Authority's policy regarding modification or withdrawal of Proposals:

(i) A Proposal may not be modified, withdrawn or canceled by the Respondent for a period of **sixty (60) days** from the Proposal submission due date, and each Respondent agrees to this condition in submitting a Proposal, although the Authority reserves the right to request a Respondent to clarify certain terms of its Proposal ;

(ii) Proposals submitted prior to the time and date designated for receipt of Proposals may be modified or withdrawn by notice from the Respondent Contact Person to an Authority Contact Person up until the time and Due Date for the receipt and opening of Proposals. Such notice shall be in writing over the signature of an authorized officer of the Respondent. Such Respondent should be careful so that any information set forth in the previously submitted Proposal, such as a PPA Price, shall not be revealed through this process; and

(iii) A withdrawn Proposal may be resubmitted up to the time and Due Date designated for the receipt of Proposals, provided that it is then fully in conformance with this RFP.

(j) The following is the Authority's policy regarding confidentiality of materials within the Proposal:

(i) If a Respondent believes that any portion of its Proposal constitutes trade secrets and proprietary commercial or financial information that is expressly precluded from public disclosure pursuant to N.J.S.A. 47:1A-1.1 of OPRA or such other applicable exception to OPRA, and therefore such portion should be withheld from public disclosure, it is the responsibility of the Respondent to identify such information in its Proposal, or at the Authority's discretion, subsequent to the submission of the Proposal, in accordance with the provisions of clause (v) below;

(ii) Proposals received in response to this RFP shall not be discussed or otherwise made available to the public or any other Respondent until such time as a PPA and the other Program Documents relating to Company Services are approved and executed by all parties thereto. Disclosure shall be subject to the provisions of OPRA;

(iii) The Successful Respondent shall establish and maintain procedures and controls that are acceptable to the Authority for the purpose of assuring that information provided by the Authority remains confidential;

(iv) All information identified by a Respondent as confidential and proprietary in nature shall be kept confidential by the Authority only after receiving a written determination, from counsel or from some applicable government authority, as to whether the information qualifies as confidential and

proprietary. Should the Authority determine that such information must be provided to the public; the said information shall not be disclosed without first notifying the Respondent in writing.

(v) A Respondent claiming that any portion of its Proposal constitutes trade secrets and proprietary commercial or financial information that is expressly precluded from public disclosure pursuant to N.J.S.A. 47:1A-1.1 of OPRA or such other applicable exception to OPRA shall:

(A) Expressly state such position and request such treatment, in the cover letter accompanying the Proposal or elsewhere clearly marked in the Proposal;

(B) Provide an accompanying affidavit of an authorized officer of the Respondent supporting the reasoning for such exclusion; and

(C) Provide one (1) additional copy of the Proposal, with the confidential information redacted using any reasonable means, along with a CD-ROM disk of the redacted Proposal in PDF format, both included in a sealed envelope marked "Redacted Version of Proposal submitted by [fill in name of Respondent] for OPRA purposes". The Authority reserves the right to make all determinations under OPRA regarding whether the redacted material is entitled to any such OPRA exception, so long as the Authority notifies the Respondent Contact Person in writing prior to responding to any valid OPRA request through the Authority's dissemination of the Proposal in response to any such valid OPRA request, but only if the Authority disagrees with the Respondent as to the OPRA exception sought for any portion of the redacted Proposal. Further, the Authority reserves the right to request another redacted version of the Proposal (and accompanying CD-ROM) to the extent the Authority so disagrees as to the applicability of any such OPRA exception to any portion of the redacted Proposal submitted by the Respondent.

#### **Section 5.5 Clarification of Proposals.**

(a) Each Respondent shall carefully examine the Local Unit Facilities and this RFP, and thoroughly familiarize themselves with all RFP requirements prior to submitting a Proposal. Should a Respondent find discrepancies or ambiguities in, or omissions from this RFP, or should the Respondent be in doubt as to the meaning of any provision in this RFP, Respondent shall at once, and in any event, not later than fifteen (15) business days prior to the proposal due date, and only through the Respondent Contact Person, submit to the Authority a

written request for interpretation or correction thereof (see Section 5.4(c) of this RFP). The Respondent Contact Person will be responsible for its prompt delivery to the Authority via the methodology permitted in Section 5.4(c) of this RFP. Each Respondent is responsible for confirming receipt of any facsimile or email materials to the Authority.

(b) Any interpretation or correction of this RFP will be made by the Authority only by written addenda available to all Respondents through publications on the Authority's website, and through an e-mail notification to the Respondent Contact Persons. No allowance will be made after Proposals are received for oversight, omission, error, or mistake by the Respondent or by the Authority or other Series 2011 Program participants, including by the County or the Series 2011 Local Units; although by their submission of the Proposals, and without any further act, Respondents acknowledge that any such oversight, omission, error, or mistake by the Authority, the County or the Series 2011 Local Units, if any, shall be deemed to be immaterial, and waived by the Respondent in any event. Addenda so issued will become part of this RFP and receipt and review thereof by the Respondent shall be acknowledged in their Proposal.

(c) The Authority reserves the right to clarify any provision of any timely received and properly completed Proposal, in any manner suitable to the issue, whether through interview, meeting, written request for clarification to any one or more Respondents or to all similarly situated Respondents, through telephone call, telecopy, e-mail through the Respondent Contact Person or otherwise.

#### **Section 5.6 No Tax Advice Offered.**

**BY ACCEPTING THIS RFP, AND WITHOUT ANY FURTHER ACT, RESPONDENTS ARE DEEMED TO HAVE AUTOMATICALLY ACCEPTED THE FOLLOWING, REGARDLESS OF WHETHER OR NOT THEY SUBMIT A PROPOSAL: IT SHALL BE EXPRESSLY UNDERSTOOD BY ALL POTENTIAL AND ACTUAL RESPONDENTS, INCLUDING THE SUCCESSFUL RESPONDENT, THAT SUCH RESPONDENTS SHOULD CONSULT WITH, AND RELY UPON, THEIR OWN TAX ADVISORS IN CONNECTION WITH ALL FEDERAL AND STATE TAX MATTERS IN THIS RFP, INCLUDING THE INTERPRETATION OF ANY PROGRAM DOCUMENTS, AND THAT NONE OF THE AUTHORITY, THE COUNTY, THE SERIES 2011 LOCAL UNITS, NOR THEIR ADVISORS, ARE RENDERING ANY ADVICE OR OPINION IN CONNECTION WITH SUCH TAX MATTERS.**

## ARTICLE VI

### AWARD TO SUCCESSFUL RESPONDENT

#### Section 6.1 Submitted Proposals.

(a) Timely submitted and properly completed Proposals shall be opened in accordance with Section 5.4(a) (ii) of this RFP.

(b) The Authority, together with its evaluation team, shall review such Proposals in accordance with the Evaluation Criteria set forth in Section 6.2 of this RFP. The Authority shall use commercially reasonable efforts to keep to the schedule set forth in **Exhibit 3** to this RFP, but failure to do so shall not serve as the basis for any challenge under this RFP, to which all Respondents acknowledge and agree by their submission of their Proposal.

(c) The Authority reserves the right to conduct one or more interviews with qualified Respondents prior to any award to a Successful Respondent for clarification of any response to this RFP. The Authority shall determine the scope of the interview at such time, which may include a forum for response to questions, and/or a presentation from the Respondents. Any such interview shall not be a forum to engage in negotiation of Company Services or the material terms of Program Documents. By the submission of a Proposal and without any further action, each Respondent specifically acknowledges that it has accepted both the scope of Company Services and the material terms of the Program Documents. Failure to comply with an interview request may disqualify a Respondent from consideration under this RFP.

(d) Proposals submitted by Respondents shall be irrevocable by them for sixty (60) days from the date of opening by the Authority. The Authority may seek clarification from one or more Respondents concerning their respective Proposals in accordance with Section 5.5 of this RFP.

#### Section 6.2 Evaluation Criteria.

The Authority, in combination with its evaluation team, shall review each properly completed and timely submitted Proposal applying the following economic and non-economic criteria (the "*Evaluation Criteria*"), in accordance with all applicable law, in determining the Successful Respondent. The Authority reserves the right to apply different weight to any one or more of the following Evaluation Criteria, as the Authority, in its sole discretion and in accordance with law, shall determine to be in the best interests of the Authority, the County, the Series 2011 Local Units and the Series 2011 Program.

(a) The PPA Price and the other information supplied on Form A-1, along with any other relevant factors of economic value to the Authority, the County, and/or the Series 2011 Local Units supplied by Respondent in their Proposal.

(b) The Respondent's general approach and plans in meeting the requirements of this RFP.

(c) The Respondent's detailed approach and plans to perform the Company Services as required in the Program Documents and as set forth in this RFP, including Respondent's ability to design, permit, acquire, construct, install, operate, and maintain the Renewable Energy Projects on the Local Unit Facilities for all of the Series 2011 Local Units in accordance with the requirements of **Appendix B-1** and **Appendix B-3** of this RFP and the technical specifications set forth in **Appendix C** of this RFP.

(d) The Respondent's detailed approach and plans to perform the Company Services required under the Program Documents in connection with the operation and maintenance of the Renewable Energy Projects on the Local Unit Facilities for all of the Series 2011 Local Units.

(e) The Respondent's documented experience in successfully completing contracts of a similar size and scope to those required by this RFP, including the Program Documents.

(f) The qualifications of the Respondent's management, supervisory and other key staff assigned to perform the Company Services under the Program Documents, with emphasis upon documented experience in successfully completing contracts of a similar size and scope to those required by this RFP.

(g) The overall ability of the Respondent to mobilize, undertake and successfully and timely complete the Company Services under the Program Documents. This judgment will include the qualifications, number, and availability of management, supervisory and other key staff assigned to this transaction and the Respondent's management plan for the performance of the Company Services under the Program Documents.

(h) The financial strength of the Respondent and the proposed Company.

(i) The elimination of the County Deficiency Amount, or failing that, the minimization of same. To the extent a County Deficiency Amount shall exist, the early availability in immediately available funds, amount, quality, and strength of the Reimbursement Collateral, as County Security, to reimburse the County up to the County Deficiency Amount, should the County ever have to pay debt service on the Series 2011 Bonds under its County Guaranty.

(j) Excess County Security, beyond the funding of the County Deficiency Amount, if any, while not required under this RFP, would be a positive Evaluation Criteria.

(k) The extent to which the Respondent proposes material changes to the Program Documents, as discussed in Section 5.1 of this RFP.

(l) The extent to which the Respondent proposes more favorable option terms to the Authority, as contemplated by Section 5.2 of this RFP.

(m) The Respondent's demonstrated knowledge of State laws and regulations for permitting and construction of Renewable Energy Projects and State and federal renewable energy programs, requirements, regulations and financial incentive programs.

(n) The Authority reserves the right to waive immaterial, non-conforming components in any Proposal. Materiality shall be determined by the Authority, in its sole discretion and in accordance with law, and in making such determination, the Authority may take into account the overall best interests of the Authority, the County, the Series 2011 Local Units and the Series 2011 Program.

(o) The Respondent's inclusion of Restoration Security in its Proposal.

(p) The form of Construction Security.

### **Section 6.3 Basis of Award.**

(a) After review of all timely submitted and complete Proposals, after any clarification authorized by Section 5.5 of this RFP, after any interview process contemplated by Section 6.1(c) of this RFP, and after applying the Evaluation Criteria set forth in Section 6.2 of this RFP, the Authority, by resolution of its governing body, may award the Company Services contemplated by this RFP to the Respondent (now the Successful Respondent) that the Authority, in its sole discretion and in accordance with law, shall determine to be in the best interests of the Authority, the County, the Series 2011 Local Units and/or the Series 2011 Program.

(b) Only the due authorization, execution and delivery by the Successful Respondent, the Authority, and any other party or parties to the Program Documents creates a valid and binding obligation of all such entities, notwithstanding any award to a Successful Respondent and notwithstanding Section 6.5 of this RFP, which award is and shall be conditional until and unless such Program Documents are so authorized, executed and delivered.

(c) Following the evaluation and award, the Authority shall issue a report concerning the RFP process and award, in accordance with applicable law. At their request, such report shall be made available to all Respondents.

#### **Section 6.4 Rejection of Proposals.**

(a) Proposals may be rejected without review because they have been submitted on an untimely basis or not otherwise in conformity with the requirements of this RFP, to which requirements the Authority is entitled to apply strict scrutiny.

(b) This RFP does not commit the Authority to the awarding of a Successful Respondent, or the execution and delivery of a PPA or any other Program Document.

(c) The Authority reserves the right to reject specific Proposals if not submitted by the time, Due Date, manner and at the place designated in this RFP, or if not completed in conformance with the terms of this RFP. The Authority further reserves the right to waive any defects in specific Proposals that the Authority, in its sole discretion and in accordance with law, determines to be immaterial to the purposes of the Authority, the County, the Series 2011 Local Units and the Series 2011 Program. The Authority further reserves the right to reject all Proposals or otherwise take such action that the Authority, in its sole discretion and in accordance with law, shall determine to be in the best interests of the Authority, the County, the Series 2011 Local Units and the Series 2011 Program. The Authority anticipates that due to LFB Notices, it is possible the Authority would reject all Proposals should the PPA purchase price for electricity submitted in each Proposal be in excess of the existing delivered cost of electrical power from the Local Distribution Companies, which in the case of the Local Unit Facilities for the Lafayette Township Board of Education, is the Sussex Rural Electric Cooperative, and in the case of the Local Unit Facilities for the other Series 2011 Local Units, is the Jersey Central Power & Light Company.

(d) Once a Successful Respondent has been selected, the other Respondents will be notified that their Proposals have been rejected.

#### **Section 6.5 Conditional Award.**

(a) The Authority reserves the right to conditionally award this RFP to a Respondent (which would become the Successful Respondent, when and if such condition is satisfied), if and only if (i) the only items not included with the original Proposal are those permitted to be submitted thereafter in accordance with Section 7.1 of this RFP, and (ii) the Authority is otherwise ready and able to make an award to any such Respondent pursuant to Section 6.3(a) hereof.

(b) The Authority reserves the right to notify the Respondent of any such conditional award under subsection (a) above that it has a deadline in making all such final submissions, and that if such deadline, and if applicable, any extensions, are not met, the Authority reserves the right to (i) revoke the conditional award, (ii) bypass such Respondent and (iii) award the Successful Respondent to this RFP (conditionally or otherwise) to another Respondent in accordance with Section 6.3(a) or 6.5(a) of this RFP.

## ARTICLE VII

### CERTAIN GENERAL MATTERS

#### Section 7.1 Exhibit 2 Checklist.

(a) For a Proposal to be complete, and be reviewed, considered, and reported on by or on behalf of the Authority, each Respondent must submit all items required for submission as set forth in the **Exhibit 2** checklist. See **Appendix D** to this RFP for a list of the forms to be included in each Proposal as Exhibit A to each such Proposal.

(b) **IMPORTANT NOTE:** Please note that all items set forth in Section 1 of **Exhibit 2** must be submitted with the original Proposal, or else the Authority shall reject the Proposal without substantive review. Failure to provide all such items shall, in and of itself, cause the Proposal to contain a fatal, non-curative flaw.

(c) **IMPORTANT NOTE:** The items set forth in Section 2 of **Exhibit 2** may or may not be submitted with the Proposal, but all such items in Section 2 of **Exhibit 2** must be submitted prior to any award to a Successful Respondent pursuant to Section 6.3(a) of this RFP. To the extent a Respondent submits one or more items from Section 2 of **Exhibit 2** after the original Proposal but within the allowable timeframe, such items shall be deemed part of the Proposal as if fully set forth in the original Proposal. Failure of the Respondent to submit all the items in **Exhibit 2** within the permitted timeframe shall, in and of itself, cause the Proposal to contain a fatal, non-curative flaw, even once a conditional award may have been made pursuant to Section 6.5 hereof, in which instance the Authority shall reject the Proposal without substantive review.

(d) To the extent the Respondent determines to make an Equity Contribution in accordance with the provisions of Section 1.3(c) of this RFP, the Respondent must provide either an Equity Contribution Cash Commitment, or an Equity Contribution Consent of Surety, as required by Section 3 of **Exhibit 2**. The Authority shall determine the timeliness and sufficiency of any such submission in accordance with Section 1.3(c)(iii) of this RFP. The Respondent may provide these items either upon submission of the Proposal, or prior to the award to the Successful Respondent, but in any event no later than November 1, 2011.

(e) Unless the Respondent has eliminated the County Deficiency Amount (see RFP Sections 1.3(g)(xv) through 1.3(g)(xix), inclusive), the Respondent must provide either a County Security Cash Commitment, or a County Security Consent of Surety, as required by Section 4 of **Exhibit 2**. The Authority shall determine the timeliness and sufficiency of any such submission in accordance with Section 1.3(g)(xviii)(D) of this RFP. The Respondent may provide these items either upon submission of the Proposal, or prior to the award to the Successful Respondent pursuant to Section 6.3(a) of this RFP, but in any event no later than November 1, 2011.

(f) The items in Section 5 of **Exhibit 2** are relevant only if the Respondent exercises its option to provide Restoration Security. See Section 7.2(c) of this RFP. The Authority shall determine the timeliness and sufficiency of any such submission in accordance with Section 7.2(c)(iii)(C) of this RFP. The Respondent may provide these items either upon submission of the Proposal, or prior to the award to the Successful Respondent pursuant to Section 6.3(a) of this RFP, but in any event no later than November 1, 2011.

(g) The item in Section 6 of Exhibit E is only required from the Successful Respondent, prior to any award to the Successful Respondent pursuant to Section 6.3(a) of this RFP, but in any event no later than November 1, 2011.

### **Section 7.2 Proposal and Construction Bonding.**

(a) *Proposal Security.* Each Respondent must submit with the Proposal either (i) a certified check, cashier's check, or other immediately available funds in the amount of \$20,000, unconditionally and irrevocably payable to the Authority, accompanied by Form A-4 prepared and signed by the Respondent in the form set forth in **Appendix D-A-4** to this RFP (the "*Proposal Funds*"), **OR** (ii) a proposal bond in the amount of \$20,000 in the form set forth as Form A-5, as set forth in **Appendix D-A-5** to this RFP (the "*Proposal Bond*"). Delivery to the Authority of either the Proposal Funds or the Proposal Bond (whichever is selected by the Respondent, such alternate Proposal security may be referred to collectively as the "*Proposal Security*"), as part of the Proposal, satisfies the mandatory submittal requirements of this RFP (see **Exhibit 2**), so long as the other provisions of this Section 7.2(a) are met.

When submitting a Proposal Bond, it shall contain a power of attorney for the full amount of the Proposal Bond from a surety company authorized to do business in the State, shall have an A.M. Best's rating of at least "A" or the equivalent thereof, and shall be listed in the United States Treasury Department Circular 570. The Proposal Security of the Successful Respondent to whom the PPA is awarded shall be retained until a PPA is executed and the required Construction Performance Bond (as hereinafter defined) is submitted.

The Proposal Security of all unsuccessful Respondents shall be returned within three (3) days, Saturdays, Sundays and holidays excepted, after the award of the PPA and upon receipt and approval of the Successful Respondent's Construction Performance Bond (not merely the Successful Respondent's Construction Consent of Surety, as hereinafter defined).

Non-performance by the Successful Respondent as contemplated by this RFP, including their failure to execute the PPA for any reason or meet the Construction Performance Bond requirements within ten (10) days after notice of the award to the Respondent made by the Authority shall result in its Proposal Security being forfeited to the Authority as liquidated damages.

If no PPA has been awarded within sixty (60) days after the opening of Proposals, the Authority may request the Respondents to allow the Authority a reasonable amount of additional time prior to awarding a contract and returning the Proposal Security to the Respondents. The Authority will not require the forfeiture of any Proposal Security in the instance that execution of the PPA is delayed by the governmental action of the Authority, the County or the Series 2011 Local Units.

(b) *Construction Security.* In order for the Proposal of a Respondent to be reviewed, considered, and reported, on, the Respondent must provide,

(i) Upon and as part of the submission of the Proposal, the Respondent must provide a fully executed consent of surety substantially in the form set forth in the back of Form A-3 found in **Appendix D-A-3** to this RFP (the "*Construction Consent of Surety*"), with any deviations from such form to be reviewed with strict scrutiny, and accepted or not, at the Authority's sole discretion (and hence any changes from the form provided is at the Respondent's risk). *Failure to submit a conforming Construction Consent of Surety along w/ the Proposal is a fatal flaw that will result in the rejection of the Proposal, just for this fact, without any substantive review of the Proposal, all as required by applicable State law ( See Exhibit 2).*

(ii) No later than the issuance of and closing for the Series 2011A Bonds, at which time the PPA shall be executed, the Successful Respondent must provide, and further, the Successful Respondent must maintain, during the construction of the Renewable Energy Projects, a "*Construction Performance Bond*", all as required by the Company Lease Agreement. The Construction Consent of Surety, together with the Construction Performance Bond, shall be collectively known as the "*Construction Security*". The Construction Performance Bond shall contain, at a minimum, the following elements:

(A) The Construction Performance Bond must be in the amount of one hundred percent (100%) of the costs for design, permitting and construction of the Renewable Energy Projects;

(B) Such Construction Performance Bond shall be in effect and maintained until construction is completed and commercial operation of the Renewable Energy Projects commences;

(C) The Construction Performance Bond shall be substantially in the form set forth in the front of Form A-3 found in **Appendix D-A-3** to this RFP, with any deviations from such form to be reviewed with strict scrutiny, and accepted or not, at the Authority's sole discretion (and hence any changes from the form provided is at the Respondent's risk). In particular, the Construction Performance Bond

shall not contain any conditions to the obligations of the surety company(ies) issuing such Construction Performance Bond, other than as expressly provided in Proposal Form A-3;

(D) The Construction Performance Bond, shall be obtained from a surety(s) that is (are) authorized to transact business in the State, that satisfies the requirements set forth in N.J.S.A. 2A:44-143(1)(b), has an A.M. Best's rating of at least "A" or the equivalent thereof, and that is listed in the United States Treasury Department Circular 570;

(iii) For the avoidance of all doubt, the Construction Security shall only apply to the Respondent's obligations related to construction of the Renewable Energy Systems, and shall not apply to or address any other services or requirements that the Respondent is responsible for under the Power Purchase Agreement or any other Program Document.

(iv) Alternatively, the Construction Performance Bond can be provided by the Successful Respondent's EPC contractor in the form of a dual obligee bond (where both the Authority and Successful Respondent are obligees). However, if the Construction Performance Bond is provided in this manner, the Successful Respondent will be required to pledge its rights under said Dual Obligee Bond directly to the Authority through the Company Pledge Agreement (**Appendix A-4** attached hereto). Although less favored by the Authority, this form of Construction Performance Bond will be acceptable to the Authority.

(c) *Restoration Security (OPTIONAL)*. "Restoration Security" is security in the form of cash, a payment and/or performance bond, a letter of credit, or other form of security that provides a payment and/or performance guaranty in the event the Successful Respondent removes the Renewable Energy Projects upon the end of the term of the PPA, and no extension or other agreement is then in place, the roofs and/or grounds of the respective Local Unit Facilities will be restored to the condition that existed prior to the execution and delivery of the PPA, all as required under the Program Documents.

(i) If the fiduciary holding the Restoration Security is not identified in the Proposal, the Authority will presume the Restoration Security shall be held by the Trustee or some other designee of the Authority.

(ii) Restoration Security is optional and can be provided by a Respondent as part of its Proposal in any amount the Respondent deems appropriate.

(iii) **IMPORTANT NOTE:** If a Respondent chooses to include Restoration Security in its Proposal:

(A) If the Restoration Security is cash to be provided upon the signing of the PPA or a covenant for the Company (or affiliate) to provide cash in the future, the Respondent must provide to the Authority at the time of submission of Respondent's Proposal (the "Restoration Security *Cash Commitment*") (I) details regarding the source, timing and any conditions regarding the provision of the cash (e.g. on deposit in a bank account, or to come from Program Agreement revenues received over time), and (II) an irrevocable commitment to provide same, whereupon the Authority will determine the reasonableness and likelihood of receiving that cash.

(B) If the Restoration Security is some non-cash form of security from a third-party (even if that third-party, upon Company action or inaction, will provide cash, such as a letter of credit), (I) an irrevocable commitment letter to provide such security, along with (II) the material terms regarding the source, timing and any conditions for the provision of such security (collectively, the "Restoration Security *Consent of Surety*") from the source of the Equity Contribution must be provided to the Authority at the time of submission of Respondent's Proposal.

(C) If notwithstanding the Restoration Security Cash Commitment or the Restoration Security Consent of Surety, the Authority determines the plan for the funding of cash or other security to be unreasonable or unlikely to actually occur, or if no Restoration Security Cash Commitment or Restoration Security Consent of Surety, as applicable, is provided with the Proposal upon its submission, then the Authority will weight negatively the Respondent's ability to fund the Restoration Security. The Authority will allow the Respondent to provide either the Restoration Security Cash Commitment or Restoration Security Consent of Surety, if not provided with the Proposal, no later than November 1, 2011. Any post-Proposal submission of the Restoration Security Cash Commitment or Restoration Security Consent of Surety runs the added risk of the Authority and its consultants not having sufficient review time to adequately determine the reasonableness or likelihood of the realization of the Restoration Security proposed by the Respondent

(d) In order for its Proposal to be reviewed by the Authority, each Respondent must include in its Proposal, at a minimum, Proposal Security and a Construction Consent of Surety, in accordance with the requirements of Sections 7.2 (a) and (b) above. See Section 7.1 hereof and **Exhibit 2** for the other mandatory requirements for submittal in this RFP.

### **Section 7.3 Insurance.**

(a) The Successful Respondent will be required to obtain and maintain in force at all times during the term of the PPA as a direct cost of operation, insurance coverage as directed by the Authority. Such coverage will be obtained from an insurance company authorized and licensed to do business in the State of New Jersey and rated not less than A-VIII by the most current Best's Manual. Furthermore, said insurance company or companies must be approved by the Authority. It is anticipated that such coverage shall include the following:

(i) Comprehensive General Liability Coverage in the amount of \$5,000,000.00. This coverage must be in writing on an occurrence form, claims made policies will be unacceptable. This Comprehensive General Liability insurance shall cover the Successful Respondent, the Authority, the Series 2011 Local Units and their directors, employees, agents and officers from and against any claim arising out of any action of the Successful Respondent or any subcontractors or the Successful Respondent's failure to comply with the terms of this PPA. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by a Respondent or by any subcontractors or other persons. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in the PPA. The policy shall also be endorsed to include coverage for products, completed operations, and independent contractors.

(ii) Casualty and Property Damage in an amount equal to the replacement value of all Renewable Energy Projects.

(iii) Workers' Compensation Coverage as statutorily required by the State of New Jersey for all employees of Successful Respondent. Employers' Liability coverage on the Workers Compensation policy shall be written in the minimal amount of \$5,000,000.00.

(iv) Excess Liability Coverage, in the amount of \$5,000,000.00 shall be in the form of an Umbrella policy rather than a following form excess policy. This policy or policies shall be specifically endorsed to be excess of the required Comprehensive General Liability Coverage, the Employers' Liability Coverage on the Workers' Compensation policy, and the Comprehensive Automobile Liability policy.

(v) Comprehensive Automobile Liability Coverage, in an amount not less than \$5,000,000.00, shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles, which may be

used by the Successful Respondent in connection with the Company Services, required under the PPA.

(b) All such insurance coverage, with the exception of Workers' Compensation, shall name Authority, the Series 2011 Local Units, and their employees, agents, officers and directors as additional insured hereunder.

(c) Evidence of such coverage being in place will be promptly delivered to the Authority prior to the commencement of the term of the PPA. All such coverage shall be endorsed to indicate that coverage will not be materially changed or canceled without at least thirty (30) days prior notice to the Authority, such prior notice being mandatory and not the best efforts of the carrier to notify. Prior to the expiration of the required coverage, the Successful Respondent will provide the Authority with evidence of the renewal of all coverage required on at least the same terms and conditions as originally required for the PPA. All contractors working for the Successful Respondent will also be required to maintain all insurance coverages listed above.

#### **Section 7.4 Indemnification.**

The Successful Respondent shall defend, indemnify, and save harmless the Authority, the County, the Series 2011 Local Units and as applicable their chairpersons, members, elected officials, officers, directors, employees and agents, from, and against all claims, suits, judgments, expense, fines, penalties assessments and costs of every kind and description, by reason of injury to persons or damage to property, resulting or alleged to result from any negligent act or omission of the Successful Respondent or his employees or agents, including, but not limited to expenses or claims related to environmental contamination, investigation, injury, remediation, remediation cost assessment, request for contribution or Natural Resource Damage claims.

#### **Section 7.5 Labor.**

(a) The Successful Respondent shall provide, at its own expense, qualified, union or licensed labor in the applicable trades. Respondent, at the Authority's request, will remove or replace any employee at our discretion.

(b) To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each shall not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal opportunity shall include, but not be limited

to the following: employment, up-grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause;

To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or worker's representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each agrees to comply with any regulations promulgated by the Treasurer of the State of New Jersey ("Treasurer"), pursuant to N.J.S.A. 10:5-31 *et seq.*, as amended and supplemented from time to time and the Americans with Disabilities Act.

To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Project each shall, when hiring or scheduling workers in each construction trade, agree to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Division of Public Contracts Equal Employment Opportunity Compliance in the Department of Treasury ("Division") may, in its discretion, exempt a Successful Respondent, its contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, (i), (ii) and (iii), as long as the Division is satisfied that the Successful Respondent, its contractor or subcontractor is employing workers provided by a union which provided evidence, in accordance with standards prescribed by the Division, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Projects each agrees that a good faith effort shall include compliance with the following procedures:

(i) If the Successful Respondent, its contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the Successful Respondent, its contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 *et seq.*, as supplemented and amended from time to time and the Americans with Disabilities Act. If the Successful Respondent, its contractor or subcontractor is unable to obtain said assurance from the construction trade union at least five business days prior to the commencement of construction work, the Successful Respondent, its contractor or subcontractor agrees to afford equal employment opportunities to minority and women workers directly, consistent with this chapter.

If the Successful Respondent's, its contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the Successful Respondent, its contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the procedures prescribed under (ii) below; and the Successful Respondent, its contractor or subcontractor further agrees to take said action immediately if it determines or is so notified by the Division that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(ii) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (i) above, or if the Successful Respondent, its contractor or subcontractor does not have a referral agreement or arrangement with a union for a construction trade, the Successful Respondent, its contractor or subcontractor agrees to take the following actions:

(A) To notify the Public Agency Compliance Officer, the Division, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(B) To notify any minority and women workers who have been listed with it as awaiting available vacancies;

(C) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;

(D) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;

(E) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions:

(F) To adhere to the following procedures when minority and women workers apply or are referred to the contractor or subcontractor:

(I) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. To the extent the Successful Respondent, its contractor or subcontractor, where applicable, will be undertaking any construction activities associated with the Renewable Energy Projects each shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a Successful Respondent, its contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Division. If necessary, the Successful Respondent, its contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees

pursuant to these rules. All of the requirements, however, are limited by the provisions of (iii) below.

(II) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in paragraph (I) above, whenever vacancies occur. At the request of the Division, the Successful Respondent, its contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.

(III) If, for any reason, said Successful Respondent, its contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the Successful Respondent, its contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Division.

(G) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Division and submitted promptly to the Division upon request.

(iii) The Successful Respondent, its contractor or subcontractor agrees that nothing contained in (ii) above shall preclude the Successful Respondent its contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall agreement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (ii) above without regard to such agreement or arrangement; provided further, however, that the Successful Respondent, its contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the

applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by the practice in the area for said construction trade. Also, the Successful Respondent, its contractor or subcontractor agrees that, in implementing the procedures of (ii) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

(iv) After notification of award, but prior to signing a construction contract, the Successful Respondent, or its contractor shall submit to the public agency compliance officer and the Division an Initial Project Workforce (Form AA201) provided to the public agency by the Division for distribution to and completion by the Successful Respondent and its contractor, in accordance with N.J.A.C. 17:27-7. The Successful Respondent and its contractor also agree to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Division and to the public agency compliance officer. The contractor agrees to cooperate with the public agency in the payment of budget funds, as is necessary, for on the job and/or off-the-job programs for outreach and training of minority and women.

(v) To the extent applicable, the Successful Respondent, its contractor and its subcontractors shall furnish such reports or other documents to the Division as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code N.J.A.C. 17:27.

(c) All entities performing any of the work in installing the systems for the Renewable Energy Projects must be classified by the State of New Jersey, Department of Treasury, Division of Property Management and Construction pursuant to N.J.S.A. 52:35-1 et seq., for the Services required by this RFP. If Respondent will be performing the work itself, it must submit a copy of its Notice of Classification and the Total Amount of Uncompleted Contracts (Form DPMC 701) with its Proposal (RFP Section 4.14). If Respondent is subcontracting any of the work in installing the systems for the Renewable Energy Projects, Respondent must submit a copy of its subcontractor's Notice of Classification and Total Amount of Uncompleted Contracts (Form DPMC 701) with its Proposal. Classification shall be in an amount equal to or greater than the Total Project Costs in Respondent's Proposal, including any add-on alternates, and the total amount of uncompleted contracts.

(d) Attached to this RFP as Appendix G is a summary of the Successful Respondent's requirement to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27-1, et seq. The Successful Respondent shall submit to the Authority the

forms required by Exhibit G after notification of award but prior to execution of the contract. Respondents shall submit an executed copy of Exhibit G with its proposal.

## **Section 7.6 Licenses and Laws**

(a) All entities performing any of the work in installing the systems for the Renewable Energy Projects on behalf of the Respondent must be classified by the State of New Jersey, Department of Treasury, Division of Property Management and Construction, for the Services requested in this RFP, and must submit a copy of the Notice of Classification and the Total Amount of Uncompleted Contracts (Form DPMC 701) with their Proposal. Classification shall be in an amount equal to or greater than the total amount of Respondent's Proposal, including any add-on alternates, and the total amount of uncompleted contracts.

(b) A Respondent is required to submit a valid Business Registration Certificate from the State of New Jersey Department of Treasury, Division of Revenue, prior to the award of a contract. Failure to timely submit proof of registration shall be deemed a material and non-waivable defect, and shall be cause for rejection of the bid without further consideration. All Respondents should be advised that Business Registration Certificate can be obtained on-line from the State Division of Revenue by following the following on-line procedures that can be completed within a week's time.

(i) Go to [www.nj.gov/treasury/revenue/taxreg.htm](http://www.nj.gov/treasury/revenue/taxreg.htm) and complete a Form NJ-REG on-line (NOTE: you will need to reference the filed copy of your company's formation certificate (i.e., a certificate of formation for your New Jersey limited liability company, etc.) or the certificate of authority for a foreign entity (collectively, the "Formation Certificates") to complete the Form NJ-REG);

(ii) Select Option 2 "Register a Business for Tax and Employer Purposes." (NOTE: in order to register, you will need: (a) the 10-digit identification number that is handwritten on the filed copy of the Formation Certificate[s] and (b) a Federal EIN, which can be obtained through [www.irs.gov](http://www.irs.gov) prior to registering online.) Once the online registration process is completed, it will take about 2-3 business days to be entered into the State's record database.

(iii) After this 2-3 day waiting period, you can obtain a Business Registration Certificate online at [https://www1.state.nj.us/TYTR\\_BRC/jsp/BRCLoginJsp.jsp](https://www1.state.nj.us/TYTR_BRC/jsp/BRCLoginJsp.jsp) by using the company's 10 digit ID number or Federal EIN.

(iv) Print a copy of the Business Registration Certificate online.

(c) All Respondents, their contractors and subcontractors shall hold a valid Public Works Contractor Certificate. Respondents, their contractors and subcontractors must be registered pursuant to N.J.S.A. 34:11-56.48 et seq. at the time its Proposal is submitted and include copies with its Proposal.

(d) The Successful Respondent's obligations to obtain all permits and approvals required for the installation of the Renewable Energy Projects shall include all permits and approvals as may be required by the New Jersey Department of Education for all installations involving public schools.

**Section 7.7 Background Check**

All employees of the Successful Respondent and its contractors working on the Renewable Energy Projects will sign an Authorization to Release Records form and submit to finger printing and background checks by the Morris County Sheriff's Department and/or Prosecutor's Office prior to beginning work. The Successful Respondent and its contractors shall not utilize any employees for the work described in this RFP who are not first approved by the Sheriff's Department or Prosecutor's Office.

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This RFP has been issued and a link has been posted on the Authority's website by order of John Bonanni, Chairman, The Morris County Improvement Authority, this 8<sup>th</sup> day of September, 2011, all pursuant to an authorizing resolution of the Authority adopted July 20, 2011.

## APPENDIX A

### [Attach forms of certain Program Documents]

*posted on the Authority's website (<http://www.co.morris.nj.us/improvement/>)*

1. PPA
2. Company Lease Agreement
3. Company Continuing Disclosure Agreement
4. Bond Resolution
5. Form of Master Local Unit License Agreement
6. County Guaranty Agreement
7. Authority Resolution adopted July 20, 2011 Authorizing Issuance of RFP
8. Company Pledge Agreement

## **APPENDIX B**

### **DESCRIPTION OF PROJECTS**

- APPENDIX B-1:** See attached Description of Renewable Energy Projects for each Series 2011 Local Unit
- Conceptual Site Plans; and
  - Site Roof Warranty Information
- APPENDIX B-2:** Reserved [No Capital Improvement Projects for Series 2011 Program]
- APPENDIX B-3:** Load data by Local Unit Facility

## APPENDIX B-1

### RENEWABLE ENERGY PROJECTS SUMMARY INFORMATION

The Program Renewable Energy Projects are to be located on the roofs, parking lots and/or grounds of the Local Unit Facilities of the Series 2011 Local Units, with the precise location and system size to be supplied by the Successful Respondent in their Proposal. Respondents should take care to understand the requirements of the roof warrantors, as set forth in **Appendix B-2** and the Respondents should follow up in whatever manner they desire to understand those requirements, including conversation with roof warrantors and architects if desired for their review of potential Program Renewable Energy Project plans and specifications for the effect of such design on any such roof warranties, all for the purpose to ensure that any Program Renewable Energy Project will not have an adverse effect on such roof warranties. Program Renewable Energy Projects involving ground mounted systems should be reviewed by the Successful Respondent and/or their professionals in respect to any and all environmental or geotechnical constraints that may be present and potentially impacting the project area. The Conceptual Site Plans set forth later in this **Appendix B-1** were based on a feasibility study conducted on behalf of the Authority, and should be utilized by the Respondents as a guide only, but not as a limitation, so long as all of the provisions of this RFP, including the technical specifications set forth in **Appendix C** to this RFP, are satisfied. The Respondent is required to secure all necessary approvals, as required, for all proposed Program Renewable Energy Projects.

The following chart is for informational purposes only, and is the Authority's estimate of the Renewable Energy Project system sizes (expressed in Kw) for each Program Local Unit Facility:

Local Unit Facility Solar KW Size

LU #	Local Unit	Facility	Roof	Parking	Canopy	Ground	TOTAL
1	Byram Township School District	Byram Lakes Elem./ Int. School	38	455	0	0	493
2	County of Sussex	SC Judicial Center - Parking Deck Wheatworth Facility Main Library	0	0	0	0	100
3	Frankford BOE	Frankford Township School	0	0	0	309	309
4	Franklin Borough BOE	Franklin Elementary School	123	104	0	0	227
5	Fredon Township	Civic Center	61	0	0	0	61
6	Green Township	Green Hills School	157	0	0	0	157
7	Hardyston Township	Hardyston Middle School	0	0	0	612	612
8	High Point Regional BOE	High Point Regional High School	453	0	0	0	453
9	Kittatinny Regional SD	Kittatinny Regional High School	187	173	0	0	360
10	Lafayette Township BOE	Lafayette Township School	49	0	0	206	255
11	Lenape Valley BOE	Lenape Valley High School	0	393	774	1,167	2,555
12	Newton BOE	Merriam Avenue School Newton High School	105	242	0	0	347
13	Sussex County Technical School	Main Building and Parking Lots	112	290	792	1,194	2,294
14	Town of Newton	DPW Complex	73	0	0	0	73
		Wastewater Treatment - Moran Street	0	0	0	109	109

<b>TOTAL</b>	<b>1,580</b>	<b>2,249</b>	<b>3,051</b>	<b>6,880</b>
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**NOTE: ADDITIONAL INFORMATION RELATIVE TO THE RENEWABLE ENERGY PROJECTS FOR THE SERIES 2011 PROGRAM CAN BE VIEWED AT THE AUTHORITY'S WEBSITE AT <http://www.co.morris.nj.us/improvement/>. ROOFING AND WARRANTY RELATED INFORMATION CAN ALSO BE FOUND IN THIS APPENDIX AT THE AUTHORITY'S WEBSITE.**

**APPENDIX B-1 (cont.)**

**[Conceptual Site Plans]**

[See Authority's website (<http://www.co.morris.nj.us/improvement/>)]

**APPENDIX B-1 (cont.)**

**[Site Roof Warranty Information]**

[To be posted from time to time, See Authority's website  
(<http://wwwco.morris.nj.us/improvement/>)]

**APPENDIX B-2**

**RESERVED**

There are no Capital Improvement Projects in the Series 2011 Program.

**APPENDIX B-3**

**LOAD DATA BY LOCAL UNIT FACILITY**

[See Authority's website (<http://www.co.morris.nj.us/improvement/>)]

## APPENDIX C

### SCOPE OF WORK AND TECHNICAL SPECIFICATIONS

#### 1.0 PROJECT SUMMARY

1.1 Provide all labor, material, equipment, tools, and supervision to install Renewable Energy Projects for the Authority at the Local Units described in this RFP:

It is estimated that the total size of the Renewable Energy Projects will be approximately 6.882 MW.

1.2 Provide in Proposal solar array layout identifying the position and orientation of the proposed PV Systems including the location of major equipment (inverters, etc.).

1.3 Provide Renewable Energy Project size in kW (dc) by location.

1.4 Provide annual calculation, using PV Watts or similar industry accepted software, to determine annual kWh (ac) production for each year of the proposed PPA, by Local Unit Facility.

1.5 Provide a total unit price per kWh for a PPA for a 15-year term as described in Section 1.4 of the RFP.

1.6 All work to be done in accordance with the design Technical Specifications Section guidelines provided in this **Appendix C** to this RFP.

1.7 Work to be scheduled around business intervals. Work will be staged on a schedule to be agreed-upon between the Respondent, the Authority, and the Local Units; however, all work for the Renewable Energy Projects on Local Unit Facilities must be completed by December 2012, unless an extension is otherwise approved by the Authority.

1.8 Provide all lift equipment, temporary protection for the project. All work must be performed as not to affect adjacent active areas, pedestrian and vehicular traffic, existing surfaces and equipment.

1.9 Respondent's total unit cost per kWh for PPA shall be for all costs of installation, including maintenance, insurance, bonds, mobilization costs, fees, permits, and ancillary costs.

1.10 All trash shall be removed at the end of each shift, placed in dumpsters provided by the Respondent and disposed of at the Sussex County Municipal Utilities Authority.

1.11 Provide product manufacturer's catalogue information "cut sheets" for system components being proposed such as solar panels, inverters, racking systems, parking lot canopies/car ports and data acquisition system with associated kiosks and monitors.

## **2.0 QUALITY ASSURANCE**

2.1 The Successful Respondent shall have a minimum of three (3) years experience in solar power work. This shall be demonstrated by providing a minimum of three (3) successful project references where least two of the projects be at least 300 kW or greater.

2.2 The Successful Respondent shall store and condition the product in full compliance with the manufacturer's recommendations. The Successful Respondent shall be fully responsible for the security of materials throughout the project.

## **3.0 GENERAL**

3.1 The Successful Respondent shall adhere to all procedures, limitations, and cautions for the products in the manufacturer's current printed literature.

3.2 All work shall be done in a neat and workmanlike manner and shall comply with all local, state and federal codes.

3.3 The Successful Respondent shall leave finished work and work area in a neat, clean condition with no evidence of spillover, construction dust, and/or trash onto adjacent areas.

## **4.0 SOLAR ENERGY CONSIDERATIONS**

4.1 The Successful Respondent shall provide the most energy efficient and cost effective solar photovoltaic system available, using state of the art components and technology.

## **5.0 SAFETY**

5.1 The Successful Respondent shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. Responsibility to protect and prevent damage to property during removal, relocation or replacement actions rests solely with the Successful Respondent. The Successful Respondent shall restore to its original condition without extra costs to the Authority, property that shall be damaged due to the acts or omissions of any employees, agents, or subcontractors of the Successful Respondent. Such repairs shall meet the requirements of the Authority and its Local Units. The Successful Respondent must take proper care to protect all finished work by substantial covering until accepted by the Authority. To ensure public safety, the Successful Respondent shall provide the required barricading, cones, safety tape, etc., for all areas, which have work in progress.

## PART 1

### 1.1 SYSTEMS DESCRIPTION

This Section includes photovoltaic interactive electric generating systems with the following features and accessories:

1. Photovoltaic modules
2. Mounting System
3. Inverters
4. Combiner Boxes
5. AC Disconnect Switches
6. DC Disconnect Switches
7. Transformers
8. Fuse Boxes
9. Wiring/Conduit/Electronic Mounting
10. Data Acquisition System/Metering
11. Interactive Kiosks/Monitoring Stations

### 1.2 SUBMITTALS

- A. Detailed Engineering Package shall be provided for code enforcement compliance review for each host site. All drawings shall be created in AutoCAD format, version 2006 or newer. The Detailed Engineering Package shall include the following items:

1. Array Design
2. Single-Line Diagrams
3. Interconnection Diagrams
4. Installation Details – including mounting method and location of transformers, inverters and other equipment.
5. Equipment Cut sheets
6. Project Schedules
7. Equipment Staging Plan – Crane lift plan
8. Roof Repair Plan (as required)

B. Product Data: Include data on features, components, ratings and performance. Include the following: modules, mounting structure, parking lot canopies, combiner boxes, fuses, disconnects, inverter, isolation/step up transformer, revenue grade kWh meter, data acquisition system.

C. Shop Drawings: Indicate fabrication details, dimensions, weights, loads, required clearances, method of field assembly, components, and location and size of each field connection.

1. Design Calculations
2. Wiring Diagrams
3. Locations of conduit runs and building penetrations
4. Mounting details for components: combiner boxes, disconnects, transformers, inverters, etc.

D. Field Test and Observation Reports: Indicate and interpret test results and inspection records relative to compliance with performance requirements.

E. Certified Summary of Performance Tests: Demonstrate compliance with performance criteria.

F. Factory Test Reports: For units to be shipped for this Project, showing evidence of compliance with specified requirements

G. Field test report of tests specified in Part 4 of this Appendix C.

1. Start-up, Testing and Commissioning Plan – include the following:
2. Start-up Procedures
3. Testing Procedures
4. Commissioning Plan

H. Maintenance Data: Include the following:

1. List of tools and replacement items recommended for storage at the County sites for ready access.
2. Detail operating instructions for both normal and abnormal conditions.

I. Health & Safety Plan

1. The contractor shall submit a Health & Safety plan and observe all County safety practices required for performing construction work of this type including all applicable OSHA standards.

### 1.3 QUALITY ASSURANCE

A. Every PV Module shall be individually tested and certified at the factory.

B. Other applicable codes and standards:

1. System shall comply with the applicable version of the National Electrical Code NEC.
2. System shall include all UL listed and/or UL recognized components.
3. System interconnection shall comply with IEEE 929 and NEC 690.
4. Modules shall have a UL fire rating classification equal to or higher than the rating required for the roof.
5. Inverters shall comply with UL subject 1741: Standard for static inverters and charge controllers for use in PV power systems and also comply with IEEE 929.
6. PV System shall be designed to meet all of the following standards applicable to the building site and location:
7. Uniform Building Code (UBC)

8. Building Officials and Code Administrators International (BOCA)
  9. International Building Code (IBC)
  10. Utility interconnect and net metering requirements
  11. NJBPU Office of Clean Energy program inspection requirements
- C. All contractors and workers used by the contractor must be licensed and bonded to perform these services in the State of New Jersey.
  - D. Contractor must comply with the provisions of the Department of Labor Prevailing Wage standards.
  - E. All professional services (architects, engineers, etc.) utilized by the contractor must be licensed in the State of New Jersey.

#### 1.4 WARRANTY

- A. General Warranty: Special warranty specified herein shall not deprive the County of other rights County may have under other provisions of the Contract Documents and shall be in addition to, and run concurrent with, other warranties made by Company under requirements of the Contract Documents.
- B. Special Warranty: Written warranty, executed by manufacturer agreeing to repair or replace PV equipment and system components that fail in materials or workmanship within specified warranty period. Company shall obtain industry standard, manufacturer equipment warranties. For PV Modules, Module shall be covered by a power warranty that guarantees module power will be within twenty (20) percent of original power after twenty (20) years of operation. Regardless of manufacturers' warranties, the Company is responsible for the maintenance and operation of the Systems during the term of the Agreement and, as such, shall be responsible for equipment repair and replacement as needed to maintain the operation of the Systems.

- C. [Roof Installations only] Roof Warranty: Company to provide a written certification from all parties responsible for the roof warranties that the PV systems, as installed, have no adverse affect on roof warranties or the Company must provide substitute roof warranties of equal value.

#### 1.5 EXTRA MATERIALS

- A. Furnish extra materials described below that match products installed and that are packaged with protective covering for storage and identified with labels describing contents.
  - 1. Fuses: One for every ten (10) of each type and rating, but not less than one (1) of each.

### PART 2 PRODUCTS

#### 2.1 GENERAL COMPONENT REQUIREMENTS

- A. Hardware must be selected based upon a twenty (20)-year system design life.
- B. Outdoor components must be made with corrosion-proof materials such as galvanized steel and aluminum.
- C. Electrical Components shall be designed for use on a maximum of 600 Volt Systems AC or DC operation.
- D. All materials that are used outdoors shall be sunlight and UV resistant.
- E. Materials shall be designed to withstand the temperatures to which they are exposed.
- F. Only corrosion-resistant fasteners shall be used.
- G. Structural members shall be corrosion resistant aluminum or galvanized steel.

- H. All electrical equipment shall be rated for the current and voltage ratings necessary for the application.
- I. Array installation shall not unreasonably restrict access to, if applicable, roof surface for inspection or repair.
- J. Wind uplift resistance shall be certified to meet wind gust requirements and codes for that area, included in the design of the system, and be verified in writing by a Professional Engineer licensed in the State of New Jersey.
- K. Modules shall be mounted to prevent pooling of water on module surface.
- L. Walking space shall be provided throughout any roof-mounted PV array to facilitate installation, inspection and maintenance access to all modules and other existing roof equipment, such as air handling units, fans, etc. On flat roofs, the PV array shall be installed to meet OSHA required setbacks around the roof perimeter.
- M. As to any roof-mounted PV array, it shall be mounted in such a way that the normal drainage of the roof is not affected.
- N. Any ballasting removed must be replaced in kind.
- O. All parking lot canopies/car port structures must include devices that will prevent ice dams and ice falling hazards.
- P. Respondent shall provide lighting in parking areas that meets or exceeds existing light levels. Respondent shall measure and document existing light levels prior to the installation of any new equipment.
- Q. Respondent shall provide security cameras, where security cameras existed prior to the installation of the solar power system, that meets or exceeds existing visibility. Respondent shall measure and document existing visibility prior to the installation of any new equipment.

## 2.2 PHOTOVOLTAIC MODULES

### A. Construction

1. Glass must be thermally tempered, low iron glass designed for maximum photovoltaic gain while capable of withstanding hailstone impact test according to ASTM E-1038.
2. Module Encapsulate shall have sufficient physical and optical properties to meet safety requirements of UL 1703, while providing the characteristics to maximize module performance.
3. Manufacturer shall provide pre-wired PV modules with latching or locking type connectors per NEC690.33(C). Wiring shall be properly secured and neatly dressed within module frame – allowing the option to readily change wiring in the field.
4. Junction box shall be of a material that meets UL 94HB fire rating.
5. Interconnect material shall be free of lead and lead-based solder and flux material.

### B. Safety

1. Module shall be rated for a minimum of 600 volts DC.
2. Module shall be rated for operation in the maximum applicable wind regime or higher.
3. Module shall be able to be handled by two (2) or fewer trades' people on any commercial roof top.
4. Module shall be fire rated for installation on any commercial roof.
5. Module shall be designed for loading (wind, snow, etc.) on both the front and back and same shall be certified in writing by the Company's Engineer.

### C. Standard & Listings

1. Modules shall be UL 1703 listed.
2. Module type shall have passed test plan IEEE 1262 or IEC 61215 as conducted by an independent certified lab and carry appropriate documentation.

### D. Design and Service Support

1. Manufacturer shall provide a toll-free number and regular office hours for technical support.
2. Manufacturer shall provide answers or requests for additional information to technical questions regarding installation and operation of the panels within two (2) business days.

E. Documentation/Data/Labeling

1. A detailed installation manual shall accompany each crate of modules. Instructions shall comply with requirements of UL 1703 and include information regarding hazards, installation, operation, warranty, troubleshooting and return procedures.
2. Each module shall be labeled to indicate hazard warnings, manufacturers name, nominal electrical characteristics, appropriate standards approvals, module and individual serial number.
3. Each module serial number shall be traceable to module testing, assembly operator or critical material lots.

F. Operational

1. Modules shall be designed and constructed to deter theft to the extent possible. Theft deterrents could include weight and size difficult to handle by a single person or special mounting hardware.
2. Modules shall be designed and constructed to protect against vandalism to the extent possible. Vandalism protection could include thick thermally tempered glass, a module weight and size difficult to handle by a single person or special mounting hardware.
3. Modules shall be designed to be maintenance-free.
4. Module shall be designed to operate in temperatures ranging from  $-40^{\circ}\text{C}$  to  $85^{\circ}\text{C}$
5. Module shall be designed to operate in humidity levels ranging from 0% to 100% - RH

G. Disposal

1. Module shall pass a leachate test, landfill environment, with no adverse environmental effects.

## 2.3 INVERTERS

- A. Inverters shall be Xantrex PV-series or approved equal.

- B. Each Inverter shall be designed for PV applications.
- C. Each Inverter shall qualify for all utility and state rebate and loan programs.
- D. Installation shall meet all applicable UL 1741, IEEE Standard 929-2000 and standard 519, NEC Codes, and the latest applicable ANSI and FCC standards and addenda dated prior to the award of the purchase order for this procurement.
- E. Each Inverter shall include:
  - 1. Automatic operation includes start-up, shut down, self diagnosis, and fault detection.
  - 2. Digital Signal Processor (DSP) based controls with self-diagnosis and LCD for display of operating status.
  - 3. Over-and under-voltage and frequency protection, shutting down the inverter in compliance with UL1741.
  - 4. Anti-islanding protection to prevent back-feeding inverter-generated power to the grid in the event of a utility outage.
  - 5. User definable power tracking, matching the inverter to the array, as well as adjustable delay periods to customize system shut-down sequences.
  - 6. Continuous power rating that equals or exceeds the PV array output.
  - 7. Single phase-loss protection and shut down. If the utility power experiences a loss or voltage fluctuation in one or more phases, the inverter shall shut down until the condition is corrected.
  - 8. Integral AC and DC disconnect switches.
  - 9. Integral fused subarrays.

#### 2.4 COMBINER BOXES

- A. Combiner boxes shall have the following characteristics: NEMA 3R enclosure, 10A or 15A input, 600 VDC, and UL listed.

#### 2.5 DC DISCONNECT SWITCHES

- A. The DC disconnect(s) shall be 600V DC rated, heavy duty and if used outdoors shall be NEMA 3R rated. DC disconnect switches shall be certified for use with PV systems.

## 2.6 TRANSFORMERS

- A. Provide dry type, enclosed and ventilated transformers as indicated herein. Transformers shall be compatible with the inverter, as supplied by Xantrex Technologies, or approved equal.
- B. Transformers shall be designed for outdoor use.
- C. Each transformer shall incorporate an electrostatic shield for the attenuation of voltage spikes, line noise, and transients.
- D. Each transformer shall terminate in copper bus bar.
- E. Transformers shall be designed, constructed and rated in accordance with UL, CSA, NEMA, ANSI, IEEE and OSHA standards.
- F. Transformer enclosures shall be UL/NEMA Type 2 and UL 3 R Listed with the addition of a weather shield and shall be so marked on the transformer. Efficiency shall be 97% greater, 80° C temperature rise rated.
- G. Transformer enclosures shall be grounded per the National Electric Code.

## 2.7 WIRING/CONDUIT ELECTRONIC MOUNTING

- A. All system wiring shall be in accordance with all applicable sections of the National Electric Code (NEC). The wires used shall have a temperature rating of 90° C or higher.
- B. All outdoor electrical conduits shall be rigid galvanized with NEMA 3R enclosures and watertight connections. Indoor conduits shall be EMT.

- C. Exposed cables outdoors shall have type USE-2 insulation and shall be UV resistant and shall be clearly so marked.
- D. Conduits run across any roofs shall be mounted on high density polyethylene (HDPE) supports, such as Pipe Pier ®, or approved equal. Where possible, conduits run across roofs shall be no less than 12” above the roof surface.

## 2.8 DATA ACQUISITION/METERING

- A. Data Acquisition System (DAS) shall be provided as part of the PV Systems. The DAS shall include instrumentation that allows the measurement of:
  - 1. Ambient temperature
  - 2. Wind speed
  - 3. Plane or array of solar irradiation
  - 4. AC system power output
- B. The DAS shall include a data-logger, modem for data retrieval, NEMA 4 or 3R enclosure, temperature measuring device, anemometer, and solar sensor. AC kWh measurement equipment must be revenue grade and meet the requirements of ANSI C12 per NJOCE requirements..
- C. The DAS shall have real-time Internet display of the following information:
  - 1. Instantaneous system output in KW
  - 2. Instantaneous irradiation in watts/square foot
  - 3. Instantaneous ambient temperature
  - 4. Instantaneous wind speed
  - 5. Daily system output in kWh – Any day and day to hour
  - 6. Monthly system output in kWh – any month and month to date
  - 7. Annual System Output in kWh - any year and year to date
  - 8. Graphical comparison of projected system output to actual output

- D. The DAS shall include interactive information Kiosk/Monitoring Station at the Local Unit Facility (ies) to display all DAS information in real time. A central DAS monitor shall be provided to the Authority Main office, which has the ability to view all Local Unit Facility(ies) PV systems. Educational Local Unit Facility(ies), such as College, High School and Middle School facilities, shall be provided with a second DAS monitor for educational purposes, if requested.
- E. Company shall run CAT-5 cables, install power outlet and any other necessary equipment to DAS kiosk/flat screen TV, if unavailable.
- F. Local Unit shall determine final location of DAS kiosk/flat screen TV. Contractors are required to provide DAS kiosk/flat screen TV and all ancillary services outlined in item E at the site selected by the Local Unit. In the event the solar installation is at a site that is not the ideal location for the kiosk/flat screen monitor installation (i.e. firehouse or public works garage) the local unit shall designate a replacement site.

## 2.9 MOUNTING SYSTEMS

- A. All mounting systems used on flat roofs shall be ballasted non-penetrating systems.
- B. All parking lot canopy systems shall be designed as to not impede parking movements or reduce parking spaces. Designs with minimal column supports (Cantilever Designs) are preferred over systems with multiple columns.
- C. A minimum clearance of 9ft shall be maintained at the lowest point of the parking canopy structure, although the Successful Respondent shall be willing to accommodate requests of minimum clearances up to 15ft. Final canopy clearances should be coordinated with Local Units.

- D. All canopies within this RFP should be assumed to be between 9ft to 15ft minimum clearance unless labeled as “High Canopy”. High Canopy indicates a proposed height in excess of 15ft.
- E. Mounting systems shall be constructed of only corrosion resistant materials, including aluminum, stainless steel and galvanized steel.
- F. Wind uplift resistance shall be certified to meet wind gust requirements and codes for that area, included in the design of the system, and be verified in writing by a Professional Engineer licensed in the State of New Jersey.
- G. All parking lot canopies/car port structures and sloped roof systems must include devices which will prevent ice dams and ice falling hazards.
- H. Respondent shall provide lighting in parking areas that meets or exceeds existing light levels. Respondent shall measure and document existing light levels prior to the installation of any new equipment.

### PART 3 EXECUTION

#### 3.1 INSTALLATION REQUIREMENTS

- A. All required over-current protection devices shall be included in the system and accessible for maintenance. Each shall have trip ratings no greater than the de-rated amperage of the conductor it protects.
- B. All electrical connections and terminations shall be fully tightened, secured, and strain relieved as appropriate.
- C. All mounting equipment shall be installed to the manufacturer’s specifications.
- D. Installation should be organized and neat. Module connections and wiring should be neatly prepared and easily accessed by service persons.

- E. All cables, conduit, exposed conductors, and electrical boxers should be secured and supported according to code requirements.
- F. All national and local electric and building code requirements shall be met.
- G. System switching and metering equipment shall be accessible to qualified personnel for resetting or repair, and regular monitoring for data retrieval.
- H. [Roof installations only] The PV system installation shall maintain roof and structural integrity. The loading impact of the array, wind, snow, etc., shall be determined safe for the installation. The Company shall provide a certification from a Licensed NJ Architect or Engineer stating that the roof integrity is maintained as described above. The Company will provide a letter from the roof contractor and/or roofing manufacturer indicating that the roof warranty is not affected by the installation of the PV system or will provide a replacement warranty of equivalent value.
- I. The PV system shall maintain the integrity of the building electrical system. The Company shall carefully inspect the electrical system to ensure against harmonic distortion, fault protection issues, and interconnect problems.
- J. Supply-side connections of the inverters to building AC power shall be at the utility service entrance location in each building per NEC Article 690.64 (A) and NEC Article 230.82(6). Load-side connections of inverters to building AC power shall comply with all requirements of NEC Article 690.64(B) (1) through (7). All electrical equipment required for connection of the inverter to the distribution shall be mounted on the wall adjacent to the main panel board or a location approved by the County. All routing of raceways and wiring from the roof area to the service entrance location shall be run concealed internal to the building unless prior approval from the Local Unit(s) or their representative(s) is received.

- K. All walls, ceilings, etc. internal to the building damaged/altered by this work shall be replaced/repaired to match the existing surrounding surfaces in their existing condition prior to the work performed after all installations are complete.
- L. All installations of equipment & raceways shall be coordinated and approved by the County prior to start of any work. Company must contact the County a minimum of three (3) days prior to the start of any installations to perform a walk-through of all proposed routings and locations.
- M. A time-lapse "webcam" that views daily construction activities at the Local Unit Facilities must be provided, installed and be configured for access via the Authority's website. Connectivity with the Authority's website must be coordinated. The time-lapse "webcam" location will be determined by the Authority.

### 3.2 INSTALLATION STANDARDS

- A. System Installation shall conform to Manufacturers Installation Manual and approved project drawings and specifications.
- B. All Local and NEC codes shall be observed.
- C. Interruption of electrical power to other circuits shall be minimized and shall be scheduled in advance at a time that will minimize impacts on the occupants (if the interruptions are significant, permitted times may be restricted to night time only). Installation crews shall minimize disturbance (due to noise, dust, odors, moving of equipment) of building occupants and activities.
- D. Sites shall be maintained and kept secure, free of excessive debris and in safe condition during the construction period. Site should be left "broom clean" after work is complete at the end of each work day. All work will comply with the National Electric Code, the National Fire Code, and the Uniform Building Code, and shall be inspected by the authorities having jurisdiction at appropriate phases.

- E. Array mounting hardware supplied by the Company shall be compatible with the site considerations and environment. Special attention shall be paid to minimizing the risk from exposed fasteners, sharp edges, and potential damage to the modules or support structures. Corrosion resistance and durability of the mechanical hardware shall be emphasized – the use of stainless steel fasteners and aluminum support structures are required. The use of ferrous metals, wood and plastic components is not acceptable. Pipe supports made of UV-rated plastic curb-type standoffs are acceptable.
- F. The Company shall ensure installing subcontractors (if used) are familiar with manufacturer's installation guidelines.

### 3.3 DELIVERY, STORAGE AND HANDLING

- A. Deliver PV modules and system components to their final locations in protective wrappings, containers, and other protection that will exclude dirt and moisture and prevent damage from construction operations. Remove protection only after equipment is safe from such hazards.
- B. The Company shall observe the following precautions during delivery and handling:
  1. [For Roof Installations only] Prior to start of work inspection of roof shall be conducted by the Company to identify and document existing deficiencies in the roof. Any damage to the roof surface following the roof inspection shall be deemed the responsibility of the Company and shall be repaired at their sole expense.
  2. [For Roof Installations only] Modules may be delivered in containers that cannot be easily supported by the roof. The Company shall insure proper placement of point loads on the roof for equipment staging and installation.
  3. [For Roof Installations only] The Company shall maintain the integrity of the roof surface during delivery, handling and installation, including laying out mats, insulation/plywood layers, etc.

4. Company's representative shall be onsite for all equipment or material deliveries. Owner's representative will not accept, unload or store project materials delivered to the site, and will refuse such deliveries.

- C. Cranes or rigging equipment shall operate in compliance with all local codes and requirements at the Company's expense.
- D. Each module shall be visually inspected for defects by the Company upon receipt.
- E. System Installations in Lighted Parking Areas shall be installed with lighting equipment installed or relocated to maintain existing lighting levels at all locations and surveillance visibility & quality. Company shall perform and submit for review, light level readings for existing parking areas prior to the start of any work in those parking areas and shall also submit a copy of a video showing visibility from surveillance cameras (if they exist). The Company shall provide a lighting and surveillance design for approval by the County and Site Owner's Representative prior to ordering or installation of same. All modifications are subject to review and approval of the County and the Site Owner's Representative.

#### 3.4 ARRAY INSTALLATION

- A. The Company shall follow manufacturer's guidelines for the installation of the array components, including mounting hardware and PV modules.

#### 3.5 WIRING CONNECTIONS

- A. The Company shall follow all applicable NEC Sections and manufacturer's wiring guidelines for wiring sizes and connections.

#### 3.6 COMPONENT INSTALLATION

- A. Major system components (modules, combiner boxes, disconnects, inverters, transformers, meters, etc.) shall be installed per all applicable NEC Sections and manufacturer's guidelines.

### 3.7 LABELING AND IDENTIFICATION

- A. For diagnostic and troubleshooting purposes, all array strings at the combiner boxes and the combiner boxes themselves shall be uniquely tagged and identified with such tagging on the as-built drawings which are to be provided by the contractor.

### 3.8 CLEANING

- A. PV modules shall be free of dirt and construction debris prior to system start up procedures.

## PART 4 PROCEDURES

### 4.1 System inspection and safety checks:

A. The Company shall utilize a checklist submitted and approved by the County for start-up requirements and conduct a series of safety tests to ensure proper installation, safe operation and performance up to specification.

#### 1. Testing includes:

- (a) All inverter startup tests as specified by the inverter manufacturer in the inverter operation manual.
- (b) Actual power vs. predicted power
- (c) Loss of grid
- (d) Grid resume
- (e) Random module shading
- (f) Data monitoring check out
- (g) Measure Voc of every source circuit and log it
- (h) Measure ac power and compare to predicted power
- (i) Verify tightness of all wiring terminations
- (j) Verify proper marking and labeling of all wire terminations and enclosures
- (j) Verify shut-down procedures
- (l) Verify start-up procedures
- (m) Verify system 5-minute delay upon re-start
- (n) Verify PV array connectors are fully mated and wires neatly secured
- (o) Verify no debris on the modules, no damaged or broken modules

2. The Company shall correct any deficiencies uncovered by the testing prior to formal commissioning of the Systems.

3. Site shall be free of all tools and materials required for construction and installation.

B. System Output Measurement: The Company will establish the initial system output to prove that the systems are performing as designed, and to establish a baseline to be used for warranty and the Guaranteed Minimum Output requirement. System output shall be based on PV (USA) Test Conditions (PTC). The system output will be verified after construction of the system has been completed, on a clear, sunny day. System output tests include the items shown

below. The Company may perform other performance tests as specified in the Commissioning Plan to support performance testing.

1. Prior to inverter startup, voltages will be recorded for each string, each sub-array, and the entire array. Measurements will be recorded and provided to the County in a clear, tabular format. Each voltage measurement will include the following ancillary data: the day; the time of day that the measurement was taken; a sample panel temperature at the time, the temperature at the time; and the solar irradiation at the time. The strings that make up each sub-array will be clearly identified on a drawing by number.
2. After inverter startup, current shall be recorded for each string, each sub-array, and the entire array. Measurements will be recorded and provided to the County in a clear, tabular format. Each voltage measurement will include the following ancillary data: the date; the time of day that the measurement was taken; a sample panel temperature at the time; the temperature at the time; and the solar irradiation at the time. The strings that make up each sub-array will be clearly identified on a drawing by number.
3. The Company shall verify the performance of the array by following the Commissioning Plan's test no less than thirty (30) days after system is operational. Should the system output fail to meet the requirements of this RFP, Company shall undertake, at its own expense, any necessary actions to achieve the required performance levels as set forth in this RFP.

#### 4.2 DOCUMENTATION

- A. Prepare three (3) copies of Operating and Maintenance Manuals in hard cover binders and deliver to the engineer for review prior to turning over to each County. As a minimum the binders shall include:

1. A complete set of all approved submittals including shop drawings and product literature.
2. As built roof plans showing the final placement of all panels, combiner boxes, connections and conduit placement. [Roof installations only]
3. As built electrical plans, including three line diagrams, and elevation drawings showing the final placement of the electrical equipment.
4. Cleaning instructions for the PV panels.
5. Copies of all start-up procedure measurements.
6. Copies of all testing data and reports.
7. Troubleshooting Guidelines
8. System maintenance schedule and procedures.
9. Contact information for technical assistance and parts ordering.

Provide three (3) electronic versions of 4.2.A. on a CD ROM.

#### 4.3 TRAINING

- A. Provide four (4) copies per location of a Training Manual for operation and maintenance of each PV System.
  - 1. Specify procedures to follow in the event of emergency.
- B. Conduct two (2) onsite training classes. Each class to be one (1) to two (2) hours in length and to accommodate ten (10) to twenty (20) students. The County will provide appropriate classroom space.

## PART 5 ADDITIONAL PROJECT SPECIFICATIONS: SYSTEM DESIGN REQUIREMENTS

5.1 The Systems shall be designed and constructed in accordance with all applicable regulations, codes and standards. The Company is expected to have familiarized itself with all applicable regulations, codes and standards, and must include a certification by the Company that the System design is in accordance with all applicable regulations, codes and standards.

5.2 The Systems shall be electric interactive and operate in parallel with the utility system, following the local electric utility's required design and installation standards for interconnection and net metering. Such interconnection to the electric utility and net metering shall comply with all applicable regulations, including the NJBPU's regulations. The Company agrees to manage application for all necessary approvals from the local electric distribution utility, including the submission of applications for interconnection of the Systems with the local electric distribution utility. The Company shall be responsible for all costs associated with the electrical interconnection of each site to the local electric distribution utility's system and net metering.

## PART 6

### Coordination

- A. The Company shall schedule all construction activities at the sites through each County's representative to avoid, to maximum extent, interference with other Companies and the County's operations and to meet specified completion dates. It is the responsibility of the Company to meet the Project Completion Date in coordination with the County's operating schedule. The Company shall coordinate all construction activities through the County's representative, based in part on the County calendar, to avoid interference with County's process and operations within site buildings.

B. The Company shall coordinate, through the County's representatives, all interruptions of building services or shutdown of building systems and obtain, through the County' representatives, prior written approval of proposed schedule of interruptions or shut-downs.

1. If, in the County's opinion, any such interruption or shut-down will affect the life safety of building occupants, Company shall schedule interruption or shut-down at a time acceptable to the County, at times when classes are not in session, or after normal working hours.

2. The Company shall insure all equipment, materials, fittings, and similar items required are available before interrupting or shutting-down existing systems.

3. The Company shall notify all inspectors and representatives of utility companies, municipal officials, County representatives and similar parties by letter in advance of required changeovers, tie-ins, removals, and similar operations.

4. If the Company discovers Hazardous Materials during the inspection or construction of the System the Company shall notify the County and cease further work until permitted by the County.

C. Construction Schedule: Work shall be completed within the Project Completion Date established below.

1. The Company shall have access to the site and buildings during the full day, in coordination with the County's representative.

## PART 7 POST CONSTRUCTION REQUIREMENTS

7.1 Throughout the term of the Agreement the Company shall be fully responsible for all maintenance, repair services, equipment replacements, and ongoing operation of the Systems, including the replacement of solar panels due to vandalism or damage. The Local Unit(s) will provide access to the Company to the buildings and roofs, as applicable, upon reasonable notice by the Company.

7.2 All operation and maintenance work shall be performed in a workmanlike manner and done in a manner that limits interference with the Local Unit(s)' use of their facilities. The Local Units shall undertake reasonable efforts to protect the Systems against theft, damage, vandalism or loss. The Local Unit(s) shall notify the Company of any damage that it is aware of that could reasonably be expected to adversely affect the operation of Systems.

7.3 The Local Units will provide access to the Company to the buildings and roofs, as applicable, upon reasonable notice by the Company.

7.4 The Company shall be required to move or remove Systems' components when required for roof or equipment repair or replacement during the entire term of the Agreement. The Local Units will provide the contractor with at least two weeks' notice in the case of scheduled work and as much notice as possible in the event of emergency.

7.5 The Company shall be responsible for regularly monitoring the performance of the Systems to make sure that are operating properly.

### ADDITIONAL TECHNICAL SPECIFICATIONS

#### SECTION 02320 BACKFILL

This section includes backfilling required at building perimeter and site structures up to required subgrade elevations, fill under interior and exterior slabs-on-grade or pavement, and fill under landscaped areas. Backfilling for utilities within building proper is included within this section; backfilling for utilities outside building is included in Section 02324.

This section includes provision for Work performed using unit price payment method, when applicable.

#### PART 1 GENERAL

##### 1.1 SUMMARY

A. Section includes building perimeter and site structure backfilling to subgrade elevations; site filling and backfilling; fill under slabs-on-grade and paving.

B. Related Sections:

1. Section 02324 - Trenching: Backfilling of utility trenches.

##### 1.2 REFERENCES

A. AASHTO T180 (American Association of State Highway and Transportation Officials) - Moisture-Density Relations of Soils Using a 10-lb (4.54 kg) Rammer and an 18-in. (457 mm) Drop.

- B. ASTM D698 - Test Methods for Moisture-Density Relations of Soils and Soil-Aggregate Mixtures, Using 5.5 lb (2.49 Kg) Rammer and 12 inch (304.8 mm) Drop.
- C. ASTM D1556 - Test Method for Density of Soil in Place by the Sand-Cone Method.
- D. ASTM D1557 - Test Methods for Moisture-Density Relations of Soils and Soil-Aggregate Mixtures Using 10 lb (4.54 Kg) Rammer and 18 inch (457 mm) Drop.
- E. ASTM D2049 - Relative Density of Cohesionless Soils.
- F. ASTM D2167 - Test Method for Density and Unit Weight of Soil in Place by the Rubber Balloon Method.
- G. ASTM D2922 - Test Methods for Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth).
- H. ASTM D3017 - Test Methods for Moisture Content of Soil and Soil-Aggregate Mixtures.

## PART 2 PRODUCTS

### 2.1 ACCESSORIES - NIC

## PART 3 EXECUTION

### 3.1 EXAMINATION

- A. Verify subdrainage, dampproofing, or waterproofing installation has been inspected.
- B. Verify underground tanks are anchored to their own foundations to avoid flotation after backfilling.

- C. Verify structural ability of unsupported walls to support loads imposed by fill.

### 3.2 PREPARATION

- A. Compact subgrade to density requirements for subsequent backfill materials.
- B. Cut out soft areas of subgrade not capable of compaction in place. Backfill with structural fill and compact to density equal to or greater than requirements for subsequent fill material.
- C. Scarify and proof roll subgrade surface to depth of 3 inches to identify soft spots; fill and compact to density equal to or greater than requirements for subsequent fill material.

### 3.3 BACKFILLING

- A. Backfill areas to contours and elevations with unfrozen materials.
- B. Systematically backfill to allow maximum time for natural settlement. Do not backfill over porous, wet, frozen or spongy subgrade surfaces.
- C. Structural Fill Place and compact materials in equal continuous layers not exceeding 6 inches.
- D. Employ placement method that does not disturb or damage other work.
- E. Maintain optimum moisture content of backfill materials to attain required compaction density.
- F. Backfill against supported foundation walls and beams. Do not backfill against unsupported foundation walls and beams
- G. Backfill simultaneously on each side of unsupported foundation walls until supports are in place.

- H. Remove surplus backfill materials from site.
- I. Leave fill material stockpile areas free of excess fill materials.

### 3.4 FIELD QUALITY CONTROL

- A. Testing: In accordance with ASTM D1557.
- B. When tests indicate Work does not meet specified requirements, remove Work, replace and retest.

Proof roll compacted fill surfaces under slabs-on-grade, sidewalks and paving.

### 3.5 PROTECTION OF FINISHED WORK

- A. Reshape and re-compact fills subjected to vehicular traffic.

## END OF SECTION

### SECTION 02324

### EXCAVATION, TRENCHING & BACKFILLING FOR UTILITY SYSTEMS

#### PART 1 GENERAL

##### 1.1 SUMMARY

- A. Section includes excavating trenches for utilities from 5 feet outside building to municipal utilities; compacted fill from top of utility bedding to subgrade elevations; and backfilling and compaction.

- B. Related Sections: (Delete sections not applicable to work)

- 1. Section 02320 - Backfill: General backfilling.

##### 1.2 REFERENCES

- A. AASHTO T180 (American Association of State Highway and Transportation Officials) - Moisture-Density Relations of Soils Using a 10-lb Rammer and an 18-in. Drop.
- B. ASTM C136 - Method for Sieve Analysis of Fine and Coarse Aggregates.
- C. ASTM D698 - Test Methods for Moisture-Density Relations of Soils and Soil-Aggregate Mixtures, Using 5.5 lb Rammer and 12 inch Drop.
- D. ASTM D1556 - Test Method for Density of Soil in Place by the Sand-Cone Method.
- E. ASTM D1557 - Test Methods for Moisture-Density Relations of Soils and Soil-Aggregate Mixtures Using 10 lb Rammer and 18 inch Drop.
- F. ASTM D2167 - Test Method for Density and Unit Weight of Soil in Place by the Rubber Balloon Method.
- G. ASTM D2922 - Test Methods for Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth).
- H. ASTM D3017 - Test Methods for Moisture Content of Soil and Soil-Aggregate Mixtures.

### 1.3 DEFINITIONS

- A. Utility: Any buried pipe, duct, conduit, or cable.
- B. Degree of Compaction: Shall be expressed as a percentage of the maximum density obtained by the test procedure presented in ASTM D 1557.

### 1.4 FIELD MEASUREMENTS

- A. Verify field measurements prior to fabrication.

## 1.5 COORDINATION

- A. Verify Work associated with lower elevation utilities is complete before placing higher elevation utilities.

## PART 2 PRODUCTS

### 2.1. Satisfactory Materials

- A. Satisfactory materials shall comprise any materials classified by ASTM D 2487 as GW, GP, GM, GP-GM, GW-GM, GC, GP-GC, GM-GC, SW, SP, SM.

### 2.2. Unsatisfactory Materials

- A. Materials which do not comply with the requirements for satisfactory materials are unsatisfactory. Unsatisfactory materials also include man-made fills, trash, refuse, or backfills from previous construction. Unsatisfactory material also includes material classified as satisfactory which contains root and other organic matter, frozen material, and stones larger than 6 inches. The Engineer shall be notified of any contaminated materials.

### 2.3. Cohesionless and Cohesive Materials

- A. Cohesionless materials shall include materials classified in ASTM D 2487 as GW, GP, SW, and SP. Cohesive materials shall include materials classified as GC, SC, ML, CL, MH, and CH. Materials classified as GM and SM shall be identified as cohesionless only when the fines are nonplastic

### 2.4 Rock

- A. Rock shall consist of boulders measuring  $\frac{1}{2}$  cubic yard or more and materials that cannot be removed without systematic drilling and blasting such as rock material in ledges, bedded deposits, unstratified masses and conglomerate deposits, and

below ground concrete or masonry structures, exceeding 1/2 cubic meter 1/2 cubic yard in volume, except that pavements shall not be considered as rock.

## 2.5 Unyielding Material

- A. Unyielding material shall consist of rock and gravelly soils with stones greater than 3 inches any dimension or as defined by the pipe manufacturer, whichever is smaller.

## 2.6 Unstable Material

- A. Unstable material shall consist of materials too wet to properly support the utility pipe, conduit, or appurtenant structure.

## 2.7 Select Granular Material

- A. Select granular material shall consist of well-graded sand, gravel, crushed gravel, crushed stone or crushed slag composed of hard, tough and durable particles, and shall contain not more than 10 percent by weight of material passing a No. 200 mesh sieve and no less than 95 percent by weight passing the 1 inch sieve. The maximum allowable aggregate size shall be 6 inches, or the maximum size recommended by the pipe manufacturer, whichever is smaller.

## 2.8 Initial Backfill Material

- A. Initial backfill shall consist of select granular material or satisfactory materials free from rocks 6 inches or larger in any dimension or free from rocks of such size as recommended by the pipe manufacturer, whichever is smaller. When the pipe is coated or wrapped for corrosion protection, the initial backfill material shall be free of stones in excess of size as recommended by the pipe manufacturer.

## 2.9 PLASTIC MARKING TAPE

- A. Plastic marking tape shall be acid and alkali-resistant polyethylene film, 6 inches wide with minimum thickness of 0.004 inch. Tape shall have a minimum strength of 1750 psi lengthwise and 1500 psi crosswise. The tape shall be manufactured with integral wires, foil backing or other means to enable detection by a metal detector when the tape is buried up to 3 feet deep. The tape shall be of a type specifically manufactured for marking and locating underground utilities. The metallic core of the tape shall be encased in a protective jacket or provided with other means to protect it from corrosion. Tape color shall be as specified in TABLE 1 and shall bear a continuous printed inscription describing the specific utility.

TABLE 1. Tape Color

Red	Electric
Yellow	Gas, Oil, Dangerous Materials
Orange	Telephone, Telegraph, Television, Police, and Fire Communications
Blue	Water Systems
Green	Sewer Systems

## 2.10 FOUNDATION MATERIAL

- A. Foundation material used for pipe bedding, from a minimum 6 inch distance below pipe invert to the lower quarter point of the pipe, shall be bank run sand and gravel or crushed stone. Pipe embedment material for the lower quarter point

to 12 inches above the top of the pipe shall be bank run sand and gravel. Crushed stone or gravel shall not be used as foundation material for truss pipe of PVC pipe.

- B. Bank run sand and gravel shall conform to the requirements of the New Jersey State Highway Department, latest revision, standard specifications for Type 1, Class A bank run sand and gravel, while crushed stone shall conform to the requirements of the New Jersey State Highway Department Standard Specifications, Division 8, Section 8.1 Type 1, Class B. Frozen and lumpy material shall not be used.

## 2.11 ACCESSORIES

- A. Geotextile Fabric: Non-biodegradable, woven, manufactured by Akzo Nobel Geosynthetic Co., Huesker, Inc., Synthetic Industries, TC Mirafi, Tenax Corp., Tensar Earth Technologies, Inc. or approved equal.
- B. Filter Fabric: Non-biodegradable, woven manufactured by Akzo Nobel Geosynthetic Co., Huesker, Inc., Synthetic Industries, TC Mirafi, Tenax Corp., Tensar Earth Technologies, Inc. or approved equal.

## PART 3 EXECUTION

### 3.1 LINES AND GRADES

- A. Grades:
  - 1. Lay pipes to lines and grades as required.
  - 2. Maintain grade alignment of pipe using string line parallel with grade line and vertically above centerline of pipe. Establish string line on level batter boards at intervals of not more than 25 feet. Install batter boards spanning trench, rigidly anchored to posts driven into ground on both sides of trench. Set three adjacent batter boards before laying pipe to verify grades and line.

Determine elevation and position of string line from elevation and position of offset points or stakes located along pipe route. Do not locate pipe using side lines for line or grade.

3. As an alternative method, use laser-beam instrument with qualified operator to establish lines and grades.

B. Location of Pipe Lines:

1. Location and approximate depths of proposed pipe lines as required per the approved final design.

2. Engineer reserves right to make changes in lines, grades, and depths of pipe lines and manholes when changes are required for Project conditions.

3.2 PREPARATION

A. Identify required lines, levels, contours, and datum locations.

B. Protect plant life, lawns, rock outcropping and other features remaining as portion of final landscaping.

C. Protect bench marks, existing structures, fences, sidewalks, paving, and curbs from excavating equipment and vehicular traffic.

D. Maintain and protect above and below grade utilities indicated to remain.

E. Cut out soft areas of subgrade not capable of compaction in place. Backfill and compact to density equal to or greater than requirements for subsequent backfill material.

3.3 EXCAVATION

A. Perform excavation within 24 inches of existing municipal utilities in accordance with utility's requirements.

B. Limit of Excavation: Excavations shall be made to the approved lines which shall be of sufficient width outside the structures to give room for placing and removing forms for concrete and for forming pipe joints. Excavations for all structures shall not be plowed, scraped, or machine-dug closer than 3 inches to the finished subgrade. The last 3 inches of depth for all structures including pipe shall be removed with pick and shovel to the exact lines and grades just before

placing foundation material, or pipe supports. Due allowance shall be made for excavating to a depth below the pipe invert to accommodate foundation material or pipe supports. Bell holes shall be hand exact for any pipe with bell dimension larger than the pipe barrel.

- C. Blasting of rock excavation will be permitted only on approval of methods and in compliance with applicable Federal, State and Local regulations.
- D. Excavation shall be performed to the lines and grades indicated. Rock excavation shall include removal and disposition of material defined as rock in paragraph MATERIALS. Earth excavation shall include removal and disposal of material not classified as rock excavation. During excavation, material satisfactory for backfilling shall be stockpiled in an orderly manner at a distance from the banks of the trench equal to 1/2 the depth of the excavation, but in no instance closer than 2 feet. Excavated material not required or not satisfactory for backfill shall be removed from the site or shall be disposed of as directed by the Engineer. Grading shall be done as may be necessary to prevent surface water from flowing into the excavation, and any water accumulating shall be removed to maintain the stability of the bottom and sides of the excavation. Unauthorized over-excavation shall be backfilled in accordance with paragraph BACKFILLING AND COMPACTION at no additional cost to the Authority, the Local Units and the County, as applicable.
- E. Trench Excavation Requirements: Trench walls more than five feet high shall be shored, cut back to a stable slope, or provided with equivalent means of protection for employees who may be exposed to moving ground or cave in. Trench walls which are cut back shall be excavated to at least the angle of repose of the soil. Sheeting and bracing shall conform to the requirement of the "Construction Safety Code" of the Bureau of Engineering and Safety of the New Jersey Department of Labor and Industry and to OSHA requirements. Sheet, shore, and brace excavations to prevent danger to persons, structures and adjacent properties

and to prevent caving, erosion, and loss of surrounding subsoil. Provide sheeting, shoring, bracing, or other protection to maintain stability of excavation. Design sheeting and shoring to be removed at completion of excavation work. Repair damage caused by failure of the sheeting, shoring, or bracing and for settlement of filled excavations or adjacent soil. Repair damage to new and existing Work from settlement, water or earth pressure or other causes resulting from inadequate sheeting, shoring, or bracing. Special attention shall be given to slopes which may be adversely affected by weather or moisture content. The trench width shall correspond to the requirements shown in the contract drawings. Where recommended trench widths are exceeded, redesign, stronger pipe, or special installation procedures shall be utilized by the Company. The cost of redesign, stronger pipe, or special installation procedures shall be borne by the Company without any additional cost to the Authority, the Local Units and the County, as applicable.

1. **Bottom Preparation:** The bottoms of trenches shall be accurately graded to provide uniform bearing and support for the bottom quadrant of each section of the pipe. Bell holes shall be excavated to the necessary size at each joint or coupling to eliminate point bearing. Stones of 6 inches or greater in any dimension, or as recommended by the pipe manufacturer, whichever is smaller, shall be removed to avoid point bearing.
2. **Removal of Unyielding Material:** Where overdepth is not indicated and unyielding material is encountered in the bottom of the trench, such material shall be removed 4 inches below the required grade and replaced with suitable materials as provided in paragraph BACKFILLING AND COMPACTION.
3. **Removal of Unstable Material:** Where unstable material is encountered in the bottom of the trench, such material shall be removed to the depth directed and replaced to the proper grade with select granular material as provided in paragraph BACKFILLING AND COMPACTION. When removal of unstable material is required due to the Company's fault or neglect in performing the work, the resulting material shall be excavated and replaced by the Company without additional cost to the Authority, the Local Units and the County, as applicable.
4. **Jacking, Boring, and Tunneling:** Unless otherwise indicated, excavation shall be by open cut except that sections of a trench may be jacked, bored, or tunneled if, in the opinion of the Engineer, the pipe, cable, or duct can be safely and properly installed and backfill can be properly compacted in such sections.

5. Do not advance open trench more than 200 feet ahead of installed pipe.
6. Cut trenches sufficiently wide to enable installation and allow inspection. Remove water or materials that interfere with Work.
7. Excavate trenches to depth indicated as required per the approved final design. Provide uniform and continuous bearing and support for bedding material and pipe utilities.
8. Do not interfere with 45 degree bearing splay of foundations.
9. When Project conditions permit, slope side walls of excavation starting 2 feet above top of pipe. When side walls can not be sloped, provide sheeting and shoring to protect excavation as specified in this section.
10. When subsurface materials at bottom of trench are loose or soft, excavate to greater depth as directed by Engineer until suitable material is encountered, notify Engineer, and request instructions.
11. Hand trim for bell and spigot pipe joints. Remove loose matter.
12. Correct areas over excavated areas with compacted backfill as specified for authorized excavation or replace with fill concrete as directed by Engineer.

F. Excavation for Appurtenances: Excavation for manholes, catch-basins, inlets, or similar structures shall be of sufficient size to permit the placement and removal of forms for the full length and width of structure footings and foundations as shown. Rock shall be cleaned of loose debris and cut to a firm surface either level, stepped, or serrated, as shown or as directed. Loose disintegrated rock and thin strata shall be removed. Removal of unstable material shall be as specified above. When concrete or masonry is to be placed in an excavated area, special care shall be taken not to disturb the bottom of the excavation. Excavation to the final grade level shall not be made until just before the concrete or masonry is to be placed.

#### 3.4 Storage and disposal

A. Excavated material, which is suitable and approved for backfill and fill shall be placed in storage piles unless or until it can be placed in the work. Stockpiles shall be kept in a neat and well drained condition, giving due consideration to

drainage at all times. The ground surface at stockpile locations shall be cleared, grubbed, and sealed by rubber-tired equipment, excavated satisfactory and unsatisfactory materials shall be separately stockpiled. It shall not be placed close to the sides of excavations, where the weight of the material could create a surcharge on such sides, whether sheeted or not. Locations of stockpiles of satisfactory materials shall be subject to prior approval of the Engineer.

- B. Stockpiles of satisfactory materials shall be protected from contamination which may destroy the quality and fitness of the stockpiled material. If the Company fails to protect the stockpiles, and any material becomes unsatisfactory, such material shall be removed and replaced with satisfactory material from approved sources at no additional cost to the Authority, the Local Units and the County, as applicable. Unsuitable material, or material in excess of that required fill, backfill for or other purpose, including any stored surplus shall be disposed of away from the site.

### 3.5 BACKFILLING AND COMPACTION

- A. Backfill material shall consist of satisfactory material, select granular material, or initial backfill material as required. Backfill shall be placed in layers not exceeding 6 inches loose thickness for compaction by hand operated machine compactors, and 8 inches loose thickness for other than hand operated machines, unless otherwise specified. Each layer shall be compacted to at least 95 percent maximum density for cohesionless soils and 90 percent maximum density for cohesive soils, unless otherwise specified.
- B. Trench Backfill: Trenches shall be backfilled to the grade shown. The trench shall be backfilled to 2 feet above the top of pipe prior to performing the required pressure tests. The joints and couplings shall be left uncovered during the pressure test. The trench shall not be backfilled until all specified tests are performed.

1. Replacement of Unyielding Material: Unyielding material removed from the bottom of the trench shall be replaced with select granular material or initial backfill material.
2. Replacement of Unstable Material: Unstable material removed from the bottom of the trench or excavation shall be replaced with select granular material placed in layers not exceeding 6 inches loose thickness.
3. Bedding and Initial Backfill: Bedding shall be of the type and thickness shown. Initial backfill material shall be placed and compacted with approved tampers to a height of at least one foot above the utility pipe or conduit. The backfill shall be brought up evenly on both sides of the pipe for the full length of the pipe. Care shall be taken to ensure thorough compaction of the fill under the haunches of the pipe.
4. Final Backfill: The remainder of the trench, except for special materials for roadways, railroads and airfields, shall be filled with satisfactory material. Backfill material shall be placed and compacted as follows:
  - a) Water flooding or jetting methods of compaction will not be permitted.
  - b) Sidewalks, Turfed or Seeded Areas and Miscellaneous Areas: Backfill shall be deposited in layers of a maximum of 12 inch loose thickness, and compacted to 85 percent maximum density for cohesive soils and 90 percent maximum density for cohesionless soils. Water flooding or jetting methods of compaction will be permitted for granular noncohesive backfill material. Water jetting shall not be allowed to penetrate the initial backfill. This requirement shall also apply to all other areas not specifically designated above.
    - C. Backfill for Appurtenances: After the manhole, catch basin, inlet, or similar structure has been constructed and the concrete has been allowed to cure for a minimum of 3 days or as specified in the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction, current edition, backfill shall be placed in such a manner that the structure will not be damaged by the shock of falling earth. The backfill material shall be deposited and compacted as specified for final backfill, and shall be brought up evenly on all sides of the structure to prevent eccentric loading and excessive stress.
    - D. Employ placement method that does not disturb or damage foundation perimeter drainage, utilities in trench.
    - E. Maintain optimum moisture content of fill materials to attain required compaction density.

- F. No backfill shall be placed until the structure has been inspected in place and approved. Backfilling shall be carried out as soon as possible after such approval.
- G. Do not leave more than 50 feet of trench open at end of working day.
- H. Protect open trench to prevent danger to the public.

### 3.6 SPECIAL REQUIREMENTS

- A. Special requirements for both excavation and backfill relating to the specific utilities are as follows:
  1. Gas Distribution: Trenches shall be excavated to a depth that will provide not less than 18 inches of cover in rock excavation and not less than 24 inches of cover in other excavation.
  2. Water Lines: Trenches shall be of a depth to provide a minimum cover of 4 feet from the existing ground surface, or from the indicated finished grade, whichever is lower, to the top of the pipe. For fire protection yard mains or piping, required depth of cover shall be in accordance with NFPA 24.
  3. Electrical Distribution System: Direct burial cable and conduit or duct line shall have a minimum cover of 24 inches from the finished grade, unless otherwise indicated.
  4. Plastic Marking Tape: Warning tapes shall be installed directly above the pipe, at a depth of 18 inches below finished grade unless otherwise shown.

### 3.7 DEWATERING

- A. The Company shall provide, operate and maintain satisfactory facilities and equipment including well points, and coffer-dams if necessary, with which to contain, collect and pump all water entering excavations or other parts of the work to suitable places for disposal. All excavations shall be kept free of water until the work or structure to be built therein is completed.

### 3.8 TESTING

- A. Testing shall be the responsibility of the Company and shall be performed at no additional cost to the Authority, the Local Units and the County, as applicable.

- B. Testing Facilities: Tests shall be performed by an approved commercial testing laboratory or may be tested by facilities furnished by the Company. No work requiring testing will be permitted until the facilities have been inspected and approved by the Engineer. The first inspection shall be at the expense of the County. Cost incurred for any subsequent inspection required because of failure of the first inspection will be charged to the Company.
- C. Testing of Backfill Materials: Classification of backfill materials shall be determined in accordance with ASTM D 2487 and the moisture-density relations of soils shall be determined in accordance with ASTM D 1557. A minimum of one soil classification and one moisture-density relation test shall be performed on each different type of material used for bedding and backfill.
- D. Field Density Tests: Tests shall be performed in sufficient numbers to ensure that the specified density is being obtained. A minimum of one field density test per lift of backfill for every 100 feet of installation shall be performed. One moisture density relationship shall be determined for every 1500 cubic yards of material used. Field in-place density shall be determined in accordance with ASTM D 1556, ASTM D 2167 or ASTM D 2922. When ASTM D 2922 is used, the calibration curves shall be checked and adjusted using the sand cone method as described in paragraph Calibration of the ASTM publication. ASTM D 2922 results in a wet unit weight of soil and when using this method, ASTM D 3017 shall be used to determine the moisture content of the soil. The calibration curves furnished with the moisture gauges shall be checked along with density calibration checks as described in ASTM D 3017. The calibration checks of both the density and moisture gauges shall be made at the beginning of a job, on each different type of material encountered, at intervals as directed by the Engineer. Copies of calibration curves, results of calibration tests, and field and laboratory density tests shall be furnished to the Engineer. Trenches improperly compacted shall be reopened to the depth directed, then refilled and compacted to the density

specified at no additional cost to the Authority, the Local Units and the County, as applicable.

- E. Displacement of Sewers: After other required tests have been performed and the trench backfill compacted to the finished grade surface, the pipe shall be inspected to determine whether significant displacement has occurred. This inspection shall be conducted in the presence of the Engineer. Pipe sizes larger than 36 inches shall be entered and examined, while smaller diameter pipe shall be inspected by shining a light or laser between manholes or manhole locations, or by the use of television cameras passed through the pipe. If, in the judgment of the Engineer, the interior of the pipe shows poor alignment or any other defects that would cause improper functioning of the system, the defects shall be remedied as directed at no additional cost to the Authority, the Local Units and the County, as applicable.

### 3.9 PROTECTION OF FINISHED WORK

- A. Reshape and re-compact fills subjected to vehicular traffic during construction.
- B. All excavations for utilities shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, driveways, curbs, parkways and other public property disturbed in the course of the work shall be restored at the Company's expense in a manner satisfactory to the Authority, the Local Units and the County, as applicable.

**END OF SECTION**

## SECTION 02700

### PAVING AND SURFACING IMPROVEMENTS

#### PART 1 GENERAL

##### 1.1 WORK INCLUDED

A. Under this section, the Company is to provide all labor, materials and equipment required to construct and maintain roads, walkways, and related site improvements. Road work is to include all roads and parking areas, and is to incorporate subgrades, paving, and related work. Restoration of any existing roads, curbs or walkways damaged during the course of the work is also included.

##### 1.2 REFERENCE

A. Unless otherwise specified, all work under this section shall conform with the applicable provisions of the New Jersey Department of Transportation Standard Specifications for Road and Bridge construction, 2001, (NJDOTSS) as amended by any subsequent supplements. The attention of the bidders is specifically directed to provisions of such specifications, which are hereby made a part hereof, as fully set forth at length. All reference to methods of payment and basis of payment including asphalt price adjustment within these sections are hereby deleted.

B. The Company is to comply with all local governing regulations if more stringent than herein specified.

##### 1.3 SUBMITTALS

The Company shall submit for approval the pavement mix formula and material certifications that the base course I-2 and surface course I-5 meet the requirements of the NJDOT standard specifications.

The Company shall submit certifications tickets for all materials delivered and installed at the site.

#### PART 2 PRODUCTS

##### 2.1 MATERIALS

A. Where additional subgrade material is required in connection with paving, it shall conform to the requirements for Type I-S dense graded aggregate material as outlined in the NJDOT standard specifications.

B. Sub-base material shall conform to the requirements of the NJDOT standard specifications as identified in 2.1 A above.

C. Bituminous stabilized base course paving material shall conform to the requirements of the NJDOT standard specifications for Mix I-2 bituminous stabilized base course.

D. Bituminous surface course paving material shall conform to the requirements of the NJDOT standard specifications for Mix I-5 bituminous concrete

E. Concrete curbs and headers shall conform to the requirements of the NJDOT standard specifications, Section 605.

F. Tack coat material for preparing all surfaces prior to pavement placement shall be in conformance with NJDOT standard specifications, Section 404.

### **PART 3 EXECUTION**

#### **3.1 PAVED ROADWAYS AND PARKING AREAS**

##### **A. Final Subgrade Preparation**

Before placing any paving material, the existing topsoil shall be stripped and the remaining soil shall be proof rolled with a heavy static roller. Any soft zones shall be excavated and replaced with compacted sub-base material as defined above. The subgrades are to be brought to the required finished grades and elevations and compacted to 95 percent of its Modified Proctor Density established in accordance with ASTM Designation D1557. The Engineer is then to check the sub-grade. The Company is to place no stone, bituminous materials or concrete on any subgrade until it has been inspected and approved by the Engineer.

B. Subgrades for pavements, sidewalks, curbs and gutters, and other roadway structures are not to vary more than 1/4-inch from the specified grade and cross section. Variations within the above specified tolerances are to be compensating so that the average grade and cross sections specified are met.

C. Any castings within the area to be paved or graded are to be set to finished grade by the Company. Any concrete curbs disturbed are to be constructed by the Company and approved by the Engineer before any bituminous pavement is placed.

D. The subgrade is to be maintained in a satisfactory condition and properly furnished to the satisfaction of the Engineer. No material is to be placed upon the prepared subgrade until it has been inspected for proper depth and compaction and has met the approval of the Engineer. No materials are to be placed on the prepared subgrade if the subgrade is wet or frozen.

##### **E. Pavement Thickness**

Paved road and parking areas are to consist of a 4 inch thick Quarry Process Stone sub-base, a 6 inch thick bituminous concrete stabilized base course (Hot Mix No. I-2) and a 2 inch thick bituminous concrete surface course top layer (Hot Mix No. I-5).

##### **D. Placement of Bituminous Concrete Stabilized Base Course (Mix No. I-2)**

The stabilized base is to be placed in accordance with the requirements of NJDOTSS. The material is to leave the plant at a temperature sufficient for workability under prevailing conditions. However, the temperature of the mixtures when laid is not to be less than that specified in Table 404-1 of NJDOTSS. The stabilized base course shall be placed in two-layers. The thickness is to be sufficient to obtain the compacted thickness indicated.

Initial rolling of the base course to be compacted is to be done with at least two rollers, one of which is to be a three-wheel roller of ten tons minimum and the other two or three axle tandem roller of eight tons minimum, operating immediately in back of the spreader. The second, third

and final rolling are to be performed with a two or three axle tandem roller until the mixture is thoroughly compacted to the satisfaction of the Engineer.

All trucks transporting Bituminous Concrete Stabilized Base material are to be covered with canvas. Also, no stabilized base material is to be laid unless the ambient temperature is above 250°F and rising.

Immediately prior to construction of subsequent pavement surface thereon, the base course is to be cleaned of all loose and foreign material and all damaged areas are to be repaired to the satisfaction of the Engineer.

After the Bituminous Concrete Base Course has been placed, all manholes, valve boxes, catch basins, and driveway entrances (where curb exists) are to be ramped with stabilized base in a manner satisfactory to the Engineer.

If, prior to the placing of the surface pavement, material has to be removed because it has broken up, the Company is to remove the bad areas to the limits as specified by the Engineer. Once this area has been dug out, the Company is to furnish and lay bituminous stabilized base and compact as specified above.

F. Placement of Bituminous Concrete Surface Course (Mix No. I-5)

After the Engineer has approved the placement of Base Course, the Surface Course of Bituminous Concrete Mix No. I-5 is to be constructed to the thickness identified above..

G. Construction procedures, producing of bituminous concrete, equipment to be used, and procedures for laying the materials are to conform to Section 404 of the NJDOTSS. All equipment specified in the above section is to be of the proper type, and in satisfactory working condition, and used where required.

H. All trucks transporting bituminous concrete surface course material are to be covered with canvasses. Also, no surface course material is to be laid unless the ambient temperature is above 400°F and rising.

I. Temperature of Longitudinal Bituminous Concrete Joints

When a course of Bituminous Concrete is abutted to a previously laid course, the abutting surface of the latter is to be of a temperature of not less than 250°F, at the time the joint is made. If this is not achieved by making the joint before the first laid bituminous concrete has cooled, the Company is to use one or more joint heater devices. Such devices are to be of the infrared type or equal, and are to heat the abutted material uniformly to a temperature of not more than 275°F, treating in the upper ranges of these specified temperatures when atmospheric conditions are conducive to a more rapid cooling. All joint heating devices that apply a direct flame or have a harmful effect upon the bituminous concrete will be prohibited.

### 3.2 REPAIRS AND PROTECTION

A. The Company shall replace any damaged curbing with new curbing to match the existing curbing. Curb dimensions shall match existing.

B. Any pavement which is damaged during the construction shall be replaced. All pavement replacement shall be performed in strict accordance with requirements of the applicable governing agency.

C. The Company is to repair or replace all broken or defective work as directed by the Engineer. He is to protect all work from damage until the acceptance of the work. Traffic is to be excluded from all concrete surfaces at least fourteen (14) days after placement. When construction traffic is permitted, the Company is to maintain all such concrete surfaces as clean as possible by removing all surfaces stains and spillage of materials as they occur.

D. The Company is to sweep all concrete surfaces and wash them free of stains, discolorations, dirt, and other foreign materials just prior to final inspection.

E. The Company is to be completely responsible for repairing any damage to roads caused by his transport operations. In general, roads used for hauling purposes are to be rebuilt as specified. Public roads are to remain operational, and necessary temporary and permanent repairs are to be made promptly upon notification of damage.

F. Should the Company fail to repair any damage to any roads caused by his operations within a reasonable time, the Authority, the Local Units and the County, as applicable may have the repairs made by others and will charge the actual cost of such repairs back to the Company.

**END OF SECTION 02700**

SECTION 16050  
BASIC ELECTRICAL MATERIALS AND METHODS  
PART 1 GENERAL

1.1 SUMMARY

A. Section includes grounding electrodes and conductors; equipment grounding conductors; bonding methods and materials; conduit and equipment supports; anchors and fasteners; nameplates and labels; wire markers & raceway markers.

B. Section includes sealing and fireproofing of sleeves/openings between conduits, wireways, troughs, etc. and the structural or partition opening shall be the responsibility of the Company whose work penetrates the opening. The Company responsible shall hire individuals skilled in such work to do the sealing and fireproofing. These individuals hired shall normally and routinely be employed in the sealing and fireproofing occupation.

1.2 REFERENCES

- A. NECA (National Electrical Contractors Association) - Standard of Installation.
- B. NETA ATS (International Electrical Testing Association) - Acceptance Testing Specifications for Electrical Power Distribution Equipment and Systems.
- C. NFPA 99 (National Fire Protection Association) - Health Care Facilities.

1.3 SYSTEM DESCRIPTION

A. Grounding of the PV system, equipment, and components shall comply with all requirements of Part V of NEC Article 690, as well as any applicable referenced sections of NEC Article 250.

B. Electrical products are anchored and fastened to building elements and finishes as follows:

1. Concrete Structural Elements: Use precast inserts and preset inserts.
2. Steel Structural Elements: Use beam clamps or spring steel clips.
3. Concrete Surfaces: Use self-drilling anchors and expansion anchors.
4. Hollow Masonry, Plaster, and Gypsum Board Partitions: Use toggle bolts or hollow wall fasteners.
5. Solid Masonry Walls: Use expansion anchors or preset inserts.
6. Sheet Metal: Use sheet metal screws.
7. Wood Elements: Use wood screws.

C. Electrical components are identified as follows:

1. Nameplate for each electrical distribution and control equipment enclosure.
2. Wire marker for each conductor at panelboard gutters and outlet junction boxes.

#### 1.4 DESIGN REQUIREMENTS

- A. Select materials, sizes, and types of anchors, fasteners, and supports to carry the loads of equipment and raceway, including weight of wire and cable in raceway.

#### 1.5 PERFORMANCE REQUIREMENTS

- A. Grounding System Resistance: Shall comply with NEC 250.56.

#### 1.6 SUBMITTALS

- A. Test Reports: Indicate overall resistance to ground.

#### 1.7 CLOSEOUT SUBMITTALS

- A. Project Record Documents: Record actual locations of components and grounding electrodes.

#### 1.8 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this section with minimum three years experience and with service facilities within 200 miles of project.

#### 1.9 FIELD MEASUREMENTS

- A. Verify field measurements prior to fabrication.

### PART 2 PRODUCTS

#### 2.1 ROD ELECTRODES (AS REQUIRED)

- A. Material: Copper.
- B. Diameter: Not less than 5/8" per NEC 250.52(5)(b).
- C. Length: Not less than 8' per NEC 250.52(5).

#### 2.2 MECHANICAL CONNECTORS

- A. Description: Bronze connectors, suitable for grounding and bonding applications, in configurations required for particular installation.

## 2.3 EXOTHERMIC CONNECTIONS

- A. Product Description: Exothermic materials, accessories, and tools for preparing and making permanent field connections between grounding system components.

## 2.4 WIRE

- A. Material: Stranded or solid copper with insulation suitable for the operating environment.

## 2.5 ANCHORS AND FASTENERS

- A. Materials and Finishes: Corrosion resistant.

## 2.6 FORMED STEEL CHANNEL

- A. Description: PVC-coated galvanized steel.

## 2.7 NAMEPLATES AND LABELS

- A. Nameplates: Engraved three-layer laminated plastic, black letters on white background.

## 2.8 WIRE MARKERS

- A. Description: Cloth tape, split sleeve type wire markers.

## 2.9 CONDUIT MARKERS

- A. Description: Nameplate fastened with straps.

- B. Color:

1. Photovoltaic System: Red lettering on white background.

- C. Legend:

1. Photovoltaic System: Photovoltaic

## 2.10 SEALING AND FIREPROOFING

### A. Fire and/or Smoke rated Surfaces:

1. 3M CP 25N/S or CP25S/L caulk, 3M FS 195 wrap/strip with restricting collar, 3M CS 195 composite sheet, Pipe Shields Inc. series F fire barrier kits, Proset systems fire rated floor and wall penetrations, Insta-Foam Products Insta-Fire seal Firestop Foam, Dow Corning Fire Stop System, or an approved equal.
2. All products must be UL listed or tested by an independent testing laboratory. Use a product that has a rating not less than the rating of the wall or floor being penetrated.

### B. Non-Rated Surfaces:

1. Use stamped steel, chrome plated, hinged, split ring escutcheons or floor/ceiling plates for covering openings in occupied areas where conduit is exposed.
2. In exterior wall openings below grade, use a modular mechanical type seal consisting of interlocking synthetic rubber links shaped to continuously fill the annular space between the conduit and the cored opening or a water-stop type wall sleeve.
3. At interior wall or floor openings use Tremco Dymonic, Sika Corp. Sikaflex la, Sonneborn Sonolastic NPI, or Mameco Wilken 116 urethane caulk or approved equal to effect the seal.

## PART 3 EXECUTION

### 3.1 EXAMINATION

- A. Verify final backfill and compaction has been completed before driving rod electrodes.

### 3.2 INSTALLATION

#### A. Grounding and Bonding Installation:

1. Install rod electrodes at locations indicated. Install additional rod electrodes as required to achieve specified resistance to ground.
2. Provide grounding well pipe with cover at each rod location. Install well pipe top flush with finished grade.
3. Provide bonding to meet Regulatory Requirements.
4. Bond together metal siding not attached to grounded structure; bond to ground.
5. Provide isolated grounding conductor for circuits supplying, personal computers and electronic equipment in IT room.
6. Equipment Grounding Conductor: Provide separate, insulated conductor within each feeder and branch circuit raceway. Terminate each end on suitable lug, bus, or bushing.

7. Locate and install anchors, fasteners, and supports in accordance with NECA "Standard of Installation".

8. Do not fasten supports to pipes, ducts, mechanical equipment, or conduit.

9. Do not use spring steel clips and clamps.

10. Do not use powder-actuated anchors.

11. Obtain permission from Architect/Engineer before drilling or cutting structural members.

B. Supports:

1. Fabricate supports from structural steel or formed steel members. Rigidly weld members or use hexagon-head bolts to present neat appearance with adequate strength and rigidity. Use spring lock washers under all nuts.

2. Install surface-mounted cabinets and panelboards with minimum of four anchors.

3. In wet and damp locations use steel channel supports to stand cabinets and panelboards 1 inch off wall.

4. Use sheet metal channel to bridge studs above and below cabinets and panelboards recessed in hollow partitions.

C. Identification Components:

1. Degrease and clean surfaces to receive nameplates and labels.

2. Install nameplate and label parallel to equipment lines.

3. Secure nameplate to equipment front using screws or adhesive.

4. Secure nameplate to inside surface of door on panelboard that is recessed in finished locations.

5. Conduit Marker Spacing: 10 feet on center.

6. Identify underground conduits using one underground warning tape per trench at 3 inches below finished grade.

D. Fire Rated Surface:

1. When the opening is through a fire rated wall, floor, ceiling or roof the opening must be sealed by installing a steel sleeve, minimum 12ga., through the opening and extending beyond a minimum of 1 inch. Further, the sleeve shall be large enough to allow a minimum of a 1 inch void between the sleeve and the item of penetration. The void shall be packed with an approved backing material and the ends of the sleeve sealed with a minimum of 1 inch of a listed fire-resistive silicone compound to a depth required to meet the fire rating of the structure penetrated.

2. Install approved product in accordance with the manufacturer's instructions where a pipe (i.e. cable tray, bus, cable bus, conduit, wireway, trough, etc.) penetrates a fire rated surface.

E. Non-Rated Surfaces:

1. When the opening is through a non-fire rated wall, floor, ceiling or roof the opening must be sealed using an approved type of material.

2. Use galvanized sheet metal sleeves in hollow wall penetrations to provide a backing for the sealant. Grout area around sleeve in masonry construction.

3. Install escutcheons or floor/ceiling plates where pipe, penetrates non-fire rated surfaces in occupied spaces. Occupied spaces for this paragraph include only those rooms with finished ceilings and the penetration occurs below the ceiling.
4. In exterior wall openings below grade, assemble rubber links of mechanical seal to the proper size for the pipe and tighten in place, in accordance with the manufacturer's instructions.
5. At interior partitions, pipe penetrations are required to be sealed for all tele/data/com rooms and similar spaces where the room pressure or odor transmission must be controlled. Apply sealant to both sides of the penetration in such a manner that the annular space between the pipe sleeve and the pipe is completely filled.

### 3.3 FIELD QUALITY CONTROL

- A. Inspect and test in accordance with NETA ATS, except Section 4.
- B. Grounding and Bonding: Perform inspections and tests listed in NETA ATS, Section 7.13.

## END OF SECTION

### SECTION 16123

### BUILDING WIRE AND CABLE

#### PART 1 GENERAL

##### 1.1 SUMMARY

- A. Section includes building wire and cable; nonmetallic-sheathed cable; direct burial cable; service entrance cable; armored cable; metal clad cable; and wiring connectors and connections.

##### 1.2 REFERENCES

- A. NECA (National Electrical Contractors Association) - Standard of Installation.

- B. NETA ATS (International Electrical Testing Association) - Acceptance Testing Specifications for Electrical Power Distribution Equipment and Systems.

### 1.3 WIRING METHODS AND PRODUCT REQUIREMENTS

- A. Product Requirements: Use products as indicated and as follows:

1. Use stranded conductor for feeders and branch circuits 10 AWG and smaller.
2. Use stranded conductors for control circuits.
3. Use conductor not smaller than 12 AWG for power and lighting circuits.
4. Use conductor not smaller than 16 AWG for control circuits.
5. Use 10 AWG conductors for 20 ampere, 120 volt branch circuits longer than 90 feet.
6. Use 10 AWG conductors for 20 ampere, 277 volt branch circuits longer than 200 feet.

- B. Wiring Methods: Use wiring methods indicated and as follows:

1. Concealed Dry Interior Locations: Use only building wire, Type THHN/THWN, XHHW insulation, in raceway, armored cable or metal clad cable.
2. Exposed Dry Interior Locations: Use only building wire, Type THW, THHN/THWN, XHHW insulation, in raceway.
3. Above Accessible Ceilings: Use only building wire, Type THW, THHN/THWN, XHHW insulation, in raceway, armored cable or metal clad cable.
4. Wet or Damp Interior Locations: Use only building wire, Type THW, THHN/THWN, XHHW insulation, in raceway, armored cable with jacket, or metal clad cable.
5. Exterior Locations: Use only building wire, Type THW, THHN/THWN, XHHW insulation, in raceway, direct burial cable, or service-entrance cable.
6. Exterior locations in cable trays, and interconnect wiring between PV panels shall be Type USE-2 and sunlight resistant. Cables shall be clearly marked as to suitability.

### 4C. DESIGN REQUIREMENTS

1. Conductor sizes are based on copper unless indicated as aluminum or "AL".
2. If aluminum conductor is substituted for copper conductor, size to match circuit requirements for conductor ampacity and voltage drop.

### 1.4 SUBMITTALS

- A. Test Reports: Indicate procedures and values obtained.

1.5 CLOSEOUT SUBMITTALS

- A. Project Record Documents: Record actual locations of components and circuits.

1.6 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this section with minimum three years documented experience.

1.7 FIELD MEASUREMENTS

- A. Verify field measurements are as indicated.

1.8 COORDINATION

- A. Where wire and cable destination is indicated and routing is not shown, determine exact routing and lengths required.
- B. Wire and cable routing indicated is approximate unless dimensioned.

## PART 2 PRODUCTS

### 2.1 BUILDING WIRE

#### A. Manufacturers:

1. Anaconda.
2. Essex Group Inc.

B. Product Description: Single conductor insulated wire.

C. Conductor: Copper.

D. Insulation Voltage Rating: 600' volts.

### 2.2 DIRECT BURIAL CABLE

#### A. Manufacturers:

1. Anaconda.
2. Essex Group Inc.
3. General Cable Co.

B. Conductor: Copper.

C. Insulation Voltage Rating: 600 volts.

### 2.3 SERVICE ENTRANCE CABLE

#### A. Manufacturers:

1. Anaconda.
2. Essex Group Inc.
3. General Cable Co.

B. Conductor: Copper

C. Insulation Voltage Rating: 600 volts.

D. Insulation: Type RH or RHH.

#### 2.4 ARMORED CABLE

A. Manufacturers:

1. Anaconda.
2. Essex Group Inc.
3. General Cable Co.

B. Conductor: Copper.

#### 2.5 METAL CLAD CABLE

A. Manufacturers:

1. Anaconda.
2. Essex Group Inc.
3. General Cable Co.

B. Conductor: Copper.

C. Insulation Voltage Rating: 600 volts.

D. Insulation Temperature Rating: 60 degrees C.

E. Insulation Material: Thermoplastic.

F. Armor Material: Steel.

G. Armor Design: Interlocked metal tape.

### PART 3 EXECUTION

#### 3.1 EXAMINATION

A. Verify that interior of building has been protected from weather.

- B. Verify that mechanical work likely to damage wire and cable has been completed.
- C. Verify that raceway installation is complete and supported.

### 3.2 PREPARATION

- A. Completely and thoroughly swab raceway before installing wire.

### 3.3 EXISTING WORK

- A. Remove exposed abandoned wire and cable, including abandoned wire and cable above accessible ceiling finishes. Patch surfaces where removed cables pass through building finishes.
- B. Disconnect abandoned circuits and remove circuit wire and cable. Remove abandoned boxes if wire and cable servicing them is abandoned and removed. Provide blank cover for abandoned boxes which are not removed.
- C. Ensure access to existing wiring connections which remain active and which require access. Modify installation or provide access panel as appropriate.
- D. Extend existing circuits using materials and methods compatible with existing electrical installations, or as specified.
- E. Clean and repair existing wire and cable which remain or is to be reinstalled.

### 3.4 INSTALLATION

- A. Route wire and cable as required to meet Project conditions.
- B. Install wire and cable in accordance with the NECA "Standard of Installation."
- C. Neatly train and lace wiring inside boxes, equipment, and panelboards.
- D. Identify and color code wire and cable under provisions of Section 16050. Identify each conductor with its circuit number or other designation indicated.

E. Special Techniques--Building Wire in Raceway:

1. Pull all conductors into raceway at same time.
2. Use suitable wire pulling lubricant for building wire 4 AWG and larger.

F. Special Techniques--Cable:

1. Protect exposed cable from damage.
2. Support cables above accessible ceiling, using spring metal clips or [metal] [plastic] cable ties to support cables from structure [or ceiling suspension system]. Do not rest cable on ceiling panels.
3. Use suitable cable fittings and connectors.

G. Special Techniques--Direct Burial Cable:

1. Trench and backfill for direct burial cable installation as specified in Sections 02320 and 02324. Install warning tape along entire length of direct burial cable, within 3 inches of grade.
2. Use suitable direct burial cable fittings and connectors.

H. Special Techniques--Wiring Connections:

1. Clean conductor surfaces before installing lugs and connectors.
2. Make splices, taps, and terminations to carry full ampacity of conductors with no perceptible temperature rise.
3. Tape uninsulated conductors and connectors with electrical tape to 150 percent of insulation rating of conductor.
4. Use split bolt connectors for copper conductor splices and taps, 6 AWG and larger.
5. Use solderless pressure connectors with insulating covers for copper conductor splices and taps, 8 AWG and smaller.
6. Use insulated spring wire connectors with plastic caps for copper conductor splices and taps, 10 AWG and smaller.
7. Use suitable reducing connectors or mechanical connector adaptors for connecting aluminum conductors to copper conductors.

3.5 WIRE COLOR

## A. General

1. For wire sizes 10 AWG and smaller - wire shall be colored as indicated below.
2. For wire sizes 8 AWG and larger - identify wire with colored tape at all terminals, splices and boxes. Colors to be as indicated below.
3. Use black and red for single phase circuits at 120/240 volts, use black, red, and blue for circuits at 120/208 volts single or three phase and use orange, brown, and yellow for circuits at 277/480 volts single or three phase.
  - 4.. Neutral Conductors: White. Where there are two or more neutrals in one conduit, each shall be individually identified with the proper circuit.
  5. Branch Circuit Conductors: Three or four wire home runs shall have each phase uniquely color coded.
  6. Feeder Circuit Conductors: Each phase shall be uniquely color coded.
  7. Ground Conductors: Green for 6 AWG and smaller. For 4 AWG and larger, identify with green tape at both ends and all visible points included in all junction boxes.
8. For DC circuits, all grounded circuit conductor insulation shall be white or gray.
9. For DC circuits, all ungrounded conductor insulation shall be either black or red. Chosen color shall be used consistently throughout the installation.

## 3.6 FIELD QUALITY CONTROL

- A. Inspect and test in accordance with NETA ATS, except Section 4.
- B. Perform inspections and tests listed in NETA ATS, Section 7.3.1.

**END OF SECTION**

## SECTION 16130

### RACEWAY AND BOXES

#### PART 1 GENERAL

##### 1.1 SUMMARY

- A. Section includes conduit and tubing, surface raceways, wireways, outlet boxes, pull and junction boxes.

##### 1.2 REFERENCES

- A. ANSI C80.3 - Electrical Metallic Tubing, Zinc Coated.
- B. ANSI C80.5 - Rigid Aluminum Conduit.
- C. NECA (National Electrical Contractor's Association) - "Standard of Installation"
- D. NEMA FB 1 (National Electrical Manufacturers Association) - Fittings, Cast Metal Boxes, and Conduit Bodies for Conduit and Cable Assemblies.
- E. NEMA OS 1 (National Electrical Manufacturers Association) - Sheet-steel Outlet Boxes, Device Boxes, Covers, and Box Supports.
- F. NEMA OS 2 (National Electrical Manufacturers Association) - Nonmetallic Outlet Boxes, Device Boxes, Covers and Box Supports.
- G. NEMA RN 1 (National Electrical Manufacturers Association) - Polyvinyl Chloride (PVC) Externally Coated Galvanized Rigid Steel Conduit and Intermediate Metal Conduit.
- H. NEMA TC 2 (National Electrical Manufacturers Association) - Electrical Plastic Tubing (EPT) and Conduit (EPC-40 and EPC-80).
- I. NEMA TC 3 (National Electrical Manufacturers Association) - PVC Fittings for Use with Rigid PVC Conduit and Tubing.

J. NEMA 250 (National Electrical Manufacturers Association) - Enclosures for Electrical Equipment (1000 Volts Maximum).

### 1.3 SYSTEM DESCRIPTION

A. Provide raceway and boxes at locations where required for splices, taps, wire pulling, equipment connections, and compliance with regulatory requirements. Provide raceway & boxes as required for complete wiring system.

B. Outdoor Locations: Use galvanized conduit and intermediate metal conduit. Use cast metal outlet, pull, and junction boxes.

C. Concealed and Exposed Dry Locations: Use electrical metallic tubing. Use flush mounting outlet box in finished areas. Use hinged enclosure for large pullboxes.

### 1.4 DESIGN REQUIREMENTS

A. Minimum Raceway Size: 3/4 inch unless otherwise specified.

### 1.5 SUBMITTALS

A. Product Data: Submit for the following Products:

1. Raceway fittings.

2. Conduit bodies.

3. Pull and junction boxes.

B. Manufacturer's Installation Instructions: Submit application conditions and limitations of use stipulated by Product testing agency specified under Regulatory Requirements. Include instructions for storage, handling, protection, examination, preparation, and installation of Product.

### 1.6 CLOSEOUT SUBMITTALS

A. Project Record Documents:

1. Record actual routing of conduits larger than 2 inch trade size.

2. Record actual locations and mounting heights of outlet, pull, and junction boxes.

## 1.7 DELIVERY, STORAGE, AND HANDLING

- A. Protect conduit from corrosion and entrance of debris by storing above grade. Provide appropriate covering.

## 1.8 COORDINATION

- A. Coordinate mounting heights, orientation and locations of all raceways & enclosures with the engineer.

## PART 2 PRODUCTS

### 2.1 METAL CONDUIT

#### A. Manufacturers:

1. Wheatland Tube Company
2. Allied Tube and Conduit
3. Western Tube and Conduit Co.

B. PVC-coated Galvanized Rigid Steel Conduit: NEMA RN-1.

C. PVC-coated Intermediate Metal Conduit (IMC): NEMA RN-1.

D. Fittings and Conduit Bodies: NEMA FB 1; all steel fittings.

### 2.2 PULL AND JUNCTION BOXES

#### A. Manufacturers:

1. Hubbell Wiring Devices.
2. Walker Systems Inc.
3. The Wiremold Co.

B. Sheet Metal Boxes: NEMA OS 1, galvanized steel.

- C. Hinged Enclosures: As specified in Section 16131.
- D. Surface Mounted Cast Metal Box: NEMA 250, Type 4X; flat-flanged, surface mounted junction box:
  - 1. Material: Galvanized cast iron.
  - 2. Cover: Furnish with ground flange, neoprene gasket, and stainless steel cover screws.

### PART 3 EXECUTION

#### 3.1 EXAMINATION

- A. Verify outlet locations and routing and termination locations of raceway prior to rough-in.

#### 3.2 INSTALLATION

- A. Install Work in accordance with NECA "Standard of Installation.
- B. Ground and bond raceway and boxes under provisions of Section 16050.
- C. Fasten raceway and box supports to structure and finishes under provisions of Section 16050.
- D. Identify raceway and boxes under provisions of Section 16050.
- E. Arrange raceway and boxes to maintain headroom and present neat appearance.

#### 3.3 INSTALLATION--RACEWAY

- A. Raceway routing is shown in approximate locations unless dimensioned. Route as required to complete wiring system.
- B. Install nonmetallic conduit.
- C. Arrange raceway supports to prevent misalignment during wiring installation.

- D. Support raceway using coated steel or malleable iron straps, lay-in adjustable hangers, clevis hangers, and split hangers.
- E. Group related raceway; support using conduit rack. Construct rack using steel channel specified in Section 16050.
- F. Do not support raceway with wire or perforated pipe straps. Remove wire used for temporary supports.
- G. Do not attach raceway to ceiling support wires or other piping systems.
- H. Construct wireway supports from steel channel specified in Section 16050.
- I. Route exposed raceway parallel and perpendicular to walls.
- J. Route raceway installed above accessible ceilings parallel and perpendicular to walls.
- K. Maintain adequate clearance between raceway and piping.
- L. Maintain 12 inch clearance between raceway and surfaces with temperatures exceeding 104 degrees F.
- M. Cut conduit square using saw or pipecutter; de-burr cut ends.
- N. Bring conduit to shoulder of fittings; fasten securely.
- O. Use conduit hubs or sealing locknuts to fasten conduit to sheet metal boxes in damp and wet locations and to cast boxes.
- P. Install no more than equivalent of three 90 degree bends between boxes. Use conduit bodies to make sharp changes in direction, as around beams. Use factory elbows for bends in metal conduit larger than 2 inch size.
- Q. Avoid moisture traps; provide junction box with drain fitting at low points in conduit system.

- R. Provide suitable fittings to accommodate expansion and deflection where raceway crosses seismic, control and expansion joints.
- S. Provide suitable pull string or cord in each empty raceway except sleeves and nipples.
- T. Use suitable caps to protect installed conduit against entrance of dirt and moisture.

#### 3.4 INSTALLATION--BOXES

- A. Set wall mounted boxes at elevations to accommodate mounting heights indicated or specified in section for outlet device.
- B. Adjust box location up to 10 feet to rough-in if required to accommodate intended purpose.
- C. Install pull boxes and junction boxes above accessible ceilings and in unfinished areas only.
- D. Inaccessible Ceiling Areas: Install outlet and junction boxes no more than 6 inches from ceiling access panel or from removable recessed luminaire.
- E. Locate flush mounting box in masonry wall to require cutting of masonry unit corner only. Coordinate masonry cutting to achieve neat opening.
- F. Do not install flush mounting box back-to-back in walls; provide minimum 6 inch separation. Provide minimum 24 hours separation in acoustic rated walls.
- G. Secure flush mounting box to interior wall and partition studs. Accurately position to allow for surface finish thickness.
- H. Use stamped steel bridges to fasten flush mounting outlet box between studs.

- I. Install flush mounting box without damaging wall insulation or reducing its effectiveness.
- J. Use adjustable steel channel fasteners for hung ceiling outlet box.
- K. Do not fasten boxes to ceiling support wires or other piping systems.
- L. Support boxes independently of conduit.

### 3.5 INTERFACE WITH OTHER PRODUCTS

- A. Install conduit to preserve fire resistance rating of partitions and other elements, using materials and methods under the provisions of Section 16050.
- B. Route conduit through roof openings for piping and ductwork or through suitable roof jack with pitch pocket.

### 3.6 ADJUSTING

- A. Install knockout closures in unused openings in boxes.

### 3.7 CLEANING

- A. Clean interior of boxes to remove dust, debris, and other material.
- B. Clean exposed surfaces and restore finish.

END OF SECTION

## APPENDIX D

### FORMS TO BE INCLUDED IN EXHIBIT A OF PROPOSALS

Appendix D-A-1-a <sup>15</sup>	Proposal Form A-1-a; Authority Financing Option, PPA Price Quotation Sheet Program .....	D-A-1-a
Appendix D-A-1-b <sup>16</sup>	Proposal Form A-1-b; Company Financing PPA Price PPA Price Quotation Sheet Program .....	D-A-1-b
Appendix D-A-2	Proposal Form A-2; Respondent Information / Cover Letter Form.....	D-A-2-1
Appendix D-A-3	Proposal Form A-3; Consent of Surety Form .....	D-A-3-1
Appendix D-A-4 <sup>17</sup>	Proposal Form A-4; Agreement for Proposal Security In Lieu of Proposal Bond .....	D-A-4-1
Appendix D-A-5 <sup>18</sup>	Proposal Form A-5; Proposal Bond.....	D-A-5-1
Appendix D-A-6	Proposal Form A-6; Ownership Disclosure Statement.....	D-A-6-1
Appendix D-A-7	Proposal Form A-7; Non-Collusion Affidavit .....	D-A-7-1
Appendix D-A-8	Proposal Form A-8; Consent to Investigation .....	D-A-8-1
Appendix D-A-9	Proposal Form A-9; Statement of Respondent's Qualifications.....	D-A-9-1
Appendix D-A-10	Proposal Form A-10; Acknowledgement of Receipt of Addenda (if any).....	D-A-10-1
Appendix D-A-11	Proposal Form A-11; Sealed Proposal Checklist (See <b>Exhibit 2</b> ) .....	D-A-11-1
Appendix D-A-12 <sup>19</sup>	Proposal Form A-12; Authorization for Background Check .....	D-A-12-1

<sup>15</sup> Use for Authority Financing Option. See Sections 1.2, 1.3, and 1.4 of RFP.

<sup>16</sup> Use for Company Financing Option. See Sections 1.2, 1.5, and 1.6 of RFP

<sup>17</sup> Provide EITHER (i) Form A-4 (Proposal Funds) or (ii) Form A-5 (Proposal Bond); found in Appendices D-A-4 or D-A-5, as applicable. See Section 7.2(a) of RFP.

<sup>18</sup> See prior footnote.

<sup>19</sup> Provided by the Successful Respondent only, no later than November 1, 2011.

**PROPOSAL FORMS A-1**  
**PPA PRICE QUOTATION SHEETS**

**FORM A-1-a:** Authority Financing Option

**FORM A-1-b:** Company Financing Option

**PROPOSAL FORM A-1-a**

**PPA PRICE QUOTATION SHEET  
(Authority Financing Option)**

**A. Preliminary Information:**

1. *Respondent:* \_\_\_\_\_

\_\_\_\_\_  
[List all entities if a joint venture, and identify lead entity]

2. *Date:* \_\_\_\_\_, 2011

3. *Does Respondent intend to form a special purpose entity?* \_\_\_\_\_

4. *Has Respondent included its EPC contractor in subsection 1 above?* \_\_\_\_\_

*If not, please identify and include:* \_\_\_\_\_

5. *Respondent Contact Person:*

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_ Cell: \_\_\_\_\_

Signature: \_\_\_\_\_

**B. Proposal**

1. *General.* In submitting this "Proposal Form A-1-a PPA Price Quotation Sheet (*Authority Financing Option*)", Respondent represents that it (a) has read the Authority's "Request for Proposals for a Developer of Photovoltaic Systems with respect to certain Local Government Facilities in the County of Sussex, New Jersey" dated September 8, 2011 (the "*RFP*") in its entirety, (b) understands all of the terms and conditions set forth in the RFP with respect to this Proposal form, (c) agrees to be bound by such terms and conditions of the RFP in submitting this Proposal form as part of Respondent's Proposal, and (d) is intending to propose on the Series 2011 Program utilizing the Authority Financing Option. By executing this Proposal form, the Respondent Contact Person is authorized to bind the Respondent to all of the representations and terms of this Proposal form, and Respondent shall be so bound.

2. *Defined Terms and Proper Form.* Capitalized terms not defined in this Proposal form shall be as defined in the RFP.

3. *Total Project Costs and Equity Contribution, if any:*

(a) For purposes of arriving at the PPA Price, Respondent proposes that the Total Project Costs shall be \$ \_\_\_\_\_, the sum of:

- (i) Renewable Energy Project costs of \$ \_\_\_\_\_  
(RFP Section 1.3(a)(i));
- (ii) Project Development Costs of \$1,225,000 million (RFP Section 1.3(a)(ii))<sup>20</sup>;
- (iii) One Year's Capitalized Interest for the Series 2011A Bonds (only) of \$ \_\_\_\_\_ (RFP Section 1.3(a)(iii))<sup>21</sup>; and
- (iv) Company Development Costs of \$ \_\_\_\_\_  
(RFP Section 1.3(b)) (Only include if Respondent desires to finance these costs from Series 2011A Bonds; if not, insert \$0; if nothing filled in, Authority presumes \$0).

(b) The Respondent intends to finance the Total Project Costs set forth in subsection (a) above from:

- (i) \$ \_\_\_\_\_ par amount of Series 2011A Bonds;
- (ii) \$ \_\_\_\_\_ par amount of Series 2011B Note (only for Capitalized Interest)<sup>22</sup>; and
- (iii) Equity Contribution of \$ \_\_\_\_\_ (insert \$0 if no Equity Contribution; if nothing filled in, Authority presumes \$0, unless the Equity Contribution is required to be > \$0 in accordance with subsection (c) below). If Equity Contribution is \$0, skip subsection (d) and (e) below. If Equity Contribution is > \$0, then complete subsections (d) and (e) below.

(c) **IMPORTANT NOTE:** In accordance with RFP Section 1.3(d), the aggregate par amount of the Series 2011A Bonds and the Series 2011B Note cannot exceed \$50,000,000. Accordingly, any Proposal showing an aggregate par amount of Series 2011 Bonds in excess of \$50,000,000 shall be deemed to be a Proposal for \$50,000,000 in Series 2011 Bonds, with the balance to be supplied by the Respondent through an Equity Contribution.

<sup>20</sup> As may be adjusted in accordance with Section 4.1(c)(iii)(B) of the RFP.

<sup>21</sup> As may be adjusted in accordance with Section 4.1(c)(iii)(C) of the RFP.

<sup>22</sup> To the extent the Capitalized Interest is increased upon sale of the Series 2011A Bonds (see prior footnote) to an amount that would cause the aggregate Series 2011 Bonds to exceed \$50,000,000, then any such excess shall be payable by the Respondent as an Equity Contribution, thereby limiting the par amount of the Series 2011A Bonds to \$50,000,000.

(d) Please check the box in (i) or (ii) below (or mark TBP, for to be provided, if not submitted with the Proposal), and attach the document to this Form A-1-a (*RFP Section 1.3(c)*).

(i) Equity Contribution Cash Commitment Attached: \_\_\_\_\_

(ii) Equity Contribution Consent of Surety Attached: \_\_\_\_\_

(e) Please summarize the structure and material terms of the box checked in clause (d) above (i.e., (i) or (ii)). Use attachments or reference to sections in the Proposal if necessary:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. *PPA Price and related information.* Respondent hereby proposes the following PPA Price, and related information, to perform the Company Services, which PPA Prices for each year of the PPA (including any adjustment and escalation factors below) shall be established in a PPA Price table to be included in the PPA.

(a) PPA Price. The following is Respondent's offer of the PPA Price to be charged through the Authority to each Series 2011 Local Unit expressed in dollars per kWh, from each such Series 2011 Local Unit's Commencement Date to, but excluding the first anniversary of such Commencement Date (exclusive of any adjustment or escalation factor):

**PPA Price (\$ per kWh, from Commencement Date for one year),  
exclusive of escalation factor, if any, based upon a Series 2011  
Bond TIC of 5.00%. (Assuming 1603 Grant is received)** \$ \_\_\_\_\_/kWh

**PPA Price Adjustment Factor if 1603 Grant is not received** \_\_\_\_\_

**Date which Respondent must close in order to obtain 1603 Grant** \_\_\_\_\_

(b) Post Proposal Adjustment in PPA Price, expressed in dollars per kWh. The Respondent must set forth below the following two 2) adjustment factors to the PPA Price for the initial year of the PPA Price (from the Commencement Dates):

(i) The Project Development Cost (presently estimated at \$1,225,000 million) portion of Total Project Costs will not be finally determined until the execution of Program Documents. The annual adjustment proposed shall be for each \$100,000 change for the Project Development Costs, either upward or downward, after such costs have been finally determined.

**Recurring adjustment to annual PPA Price (\$ per kWh) for each \$100,000 of change in the Project Development Costs from \$1,225,000** \$ \_\_\_\_\_/kWh

- (ii) The Respondent must set forth below an adjustment factor to the PPA Price in the initial year of the PPA Price (from the Commencement Dates) due to the fact that the TIC (expressed on the basis of yield to maturity) on the Series 2011 Bonds will not be finally determined until the sale date of the Series 2011A Bonds. The annual adjustment proposed shall be for each ten basis point (10 bp) change in such yield from the currently estimated 5.00% as included in this RFP or any addendum thereto issued by the Authority, either upward or downward, after such yield has been finally determined.

**Recurring adjustment to annual PPA Price (\$ per kWh) for each 10 basis points change in the yield on the Series 2011 Bonds** \$ \_\_\_\_\_/kWh

*Note that these adjustments, if necessary, shall occur prior to the application of any escalation factor contemplated by subsection (c) below, as this adjustment is intended to produce what would have been the PPA Price, prior to escalation, were the interest cost of the Series 2011 Bonds and the final Project Development Costs known at the time of the RFP.*

(c) Escalation Factor. The PPA Price proposed in subsection (a) above, shall be increased for each remaining year of the PPA (other than the initial year from the Commencement Date), by the following, constant, escalation factor, expressed as an annual percentage increase from the prior year's PPA Price. If no escalation factor is being proposed, write none in the space below:

**PPA Price fixed escalation factor for all subsequent years of PPA (expressed as an annual percentage increase from the prior year's PPA Price)** \_\_\_\_\_%

5. *Accelerated Amortization of Series 2011A Bonds.*

If the Respondent desires to repay the principal amount of the Series 2011A Bonds (through its Basic Lease Payment schedule) sooner than on a level principal basis, the Proponent must provide an alternative Basic Lease Payment Schedule using the principal amounts set forth in **Exhibit E** to this RFP (principal portion required, as the interest portion shall be established by the TIC of the Series 2011A Bonds). This accelerated amortization schedule shall be attached to this Form A-1-a, the box in subsection (c) below should be checked, and such revised schedule shall include the annual principal payments, semi-annual interest payments, and interest rates used in developing the revised amortization. Should the actual principal amount of the Series 2011 Bonds issued be less (more) than the principal portion set forth on **Exhibit E** to the RFP, then the accelerated amortization schedule proposed by the Respondent shall be reduced

(increased), on a pro-rata basis for each maturity, to account for the lower (higher) par amount of Series 2011 Bonds actually issued. The adjusted amortization will be agreed upon by the Successful Respondent prior to the sale of the Authority's Series 2011A Bonds.

If level principal amortization is acceptable as is, then the Respondent need only check box (a) below. If due to an Equity Contribution, a large initial payment, or otherwise, the Respondent will use a level principal amortization schedule, but one different from that set forth on Exhibit E to this RFP, then check (b) below and provide the revised level principal amortization schedule.

- (a)  Level Principal Amortization (**Exhibit E**) is acceptable.
- (b)  Level Principal Amortization, but per Revised Schedule Attached.
- (c)  Revised Accelerated Amortization Schedule Attached.

6. *County Security.*

(a) Please either check (i) below, or both fill in the County Deficiency Amount in (ii) below and check the box and attach the document in (iii) below (*RFP Section 1.3(g)(xv) – (xix)*).

- (i) County Deficiency Amount eliminated. \_\_\_\_\_
- (ii) Insert County Deficiency Amount to be provided by Reimbursement Collateral, as County Security. \$ \_\_\_\_\_

(iii) Check box (A) or (B) below (or mark TBP, if not submitted with the Proposal), and attach same to Form A-1-a (*RFP Section 1.3(g)(xix)*)

- (A) County Security Cash Commitment Attached: \_\_\_\_\_
- (B) County Security Consent of Surety Attached: \_\_\_\_\_

(b) If applicable, please explain how clause (a)(i) above has occurred under the structure of the Proposal. Alternatively, as applicable, summarize the structure and material terms of the box checked in clause (a)(iii) above. Use attachments or reference to sections in the Proposal if necessary:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. *Restoration Security.*

(a) Please either check (i) below, or both fill in the Restoration Security amount in (ii) below and check the box and attach the document in (iii) below (*RFP Section 7.2(c)*).

(i) No Restoration Security Provided. \_\_\_\_\_

(ii) Insert Restoration Security amount to be provided Respondent. \$ \_\_\_\_\_

(iii) Check box (A) or (B) below, and attach same (or mark TBP, if not submitted with the Proposal) to Form A-1-a (*RFP Section 7.2(c)(iii)*)

(A) Restoration Security Cash Commitment Attached: \_\_\_\_\_

(B) Restoration Security Consent of Surety Attached: \_\_\_\_\_

(b) If applicable, please explain how clause (a)(i) above has occurred under the structure of the Proposal. Alternatively, as applicable, summarize the structure and material terms of the box checked in clause (a)(iii) above. Use attachments or reference to sections in the Proposal if necessary:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. *Production of Electricity.*

(a) Expected System Output. Please provide the expected solar output in kWh (ac), at each Series 2011 Local Unit Facility for each year of the 15 years of the Power Purchase Agreement duration. The basis for this calculation shall be determined by using PVWatts Version 1 based upon orientation and tilt angle of the specific system. Respondents are also directed to Article 4 of the RFP, Section 4(1)(c)(vii)(B), which sets a minimum percentage for all guarantees. (*Respondents may provide the information requested below on separate sheets provided the format outlined in the charts below is adhered to*)

(b) Guaranteed Output. Please provide the guaranteed output, in kWh (ac), at each Series 2011 Local Unit Facility for each year of the 15 years of the Power Purchase Agreement duration. The Company must guarantee annual electricity output for the specific system (Guaranteed Production Level). The Guaranteed Production Level must be ninety (90) percent of the expected electricity output. Respondents are also directed to Section 6.1 of the

PPA, which sets forth a minimum percentage for all guarantees. *(Respondents may provide the information requested below on separate sheets provided the format outlined in the charts below is adhered to)*

Bidder Name:	
PPA Rate:	Total Project kW:
PPA annual esc. %:	Total Project kWh:
SREC Sharing:	
End of Term Options:	

Facility	Proposed		Guaranteed	
	kW	kWh	kW	kWh
Fredon Township Civic Center				
Town of Newton DPW Complex				
Town of Newton Wastewater Treatment				
Byram Township BOE- Byram Lakes Elementary School				
Frankford Township BOE - Frankford Township School				
Franklin Borough BOE - Elementary School				
Green Township BOE - Green Hills School				
Hardyston School District BOE - Hardyston Middle School				
High Point Regional School District BOE- High Point Regional High School				
Kittatinny Regional School District BOE - Kittatinny Regional High School				
Lafayette Township School District BOE - Lafayette Township School				
Lenape Valley Regional BOE - Lenape Valley High School				
Newton Public Schools BOE - Merriam Avenue School				
Newton Public Schools BOE - Newton High School				
Sussex County Technical School				
Sussex County Judicial Center - Parking Deck				
Sussex County - Wheatsworth Facility				



9. *Material Changes.* Describe any proposed material changes to Program Documents below. If none are set forth, Respondent shall be presumed to have proposed no material changes to any Program Document. By the Authority's award to Respondent (conditional or otherwise), to the extent Respondent shall be determined by the Authority to be the Successful Respondent, the Authority shall not have accepted any such changes below, which if accepted in whole or in part or in modified form, shall only be evidenced by duly authorized, executed and delivered Program Documents reflecting such accepted changes.

(a) \_\_\_\_\_ No changes.

(b) Respondent proposes the following material changes to the following Program Documents identified below:

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[attach additional sheets as necessary]

10. *Additional Economic Benefits.* Describe any proposed additional economic benefits (and the corresponding changes to the PPA or any other Program Document) to the Authority and/or the Series 2011 Local Units as contemplated by Section 5.2 of the RFP. By the Authority's award to Respondent (conditional or otherwise), to the extent Respondent shall be determined by the Authority to be the Successful Respondent, the Authority shall not have accepted any such changes below, which if accepted in whole or in part or in modified form, shall only be evidenced by duly authorized, executed and delivered Program Documents reflecting such accepted changes.

(a) \_\_\_\_\_ None.

(b) Respondent proposes the following beneficial changes to be reflected in the Program Documents identified below:

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[attach additional sheets as necessary]

10. *End of Term Fair Market Value Purchase Option.*

(a) General. The Power Purchase Agreement provides the Authority with an option to purchase the Renewable Energy Projects at each Local Unit Facility upon expiration of the term of the Power Purchase Agreement at fair market value. It is the Authority's position that applicable federal income tax law allows the Authority and the Respondent to estimate, at the time the agreement is entered into, the end of term fair market value of the Renewable Energy Projects for purposes of establishing a purchase option price ("Purchase Option Price"). Accordingly, the Respondent is requested (but not required) to provide its estimate of the end of term fair market value of all of the Renewable Energy Projects, which amount, if accepted by the Authority, which acceptance shall be at the Authority's sole discretion, would form the basis of the Authority's Purchase Option Price for all of the Renewable Energy Projects under the Power Purchase Agreement. Importantly, the Authority reserves the right to reject any proposed Purchase Option Price, in which event the subject agreement would simply refer to a purchase at fair market value to be determined.

(b) Please either fill in a dollar amount or the word "Formula" in (i) for each Renewable Energy Project (*Respondents may provide the information requested below on separate sheets provided the format outlined in the charts below is adhered to*), or check the box in (ii) below. In the event that a formula is proposed, please provide a complete description and explanation in (c) below.

(i) Provide Chart listing dollar amount or "Formula" for each Renewable Energy Project\*

\* - The amount can be stated as a fixed dollar amount, or represented by a formula.

(ii) **No estimate of the Purchase Option Price provided** Check here \_\_\_\_\_

(c) Explanation:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**PROPOSAL FORM A-1-b**

**PPA PRICE QUOTATION SHEET  
(Company Financing Option)**

**A. Preliminary Information:**

1. Respondent: \_\_\_\_\_

\_\_\_\_\_  
[List all entities if a joint venture, and identify lead entity]

2. Date: October \_\_\_\_, 2011

3. Does Respondent intend to form a special purpose entity? \_\_\_\_\_

4. Has Respondent included its EPC contractor in subsection 1 above? \_\_\_\_\_  
If not, please identify and include: \_\_\_\_\_

5. Respondent Contact Person:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_ Cell: \_\_\_\_\_

Signature: \_\_\_\_\_

**B. Proposal**

1. *General.* In submitting this "Proposal Form A-1-b PPA Price Quotation Sheet (*Company Financing Option*)", Respondent represents that it (a) has read the Authority's "Request for Proposals for a Developer of Photovoltaic Systems with respect to certain Local Government Facilities in the County of Sussex, New Jersey" dated September 8, 2011 (the "*RFP*") in its entirety, (b) understands all of the terms and conditions set forth in the RFP with respect to this Proposal form, (c) agrees to be bound by such terms and conditions of the RFP in submitting this Proposal form as part of Respondent's Proposal, and (d) is intending to propose on the Series 2011 Program utilizing the Authority Financing Option. By executing this Proposal form, the Respondent Contact Person is authorized to bind the Respondent to all of the representations and terms of this Proposal form, and Respondent shall be so bound.

2. *Defined Terms and Proper Form.* Capitalized terms not defined in this Proposal form shall be as defined in the RFP.

3. *Total Project Cost; Company Financing Option structure:*

(a) For purposes of arriving at the PPA Price, Respondent proposes that the Total Project Costs shall be \$ \_\_\_\_\_, the sum of:

- (iii) Renewable Energy Project costs of \$ \_\_\_\_\_  
(RFP Section 1.5(a)(i));
- (ii) Project Development Costs of \$1.2 million (RFP Section 1.5(a)(ii))<sup>23</sup>;
- (iii) Company Development Costs of \$ \_\_\_\_\_  
(RFP Section 1.5(b)).

(b) The Respondent intends to finance the Total Project Costs set forth in subsection (a) above from the following sources, the structure and material terms of which are as follows: Use attachments or reference to sections in the Proposal if necessary:

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4. *PPA Price and related information.* Respondent hereby proposes the following PPA Price, and related information, to perform the Company Services, which PPA Prices for each year of the PPA (including any adjustment and escalation factors below) shall be established in a PPA Price table to be included in the PPA.

(a) PPA Price. The following is Respondent's offer of the PPA Price to be charged through the Authority to each Series 2011 Local Unit expressed in dollars per kWh, from each such Series 2011 Local Unit's Commencement Date to, but excluding the first anniversary of such Commencement Date (exclusive of any adjustment or escalation factor):

**PPA Price (\$ per kWh, from Commencement Date for one year),  
exclusive of escalation factor, if any (Assuming 1603 Grant is  
received)** \$ \_\_\_\_\_/kWh

**PPA Price Adjustment if 1603 Grant is not received** \_\_\_\_\_

**Date which Respondent must close in order to obtain 1603 Grant** \_\_\_\_\_

(b) Post Proposal Adjustment in PPA Price, expressed in dollars per kWh. The Respondent must set forth below the following one (1) adjustment factor to the PPA Price for the initial year of the PPA Price (from the Commencement Dates):

<sup>23</sup> As may be adjusted in accordance with Section 4.1(d)(iii)(B) of the RFP.

- (i) The Project Development Cost (presently estimated at \$1,225,000 million) portion of Total Project Costs will not be finally determined until the execution of Program Documents. The annual adjustment proposed shall be for each \$100,000 change for the Project Development Costs, either upward or downward, after such costs have been finally determined.

(c) Escalation Factor. The PPA Price proposed in subsection (a) above, shall be increased for each remaining year of the PPA (other than the initial year from the Commencement Date); by the following, constant, escalation factor, expressed as an annual percentage increase from the prior year's PPA Price. If no escalation factor is being proposed, write none in the space below:

**PPA Price fixed escalation factor for all subsequent years of PPA (expressed as an annual percentage increase from the prior year's PPA Price)** \_\_\_\_\_ %

5. *Restoration Security.*

(a) Please either check (i) below, or both fill in the Restoration Security amount in (ii) below and check the box and attach the document in (iii) below (*RFP Section 7.2(c)*).

(i) No Restoration Security Provided. \_\_\_\_\_

(ii) Insert Restoration Security amount to be provided Respondent. \$ \_\_\_\_\_

(iii) Check box (A) or (B) below, and attach same (or mark TBP, if not submitted with the Proposal) to Form A-1-b (*RFP Section 7.2(c)(iii)*)

(A) Restoration Security Cash Commitment Attached: \_\_\_\_\_

(B) Restoration Security Consent of Surety Attached: \_\_\_\_\_

(b) If applicable, please explain how clause (a)(i) above has occurred under the structure of the Proposal. Alternatively, as applicable, summarize the structure and material terms of the box checked in clause (a)(iii) above. Use attachments or reference to sections in the Proposal if necessary:

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6. *Production of Electricity.*

7.

Bidder Name:	
PPA Rate:	Total Project kW:
PPA annual esc. %:	Total Project kWh:
SREC Sharing:	
End of Term Options:	

Facility	Proposed		Guaranteed	
	kW	kWh	kW	kWh
Fredon Township Civic Center				
Town of Newton DPW Complex				
Town of Newton Wastewater Treatment				
Byram Township BOE- Byram Lakes Elementary School				
Frankford Township BOE - Frankford Township School				
Franklin Borough BOE - Elementary School				
Green Township BOE - Green Hills School				
Hardyston School District BOE - Hardyston Middle School				
High Point Regional School District BOE- High Point Regional High School				
Kittatinny Regional School District BOE - Kittatinny Regional High School				
Lafayette Township School District BOE - Lafayette Township School				
Lenape Valley Regional BOE - Lenape Valley High School				
Newton Public Schools BOE - Merriam Avenue School				
Newton Public Schools BOE - Newton High School				
Sussex County Technical School				
Sussex County Judicial Center - Parking Deck				
Sussex County - Wheatsworth				

Facility				
Sussex County - Main Library				

8.

(a) Expected System Output. Please provide the expected solar output in kWh (ac), at each Series 2011 Local Unit Facility for each year of the 15 years of the Power Purchase Agreement duration. The basis for this calculation shall be determined by using PVWatts Version 1 based upon orientation and tilt angle of the specific system. Respondents are also directed to Article 4 of the RFP, Section 4(1)(d)(v)(B), which sets a minimum percentage for all guarantees. *(Respondents may provide the information requested below on separate sheets provided the format outlined in the charts below is adhered to)*

(b) Guaranteed Output. Please provide the guaranteed output, in kWh (ac), at each Series 2011 Local Unit Facility for each year of the 15 years of the Power Purchase Agreement duration. The Company must guarantee annual electricity output for the specific system (Guaranteed Production Level). The Guaranteed Production Level must be ninety (90) percent of the expected electricity output. Respondents are also directed to Section 6.1 of the PPA, which sets forth a minimum percentage for all guarantees. *(Respondents may provide the information requested below on separate sheets provided the format outlined in the charts below is adhered to)*

7. *Material Changes.* Describe any proposed material changes to Program Documents below. If none are set forth, Respondent shall be presumed to have proposed no material changes to any Program Document. By the Authority's award to Respondent (conditional or otherwise), to the extent Respondent shall be determined by the Authority to be the Successful Respondent, the Authority shall not have accepted any such changes below, which if accepted in whole or in part or in modified form, shall only be evidenced by duly authorized, executed and delivered Program Documents reflecting such accepted changes.

(a) \_\_\_\_\_ No changes.

(b) Respondent proposes the following material changes to the following Program Documents identified below:

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[attach additional sheets as necessary]

8. *Additional Economic Benefits.* Describe any proposed additional economic benefits (and the corresponding changes to the PPA or any other Program Document) to the Authority and/or the Series 2011 Local Units as contemplated by Section 5.2 of the RFP. By the Authority's award to Respondent (conditional or otherwise), to the extent Respondent shall be determined by the Authority to be the Successful Respondent, the Authority shall not have accepted any such changes below, which if accepted in whole or in part or in modified form, shall only be evidenced by duly authorized, executed and delivered Program Documents reflecting such accepted changes.

(a) \_\_\_\_\_ None.

(b) Respondent proposes the following beneficial changes to be reflected in the Program Documents identified below:

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[attach additional sheets as necessary]

9. *End of Term Fair Market Value Purchase Option.*

(a) General. The Power Purchase Agreement provides the Authority with an option to purchase the Renewable Energy Projects at each Local Unit Facility upon expiration of the term of the Power Purchase Agreement at fair market value. The Authority is taking no position, either way, whether applicable federal income tax law allows the Authority and the Respondent to estimate, at the time the agreement is entered into, the end of term fair market value of the Renewable Energy Projects for purposes of establishing a purchase option price (“*Purchase Option Price*”). Accordingly, the Respondent is permitted (but not required) to provide its estimate of the end of term fair market value of all of the Renewable Energy Projects, which amount, if accepted by the Authority, at the Authority’s sole discretion, would form the basis of the Authority’s Purchase Option Price for all of the Renewable Energy Projects under the Power Purchase Agreement. Importantly, the Authority reserves the right to reject any proposed Purchase Option Price, in which event the subject agreement would simply refer to a purchase at fair market value to be determined.

(b) Please either fill in a dollar amount or the word “Formula” in (i) for each Renewable Energy Project (*Respondents may provide the information requested below on separate sheets provided the format outlined in the charts below is adhered to*), or check the box in (ii) below. In the event that a formula is proposed, please provide a complete description and explanation in (c) below.

(i) Provide Chart listing dollar amount or “Formula” for each Renewable Energy Project\*

\* - The amount can be stated as a fixed dollar amount, or represented by a formula.

(ii) **No estimate of the Purchase Option Price provided** Check here \_\_\_\_\_

(c) Explanation:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



FORM A-2

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

RESPONDENT INFORMATION/COVER LETTER FORM

[TO BE PLACED ON RESPONDENT'S LETTERHEAD]

Date:

Respondent: \_\_\_\_\_

Address:

Telephone:

Contact Person:

Type of Business Entity (Corporation, Partnership, Joint Venture, Other (Attach Agreement(s) governing or creating/organizing business entity))<sup>24</sup>:

**A. GENERAL:**

In submitting this Proposal, the Respondent warrants and represents that (capitalized words and terms shall have the meanings ascribed to such terms in the Request for Proposals):

1. (a) The Respondent has reviewed and understands the requirements set forth within the Proposal Specifications and, if selected, will carry out all of the provisions set forth within same.

(b) The Respondent has prepared its Proposal using a complete set of Proposal Documents, including all addenda to the Request for Proposals issued by the MCIJA prior to the date established for submission of all Proposals.

(c) All information submitted in response to the Request for Proposals is accurate and factual and all representations made regarding the Respondent's willingness and ability to provide the required Services are true and correct.

(d) The name and title of the individuals who will be responding to questions on behalf of the Respondent are:

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<sup>24</sup>If a joint venture, partnership or other form of organization is submitting this Proposal, all such firms shall be listed and each such participant shall execute this Respondent Information/Cover Letter.

(e) Respondent has reviewed and accepted the provisions of Sections 1.1(f)(ii)(A) and 5.6 of the RFP. Accordingly, Respondent is not relying on the Authority, the County, the Series 2011 Local Units nor any of their advisors regarding any federal or state tax matters set forth in the RFP, and Respondent shall consult, or has consulted, its own tax advisors regarding such matters.

(f) Respondent agrees to include with the submission of its Proposal a Consent of Surety for Construction Performance Security in the form attached to this letter provided by the Authority, and Consent of Surety for Restoration Performance Security, if any is included within Respondent's Proposal. Respondent also acknowledges that Construction Performance Bond must be in a form consistent with the form attached to this letter provided by the Authority.

(g) Respondent acknowledges that if selected for Conditional Award, it must provide the Authority with evidence of County Security

If applicable: If the Proposal is being submitted by a joint venture or similar business entity of more than one firm and/or organization, list the members, firms or organizations and designate a sole contact person for the joint venture or organization below:

2. Except to the extent expressly disclosed in the Proposal, there has been no material adverse changes in the financial status of the Respondent since the date of the most recent financial data (including Forms 10-K and 10-Q) submitted as part of the response to this Proposal.

3. There is no action, suit or proceeding, at law or in equity, before or by any court or similar Governmental Body against the Respondent wherein any unfavorable decision, ruling or finding would adversely affect the ability of the Respondent to carry out the duties and obligations imposed upon it under the Power Purchase Agreement.

4. The Respondent is duly organized and validly existing in good standing and is duly qualified to transact business in each and every jurisdiction where such qualification is required to enable the Respondent to perform its obligations under the Power Purchase Agreement. Execution of the Power Purchase Agreement and the performance of all obligations thereunder, have been authorized by all required action of the Respondent, including any action required by any charter, by-laws, and/or partnership agreement, as the case may be, and any applicable laws which regulate the conduct of the Respondent's affairs. The execution of the Power Purchase Agreement and the performance of all obligations set forth in the Proposal Specifications and in such Power Purchase Agreement do not conflict with and do not constitute a breach of or an event of default under any charter, by-laws and/or partnership agreement, as the case may be, of the Respondent or any agreement, indenture, mortgage, contract or instrument to which the Respondent is a party or by which it is bound. Upon execution hereof and upon satisfaction of the conditions contained in the Request for Proposals and in such Power Purchase Agreement, the Power Purchase Agreement will constitute a valid, legally binding obligation of the Respondent, enforceable in accordance with its terms, except to the extent that the enforcement thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws relating to or limiting creditors' rights generally and the application of the general principles of equity.

5. There is no action, suit or proceeding, at law or in equity, before or by any court or similar Governmental Body against the Respondent wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the Respondent of its obligations under the Request for Proposals and/or under the Power Purchase Agreement or the other transactions contemplated thereby, or which, in any way, would materially adversely affect the validity or enforceability of the Power Purchase Agreement, or any other agreement or instrument entered into by Respondent in connection with the transactions contemplated thereby.

6. The Respondent has in its possession valid approvals, registrations or permits (or the Respondent will have such approvals, registrations or permits prior to or simultaneously with the execution of the Power Purchase Agreement) that, pursuant to Applicable Laws, permit the Respondent to provide the contingent Services as provided in the Request for Proposals and under and in accordance with the terms of the Power Purchase Agreement for the term of the Power Purchase Agreement.

7. The Proposal is submitted pursuant to due authorization by, and is in all respects binding upon, the Respondent. The Proposal is authorized to be prepared and submitted under and in accordance with the provisions of the documents and/or agreements which govern the Respondent's business activities.

8. No corporation, partnership, individual or association, officer, director, employee, manager, parent, subsidiary, affiliate or principal shareholder of the Respondent has been adjudicated to be in violation of any state or federal environmental law, or charged with or convicted of bribery, fraud, collusion, or any violation of any state or federal anti-trust or similar statute within the preceding five (5) years, or previously adjudged in contempt of any court order enforcing such laws.

9. The facility(ies) and equipment to be utilized by the Respondent in the performance of the Services meets or exceeds, in all material respects, the Technical Specifications as set forth in the Request for Proposals.

[NAME OF RESPONDENT]

By:

Name:

Title:

[SEAL]

FORM A-3

Forms of Construction Performance Bond and Consent of Surety

CONSTRUCTION PERFORMANCE BOND

In providing the below Construction Performance Bond, such Construction Performance Bond shall not contain any conditions to its issuance or any conditions to the obligations of the surety company issuing same, except as expressly provided in this form of Construction Performance Bond.

Date:

\_\_\_\_\_, PRINCIPAL

\_\_\_\_\_, SURETY

\_\_\_\_\_, SURETY

\_\_\_\_\_, SURETY

THE MORRIS COUNTY IMPROVEMENT AUTHORITY, OBLIGEE

KNOW ALL MEN BY THESE PRESENTS, that we, the PRINCIPAL and SURETIES above named, are held and firmly bound unto the above named OBLIGEE, in the just and full sum of \_\_\_\_\_ (\$ \_\_\_\_\_) for the payment of which sum well and truly to be made, the said PRINCIPAL and SURETIES bind themselves, their respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents. Provided, that, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the PRINCIPAL, for the payment of such sum only as is set forth opposite the name of such Surety at the end of this Bond.

WHEREAS, the PRINCIPAL has entered into a certain written agreement with the OBLIGEE, dated \_\_\_\_\_, 2011 entitled, "Power Purchase Agreement," (the "Agreement"), whereby the PRINCIPAL shall provide construction related services to The Morris County Improvement Authority, which Power Purchase Agreement is by reference made a part hereof, as if set forth in full herein.

NOW THEREFORE, the condition of this obligation is such that , if the PRINCIPAL shall faithfully perform its obligations under the Power Purchase Agreement solely as they relate to the engineering, procurement of materials, construction and installation of the Renewable

Energy Project(s) at the series Local Unit Facilities, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

PROVIDED, HOWEVER:

Whenever the PRINCIPAL shall be, and is, declared to be in default of its construction obligations under the Power Purchase Agreement by the OBLIGEE, the OBLIGEE having performed its construction obligations under the Power Purchase Agreement, the SURETIES may promptly remedy the default or shall promptly as follows:

- (1) Perform the construction obligations under the Power Purchase Agreement in accordance with the terms and conditions of the Power Purchase Agreement and for the elimination of any doubt it is made clear that this obligation shall not extend to any other services being provided under or in accordance with the terms and conditions of the Power Purchase Agreement other than the engineering, procurement of materials, construction and installation of the Renewable Energy Projects to the point of commercial operation, or
- (2) Obtain a Proposal or Proposals for performance of the construction obligations under the Power Purchase Agreement in accordance with the terms and conditions of the Power Purchase Agreement, and upon a determination by SURETIES and the OBLIGEE of the lowest responsible Respondent, arrange for a contract between such Respondent and the OBLIGEE, and make available as services continue (even though there should be a default or a succession of defaults under the contract or contracts arranged under this paragraph) sufficient funds to pay the cost of performance of such said construction obligations; but not exceeding, including other costs and damages for which the SURETIES may be liable hereunder, the amount set forth in the first paragraph hereof.
- (3) After investigation, determine the amount for which it may be liable to the OBLIGEE and, as soon as practicable after the amount is determined, tender payment therefor to the OBLIGEE.
- (4) Without waiver of any rights of the OBLIGEE, notify the OBLIGEE of the denial of liability in whole or in part citing reasons therefor.

Notwithstanding any term or condition contained in the Power Purchase Agreement to the contrary, it is understood and agreed that the PRINCIPAL's and SURETIES' obligation under this bond shall not be assigned without the written consent of the PRINCIPAL and the SURETIES, which consent shall not unreasonably be withheld; provided however, that this bond may be assigned to a trustee in connection with the issuance of any debt obligations issued by the OBLIGEE for or with respect to the Services .

No right or action shall accrue on this bond to or for the use of any person or corporation other than the OBLIGEE named herein or their heirs, executors, administrators, or successors of the OBLIGEE.

The PRINCIPAL and the SURETIES shall not be liable to the OBLIGEE in the aggregate in excess of the penal sum above stated. Any payment made by the SURETIES in good faith under this bond shall reduce the bond amount stated by a like amount.

Any suit under this Bond must be instituted before the expiration of two (2) years from the date the PRINCIPAL ceased performing those obligations covered by this bond.

The SURETIES hereby stipulate and agree that no modifications, omissions or additions in or to the terms of the Power Purchase Agreement or in or to the specifications therefor should in any way affect the obligation of the SURETIES on this Bond.

Notice to the SURETIES shall be by certified or registered mail and sent to:

[NAME AND ADDRESS OF SURETY]

The SURETIES shall have no liability under this bond for any obligation of the PRINCIPAL to defease, pay for, assume responsibility with respect to or otherwise incur liability for any debt obligations issued by the OBLIGEE.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals on the date indicated above.

PRINCIPAL

Limit: \$ \_\_\_\_\_

Title

SURETY

Limit: \$ \_\_\_\_\_

Attorney-in-fact

SURETY

Limit: \$ \_\_\_\_\_

Attorney-in-fact

Countersigned:

\_\_\_\_\_

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed and attested by a duly authorized officer, and its corporate seal to be hereto affixed this \_\_\_\_ day of \_\_\_\_\_ 2011.

ATTEST:

(Name of Bank)

By: \_\_\_\_\_

By:

Name: \_\_\_\_\_

Name:

Title: \_\_\_\_\_

Title:

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**CONSENT OF SURETY**

**In completing this Consent of Surety, this Surety shall not add any conditions to its obligation to provide the Performance Bond referred to herein.**

In consideration of the sum of One Dollar (\$1.00), lawful money of the United States, to it in hand paid, the receipt whereof is hereby acknowledged, [NAME OF SURETY] (hereinafter, the "Surety"), organized and existing under the laws of the State of \_\_\_\_\_ and duly authorized and qualified to transact business in the State of New Jersey, the undersigned Surety, consents and agrees that if the Power Purchase Agreement, for which the preceding Proposal is made, be awarded to [NAME OF RESPONDENT] (hereinafter, the "Respondent") for the performance of or the supplying of certain services, or both, as more particularly set forth in said Proposal and described for purposes of this instrument as a Proposal for Services to the Morris County Improvement Authority (hereinafter, the "MCIA"), if Respondent shall enter into the Power Purchase Agreement, and upon the issuance of a Notice to Proceed by the MCIA, the undersigned Surety will become bound as Surety for the Respondent's faithful performance of the construction obligations regarding the engineering, procurement of materials, construction and installation of the Renewable Energy Projects to the point of commercial operation under the Power Purchase Agreement in accordance with the terms and conditions of the Power Purchase Agreement, for the avoidance of any doubt it is made explicitly clear that this Consent of Surety shall not cover any other performance obligations of Respondent or any other party set forth in the Power Purchase Agreement, and will include only the engineering, procurement of materials, construction and installation of Renewable Energy Projects to the point of commercial operation and will provide the Respondent with a Construction Performance Bond in the amount of \_\_\_\_\_ \$ \_\_\_\_\_, in form and content and at the times provided in the Request for Proposals.

This Consent of Surety shall become effective on the date set forth below. The Surety hereby understands and **unconditionally agrees** that this Consent of Surety shall remain in effect for the Term of ninety (90) days, or until such Surety issues a Construction Performance Bond.

**IN WITNESS WHEREOF**, said Surety has caused these presents to be signed and attested by a duly authorized officer, and its corporate seal to be hereto affixed this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

(A corporate acknowledgment and statement of authority to be attached hereto by the surety company.)

ATTEST:

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name of Surety)

Name: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date:

Date:

**FORM A-4**

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

**AGREEMENT FOR PROPOSAL SECURITY IN LIEU OF PROPOSAL BOND**

**(THIS FORM IS TO BE COMPLETED IF THE RESPONDENT DOES NOT PROVIDE A PROPOSAL BOND WITH ITS PROPOSAL.)**

This Proposal is accompanied by proposal security in the form of a Certified Check or Cashier's Check drawn on the

\_\_\_\_\_

(name of banking institution)

\_\_\_\_\_

(address of banking institution)

in the amount of Twenty Thousand (\$20,000) Dollars.

The undersigned Respondent hereby agrees that if this Proposal shall be accepted by The MORRIS COUNTY IMPROVEMENT AUTHORITY ("MCIA") and the undersigned shall fail to execute and deliver the Services to be performed pursuant to the Power Purchase Agreement and provide the performance bond within ten (10) days of the issuance of a Notice to Proceed by the MCIA, and in accordance with the terms of this Proposal and with the requirements of the Contract Documents, then the undersigned shall be deemed to have abandoned the Power Purchase Agreement, and thereupon the Proposal and its acceptance shall be null and void. In such event, the certified or cashier's check herewith submitted as Proposal security shall be due and payable thereunder to the MCIA as liquidated damages; otherwise the said check or the amount thereof, shall be returned to the undersigned concurrently upon the issuance of a Notice to Proceed, if any, by the MCIA, and the receipt by the MCIA of the Successful Respondent's performance bond.

The undersigned Respondent hereby understands and agrees that the Successful Respondent's performance bond shall be submitted to the MCIA upon the issuance of a Notice to Proceed, which may be issued by the MCIA at any time during the Term of the Power Purchase Agreement. The undersigned Respondent hereby understands and agrees that the MCIA shall retain the Successful Respondent's certified check or cashier's check submitted as proposal security until the issuance of a Notice to Proceed by the MCIA, and the receipt by the MCIA of the Successful Respondent's performance bond.

**[NAME OF RESPONDENT]**

Attach Cashier's or  
Certified Check  
Payable to the order  
of **The Morris  
County Improvement  
Authority** here.

By:

Name:

Title:

FORM A-5

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

PROPOSAL BOND

(THIS FORM IS TO BE COMPLETED IF THE RESPONDENT PROVIDES  
A PROPOSAL BOND WITH ITS PROPOSAL INSTEAD OF A CERTIFIED CHECK  
OR CASHIER'S CHECK.)

KNOW ALL MEN BY THESE PRESENTS, that, [NAME OF RESPONDENT ], as Principal (hereinafter, the "Principal") and [NAME OF SURETY], a [Corporation] [Partnership] duly organized under the laws of the State of \_\_\_\_\_, as Surety (hereinafter, the "Surety"), are held and firmly bound unto **THE MORRIS COUNTY IMPROVEMENT AUTHORITY**, as Obligee (hereinafter, the "Obligee"), in the sum of **TWENTY THOUSAND (\$20,000) DOLLARS** lawful money of the United States of America, for which payment well and truly to be made, the said Principal and Surety bind ourselves, our successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted or is about to submit to the Obligee a Proposal for the provision of certain Services, which Proposal is made a part hereof;

NOW THEREFORE, the Surety hereby understands that if the said Proposal is accepted and the Power Purchase Agreement be awarded to the Respondent , then prior to the expiration or termination hereof, said Principal will enter into the Power Purchase Agreement in writing and give bond with Surety acceptable to the Obligee for the faithful performance of the Power Purchase Agreement, or if the Principal shall fail to enter such agreement and give such bond, said Surety will pay to the Obligee, as liquidated damages, the difference, not to exceed the penal amount hereof, between the amount specified in said Proposal and such larger amount for which Obligee may in good faith contract with another party to perform the work covered by said Proposal.

The Surety hereby understands that if this Proposal shall be accepted and the Principal shall fail to execute and deliver the Services to be performed pursuant to the Power Purchase Agreement and provide the performance bond within ten (10) days of the issuance of a Notice to Proceed by the MCIA, and in accordance with the terms of this Proposal and with the requirements of the Contract Documents, then the Principal shall be deemed to have abandoned the Power Purchase Agreement, and thereupon the Proposal and its acceptance shall be null and void. In such event, Surety hereby agrees that the bond herewith submitted shall be due and payable thereunder to the MCIA as liquidated damages; otherwise the said bond shall be returned to the undersigned concurrently upon the issuance of a Notice to Proceed, if any, by the MCIA, and the receipt by the MCIA of the Successful Respondent 's performance bond..

The Surety hereby understands and agrees that the Principal's performance bond shall be submitted to the MCIA upon the issuance of a Notice to Proceed. The Surety hereby understands and agrees that the MCIA shall retain the bond submitted herewith as Proposal security until the issuance of a Notice to Proceed by the MCIA, and the receipt by the MCIA of the Successful Respondent's performance bond.

It is agreed that this bond shall be effective on the date the Proposal is submitted and will continue in full force until the issuance of a Notice to Proceed by the MCIA, and the receipt by the MCIA of the Successful Respondent's performance bond, or until terminated as hereinafter provided in accordance with the Local Public Contracts Law.

Upon said termination, the Surety shall be discharged from all liability under this bond for any act or omission of the Principal.

SIGNED AND SEALED this \_\_\_ day of \_\_\_\_\_ 2011.

In the presence of:

\_\_\_\_\_  
PRINCIPAL (Seal)

\_\_\_\_\_  
WITNESS

TITLE

\_\_\_\_\_  
SURETY (Seal)

\_\_\_\_\_  
WITNESS

TITLE

FORM A-6

MORRIS COUNTY IMPROVEMENT AUTHORITY  
STOCKHOLDER DISCLOSURE CERTIFICATION

N.J.S.A. 52:25-24.2 (P.L. 1977 c.33)

FAILURE OF THE BIDDER/RESPONDENT TO SUBMIT THE REQUIRED  
INFORMATION IS CAUSE FOR AUTOMATIC REJECTION

CHECK ONE:

- I certify that the list below contains the names and home addresses of all stockholders holding 10% or more of the issued and outstanding stock of the undersigned.
- I certify that no one stockholder owns 10% or more of the issued and outstanding stock of the undersigned.

Legal Name of Respondents Business \_\_\_\_\_

Check which business entity applies:

- Partnership
- Limited Partnership
- Subchapter S Corporation
- Corporation
- Limited Liability Partnership
- Other \_\_\_\_\_
- Sole Proprietorship
- Limited Liability Corporation

Complete if the bidder/respondent is one of the 3 types of Corporations:

Date Incorporated: \_\_\_\_\_ Where Incorporated: \_\_\_\_\_

Business Address:

ADDRESS CITY STATE ZIP STREET  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_ FAX # EMAIL TELEPHONE #

Listed below are the names and addresses of all stockholders, partners or individuals who own 10% or more of its stock of any classes, or who own 10% or greater interest therein.

ADDRESS NAME HOME  
 \_\_\_\_\_ NAME HOME ADDRESS  
 \_\_\_\_\_

CONTINUE ON ADDITIONAL SHEETS IF NECESSARY: Yes  No

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

FORM A-7

MORRIS COUNTY IMPROVEMENT AUTHORITY  
NON-COLLUSION AFFIDAVIT

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State of \_\_\_\_\_  
County of \_\_\_\_\_

ss:

I, \_\_\_\_\_ of the City of \_\_\_\_\_

in the County of \_\_\_\_\_ and State of \_\_\_\_\_  
of full age, being duly sworn according to law on my oath depose and say that:

I am \_\_\_\_\_ of the firm of \_\_\_\_\_  
(Title or position) (Name of firm)

the bidder making this Proposal for the above named project, and that I executed the said proposal with full authority so to do; that said bidder has not, directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named project; and that all statements contained in said proposal and in this affidavit are true and correct, and made with full knowledge that the County of Sussex relies upon the truth of the statements contained in said proposal and in the statements contained in this affidavit in awarding the contract for the said project.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide employees or bona fide established commercial or selling agencies maintained by \_\_\_\_\_

(name of contractor)

(N.J.S.A. 52:34-25)

Subscribed and sworn to  
before me this \_\_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Type or print name of affiant under Signature

\_\_\_\_\_  
Notary public of

My Commission expires \_\_\_\_\_.

FORM A-8

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

CONSENT TO INVESTIGATION

The Respondent hereby gives its consent to The Morris County Improvement Authority ("MCI") and/or to the County of Sussex, New Jersey (the "County"), or its authorized representatives, to investigate and verify all information contained in the Proposal submitted herewith in response to the Request for Proposals, dated \_\_\_\_\_ 2011, with respect to the provision of Services, including financial and law enforcement information relating to the Respondent. The Respondent agrees that all financial institutions, law enforcement agencies, and regulatory agencies are authorized to release information verifying those representations and/or submissions made by the Respondent. The Respondent further agrees that the MCI and/or the County and/or its authorized representatives are authorized to inspect all premises and relevant records of the Respondent in order to verify information contained in the Proposal.

The Respondent agrees that a photocopy of this Consent to Investigation may be accepted by any agency or institution in lieu of the original.

Name of Respondent<sup>25</sup>:

Respondent's Address:

By:

(Signature)

Name:

Title:

Date:

---

<sup>25</sup>If a joint venture, partnership or other form of organization is submitting this Proposal, all such firms shall be listed and each such participant shall execute this Form.

FORM A-9

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

STATEMENT OF RESPONDENT 'S QUALIFICATIONS

*(This form must be completed and submitted with Proposal, one form for each entity if a joint proposal or joint venture)*

1. If firm is a Corporation, list state of incorporation:

\_\_\_\_\_

2. If firm is a Partnership, list names of partners:

\_\_\_\_\_

*All questions must be answered and the data given must be concise, comprehensive and acceptable to the Owner. Attach separate sheets wherever necessary to properly answer question.*

1. Firm name.
2. Principal address,
3. Year firm was organized.
4. Where and when incorporated.
5. Years of firm's experience in similar contracts.
6. List of comparable work completed by firm within the past 3 years and any jobs currently in progress. (note cost for each contract and beginning and completion dates.)
7. List default experience on previous contracts, within the past 10 years.
8. List present comparable contracts presently underway.
9. List of major equipment available for this contract.
10. Credit line (substantiate submittal).
11. Two (2) years of most recent audited financial statements.

**CONTINUATION SHEET**  
**STATEMENT OF RESPONDENT S QUALIFICATIONS**

*(This form must be completed and submitted with Proposal)*

*The undersigned hereby authorized any person, firm or corporation to furnish any information requested by the Owner verifying data submitted in the Statement of Qualification.*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Respondent*

\_\_\_\_\_  
BY:

\_\_\_\_\_  
TITLE:

STATE OF \_\_\_\_\_

\_\_\_\_\_, being duly sworn, deposes and says that he is \_\_\_\_\_

of \_\_\_\_\_ and that the answers to the foregoing questions and all statements therein contained are true and correct.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
*Notary Public*

My commission expires: \_\_\_\_\_

**FORM A-10**

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

**ACKNOWLEDGMENT OF RECEIPT OF ADDENDA**

We hereby acknowledge receipt of the Request for Proposals, dated \_\_\_\_\_, 2011, and Addenda Nos. \_\_\_\_\_ through \_\_\_\_\_, inclusive.

[NAME OF RESPONDENT ]<sup>1</sup>

By: \_\_\_\_\_  
(Signature)

Name:

Title:

---

<sup>1</sup> If a joint venture, partnership or other formal organization or firm submits this Proposal, all such firms shall be listed and each such participant shall execute this Proposal Form.

**FORM A-11**

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

**SEALED PROPOSAL CHECKLIST**

*(This form must be submitted with Proposal)*

*Each Respondent is required to complete this check list of all items that are mandatory/required documents to be submitted with this Proposal*

[See Exhibit 2 ]

**FORM A-12**

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
AUTHORIZATION FOR BACKGROUND CHECK**

[Attach Authority's Form]

**APPENDIX E-1**

The following Basic Lease Payment schedule assumes (i) the Authority Financing involving all Local Unit Facilities and (ii) a Total Project Cost (and principal amount of the Series 2011 Bonds) of \$50,000,000 :

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**Morris County Improvement Authority**  
County of Morris Guaranteed Renewable Energy Program Lease  
Revenue Bonds (County of Sussex Program), Series 2011A & B (Federally Taxable)

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**See Authority website.**

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*\* Basic Lease Payment Schedule derived from and will be equal to the debt service payments and amortization schedule for the Series 2011A Bonds and the Series 2011B Notes, once determined. The Series 2011A Bonds are assumed to include annual principal payments on June 15, 2013 through and including June 15, 2027 and semiannual interest payments on June 15th and December 15<sup>th</sup> of each year, commencing on June 15, 2013 (the June 15, 2012 and December 15, 2012 interest payments will be paid by capitalized interest being funded through the Series 2011B Notes). The Series 2011B Notes are assumed to be issued simultaneously with the Series 2011A Bonds and will include a single payment of principal and interest on January 15, 2013. The interest rates included in this schedule correspond to the principal payment dates of the Series 2011 Bonds which are 5-months after such Basic Lease Payment dates.*

*\*\* Basic Lease Payments are due 5 months prior to the payments on the Series 2011 Bonds.*

The amortization of the Series 2011 Bonds shall be level principal over the fifteen year PPA unless the Company wishes to repay the principal sooner in accordance with Section 4.1(c)(iv) of the RFP. If the Company wishes to repay the principal sooner, it should provide an alternative Basic Lease Payment Schedule (principal portion required, as the interest portion shall be established by the interest cost of the Series 2011 Bonds) with its proposal submission, as required by Section 5 of Form A-1-a, based on the total principal amount of Series 2011 Bonds set forth in this **Exhibit E**. Should the actual total principal amount of the Series 2011 Bonds issued be less (more) than the principal portion set forth on this **Exhibit E**, then the accelerated amortization schedule proposed by the Respondent shall be reduced (increased), on a pro-rata basis for each maturity, to account for the lower (higher) par amount of Series 2011 Bonds actually issued. Such adjusted amortization schedule will be agreed upon by the Authority and the Successful Respondent prior to the sale of the Series 2011 Bonds. Please note, any adjusted amortization schedule may have an impact on the County Deficiency Amount calculation included in **Appendix F** since such calculation, as included in this RFP, is based on the amortization schedule included above.

**APPENDIX F**

**[To be supplied to Successful Respondent]**

**APPENDIX G**

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
AFFIRMATIVE ACTION COMPLIANCE/MANDATORY EEO LANGUAGE  
CONSTRUCTION CONTRACTS**

This form is a summary of the Successful Respondent's requirement to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27-1, et seq.

The Successful Respondent shall submit to the Authority, after notification of award but prior to execution of the contract, one of the following three documents as forms of evidence.

- (a) A photocopy of a valid letter that the contractor is operating under an existing Federally approved or sanctioned affirmative action program (good for one year from the date of the letter);

OR

- (b) A photocopy of a Certificate of Employee Information Report approval, issued in accordance with N.J.A.C. 17:27-4;

OR

- (c) A photocopy of an Employee Information Report (Form AA302) provided by the Division and distributed to the public agency to be completed by the contractor in accordance with N.J.A.C. 17:27-4.

The Successful Respondent may obtain the Affirmative Action Employee Information Report (AA302) from the contracting unit during normal business hours. The Successful Respondent must submit the copies of the AA302 Report to the Division of Contract Compliance and Equal Employment Opportunity in Public Contracts (Division). The public agency copy is submitted to the Authority, and the vendor copy is retained by the Successful Respondent.

The undersigned Respondent certifies that he/she is aware of the commitment to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27.1 et seq. and agrees to furnish the required forms of evidence. The undersigned Respondent further understands that its Proposal shall be rejected as non-responsive if Respondent fails to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27-1 et seq.

RESPONDENT: \_\_\_\_\_  
SIGNATURE: \_\_\_\_\_  
PRINT NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_



**Exhibit D**

[Company Proposal]

Confidential - on File with the Authority

**EXHIBIT E**

**[Attach Original Consulting Energy Engineer Report]**

# **Solar Proposal Evaluation Report**

**Morris County Improvement Authority  
Sussex County Renewable Energy Program,  
(County of Sussex Program) Series 2011  
Proposals of October 13, 2011**

**Prepared for  
Morris County Improvement Authority  
and Sussex County**

Prepared by:  
Sussex County Evaluation Team  
October 24, 2011

# Evaluation Report Table of Contents

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## Attachments

Sussex Program Solar Savings Summary

ATT. 1

Evaluation Matrix	ATT. 2
Savings by Local Unit Facility	ATT. 3
Load Served by Solar for Each Local Unit Facility	ATT. 4
Sensitivity Analysis	ATT. 5
Interview Questions	ATT. 6

# **Morris County Improvement Authority Sussex County Renewable Energy Program (County of Sussex) Series 2011**

## **1. Executive Summary**

This Report is being provided pursuant to the requirements of the competitive contracting provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-4.1(k)), Public School Contracts Law, specifically, (N.J.S.A. 18A:18A-4.1(k)); Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services* (LFB Notice 2008-20); the Board of Public Utilities (BPU) protocol for measuring energy savings in PPA agreements (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines, Dated February 20, 2009*), and Local Finance Board Notice 2009-10, dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements* (LFB Notice 2009-10).

Attached is a Service Agreement ("Agreement"), regarding the Sussex County Renewable Energy Program, between the County of Sussex, New Jersey ("Sussex") and the Morris County Improvement Authority ("Authority"). The Agreement has been entered into pursuant to the interlocal services act and county improvement authority law. Pursuant to the Agreement, Sussex, which has not created its own county improvement authority, has determined to use the services of the Authority, which has developed and implemented a renewable energy program for Morris County, to develop and implement a renewable energy program for Sussex County. The Authority will act as the conduit for issuing bonds to finance the Sussex Renewable Energy Program and Sussex will provide the guaranty regarding the repayment of those bonds.

On September 8, 2011, the Authority issued a Request for Proposals (RFP), as amended, for a Power Purchase Agreement (PPA) for the design, acquisition, installation, tax ownership, commissioning, operation, and maintenance of solar systems (Solar Systems) to be located at certain county and local government facilities (Local Unit Facilities) across Sussex. Below is a complete list of all participating Local Units included in the RFP:

1. Byram Township School District
2. County of Sussex
3. Frankford Township Board of Education
4. Franklin Borough Board of Education
5. Fredon Township
6. Green Township Board of Education
7. Hardyston Board of Education
8. High Point Regional Board of Education

9. Kittatinny Regional School District
10. Lenape Valley Regional Board of Education
11. Newton Board of Education
12. Sussex County Technical School
13. Town of Newton

The goal of Sussex is to implement solar renewable energy projects that are environmentally responsible and economically beneficial to the County, its Local Units, and its citizens.

The Authority, on behalf of Sussex, intends to enter into a long-term (fifteen (15) year) PPA with the Successful Solar Respondent (Successful Respondent) to purchase solar electric power produced from installed renewable energy projects located at certain Local Unit Facilities for the Local Units identified above. Under a PPA, a developer designs and installs solar projects and the site energy user purchases the electricity produced at a fixed rate per kilowatt hour (kWh). A county or local government can only enter into a PPA if the PPA price is lower than the delivered cost of power from the local electric utility company. In a typical PPA, a Local Unit will, for a portion of its energy needs, save on its energy bills, and will be, to the greatest extent possible, insulated from energy market fluctuation, construction risks, operational risks, and financial risks.

Pursuant to the Agreement, Sussex has determined to use the professional services of the Consultants that administered the Morris County renewable energy program to provide those same services to Sussex in the development and implementation of its Renewable Energy program. The Sussex Evaluation Team (Evaluation Team) is comprised of: John Eskilson, Dennis McConnell and Bernard Re of Sussex; Steve Pearlman, Esq. and Deborah Verderame, Esq. of Inglesino, Pearlman, Wyciskala & Taylor, LLC; Tom Brys and Gerry Genna, of Birdsall Services Group; Douglas Bacher and Heather Litzebauer of NW Financial Group, LLC; and Steven Gabel, Richard Preiss and Cadence Bowden of Gabel Associates. The Evaluation Team assisted in developing and implementing the RFP, and administered the procurement process as well as a comprehensive evaluation of qualified proposals on the basis of price and non-price criteria.

This process was undertaken in accordance with competitive contracting provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-4.1(k)) and on behalf of the board of education Local Units, the Public Schools Contracts Law (N.J.S.A. 18A:18A-4.1(k)) of the State of New Jersey (the "State"), all pursuant to (i) Local Finance Board Notice 2008-20, December 3, 2008, Contracting for Renewable Energy Services, (ii) the Board of Public Utilities protocol for measuring energy savings in PPA agreements (Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines, Dated February 20, 2009), (iii) Local Finance Board Notice 2009-10 dated June 12, 2009, Contracting for Renewable Energy Services: Update on Power Purchase Agreements and applicable law.

Sussex received a proposal from one (1) Solar Respondent (Respondent): SunLight General Capital and Power Partners MasTec (SunLight/MasTec). In addition, shortly after the time for submission of proposals (i.e. 1:00 PM, Eastern time, October 13, 2011), a second Respondent arrived to submit a proposal. When informed that the submission period had closed and Sussex could not accept the second proposal, the second Respondent inquired as to the publicly announced PPA price submitted by SunLight/MasTec. When informed of the subject PPA price, the second Respondent indicated that their proposal was not competitive with the proposal of SunLight/MasTec, declined to leave their proposal and left.

The one (1) Respondent submitted the required RFP documents and, based on Phase I requirements (compliance with the minimum terms of the RFP), was deemed compliant. The SunLight/MasTec proposal, therefore, qualified to be further evaluated under Phase II (technical and economic evaluation) requirements. The Evaluation Team has undertaken an economic and technical review of the proposals to evaluate them in accordance with established criteria under Phase II evaluation. The Evaluation Team considered and weighed the following:

- Financial benefits;
- Technical design;
- Project experience;
- Vendor qualifications; and,
- Financial strength.

The SunLight/MasTec team possesses high quality management, installation capabilities, and sound solar development experience. In addition, the SunLight/MasTec proposal provides Sussex benefits in the following key areas:

1. It provides substantial direct energy cost savings;
2. It provides the Local Units the potential for additional savings through the sharing of revenues from the sale of Solar Renewable Energy Certificates (SRECs) and other environmental benefits;
3. Due to SunLight/MasTec's proposed capital investment, which reduces the required size of the Authority bonds, it provides a strong level of protection for Sussex from financial risk;
4. It provided additional financial protection for Sussex in the form of a Debt Service Reserve Fund; and,
5. It includes a restoration security providing for additional Local Unit protection at the end of contract.

Over the fifteen (15) years of the PPA, the SunLight/MasTec proposal yields nominal benefits of \$5.6 million or net present value (NPV) benefits of \$4.0 million. These

benefits have been calculated under the conservative assumption that bond interest rates will be at 5.0%. The RFP also required Respondents to submit an adjustment factor to the PPA Price to account for a change in the bond rate from the assumed level of 5.0% to the actual bond issuance rate. Based upon SunLight's adjustment factor and the current expectation for the bond issuance rate (4.6%), the SunLight/MasTec proposal would yields nominal benefits of \$5.9 million or net present value (NPV) benefits of \$4.3 million.

The Respondent provided a financial structure limiting the financial risk to Sussex (as the guarantor of the bonds) and the mitigated risk to the Authority as the conduit bond issuer. By offering to self-finance a substantial portion of the overall cost of the renewable energy projects in the amount of \$7.6 million, the SunLight/MasTec proposal allows the Authority, on behalf of Sussex, to significantly reduce its bond size. The Authority's \$26 million in bonds will be combined with SunLight/MasTec's \$7.6 million self-financing to finance the total project cost (\$33.6 million). The SunLight/MasTec proposal also protects Sussex from the potential risk of reductions in the price of SRECs. Moreover, by self-financing a portion of the total cost of the project this protection has a very high degree of certainty. In addition, SunLight/MasTec proposed to post a \$1.5 million reserve, funded with an equity contribution from the company, to provide additional financial protection to Sussex.

The Evaluation Team recognizes the value of the financial provisions of the SunLight/MasTec proposal in terms of the protection of Sussex, its guaranty and its bond rating. The preservation of this bond rating provides future economic benefits to Sussex and its citizens and businesses by allowing Sussex, through the Authority, to borrow money at low interest rates due to its Aa2 rating. Accordingly, a high premium is placed on its protection. The financial protections of the SunLight/MasTec proposal, including a significant reduction in the size of the Authority bond amounts, on behalf of Sussex, provides a strong and distinguishing level of protection which, in combination with other factors considered, lead to the recommended selection.

The RFP reserves the right for Sussex to conduct interviews with qualified Respondents. After reviewing all aspects of the submitted proposals, in particular the savings in energy costs preferred by Sussex and as required under applicable law (see the details in Section 8(a) and as reflected in the Evaluation Matrix through Phase II), the Evaluation Team decided to conduct an interview with SunLight/MasTec to better understand their proposal. Based on the results of the Phase II and Phase III evaluation, the Evaluation Team recommends that the proposal of SunLight/MasTec be accepted (see **Attachment 2** for the Evaluation Matrix). The SunLight/MasTec proposal results in significant savings on energy costs for the participating Local Units, and strong financial protections for the Authority and Sussex.

Members of the Sussex Evaluation Team have significant experience in evaluating proposals from solar developers submitted in response to similarly structured solar renewable energy programs. That experience has been drawn upon in the evaluation of the SunLight/MasTec proposal. The scoring in the Evaluation Matrix (see

**Attachment 2)** identifies SunLight/MasTec as a well qualified Respondent providing great overall value to Sussex. SunLight/MasTec's proposal scored 94 out of 100 points.

Given that there was only one (1) proposal officially received (as mentioned above a second proposal (which was withdrawn) arrived after the closing time for submission of proposals and could not be accepted), the Evaluation Team considered the possibility of rejecting the SunLight proposal and rebidding the RFP. For the following reasons, the Evaluation Team recommended not to rebid the RFP:

1. A major element supporting the financing and pricing of solar projects is the ability of the solar developer to capture the Federal benefit of the 1603 Grant. Since the 1603 Grant expires at the end of calendar year 2011, the timing of the RFP process was such to allow the solar developer the opportunity to capture this benefit. The Evaluation Team judged that there was not sufficient time to rebid the RFP and provide this opportunity. Without the benefit of the 1603 Grant, the Evaluation Team believes there would be a negative impact on the proposal pricing.
2. The SREC market has experienced a significant downturn in pricing and an increase in volatility. Given the current SREC market, the Evaluation Team judged the pricing of the SunLight proposal to be consistent with that market.
3. SunLight/MasTec is known to be a quality solar team with a successful security structure as part of their proposals. They have been the successful solar team on several county renewable energy programs. As such, SunLight/MasTec is familiar with the documentation required to close and execute the transaction, which is critical to realizing the 1603 Grant.
4. The SunLight/MasTec proposal provides a significant level of energy cost savings for the Local Units, while providing Sussex with important financial protections through its equity contribution which reduces the amount of the bonds required to be issued and its debt service reserve fund, which taken together virtually eliminate the potential for a Sussex deficiency should SunLight/MasTec default.

**Accordingly, the Evaluation Team recommends that the Authority select SunLight/MasTec as the Successful Respondent, subject to clarification of the SREC sharing issue discussed in Section 12, page 28.**

The evaluation of "price and non-price" factors allowed by law permits and supports this recommendation.

SunLight/MasTec has proposed to install and operate solar systems at seventeen Local Unit Facilities. The basic terms and benefits of the SunLight/MasTec proposal are as follows:

1. A fifteen (15) year PPA, with a first year rate of \$0.099 per kWh and annual escalation of 3% which results in a final price of \$0.150 in Year 15.
2. A 6.678 MW solar system. This is expected to generate approximately 8.0 million kWh per year. The solar energy will serve approximately 46% of the combined load for all Local Unit Facilities (see **Attachment 4**) based, conservatively, on the guaranteed level of solar generation.
3. Based upon the PPA Price in the SunLight/MasTec proposal, participating Local Unit Facilities will realize, in aggregate, an annual energy cost savings of approximately \$280,000 in the first year and these savings are expected to grow to approximately \$488,000 in the last year of the PPA (see **Attachment 3**). When based upon a less conservative, current bond issuance rate, with an adjusted PPA Price, the participating Local Unit Facilities would realize, in aggregate, an annual energy cost savings of approximately \$301,000 in the first year and these savings are expected to grow to approximately \$516,000 in the last year of the PPA.
4. Based upon the PPA Price in the SunLight/MasTec proposal, over the fifteen year term of the PPA, the Local Units, in aggregate, will realize \$5.6 million in energy cost savings on a nominal basis (\$4.0 million on a NPV basis) (see **Attachment 5**). When based upon a less conservative, current bond issuance rate, with an adjusted PPA Price, over the fifteen year term of the PPA, the Local Units, in aggregate, would realize \$5.9 million in energy cost savings on a nominal basis (\$4.3 million on a NPV basis).
5. Participating Local Unit Facilities will realize an average rate reduction, for the portion of their electricity purchased through this program, of 28% relative to utility delivered power in the first year.
6. A significant reduction in the amount of Authority bonds required to fund the renewable energy projects, on behalf of Sussex, to an amount of approximately \$26.0 million; which creates significant financial security to Sussex and the Authority.
7. A \$1.5 million reserve fund, funded with an equity contribution from the company, provides additional financial protection to Sussex and the Authority.
8. A stable and known cost of electricity for fifteen years allows for budgetary certainty for the participating Local Units.
9. Potential use of the locally manufactured solar panels of MX Solar, a New Jersey based solar panel company.

10. Restoration Security of \$375,000 to provide additional protection to the Local Units that will be set aside to cover the cost of system removal at the end of the term if such option is selected.

11. Sharing of SREC revenue benefits.

12. An educational component including an educational program, with the ability to access operational data for the solar systems via a web enabled system.

The above benefits may be recalculated after the sale of the Authority bonds if materially different from the estimate in this report.

## 2. Overview of the Sussex County Renewable Energy Program

The following is a brief synopsis describing the Morris County Improvement Authority, Sussex County Renewable Energy Program, Series 2011 (Solar Initiative) as outlined in the RFP.

On September 8, 2011, the Authority issued a Request for Proposals (RFP), as amended, for a Power Purchase Agreement (PPA) for the design, acquisition, installation, tax ownership, commissioning, operation, and maintenance of solar systems (Solar Systems) to be located at certain county and local government facilities (Local Unit Facilities) across Sussex County (Sussex). See Section 4 for a list of the final participating Local Units and Local Unit Facilities.

The goal of Sussex is to implement Renewable Energy Projects including Solar Systems that are both environmentally responsible and economically beneficial.

The RFP's total size (kW dc) of the Solar Systems at Sussex's thirteen (13) local units and seventeen (17) Local Unit Facilities was estimated to be 6.7 MW, thus reducing the carbon footprints of the Local Unit Facilities for the term of the agreement and, potentially, beyond.

Sussex intends to enter into a long-term (fifteen (15) year) PPA with the Successful Respondent to purchase solar electric power produced from installations located on some, or all, of the Local Unit Facilities identified above. Sussex does not intend to enter into a PPA unless the cost of the PPA is lower than the delivered cost of power from the local electric utility company.

In evaluating proposals, the Evaluation Team used a Proposal Evaluation Matrix (Matrix) to rank Respondents (see **Attachment 2**). The Matrix includes a three step process:

1. Phase I is a checklist to determine if the Respondent has included all required documentation and information in their proposal. Once all requirements have been met, a Respondent is deemed compliant and qualifies to move to the Phase II of the evaluation. As the RFP makes clear, if a Respondent does not meet the Phase I requirements, it does not receive further consideration.
2. Phase II is a weighted rating of the value provided by the proposal across several categories (financial benefits, technical design, experience, qualifications and financial strength) and evaluation factors within those categories.
3. Phase III is an interview of the Respondents and final evaluation.

The Respondent with the top ranking in Phase II and III, after being determined to be in compliance with the requirements of Phase I, will be recommended for award as the

Successful Respondent. The purpose of this Evaluation Report is to provide the Authority and Sussex with a full evaluation of qualified proposals, and to recommend which proposal provides the greatest value to the Authority, Sussex County and the Local Units.

### **3. Financial Structure for the Sussex County Renewable Energy Program**

The following is a brief synopsis of the financial structure as provided in the RFP.

The Authority will issue taxable bonds, on behalf of and guaranteed by Sussex County, to finance the solar systems to be designed and installed by a private solar developer for the benefit of the Local Units. This structure offers the opportunity for the Successful Respondent to maintain the tax ownership of the investment and will allow them to access the low cost of capital available in the public markets, through Sussex County's "Aa2" credit rating.

The benefits of the federal tax benefits (which Sussex cannot take as a public entity) and low cost county debt have been combined in Sussex's Solar Initiative.

This structure provides the Successful Respondent with the opportunity to take advantage of federal tax benefits (such as the 1603 Treasury Grant or the 30% renewable energy investment tax credit and five year accelerated depreciation). The Successful Respondent will also own and monetize SRECs realized through New Jersey's Renewable Portfolio Standard (RPS) Program. The value realized from the sale of SRECs in the competitive market is a major component supporting the financing of a solar project. The Successful Respondent will take on the responsibility and risk of managing SREC sales.

The Authority will enter into a series of license agreements with the local governments that desire renewable energy, to gain access to their roof and/or ground space and parking lots for the installation of solar panels. After the Authority issues the Sussex County guaranteed bonds, on behalf of Sussex, to finance the solar projects, the Authority will lease the solar panels to the competitively procured Successful Respondent, structuring that lease in such a way as to provide the Successful Respondent with an opportunity to become the tax owner of the solar projects.

The Successful Respondent, in turn, makes lease payments to the Authority to fully pay the debt service on the Authority bonds. Through a PPA, the Successful Respondent sells the electricity generated by the solar projects through the Authority back to the local government entities at a rate below the local utility tariff. The Successful Respondent must either provide some form of security to Sussex, or eliminate the need for it. As part of the RFP process, the Respondents had to include either a County Security Amount (CSA), or an alternate structure that would minimize or eliminate the CSA, to provide security that the lease payments will be made and that the Authority and Sussex have adequate financial protection.<sup>1</sup> The CSA calculates the difference between the lease payments and the revenue the Successful Respondent earns through SREC sales and PPA payments. This is to ensure that if the Successful Respondent

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<sup>1</sup> See page 9 of the RFP Section 1.3.

defaults in any year during the fifteen year contract, Sussex will have sufficient reserve in the form of the CSA, together with remaining SREC and PPA revenues, to pay the remaining debt service (assuming the continuation of PPA payments and conservatively estimated SREC revenue streams).

The RFP also permitted Respondents to propose alternate structures using their own sources of financing.

This financing structure, in effect, allows the Successful Respondent to design, construct, own and operate the solar systems, assume the burdens of the project (pay the debt service and provide security), and embed its costs and revenue streams into a fixed, indexed sales price for the solar energy generated.

The program allows Local Units to demonstrate environmental responsibility while realizing economic benefits. The PPA offers a reduction in current energy costs for a portion of the Local Units energy needs and long term stability of energy prices.

## 4. RFP Preliminary Solar System Size

The original RFP, as released on September 8, 2011, contained the results of a preliminary feasibility assessment, as performed by Sussex's Energy Consultants. This assessment estimated the technical potential for Solar Systems at fourteen (14) Local Units and eighteen (18) Local Unit Facilities. Released on September 20, 2011 Addendum 1, provided changes to the original Local Unit Facility list and system sizes.

The tranche list as included in the original RFP was as follows:

LU #	Local Unit	Facility	Local Unit Facility Solar KW Size			TOTAL
			Roof Mounted	Parking Canopy	Ground Mounted	
1	Byram Township School District	Byram Lakes Elem./ Int. School	38	455	0	493
2	County of Sussex	SC Judicial Center - Parking Deck	0	468	0	468
		Wheatworth Facility	0	0	149	149
		Main Library	0	0	100	100
3	Frankford BOE	Frankford Township School	0	0	309	309
4	Franklin Borough BOE	Franklin Elementary School	123	104	0	227
5	Fredon Township	Civic Center	61	0	0	61
6	Green Township	Green Hills School	157	0	0	157
7	Hardyston Township	Hardyston Middle School	0	0	612	612
8	High Point Regional BOE	High Point Regional High School	453	0	0	453
9	Kittatinny Regional SD	Kittatinny Regional High School	187	173	0	360
10	Lafayette Township BOE	Lafayette Township School	49	0	206	255
11	Lenape Valley BOE	Lenape Valley High School	0	393	774	1,167
12	Newton BOE	Merriam Avenue School	105	242	0	347
		Newton High School	222	124	0	346
13	Sussex County Technical School	Main Building and Parking Lots	112	290	792	1,194
14	Town of Newton	DPW Complex	73	0	0	73
		Wastewater Treatment - Moran Street	0	0	109	109
<b>TOTAL</b>			<b>1,580</b>	<b>2,249</b>	<b>3,051</b>	<b>6,880</b>

The total system size across the above fourteen (14) local units was 6.880 MW. However, Addendum 1 released on September 20, 2011 decreased the system size from 6.880 MW to 6.681 MW. The following Local Unit Facilities were removed or amended as part of Addendum 1:

- Lafayette Township School (49 kW roof mounted system and 206 kW ground mounted system)
- Frankford Township School (309 kW ground mounted system)

The following represents the tranche list as updated through Addendum 1 to the RFP:

LU #	Local Unit	Facility	Local Unit Facility Solar KW Size			TOTAL
			Roof Mounted	Parking Canopy	Ground Mounted	
1	Byram Township School District	Byram Lakes Elem./ Int. School	38	456	0	494
2	County of Sussex	SC Judicial Center -				
		Parking Deck	0	468	0	468
		Wheatworth Facility	0	0	149	149
		Main Library	0	0	100	100
3	Frankford BOE	Frankford Township School	0	0	362	362
4	Franklin Borough BOE	Franklin Elementary School	123	104	0	227
5	Fredon Township	Civic Center	61	0	0	61
6	Green Township	Green Hills School	157	0	0	157
7	Hardyston Township	Hardyston Middle School	0	0	612	612
8	High Point Regional BOE	High Point Regional High School	453	0	0	453
9	Kittatinny Regional SD	Kittatinny Regional High School	187	173	0	360
11	Lenape Valley BOE	Lenape Valley High School	0	393	775	1,168
12	Newton BOE	Merriam Avenue School	105	242	0	347
		Newton High School	223	124	0	347
13	Sussex County Technical School	Main Building and Parking Lots	112	290	792	1,194
14	Town of Newton	DPW Complex	73	0	0	73
		Wastewater Treatment - Moran Street	0	0	109	109
<b>TOTAL</b>			<b>1,532</b>	<b>2,250</b>	<b>2,899</b>	<b>6,681</b>
<b>Percentage</b>			<b>22.9%</b>	<b>33.7%</b>	<b>43.4%</b>	<b>100.0%</b>

Therefore, after the Addendum 1 changes, the total system size of the Sussex County program includes thirteen (13) Local Units and seventeen (17) Local Unit Facilities, with a solar system size of 6.681 MW.

## **5. PPA Pricing Design**

Sussex requested one PPA Price and index from the Respondents for the entire project. Respondents are required to insure that every Local Unit Facility is included in the response. Respondents were provided the option of submitting a proposal based upon public (County) financing, private financing or a combination in accordance with the RFP. Respondents were also required to provide two price adjustment factors to be used to adjust PPA rates upward or downward based on the final project development costs and the final interest rate on the debt service determined at the closing of project financing.

## **6. Respondent Response to RFP**

The Authority received a proposal in response to the RFP from the following one (1) Respondent:

1. SunLight General Capital and Power Partners MasTec (SunLight/MasTec)

The proposal was determined by counsel to Sussex to have met the Phase I requirements of the RFP and was further evaluated under the Phase II evaluation.

Key information from the conforming proposal submitted by SunLight/MasTec is summarized below.

Note: Shortly after the time for submission of proposals (i.e. 1:00 PM, Eastern time, October 13, 2011), a second Respondent arrived to submit a proposal. When informed that the submission period had closed and Sussex could not accept the second proposal, the second Respondent inquired as to the publicly announced PPA price submitted by SunLight/MasTec. When informed of the subject PPA price, the second Respondent indicated that their proposal was not competitive with the proposal of SunLight/MasTec, declined to leave their proposal and left.

SunLight/MasTec proposed a fifteen (15) year PPA term to install solar at all seventeen (17) Local Unit Facilities. The total size of the solar systems to be installed is 6.7 MW dc. The total project cost is \$33.6 million although SunLight/MasTec offered to reduce the bond size to \$26.0 million through a \$7.6 million capital investment in the project. The capital investment would be provided in conjunction with the issuance of the Authority bonds.

SunLight/MasTec's first year PPA price is \$0.099 per kWh. The annual escalation rate is 3%. SunLight/MasTec offered SREC sharing at 50% of the upside on SRECs above \$300 after Year 5 to maturity, a debt service reserve fund of \$1.5 million, and restoration security of \$375,000.

## 7. Proposal Evaluation Matrix

Once proposals are deemed compliant based on Phase I requirements, the proposals are subject to Phase II and III evaluation in accordance with the process defined in the RFP. The evaluation was conducted in accordance with an evaluation matrix, which is based on a total potential score of 100. The Matrix is broken into the following criteria and weighting factors:

Financial Benefits (50)	NPV of Benefits Option - Sharing of Benefits Non-Material Changes to Program Documents
Technical Design/Approach (10)	Output Guarantee (kWh) Design Strategy Project Team Approach O&M Plan and Approach
Respondent Experience (10)	Project Management Contractor Expertise Project Experience New Jersey Experience
Financial Strength (20)	Financial Capability/Strength of Provider Financial Risk
Oral Interview Evaluation (10)	Presentation Explanation Key Factors Understanding Financial Factors/SREC Market

## **8. Financial Benefits Evaluation**

The Sussex County Renewable Energy Program has been developed and implemented with no capital cost to the Local Units. In addition to this benefit, below is a summary of the financial benefits section of the Phase II evaluation. Proposals were evaluated and awarded points in the Matrix based on their responses to the following criteria: NPV of benefits; sharing of benefits; and, non-material changes to documents. Since there was only one compliant bid, Gabel Associates completed the Phase II evaluation based upon their experience with other County solar programs.

### **a. NPV of Benefits**

Local Units realize economic benefits from the installation of renewable energy projects through the savings in energy costs by purchasing electricity from the solar project rather than from the local electric utility.

In calculating energy cost savings, the Evaluation Team compares a forecast of the cost of the local utility tariff rate electricity delivered to the Local Unit Facility that is avoided by purchasing the solar generation from the renewable energy projects at the PPA rate proposed by the Respondent and multiplies the difference by the expected solar output. This yields the projected savings in energy costs realized through the installation of the renewable energy projects.

It is important to note that the energy cost savings are calculated at the guaranteed level of solar generation (90% of the expected level). Thus, the level of energy cost savings are stated on a conservative basis. Actual energy cost savings to the Local Unit Facilities are likely to exceed the levels indicated in this Evaluation Report.

The forecast of the avoided cost of the local utility tariff rate is the result of a detailed analysis of each utility tariff by each of its components over the fifteen year term of the PPA. This detailed analysis takes into account many factors, including the following:

1. Those components of the utility tariff rate that are not avoided as a result of the solar installation. For example, the customer charge and a portion of demand charges are not avoided through the purchase of solar energy generated by the solar systems. In addition, if the local unit facility is purchasing the commodity component of electric supply in the competitive market, it is assumed that the local utility will continue this practice in the development of their non-solar electricity costs.
2. The most recent energy market fundamentals (ex. New York Mercantile Exchange futures, Energy Information Administration long term escalation rates and environmental and RPS programs such as the SREC program) are incorporated to provide the best indication of future energy market costs.

3. The impact on future energy costs of national, state and regional environmental initiatives currently being considered (ex. carbon credits). The forecast includes the low Environmental Protection Agency estimate for carbon legislation originally slated to start in 2012 but pushed out to 2015.
4. The impact that general energy market escalation will have upon long-term energy prices.

To calculate the NPV benefits provided by each proposal, guaranteed production values were used. In addition, a 5.00% discount rate was assumed to calculate NPV of benefits; which was the assumed interest cost of the Authority bonds in the RFP. This also assumes an average retail electric escalation of 3.6%.

**Attachment 1** summarizes the PPA pricing (first year PPA price and annual escalation) proposed by the conforming Respondents.

Sussex's energy cost savings are also shown in **Attachment 1**. The savings calculations in **Attachment 1** are shown in both NPV and nominal dollars, however, the most appropriate way to compare the value of projects is on a NPV basis to recognize the time value of money and the opportunity cost of capital.

Over the fifteen (15) years of the PPA, the SunLight/MasTec proposal yields nominal benefits of \$5.6 million or net present value (NPV) benefits of \$4.0 million. These benefits have been calculated under the conservative assumption that bond interest rates will be at 5.0%. The RFP also required Respondents to submit an adjustment factor to the PPA Price to account for a change in the bond rate from the assumed level of 5.0% to the actual bond issuance rate. Based upon SunLight's adjustment factor and the current expectation for the bond issuance rate (4.6%), the SunLight/MasTec proposal would yields nominal benefits of \$5.9 million or net present value (NPV) benefits of \$4.3 million.

The Respondent with the highest NPV of benefits (SunLight/MasTec) earned the maximum number of points (40) in the Matrix for this criterion.

A sensitivity analysis of the NPV benefits was also conducted by evaluating changes in the average electric rate escalation and is provided in **Attachment 5**. The results show that the SunLight/MasTec proposal will provide significant levels of energy cost savings, even assuming no escalation in the average electric rate.

#### **a. Option – Sharing of Benefits**

The RFP asked the Respondents whether they would be willing to share additional benefits with Sussex. As an example of such benefits, the RFP listed (a) sharing of SREC market revenues, (b) sharing in any Federal or State tax benefits, (c) sharing in other financial / environmental market value, (d) end on contract provisions beyond

those identified in the RFP and (e) any other additional services that would provide value to Sussex.

As it relates to the sharing in SREC market revenues, the level of this potential benefit and the probability of it occurring are very difficult to determine since it depends on future SREC prices. SREC prices will depend on the level of SREC supply and the cost and efficiency of new solar projects at that time. Scoring was based on whether or not SREC sharing was proposed and how beneficial the sharing would be to Sussex.

### **SunLight/MasTec**

SunLight/MasTec offered the following additional benefits:

1. SREC sharing in the amount of 50% of the upside of SRECs above \$300 after Year 5.
2. Should other environmental attributes arise in the future from these projects, SunLight/MasTec proposed to share in the proceeds from the sale of such attributes.
3. Should a change in law result in significantly more favorable tax treatment, SunLight/MasTec would use best efforts to share with Sussex.
4. Finally, they would deliver an educational program about the science and benefits of solar systems, including solar energy science kits, teacher training about renewable energy, the ability to access operational data and personnel to promote the educational program.

SunLight/MasTec was awarded the maximum value of five (5) points for this sharing proposal.

### **b. Non-Material Changes to Program Documents**

SunLight/MasTec proposed no changes to the program documents and received the maximum number of points in this section of the Matrix.

## 9. Technical Design/Approach

The evaluation of the technical design/approach has several elements including output guarantees, construction schedules, project team approach, and operation and maintenance plans. Below is a technical review of the proposal. The Proposal was evaluated and awarded points in the Matrix based on the responses to the following criteria: output guarantee, design strategy, project team approach, and operations and maintenance (O&M) plan and strategy.

### a. Output Guarantee (MWH)

The Respondent provided the output guarantees required in the RFP and were therefore awarded maximum points for this requirement. Below is a description of the Respondent's design strategy including their total system size and output.

#### SunLight/MasTec

Total System Size	Total System Output
6.678 MW	7.998 MWh

SunLight/MasTec's proposed capacity was compared with the conceptual site plans provided in the RFP. SunLight/MasTec based their proposal 100% on the Birdsall conceptual layouts without exception. The total system size is within 3kw of the conceptual site plans due to round-off differences. The SunLight/MasTec proposal will provide a 4.5% increase in kWh, over Birdsall's calculated production numbers. All system sizes and productions are within 90% of consumption at the facilities with the exception of Lenape Valley that will generate 90.5%. This is acceptable.

### b. Design Strategy

Below is a description of the proposal design strategy. The Respondent was evaluated based on the major system components and design of the systems. The Respondent received the maximum points for this requirement.

#### SunLight/MasTec

SunLight/MasTec's PV design followed the Birdsall concept layout exactly. This includes roof mounted PV panels, ground mounted PV panels, and parking canopies. Below is a description of the Major system components proposed by Sunlight/MasTec. All information was not included in the proposal but was provided in the oral interview. They are using quality products in all areas. The evaluation team accepts SunLight/MasTec's design and system components.

System Component	Manufacturer
PV Modules	Trina/Canadian/ MX Solar
Inverters	SMA/PV Powered
Mounting Systems	Allied Building, Panel Claw, Grizzly Bear
Canopy System	Baja/Protek/ Solar Ventures
DAS	Noveda or Deck

### c. Project Team Approach

Below is a description of the proposer's project team approach. Based on their responses, they were awarded the maximum points for this requirement.

Sunlight/MasTec's project team approach seemed well organized and complete. They have an experienced team which has completed similar large solar projects. In addition, they have also been the successful proposer at Somerset County Improvement Authority Tranche 2, Mercer County Improvement Authority for Mercer County Community College and Morris County Improvement Authority Tranche 2. All of the design and engineering will be completed by MasTec. They are a national energy contractor with experience, and technical depth to complete this project successfully. They have a plan to schedule installations with minimal disruptions, will be staffing locally, and plan on bringing in experienced solar contractors. They plan on meeting with local units for communications sessions, to assess the best time to schedule installations, and will be open on canopy designs to meet the needs of local units.

### d. Operations and Maintenance Plan and Approach

Below is a description of the proposal's O&M plan and approach. Based on their response, the respondent was awarded the maximum points for this requirement.

The operations and maintenance will be monitored on a daily basis by an inverter level monitoring package. This will provide the latest data for system performance and availability. It will also provide any error messages from the inverters, regarding the system operation, mal-function, and inverter status or system fault. The data acquisition system (DAS) will be designed for remote web based operation and the data will be transferred to a third party server via the internet.

SunLight MasTec also provided a comprehensive Operation and Maintenance procedures document at the oral interview. They have an acceptable approach for O&M.

## **10. Respondent Experience**

The evaluation of respondent experience has several elements including: project management, contractor experience, project experience, and New Jersey experience. Below is a summary of the SunLight/MasTec proposal.

### **a. Project Management**

SunLight/MasTec demonstrated their ability to successfully manage the project through the involvement of well qualified/experienced management, supervisory, and key staff. The respondent was awarded the maximum points for this requirement.

### **b. Contractor Experience**

SunLight/MasTec has teamed with very experienced and technically qualified EPC's. The maximum number of points for this section in the evaluation matrix is awarded.

### **c. Project Experience**

SunLight/MasTec has demonstrated extensive project experience with respect to similar types of projects in New Jersey and other States. Maximum number of points awarded for this section.

### **d. New Jersey Experience**

The SunLight/MasTec team has won other County Renewable Energy Program awards to implement solar systems. They and their contractors are well experienced in New Jersey. SunLight/MasTec has established an office in NJ to implement solar systems and will establish a second office in Sussex County, to maintain and enhance their NJ experience. The maximum number of points have been awarded for evaluation in this section.

## **11. Financial Strength**

The evaluation of the financial strength of the proposals has two (2) elements including financial capability/strength of provider and financial risk to Sussex. Below is a summary of the Respondent's proposal.

### **a. Financial Capability/Strength of Respondent**

Below is a description of the financial capability and the financial strength of the Respondent. The Respondents received the maximum amount of points for this section.

#### **SunLight/MasTec**

SunLight has financed 3.7 MW of projects since 2009 and has an additional 12.1 MW scheduled over the next year. SunLight's current equity is over \$10 million and they recently launched the SunLight General Solar Fund Two in the amount of \$30 million. Power Partners MasTec, LLC is a wholly-owned subsidiary of MasTec, Inc. a minority business enterprise with over 9,000 employees and annual revenues of \$2.3 billion (2010). MasTec has over \$500 million in bonding capacity. MasTec will provide the construction bond for the project installation. SunLight/MasTec has provided sufficient financial information and an adequate finance package.

### **b. County Security/Deficiency Amount**

Financial risk to Sussex specifically concerns proposals where the Authority is committing funds to the solar project and Sussex is committing its guaranty on those funds. A second, but much less significant, financial risk involves whether the solar developer is willing to offer a restoration security.

SunLight/MasTec has proposed to use the public financing approach which imposes a financial risk upon Sussex, however, their proposal to self-finance a substantial portion of the overall cost of the renewable energy projects has significantly reduced that risk by effectively eliminating the need to fund a County Security Amount (CSA). The SunLight/MasTec proposal has been structured such that, using the conservative SREC assumptions provided by the Authority, a CSA of approximately \$1.0 million exists only during the first year. For the majority of the program (years 2 through 15) there is no CSA and, in fact, a cushion is provided in each of the subject years.

In addition, SunLight/MasTec has proposed a \$1.5 million reserve fund to provide additional financial protection to Sussex. This reserve fund exceeds the annual bond service requirements. Finally, the SunLight/MasTec proposal offered a performance security of \$375,000 which would be built up through setting aside \$75,000 a year for five years beginning in Year 11 (a positive for Sussex). The SunLight/MasTec proposal allows the bond size to be significantly reduced and limit its associated risk to Sussex with a very high degree of certainty. Since there is still some financing risk to the

Sussex, the SunLight/MasTec proposal has been awarded less than the maximum number of points in this rating category.

The SunLight/MasTec Proposal reduced the bond size from \$33.6 million to approximately \$26.0 million by proposing to self finance \$7.6 million. This approach reduces financial risk to Sussex by reducing the amount of the Authority bonds required to be issued to approximately \$26.0 million. The smaller size of the Authority bond reduces the Sussex exposure and provides strong SREC price risk protection as the balance of transaction revenues (i.e. SRECs and PPA payments) should this Respondent default, are estimated to be fully sufficient to make all debt service payments on the bonds in all but the first year. In addition, the SunLight/MasTec proposal includes a \$1.5 million reserve fund to provide additional financial protection to Sussex.

## 12. Phase III Evaluation

The RFP reserves the right for Sussex to conduct interviews with qualified Respondents. After reviewing all aspects of the submitted proposals, in particular the savings in energy costs preferred by Sussex and as required under applicable law (see the details in Section 8(a) and as reflected in the Evaluation Matrix through Phase II), the Evaluation Team decided to conduct an interview with SunLight/MasTec to explore all aspects of their proposal.

Prior to the interview, the Evaluation Team provided a list of issues (see **Attachment 6**) that they wanted SunLight/MasTec to address at the interview. SunLight/MasTec did an excellent job during their presentation and was able to explain all key issues as well as demonstrating an understanding of financial matters. Additionally, during the interview, the potential for the monetized sharing of SREC value in the early years (year 1 through 5) was discussed. The possible tax implications of such sharing will be reviewed. Pending the result of that review, SunLight/MasTec indicated that they would be open to the monetized sharing of SREC value in the early years. SunLight/MasTec received the maximum number of points for this criterion of the Evaluation Matrix.

### **13. Recommendation – Successful Respondent**

In recommending a Successful Respondent, the Evaluation Team uses the Proposal Evaluation Matrix to rank the Respondents.

The SunLight/MasTec team possesses high quality management, installation capabilities, and sound solar development experience. In addition, the SunLight/MasTec proposal provides Sussex benefits in the following key areas:

1. It provides substantial direct energy cost savings;
2. It provides the Local Units the potential for additional savings through the sharing of revenues from the sale of Solar Renewable Energy Certificates (SRECs) and other environmental benefits;
3. Due to SunLight/MasTec's proposed capital and in kind equity investment, which reduces the required size of the Authority bond issuance, it provides a strong level of protection for Sussex from financial risk;
4. It provided additional financial protection for Sussex in the form of a Debt Service Reserve Fund; and,
5. It includes a restoration security providing for additional Local Unit protection at the end of contract.

Over the fifteen (15) years of the PPA, the SunLight/MasTec proposal yields nominal benefits of \$5.6 million or net present value (NPV) benefits of \$4.0 million. These benefits have been calculated under the conservative assumption that bond interest rates will be at 5.0%. The RFP also required Respondents to submit an adjustment factor to the PPA Price to account for a change in the bond rate from the assumed level of 5.0% to the actual bond issuance rate. Based upon SunLight's adjustment factor and the current expectation for the bond issuance rate (4.6%), the SunLight/MasTec proposal would yields nominal benefits of \$5.9 million or net present value (NPV) benefits of \$4.3 million.

The Respondent provided a financial structure limiting the financial risk to Sussex. By offering to self-finance a substantial portion of the overall cost of the renewable energy projects in the amount of \$7.6 million, the SunLight/MasTec proposal allows the Authority, on behalf of Sussex, to significantly reduce its bond size. The Authority's \$26.0 million in bonds will be combined with SunLight/MasTec's \$7.6 million self-financing to finance the total project cost (\$33.6 million). The SunLight/MasTec proposal also protects Sussex (which will be providing its guaranty on the Authority bonds) from the potential risk of reductions in the price of SRECs. Moreover, by self-financing a portion of the total cost of the project, this protection has a very high degree of certainty. In addition, SunLight/MasTec proposed to post a \$1.5 million

reserve, funded with an equity contribution from the company, to provide additional financial protection to Sussex.

The Evaluation Team recognizes the value of the financial provisions of the SunLight/MasTec proposal in terms of the protection of Sussex, its guaranty and its bond rating. The preservation of this bond rating provides future economic benefits to Sussex and its citizens and businesses by allowing the Authority to borrow money at low interest rates due to its "Aa2" rating. Accordingly, a high premium is placed on its protection. The financial protections of the SunLight/MasTec proposal, including a significant reduction in the size of the Authority bond amounts, on behalf of Sussex, provides a strong and distinguishing level of protection which, in combination with other factors considered, lead to the recommended selection.

The overall Matrix scoring identified SunLight/MasTec as the Respondent providing the greatest value. Based on the above discussions, the evaluation indicates that SunLight/MasTec's proposal scored 94 out of a total of 100 points. The proposal scoring is shown in **Attachment 4**.

**Accordingly, the Evaluation Team recommends that the Authority select SunLight/MasTec as the Successful Respondent, subject to clarification of the SREC sharing issue discussed in Section 12, page 28.** This will result in estimated aggregate annual benefits of approximately \$280,000 in the first year, total savings of \$4.0 million (NPV) over the life of the PPA, and average rate reductions for electricity purchased through this program of 35% relative to utility delivered power. These benefits will be recalculated after the sale of bonds and may likely increase due to the conservative assumptions used in this analysis.

The evaluation of "price and non-price" factors allowed by law permits and supports this recommendation.

**Attachment 1**  
**Sussex County Program Solar Savings Summary**

**Sussex County Renewable Energy Program**

**Proposal Evaluation**  
**October 20, 2011**

Respondent	KW	PPA Rate	Escalation	Solar Savings	
				Nominal (\$)	NPV (\$)
Sunlight General Capital/Power Partners MasTec	6.678	\$0.099	3.0%	\$5,565,316	\$3,979,057

## Attachment 2

### Evaluation Matrix

## Sussex County Renewable Energy Program Proposal Evaluation Matrix

**Phase I - RFP Requirements Checklist**  
**Phase II - Proposal Evaluation**  
**Phase III - Short List Evaluation**

**Attachment 2**  
**Page 1 of 2**

October 18, 2011

Requirement Checklist	SunLight/MasTec
PPA Price Quotation Sheet (Form A-1):	
- PPA Price & Escalation	Y
- Total Project Cost	Y
- Amortization Schedule	Y
- Structural/Interconnection Adjustment Factor	Y
- Additional Economic Benefits	Y
Appendix D Forms:	
- Respondent Information (Form A-2)	Y
- Proposal Security in lieu of Bond (Form A-4)	Y
- Proposal Bond (Form A- 5)	Y
- Ownership Disclosure Statement (Form A-6)	Y
- Non-Collusion Affidavit (Form A-7)	Y
- Consent to Investigation (Form A-8)	Y
- Relevant Experience	Y
- Respondent's Qualifications (Form A-9)	Y
- Receipt of Addenda (Form A-10)	Y
- Sealed Proposal Checklist (Form A-11)	Y
- County Deficiency Amount (Exhibit F)	Y
Form of PPA (Private Option Only)	Y
Business Registration Certificate	Y
<b>QUALIFY (Y/N)</b>	<b>Y</b>

**Sussex County Renewable Energy Program  
Proposal Evaluation Matrix**

**Attachment 2  
Page 2 of 2**

**Phase I - RFP Requirements Checklist  
Phase II - Proposal Evaluation  
Phase III - Short List Evaluation**

October 20, 2011

<b>Phase II Category</b>	<b>Evaluation Factor</b>	<b>WEIGHTING</b>	<b>SunLight/MasTec</b>
Financial Benefits (50)	NPV of Benefits	40	40
	Option - Sharing of Benefits	5	4
	Material Changes to Program Documents	5	5
Technical Design / Approach (10)	Output Guarantee (KWH)	3	3
	Design Strategy	3	3
	Project Team Approach	2	2
	O&M Plan and Approach	2	2
Proposer Experience (10)	Project Management	2	2
	Contractor Expertise	3	3
	Project Experience	3	3
	New Jersey Experience	2	2
Financial Strength (20)	Financial Capability / Strength of Provider	5	5
	Financial Risk to the County	15	10
<b>TOTAL PHASE II</b>		<b>90</b>	<b>84</b>

<b>Phase III Category</b>	<b>Evaluation Factor</b>	<b>WEIGHTING</b>	<b>SunLight/MasTec</b>
Short List Evaluation (10)	Presentation	2	2
	Explanation Key Factors	3	3
	Understanding Financial Factors / SREC Market	5	5
<b>TOTAL PHASE III</b>		<b>10</b>	<b>10</b>

<b>Overall Evaluation</b>		<b>WEIGHTING</b>	<b>SunLight/MasTec</b>
<b>TOTAL PHASE II and III</b>		<b>100</b>	<b>94</b>

# Attachment 3

## Savings by Local Unit Facility

Bidder	Local Unit Facility	Life of Project		Life of Project NPV Savings	Annual Savings		Nominal Savings on Solar Energy Purchased		Nominal Savings Total Electric Costs	
		Nominal Savings	NPV Savings		Year 1	Year 15	Year 1	Year 15	Year 1	Year 15
	Byram Twp BOE- Byram Lakes Elementary School	\$443,936.15	\$326,109.32	\$22,496.69	\$38,227.21	28.20%	31.96%	15.92%	16.82%	
	Frankford Twp BOE- Frankford Twp School	\$344,058.20	\$252,250.31	\$17,099.34	\$30,033.51	26.33%	31.14%	18.69%	20.60%	
	Franklin Borough BOE- Franklin Elementary School	\$204,122.99	\$149,964.88	\$10,350.07	\$17,559.27	29.50%	33.14%	10.71%	11.22%	
	Fredon Township Civic Center	\$63,597.32	\$46,787.94	\$3,205.27	\$5,418.41	28.79%	33.13%	21.66%	23.24%	
	Green Twp SD BOE- Green Hills School	\$159,462.79	\$117,807.49	\$8,442.03	\$13,147.96	32.58%	34.10%	7.20%	7.02%	
	Hardyston SD BOE- Hardyston Middle School	\$619,989.72	\$455,985.72	\$31,718.19	\$52,897.39	27.75%	31.36%	17.29%	18.22%	
	High Point Reg SD BOE- High Point Regional HS	\$443,764.35	\$327,635.22	\$23,374.44	\$36,778.34	32.68%	34.41%	8.00%	7.86%	
	Kittatinny Reg SD BOE- Kittatinny Regional HS	\$367,529.54	\$271,620.18	\$19,511.36	\$30,223.64	33.03%	34.30%	5.79%	5.61%	
	Lenape Valley Reg BOE- Lenape Valley Regional HS	\$308,179.72	\$215,439.62	\$14,571.57	\$35,783.88	7.50%	13.07%	6.16%	10.00%	
	Newton Public Schools BOE- Merriam Ave School	\$288,872.85	\$211,563.43	\$14,264.24	\$25,420.50	25.82%	30.78%	20.44%	22.71%	
	Newton Public Schools BOE- Newton HS	\$304,081.28	\$223,268.46	\$15,339.68	\$26,263.55	27.69%	31.81%	15.92%	17.05%	
	Sussex County Judicial Center	\$498,706.59	\$367,063.50	\$25,611.06	\$42,477.65	34.16%	37.33%	11.91%	12.13%	
	Sussex County Main Library	\$113,542.99	\$83,445.21	\$5,742.53	\$9,773.74	30.34%	34.54%	22.49%	23.87%	
	Sussex County Technical School	\$1,062,236.16	\$777,386.72	\$51,834.31	\$93,898.12	25.89%	31.22%	20.76%	23.34%	
	Sussex County Wheelsworth Facility	\$176,674.89	\$129,795.72	\$8,941.10	\$15,258.83	31.96%	36.02%	16.38%	17.21%	
	Town of Newton- Department of Public Works 1	\$54,098.26	\$39,376.82	\$2,049.40	\$4,849.31	17.00%	27.00%	13.00%	20.00%	
	Town of Newton- Wastewater Treatment Plant	\$112,482.70	\$82,851.12	\$5,819.52	\$9,489.32	32.56%	34.83%	5.39%	5.37%	
	<b>Total</b>	<b>\$5,585,316.50</b>	<b>\$4,078,351.45</b>	<b>\$280,370.80</b>	<b>\$487,500.62</b>	<b>28.00%</b>	<b>31.00%</b>	<b>15.00%</b>	<b>16.00%</b>	

# Attachment 4

## Load Served by Solar by Local Unit Facility

### Sussex County Renewable Energy Program

#### Local Unit Facility - Solar Statistics October 20, 2011

Local Unit	Annual Electric Metered Load* (KWH)	Sunlight General Capital/Power Partners MasTec			Electric Load Served by Solar Generation** (%)
		kW	Expected kWh	Guaranteed kWh	
Byram Twp BOE- Byram Lakes Elementary School	906,080	493	568,442	511,598	56%
Fredon Township Civic Center	83,771	61	70,045	63,040	75%
Frankford Twp BOE- Frankford Twp School	579,200	362	456,677	411,009	71%
Franklin Borough BOE- Franklin Elementary School	669,667	227	261,757	235,581	35%
Green Twp SD BOE- Green Hills School	747,360	157	183,426	165,083	22%
Hardyston SD BOE- Hardyston Middle School	1,395,427	612	774,471	697,024	50%
High Point Reg SD BOE- High Point Regional HS	1,938,792	453	513,808	462,427	24%
Kittatinny Reg SD BOE- Kittatinny Regional HS	2,225,026	360	417,047	375,344	17%
Lenape Valley Reg BOE- Lenape Valley Regional HS	1,586,751	1167	1,436,317	1,292,686	81%
Newton Public Schools BOE- Merriam Ave School	447,360	347	393,380	354,043	79%
Newton Public Schools BOE- Newton HS	784,465	346	392,673	353,405	45%
Sussex County Technical School	1,626,600	1194	1,449,254	1,304,328	80%
Sussex County Judicial Center	1,381,120	468	534,829	481,346	35%
Sussex County Main Library	153,600	100	126,514	113,863	74%
Sussex County Wheatsworth Facility***	346,840	149	197,492	177,743	51%
Town of Newton- Departement of Public Works	183,778	73	84,024	75,621	41%
Town of Newton- Wastewater Treatment Plant	751,200	109	138,121	124,309	17%
<b>total</b>	<b>15,807,037</b>	<b>6,678.00</b>	<b>7,998,277</b>	<b>7,198,450</b>	<b>46%</b>

\* Metered load is based on total consumption at the site, including meters that solar energy will not be interconnected to.

\*\* Electric Load Served by Solar Generation is based on Guaranteed kwh production

\*\*\*Sussex County's Wheatsworth Facility's electric consumption is estimated

# Attachment 5

## Sensitivity Analysis

### Sussex County Renewable Energy Program

#### Estimated Savings Summary October 20, 2011

Discount Rate of 5%, Average Retail Electric Rate of 3.6%

Respondent	Solar Savings	
	Nominal (\$)	NPV (\$)
Sunlight General Capital & Power Partners MasTec	\$5,565,316	\$3,979,057

Discount Rate of 5%, Average Retail Electric Rate of 6%

Respondent	Solar Savings	
	Nominal (\$)	NPV (\$)
Sunlight General Capital & Power Partners MasTec	\$10,492,725	\$7,144,229

Discount Rate of 5%, Average Retail Electric Rate of 0%

Respondent	Solar Savings	
	Nominal (\$)	NPV (\$)
Sunlight General Capital & Power Partners MasTec	\$1,403,826	\$1,340,664

# **Attachment 6**

## **Interview Questions**

### **Sussex County Solar Program Interview Questions**

#### **SunLight General Capital / Power Partners MasTec October 19, 2011**

Sussex County would like to have a general discussion on the following items to better understand the basis for the Response to Request for Proposals:

1. Financial strength of Proposer.
2. Proposed solar project financing approach. Specific discussion regarding:
  - a. Equity contribution of \$7.6 million.
  - b. Debt Service Reserve Fund account of \$1.5 million.
  - c. CDA calculation:
    - i. O&M value.
3. Discuss plans to realize 1603 grant.
4. Proposer view of current and future SREC market.
5. Expected solar production - basis for expected output.
6. Guaranteed solar production.
  - a. How and when measured.
  - b. Financial implications of production shortfall.
7. Additional economic benefits:
  - a. SREC sharing:
    - i. 50% sharing above \$300 per SREC after year 5.
    - ii. How and when measured.
    - iii. Financial sharing mechanism
  - b. Refund bonds for savings
    - i. 50% sharing resulting from refunding
    - ii. Financial sharing mechanism
  - c. Other currently unidentified environmental benefits - Discuss potential
8. Fair market value purchase option tax implications and potential formula approach.
9. Proposer experience and qualifications.

10. "Technical Drawings and Specifications" section of the proposal, section 1.3.1 (Clarifications and Assumptions): Discuss items - 3 (module pricing timing), 7 (work schedule requirement) and 12 (Construction impediments and impact on PPA price).

The following are technical questions to be discussed that will help Sussex County better understand the basis for the Response to Request for Proposals:

1. I reviewed all of the proposed system productions estimates and compared them to the facilities consumption data. All system sizes and productions are within 90.5% of total consumption. Lenape Valley was the highest at 90.5%, all other were less than 90%.
2. Under Section 4 of the Sunlight Proposal (Technical Drawings and Specification) Power Partners MasTec Section 1.3.1 Item 13. Power Partners assumes the rooftop sites do not require any upgrades and are structurally sufficient to accept ballasted racking system.

Our Technical specification: Appendix C, Part 3 Section H. Roof installations: states contractor shall maintain roof integrity with installation.

3. Power Partners MasTec's List of contracts underway states "see attached". Is the attached the meant to be SunLight's list of projects underway or is there another list?
4. The proposal includes Business registrations forms for Pfister Energy Inc., Helios Solar Energy, LLC, and Lighton Elec, Inc. Please describe how these firms will be involved in this project?
5. Describe your installation strategy to minimize disruptions at schools and other facilities? What is the construction schedule you plan of follow for the project timeline?
6. **What specific manufacturer are you using for?**

System Component	Manufacturer
PV Modules	
Inverters	
Mounting Systems	
Canopy System	
DAS	

7. How will the operations be monitored after installation is completed? What is the response time for error messages? Problems with the system? Who do you plan on using? What is the maintenance plan you have for all site?

**EXHIBIT F**

**[Attach Award Resolution]**

RESOLUTION NO. 11-51

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

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**TITLE:**

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
DETERMINING THE SUCCESSFUL RESPONDENT TO THE SOLAR  
DEVELOPER REQUEST FOR PROPOSALS IN CONNECTION WITH THE  
AUTHORITY'S COUNTY OF SUSSEX RENEWABLE ENERGY PROGRAM**

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by ordinance of the Morris County Board of Chosen Freeholders (the "*Board*"), as public body corporate and politic of the State of New Jersey pursuant to and in accordance with the County Improvement Authorities Law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, as amended and supplemented from time to time (the "*Act*");

**WHEREAS**, the Authority has developed a program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County of Sussex, New Jersey (the "*County*") and local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities; collectively, including the County, the "*Local Units*");

**WHEREAS**, on April 19, 2011, the Authority adopted a resolution pursuant to the Act, the Contracts Law and all other applicable law, seeking proposals from qualified solar developers for the implementation of the Renewable Energy Program entitled "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE ISSUANCE OF ONE OR MORE REQUEST FOR PROPOSALS PURSUANT TO THE LOCAL PUBLIC CONTRACTS LAW N.J.S.A. 40A:11-4.1(k) IN CONNECTION WITH THE AUTHORITY'S RENEWABLE ENERGY PROGRAM" (the "*Authority RFP Authorizing Resolution*");

**WHEREAS**, on July 27, 2011, the County adopted a resolution pursuant to the Act, the competitive contracting provisions of the Local Public Contracts Law (codified at N.J.S.A. 40A:11-1 et seq., the "Contracts Law") and all other applicable law, seeking proposals from qualified solar developers for the implementation of the Renewable Energy Program entitled "RESOLUTION OF THE COUNTY OF SUSSEX AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS PURSUANT TO THE LOCAL PUBLIC CONTRACTS LAW N.J.S.A. 40A:11-4.1(k) IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX RENEWABLE ENERGY PROGRAM" (the "*County RFP Authorizing Resolution*") and together with the Authority RFP Authorizing Resolution, the "*RFP Authorizing Resolutions*");

**WHEREAS**, pursuant to the RFP Authorizing Resolutions, the Authority issued that certain "Request for Proposals for a Developer of Photovoltaic Systems with respect to certain Local Government Facilities in the County of Sussex, New Jersey" dated September 8, 2011 (as amended and supplemented, the "*RFP*");

**WHEREAS**, on October 13, 2011, the due date for proposals pursuant to the RFP, the Authority received two (2) proposals (each a "*Proposal*") in response to the RFP from: (1) SunEdison and Ray Angelini, Inc. ("*SunEdison/RAI*") and (2) SunLight General Capital and Power Partners MasTec ("*SunLight General Capital*"); and the Proposals from SunEdison/RAI and SunLight General Capital, the "*Proposals from the Potential Solar Developer Respondents*";

**WHEREAS**, the Proposal from SunEdison/RAI was delivered late and therefore withdrawn by SunEdison RAI;

**WHEREAS**, upon review, the Proposal from SunLight General Capital as a Potential Solar Developer Respondent was deemed compliant with the requirements of the RFP;

**WHEREAS**, the Authority's evaluation team has evaluated the Proposal from the Potential Solar Developer Respondent in that certain "Solar Proposal Evaluation Report Sussex County Renewable Energy Program Proposals of October 13, 2011 Prepared for Morris County Improvement Authority" dated October 24, 2011 (a copy of which is attached hereto as Exhibit A, the "*Evaluation Report*") and has recommended the award of the Successful Respondent (as defined in the RFP) to SunLight General Capital; and

**WHEREAS**, on October 26, 2011, the County adopted a resolution (the "*County Consent Resolution*") consenting to the Authority's award to SunLight General Capital as Successful Respondent to the RFP.

**NOW THEREFORE BE IT RESOLVED** by the Board of Commissioners of the Authority as follows:

**Section 1.** The Authority hereby determines that pursuant to Section 4 of the Authority RFP Authorizing Resolution and in accordance with the competitive contracting provisions of the Local Public Law and the process contemplated in the preambles hereof, the Successful Respondent for the RFP shall be SunLight General Capital in accordance with the SunLight General Capital Proposal. This award shall not be binding on the Authority or the County until the Program Documents (as defined in the RFP), including without limitation the incorporation of the terms of the SunLight General Capital Proposal, shall have been executed, adopted and delivered by the Authority, the County and the other parties thereto. The Chairman of the Authority, the Secretary of the Authority or their designee (each an, Authorized Officer”), are hereby severally authorized to (a) execute and deliver to the other parties thereto the Program Documents incorporating the terms of the SunLight General Capital Proposal, (b) issue the Series 2011A Bonds and Series 2011B Note to finance the Renewable Energy Projects contemplated by and defined in the RFP and contemplated by the Sunlight General Capital Proposal, and (c) take such other action in connection with the matters set forth in clauses (a) and (b) above, including without limitation the execution and delivery of such other certificates, instruments or other document in connection therewith or otherwise contemplated thereby, as the Authorized Officer, after consultation with counsel, energy consultant or financing consultant (the “*RFP Consultants*”), shall determine to be in the best interests of the Authority, the County, or the Series 2011 Local Units (as defined in the RFP) in implementing the Renewable Energy Program.

**Section 2.** All actions taken to date by the Authority, the Authorized Officers, the County and the RFP Consultants, with respect to the matters set forth in or contemplated by this resolution, have been consented to by the County through the adoption of its County Consent Resolution, and further, are hereby ratified and approved by the Authority.

**Section 3.** This resolution shall take effect immediately. Notwithstanding the prior sentence, in accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Board of Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Board of Freeholders a certification from the Clerk stating that the minutes of this meeting have not been vetoed by the Director of the Board of Freeholders.

Section 4. This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

**MOVED/SECONDED:**

Resolution moved by Commissioner Ramirez.

Resolution seconded by Commissioner Pinto.

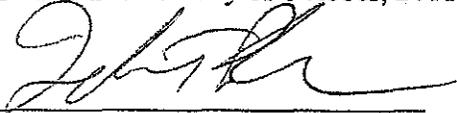
**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto	X			
Ramirez	X			
Roe	X			
Sandman	X			
Bonanni	X			

**ATTESTATION:**

This Resolution was acted upon at the Special Meeting of the Authority held on October 27, 2011 at the Authority's principal corporate office in Morristown, New Jersey, with inclusion of members by phone conference.

Attested to this 27<sup>th</sup> day of October, 2011

By: 

Asst. Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of October 27, 2011

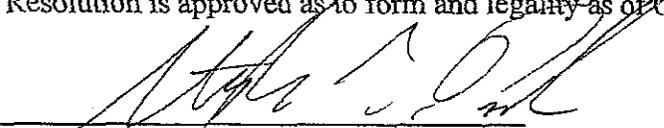
By:   
Stephen B. Pearlman, Esq., Partner  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Counsel to the Authority

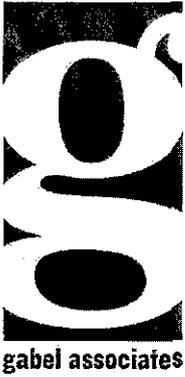
EXHIBIT A

Evaluation Report

See Closing Item No. 19E

**EXHIBIT G**

**[Attach Consulting Energy Engineer Report]**



## Memorandum

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To: Sussex County Solar Team

From: Richard Preiss

Date: December 13, 2010

Subject: Sussex County Solar Program – Savings Update

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On October 24, 2011, Gabel Associates ("Gabel") issued the Solar Proposal Evaluation Report ("Report") recommending that the Morris County Improvement Authority ("MCIA") (County of Sussex Program) award a contract to SunLight General Capital and Power Partners MasTec ("SunLight/MasTec") for the design, acquisition, installation, tax ownership, commissioning, operation and maintenance of solar systems to be located at 17 Sussex County Local Unit Facilities. On October 26, 2011, the Sussex County Board accepted that recommendation and on October 27, 2011, the MCIA Board also accepted that recommendation.

The Report (attached) included an economic analysis of the proposal submitted by the solar developer based upon the information included in their October 13, 2011 submission. SunLight/MasTec's October 13, 2011 proposal reflected a first year PPA rate of \$0.099 per KWH ("Original Pricing"), with 3% annual escalation, for solar energy to be sold to the Local Unit Facilities.

On December 7, 2011, MCIA sold the County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds and received an attractive rate of 4.2178%. Based upon this bond rate (rather than the previously forecasted bond rate of 5.00%), SunLight/MasTec revised the PPA rate consistent with the terms of their proposal to \$0.0935 per KWH ("Final Pricing"), with 3% annual escalation, for solar energy to be sold to the Local Unit Facilities.

Subsequent to the issuance of the Report, one of the school districts decided not to participate in the Sussex County Solar Program. To compensate for the loss in the size of the solar system, the Sussex County Community College was added to the solar program and the Sussex County Technical School decided to expand the solar system at its facility. As a result of these changes, the Sussex County Solar Program increased in size from 6.7 MW to 6.9 MW and the number of Local Unit Facilities participating in the solar program increased from 17 to 20.

## Update of Energy Savings

Gabel has performed an economic analysis to update the forecasted energy savings by purchasing energy from the solar systems rather than from the local electric utility at tariff rates. The updated energy savings reflect the PPA Final Pricing from SunLight/MasTec of \$0.0935 per KWH.

Attachments 1, 3 and 4 of the October 24, 2011 Solar Proposal Evaluation Report have been revised (revised schedules attached) to reflect the results of the updated energy savings analysis.

**Attachment 1** – Shows the Sussex County Solar Program forecasted energy savings as a result of purchasing solar energy from the solar systems rather than from the local electric utility at forecasted tariff rates. The energy savings are shown on both a nominal dollar basis and a net present value basis for two levels of PPA pricing covering three scenarios: (1) SunLight/MasTec’s Original Pricing (\$0.099 per KWH first year price) at the original project size of 6.7 MW, (2) SunLight/MasTec’s Original Pricing (\$0.099 per KWH first year price) at the final project size of 6.9 MW and (3) SunLight/MasTec’s Final Price (\$0.0935 per KWH first year price) at the final project size of 6.9 MW. By presenting the information in this manner, the forecasted energy savings related to the increase in Sussex County Solar Program size can be isolated from the forecasted energy savings related to the lower bond interest rate.

The key information from Attachment 1 is as follows:

PPA Pricing	Energy Savings – MCIA Pilot Program	
	Nominal (\$)	NPV (\$)
<b>\$0.0935 (Final Price) 6.9 MW</b>	<b>\$7.2 million</b>	<b>\$5.5 million</b>
\$0.0990 (Original Price) 6.9 MW	\$6.5 million	\$4.7 million
\$0.0990 (Original Price) 6.7 MW	\$5.6 million	\$4.0 million

The updated information reflecting the Final Price and final solar system size for the Sussex County Solar Program indicates total energy savings of \$5.5 million (net present value), an increase of \$1.5 million (or 37%) over the information included in the Report.

**Attachment 3** – Shows the updated forecast of energy cost savings by Local Unit Facility reflecting the Final Price and Final Solar System Size for the Sussex County Solar Program. Also shown at the bottom of the attachment are the total savings and weighted percentage savings for the total Sussex County Solar program. Key statistics are as follows:

1. Sussex County Local Unit Facilities pay an energy rate for solar power that is 32% less than the forecasted cost of energy from the local electric utility in the first year and 36% less than the forecasted cost of energy from the local electric utility in the last year (year 15) of the PPA..
2. The solar systems provide a guaranteed level of generation that will provide 44% of the annual electric requirements for the Sussex County Solar Program participants (see Attachment 4 of the Report).

**Sussex County Renewable Energy Program  
 Proposal Evaluation  
 December 13, 2011**

Respondent	KW	PPA Rate	Escalation	Solar Savings	
				Nominal (\$)	NPV (\$)
Sunlight General Capital/Power Partners MasTec- Original Bid	6,678	\$0.0990	3%	\$5,565,316	\$3,979,057
Sunlight General Capital/Power Partners MasTec- Final Size	6,907	\$0.0990	3%	\$6,507,433	\$4,665,086
Sunlight General Capital/Power Partners MasTec- Final Size and Final PPA	6,907	\$0.0935	3%	\$7,234,228	\$5,455,163

**Sussex County Renewable Energy Program  
 Proposal Evaluation  
 December 13, 2011**

Bidder	Local Unit Facility	Life of Project	Life of Project	Annual Savings		Nominal Savings on Solar Energy Purchased		Nominal Savings Total Electric Costs	
		Nominal Savings	NPV Savings	Year 1	Year 15	Year 1	Year 15	Year 1	Year 15
Sunlight/PPM	Byram Twp BOE- Byram Lakes Elementary School	\$494,337.77	\$372,759.76	\$25,310.47	\$42,194.88	32%	35%	18%	19%
	Frankford Twp BOE- Frankford Twp School	\$384,549.98	\$289,526.96	\$19,359.89	\$33,221.07	30%	34%	21%	23%
	Franklin Borough BOE- Franklin Elementary School	\$227,331.96	\$171,439.59	\$11,645.76	\$19,386.31	33%	37%	12%	12%
	Fredon Township Civic Center	\$69,807.89	\$52,696.16	\$3,551.99	\$5,907.31	32%	36%	24%	25%
	Green Twp SD BOE- Green Hills School	\$175,726.43	\$133,118.14	\$9,349.99	\$14,428.26	36%	37%	8%	8%
	Hardyston SD BOE- Hardyston Middle School	\$688,639.13	\$519,788.29	\$35,551.82	\$58,303.12	31%	35%	19%	20%
	High Point Reg SD BOE- High Point Regional HS	\$489,321.73	\$370,482.92	\$25,917.79	\$40,364.67	36%	38%	9%	9%
	Kittatinny Reg SD BOE- Kittatinny Regional HS	\$404,507.68	\$306,515.67	\$21,575.76	\$33,134.61	37%	38%	6%	6%
	Newton Public Schools BOE- Merriam Ave School	\$323,752.46	\$243,548.57	\$16,211.48	\$28,166.26	29%	34%	23%	25%
	Newton Public Schools BOE- Newton HS	\$338,898.04	\$255,452.97	\$17,283.41	\$29,004.36	31%	35%	18%	19%
	Sussex CCC - Building B/C	\$143,088.97	\$108,323.04	7572.42417	\$11,814.15	37%	38%	7%	7%
	Sussex CCC - Building L	\$352,220.29	\$265,124.37	17668.6525	\$30,482.46	29%	34%	24%	26%
	Sussex CCC- Building D	\$290,505.88	\$218,276.30	14269.2725	\$25,477.36	29%	34%	25%	28%
	Sussex CCC- Building E	\$238,854.67	\$179,882.10	12026.696	\$20,576.99	30%	34%	22%	23%
	Sussex County Judicial Center	\$546,127.84	\$412,405.07	\$28,258.46	\$46,210.71	38%	41%	13%	13%
	Sussex County Main Library	\$124,760.54	\$94,097.47	\$6,368.77	\$10,656.80	34%	38%	25%	26%
	Sussex County Technical School	\$1,561,333.05	\$1,174,967.70	\$78,074.11	\$135,348.47	31%	36%	16%	17%
	Sussex County Wheatsworth Facility	\$194,185.78	\$146,416.50	\$9,918.68	\$16,637.31	35%	39%	18%	19%
	Town of Newton- Department of Public Works	\$61,548.29	\$46,084.05	\$2,465.32	\$5,435.79	20%	30%	16%	21%
	Town of Newton- Wastewater Treatment Plant	\$124,729.37	\$94,257.57	\$6,503.22	\$10,453.39	36%	38%	6%	6%
<b>Total</b>		<b>\$7,234,227.74</b>	<b>\$5,455,163.18</b>	<b>\$368,883.98</b>	<b>\$617,204.25</b>	<b>32.32%</b>	<b>36.06%</b>	<b>16.52%</b>	<b>17.58%</b>

**Sussex County Renewable Energy Program  
Proposal Evaluation  
December 13, 2011**

Bidder	Local Unit Facility	Life of Project		Annual Savings		Nominal Savings on Solar Energy Purchased		Nominal Savings Total Electric Costs	
		Nominal Savings	NPV Savings	Year 1	Year 15	Year 1	Year 15	Year 1	Year 15
Sunlight/PPM Final System Final PPA	Byram Twp BOE- Byram Lakes Elementary School	\$443,936.15	\$318,233.84	\$22,496.69	\$38,227.21	28%	32%	16%	17%
	Frankford Twp BOE- Frankford Twp School	\$344,058.20	\$246,117.53	\$17,099.34	\$30,033.51	26%	31%	19%	21%
	Franklin Borough BOE- Franklin Elementary School	\$204,122.99	\$146,344.60	\$10,350.07	\$17,559.27	29%	33%	11%	11%
	Fredon Township Civic Center	\$63,597.32	\$45,663.73	\$3,205.27	\$5,418.41	29%	33%	22%	23%
	Green Twp SD BOE- Green Hills School	\$159,462.79	\$115,017.97	\$8,442.03	\$13,147.96	33%	34%	7%	7%
	Hardyston SD BOE- Hardyston Middle School	\$619,969.72	\$445,020.65	\$31,718.19	\$52,897.39	28%	31%	17%	18%
	High Point Reg SD BOE- High Point Regional HS	\$443,764.35	\$319,860.13	\$23,374.44	\$36,778.34	33%	34%	8%	8%
	Kittatinny Reg SD BOE- Kittatinny Regional HS	\$367,529.54	\$265,196.68	\$19,511.36	\$30,223.64	33%	34%	6%	6%
	Newton Public Schools BOE- Merriam Ave School	\$288,872.85	\$206,401.02	\$14,264.24	\$25,420.50	26%	31%	20%	23%
	Newton Public Schools BOE- Newton HS	\$304,081.28	\$217,867.69	\$15,339.68	\$26,263.55	28%	32%	16%	17%
	Sussex CCC - Building B/C	\$129,611.71	\$93,404.79	\$6,820.02	\$10,753.20	33%	34%	7%	7%
	Sussex CCC - Building L	\$314,891.82	\$225,180.94	\$15,584.70	\$27,543.92	26%	31%	21%	23%
	Sussex CCC- Building D	\$258,586.05	\$184,455.70	\$12,487.27	\$22,964.59	25%	31%	22%	25%
	Sussex CCC- Building E	\$213,850.80	\$153,032.21	\$10,630.80	\$18,608.66	27%	31%	19%	21%
	Sussex County Judicial Center	\$498,706.59	\$358,259.42	\$25,611.06	\$42,477.65	34%	37%	12%	12%
	Sussex County Main Library	\$113,542.99	\$81,433.23	\$5,742.53	\$9,773.74	30%	35%	22%	24%
	Sussex County Technical School	\$1,395,591.99	\$997,670.79	\$68,821.23	\$122,301.15	28%	32%	15%	15%
	Sussex County Wheatworth Facility	\$176,674.89	\$126,662.44	\$8,941.10	\$15,256.83	32%	36%	16%	17%
	Town of Newton- Department of Public Works	\$54,098.26	\$38,393.90	\$2,049.40	\$4,849.31	17%	27%	13%	19%
	Town of Newton- Wastewater Treatment Plant	\$112,482.70	\$80,868.78	\$5,819.52	\$9,489.32	33%	35%	5%	5%
	<b>Total</b>	<b>\$6,507,432.99</b>	<b>\$4,665,086.04</b>	<b>\$328,308.95</b>	<b>\$559,990.15</b>	<b>29%</b>	<b>33%</b>	<b>15%</b>	<b>16%</b>

**Sussex County Renewable Energy Program  
Local Unit Facility- Solar Statistics  
December 13, 2011**

Local Unit	Annual Electric Metered Load* (KWH)	General Capital/Power Partners		Electric Load Served by Solar Generation**	
		kW	Expected kWh		Guaranteed kWh
Byram Twp BOE- Byram Lakes Elementary School	906,080	493	568,442	511,598	56%
Fredon Township Civic Center	83,771	61	70,045	63,040	75%
Frankford Twp BOE- Frankford Twp School	579,200	362	456,677	411,009	71%
Franklin Borough BOE- Franklin Elementary School	669,667	227	261,757	235,581	35%
Green Twp SD BOE- Green Hills School	747,360	157	183,426	165,083	22%
Hardyston SD BOE- Hardyston Middle School	1,395,427	612	774,471	697,024	50%
High Point Reg SD BOE- High Point Regional HS	1,938,792	453	513,808	462,427	24%
Kittatinny Reg SD BOE- Kittatinny Regional HS	2,225,026	360	417,047	375,344	17%
Newton Public Schools BOE- Merriam Ave School	447,360	347	393,380	354,043	79%
Newton Public Schools BOE- Newton HS	784,465	346	392,673	353,405	45%
Sussex County Technical School	2,478,000	1544	1,869,271	1,682,343	68%
Sussex County Judicial Center	1,381,120	468	534,829	481,346	35%
Sussex County Main Library	153,600	100	126,514	113,863	74%
Sussex County Wheatworth Facility***	346,840	149	197,492	177,743	51%
Town of Newton- Department of Public Works	183,778	73	84,024	75,621	41%
Town of Newton- Wastewater Treatment Plant	751,200	109	138,121	124,309	17%
Sussex County Community College- Bldg B/C	667,760	122	152,000	136,800	20%
Sussex County Community College- Bldg L	467,920	366	421,000	378,900	81%
Sussex County Community College- Bldg E	353,760	245	282,000	253,800	72%
Sussex County Community College- Bldg D	374,240	313	360,000	324,000	87%
<b>Total</b>	<b>16,935,366</b>	<b>6,907.00</b>	<b>8,196,977</b>	<b>7,377,279</b>	<b>44%</b>

\* Metered load is based on total consumption at the site, including meters that solar energy will not be interconnected to.

\*\* Electric Load Served by Solar Generation is based on Guaranteed kwh production

\*\*\*Sussex County's Wheatworth Facility's electric consumption is estimated

SOLAR PROPOSAL EVALUATION REPORT

See Closing Item No. 19E

## CERTIFICATE OF THE AUTHORITY AS TO PRELIMINARY OFFICIAL STATEMENT

I, JOHN BONANNI, Chairman of The Morris County Improvement Authority (the “*Authority*”), a public body corporate and politic of the State of New Jersey (the “*State*”) organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A.* 40:37A-44 *et seq.*, the “*Act*”) and other applicable law, and in connection with the issuance by the Authority of its \$26,715,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated the date hereof (the “*Series 2011A Bonds*”) and the \$985,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)” dated the date hereof (the “*Series 2011B Note*” and together with the Series 2011A Bonds, the “*Series 2011 Bonds*”), **DO HEREBY CERTIFY** on behalf of the Authority as follows:

1. As of the date hereof, the description and information contained in the Preliminary Official Statement dated December 1, 2011, issued in connection with the Series 2011 Bonds (collectively, the “*Preliminary Official Statement*”), true copies of which are attached hereto as **Exhibit A**, relating to the Authority, its operations, and the transactions contemplated hereby and otherwise by any of the Renewable Energy Program Documents, the Authority Bond Resolution (as such terms are defined in the Preliminary Official Statement) and the Preliminary Official Statement and other information therein pertaining to the Authority is true and correct in all material respects and does not contain any untrue or incorrect statement or misleading statement of a material fact and does not and will not omit to state a material fact which is necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

2. The information in the Preliminary Official Statement regarding the Authority, its documents, its official action and its operations, all set forth in Section 1 above, has been “deemed final” as of its date within the meaning and for purposes of Rule 15c2-12 (“*Rule 15c2-12*”) promulgated by the Securities and Exchange Commission of the United States under the Securities Exchange Act of 1934, as amended except for the omission of such information as is specified in Rule 15c2-12(b)(1) and except for changes permitted by other applicable law.

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Authority this 1st day of December, 2011.

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By:  \_\_\_\_\_  
**John Bonanni**  
**Chairman**

**EXHIBIT A**

**[Attach copy of Preliminary Official Statement]**

PRELIMINARY OFFICIAL STATEMENT DATED DECEMBER 1, 2011

NEW ISSUE – BOOK-ENTRY ONLY

RATING: Moody's: (See "CREDIT RATING" herein)

Interest on the Series 2011 Bonds (as defined herein) is included in gross income for federal income tax purposes under current law. In the opinion of Inglesino, Pearlman, Wyciskala & Taylor LLC, Bond Counsel to the Authority (as defined herein), under current law interest on the Series 2011 Bonds and any gain on the sale thereof are not includable as gross income under the New Jersey Gross Income Tax Act. See "TAX MATTERS" herein.

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (Morris County, New Jersey)

\$25,040,000\* County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) and \$960,000\* County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)

Dated: Date of Delivery

Due: As shown on the inside front cover

The \$25,040,000\* aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" (the "Series 2011A Bonds") will be issued by The Morris County Improvement Authority (the "Authority") as fully registered bonds. One certificate for each stated maturity of the Series 2011A Bonds will be issued in the principal amount of each such maturity. The Series 2011A Bonds will be registered initially in the name of Cede & Co. ("Cede"), as nominee for The Depository Trust Company ("DTC"), an automated depository for securities and clearing house transactions, which will act as securities depository for the Series 2011A Bonds. Individual purchases of the Series 2011A Bonds will be made in book-entry form (without certificates) in denominations of \$5,000 or any integral multiple thereof. See "DESCRIPTION OF THE SERIES 2011 BONDS – Book-Entry Only System" herein. Capitalized terms not defined on this cover page shall have the meanings set forth in this Official Statement.

The principal of the Series 2011A Bonds is payable on June 15 in the years and in the amounts set forth on the inside front cover hereof. The Series 2011A Bonds shall be dated and bear interest from their date of delivery, payable on June 15 and December 15 of each year until final maturity (stated or otherwise) commencing on June 15, 2012, at the interest rates per annum set forth on the inside front cover page of this Official Statement. The principal or redemption price, if any, of the Series 2011A Bonds will be payable upon presentation and surrender thereof at the principal corporate trust office of U.S. Bank National Association, Morristown, New Jersey, as trustee, registrar and paying agent (the "Trustee," "Registrar," and "Paying Agent") for the Series 2011A Bonds. Interest on the Series 2011A Bonds is payable by check or draft of the Paying Agent mailed to the registered owners of the Series 2011A Bonds as of the Record Date, as described herein. Provided DTC or its nominee Cede is the registered owner of the Series 2011A Bonds, payment of the principal, redemption premium, if any, and interest on the Series 2011A Bonds will be made directly to DTC or its nominee, which is obligated to remit such principal, redemption premium and interest to DTC Participants. DTC Participants and Indirect Participants (each as defined herein) will be responsible for remitting such payments to the beneficial owners of the Series 2011A Bonds. See "DESCRIPTION OF THE SERIES 2011 BONDS – Book-Entry Only System".

The \$960,000\* aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note") and together with the Series 2011A Bonds, the "Series 2011 Bonds") will be issued by Authority as one fully registered note. One certificate for the stated maturity of the Series 2011B Note will be issued in the principal amount of such maturity. The Series 2011B Note will be registered initially in the name of Cede, as nominee of DTC, which will act as securities depository for the Series 2011B Note. Individual purchases of the Series 2011B Note will be made in book-entry form (without certificates) in denominations of \$5,000 or any integral multiple thereof. See "DESCRIPTION OF THE SERIES 2011 BONDS – Book-Entry Only System".

The Series 2011B Note shall be dated and bear interest from its date of delivery and will be payable as to principal and interest on their maturity date, January 15, 2013, at the interest rate per annum set forth on the inside front cover page of this Official Statement. The principal of the Series 2011B Note will be payable upon presentation and surrender thereof at the principal corporate trust office of the Paying Agent for the Series 2011B Note. Interest on the Series 2011B Note is payable by check or draft of the Paying Agent mailed to the registered owners of the Series 2011B Note as of the Record Date, as described herein. Provided DTC or its nominee Cede is the registered owner of the Series 2011B Note, payment of the principal and interest on the Series 2011B Note will be made directly to DTC or its nominee, which is obligated to remit such principal, redemption premium and interest to DTC Participants. DTC Participants and Indirect Participants will be responsible for remitting such payments to the beneficial owners of the Series 2011B Note. See "DESCRIPTION OF THE SERIES 2011 BONDS – Book-Entry Only System".

The Series 2011A Bonds are subject to optional redemption and mandatory sinking fund redemption prior to their stated maturities as more fully described herein. The Series 2011B Note is not subject to optional redemption prior to its stated maturity. See "DESCRIPTION OF THE SERIES 2011 BONDS - Optional Redemption" and "Mandatory Sinking Fund Redemption" herein.

The Series 2011 Bonds are being issued pursuant to the county improvement authorities law, as amended and supplemented (as codified at N.J.S.A. 40:37A-44 et seq., the "Act"), other applicable law, and a bond resolution of the Authority adopted on September 28, 2011, as amended and supplemented by certificates of an Authorized Officer of the Authority to be executed in connection with the issuance of each of the Series 2011A Bonds and the Series 2011B Note (collectively, the "Bond Resolution"). The Series 2011A Bonds are being issued to: (i) finance a portion of the costs of the Renewable Energy Projects for each of the Series 2011 Local Units, (ii) reimburse certain Renewable Energy Program development costs paid by the County of Sussex, New Jersey (the "County") and the Authority, (iii) pay certain fees and costs incurred by or for SunLight General Sussex Solar, LLC (the "Company") in connection with the Renewable Energy Program, and (iv) pay the various costs of issuing the Series 2011A Bonds and the Series 2011B Note. The Series 2011B Note is being issued to pay capitalized interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012. A portion of the costs of the Renewable Energy Projects will be provided from certain deferred equity contributed by the Company. See "THE RENEWABLE ENERGY PROGRAM" and "SOURCES AND USES OF SERIES 2011A BONDS AND SERIES 2011B NOTE PROCEEDS" herein.

The Series 2011 Bonds are special and limited obligations of the Authority, payable as to principal, redemption premium, if any, and interest solely from and secured by the Authority's pledge of the Trust Estate to the Trustee under the Bond Resolution. The Trust Estate includes, without limitation: (i) the Revenues, (ii) payments made by the County under the County Guaranty (as defined herein) and (iii) the Funds and Accounts (except (A) the Administrative Expense Account and the Costs of Issuance Account of the Administrative Fund and (B) the County Security Fund) established under the Bond Resolution and held by the Trustee. The payment of the principal of (including Sinking Fund Installments, if any) and interest on the Series 2011 Bonds (but not any redemption premium) shall be guaranteed by the County pursuant to the County Guaranty. The County has the right, power and obligation to cause the levy of ad valorem taxes upon all the taxable property within the County, without limitation as to rate or amount, if necessary, in order to meet its payment obligations under the County Guaranty. See "SECURITY FOR THE SERIES 2011 BONDS" herein.

THE SERIES 2011 BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE AUTHORITY. NEITHER THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE AUTHORITY BUT SOLELY TO THE EXTENT OF THE TRUST ESTATE, AND OTHER THAN THE COUNTY TO THE EXTENT OF THE COUNTY GUARANTY), IS OBLIGATED TO PAY THE PRINCIPAL OF, OR INTEREST ON, THE SERIES 2011 BONDS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE COUNTY TO THE EXTENT OF THE COUNTY GUARANTY) IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, OR INTEREST ON, THE SERIES 2011 BONDS. THE AUTHORITY HAS NO TAXING POWER.

This cover page and the inside cover page contain certain information for quick reference only. It is not a summary of the issue. Investors must read the entire Official Statement including all appendices to obtain information essential to making an informed investment decision.

The Series 2011 Bonds are offered for delivery when, as and if issued and delivered to the Underwriters, subject to the approving legal opinion of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Parsippany, New Jersey, Bond Counsel to the Authority. Certain legal matters will be passed upon for the Underwriters by their counsel, Gibbons P.C., Newark, New Jersey. Certain legal matters concerning the obligations of the County will be passed upon by Wilentz, Goldman & Spitzer, P.A., Woodbridge, New Jersey, County Bond Counsel. NW Financial Group, LLC, Jersey City, New Jersey, is acting as Financial Advisor to the Authority in connection with the issuance of the Series 2011 Bonds. It is expected that the Series 2011 Bonds will be available for delivery through DTC in New York, New York, and that settlement for the Series 2011 Bonds will occur at the offices of Bond Counsel in Parsippany, New Jersey, on or about December 14, 2011.



RBC Capital Markets®

Dated: December \_\_, 2011

\* Preliminary, subject to change.

This is a Preliminary Official Statement, complete with the exception of the specific information permitted to be omitted by Rule 15c2-12 of the Securities and Exchange Commission. The Authority has authorized distribution of this Preliminary Official Statement to prospective purchasers and others. In accordance with Rule 15c2-12, this Preliminary Official Statement is deemed final. Upon the sale of the Series 2011 Bonds described herein, the Authority will deliver a final Official Statement within the earlier of seven (7) business days following such sale or to accompany the purchaser's confirmations requesting payment for the Series 2011 Bonds.

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
(MORRIS COUNTY, NEW JERSEY)**

**\$25,040,000\***

**County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A  
(Federally Taxable)**

<u>Maturity (June 15)</u>	<u>Principal Amount*</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP</u>
2013	\$			
2014				
2015				
2016				
2017				
2018				
2019				
2020				
2021				
2022				
2023				
2024				
2025				
2026				
2027				

**\$960,000\***

**County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B  
(Federally Taxable)**

<u>Maturity</u>	<u>Principal Amount*</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP</u>
January 15, 2013	\$			

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\* Preliminary, subject to change.

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

**MEMBERS AND PROFESSIONALS**

**MEMBERS**

John Bonanni, Chairperson and Commissioner  
Christina Ramirez, Vice Chairperson and Commissioner  
Glenn Roe, C.C.F.O., Treasurer and Commissioner  
Ellen M. Sandman, Secretary and Commissioner  
Frank T. Pinto, Jr., Assistant Secretary and Commissioner

**AUTHORITY GENERAL COUNSEL**

Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Parsippany, New Jersey

**AUTHORITY BOND COUNSEL**

Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Parsippany, New Jersey

**AUTHORITY FINANCIAL ADVISOR**

NW Financial Group, LLC  
Jersey City, New Jersey



**COUNTY OF MORRIS, NEW JERSEY**  
**BOARD OF CHOSEN FREEHOLDERS**

<b>Freeholder</b>	<b>Title</b>	<b>Term Expires</b>
William J. Chegvidden	Freeholder Director	December 31, 2012
Douglas R. Cabana	Deputy Freeholder Director	December 31, 2013
Gene F. Feyl	Freeholder	December 31, 2012
Ann F. Grossi	Freeholder	December 31, 2013
Thomas J. Mastrangelo	Freeholder	December 31, 2013
John J. Murphy	Freeholder	December 31, 2012
Margaret Nordstrom	Freeholder	December 31, 2011

**CLERK OF THE BOARD OF CHOSEN FREEHOLDERS**

Diane M. Ketchum

**COUNTY ADMINISTRATOR**

John Bonanni

**COUNTY TREASURER**

Glenn Roe, C.C.F.O.

**COUNTY COUNSEL**

Daniel W. O'Mullan, Esq.

**ADVISORS TO THE COUNTY**

Drinker Biddle & Reath LLP  
Bond Counsel

Nisivoccia & Company, LLP  
Auditors

Acacia Financial Group, Inc.  
Financial Advisor

**COUNTY OF SUSSEX, NEW JERSEY**

**BOARD OF CHOSEN FREEHOLDERS**

<b>Freeholder</b>	<b>Title</b>	<b>Term Expires</b>
Richard A. Zeoli	Freeholder Director	December 31, 2012
Susan M. Zellman	Deputy Freeholder Director	December 31, 2012
Phillip R. Crabb	Freeholder	December 31, 2011
Parker Space	Freeholder	December 31, 2013
Richard A. Vohden	Freeholder	December 31, 2013

**CLERK OF THE BOARD OF CHOSEN FREEHOLDERS**

Elaine A. Morgan

**COUNTY ADMINISTRATOR**

John H. Eskilson

**COUNTY TREASURER**

Bernard A. Re

**COUNTY COUNSEL**

Dennis R. McConnell, Esq.

**ADVISORS TO THE COUNTY**

Wilentz, Goldman & Spitzer, P.A.  
Bond Counsel

Nisivoccia & Company LLP  
Auditors

No broker, dealer, salesperson or other person has been authorized by the Authority, the Company or the Underwriters to give any information or to make any representations, other than those contained in this Official Statement, in connection with the offering of the Series 2011 Bonds made hereby and, if given or made, such information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Series 2011 Bonds in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. Capitalized terms not defined on this page shall have the meanings set forth in this Official Statement and in the Bond Resolution.

The information which is set forth herein has been provided by the Authority, the Company and by other sources which are believed to be reliable by the Authority, the Company and the Underwriters, but such information provided by such other sources is not guaranteed as to accuracy or completeness by the Authority, the Company or the Underwriters, and is not intended to be and is not to be construed as a representation by the Authority, the Company or the Underwriters. Certain financial, economic and demographic information concerning the County is contained in Appendices A and B to this Official Statement. Such information has been furnished by the County. Certain general information concerning the Company is contained in Appendix C to this Official Statement. Such information has been furnished by the Company. The Authority, the Underwriters and their respective counsel have not confirmed the accuracy or completeness of information relating to the Company, and the Authority and the Underwriters and their respective counsel disclaim any responsibility for the accuracy or completeness thereof. The Authority's "Solar Proposal Evaluation Report" contained in Appendix G was prepared by the Sussex County Evaluation Team in connection with the evaluation of the proposals received for the Renewable Energy Projects.

The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale hereunder shall under any circumstances create any implication that there has been no change in the affairs of the Authority, the County or the Company, since the date hereof or any earlier date as of which any information contained herein is given. This Official Statement is submitted in connection with the sale of the Series 2011 Bonds referred to herein and may not be used, in whole or in part, for any other purpose.

IN CONNECTION WITH THE OFFERING, THE UNDERWRITERS MAY OVER ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2011 BONDS OFFERED HEREBY AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME WITHOUT PRIOR NOTICE.

The Underwriters have provided the following sentence for inclusion in this Official Statement. The Underwriters have reviewed the information in this Official Statement pursuant to their responsibilities to investors under the Federal securities laws, but the Underwriters do not guarantee the accuracy or completeness of such information.

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**OFFICIAL STATEMENT**

of

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
(MORRIS, NEW JERSEY)**

relating to its

**\$25,040,000\***

**County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011A (Federally Taxable)**

and

**\$960,000\***

**County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note,  
Series 2011B (Federally Taxable)**

**INTRODUCTION**

This Official Statement, which includes the cover page, the inside cover page, and the Appendices attached hereto, sets forth certain information concerning the offering by The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*"), of its \$25,040,000\* aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A" (the "*Series 2011A Bonds*") and its \$960,000\* County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*"). The Series 2011 Bonds are to be issued pursuant to the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, as amended and supplemented (the "*Act*"), other applicable law, and that certain bond resolution of the Authority entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted on September 28, 2011, as amended and supplemented by a Certificate of an Authorized Officer of the Authority to be executed in connection with the issuance of each of the Series 2011A Bonds and the Series 2011B Note (collectively, the "*Bond Resolution*").

The Series 2011 Bonds are special and limited obligations of the Authority, payable as to principal, redemption premium, if any, and interest solely from and secured by the Authority's pledge of the Trust Estate to the Trustee (as such terms are hereinafter defined) under the Bond Resolution. The Trust Estate includes, without limitation, (i) the Revenues (as defined in the Bond Resolution), (ii) payments made by the County of Sussex, New Jersey (the "*County*")

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\* Preliminary, subject to change.

under the County Guaranty (as hereinafter defined) and (iii) the Funds and Accounts (except the (A) Administrative Expense Account and the Costs of Issuance Account of the Administrative Fund and (B) County Security Fund) defined and established under the Bond Resolution and held by the Trustee. For a full description of the Trust Estate, see "SECURITY FOR THE SERIES 2011 BONDS – General" herein.

The Revenues include, without limitation, the Basic Lease Payments (as hereinafter defined) to be made by SunLight General Sussex Solar, LLC (the "*Company*" or the "*Lessee*"), a limited liability company created and in good standing under the laws of the State of New Jersey, under that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Lease Agreement*"), by and between the Authority, as lessor, and the Company, as lessee. In conjunction with the Company Lease Agreement, the Authority will enter into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" with the Company, dated as of December 1, 2011, for the right and obligation to purchase electricity from the Company (the "*Power Purchase Agreement*"), which right and obligation the Authority shall assign to each of the Series 2011 Local Units (as hereinafter defined) under the Local Unit License Agreements (as hereinafter defined). Pursuant to the terms of the Company Lease Agreement, the Company receives certain credits against its obligation to pay the Basic Lease Payments. In particular, the Company receives a credit for, and therefore the Revenues also include, the Power Purchase Price Payments (as hereinafter defined) made by the Series 2011 Local Units to the Trustee for the purchase of electricity under the respective "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)", each to be dated as of December 1, 2011, (the "*Local Unit License Agreements*"), by and between each of the respective Series 2011 Local Units, as licensor, and the Authority, as licensee. For a description of the Revenues and the Basic Lease Payments, see "SECURITY FOR THE SERIES 2011 BONDS – Flow of Payments" herein.

The payment of the principal of (including Sinking Fund Installments, if any, as defined in the Bond Resolution) and interest on the Series 2011 Bonds (but not any redemption premium) shall be fully, unconditionally, and irrevocably guaranteed by the County pursuant to the County Guaranty under the Act and applicable law. The County has the right, power and obligation to cause the levy of *ad valorem* taxes upon all the taxable property within the County, without limitation as to rate or amount, if necessary, in order to meet its payment obligations under the County Guaranty. The County Guaranty shall remain in effect until the Series 2011 Bonds have been paid in full.

**THE SERIES 2011 BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE AUTHORITY. NEITHER THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE AUTHORITY BUT SOLELY TO THE EXTENT OF THE TRUST ESTATE, AND OTHER THAN THE COUNTY TO THE EXTENT OF THE COUNTY GUARANTY), IS OBLIGATED TO PAY THE PRINCIPAL OF, OR INTEREST ON, THE SERIES 2011 BONDS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE COUNTY TO THE EXTENT OF THE COUNTY GUARANTY) IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, OR**

**INTEREST ON, THE SERIES 2011 BONDS. THE AUTHORITY HAS NO TAXING POWER.**

See "SECURITY FOR THE SERIES 2011 BONDS" herein for a more complete description of the pledge of the Trust Estate, including certain provisions of the Bond Resolution, the Company Lease Agreement, the Power Purchase Agreement, the Local Unit License Agreements and the County Guaranty. See also "APPENDIX D – Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein.

The Series 2011 Local Units are local governments located in, and including, the County, participating in the County's Renewable Energy Program being implemented through the Authority (the "*Renewable Energy Program*"). The Series 2011A Bonds are being issued to finance, together with the Series 2011B Note and certain deferred equity provided by the Company, the Renewable Energy Projects (as hereinafter defined) for each of the Series 2011 Local Units. For a more complete description of the Renewable Energy Program, see "THE RENEWABLE ENERGY PROGRAM" herein. The balance of the proceeds of the Series 2011A Bonds are being used to (i) reimburse certain Renewable Energy Program development costs paid by the Authority, (ii) pay certain fees and costs incurred by or for the Company in connection with the Renewable Energy Program, and (iii) pay the various costs of issuing the Series 2011 Bonds. The proceeds of the Series 2011B Note are being used to pay capitalized interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012. See "SOURCES AND USES OF SERIES 2011A BONDS AND SERIES 2011B NOTE PROCEEDS" herein.

In accordance with the Local Authorities Fiscal Control Law, constituting Chapter 313 of the Pamphlet Laws of 1983 of the State, as amended and supplemented (the "*Local Authorities Fiscal Control Law*"), the Local Finance Board, Division of Local Government Services of the Department of Community Affairs of the State (the "*Local Finance Board*"), has reviewed and held a public hearing regarding the issuance of the Series 2011 Bonds and the adoption and execution of the County Guaranty. By resolution adopted August 18, 2011, the Local Finance Board made favorable findings and recommendations with respect to the Series 2011 Bonds and the County Guaranty in accordance with the Local Authorities Fiscal Control Law. The Authority adopted a resolution on October 19, 2011 acknowledging the Authority members' review of the Local Finance Board's findings, and each member of the Authority present at such meeting executed a group affidavit dated as of October 19, 2011 to such effect. U.S. Bank National Association, Morristown, New Jersey (the "*Trustee*") has been appointed to serve as trustee, paying agent and registrar for the Series 2011 Bonds.

This Official Statement contains brief descriptions of the Bond Resolution, the County Guaranty, the Company Lease Agreement, the Local Unit License Agreements, and the Power Purchase Agreement (collectively, the "*Renewable Energy Program Documents*"), the Series 2011 Bonds, the Authority, the Company, and the County. See also "APPENDIX D – Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein. Copies of the Renewable Energy Program Documents are on file in the office of the Authority in Morristown, New Jersey, and reference is made to such documents for the provisions relating to, among other things, the terms of and security for the Series 2011 Bonds, the custody and application of the proceeds of the Series

2011 Bonds, the rights and remedies of the holders of the Series 2011 Bonds and the rights, duties and obligations of the Authority, the Series 2011 Local Units, the Company, the County and the Trustee. A brief description of the County and its financial statements are contained in Appendices A and B hereto. A brief description of the Company is contained in Appendix C hereto and further description of the Renewable Energy Program and the Sussex County Evaluation Team's report evaluating the Company's proposal is contained in Appendix G hereto. Capitalized words and terms which are used herein which are not ordinarily capitalized and which are not otherwise defined herein shall have the meanings which are assigned to such words and terms in the Bond Resolution. See "APPENDIX D - Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein. The summaries of and references to all documents, statutes, reports and other instruments which are referred to herein do not purport to be complete, comprehensive or definitive, and each such summary and reference is qualified in its entirety by reference to such document, statute, report or instrument.

### **THE RENEWABLE ENERGY PROGRAM**

At the direction and with the support of the County, the Authority structured, developed and is in the process of implementing the Renewable Energy Program. The Renewable Energy Program provides for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications or other work required or convenient for the installation of such systems (collectively, the "*Renewable Energy Projects*") for and on behalf of the County and local governmental units within the County, including without limitation, municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*"). The Renewable Energy Projects procured under the Renewable Energy Program are to be installed on, in, affixed or adjacent to and/or for any Local Unit-controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*").

In connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, it may be necessary, desirable or convenient to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems (collectively, the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project, the "*Projects*"). The Authority anticipates no Capital Improvement Projects in connection with projects financed by the Series 2011 Bonds on behalf of the Series 2011 Local Units.

The primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits (including their contribution toward the State 2011 Energy Master Plan goal of achieving thirty percent (30%) renewable energy sources by 2020), and to reduce the energy-related operating costs of the Local Units for their Local Unit

Facilities, all without obligating the Local Units to pay for the debt service on the Authority bonds (in this pool, the Series 2011 Bonds) issued to finance the costs of such Projects.

In order to implement the Renewable Energy Program, the Authority will apply a portion of the proceeds of the Series 2011A Bonds (together with all of the proceeds of the Series 2011B Note to pay capitalized interest on the Series 2011A Bonds) to finance the respective Renewable Energy Projects on the respective Local Unit Facilities, all as set forth in Exhibit B (i.e., photovoltaic panel and electrical system upgrades), and Exhibit A (the roofs, ground and parking lots for twenty-seven (27) Renewable Energy Projects located at twenty (20) public facilities) to the License and Access Agreement (a form of which is attached hereto in Appendix D) for each of the following thirteen (13) participating Local Units, or other qualifying Local Units if necessary (the "Series 2011 Local Units"):

- (i) Fredon Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatiny Regional School District and Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "*County Series 2011 Local Units*");

Pursuant to the Local Unit License Agreement with each Series 2011 Local Unit, the Authority and/or its assignees have the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement.

Under the competitive contracting provisions of the Local Public Contracts Law constituting, Chapter 198 of the Pamphlet Laws of 1971 of the State, as amended and supplemented (the "*Local Public Contracts Law*"), the Authority has procured the services of the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the Local Unit Facilities of (i) the Municipal Series 2011 Local Units and (ii) the County Series 2011 Local Units. The Company has secured rights to access these Local Unit Facilities from the rights and obligations set forth in the Local Unit License Agreements of such respective Series 2011 Local Units, all of which rights and obligations have been assigned from the Authority to the Company pursuant to the terms of the Company Lease Agreement. The funding for such Renewable Energy Projects shall be provided (i) to the Company in the

amount of 70% of each requisition on a requisition basis from a portion of the proceeds of the Series 2011 Bonds and (ii) by the Company in the amount of 30% of each requisition through its in-kind equity contribution discussed herein.

Under the competitive contracting provisions of the Public Schools Contracts Law constituting Chapter 114 of the Pamphlet Laws of 1977 of the State, as amended and supplemented (the "*Public Schools Contracts Law*" and together with the Local Public Contracts Law, the "*Contract Law*"), the Authority has procured the services of the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the Local Unit Facilities of the Board of Education Series 2011 Local Units. The Company has secured rights to access these Local Unit Facilities from the rights and obligations set forth in the Local Unit License Agreements of such respective Series 2011 Local Units, all of which rights and obligations have been assigned from the Authority to the Company pursuant to the terms of the Company Lease Agreement. The funding for such Renewable Energy Projects shall be provided to the Company (i) to the Company in the amount of 70% of each requisition on a requisition basis from a portion of the proceeds of the Series 2011 Bonds and (ii) by the Company in the amount of 30% of each requisition through its in-kind equity contribution discussed herein.

In accordance with the terms of the Power Purchase Agreement, the Company shall sell to the Authority, for a term of fifteen (15) years, unless extended in accordance with then applicable law, the renewable energy generated from the Renewable Energy Projects for the Series 2011 Local Units for a fixed price of 0.099\* cents per kilowatt hour, as escalated annually by 3% in accordance with the terms thereof (the "*Power Purchase Price*"), which Authority right and obligation to purchase and pay (the "*Power Purchase Price Payments*") for such renewable energy shall be assigned severally, not jointly, to the Series 2011 Local Units as part of the Local Unit License Agreements. The Power Purchase Price fixed under the Power Purchase Agreement shall be based, in part, upon the Authority's assignment in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all of the Authority's rights to the Solar Renewable Energy Certificates (the "*SRECs*") generated by the Renewable Energy Projects for the Series 2011 Local Units.

The structure of the Renewable Energy Program, summarized above, is intended to provide the Series 2011 Local Units with a Power Purchase Price below their existing and anticipated cost of electricity for the term of their Local Unit License Agreements. According to the report prepared by the County's consulting team dated October 24, 2011, on file with the Authority and attached hereto as Appendix G, in particular Attachment 3 thereto, the average annual nominal savings on solar energy purchased by the Series 2011 Local Units participating in the Renewable Energy Program equals or exceeds 28%.

#### **THE AUTHORITY**

The Authority was created in accordance with the provisions of the Act and by ordinance of the County Board of Chosen Freeholders duly adopted on April 10, 2002.

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\* Preliminary, subject to change.

The Authority is a public body corporate and politic, constituting a political subdivision of the State, and was established as an instrumentality exercising public and essential governmental functions to provide for the public convenience, benefit and welfare and shall have perpetual succession. Under the terms of the Act, the Authority has the power, among others, to (i) acquire, construct, renovate and install any "Public Facility" as such term is defined in the Act, including the Projects for the Series 2011 Local Units, (ii) issue its bonds, notes or other obligations to finance or refinance the costs of such Public Facilities, including the Series 2011 Bonds, and (iii) purchase bonds, bond anticipation notes or other notes or obligations of the Authority out of any funds available therefor.

The Authority is governed by a five member Board of Commissioners appointed by the County Board of Chosen Freeholders. The current Commissioners and officers are set forth below:

<b>MEMBER</b>	<b>TITLE</b>	<b>EXPIRATION OF CURRENT TERM</b>
John Bonanni	Chairperson and Commissioner	February 1, 2012
Christina Ramirez	Vice Chairperson and Commissioner	February 1, 2013
Glenn Roe	Treasurer and Commissioner	February 1, 2016
Ellen M. Sandman	Secretary and Commissioner	February 1, 2014
Frank T. Pinto, Jr.	Assistant Secretary and Commissioner	February 1, 2015

The officers of the Authority are appointed by the members of the Authority. The Chairperson, Treasurer, and Assistant Secretary of the Authority are also employees of the County. Inglesino, Pearlman, Wyciskala & Taylor, LLC, Parsipanny, New Jersey, is General Counsel and Bond Counsel to the Authority. The Financial Advisor to the Authority for the Series 2011 Bonds is NW Financial Group, LLC. In addition the joint venture team of (a) Gabel Associates, of Highland Park, New Jersey, and (b) Birdsall Services Group, of Cranford, New Jersey, provided a full range of energy consulting and engineering services to the Authority.

#### **THE COMPANY**

SunLight General Sussex Solar, LLC (the "*Company*") is a limited liability company created and in good standing under the laws of the State of New Jersey. It is a wholly-owned subsidiary of SunLight General Sussex Holdings, LLC ("*Holdco*"), which is the Company's only member. Holdco is organized to take advantage of the investment tax credit, the related Treasury Department Grant Program and accelerated depreciation Federal tax benefits under the Internal Revenue Code, which the County is unable to use. Holdco has no responsibility for the Company's obligations although Holdco has pledged its membership interest in and to the Company to the Authority under a pledge agreement in order to secure the Company's obligation to make the \$1,500,000 million cash equity contribution to the County Security Fund from the 1603 grant to be obtained from the Renewable Energy Projects of the Series 2011 Bonds, or from other funds available to the Company. The Company has no responsibility for Holdco's obligations. Further, the Company has no obligations other than those associated with the Projects for the Series 2011 Local Units as set forth in the Renewable Energy Program Documents.

The Company is a special purpose entity, formed for the purpose of contracting with the Authority to design and build the Projects for the Series 2011 Local Units, operate and maintain the Projects for the Series 2011 Local Units, lease certain properties and obtain certain rights related to the Renewable Energy Projects from the Authority pursuant to a lease arrangement as set forth in the Company Lease Agreement, and sell the renewable energy from the Renewable Energy Projects through the Authority to the Series 2011 Local Units, all as contemplated by the Renewable Energy Program Documents. See "THE RENEWABLE ENERGY PROGRAM" herein. The Company's principal assets and liabilities are the rights and obligations under the Renewable Energy Program Documents with the Authority. Pursuant to the Company Lease Agreement, the Company is obligated to deposit certain security with the Trustee, for the benefit of the County, to secure the Company's performance and payment under the Company Lease Agreement. While on deposit with the Trustee, this security is held solely for the benefit of the County and is neither included in the Trust Estate nor otherwise pledged to the Holders.

The Company is managed by SunLight General Capital Management, LLC. Pursuant to the Company Lease Agreement, the Company is obligated to pledge certain revenues to the Authority to secure the Company's performance and payment under the Company Lease Agreement. The Company is contracting with Power Partners MasTec, LLC to design and construct the Projects for the Series 2011 Local Units. The Company will operate the Renewable Energy Projects for the Series 2011 Local Units, either directly or through one or more operations and maintenance contractors.

Summary descriptions of Holdco and Power Partners MasTec, LLC are included as Appendix C to this Official Statement. Further information regarding the Company and the Renewable Energy Projects is included in Appendix G to this Official Statement, which information has been prepared by the Sussex County Evaluation Team in connection with the evaluation of proposals received for the Renewable Energy Projects.

## **DESCRIPTION OF THE SERIES 2011 BONDS**

### **General**

The Series 2011A Bonds shall be dated and bear interest from their date of delivery, payable on June 15 and December 15 of each year until final maturity (stated or otherwise) commencing on June 15, 2012, at the interest rates per annum set forth on the inside front cover page of this Official Statement. The Series 2011A Bonds are scheduled to mature on June 15 in the years also set forth on the inside front cover page of this Official Statement.

The Series 2011B Note shall be dated and bear interest from its date of delivery and will be payable as to principal and interest on their maturity date, January 15, 2013, at the interest rate per annum set forth on the inside front cover page of this Official Statement.

The Series 2011 Bonds will be issued as fully registered book-entry bonds/notes, and registered in the name of Cede & Co. ("*Cede*"), as nominee for The Depository Trust Company, New York, New York ("*DTC*"), which will act as securities depository for the Series 2011 Bonds under its book-entry only system (the "*DTC Book-Entry Only System*"). An individual purchaser may purchase a Series 2011 Bond in book-entry form (without certificates) in

denominations of \$5,000, or any integral multiple thereof. Provided DTC, or its nominee Cede, is the registered owner of the Series 2011 Bonds, the principal, redemption premium, if any, of, and interest on, the Series 2011 Bonds will be paid to DTC or Cede, as its nominee. See "DESCRIPTION OF THE SERIES 2011 BONDS – Book-Entry Only System" herein. In the event the Series 2011 Bonds are no longer subject to the DTC Book-Entry Only System, the principal of and redemption premium, if any, on the Series 2011 Bonds will be payable upon surrender of the respective Series 2011 Bonds at a designated corporate trust office of the Paying Agent. Interest on the Series 2011A Bonds will then be paid by check or bank draft mailed by the Paying Agent to the registered owner thereof as of the June 1 and December 1 preceding any interest payment date at their addresses on file with the Bond Registrar. Interest on the Series 2011B Note will then be paid by check or bank draft mailed by the Paying Agent to the registered owner thereof as of January 1, 2013 at their addresses on file with the Bond Registrar.

### **Optional Redemption\***

The Series 2011A Bonds maturing on or before June 15, \_\_\_\_\_ shall not be subject to redemption prior to their respective maturity dates. The Series 2011A Bonds maturing on and after June 15, \_\_\_\_\_ shall be subject to optional redemption by the Authority prior to their respective maturity dates, on or after June 15, \_\_\_\_\_, upon notice as herein described, either in whole at any time, or in part on any Interest Payment Date in such order of maturity as the Authority shall determine and within a single maturity by lot, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

Pursuant to the terms of the County Guaranty Agreement, under certain circumstances, the County may direct the Authority to utilize this otherwise discretionary optional redemption feature set forth above. To the extent the Company causes an Event of Default, as defined under the Company Lease Agreement, to occur and such Event of Default requires the County to make a payment of the principal of and interest on the Series 2011A Bonds under the County Guaranty, so long as the County is not in default under the County Guaranty Agreement, the County has the right to cause the Authority to refund all or a portion of the Series 2011A Bonds. To the extent the County were to exercise this right prior to the first optional call date of June 15, \_\_\_\_\_, the County would be required to cause the Authority to defease the Series 2011A Bonds in accordance with Article XII of the Bond Resolution, in which case the Series 2011A Bonds would not be called for redemption until such first optional call date of June 15, \_\_\_\_\_. See "TAX MATTERS - Defeasance of the Series 2011A Bonds" herein for a discussion of the tax implications in the event of a defeasance of the Series 2011A Bonds.

The Series 2011B Note shall not be subject to optional redemption prior to its maturity date.

### **Mandatory Sinking Fund Redemption\***

The Series 2011A Bonds maturing on June 15, \_\_\_\_ and June 15, \_\_\_\_ are subject to mandatory redemption prior to their stated maturities, through selection by the Trustee and upon

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\* Preliminary, subject to change.

the giving of notice as provided by the Bond Resolution, by payment of the following "Sinking Fund Installments" on June 15 of each year set forth in the table below, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

Date\*                      Principal Amount\*

Date\*                      Principal Amount\*

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\*Preliminary, subject to change.

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† Final Maturity.

#### **No Extraordinary Optional Redemption**

The Series 2011 Bonds shall not be subject to extraordinary optional redemption in whole or in part, prior to their respective maturity dates.

#### **Notice of Redemption**

When the Series 2011A Bonds have been selected for redemption pursuant to any provision of the Bond Resolution, the Trustee shall give written notice of the redemption of such Series 2011A Bonds in the name of the Authority, which notice shall set forth: (i) the date fixed for redemption, (ii) the Redemption Price to be paid, (iii) the designated office of the Paying Agent at which redemption will occur, (iv) the CUSIP numbers on the Series 2011A Bonds to be redeemed, (v) if less than all of such Series 2011A Bonds shall be called for redemption, the distinctive numbers and letters, if any, of such Series 2011A Bonds to be redeemed, (vi) in the case of Series 2011A Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed, and (vii) except with respect to a mandatory sinking fund redemption, that such redemption is conditioned upon there being on deposit with the Trustee on the date designated for redemption moneys sufficient for the payment of the Redemption Price and the accrued interest to the redemption date. Such notice shall further state that on the redemption date there shall become due and payable the Redemption Price of all Series 2011A Bonds to be redeemed, together with interest accrued thereon to the redemption date, and that, from and after such date, interest thereon shall cease to accrue. If any Series 2011A Bond is to be redeemed in part only, the notice of redemption that relates to such Series 2011A Bond shall state also that on or after the redemption date, upon surrender of such Series 2011A Bond, the Holder thereof shall

be entitled to a new Series 2011A Bond or Series 2011A Bonds, bearing interest at the same rate and in aggregate principal amount equal to the unredeemed portion of such Series 2011A Bond.

The notice required to be given by the Trustee shall be sent by first class mail to the registered Holders of the Series 2011A Bonds to be redeemed, at their addresses as they appear on the Bond registration books of the Authority, not less than thirty (30) nor more than forty-five (45) days prior to the redemption date. The failure to give notice of the redemption of any Series 2011A Bond or portion thereof to the registered Holder of such Series 2011A Bonds shall not affect the validity of the proceedings for the redemption of any Series 2011A Bonds for which notice of redemption has been given in accordance with the provisions of the Bond Resolution.

### **Additional Bonds**

The Authority does not presently anticipate issuing any Series of Additional Bonds under the Bond Resolution, as the Company is anticipated to fund any cost overruns of the Renewable Energy Projects for the Series 2011 Local Units under the Company Lease Agreement. The initial financing pool for the Renewal Energy Program has been, and any additional tranches of bonds for further Authority Renewable Energy Programs shall be, issued under separate Authority bond resolutions.

Thereafter, upon the Authority's adoption of a Supplemental Resolution and the amendment of the Company Lease Agreement to adjust and conform the Basic Lease Payment amounts to the principal of and interest on any Series of Additional Bonds, and further, upon compliance with the laws and procedures applicable for issuance of any series of Authority bonds, then one or more Series of Additional Bonds of the Authority may be authorized to be issued pursuant to and in accordance with the terms of the Act either to (i) refund any Bonds (including Additional Bonds) of the Authority, or (ii) raise funds for any Completion Project. After the issuance of the Series 2011 Bonds, and after the authentication and delivery by the Trustee upon original issuance of any Series of Additional Bonds (collectively, the "*Bonds*"), all Additional Bonds shall for all purposes of the Bond Resolution be deemed to constitute Bonds, shall be entitled to the pledge of the Trust Estate provided by the Bond Resolution, and shall have equal rank with the Outstanding Series 2011 Bonds and any Series of Outstanding Additional Bonds previously authenticated and delivered, if any, and such Additional Bonds shall be entitled to the security and benefit of such pledge and of the provisions of the Bond Resolution.

### **Book-Entry Only System**

The following description of DTC, and the procedures and record keeping with respect to beneficial ownership interests in the Series 2011 Bonds, payment of principal, interest and other payments on the Series 2011 Bonds to Direct Participants, Indirect Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interests in such Series 2011 Bonds and other related transactions by and between DTC, the Direct Participants, the Indirect Participants and the Beneficial Owners is based solely on information provided by DTC, and the Authority, the Company and the Underwriters assume no responsibility therefor. Accordingly, no representations can be made concerning these matters and neither the Direct Participants, the Indirect Participants nor the Beneficial Owners should rely on the following information with

respect to such matters but should instead confirm the same with DTC or the Direct Participants or the Indirect Participants, as the case may be. Information concerning DTC and the Book-Entry Only System has been obtained from DTC and is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation of, the Authority, the Company and the Underwriters.

DTC will act as the initial securities depository for the Series 2011 Bonds. The Series 2011 Bonds will be issued as fully-registered securities registered in the name of Cede (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered bond certificate will be issued for each maturity of the Series 2011 Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC's participants ("*Direct Participants*") deposit with DTC. DTC also facilitates the post-trade settlement among computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("*DTCC*"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("*Indirect Participants*"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission.

Purchases of Series 2011 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2011 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2011 Bond ("*Beneficial Owner*") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2011 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Series 2011 Bonds, except in the event that use of the book-entry system for the Series 2011 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2011 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede, or such other name as may be requested by an authorized representative of DTC. The deposit of the Series 2011 Bonds with DTC and their registration in the name of Cede or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2011 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2011 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Series 2011 Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede (nor any other DTC nominee) will consent or vote with respect to any matter related to the Series 2011 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede's consenting or voting rights to those Direct Participants to whose accounts the Series 2011 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, redemption premium, if any, and interest payments on the Series 2011 Bonds will be made to Cede, or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from the Authority or the Paying Agent on payable dates in accordance with their respective holdings shown on DTC's records. Payments by Direct Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Authority or its Paying Agent, if any, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, redemption premium, if any, and interest to Cede (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Authority or its Paying Agent, if any, disbursement of such payments to Direct Participants shall be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of the Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Series 2011 Bonds at any time by giving reasonable notice to the Authority or its Paying Agent, if any. Under such circumstances, in the event that a successor securities depository is not obtained, physical Series 2011 Bonds are required to be printed and delivered. The Authority may decide to discontinue use of the system of book-entry only transfers through DTC (or a

successor securities depository). In such event, physical Series 2011 Bonds will be printed and delivered to the Beneficial Owners.

The information in this section concerning DTC and DTC's book-entry system has been obtained from DTC, but the Authority, the Company and the Underwriters take no responsibility for the accuracy thereof.

THE AUTHORITY OR THE TRUSTEE WILL HAVE NO RESPONSIBILITY OR OBLIGATION, EITHER SINGULARLY OR JOINTLY, TO DIRECT PARTICIPANTS, TO INDIRECT PARTICIPANTS, OR TO ANY BENEFICIAL OWNER WITH RESPECT TO (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, CEDE, ANY DIRECT PARTICIPANT, OR ANY INDIRECT PARTICIPANT; (II) ANY NOTICE THAT IS PERMITTED OR REQUIRED TO BE GIVEN TO THE OWNERS OF THE SERIES 2011 BONDS UNDER THE BOND RESOLUTION; (III) THE SELECTION BY DTC OR ANY DIRECT PARTICIPANT OF ANY PERSON TO RECEIVE PAYMENT IN THE EVENT OF A PARTIAL REDEMPTION OF THE SERIES 2011 BONDS; (IV) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OR REDEMPTION PREMIUM, IF ANY, OR INTEREST DUE WITH RESPECT TO THE SERIES 2011 BONDS; (V) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF SERIES 2011 BONDS; OR (VI) ANY OTHER MATTER.

#### **Discontinuance of Book-Entry Only System**

In the event that the Book-Entry Only System is discontinued, the following provisions would apply. The Trustee shall keep the registration books for the Series 2011 Bonds at its principal corporate trust office. Subject to the further conditions contained in the Bond Resolution, the Series 2011 Bonds may be transferred or exchanged for one or more Series 2011 Bonds in different authorized denominations upon surrender thereof at the principal corporate trust office of the Trustee by the registered owners or their duly authorized attorneys. Upon surrender of any Series 2011 Bonds to be transferred or exchanged, the Trustee shall record the transfer or exchange in its registration books, and shall authenticate and deliver new Series 2011 Bonds appropriately registered and in appropriate authorized denominations. During the fifteen (15) days immediately preceding the date of mailing of any notice of redemption or any time following the mailing of any notice of redemption, the Trustee shall not be required to effect or register any transfer or exchange of any Series 2011 Bond which has been selected for such redemption. The Authority and the Trustee shall be entitled to treat the registered owners of the Series 2011 Bonds, as their names appear in the registration books as of the appropriate dates, as the owners of such Series 2011 Bonds for all purposes under the Bond Resolution. No transfer or exchange made other than as described above and in the Bond Resolution shall be valid or effective for any purposes under the Bond Resolution.

## SECURITY FOR THE SERIES 2011 BONDS

### General

The Series 2011 Bonds are special and limited obligations of the Authority. As the sole security for the payment of the principal and redemption premium, if any, of and the interest on the Bonds, including the Series 2011 Bonds, and as security for the observance and performance of any other duty, covenant, obligation or agreement of the Authority under the Bond Resolution, the Authority has pledged the Trust Estate to the Trustee pursuant to the Bond Resolution. Such pledge was valid and binding from the time when the pledge was made, and the Trust Estate was immediately subject to the lien of such pledge without any physical delivery thereof or further act and regardless of whether held by the Trustee, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof.

The provisions of the Bonds and the Bond Resolution are deemed to be and do constitute contracts by and among the Authority, the Trustee and the registered owners, from time to time, of the Bonds, and the security interest which is granted and the pledge which is made in the Bond Resolution and the duties, covenants and agreements which are set forth in the Bond Resolution to be performed on behalf of the Authority and the Trustee shall be for the equal and ratable benefit, protection and security of the registered owners of any and all Bonds, including the Series 2011 Bonds and the Series 2011B Note, all of which, regardless of the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction as to lien or otherwise of any of the Bonds over any other thereof, except as expressly provided in or pursuant to the terms of the Bond Resolution. For a description of the Authority's authority to issue Additional Bonds, see "DESCRIPTION OF THE SERIES 2011 BONDS – Additional Bonds" herein. For a form of the Bond Resolution, see "APPENDIX D – Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein.

The Trust Estate includes all right, title and interest of the Authority in, to and under (i) the Revenues, (ii) all moneys payable by the County under the County Guaranty, (iii) all moneys and securities held in any Funds and Accounts established under the Bond Resolution (except for moneys or securities held in (A) the Administrative Expense Account and the Costs of Issuance Account of the Administrative Fund and (B) the County Security Fund), (iv) the Company Lease Agreement, but only to the extent necessary to enforce the payment of Revenues owed by the Company thereunder, which excludes all of the Authority's obligations thereunder, the Reserved Rights, and the Authority's rights to the Projects for the Series 2011 Local Units and (v) any other amounts received from any other source by or on behalf of the Authority and pledged by the Authority as security for the payment of the Bonds, including the Series 2011 Bonds, all of which as shall have been pledged by the Authority to the Trustee pursuant to Section 1.04 of the Bond Resolution as security for the payment of the principal, redemption premium, if any, and interest on the Bonds, including the Series 2011 Bonds.

The Revenues include (i) all Basic Lease Payments made by the Company under the Company Lease Agreement, together with all Power Purchase Price Payments made by the Series 2011 Local Units to the Trustee, (ii) those Additional Lease Payments related to the

Purchase Option Price or the Mandatory Purchase Price made by the Company under the Company Lease Agreement, (iii) any investment income which is derived from the investment of any funds which are held by the Trustee pursuant to the terms of the Bond Resolution and which are deposited in the Funds and Accounts established under the Bond Resolution; provided, however, that Revenues shall not include the investment income on moneys or securities held in (A) the Administrative Expense Account and the Costs of Issuance Account of the Administrative Fund and (B) the County Security Fund, and (iv) any other amounts received from any other source by or on behalf of the Authority, the Company, the County, the Series 2011 Local Units, the Trustee or the Paying Agent, whereby such amounts are directed or permitted to be applied to the payment of the principal of, redemption premium, if any, and interest on the Bonds, including the Series 2011 Bonds.

**THE SERIES 2011 BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE AUTHORITY. NEITHER THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE AUTHORITY BUT SOLELY TO THE EXTENT OF THE TRUST ESTATE, AND OTHER THAN THE COUNTY TO THE EXTENT OF THE COUNTY GUARANTY), IS OBLIGATED TO PAY THE PRINCIPAL OF, OR INTEREST ON, THE SERIES 2011 BONDS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE COUNTY TO THE EXTENT OF THE COUNTY GUARANTY) IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, OR INTEREST ON, THE SERIES 2011 BONDS. THE AUTHORITY HAS NO TAXING POWER.**

#### **Company Lease Agreement**

The following is a summary of certain provisions of the Company Lease Agreement. The summary does not purport to be complete and comprehensive and reference is made to a form of the Company Lease Agreement which is included in Appendix D hereto. All capitalized terms used in this subsection and not otherwise defined shall have the meaning ascribed to such terms in the Company Lease Agreement.

Under the Company Lease Agreement, the Company is obligated to commence construction of the first Project by no later than June 15, 2012, to proceed diligently and to complete the Projects on or before December 15, 2012, unless such date is extended due to Force Majeure or an Event of Default under a Local Unit License by a Series 2011 Local Unit. Prior to the issuance of the Series 2011 Bonds, the Company shall enter into an engineering, procurement and construction contract with Power Partners MasTec, LLC for the design, engineering and construction of the Projects financed by the Series 2011 Bonds.

Under the terms of the Company Lease Agreement, the Company is required to make Basic Lease Payments to the Trustee. A substantial portion of the revenue to the Company used to make the Basic Lease Payments consists of the sale of SRECs generated by the Renewable Energy Projects for the Series 2011 Local Units. The Principal Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of principal due and payable on the Bonds, including the Series 2011A Bonds, on the immediately succeeding Principal Payment Date, with respect to regularly scheduled Principal Payment Dates, all as set forth on Exhibit A-3

Regular to the Company Lease Agreement, (except for the January 15, 2013 payment, where the Basic Lease Payment Date and the Principal Payment Date for the Series 2011B Note shall be the same date). The Interest Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of interest due and payable on the Bonds, including the Series 2011A Bonds, on the immediately succeeding Interest Payment Date, with respect to regularly scheduled Interest Payment Dates (except for the January 15, 2013 payment, where the Basic Lease Payment Date and the Interest Payment Date for the Series 2011B Note shall be the same date), all as set forth on Exhibit A-3 Regular to the Company Lease Agreement.

The Basic Lease Payment Dates have been established as any date set forth in Exhibit A-3 Regular to the Company Lease Agreement and designated as a Basic Lease Payment Date, which for the Interest Portion and Principal Portion of any Basic Lease Payment, shall be a day five (5) months prior (i.e., each January 15 and July 15, commencing January 15, 2013) to any regularly scheduled Interest Payment Date for the Series 2011A Bonds (i.e., each June 15 and December 15, commencing June 15, 2012); provided that the interest payable on the Series 2011A Bonds on June 15, 2012 and December 15, 2012 shall be paid from the proceeds of the Series 2011B Note deposited in the Capitalized Interest Account of the Debt Service Fund, and any regularly scheduled Principal Payment Date for the Series 2011A Bonds (i.e., each June 15), respectively, or if either of such days is not a Business Day, the first Business Day prior to such date.

Except for the credits to be received by the Company, including the Power Purchase Price Payments made by the Series 2011 Local Units to the Trustee under their respective Local Unit License Agreements, the obligation of the Company, as Lessee, to make Lease Payments (including Basic Lease Payments) in full and when due under the Company Lease Agreement shall be absolute and unconditional in all events, including without limitation any circumstance regarding the Projects, regardless of whether any such event shall be foreseen or otherwise, and regardless of whether any such event shall occur by accident or otherwise. See "SECURITY FOR THE SERIES 2011 BONDS – Flow of Payments" herein. The Company, as Lessee, has further acknowledged and irrevocably covenanted under the Company Lease Agreement that the terms of the Company Lease Agreement create a valid and binding obligation of the Company, as Lessee, to make Lease Payments (including Basic Lease Payments) from any available source under all circumstances.

As the initial County Security Fund Requirement is \$1,500,000, the Company is obligated to deposit certain security with the Trustee no later than the earlier of (i) ninety (90) days after completion of the Series 2011 Local Unit projects or (ii) March 15, 2013, for the sole benefit of the County to secure the Company's performance and payment under the Company Lease Agreement. After the first year of operations of the Company (assuming receipt of Section 1603 Grant proceeds by the Company and elimination of the County Deficiency Amount (as defined in the Company RFP)), the funds in the County Security Fund shall be moved to the Debt Service Fund (utilized as a credit to debt service on the Series 2011 Bonds) and be invested in Investment Securities held by the Trustee or another financial institution deemed acceptable by the County. In the event that the Series 2011 Bonds are not issued by December 22, 2011 (the date stated by the Company as the time required for the Company to obtain the Section 1603 Grant), the \$1,500,000 held in the County Security Fund will be released to the Company immediately after the first year of Company operations provided that the County Deficiency

Amount has been eliminated. All moneys are required to be on deposit with the Trustee, in the County Security Fund, and such security is held solely for the benefit of the County and is neither included in the Trust Estate nor otherwise pledged to the Holders.

To the extent Additional Bonds are authorized under the Bond Resolution, one of the conditions precedent to issuance of any such Series of Additional Bonds is an amendment and supplement to the Company Lease Agreement, including, as applicable, the Basic Lease Payment schedule, to reflect any increased principal of and interest due on any Series of Additional Bonds issued to fund all or a portion of a Completion Project (which the Authority is under no obligation to issue, as the Company is obligated to fund any Renewable Energy Project cost overruns).

Basic Lease Payments made by the Company and received by the Trustee shall be deposited in the Revenue Account of the Revenue Fund. After any such funds have been on deposit for one hundred twenty-three (123) consecutive days in the Revenue Account within the Revenue Fund, and have not been withdrawn or recaptured by or on behalf of the Company or its other creditors, the Trustee shall transfer such funds to the Aged Account within the Revenue Fund.

On or prior to each Interest Payment Date, the Trustee shall transfer from moneys on deposit in the Aged Account within the Revenue Fund to the Interest Account in the Debt Service Fund the amount that, together with the amounts, if any, already on deposit in the Interest Account and the amounts, if any, on deposit in the Capitalized Interest Account and designated for use on such Interest Payment Date pursuant to the Bond Resolution or a Supplemental Resolution, is equal in the aggregate to the interest due and payable on the Outstanding Bonds, including the Outstanding Series 2011 Bonds, on such Interest Payment Date.

On or prior to each Principal Payment Date, the Trustee shall transfer from moneys on deposit in the Aged Account within the Revenue Fund to the Principal Account in the Debt Service Fund the amount that, together with the amounts, if any, already on deposit in the Principal Account, is equal in the aggregate to the principal, Sinking Fund Installment or Redemption Price due and payable on the Outstanding Bonds, including the Outstanding Series 2011 Bonds, on such Principal Payment Date.

The Underwriters and Authority make no representation of the Company's ability to make payments under the Company Lease Agreement. For further information about the Company see "THE COMPANY" and "APPENDIX C - Certain Information Concerning the Company".

### **Local Unit License Agreements**

The following is a summary of certain provisions of the Local Unit License Agreements. The summary does not purport to be complete and comprehensive and reference is made to a form of the Local Unit License Agreements which is included in Appendix D hereto. All capitalized terms used in this subsection and not otherwise defined shall have the meaning ascribed to such terms in the Local Unit License Agreements.

Under the Renewable Energy Program, and specifically, the respective Local Unit License Agreements, the Series 2011 Local Units are required to pay the Power Purchase Price, through Power Purchase Price Payments made by or on behalf of such Series 2011 Local Units, directly to the Trustee. The Power Purchase Price has been established by the Company and the Authority pursuant to the Power Purchase Agreement for a minimum term of fifteen (15) years, subject to the terms of the Power Purchase Agreement.

The Authority's right and obligation to purchase the renewable energy produced from the Renewable Energy Project located on the Local Unit Facility of each such respective Series 2011 Local Unit (i) commences severally but not jointly once the installation of the Projects, for such Series 2011 Local Unit, on their Local Unit Facility, has been completed by or on behalf of the Company in accordance with mutually agreed upon Plans and Specifications therefor, and (ii) has been assigned to each respective Series 2011 Local Unit under their Local Unit License Agreements. Pursuant to the Company Lease Agreement, the Company has until December 15, 2012 (as such date may be extended for Force Majeure or a Series 2011 Local Unit Event of Default) to complete the installation of all Projects for the Series 2011 Local Units. Accordingly there are different Power Purchase Price Payment commencement dates (the "*Commencement Dates*") for the various Series 2011 Local Units, but all shall be obligated to commence such payments no later than January 15 2013, assuming the Company completes its Project installation obligations on a timely basis (as such date may be extended for Force Majeure or a Series 2011 Local Unit Event of Default).

Under the Local Unit License Agreements, the Series 2011 Local Units are obligated to pay the Power Purchase Price, through Power Purchase Price Payments made to the Trustee, in full and on time, without regard to set-off or any other rights they might assert against the Authority or the Trustee for any reason, which rights against the Company, the Authority or the Trustee are waived by the Series 2011 Local Units. Upon receipt, the Trustee shall deposit the Power Purchase Price Payments in the Revenue Account of the Revenue Fund, and the Company shall receive a credit to its Basic Lease Payments owed under the Company Lease Agreement. After any such funds deposited in the Revenue Account within the Revenue Fund have been on deposit for one hundred twenty-three (123) consecutive days in the Revenue Account within the Revenue Fund, and have not been withdrawn or recaptured by or on behalf of the Company or its other creditors, the Trustee shall transfer such funds to the Aged Account within the Revenue Fund, where such funds are available to pay the principal of, redemption premium, if any, and interest on the Outstanding Bonds, including the Series 2011 Bonds. See "SECURITY FOR THE SERIES 2011 BONDS – Company Lease Agreement" above.

The following chart sets forth the expected percentage of revenue from the following sources for the Company's payment of the Basic Lease Payments to the Trustee, which shall be applied by the Trustee to the payment of debt service on the Series 2011 Bonds: (1) the annual revenue from Power Purchase Price Payments scheduled to be made by the respective Series 2011 Local Units under the Power Purchase Agreement and their Local Unit License Agreements, assuming (i) no interruptions in service, (ii) the Company is able to produce and sell the full guaranteed amount of renewable energy as set forth in the Power Purchase Agreement, and (iii) the Series 2011 Local Units make Power Purchase Price Payments for, all of such amount of electricity; (2) Company revenue from the tax benefits related to the Projects

for the Series 2011 Local Units; and (3) Company revenue from the sale of SRECs and other revenue available to the Company.

		<u>Source of Basic Lease Payments</u>
<b>Power Purchase Price Payments:</b>		23.6%
Fredon Township	0.2%	
Town of Newton	0.7	
Byram Township School District	1.7	
Frankford Board of Education	1.4	
Franklin Borough Board of Education	0.8	
Green Township Board of Education	0.6	
Hardyston Township Board of Education	2.4	
High Point Regional School District	1.6	
Kittatinny Regional School District	1.3	
Newton Board of Education	2.4	
County of Sussex	2.6	
Sussex County Community College	3.7	
Sussex County Technical School	4.4	
<b>Company Revenue:</b>		76.4%
Tax Credits/Benefits*	26.8%	
SREC Revenue	49.6	
<b>Total:</b>		<u>100%</u>

Source: Gabel Associates.

The Company has the right under the Renewable Energy Program Documents to change the sizing of the Renewable Energy Projects, within the parameters of the Company Proposal (as such term is defined in the Bond Resolution), for and with the consent of each affected Series 2011 Local Unit (and the Authority's consent) as the Company proceeds with the development of each Renewable Energy Project. Any such changes may alter the allocation of the relative Power Purchase Price Payment set forth in the above chart.

To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, the Local Unit License Agreements shall continue in full force and effect, with the following changes, which shall not require amendment or supplement thereof or thereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement. In such event, instead of paying the Power Purchase Price to the Trustee for the credit and benefit of the Company under the Company Lease Agreement (such amount being defined as the "Gross Substitute Power Purchase Price", payable for the benefit of the Authority as the owner of the Renewable Energy Projects), the Series 2011 Local Units shall pay the Trustee a lower adjusted Power Purchase Price (defined as

the “*Net Substitute Power Purchase Price*” thereunder), reflecting the payment of certain administrative fees and the costs of operating and maintaining their Renewable Energy Projects for the balance of the original fifteen (15) year or extended term. No assurance can be given that either the Gross Substitute Power Purchase Price or the aggregate Net Substitute Power Purchase Price will be sufficient to make scheduled payments of debt service on the Series 2011 Bonds.

### **County Guaranty**

The following is a summary of certain provisions of the County Guaranty. The summary does not purport to be complete and comprehensive and reference is made to a form of the County Guaranty which is included in Appendix D hereto. All capitalized terms used in this subsection and not otherwise defined shall have the meaning ascribed to such terms in the County Guaranty.

The payment of the principal of (including Sinking Fund Installments, if any) and interest on the Series 2011 Bonds (but not any redemption premium), and the interest thereon, shall be fully, unconditionally, and irrevocably guaranteed by the County pursuant to the County Guaranty. The County has the right, power and obligation to cause the levy of *ad valorem* taxes upon all the taxable property within the County, without limitation as to rate or amount, if necessary, in order to meet its payment obligations under the County Guaranty.

On August 17, 2011, the County finally adopted that certain guaranty ordinance (the “*County Guaranty Ordinance*”) entitled “GUARANTY ORDINANCE OF THE COUNTY OF SUSSEX, NEW JERSEY, SECURING THE MORRIS COUNTY IMPROVEMENT AUTHORITY’S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000.00”. Pursuant to the terms of that County Guaranty Ordinance and Section 37 of the Act (N.J.S.A. 40:37A-80), the County and the Authority are scheduled to enter into that certain “County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011) to be dated as of December 1, 2011, (the “*County Guaranty Agreement*”). In accordance with the terms of the County Guaranty Ordinance, the County Guaranty Agreement, and the Bond Resolution, an authorized officer of the County shall execute a guaranty certificate (the “*County Guaranty Certificate*”, and together with the County Guaranty Ordinance and the County Guaranty Agreement, the “*County Guaranty*”) within each Series 2011 Bond for each maturity thereof. The County Guaranty Certificate shall state that the County is fully, irrevocably and unconditionally liable for the payment, when due (whether at stated maturity or earlier on any Sinking Fund Installment due date or date of redemption or acceleration), of the principal of (including mandatory Sinking Fund Installments, if any) and the interest on the Series 2011 Bond, and, if necessary, the County shall levy *ad valorem* taxes upon all the taxable property within the County, without limitation as to rate or amount, in order to make such payments. The County Guaranty shall be for the benefit of both Series of Series 2011 Bonds.

If, thirty (30) days prior to any Interest Payment Date or Principal Payment Date, the amounts that are on deposit in the Aged Account of the Revenue Fund established under the Bond Resolution are insufficient to provide for the payment of the principal of (including Sinking Fund Installments, if any, but not redemption premiums) and/or interest on the Series

2011 Bonds that are due and payable on such payment dates, the Trustee shall notify the County's Chief Financial Officer on such day of the amounts that are necessary to provide for the payment of the principal of and/or interest on the Series 2011 Bonds (the "Deficiency"). Pursuant to the Act, payments of redemption premium are not permitted to be made by the County under the County Guaranty. The County shall be obligated to make payment of the Deficiency to the Trustee no later than one (1) business day prior to the Interest Payment Date or the Principal Payment Date, as applicable, of the Series 2011 Bonds. Notwithstanding any other provision of the County Guaranty Agreement, failure by the Trustee to give the County notice as provided herein shall not relieve the County of its obligations to make payment under the terms of the County Guaranty.

When notice has been provided, as described above, the County shall take all necessary actions to make payment of the Deficiency to the Trustee as provided above. Such actions shall include the adoption of an emergency appropriation or an emergency temporary appropriation and the funding of such appropriation in accordance with the requirements of the Local Budget Law (N.J.S.A. 40A:4A-1 *et seq.*), the levy of *ad valorem* taxes on all taxable property in the County, without limitation as to rate or amount, or any other actions that are legally permitted to be taken to meet the requirements of such County Guaranty (including the adoption of a bond ordinance pursuant to the provisions of the Local Bond Law).

The County is required to make payments under the County Guaranty, if, for any reason, the Trustee should have insufficient funds on hand in the Debt Service Fund one (1) business day prior to any Interest Payment Date or Principal Payment Date to make the full and timely payment of the principal (including Sinking Fund Installments, if any, but not including redemption premiums) and interest on the Series 2011 Bonds due on such dates, regardless of whether any of the following events occur: (i) any default under the Company Lease Agreement due to the Company's failure to pay all of its Basic Lease Payments on the respective Basic Lease Payment Dates, or otherwise, and/or (ii) any default or termination of the Local Unit License Agreements due to the Series 2011 Local Unit's failure to make all Power Purchase Price Payments (including, as applicable, the payment of the Net Substitute Power Purchase Price), or otherwise.

To the extent the Company causes an Event of Default, as defined under the Company Lease Agreement, to occur and such Event of Default requires the County to make a payment under the County Guaranty, the County has the option under the County Guaranty Agreement to provide sufficient funding with the Trustee and cause the Authority to redeem or defease all or a portion of the Series 2011 Bonds in accordance with the terms of the Bond Resolution. See, "DESCRIPTION OF THE SERIES 2011 BONDS – Optional Redemption" herein.

For more information on the County, see "APPENDIX A – Certain Information Concerning the County" and "APPENDIX B – Audited Financial Statements of the County" herein. For a description of County Guaranty, see "APPENDIX D – Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein.

## **Flow of Payments**

Assuming the Company has successfully installed all the Renewable Energy Projects for the Series 2011 Local Units at their respective Local Unit Facilities, the following is a brief description of the flow of payments from the various Renewable Energy Program participants that are available to pay the principal of, redemption premium, if any, and interest on the Series 2011 Bonds. County Guaranty payments, if any are made, are not permitted under the Act to be applied to redemption premiums. For a description of the Bond Resolution and the County Guaranty, see "APPENDIX D – Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein.

Every six (6) months, on Basic Lease Payment Dates (i.e., each January 15 and July 15) commencing January 15, 2013, that have been established to occur five (5) months prior to the Interest Payment Dates (i.e., each June 15 and December 15) and the Principal Payment Dates (i.e., each June 15) of the Series 2011A Bonds, the Company is required to make its Interest Portion and Principal Portion Basic Lease Payments to the Trustee. See Sections 305 and 306 of the Company Lease Agreement. The Basic Lease Payment schedule set forth in Exhibit A-3 Regular to the Company Lease Agreement is identical to the scheduled debt service amounts due on the Series 2011A Bonds, except that the Basic Lease Payments come due five (5) months prior to the scheduled debt service payment dates on the Series 2011A Bonds and the interest payments due on June 15, 2012 and December 15, 2012 will be made from proceeds of the Series 2011B Note deposited in the Capitalized Interest Account. Although the Basic Lease Payment schedule sets forth the gross amount of Basic Lease Payments owed by the Company, Sections 305 and 306 of the Company Lease Agreement also provide that the actual Basic Lease Payments made by the Company on each Basic Lease Payment Date shall be net of the various credits described below, if and when the funds giving rise to such credits have been received by the Trustee.

The Trustee, upon receipt of such Basic Lease Payments from the Company and as directed by Sections 5.05(1)(a) and 5.11 of the Bond Resolution, shall deposit the funds in the Revenue Account of the Revenue Fund and invest the funds in Investment Obligations, pending disbursement. After such monies have been on deposit for one hundred twenty-three (123) consecutive days in the Revenue Account within the Revenue Fund, and have not been withdrawn or recaptured by or on behalf of the Company or its other creditors, the Trustee shall pursuant to Section 5.05(1)(c) of the Bond Resolution transfer such funds to the Aged Account within the Revenue Fund.

On or prior to each Interest Payment Date, the Trustee shall, pursuant to Section 5.05(2) of the Bond Resolution, transfer, from moneys on deposit in the Aged Account within the Revenue Fund to the Interest Account in the Debt Service Fund, the amount that, together with the amounts, if any, already on deposit in the Interest Account and the amounts, if any, on deposit in the Capitalized Interest Account and designated for use on such Interest Payment Date pursuant to the Bond Resolution or Supplemental Resolution, is equal in the aggregate to the interest due and payable on the Outstanding Bonds on such Interest Payment Date. Subsection (3) requires a similar transfer, but from the Principal Account in the Debt Service Fund, on each Principal Payment Date, in order to pay the aggregate amount of principal (or Sinking Fund

Installment or Redemption Price, if applicable) due and payable on the Outstanding Bonds on such Principal Payment Date.

The Trustee shall withdraw both the interest due on the Outstanding Bonds on each such Interest Payment Date from the funds in the Interest Account and the Capitalized Interest Account, if so designated, of the Debt Service Fund (Section 5.06(1)(a) of the Bond Resolution), and the principal (including Sinking Fund Installments, if any) also due on the Outstanding Bonds on each such Principal Payment Date from the funds in the Principal Account of the Debt Service Fund (Section 5.06(2)(a) of the Bond Resolution), and pay such amounts over to the Paying Agent. The same bank is acting as both Trustee and Paying Agent for the Series 2011 Bonds. The Bond Resolution also authorizes the completion of the payment process, where the Paying Agent pays the principal of and interest on the Bonds on such respective Principal Payment Dates and Interest Payment Dates from the funds so received.

Sections 5.06(1)(b) and 2(b) of the Bond Resolution require that the County receive certain advance notification of any Deficiency and the possible need for a draw on the County Guaranty as follows. If, by 9:00 a.m. Eastern Standard Time or Eastern Daylight Time, as applicable, thirty (30) days prior to any Interest or Principal Payment Date, the Trustee has determined that there are insufficient funds in the Interest or Principal Accounts in the Debt Service Fund (after taking into account any moneys earmarked for transfer therein from the Revenue Fund and all other amounts available under the Bond Resolution for transfer into the Interest or Principal Accounts in the Debt Service Fund) to pay the full amount of interest and/or principal (including Sinking Fund Installments) due and owing on such Bonds on such Interest or Principal Payment Date, the Trustee shall immediately notify the Authority, the Company, the County and the Paying Agent of such Deficiency. The Trustee shall continue to notify such entities of any continuing Deficiency on a weekly basis, with the final notification being 9:00 a.m. Eastern Standard Time or Eastern Daylight Time, as applicable, on the Interest or Principal Payment Date.

The County shall satisfy any such Deficiency remaining as of 10:00 a.m. Eastern Standard Time or Eastern Daylight Time, as applicable, on any such Interest or Principal Payment Date, by immediately making a payment under the County Guaranty (in accordance with the terms of the County Guaranty Agreement, if not already made) in the amount of any Deficiency, in immediately available funds to the Trustee for deposit in the Interest or Principal Accounts in the Debt Service Fund. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment to Holders as of the Record Date of such interest and principal (including any Sinking Fund Installment) or Redemption Price, as applicable, due on such Bonds on such Interest or Principal Payment Date in accordance with the terms of the Bond Resolution. The Authority and the Trustee shall enforce the provisions of the County Guaranty to the extent the County fails, for whatever reason, to perform its obligations thereunder.

Although the Company is obligated, as set forth above, to pay the full amount of Basic Lease Payments on each Basic Lease Payment Date, the Company is entitled to several credits, some recurring, and others that may occur infrequently or only once. The following briefly describes the recurring credits, such as those for Power Purchase Payments made by the Series 2011 Local Units, for interest earned on amounts on deposit in the Revenue Account of the

Revenue Fund, and for a sweep of funds remaining in the Aged Account of the Revenue Fund after debt service has been paid. For a description of the credit provisions relating to the Base Lease Payments under the Company Lease Agreement, see "APPENDIX D – Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein.

Pursuant to Section 6.4 of the Power Purchase Agreement, the Company shall, based on on-site meters the Company installs as part of the Projects, provide the Series 2011 Local Units with monthly billing information for the electricity (i) provided to their Local Unit Facilities from the Renewable Energy Projects installed on the roofs or parking facilities of such Local Unit Facilities, and (ii) sold to the Series 2011 Local Units at the pre-established Power Purchase Price rate, plus escalation. A copy of such billing information shall be supplied to the Trustee.

Under Section 5.1(c)(i) of the applicable Local Unit License Agreements, the Series 2011 Local Units are obligated to make their monthly Power Purchase Price Payments to the Trustee, on behalf of the Company, in a timely manner and without set-off or other reduction. The Company acknowledges, under the Power Purchase Agreement, that the obligation of the Series 2011 Local Units to make such Power Purchase Price Payments for their respective Local Unit Facilities is several, and not joint.

The Company receives a credit against the Basic Lease Payment owed on each Basic Lease Payment Date for all Power Purchase Price Payments made by the Series 2011 Local Units from the preceding Basic Lease Payment Date (or the Commencement Date at the outset) through and including ten (10) Business Days prior to any such Basic Lease Payment Date, all as provided in Section 302(a) of the Company Lease Agreement. In accordance with Section 5.05(1)(a) of the Bond Resolution, the Trustee is required to notify the Company of the aggregate amount of these Series 2011 Local Unit Power Purchase Price Payments available as a credit both thirty (30) days prior to each Basic Lease Payment Date, and one (1) Business Day after the ten (10) day cut off period described above. Power Purchase Price Payments received after the ten (10) day cut off period are deemed to have been received one (1) Business Day after any such Basic Lease Payment Date, and are therefore available as a credit to Basic Lease Payments due from the Company on the following Basic Lease Payment Date.

In addition, Section 5.11(3) of the Bond Resolution requires the Trustee to transfer the interest earned on monies in the Revenue Account of the Revenue Fund, no less frequently than once a month, to the Aged Account of the Revenue Fund. Section 310(b) of the Company Lease Agreement provides the Company with a credit in the amount of such earnings, plus interest earned thereon as of any such Basic Lease Payment Date, against the next due Interest Portion of Basic Lease Payments due and owing from the Company, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Company, and if still not fully applied or if additional interest earnings are on deposit in the Aged Account, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Trustee, pursuant to Section 5.05(1)(a) of the Bond Resolution, shall notify the Company in writing (with a copy to the Authority), within ten (10) Business Days after each Basic Lease Payment Date, of the amount of such interest earnings credit available to the Company as of the next Basic Lease Payment Date.

On the Business Day following an Interest Payment Date and a Principal Payment Date for all Outstanding Bonds, including the Series 2011 Bonds, Section 5.05(4) of the Bond Resolution directs the Trustee to transfer any monies remaining on deposit in the Aged Account of the Revenue Fund, FIRST, to the County, as reimbursement for the County to the extent of any draw on their County Guaranty, if applicable, and SECOND, into the Interest Account of the Debt Service Fund to pay the next due interest on such Bonds, and then the Principal Account of the Debt Service Fund to pay the next due principal of (including Sinking Fund Installments, if any) such Bonds. The Trustee is further required to promptly notify the Company that such transferred amounts shall be a credit against their Interest Portion, and then Principal Portion, of Basic Lease Payments next due.

With regard to the recurring credits against Basic Lease Payments owed by the Company under the Company Lease Agreement, as set forth above, the Company will be apprised of (i) the Revenue Account investment earnings credit almost a full six (6) months prior to the Company's next Basic Lease Payment Date, (ii) the Aged Account sweep transfer and credit almost one (1) month prior to their Basic Lease Payment Date, and (iii) the aggregate of all Power Purchase Price Payments as of ten (10) Business Days prior to any scheduled Basic Lease Payment Date (with an initial notice of five (5) months' worth of Power Purchase Price Payments to be made by the Trustee a full thirty (30) days prior to the Company's Basic Lease Payment Date).

The non-recurring, or infrequent, credits against Basic Lease Payments, set forth in the definition thereof in the Company Lease Agreement and the Bond Resolution, owed by the Company under the Company Lease Agreement, are for the following:

(i) Excess amounts remaining in the Project Fund, once all Projects have been installed and certifications have been executed by the Series 2011 Local Units (either directly or through a construction manager), on a form acknowledged by the Authority, to the effect that such Project installation is in conformity with the Plans and Specifications mutually agreed upon among the Company, the Authority and the Local Unit prior to the onset of acquisition, construction and installation of the Projects;

(ii) Partial Release of the County Security Fund, if any, held by the Trustee as a non-pledged Fund to fund any shortfall in otherwise available funds to make Basic Lease Payments or to reimburse the County in the event of a draw on the County Guaranty, when the amount in the County Security Fund exceeds the debt service owed on all Outstanding Series 2011 Bonds (plus a Series of Additional Bonds, if so designated by Supplemental Resolution);

(iii) Optional, partial pre-payments of Basic Lease Payments by the Company (the Basic Lease Payment obligation is eliminated in the event of a full pre-payment);

(iv) Payments to the Trustee in an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Renewable Energy Projects or other payments required

pursuant to Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit Licenses; and

- (v) The net proceeds of any condemnation or insurance award.

### **Acceleration**

The Series 2011 Bonds are subject to acceleration prior to their stated maturities upon the occurrence of certain Events of Default under and as defined in the Bond Resolution, at the times and in the manner set forth in the Bond Resolution. For a description of the Events of Default and acceleration provisions under the Renewable Energy Program Documents, see "APPENDIX D – Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein.

### **SUMMARY OF CERTAIN PROVISIONS FOR THE PROTECTION OF GENERAL OBLIGATION DEBT OF NEW JERSEY MUNICIPALITIES AND COUNTIES**

The following is a summary of certain provisions of New Jersey law relating to the protection of general obligation debt of New Jersey municipalities and counties. This summary does not purport to be a full and complete statement of all of the provisions referred to herein, and the cited statutes should be read in full for a complete understanding of all of said provisions.

### **Local Bond Law**

*The Local Bond Law (N.J.S.A. 40A:2-1 et. seq.).*

The Local Bond Law generally governs the issuance of bonds and notes by local units to finance certain capital improvements and appropriations. The Local Bond Law requires that bonds must mature within the statutory period of usefulness of the projects bonded and that bonds be retired in serial installments. A 5% cash down payment is generally required toward the financing of capital expenditures.

### **Debt Limits**

*Debt Limits.*

The net authorized debt of all local units which are municipalities in the State of New Jersey is generally limited by statute to an amount equal to 3.5% of its equalized valuation basis. The equalized valuation basis of the local unit is set by statute as the average for the last three years of the sum of the equalized value of all taxable real property and improvements and certain Class II railroad property within its boundaries, as annually determined by the State Department of the Treasury, Division of Taxation. Certain categories of debt are permitted by statute to be deducted for purposes of computing the statutory debt limit.

*Exemption To Debt Limits.*

Extensions of Credit. The debt limit of a local unit may be exceeded with the approval of the Local Finance Board, and as permitted by other statutory exceptions. If all or any part of a

proposed debt authorization would exceed its debt limit, the Local Unit must apply to the Local Finance Board for an extension of credit. If the Local Finance Board determines that a proposed debt authorization would not materially impair the ability of a Local Unit to meet its obligations or to provide essential services, and the Local Finance Board makes other statutory determinations, approval is granted.

School Debt. In the State of New Jersey, in a Type II school district without a Board of School Estimate, school debt authorized by the board of education must be approved by the registered voters of the school district. When the amount authorized exceeds the school district's limit, the district may use the municipality's share of available borrowing capacity upon approval of the proposed debt by the State Commissioner of Education and the Local Finance Board, and subsequently by the registered voters of the district. School debt of a Type I school district is authorized by a Board of School Estimate and the governing body of a local unit.

*The Local Budget Law (N.J.S.A. 40A:4-1, et seq.)*

The foundation of the New Jersey local finance system is the annual budget. Every local unit must adopt an operating budget in the form required by the Division of Local Government Services, Department of Community Affairs, State of New Jersey (the "Division"). Items of revenue and appropriation are regulated by law and must be certified by the Director of the Division (the "Director") prior to final adoption of the budget. The Local Budget Law requires each local unit to appropriate sufficient funds for payment of current debt service, and the Director is required to review the adequacy of such appropriations.

The Director has no authority over individual operating appropriations, unless a specific amount is required by law, but the review focusing on anticipated revenues serves to protect the solvency of all local units. The budgets of local units must be in balance; i.e., total anticipated revenues must equal total appropriations.

If in any year a Local Unit's expenditures exceed (or are less than) its realized revenues for that year, then such deficit (excess) must be raised (accounted for) in the succeeding year's budget.

*Real Estate Taxes.*

The same general principal that revenue cannot be anticipated in a budget in excess of that realized in the preceding year applies to property taxes. The Local Budget Law (N.J.S.A. 40A:4-29) provides that the maximum which may be anticipated is the sum produced by the multiplication of the amount of delinquent taxes unpaid and owing to the Local Unit on the first day of the current fiscal year by the percentage of collection of delinquent taxes for the year immediately preceding the current fiscal year.

The Local Budget Law (N.J.S.A. 40A:4-41) also provides with regard to current taxes that receipts from the collection of taxes levied or to be levied in the municipality, or in the case of a county for general county purposes and payable in the fiscal year, shall be anticipated in an amount which is not in excess of the percentage of taxes levied and payable during the next preceding fiscal year which was received in cash by the last day of such preceding fiscal year.

This provision requires that an additional amount (the "Reserve for Uncollected Taxes") be added to the tax levy required to balance the budget so that when the percentage collected of the prior year's tax levy is applied to the combined total, the product will at least be equal to the tax levy required to balance the budget. The Reserve for Uncollected Taxes is calculated to be the levy required to balance a local unit's budget multiplied by the prior year's percentage of uncollected taxes (or a lesser percentage).

#### *Miscellaneous Revenues.*

The Local Budget Law (N.J.S.A. 40A:4-26) provides that no miscellaneous revenue from any source shall be included as an anticipated revenue in the budget in an amount in excess of the amount actually realized in cash from the same source during the next preceding fiscal year, unless the Director shall determine upon application by the governing body that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the fiscal year and shall certify such determination in writing to the local unit.

No budget or amendment thereof shall be adopted unless the Director shall have previously certified his approval thereof with the exception of the inclusion of categorical grants-in-aid contracts for their face amount with an offsetting appropriation.

#### *CAP Limitations.*

A Statute passed in 1976, as amended (N.J.S.A. 40A:4-45.1 *et seq.*) commonly known as the "Cap Law", imposed limitations on increases in municipal appropriations subject to various exceptions. On August 20, 1990, the Governor signed into law P.L. 1990, c.89, which revised and made permanent the "Cap Law". While the revised "Cap Law" is more restrictive on the ability of a municipality to increase its overall appropriations, the payment of debt service is an exception from this limitation. The Cap formula is somewhat complex, but basically, it permits a municipality to increase its overall appropriations by 2.5% or the "Index Rate", whichever is less. The "Index Rate" is the rate of annual percentage increase in the Implicit Price Deflator for State and Local Government purchases of goods and services computed by the U.S. Department of Commerce. Exceptions to the limitations imposed by the Cap Law also exist for other things including capital expenditures; extraordinary expenses approved by the Local Finance Board for implementation of an interlocal services agreement; expenditures mandated as a result of certain emergencies; and certain expenditures for services mandated by law.

Additionally, legislation constituting P.L. 2007, c.62, effective April 3, 2007, imposes a 4% cap on the tax levy of a municipality, county, fire district or solid waste collection district, with certain exceptions and subject to a number of adjustments. The exclusions from the limit include increases required to be raised for debt service and certain lease payments to county improvement authorities, increases to replace certain lost state aid, increases in certain pension contributions, increases in the reserve for uncollected taxes required for municipalities, and certain increases in health care costs over 4%. The Local Finance Board may approve waivers for certain extraordinary costs identified by the statute, and voters may approve increases above 4% not otherwise permitted by a vote of 60% of the voters voting on a public question.

This legislation has now been amended by P.L. 2010, c. 44, approved July 13, 2010 and applicable to the next local budget year following enactment to limit tax levy increases for those local units to 2% with exceptions only for capital expenditures including debt service, increases in pension contributions and accrued liability for pension contributions in excess of 2%, certain healthcare increases, extraordinary costs directly related to a declared emergency and amounts approved by a simple majority of voters voting at a special election. Chapter 44 eliminates the process for obtaining waivers for additional spending under the tax levy limitation.

Neither the tax levy limitation nor the "Cap Law" limits the obligation of a municipality to levy *ad valorem* taxes upon all taxable real property within that municipality to pay debt service on its bonds or notes.

For municipalities, the levy cap is in addition to the existing appropriation cap; both cap laws must be met.

#### *Deferral of Current Expenses.*

A local unit may make emergency appropriations after the adoption of a budget and the determination of the tax rate, but only to meet unforeseen pressing needs to protect or promote public health, safety, morals or welfare, or to provide temporary housing or public assistance. With limited exceptions set forth below, such appropriations must be included in full in the following year's budget. If such emergency appropriations exceed 3% of the adopted operating budget, consent of the Director is required (N.J.S.A. 40A:4-46, -47, -49). The exceptions are certain enumerated quasi-capital projects such as ice, snow, and flood damage to streets, roads and bridges, which may be amortized over three years, and tax map preparation, revision of ordinances, and master plan preparations, which may be amortized over five years (N.J.S.A. 40A:4-55, -55.3).

Under the CAP Law, emergency resolutions aggregating less than 3% of the previous year's final current operating appropriations may be raised in that portion of the budget outside its limitations if approved by at least two-thirds of the members of the governing body and the Director. Emergency resolutions that aggregate more than 3% of the previous year's final current operating appropriations must be raised within its limitations. Emergency resolutions for debt service, capital improvements, the County's share of Federal or State grants and other statutorily permitted items are outside its limitation.

#### *Budget Transfers.*

Budget transfers provide a degree of flexibility and afford a control mechanism. Transfers between major appropriation accounts are prohibited until the last two months of the year. Subaccounts (line items) within an appropriation are not subject to the same year-end transfer restriction; however, they are subject to internal review and approval.

#### *Capital Budget.*

In accordance with the Local Budget Law, each local unit must adopt and annually revise a capital program budget. The capital budget, when adopted, does not constitute the approval or appropriation of funds, but sets forth a plan of the possible capital expenditures which the Local

Unit may contemplate over a period of up to six years. Expenditures for capital purposes may be made either by ordinances adopted by the governing body of a local unit setting forth the items and the method of financing or from the annual operating budget if the items were detailed.

*Operation of Utilities.*

Municipal public utilities are supported, in addition to the general taxing power upon real property, by the revenues generated by the respective operations of the utilities.

For each utility, there is established a separate budget. The anticipated revenues and appropriations for each utility are set forth in the separate budget. The budget is required to be balanced and to fully provide for debt service. The regulations regarding anticipation of revenue and deferral of charges apply equally to the budgets of the utilities.

Deficits or anticipated deficits in utility operations which cannot be provided for from utility surplus, if any, are required to be raised in the current or operating budget.

*Local Fiscal Affairs Law (N.J.S.A. 40A:5-1, et seq.).*

This law regulates the non-budgetary financial activities of local governments. The chief financial officer of a local unit must file annually with the Director a verified statement of the financial condition of the local unit. The statements of the County are on file with the Clerk.

An independent examination of a local unit's financial statements must be performed annually by a licensed registered municipal accountant. The audit, conforming to the Division's "Requirements of Audit," includes recommendations for improvement of a local unit's financial procedures and must be filed with the Clerk within six months after the close of its fiscal year and, within five days thereafter, a certified duplicate copy must be filed in the office of the Director (N.J.S.A. 40A:5-6). The filing date of an audit may be extended by the Director upon a showing of good cause. A synopsis of the audit report, together with all recommendations made, must be published in a local newspaper within 30 days of its completion (N.J.S.A. 40A:5-7).

**SOURCES AND USES OF SERIES 2011A BONDS  
AND SERIES 2011B NOTE PROCEEDS**

The sources and uses of funds will be as follows:

Sources of Funds	
Principal Amount of Series 2011A Bonds	\$
Principal Amount of Series 2011B Note	
Company In-Kind Equity Contribution <sup>(1)</sup>	
Cash <sup>(2)</sup>	
TOTAL SOURCES OF FUNDS	\$
Uses of Funds	\$
Project Fund <sup>(3)</sup>	
Debt Service Fund <sup>(4)</sup>	
Administrative Fund <sup>(5)</sup>	
County Security Fund	
TOTAL USES OF FUNDS	\$

(1) The Company has agreed to make a deferred equity contribution upon the issuance of the Series 2011 Bonds. Such contribution is further described in the Company Lease Agreement. In particular, requisitions for Renewable Energy Project costs will be paid 70% from Series 2011A Bond proceeds, and 30% by or on behalf of the Company.

(2) The Cash equity contribution shall be funded no later than the earlier of (i) ninety (90) days after completion of the Series 2011 Local Unit projects or (ii) March 15, 2013.

(3) Such costs include monies for the Cost of the Projects, along with payment of certain Renewable Energy Program Costs to the Company.

(4) The proceeds of the Series 2011B Note shall be deposited into the Capitalized Interest Account of the Debt Service Fund and applied, together with any interest earned thereon, if any, to the payment of the interest payable on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

(5) Such costs include the Underwriter's discount and legal, rating, printing, financial advisory and fiduciary expenses incurred in connection with the issuance of the Series 2011 Bonds, as well as monies to reimburse the County and the Authority for a portion of, and to pay to third parties a portion of, the Renewable Energy Program development costs, plus the Authority's initial Administrative Fee.

**DEBT SERVICE SCHEDULE**

The following tables set forth the debt service requirements, including Sinking Fund Installments, in each Bond Year of the Series 2011 Bonds, consisting of the Series 2011A Bonds and the Series 2011B Note:

<u>Bond Year</u> <u>ended June 15</u>	<u>Series 2011A Bonds</u>		Total Debt Service **
	<u>Principal</u>	<u>Interest*</u>	
Total	\$	\$	\$

<u>Bond Year</u> <u>ended June 15</u>	<u>Series 2011B Note</u>		Total Debt Service **
	<u>Principal</u>	<u>Interest*</u>	
Total	\$	\$	\$

\* The proceeds of the Series 2011B Note shall be earmarked, together with any interest earned thereon, if any, to the payment of the interest payable on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

\*\* Totals may not add due to rounding.

**PLEDGE OF THE STATE NOT TO LIMIT POWER OF  
AUTHORITY OR RIGHTS OF BONDHOLDERS**

The Act sets forth the pledge and agreement of the State that it will not limit or alter the rights vested by the Act in the Authority to fulfill the terms of any agreements made with holders of obligations of the Authority or in any way impair the rights and remedies of such holders, until such obligations, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged.

## LEGALITY FOR INVESTMENT

The Act provides that (i) the State and all public officers, municipalities, counties, political subdivisions and public bodies, and agencies thereof; (ii) all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, which banks, trust companies, and other such institutions are organized and existing under the laws of the State; and (iii) all executors, administrators, guardians, trustees and other fiduciaries acting under the laws of the State, may legally invest any sinking funds, monies or other funds belonging to them or within their control in obligations of authorities created pursuant to the Act and such obligations will be authorized security for any and all public deposits.

## BANKRUPTCY

### Municipal Bankruptcy

The undertakings of the Authority and the County should be considered with reference to Chapter 9 of the United States Bankruptcy Code of 1978, as amended (the "*Bankruptcy Code*"), 11 U.S.C. Section 901 to 946. Under Chapter 9 of the Bankruptcy Code, a municipality, a political subdivision or a public agency or instrumentality of the State that is insolvent or unable to pay its debts as they become due may file a petition in a United States Bankruptcy Court (the "*Bankruptcy Court*") to adjust its debts. Chapter 9 of the Bankruptcy Code does not permit such entity to liquidate its assets and distribute the proceeds of its assets to its creditors. Chapter 9 of the Bankruptcy Code permits a financially distressed public entity to seek protection from its creditors by staying the commencement or continuation of certain actions against such public entity while it formulates and negotiates a plan of adjustment of its debts which can be binding on a dissenting minority of creditors if it is acceptable to the majority of creditors. Should the Authority or the County file a petition in the Bankruptcy Court under Chapter 9 of the Bankruptcy Code prior to the payment in full of the principal of and interest on the Series 2011 Bonds, the holders of the Series 2011 Bonds would be considered creditors and would be bound by the Authority's or County's plan of adjustment of its debt.

Reference should also be made to N.J.S.A. 52:27-40 *et seq.* which provides that any "political subdivision" of the State as defined therein has the power to file a petition with the Bankruptcy Court under the Bankruptcy Code provided the "political subdivision" has obtained approval of the Local Finance Board. Section 903 of the Bankruptcy Code, 11 U.S.C. Section 903, specifically provides that Chapter 9 of the Bankruptcy Code does not limit or impair the power of a state to control, by legislation or otherwise, a municipality of or in such state in the exercise of the political or governmental powers of such municipality; provided, however, that a state law prescribing a method of composition of indebtedness of the municipality may not bind any creditor that does not consent to such composition and that a judgment entered under such state law may not bind a creditor that does not consent to such composition.

THE ABOVE REFERENCES TO THE BANKRUPTCY CODE ARE NOT TO BE CONSTRUED AS AN INDICATION THAT THE AUTHORITY OR THE COUNTY EXPECTS TO RESORT TO THE PROVISIONS OF SUCH BANKRUPTCY CODE OR

THAT, IF IT DID, SUCH ACTION WOULD BE APPROVED BY THE LOCAL FINANCE BOARD, OR THAT ANY PROPOSED PLAN WOULD INCLUDE A DILUTION OF THE SOURCES OF PAYMENT OF AND SECURITY FOR THE SERIES 2011 BONDS.

### **Company Bankruptcy**

The Interest Portion and the Principal Portion of the Basic Lease Payments payable by the Company under the Company Lease Agreement and constituting Revenues that are part of the Trust Estate pledged by the Authority to the Trustee as security for the Series 2011 Bonds under the Bond Resolution, are scheduled for payment five (5) months prior to the interest coming due, and the principal (or Sinking Fund Installment, if any) maturing on the Series 2011 Bonds in accordance with Exhibit A-3 to the Company Lease Agreement. Should the Company file (or be the subject of an involuntary filing of) a petition for bankruptcy under the Bankruptcy Code, this prior payment structure minimizes the risk that the Basic Lease Payments, previously applied by the Trustee to pay debt service on the Series 2011 Bonds to the Bondholders, will be recaptured from such Bondholders by the Company, as a debtor in possession, or a bankruptcy trustee, in either case as an avoidable property transfer under Section 547(b) of the Bankruptcy Code.

The filing of any such bankruptcy petition by or against the Company results in the imposition of an automatic stay in accordance with Section 362(a) of the Bankruptcy Code, thereby precluding, for a time, the Authority or the Trustee from enforcing any remedies against the Company should it fail to make full and timely Basic Lease Payments under the Company Lease Agreement. Filing a petition may allow the Company under Section 365 of the Bankruptcy Code to reject the Company Lease Agreement. A Chapter 11 petition could also be converted to a Chapter 7 liquidation, or the Company could file for the same relief directly, in which case the Company's assets would be liquidated by a bankruptcy trustee, the bankruptcy trustee may have the right to reject the Company Lease Agreement causing the Company to cease making Basic Lease Payments under the Company Lease Agreement, and the creditors' recovery against the Company would be limited to their *pro rata* share of monies realized from liquidation.

Any of these options available to, or to be imposed upon, the Company, could adversely affect the Company's ability to make Basic Lease Payments on time and in full in accordance with the terms of the Company Lease Agreement. In such instance, the Trustee is obligated to pursue the other Revenues constituting a portion of the Trust Estate for payment of the principal of (including Sinking Fund Installments) and interest on the Series 2011 Bonds, including the County Guaranty. Pursuant to the Act, payments for redemption premium, if any, cannot be made from payments under the County Guaranty. See "SECURITY FOR THE SERIES 2011 BONDS – County Guaranty" herein.

### **NEGOTIABILITY OF THE SERIES 2011 BONDS**

Section 24 of the Act (N.J.S.A. 40:37A-67) provides that any bond or obligation issued pursuant to the Act shall be fully negotiable within the meaning and for all purposes of the negotiable instruments law of the State of New Jersey and each holder or owner of such bond or other obligation, or of any coupon appurtenant thereto, by accepting such bond or coupon shall

be conclusively deemed to have agreed that such bond, obligation or coupon is and shall be fully negotiable within the meaning and for all purposes of said negotiable instruments law.

### **SERIES 2011 BONDS NOT A DEBT OF THE STATE OF NEW JERSEY**

The Series 2011 Bonds shall not in any way be a debt, liability or obligation of the State or any political subdivision thereof, except the Authority, but solely to the extent of the Trust Estate and its application in accordance with the terms of the Bond Resolution, and except the County, to the extent of the County Guaranty.

### **LITIGATION**

#### **The Authority**

There is no litigation pending or threatened involving the Authority that would materially impair the financial status of the Authority, or affect the issuance, sale or delivery of the Series 2011 Bonds or the valid execution, delivery or performance by the Authority of or under the Renewable Energy Program Documents to which the Authority is a party.

#### **The Company**

There is no litigation pending or threatened involving the Company that would materially impair the financial status of the Company, or affect the valid execution, delivery or performance by the Company of or under the Renewable Energy Program Documents to which the Company is a party.

#### **The Series 2011 Local Units**

The Authority is not aware of any litigation pending or threatened involving the Series 2011 Local Units that would materially impair the valid execution, delivery or performance by the Series 2011 Local Units of or under the Renewable Energy Program Documents to which each such respective Series 2011 Local Unit is a party, including their Local Unit License Agreement.

#### **The County**

There is no controversy or litigation of any nature now pending or threatened against the County, restraining or enjoining the adoption, execution or delivery of the County Guaranty or in any way contesting or affecting the validity of the County Guaranty, or any proceedings of the County taken with respect to the adoption, execution or delivery thereof or existence or powers of the County related to the adoption, execution and delivery of the County Guaranty, or wherein an adverse decision would have a material adverse impact on the financial position of the County or its ability to pay or to provide for payment under the County Guaranty.

## TAX MATTERS

### Notice Pursuant to IRS Circular 230

The discussion below is not intended or written by the Authority or Bond Counsel to be used, and cannot be used by any person, for the purpose of avoiding tax penalties that might be imposed under federal tax laws. This discussion is provided to support an offering of the Series 2011 Bonds and accordingly, is written in support of the promotion or marketing of the Series 2011 Bonds. Each taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor concerning the potential tax consequences of an investment in the Series 2011 Bonds.

#### General

Interest on the Series 2011 Bonds is included in gross income for federal income tax purposes under current law.

The Internal Revenue Code of 1986, as amended (the "Code") contains a number of provisions relating to the taxation of securities such as the Series 2011 Bonds (including but not limited to the tax treatment of and accounting for interest, premium, original issue discount and market discount thereon, gain from the sale, exchange or other disposition thereof and withholding and backup withholding tax on income therefrom) that may affect the taxation of certain owners, depending on their particular tax situations. Owners of the Series 2011 Bonds should consult their own tax advisors as to the particular federal income tax consequences of their ownership of the Series 2011 Bonds.

In the opinion of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Bond Counsel to the Authority, under current law, interest on the Series 2011 Bonds and any gain on the sale thereof are not includable as gross income under the New Jersey Gross Income Tax Act.

The discussion of tax matters in this Official Statement applies only in the case of purchasers of the Series 2011 Bonds at original issuance and at the respective prices indicated on the inside cover page hereof. It does not address any other tax consequences such as, among others, the consequences of the existence of any market discount to subsequent purchasers of the Series 2011 Bonds.

#### Certain United States Federal Income Tax Consequences

The following is a summary of the principal United States federal income tax consequences of ownership of the Series 2011 Bonds. It deals only with Series 2011 Bonds held as capital assets by initial purchasers, and not with special classes of holders, such as dealers in securities or currencies, banks, tax-exempt organizations, life insurance companies, persons that hold Series 2011 Bonds that are a hedge or that are hedged against currency risks or that are part of a straddle or conversion transaction, or persons whose functional currency is not the U.S. dollar. The summary is based on the Code, its legislative history, existing and proposed regulations thereunder, published rulings and court decisions, all as currently in effect and all subject to change at any time, perhaps with retroactive effect.

The following summary does not address the tax treatment of Series 2011 Bonds acquired by partnerships (or other entities that are treated as partnerships for United States federal income tax purposes). Federal income tax and withholding tax treatment of income and gain recognized by a partnership generally depends, in substantial part, on the characteristics and tax circumstances of the partners in the partnership. Prospective purchasers of the Series 2011 Bonds that are partnerships should consult their own tax advisors regarding these matters.

## **United States Holders**

### *Payments of Interest.*

Interest on the Series 2011 Bonds will be taxable to a United States Holder (as defined below) as ordinary income at the time it is received or accrued, depending on the holder's method of accounting for tax purposes in accordance with generally applicable principles.

A United States Holder for purposes of this discussion is a beneficial owner of a Series 2011 Bond for U.S. federal income tax law purposes and (i) a citizen or resident of the United States, (ii) a corporation which is created or organized in or under the laws of the United States or of any political subdivision thereof, (iii) an estate the income of which is subject to United States federal income taxation regardless of its source, or (iv) a trust if (A) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust or (B) the trust was in existence on August 10, 1996 and properly elected to continue to be treated as a U.S. person. The term "Non-U.S. Holder" refers to any beneficial owner of a Series 2011 Bond who or which is not a United States Holder or a partnership or other entity that is treated as a partnership for United States federal income tax purposes.

## **Sale and Retirement of the Series 2011 Bonds**

United States Holders of the Series 2011 Bonds will recognize gain or loss on the sale, redemption, retirement or other disposition of such Series 2011 Bonds. The gain or loss is measured by the difference between the amount realized on the disposition of a Series 2011 Bond and the United States Holder's adjusted tax basis in the Series 2011 Bond. Such gain or loss will be capital gain or loss and will be long-term capital gain or loss if at the time of disposition such Series 2011 Bond has been held for more than one year.

## **Defeasance of the Series 2011 Bonds**

If the Authority defeases any of the Series 2011 Bonds, such Series 2011 Bonds may be deemed to be retired and "reissued" for federal income tax purposes as a result of the defeasance. In such event, a Holder of a Series 2011 Bond would recognize gain or loss on the Series 2011 Bond at the time of defeasance.

## **Backup Withholding and Information Reporting**

Information reporting will apply to payments of interest made by the Authority to United States Holders, and to the proceeds of the sale or other disposition of the Series 2011 Bonds with respect to certain non-corporate United States Holders, and backup withholding may apply

unless the recipient of such payment supplies a taxpayer identification number, certified under penalties of perjury, as well as certain other information or otherwise establishes an exemption from backup withholding. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against that owner's U.S. federal income tax liability provided the required information is furnished to the Internal Revenue Service.

Prospective purchasers of the Series 2011 Bonds should consult their own tax advisors concerning the consequences described above, as well as other consequences, in their particular circumstances, of ownership of the Series 2011 Bonds, under the Code and the laws of any other taxing jurisdiction.

ALL POTENTIAL PURCHASERS OF THE SERIES 2011 BONDS SHOULD CONSULT WITH THEIR TAX ADVISORS IN ORDER TO UNDERSTAND THE IMPLICATIONS OF THE CODE.

#### **APPROVAL OF LEGALITY**

All legal matters incident to the authorization, issuance, sale and delivery of the Series 2011 Bonds are subject to the approval of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Parsippany, New Jersey, Bond Counsel to the Authority, whose approving legal opinion will be delivered with the Series 2011 Bonds, substantially in the form annexed hereto as Appendix E.

#### **CREDIT RATING**

Moody's Investors Service, Inc. ("Moody's") has assigned the Series 2011A Bonds the rating of "Aa2" (negative outlook). Such rating reflects only the view of such organization, and an explanation of the significance of such rating may be obtained only from Moody's. There is no assurance that such rating will be retained for any given period of time or that such rating will not be revised downward entirely by the Moody's if in their judgment circumstances so warrant. Any such downward revision or withdrawal of such rating may have an adverse effect on the market price of the Series 2011 Bonds. Moody's is in the process of completing its negative outlook review, and none of the County, the Authority, the Underwriters nor the Company can predict the outcome of that review, and any subsequent effect on the market pricing of the Series 2011 Bonds.

#### **FINANCIAL ADVISOR**

NW Financial Group, LLC, Jersey City, New Jersey, has served as financial advisor to the Authority with respect to this transaction (the "*Financial Advisor*"). The Financial Advisor is not obligated to undertake, and has not undertaken, either to make an independent verification of or to assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement or in the appendices hereto. The Financial Advisor is an independent firm and is not engaged in the business of underwriting, trading, or distributing municipal securities or other public securities.

## UNDERWRITING

The Series 2011 Bonds are being purchased from the Authority by RBC Capital Markets, LLC, as senior managing underwriter on behalf of itself and its co-managing underwriters (the "Underwriter") as set forth in that certain Bond Purchase Agreement dated December \_\_, 2011 (the "Bond Purchase Agreement") between the Underwriter and the Authority, and acknowledged and accepted by the Company. The Bond Purchase Agreement provides that the purchase price of the Series 2011A Bonds is \$\_\_\_\_\_ (representing the principal amount of the Series 2011A Bonds, less an Underwriter's discount in the amount of \$\_\_\_\_\_). The Bond Purchase Agreement provides that the purchase price of the Series 2011B Note is \$\_\_\_\_\_ (representing the principal amount of the Series 2011B Note, less an Underwriter's discount in the amount of \$\_\_\_\_\_).

The obligation of the Underwriter to make such purchase is subject to certain additional terms and conditions set forth in the Bond Purchase Agreement, to the approval of certain legal matters by counsel, and to certain other conditions. The Underwriter intends to offer the Series 2011 Bonds at the rates and prices shown on the inside front cover hereof, which rates and prices may be changed from time to time by the Underwriter.

The Underwriter may offer and sell the Series 2011 Bonds to certain dealers (including dealers depositing bonds into investment trusts) and certain dealer banks acting as agents at prices lower or yields higher than the public offering prices or yields stated on the inside front cover hereof.

## SECONDARY MARKET DISCLOSURE

Pursuant to the requirements of Rule 15c2-12 (the "Rule") adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, the County and the Company will each deliver concurrently with the delivery of the Series 2011 Bonds a Continuing Disclosure Agreement with the Authority and the Trustee in substantially the forms annexed hereto as Appendix F (each, a "Continuing Disclosure Agreement" and together, the "Continuing Disclosure Agreements"). The County and the Company have each covenanted for the benefit of Bondholders, in accordance with the provisions of the respective Continuing Disclosure Agreement, to provide or cause to be provided, in accordance with the requirements of the Rule, certain financial information and operating data to the Municipal Securities Rulemaking Board (as defined in each Continuing Disclosure Agreement). The County, the Authority and the Company have each also covenanted in their respective Continuing Disclosure Agreements to provide notices of the occurrence of certain enumerated events.

A failure by the County, the Authority or the Company to comply with the provisions of the respective Continuing Disclosure Agreements will not constitute a default under the Series 2011 Bonds, and holders and beneficial owners are limited to the remedies set forth in the Continuing Disclosure Agreements. However, failure by any of the County, the Authority or the Company to comply with its Continuing Disclosure Agreement must be reported in accordance with the Rule and must be considered by any broker or dealer before recommending the purchase or sale of Series 2011 Bonds in the secondary market. Consequently, such failure may adversely affect the transferability and liquidity of the Series 2011 Bonds and their market price.

The County has never failed to fully satisfy the requirements of an undertaking previously executed by the County pursuant to the Rule in connection with a prior issue of bonds of the County. The Authority has never failed to fully satisfy the requirements of an undertaking previously executed by the Authority pursuant to the Rule in connection with a prior issue of bonds of the Authority. This is the first undertaking signed by the Company pursuant to the Rule.

### **INDEPENDENT AUDITORS**

The financial statements of the County as of December 31, 2010, included in Appendix B to this Official Statement, have been audited by Nisivoccia & Company LLP, independent certified public accountants, as stated in their report appearing in Appendix B to this Official Statement.

### **APPENDICES**

Appendix A to this Official Statement consists of certain general information concerning the County which has been provided by the County from public documents of the County and from other public or official documents or publications which are referred to therein. The Authority, the Company and the Underwriters have not confirmed the accuracy or completeness of said information, and the Authority, the Company and the Underwriters disclaim any responsibility for the accuracy and completeness thereof.

Appendix B to this Official Statement consists of certain financial information concerning the County. The Authority, the Company and the Underwriters have not confirmed the accuracy or completeness of said information, and the Authority, the Company and the Underwriters disclaim any responsibility for the accuracy and completeness thereof.

Appendix C to this Official Statement consists of certain general information concerning the Company that has been provided the Company. The Authority and the Underwriters have not confirmed the accuracy or completeness of said information, and the Authority and the Underwriters disclaim any responsibility for the accuracy and completeness thereof.

Appendix D to this Official Statement consists of the forms of the following Renewable Energy Program Documents: the Bond Resolution, the Power Purchase Agreement, the Company Lease Agreement, a License and Access Agreement and the County Guaranty Agreement. Each has been provided by Bond Counsel to the Authority. The Underwriters have not confirmed the accuracy or completeness of said information, and the Underwriter disclaims any responsibility for the accuracy and completeness thereof.

Appendix E of this Official Statement consists of the form of approving legal opinion of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Bond Counsel to the Authority. Copies of such opinion will be available at the time of delivery of the Series 2011 Bonds.

Appendix F of this Official Statement consists of the forms of Continuing Disclosure Agreements to be entered into by the County and the Company, respectively, with the Authority and the Trustee.

Appendix G of this Official Statement consists of the "Solar Proposal Evaluation Report" dated October 24, 2011, which information has been prepared by the Sussex County Evaluation Team in connection with the evaluation of proposals received for the Renewable Energy Projects. Further information regarding the Authority's solar procurement process may be found at <http://www.co.morris.nj.us/improvement/renewable.asp>. The Company and the Underwriters have not confirmed the accuracy or completeness of said information, and the Company and the Underwriters disclaim any responsibility for the accuracy and completeness thereof.

#### MISCELLANEOUS

The references herein to the Act, the Bond Resolution, and the other Renewable Energy Program Documents are brief outlines of certain provisions thereof. Such outlines do not purport to be complete and reference is made to the Act, the Bond Resolution, and the other Renewable Energy Program Documents for full and complete statements of such provisions. These documents may be inspected at the principal corporate trust office of the Trustee.

Any statements which are contained in this Official Statement involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact. All estimates and assumptions herein have been made on the best information available and are believed to be reliable but no representations whatsoever are made that such estimates or assumptions are correct or will be realized. This Official Statement is not to be construed as a contract or agreement between the Authority and the purchasers or holders of the Series 2011 Bonds.

The execution and delivery of this Official Statement have been duly authorized by the Authority.

#### THE MORRIS COUNTY IMPROVEMENT AUTHORITY

By: \_\_\_\_\_  
John Bonanni, Chairman

Dated: December \_\_, 2011

APPENDIX A

GENERAL INFORMATION CONCERNING THE COUNTY OF SUSSEX

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## COUNTY OF SUSSEX

### General Information

Sussex County includes 526 square miles and is situated in the northwestern corner of New Jersey. The County has 9 square miles of water on more than 110 lakes and streams. Newton, the County Seat, is centrally located in the County approximately 60 miles from New York City and 100 miles from downtown Philadelphia. The County is easily accessible from metropolitan areas via Interstate Route 80 and major state roadways.

### Governmental Structure

The County operates under the Freeholder form of County government, in which a five-member Board of Chosen Freeholders are elected for staggered three-year terms. The Board expanded from three members to five members effective January 1, 1990, pursuant to voter approval. The Board of Chosen Freeholders enacted the Sussex County Administrative Code on November 17, 1989, so as to maintain the separation of legislative and administrative powers and organize the administration of County government as provided in the Code. The legislative, policy making and investigative powers of County government are vested in the Board. In addition to said powers, the Freeholders operate through an undefined liaison system and are required to perform legislative responsibilities for: (i) adopting whatever ordinances and resolutions it deems necessary and proper for the good governance of the County, (ii) approving the operating and capital budget and appropriating the funds of the County to maintain all County services. A County Administrator is appointed by the Board to be the chief administrative officer responsible for the proper and efficient administration of the County. The County Administrator: (i) supervises, directs and controls all County administrative departments, (ii) organizes the work of the County administrative departments subject to the Code, (iii) reviews the administration and operation of the administrative department and makes recommendations to the Board.

The County has 699 employees of whom approximately 600 are represented by five collective bargaining units. The largest unit is the Communications Workers of America, A.F.L.-C.I.O. Two C.W.A. contracts expire on December 31, 2013. One P.B.A. contract with Prosecutor's Office expires on December 31, 2011; two P.B.A. contracts with Corrections Officers and Sheriff's Officers expire on December 31, 2013.

All full-time County employees are enrolled in one of two State of New Jersey retirement systems. Both the employer and employees make contributions to the systems. In 2009, the County appropriated \$2,108,435 to pay its share of costs associated with the Public Employees' Retirement System and \$1,616,028 for the Police and Firemen's Retirement System. In 2010, the County appropriated \$2,353,125 or 100% of full contribution for the PERS invoice and \$1,764,606 or 100% contribution for the PFRS invoice.

County employees are also enrolled in the Social Security System and are covered by Workers' Compensation, Temporary Disability and Unemployment Insurance, New Jersey Dental Plan and a recently adopted self-insured Medical Program administered by Cigna and Prescription Drug Plan administered by Medco.

### Responsibilities of Government

The County is responsible for providing diverse government services including the construction and maintenance of the County road and bridge system, the provision of human and health care services, library system, fire training, law enforcement, education and a variety of other programs.

Pursuant to the requirements of Section 326 of the State of New Jersey's Solid Waste Management Act, the Board of Chosen Freeholders has adopted a Solid Waste Management Plan and Update. This Plan includes recycling to meet State goals and solid waste flow control for Sussex County generated solid waste.

FINANCIAL INFORMATION

COUNTY REVENUE AND TAXES REALIZED

Year	Total Revenue Realized	County Taxes	County Taxes as a % of Total Revenue	Other Revenue
2010	\$ 113,210,396	\$ 75,209,568	66.43%	\$ 38,000,828
2009	115,738,790	71,507,294	61.78%	44,231,496
2008	111,321,395	68,490,715	61.53%	42,830,680

COUNTY TAXES

County taxes are collected by the municipalities and paid to the County Treasurer. The municipal levy includes all County, library, health, school, and municipal taxes. Each municipality is required to pay to the County Treasurer its share of the County Purpose Tax on the fifteenth day of February, May, August and November of each year. The County receives its share of the taxes collected from the first taxes collected by each municipality. The State Division of Local Government Services requires that each municipality establish a reserve for uncollected taxes that is equal to the product of total taxes assessed by the County multiplied by the percentage of uncollected taxes in the prior year. This reserve is included in the municipal budget when the municipality establishes its own tax rate and assures the County that it will receive 100% of the taxes due. The County reports that it received virtually 100% of its tax levy during the levy year for each of the last three years.

COMPARISON OF TAX LEVIES AND COLLECTIONS

Year	Tax Levy	Cash Collection	Percentage of Collection
2010	\$ 75,209,568	\$ 75,209,568	100.00%
2009	71,507,294	71,507,294	100.00%
2008	68,490,715	68,490,715	100.00%

EQUALIZED VALUATIONS FOR APPORTIONMENT OF COUNTY TAXES

<u>Taxing District</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>
Andover Borough	\$ 86,718,562	\$ 79,662,312	\$ 77,509,143
Andover Township	882,694,272	900,544,085	907,696,531
Branchville Borough	149,534,694	160,616,325	165,922,928
Byram Township	1,158,651,730	1,187,662,199	1,208,520,486
Frankford Township	929,197,534	969,749,412	918,469,471
Franklin Borough	535,613,771	514,460,518	526,736,674
Fredon Township	531,329,855	556,324,174	558,965,857
Green Township	569,716,075	579,774,786	574,388,803
Hamburg Borough	356,252,093	386,169,033	384,783,759
Hampton Township	756,766,252	792,388,864	786,727,501
Hardyston Township	1,306,080,537	1,406,434,964	1,399,306,603
Hopatcong Borough	1,896,190,997	1,927,858,579	1,858,757,494
Lafayette Township	451,312,650	491,230,736	475,990,366
Montague Township	453,597,230	481,711,730	480,425,465
Newton, Town of	821,900,949	815,490,987	835,648,931
Ogdensburg Borough	246,933,065	248,778,902	246,064,375
Sandyston Township	276,815,900	304,828,906	289,535,447
Sparta Township	3,621,991,535	3,767,867,651	3,711,373,217
Stanhope Borough	419,493,289	442,899,919	434,820,741
Stillwater Borough	578,551,595	597,995,147	580,601,044
Sussex Borough	161,479,129	149,022,809	152,335,911
Vernon Township	3,188,592,155	3,310,050,113	3,285,887,465
Walpack Township	3,059,927	2,897,014	2,887,175
Wantage Township	1,460,073,411	1,549,245,517	1,421,853,168
	<u>\$ 20,842,547,207</u>	<u>\$ 21,623,664,682</u>	<u>\$ 21,285,208,555</u>

ASSESSED AND EQUALIZED VALUATIONS AND TAX RATES

<u>Year</u>	<u>Assessed Valuation</u>	<u>Equalized Assessed Valuation</u>	<u>Tax Levy</u>	<u>Total Tax Rate</u>
2010	\$ 17,716,758,327	\$ 20,842,547,207	\$ 75,209,568	\$ 0.36
2009	17,141,712,811	21,623,664,682	71,507,294	0.33
2008	15,117,256,883	21,285,208,555	68,490,715	0.32

Source: County of Sussex Department of Finance

**ASSESSED VALUATION OF REAL PROPERTY BY CATEGORY**

<u>Year</u>	<u>Vacant Land</u>	<u>Residential</u>	<u>Farm</u>	<u>Commercial</u>	<u>Industrial</u>	<u>Apartments</u>
2010	2.76%	82.45%	3.72%	9.24%	1.27%	0.56%
2009	2.80%	82.87%	3.81%	8.89%	1.11%	0.52%
2008	2.85%	82.33%	4.07%	8.99%	1.17%	0.59%

Source: County of Sussex Board of Taxation

**LARGEST TAXPAYERS**

Listed below are the 15 major ratables in Sussex County currently listed on the tax rolls and their equalized market value for the year 2010:

<u>Taxpayer</u>	<u>Type of Business</u>	<u>Assessed Valuation</u>
1. Crystal Springs, Grand Cascades, Skylands Ballyowen Spa	Resort/Recreation	\$ 134,627,200
2. Mountain Creek Resorts	Resort/Recreation	41,066,000
3. Wantage Avenue Holding Co., Inc.	Insurance	38,696,700
4. Kenneth D. Martin Properties	Real Estate Developer	31,252,100
5. Schering Plough Corporation	Pharmaceutical	29,273,000
6. Metairie Corp.	Resort/Recreation	24,730,000
7. Wal-Mart Stores	Retail Shopping	23,010,200
8. Gordon Byram Associates LLC	Real Estate Developer	22,696,700
9. Weldon Quarry	Quarry	18,309,400
10. Weis Market, Inc.	Grocery Shopping	17,775,200
11. Turco Properties/Andover Nursing	Health Care	17,750,400
12. Shinnihon USA, LTD	Resort/Recreation	14,248,000
13. Newark Watershed Conservation	Watershed Conservation	12,995,600
14. United Telephone	Telecommunications	11,797,280
15. Sussex, Nine, Inc	Health Care	11,063,100
<b>Total</b>		<b>\$ 449,290,880</b>

Source: County of Sussex Tax Board

**SUMMARY OF BUDGET OPERATIONS  
FOR THE YEAR ENDED DECEMBER 31, 2010**

	<u>Anticipated</u>	<u>Realized</u>	<u>% Realized</u>	<u>Prior Year Realized</u>
<b>Revenue:</b>				
Fund Balance	\$ 7,867,523	\$ 7,867,523	100%	\$ 7,898,000
Miscellaneous	28,321,764	28,534,409	101%	34,278,276
Current Tax Collections	75,209,586	75,209,568	100%	71,507,294
<b>Total Revenue</b>	<b><u>\$111,398,873</u></b>	<b><u>\$111,611,500</u></b>	<b>100%</b>	<b><u>\$113,683,570</u></b>
	<u>Appropriated (Modified)</u>	<u>Paid or Charged</u>	<u>% Paid or Charged</u>	<u>Prior Year Paid or Charged</u>
<b>Expenditures:</b>				
<b>Operations:</b>				
Salaries and Wages	\$ 32,640,714	\$ 32,241,339	99%	\$ 32,076,792
Other Expenses	57,211,535	54,267,520	95%	56,671,036
Capital Improvements	503,566	403,566		
Debt Service	14,510,623	14,510,620	100%	14,544,162
Deferred Charges and Statutory Expenditures	6,532,435	6,170,568	94%	6,541,490
<b>Total Expenditures</b>	<b><u>\$111,398,873</u></b>	<b><u>\$107,593,613</u></b>	<b>97%</b>	<b><u>\$109,833,480</u></b>

Source: County of Sussex Department of Finance

**COMPARATIVE SCHEDULE OF FUND BALANCES**

	<u>Year</u>	<u>Balance December 31</u>	<u>Used in Succeeding Budget</u>
Current Fund	2010	\$ 11,716,285	\$ 5,857,000
	2009	15,831,572	7,867,523
	2008	18,034,700	7,898,000
County Health Fund	2010	\$ 512,955	\$ 467,562
	2009	1,042,217	808,000
	2008	1,439,203	720,000
County Library Fund	2010	\$ 848,050	\$ 588,377
	2009	835,555	602,632
	2008	921,428	595,000

Source: County of Sussex Department of Finance

**SUMMARY OF STATUTORY DEBT CONDITION - ANNUAL DEBT STATEMENT**

The summarized statement of debt condition which follows is prepared in accordance with the required method of setting up the Annual Debt Statement as of December 31, 2010, and indicates a statutory net debt of 0.37%.

	<u>Gross Debt</u>	<u>Deductions</u>	<u>Net Debt</u>
General, Vocational School and County College Debt	<u>\$ 88,637,150</u>	<u>\$ 14,109,035</u>	<u>\$ 74,528,115</u>

Net Debt \$74,528,115 divided by Equalized Valuation Basis per N.J.S. 40A:2-2 as amended, \$20,760,970,603 = 0.36%.

**DEBT LIMIT OF THE COUNTY OF SUSSEX  
DECEMBER 31, 2010**

Average Equalized Valuation Basis (2008, 2009 and 2010)	<u>\$ 20,760,970,603</u>
Permitted Debt Limitation (2.00%)	\$ 415,219,412
Net Debt Issued and Authorized but not Issued	<u>74,528,115</u>
Remaining Borrowing Power	<u>\$ 340,691,297</u>

Source: County of Sussex Department of Finance

COUNTY OF SUSSEX  
SCHEDULE OF EXISTING BOND MATURITIES  
AND DEBT SERVICE REQUIREMENTS (1)  
AS OF DECEMBER 31, 2010

Year	Vocational Bonds		General Improvement Bonds		County College		Total Debt Service
	Principal	Interest	Principal	Interest	Principal	Interest	
2011	450,000	106,733	9,565,000	1,965,335	1,240,000	456,930	13,783,997
2012	850,000	90,587	9,035,000	1,642,210	1,305,000	413,064	13,335,861
2013	345,000	57,093	9,716,000	1,335,530	1,599,000	365,960	13,418,582
2014	280,000	43,848	8,274,000	1,008,803	1,594,000	307,055	11,507,705
2015	280,000	34,603	4,605,000	743,593	1,506,000	250,814	7,420,009
2016	315,000	25,358	4,535,000	593,070	820,000	199,883	6,488,310
2017	210,000	15,188	4,570,000	444,958	840,000	169,983	6,250,128
2018	150,000	9,563	3,570,000	295,318	840,000	139,683	5,004,563
2019	150,000	6,563	3,601,000	185,948	925,000	108,883	4,977,393
2020	150,000	3,375	2,227,000	72,443	902,000	74,883	3,429,700
2021			395,000	10,468	765,000	41,200	1,211,668
2022					265,000	10,600	275,600
	<u>\$ 3,180,000</u>	<u>\$ 392,907</u>	<u>\$ 60,093,000</u>	<u>\$ 8,297,673</u>	<u>\$ 12,601,000</u>	<u>\$ 2,538,935</u>	<u>\$ 87,103,514</u>

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(1) Does not include County College Bonds pursuant to the County College Bond Act (P.L. 1971, C.12) which are paid by the NJ Department of Treasury.

Source: County of Sussex Finance Department

## EMPLOYMENT AND UNEMPLOYMENT COMPARISONS

For the years 2008, 2009 and 2010, the New Jersey Department of Labor and Workforce Development reported the following annual average employment information for the County of Sussex and the State of New Jersey.

<u>County of Sussex</u>	<u>Annual Average</u>		<u>Total</u> <u>Unemployed</u>	<u>Unemployment</u> <u>Rate</u>
	<u>Labor Force</u>	<u>Employed</u>		
2010	84,561	76,671	7,890	9.3%
2009	85,400	77,950	7,450	8.7%
2008	85,150	80,850	4,300	5.0%
<u>State of New Jersey</u>				
2010	4,502,450	4,076,713	425,737	9.5%
2009	4,536,650	4,118,350	418,300	9.2%
2008	4,502,750	4,256,950	245,800	5.5%

Source: New Jersey Department of Labor and Workforce Development

### PER CAPITAL INCOME

	<u>2010</u>	<u>2009</u>	<u>2008</u>
County of Sussex	N/A	\$ 47,497	\$ 48,828
State of New Jersey	N/A	48,455	49,857

Source: New Jersey Department of Labor and Workforce Development

### MAJOR PRIVATE AND PUBLIC EMPLOYEES

<u>Employer</u>	<u>Municipality</u>	<u>Number of</u> <u>Employees</u>
1. Selective Insurance Company	Branchville	954
2. Newton Medical Center	Newton	805
3. Andover Sub acute & Rehab Center	Andover Township	800
4. Mountain Creek/Intrawest	Vernon	776
5. County of Sussex	Newton	771
6. Ronetco Supermarkets	Newton/Franklin/Byram	672
7. Vernon Township Board of Education	Vernon	664
8. F.O. Phoenix, Inc. (Econo-Pac)	Sussex	600
9. Sparta Board of Education	Sparta	517
10. Hopatcong Board of Education	Hopatcong	450

Source: Sussex County Strategic Growth Plan, July, 2009

## LAND AREA

The land area of Sussex County is approximately 525 square miles or approximately 337,000 acres. Of that amount, the federal or state government for recreational use holds 64,200 acres. Approximately 12,000 acres of the County are still virgin woodland of the approximately 100,000 acres of total woodland. Agricultural uses account for 84,000 acres. In order to preserve this agricultural base, the County operates a farmland preservation program, which is partially State funded and with a dedicated property tax that began in 2001. There are 100 lakes and streams in the County.

## ECONOMY

The County has shifted from a principally agricultural, mining, and recreational based economy to one, which is more diversified. The growth of population in the County has led to the development of substantial construction activity, increased retail and office development, as well as other service sector jobs that are supported by the increasing population. The County encourages economic growth that is consistent with its zoning and subdivision laws. Approximately 51,000 County residents are employed outside the County. These commuters are employed in Morris, Bergen, and Essex Counties in New Jersey as well as in New York City. The development of commercial complexes in Morris County has supported the residential growth in Sussex County.

Adjacent to Sussex County are Picatinny Arsenal, a U.S. military installation, and the New Jersey Foreign Trade Zone, an authorized Foreign trade Zone developed by the Rockefeller Group. The International Trade Center is home to foreign-owned manufacturing, assembly and distribution operations that employ approximately 815 people, of which an estimated 80-100 are County residents. The Center has developed 2 million square feet of office and light industrial space with plans to develop up to 3 million additional square feet.

Agriculture's contribution to county business exceeds \$20 million a year spread across a varied mix of animal, forage and grain, and direct consumer product sales. Sussex County growers consistently rank near the top in the State in hay production and sales, milk production and sales, cattle, calves, sheep and lamb production and sales, equine production and value, and sweet corn production. Growth continues in pick-your-own fruit and vegetable farms and in nursery and greenhouse/floriculture industry that is accommodating the increasing urban population and tourism interests in northern New Jersey.

## TRANSPORTATION

The transportation network in Sussex County links federal Interstate 80 in the south eastern part of the County and Interstate 84 in the northwestern portion of the County to a variety of U.S. and state routes; U.S. Route 206 connects Interstate 80 with Newton, the County seat, and continues into Pennsylvania. State Routes 15, 23, 94, and 284 provide access to all parts of the County. In addition, the County route system is comprised of 47 separate routes totaling 320 two-lane miles. The towns within the County also maintain a system of local roads and streets. Of the 480 bridges that are located within the County, 440 bridges are part of the County system, 37 are State owned, and 3 are privately owned.

Two commuter bus lines offer transportation to the Port Authority Terminal in New York City and the Sussex County Transit system offers daily trips throughout the County. The Sussex County Transit system also provides Dial-A-Ride services to senior and handicapped citizens. NJ Transit offers rail service in neighboring counties with close proximity to Sussex County

The New York, Susquehanna, and Western Railway provides freight service to the County.

There are four licensed airfields that serve private pilots. The Newark International Airport is approximately one hour from the County.

## EDUCATIONAL FACILITIES

There are 20 public school districts in the County, of which 5 offer K-6 instruction, 11 offer K-8 instruction, and 4 offer K-12 instruction. In addition, there are four regional schools that provide 7-12 and 9-12 educational programs for district students. There are also nine nonpublic schools as well as private preschool programs offered in most communities. Also, there is one Charter School for Technology and one educational services commission. The secondary school districts cooperate in offering a vocational-technical school serving the County. Students are enrolled in trade, vocational and technical programs including electronics, computer science, automotive technology, engineering and health care fields.

There is one college in the County. The Sussex County Community College opened in 1982 and was fully accredited by the Middle States Association in 1993.

### SUSSEX COUNTY RESIDENT SCHOOL ENROLLMENTS

<u>Year</u>	<u>Total</u>
2006-07	27,649
2007-08	26,995
2008-09	26,334
2009-10	25,655
2010-11	24,880

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Source: Sussex County Superintendent of Schools Office October 15, ASSA Counts

## HEALTH CARE FACILITIES

There are two hospitals that serve the County, Newton Medical Center and Northwest Covenant Medical Center. Newton Hospital has been serving the County for more than 50 years and has 146 acute care beds. Approximately 96 beds are for medical surgical patients, a pediatric unit, a physical rehabilitation unit and an OB/GYN unit. In addition, it houses health education programs, the American Heart Association, the Cancer Society, a hospice for the terminally ill, and a Center for Mental Health. The hospital provides an American College of Surgeons Commission approved oncology program providing radiotherapy and chemotherapy. Newton Medical Center is part of the Atlantic Health Care System and often refers patients to Morristown Hospital or Saint Joseph's Hospital in Philadelphia.

The Northwest Covenant Medical Center was the result of a merger between the St. Clare's Riverside Medical Center in Denville Township and the Wallkill Valley General Hospital. The Northwest Covenant Medical Center provides an Acute Care Center and geriatric services in the Sussex Borough facility.

An interconnecting network of volunteer and private ambulance and rescue squads also serves the County.

## RECREATIONAL FACILITIES

Located in the northwest corner of New Jersey, Sussex County is bordered by the 72,000 acre Delaware Water Gap National Recreation Area, developed by the United States Department of Interior. In addition, the County is home to the 15,734 acre Stokes State Forest and to six additional state parks totaling 41,382 acres, and nine wildlife management areas. Some of the state parks recreational facilities include swimming, fishing, hiking, mountain biking, horseback riding, hunting, boating, picnicking, camping, snow shoeing, cross country skiing, and snowmobiling. Also, there are over 15,000 acres of farmland preserved in perpetuity in the county.

Other recreational offerings consist of two ski resorts, twenty public and private golf courses, a large water park, and a minor league baseball team. The best known of these are Mountain Creek for its winter and summer recreation parks.

SUSSEX COUNTY MUNICIPAL POPULATION AND POPULATION DENSITIES

	<u>Form of Government</u>	<u>Estimated Population July 1, 2008</u>	<u>Population Per Square Mile</u>	<u>Square Mile July 1, 2008</u>
Andover Borough	Mayor-Council	633	452	1.40
Andover Township	Township Committee	6,531	308	21.20
Branchville Borough	Mayor-Council	814	1,454	0.56
Byram Township	Council-Manager	8,465	411	20.60
Frankford Township	Township Committee	5,594	161	34.70
Franklin Borough	Mayor-Council	5,077	1,154	4.40
Fredon Township	Township Committee	3,316	184	18.00
Green Township	Township Committee	3,599	228	15.80
Hamburg Borough	Mayor-Council	3,466	2,888	1.20
Hampton Township	Township Committee	5,099	204	24.95
Hardyston Township	Council-Manager	8,295	255	32.50
Hopatcong Borough	Mayor-Council	15,491	1,434	10.80
Lafayette Township	Township Committee	2,466	132	18.70
Montague Township	Township Committee	3,906	86	45.20
Newton Town	Council-Manager	8,096	2,453	3.30
Ogdensburg Borough	Mayor-Council	2,545	1,157	2.20
Sandyston Township	Township Committee	1,882	45	41.40
Sparta Township	Council-Manager	19,206	499	38.50
Stanhope Borough	Mayor-Council	3,562	2,095	1.70
Stillwater Township	Township Committee	4,292	157	27.35
Sussex Borough	Mayor-Council	2,124	2,832	0.75
Vernon Township	Council-Manager	24,854	370	67.25
Walpack Township	Township Committee	39	2	24.10
Wantage Township	Township Committee	11,557	170	68.15
		<u>150,909</u>	<u>288</u>	<u>524.71</u>

Source: Population Division, U.S. Census Bureau

## SUSSEX COUNTY MUNICIPAL UTILITIES AUTHORITY

The Sussex County Municipal Utilities Authority (the "Authority") is a public body corporate and politic of the State of New Jersey. The Sussex County Municipal Utilities Authority was organized pursuant to the Municipal and County Utilities Authorities law (N.J.S.A. 40:14A-1 et seq.) (the "MUA Act"). The governing body of the Authority consists of nine members appointed by the Board of Chosen Freeholders for terms on a staggered basis for a maximum term of five years.

The Authority was created for the purpose of acquiring, constructing, maintaining and operating sewerage facilities for the relief of waters in, bordering or entering the areas within the territorial boundaries of the County from pollution or the threatened pollution and for the improvement of conditions affecting the public health. The Authority has been granted additional powers to implement the County solid waste plan.

The Authority has broad power under the MUA Act including, among others, the following: to sue and to be sued; to enter into leases and contracts; to acquire property by any lawful means, including the exercise of the power of eminent domain; to hold, operate and administer its property; to issue its negotiable bonds and to secure their payment and rights of holders thereof under a bond resolution; to enter into contracts with municipalities, other authorities and corporations for the treatment and disposal of sewage and solid waste; to charge and collect service charges for the use of its facilities and to revise such service charges which the MUA Act requires to such that the revenue of the Authority will at all times be adequate to pay operating and maintenance expenses including reserves, insurance, extensions and replacements; to pay punctually the principal of and interest on any bonds and to maintain reserves and sinking funds therefor as may be required by the terms of any contracts with bondholders; and to make and enforce rules and regulations for the management of its business affairs.

The County of Sussex and the Sussex County Municipal Utilities Authority ("SCMUA") have entered into Deficiency Advance Contracts in order to provide security to the holders of obligations of SCMUA relative to the existing permanent debt issued and outstanding as listed in the following schedule. Pursuant to the terms of the Deficiency Advance Contracts, SCMUA can impose and collect from the County of Sussex annual charges, as defined in the contract, in any fiscal year that SCMUA estimates that the amount of revenue received from all sources will be insufficient to satisfy all of its costs, expenses, or other obligations.

As of December 31, 2010, the SCMUA has outstanding approximately \$38,059,874 of Upper Wallkill Wastewater Facilities Revenue Bonds that are supported by the Deficiency Advance Contract. The SCMUA's wastewater revenues have been sufficient to meet all costs of operation and maintenance and all debt service costs of the Authority with respect to its wastewater system.

As of December 31, 2010, the SCMUA has outstanding approximately \$28,439,744 of Solid Waste Revenue Bonds that are supported by a Deficiency Advance Contract. The Authority's Solid Waste Facilities, as a result of the Supreme Court decision regarding solid waste flow direction control, has realized a significant drop in revenue from tipping fees. SCMUA projected the anticipated budget deficit for 2011 would be \$3.0 million. SCMUA will be covering the 2011 shortfall by realizing higher than expected solid waste revenues and by utilizing \$2.1 million from their landfill closure reserve. The Sussex County Municipal Utilities Authority expects to replenish the landfill closure reserve in future years when debt services costs are expected to decrease. Additionally, SCMUA has proposed a 2012 rate increase to meet its full operating costs, including debt service with respect to its solid waste system.

SUSSEX COUNTY MUNICIPAL UTILITIES AUTHORITY  
 PERMANENT DEBT ISSUED AND OUTSTANDING  
 As of December 31, 2010

<u>Purpose</u>	<u>Interest Rates</u>	<u>Date of Issue</u>	<u>Final Maturity Date</u>	<u>Amount Outstanding</u>
Wastewater Trust Loan	4.6-4.8%	5/7/2003	12/1/2012	\$ 655,482
Wastewater Trust Loan	0.00%	10/15/1993	12/1/2011	275,788
2001 Series F	4.0-5.0%	12/12/2001	12/1/2031	2,535,000
2003 Series G	2.0-4.0%	10/12/2003	12/1/2018	6,035,000
Series 2008 A & B	2.57-5.75%	9/15/2008	12/1/2039	28,558,594
Upper Walkill Wastewater Facilities				<u>38,059,864</u>
Refunding Series 2003	2.0-5.0%	4/4/2003	12/1/2013	13,235,000
Revenue Series 2006	3.7%-4.48%	6/21/2006	12/1/2016	15,204,744
Solid Waste Facilities				<u>28,439,744</u>
Total Wastewater and Solid Waste Revenue Bonds				66,499,608
Other Loans:				
County Loan				<u>435,701</u>
Total Debt				<u>\$ 66,935,309</u>

Source: Sussex County Municipal Utilities Authority

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## Appendix B

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FINANCIAL STATEMENTS OF THE COUNTY OF SUSSEX  
YEARS ENDED DECEMBER 31, 2010, 2009 AND 2008

COUNTY OF SUSSEX  
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Mount Arlington Corporate Center  
200 Valley Road, Suite 300  
Mt. Arlington, NJ 07856  
973-328-1825 | 973-328-0507 Fax  
Lawrence Business Center  
11 Lawrence Road  
Newton, NJ 07860  
973-383-6699 | 973-383-6555 Fax

### Independent Auditors' Report

The Honorable Director and Members  
of the Board of Chosen Freeholders  
County of Sussex  
Newton, NJ 07860

We have audited the accompanying financial statements of the various funds of the County of Sussex (the "County") as of and for the years then ended December 31, 2010, 2009 and 2008, as listed in the table of contents. These financial statements are the responsibility of the County's management. Our responsibility is to express opinions on these financial statements based on our audits.

Except as discussed in the fourth paragraph, we conducted our audits in accordance with auditing standards generally accepted in the United States of America, audit requirements prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey (the "Division"), and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinions.

As described in Note 1, these financial statements have been prepared in conformity with accounting principles prescribed by the Division that demonstrate compliance with the modified accrual basis, with certain exceptions, and the budget laws of New Jersey, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The effects on the financial statements of the variances between the statutory basis of accounting and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

The financial statements referred to in the first paragraph do not include the general fixed assets account group, which should be included to conform with the Technical Accounting Directives of the Division. The amount that should be recorded as total fixed assets and the corresponding reserve for fixed assets in the general fixed assets account group is not known.

In our opinion, because the County prepares its financial statements on the basis of accounting discussed in the third paragraph, the financial statements referred to in the first paragraph do not present fairly, in conformity with accounting principles generally accepted in the United States of America, the financial position of the County as of December 31, 2010, 2009 and 2008 and the results of its operations for the years then ended.

The Honorable Director and Members of  
the Board of Chosen Freeholders  
County of Sussex  
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However, in our opinion, except for the effects on the financial statements of the omission described in the fourth paragraph, the financial statements referred to above present fairly, in all material respects, the financial position of the various funds of the County of Sussex at December 31, 2010, 2009 and 2008, and the results of operations and changes in fund balance, where applicable, of such funds, thereof for the years then ended, in conformity with accounting principles prescribed by the Division, as described in Note 1.

June 30, 2011  
except for Note 8  
which is dated  
November 18, 2011

NISIVOCCIA LLP

Nisivoccia LLP

COUNTY OF SUSSEX  
COMPARATIVE BALANCE SHEET  
CURRENT FUND

	December 31,		
	2010	2009	2008
<u>ASSETS</u>			
Cash and Cash Equivalents	\$ 20,223,535.03	\$ 15,799,281.79	\$ 16,703,956.30
Investments		7,979,814.56	9,669,832.26
Added and Omitted Taxes Receivable	135,130.89	185,024.81	340,398.16
Grant Funds Receivable	8,518,272.21	11,599,575.74	10,183,460.06
Interfund Receivable			6,938.76
Other Receivables	588,127.90	611,211.14	626,587.81
Deferred Charges	2,342,000.00	2,500,000.00	
<u>TOTAL ASSETS</u>	<u>\$ 31,807,066.03</u>	<u>\$ 38,674,908.04</u>	<u>\$ 37,531,173.35</u>
<u>LIABILITIES, RESERVES AND FUND BALANCE</u>			
Appropriation Reserves	\$ 6,197,807.68	\$ 7,388,077.69	\$ 5,236,870.32
Other Encumbrances Payable and Other Liabilities	5,476,542.31	2,448,296.17	1,830,680.29
Interfund Payables	2,845,467.18	2,975,293.47	3,565,716.60
Cash Reserves for Various Purposes	4,847,705.38	9,235,432.28	7,889,281.27
Reserve for Receivables	723,258.79	796,235.95	973,924.73
Fund Balance	11,716,284.69	15,831,572.48	18,034,700.14
<u>TOTAL LIABILITIES, RESERVES AND FUND BALANCE</u>	<u>\$ 31,807,066.03</u>	<u>\$ 38,674,908.04</u>	<u>\$ 37,531,173.35</u>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF OPERATIONS AND CHANGE IN FUND BALANCE  
CURRENT FUND

	Year Ended December 31,		
	2010	2009	2008
<u>Revenue and Other Income Realized</u>			
Fund Balance Anticipated	\$ 1,726,250.32	\$ 7,851,240.08	\$ 7,060,687.40
Fund Balance Anticipated with Prior Written Consent of Director of Local Government Services	6,141,272.68	46,759.92	901,004.60
Miscellaneous Revenue Anticipated	28,534,408.55	34,278,276.02	33,157,541.17
Receipts from Current Taxes	75,209,568.00	71,507,294.00	68,490,715.00
Receipts from Delinquent Taxes			
Non-Budget Revenue	1,598,896.78	2,055,220.40	1,711,446.63
Other Credits to Income	1,815,448.43	2,378,003.71	5,493,559.44
<b>Total Income</b>	<b>115,025,844.76</b>	<b>118,116,794.13</b>	<b>116,814,954.24</b>
<u>Expenditures</u>			
Budget and Emergency Appropriations:			
Operations	89,726,988.97	93,653,145.66	86,426,517.13
Capital Improvements	503,566.00		710,000.00
County Debt Service	14,510,620.24	14,544,162.13	14,898,454.15
Deferred Charges and Statutory Expenditures	6,532,434.34	6,724,614.00	5,812,023.24
Other Debits to Income			1,586.05
Interfunds and Other Receivables Advanced			
<b>Total Expenditures</b>	<b>111,273,609.55</b>	<b>114,921,921.79</b>	<b>107,848,580.57</b>
<b>Excess in Revenue</b>	<b>3,752,235.21</b>	<b>3,194,872.34</b>	<b>8,966,373.67</b>
Adjustments Before Fund Balance:			
Expenditures Included Above Which Are By Statute Deferred Charges to Budget of Succeeding Year		2,500,000.00	
<b>Statutory Excess to Fund Balance</b>	<b>3,752,235.21</b>	<b>5,694,872.34</b>	<b>8,966,373.67</b>
<u>Fund Balance</u>			
Balance January 1	15,831,572.48	18,034,700.14	17,030,018.47
	19,583,807.69	23,729,572.48	25,996,392.14
Decreased by:			
Utilization as Anticipated Revenue	7,867,523.00	7,898,000.00	7,961,692.00
<b>Balance December 31</b>	<b>\$ 11,716,284.69</b>	<b>\$ 15,831,572.48</b>	<b>\$ 18,034,700.14</b>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF REVENUE - CURRENT FUND

	For the Years Ended December 31,					
	2010		2009		2008	
	Budget After Modification	Realized	Budget After Modification	Realized	Budget After Modification	Realized
Fund Balance Anticipated	\$ 1,726,250.32	\$ 1,726,250.32	\$ 7,851,240.08	\$ 7,851,240.08	\$ 7,060,687.40	\$ 7,060,687.40
Fund Balance Anticipated with Prior Written Consent of Director of Local Government Services	6,141,272.68	6,141,272.68	46,759.92	46,759.92	901,004.60	901,004.60
Miscellaneous Revenue Anticipated	28,321,763.97	28,534,408.55	33,103,183.86	34,278,276.02	31,395,796.13	33,157,541.17
Amount to be Raised by Taxes for Support of Municipal Budget:						
Local Taxes for County Purposes	75,209,586.00	75,209,568.00	71,507,294.00	71,507,294.00	68,490,715.00	68,490,715.00
Total Budget Revenue	<u>111,398,872.97</u>	<u>111,611,499.55</u>	<u>112,508,477.86</u>	<u>113,683,570.02</u>	<u>107,848,203.13</u>	<u>109,609,948.17</u>
Nonbudget Revenue		1,598,896.78		2,055,220.40		1,711,446.63
 Grand Total	 <u>\$ 111,398,872.97</u>	 <u>\$ 113,210,396.33</u>	 <u>\$ 112,508,477.86</u>	 <u>\$ 115,738,790.42</u>	 <u>\$ 107,848,203.13</u>	 <u>\$ 111,321,394.80</u>

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THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF EXPENDITURES  
CURRENT FUND

For the Years Ended December 31,

	2010				2009			
	Budget After Modification	Paid or Charged	Reserved	Unexpended Balance Canceled	Budget After Modification	Paid or Charged	Reserved	Unexpended Balance Canceled
Operations:								
Salaries and Wages	\$ 32,640,714.00	\$ 32,241,338.60	\$ 399,375.40		\$ 32,472,056.64	\$ 32,076,792.20	\$ 395,264.44	
Other Expenses	57,211,534.97	54,267,520.12	2,818,754.85	\$ 125,260.00	61,267,642.22	56,671,035.73	4,510,053.29	\$ 86,553.20
Capital Improvements	503,566.00	403,566.00	100,000.00					
County Debt Service	14,510,623.00	14,510,620.24		2.76	14,544,165.00	14,544,162.13		2.87
Deferred Charges and Statutory Expenditures	6,532,435.00	6,170,567.90	361,866.44	0.66	6,724,614.00	6,541,490.03	183,123.97	
	<u>\$ 111,398,872.97</u>	<u>\$ 107,593,612.86</u>	<u>\$ 3,679,996.69</u>	<u>\$ 125,263.42</u>	<u>\$ 115,008,477.86</u>	<u>\$ 109,833,480.09</u>	<u>\$ 5,088,441.70</u>	<u>\$ 86,556.07</u>
Budget	\$ 111,398,872.97				\$ 112,508,477.86			
Emergency					2,500,000.00			
	<u>\$ 111,398,872.97</u>				<u>\$ 115,008,477.86</u>			

For the Year Ended December 31, 2008

	Budget After Modification	Paid or Charged	Reserved	Unexpended Balance Canceled
Operations:				
Salaries and Wages	\$ 32,628,822.00	\$ 31,860,021.83	\$ 768,800.17	
Other Expenses	53,797,695.13	52,051,118.38	1,746,576.75	
Capital Improvements	710,000.00	537,419.18	172,580.82	
County Debt Service	14,898,455.00	14,898,454.15		\$ 0.85
Deferred Charges and Statutory Expenditures	5,813,231.00	5,650,950.13	161,073.11	1,207.76
	<u>\$ 107,848,203.13</u>	<u>\$ 104,997,963.67</u>	<u>\$ 2,849,030.85</u>	<u>\$ 1,208.61</u>
Budget	\$ 107,848,203.13			
Emergency				
	<u>\$ 107,848,203.13</u>			

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THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE BALANCE SHEET  
TRUST FUNDS

	December 31,		
	2010	2009	2008
<u>ASSETS</u>			
Cash and Cash Equivalents	\$ 12,530,484.74	\$ 12,867,154.93	\$ 10,155,091.58
Investments	77,229.99	4,847,222.05	16,470,907.17
Open Space Added and Omitted			
Taxes Receivable	3,537.02	8,801.99	27,539.03
Interfunds Receivable	2,331,068.98	2,117,450.40	2,042,603.52
<u>TOTAL ASSETS</u>	<u>\$ 14,942,320.73</u>	<u>\$ 19,840,629.37</u>	<u>\$ 28,696,141.30</u>
 <u>LIABILITIES, RESERVES AND FUND BALANCE</u>			
Escrow Deposits	\$ 458,581.65	\$ 518,491.73	\$ 518,450.99
Cash Reserves for Various Purposes	14,448,580.62	19,286,979.18	28,142,531.85
Interfunds Payable	77.03	77.03	77.03
Fund Balance	35,081.43	35,081.43	35,081.43
<u>TOTAL LIABILITIES, RESERVES AND FUND BALANCE</u>	<u>\$ 14,942,320.73</u>	<u>\$ 19,840,629.37</u>	<u>\$ 28,696,141.30</u>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE BALANCE SHEET  
GENERAL CAPITAL FUND

	December 31,		
	2010	2009	2008
<u>ASSETS</u>			
Cash and Cash Equivalents	\$ 18,003,959.46	\$ 15,561,834.66	\$ 10,371,613.68
Investments	688,846.36	2,716,032.74	4,478,201.11
Interfunds Receivable	7,671.37	1,228.02	
Accounts Receivable	10,242,271.26	10,250,271.26	9,130,271.26
Deferred Charges to Future Taxation:			
Funded	84,728,000.00	72,671,000.00	83,907,800.00
Unfunded	3,909,150.29	19,072,407.26	7,978,407.26
<u>TOTAL ASSETS</u>	<u>\$ 117,579,898.74</u>	<u>\$ 120,272,773.94</u>	<u>\$ 115,866,293.31</u>
<u>LIABILITIES, RESERVES AND FUND BALANCE</u>			
Vocational School and General Improvement Serial Bonds	\$ 63,273,000.00	\$ 51,724,000.00	\$ 60,199,000.00
County College Serial Bonds	21,455,000.00	20,947,000.00	23,702,000.00
Loans Payable			6,800.00
Bonds Anticipation Notes		15,177,000.00	3,504,000.00
Improvement Authorizations	26,882,077.05	25,378,242.51	23,649,275.09
Capital Improvement Fund	269,383.56	346,982.56	711,732.56
Due to State of NJ	308,912.77	308,807.50	308,807.50
Interfunds Payable	2,342,000.00	2,500,000.00	6,938.76
Cash Reserves for Various Purposes	2,354,025.22	3,258,001.81	3,411,842.89
Capital Fund Balance	695,500.14	632,739.56	365,896.51
<u>TOTAL LIABILITIES, RESERVES AND FUND BALANCE</u>	<u>\$ 117,579,898.74</u>	<u>\$ 120,272,773.94</u>	<u>\$ 115,866,293.31</u>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF FUND BALANCE  
GENERAL CAPITAL FUND

	For the Years Ended December 31,		
	2010	2009	2008
Balance January 1	\$ 632,739.56	\$ 365,896.51	\$ 317,185.74
Increased by:			
Premium on Sale of Bonds	340,475.43		
Cancellation of Outstanding Checks	13,880.57		
Cancellation of Fully Funded Improvement Authorizations	5,175.64	438,343.08	181,041.71
Premium on Sale of Bonds Anticipation Notes	3,228.94	240,499.97	17,669.06
	995,500.14	1,044,739.56	515,896.51
Decreased by:			
Payment to Current Fund as Anticipated Revenue	300,000.00	175,000.00	150,000.00
Appropriated to Finance Improvement Authorizations		237,000.00	
		237,000.00	
Balance December 31	\$ 695,500.14	\$ 632,739.56	\$ 365,896.51

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE BALANCE SHEET  
SPECIAL REVENUE - COUNTY HEALTH FUND

	December 31,		
	2010	2009	2008
<u>ASSETS</u>			
Cash and Cash Equivalents	\$ 149,479.81	\$ 333,411.93	\$ 100.00
Interfund Receivable	624,829.51	974,717.73	1,641,215.76
Receivables with Full Reserves:			
County Taxes Receivable	9.00	9.00	9.32
Added and Omitted Taxes Receivable	3,695.26	5,296.33	9,132.71
Revenue Accounts Receivable	19,786.40	55,665.86	20,648.75
<u>TOTAL ASSETS</u>	<u>\$ 797,799.98</u>	<u>\$ 1,369,100.85</u>	<u>\$ 1,671,106.54</u>
<u>LIABILITIES, RESERVES AND FUND BALANCE</u>			
Appropriation Reserves	\$ 193,328.32	\$ 197,887.43	\$ 134,087.26
Interfunds Payable	68,025.65	68,025.65	68,025.65
Reserve for Receivables	23,490.66	60,971.19	29,790.78
Fund Balance	512,955.35	1,042,216.58	1,439,202.85
<u>TOTAL LIABILITIES, RESERVES AND FUND BALANCE</u>	<u>\$ 797,799.98</u>	<u>\$ 1,369,100.85</u>	<u>\$ 1,671,106.54</u>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF OPERATIONS AND CHANGE IN FUND BALANCE  
SPECIAL REVENUE - COUNTY HEALTH FUND

	Year Ended December 31,		
	2010	2009	2008
<u>Revenue and Other Income Realized</u>			
Fund Balance Utilized	\$ 808,000.00	\$ 720,000.00	\$ 551,054.00
Receipts from Current and Prior Year Taxes	2,031,935.00	2,031,935.32	1,537,729.00
Miscellaneous Revenue Anticipated	233,510.27	222,081.25	246,889.20
Nonbudget Revenue	100,594.53	145,622.60	38,345.09
Other Credits to Income	169,343.97	109,897.56	335,123.51
<b>Total Income</b>	<b>3,343,383.77</b>	<b>3,229,536.73</b>	<b>2,709,140.80</b>
<u>Expenditures</u>			
Budget Expenditures:			
Operations	3,064,645.00	2,906,523.00	2,243,371.00
Excess in Revenue	278,738.77	323,013.73	465,769.80
<u>Fund Balance</u>			
Balance January 1	1,042,216.58	1,439,202.85	1,524,487.05
	1,320,955.35	1,762,216.58	1,990,256.85
Decreased by:			
Utilization as Anticipated Revenue	808,000.00	720,000.00	551,054.00
<b>Balance December 31</b>	<b>\$ 512,955.35</b>	<b>\$ 1,042,216.58</b>	<b>\$ 1,439,202.85</b>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF REVENUE  
SPECIAL REVENUE - COUNTY HEALTH FUND

	For the Years Ended December 31,					
	2009		2009		2008	
	Budget After Modification	Realized	Budget After Modification	Realized	Budget After Modification	Realized
Fund Balance Anticipated	\$ 808,000.00	\$ 808,000.00	\$ 720,000.00	\$ 720,000.00	\$ 551,054.00	\$ 551,054.00
Miscellaneous Revenue Anticipated	224,710.00	233,510.27	154,588.00	222,081.25	154,588.00	246,889.20
Amount to be Raised by Taxes for Support of Health Budget:						
Local Tax for County Health Purposes	2,031,935.00	2,031,935.00	2,031,935.00	2,031,935.32	1,537,729.00	1,537,729.00
Total Budget Revenue	3,064,645.00	3,073,445.27	2,906,523.00	2,974,016.57	2,243,371.00	2,335,672.20
Nonbudget Revenue		100,594.53		145,622.60		38,345.09
 Grand Total	 \$ 3,064,645.00	 \$ 3,174,039.80	 \$ 2,906,523.00	 \$ 3,119,639.17	 \$ 2,243,371.00	 \$ 2,374,017.29

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THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF EXPENDITURES  
SPECIAL REVENUE - COUNTY HEALTH FUND

For the Years Ended December 31,

	2010			2009		
	Budget After Modification	Paid or Charged	Reserved	Budget After Modification	Paid or Charged	Reserved
County Health Operations:						
Salaries and Wages	\$ 1,302,649.00	\$ 1,268,257.80	\$ 34,391.20	\$ 1,348,328.00	\$ 1,281,442.16	\$ 66,885.84
Other Expenses	970,145.00	901,514.18	68,630.82	838,920.00	781,381.00	57,539.00
Public Health Priority Funds:						
Salaries and Wages	403,898.00	391,031.33	12,866.67	409,427.00	408,866.69	560.31
Other Expenses	387,953.00	347,446.56	40,506.44	309,848.00	281,387.31	28,460.69
	<u>\$ 3,064,645.00</u>	<u>\$ 2,908,249.87</u>	<u>\$ 156,395.13</u>	<u>\$ 2,906,523.00</u>	<u>\$ 2,753,077.16</u>	<u>\$ 153,445.84</u>

For the Year Ended December 31, 2008

	Budget After Modification	Paid or Charged	Reserved
County Health Operations:			
Salaries and Wages	\$ 1,346,046.00	\$ 1,323,100.26	\$ 22,945.74
Other Expenses	880,549.00	801,569.42	78,979.58
Public Health Priority Funds:			
Salaries and Wages			
Other Expenses	16,776.00	16,776.00	
	<u>\$ 2,243,371.00</u>	<u>\$ 2,141,445.68</u>	<u>\$ 101,925.32</u>

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THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE BALANCE SHEET  
SPECIAL REVENUE - COUNTY LIBRARY FUND

	December 31,		
	2010	2009	2008
<u>ASSETS</u>			
Cash and Cash Equivalents	\$ 880,037.99	\$ 1,364,957.52	\$ 1,413,798.73
Investments	611,789.88	609,639.34	602,371.90
Receivables with Full Reserves:			
Added and Omitted Taxes Receivable	7,017.75	10,614.25	21,021.78
Library Taxes Receivable			20.00
Revenue Accounts Receivable	9,561.62	11,969.75	8,344.52
	<u>16,579.37</u>	<u>22,584.00</u>	<u>29,386.30</u>
<u>TOTAL ASSETS</u>	<u>\$ 1,508,407.24</u>	<u>\$ 1,997,180.86</u>	<u>\$ 2,045,556.93</u>
 <u>LIABILITIES, RESERVES, AND FUND BALANCE</u>			
Appropriation Reserves	\$ 481,492.54	\$ 639,503.72	\$ 642,071.95
Accounts Payable	41,760.70	99,519.50	37,910.90
Unrestricted State per Capita Library Aid	47,849.00	87,343.00	102,084.00
Interfunds Payable	50,000.00	50,000.00	30,000.00
Reserve for Donations	22,675.98	262,675.98	262,675.98
	<u>643,778.22</u>	<u>1,139,042.20</u>	<u>1,074,742.83</u>
Reserve for Receivables	16,579.37	22,584.00	29,386.30
Fund Balance	848,049.65	835,554.66	921,427.80
<u>TOTAL LIABILITIES, RESERVES, AND FUND BALANCE</u>	<u>\$ 1,508,407.24</u>	<u>\$ 1,997,180.86</u>	<u>\$ 2,025,556.93</u>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF OPERATIONS AND CHANGE IN FUND BALANCE  
SPECIAL REVENUE - COUNTY LIBRARY FUND

	Year Ended December 31,		
	2010	2009	2008
<u>Revenue and Other Income Realized</u>			
Fund Balance Utilized	\$ 602,632.00	\$ 595,000.00	\$ 548,269.00
Receipts from Current Taxes	4,541,398.00	4,761,418.00	4,765,620.00
Miscellaneous Revenue Anticipated	87,343.00	108,191.00	108,191.00
Nonbudget Revenue	167,966.71	185,420.26	200,861.90
Other Credits to Income	447,160.28	323,686.60	447,179.83
<b>Total Income</b>	<u>5,846,499.99</u>	<u>5,973,715.86</u>	<u>6,070,121.73</u>
<u>Expenditures</u>			
Budget Expenditures:			
Operating:			
Salaries and Wages	2,425,830.00	2,411,337.00	2,618,197.00
Other Expenses	2,805,543.00	3,053,252.00	2,803,883.00
<b>Total Expenditures</b>	<u>5,231,373.00</u>	<u>5,464,589.00</u>	<u>5,422,080.00</u>
Excess in Revenue	615,126.99	509,126.86	648,041.73
<u>Fund Balance</u>			
Balance January 1	835,554.66	921,427.80	821,655.07
	1,450,681.65	1,430,554.66	1,469,696.80
Decreased by:			
Utilization as Anticipated Revenue	602,632.00	595,000.00	548,269.00
<b>Balance December 31</b>	<u>\$ 848,049.65</u>	<u>\$ 835,554.66</u>	<u>\$ 921,427.80</u>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF REVENUE  
SPECIAL REVENUE - COUNTY LIBRARY FUND

	For the Years Ended December 31,					
	2010		2009		2008	
	Budget After Modification	Realized	Budget After Modification	Realized	Budget After Modification	Realized
Fund Balance Anticipated	\$ 602,632.00	\$ 602,632.00	\$ 595,000.00	\$ 595,000.00	\$ 548,269.00	\$ 548,269.00
Miscellaneous Revenue Anticipated	87,343.00	87,343.00	108,191.00	108,191.00	108,191.00	108,191.00
Amount to be Raised by Taxes for Support of Library Budget:						
Local Tax for County Library Purposes	4,541,398.00	4,541,398.00	4,761,398.00	4,761,418.00	4,765,620.00	4,765,620.00
Total Budget Revenue	5,231,373.00	5,231,373.00	5,464,589.00	5,464,609.00	5,422,080.00	5,422,080.00
Nonbudget Revenue		167,966.71		185,420.26		200,861.90
 Grand Total	 \$ 5,231,373.00	 \$ 5,399,339.71	 \$ 5,464,589.00	 \$ 5,650,029.26	 \$ 5,422,080.00	 \$ 5,622,941.90

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THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF EXPENDITURES  
SPECIAL REVENUE - COUNTY LIBRARY FUND

For the Years Ended December 31,

	2009			2009		
	Budget After Modification	Paid or Charged	Reserved	Budget After Modification	Paid or Charged	Reserved
Operations:						
Salaries and Wages	\$ 2,425,830.00	\$ 2,370,156.35	\$ 55,673.65	\$ 2,411,337.00	\$ 2,373,480.96	\$ 37,856.04
Other Expenses	2,805,543.00	2,537,669.07	267,873.93	3,053,252.00	2,627,495.33	425,756.67
	<u>\$ 5,231,373.00</u>	<u>\$ 4,907,825.42</u>	<u>\$ 323,547.58</u>	<u>\$ 5,464,589.00</u>	<u>\$ 5,000,976.29</u>	<u>\$ 463,612.71</u>

For the Year Ended December 31, 2008

	Budget	Paid or	Reserved
	After Modification	Charged	
Operations:			
Salaries and Wages	\$ 2,618,197.00	\$ 2,466,681.95	\$ 151,515.05
Other Expenses	2,803,883.00	2,570,728.50	233,154.50
	<u>\$ 5,422,080.00</u>	<u>\$ 5,037,410.45</u>	<u>\$ 384,669.55</u>

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THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010

Note 1: Summary of Significant Accounting Policies

A. Reporting Entity

Except as noted below, the financial statements of the County of Sussex include every board, body, officer or commission supported and maintained wholly or in part by funds appropriated by the County of Sussex, as required by N.J.S. 40A:5-5. Accordingly, the financial statements of the County of Sussex do not include the operations of the County Community College, County Municipal Utilities Authority or the County Vocational School, inasmuch as their activities are administered by separate boards. The operations of the County Welfare Agency have also been excluded inasmuch as they serve as an agent of the State of New Jersey and their records are maintained separately.

Governmental Accounting Standards Board ("GASB") Codification Section 2100, "Defining the Financial Reporting Entity" establishes standards to determine whether a governmental component unit should be included in the financial reporting entity. The basic criterion for inclusion or exclusion from the financial reporting entity is the exercise of oversight responsibility over agencies, boards and commissions by the primary government. The exercise of oversight responsibility includes financial interdependency, selection of governing authority, designation of management, ability to significantly influence operations, and accountability for fiscal matters. In addition, certain legally separate, tax-exempt entities that meet specific criteria (i.e., benefit of economic resources, access/entitlement to resources, and significance) should be included in the financial reporting entities. As the financial reporting entity was established in accordance with New Jersey statutes, the requirements of GASB Codification Section 2100 were not followed and, accordingly, the reporting entity could be different from accounting principles generally accepted in the United States of America.

Financial Statements for each of the component units may be obtained from the entity's administrative offices.

Sussex County Community College  
College Hill  
Newton, NJ 07860

Sussex County Municipal Utilities Authority  
34 South Route 94  
Lafayette, NJ 07848

Sussex County Division of Social  
Services  
83 Spring Street  
PO Box 218  
Newton, NJ 07860

Sussex County Technical School  
105 North Church Road  
Sparta, NJ 07871

B. Description of Funds

The accounting policies of the County of Sussex conform to the accounting principles applicable to municipalities and counties which have been prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey (the "Division"). Such principles and practices are designed primarily for determining compliance with legal provisions and budgetary restrictions and as a means of reporting on the stewardship of public officials with respect to public funds. Under this method of accounting, the County of Sussex accounts for its financial transactions through the following separate funds:

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010

(Continued)

Note 1: Summary of Significant Accounting Policies (Cont'd)

B. Description of Funds (Cont'd)

Current Fund - Resources and expenditures for governmental operations of a general nature, including federal and state grant funds.

Trust Funds - Receipts, custodianship and disbursement of funds in accordance with the purpose for which each reserve was created.

General Capital Fund - Receipt and disbursement of funds for the acquisition of general capital facilities, other than those acquired in the Current Fund.

Special Revenue - County Health Fund - Resources and expenditures for the operations of the County Health Division.

Special Revenue - County Library Fund - Resources and expenditures for the operations of the County Library system.

C. Basis of Accounting

Basis of accounting refers to when revenue and expenditures or expenses are recognized in the accounts and reported in the financial statements. Basis of accounting relates to the timing of the measurements made, regardless of the measurement focus applied.

The accounting policies of the County of Sussex conform to the accounting principles applicable to municipalities and counties which have been prescribed by the Division which differ in certain respects from accounting principles generally accepted in the United States of America applicable to local governmental units. The more significant policies in New Jersey follow.

Revenue is recorded when received in cash except for the prepayment of future years' revenue and State and Federal Grant Funds which are recorded as revenue in the year they are anticipated in the budget. The amounts recorded as County taxes receivable have not been included in revenue. Amounts that are due to the County which are susceptible of accrual are recorded as receivables with offsetting reserves in the Current, Health and Library Funds. Expenditures are charged to operations generally based on budgeted amounts.

Exceptions to this general rule include:

1. Accumulated unpaid vacation, sick pay and other employee amounts are not accrued.
2. Prepaid expenses, such as insurance premiums applicable to subsequent periods, are charged to current budget appropriations in total.
3. Principal and interest on long-term debt are recognized when due.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010

(Continued)

Note 1: Summary of Significant Accounting Policies (Cont'd)

C. Basis of Accounting (Cont'd)

Expenditures, if any, in excess of appropriations, appropriation reserves or ordinances, become deferred charges which must be raised by future taxes. Outstanding encumbrances at December 31 are reported as a cash liability in the financial statements and constitute part of the statutory appropriation reserve balance. Appropriation reserves covering unexpended appropriation balances are automatically created at December 31 of each year and recorded as liabilities, except for amounts which may be cancelled by the governing body. Appropriation reserves are available, until lapsed at the close of the succeeding year, to meet additional encumbrances which have not been recorded as of December 31, for specific claims, commitments or contracts incurred during the preceding fiscal year. Lapsed appropriation reserves are recorded as income.

The cash basis of accounting is followed in the Trust and General Capital Funds.

- D. Deferred Charges to Future Taxation – The General Capital Fund balance sheet includes both funded and unfunded deferred charges. Funded means that bonds have been issued and are being paid off on a serial basis. Unfunded means the debt has been authorized but not permanently financed. A county can eliminate an unfunded deferred charge by raising it in the budget or collecting a grant. The unfunded deferred charge may also be funded by selling bonds, by issuing loans or through capital lease purchase agreements.

- E. Other significant accounting policies include:

Management Estimates – The preparation of financial statements requires management to make estimates and assumptions that affect the reported amounts of revenues and expenditures/expenses during the reporting period. Actual results could differ from those estimates.

Cash and Cash Equivalents – Amounts include petty cash, change funds, amounts on deposit, and short-term investments with original maturities of three months or less.

Investments – Investments are stated at cost or amortized cost, which approximates market.

Allowance for Uncollectible Accounts – A reserve for uncollectible grant receivables has been recorded in the Current Fund. This allowance has been established based on management's evaluation of its collection experience over the last several years.

Compensated Absences – Expenditures relating to unused vested accumulated vacation and sick pay are not recorded until paid.

Interfunds – Interfund receivables in the Current Fund are recorded with offsetting reserves which are created by charges to operations. Income is recognized in the year the receivables are liquidated. Interfund receivables in the other funds are not offset by reserves.

Inventories of Supplies - The cost of inventories of supplies for all funds are recorded as expenditures at the time individual items are purchased. The cost of inventories is not included on the various balance sheets.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 1: Summary of Significant Accounting Policies (Cont'd)

E. Other significant accounting policies include: (Cont'd)

Fixed Assets - Property and equipment purchased by the Current and General Capital Funds are recorded as expenditures at the time of purchase and are not capitalized.

Grants Receivable - Grants receivable represent the total grant awards less amounts collected to date. Because the amount of grant funds to be collected is dependent on the total costs eligible for reimbursement, the actual amount collected may be less than the total amount awarded.

Had the County's financial statements been prepared under accounting principles generally accepted in the United States of America, encumbrances would not be considered as expenditures; appropriation reserves would not be recorded; revenue susceptible to accrual would have been reflected without offsetting reserves; Federal and State grants and assistance would be recognized when earned, not when awarded; and inventories would not be reflected as expenditures at the time of purchase.

- F. Budget/Budgetary Control - Annual appropriated budgets are usually prepared in the 1<sup>st</sup> quarter for the current operating and open space trust funds. The budget is submitted to the governing body and the State Division of Local Government Services. Additionally, budgets are prepared for the County Health and Library Funds which are approved by the governing body but do not require approval by the State Division of Local Government Services. The budgets are prepared using the cash basis of accounting. The legal level of budgetary control is established at the line item accounts within each fund. Line item accounts are defined as the lowest (most specific) level of detail as established pursuant to the flexible chart of accounts referenced in NJSA 40A. All budget amendments/transfers must be approved by the County during the year.

Note 2: Long-Term Debt

Summary of County Debt

The Local Bond Law governs the issuance of bonds to finance general County capital expenditures. All bonds are retired in serial installments within the statutory period of usefulness. All bonds issued by the County are general obligation bonds. The County's full faith and credit and taxing power has been pledged to the payment of general obligation debt principal and interest.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010

(Continued)

Note 2: Long-Term Debt (Cont'd)

	December 31,		
	2010	2009	2008
<u>Issued</u>			
General Bonds, Notes and Loans	\$ 84,728,000	\$ 87,848,000	\$ 87,411,800
Authorized but not Issued:			
General Bonds and Notes	3,909,150	3,895,407	4,474,407
	<u>88,637,150</u>	<u>91,743,407</u>	<u>91,886,207</u>
Less:			
Funds Temporarily Held to Pay Bond and Note Principal:			
Reserve to Pay Debt Service	252,175	452,175	652,175
Reserve to Pay Vocational School Bonds	362,860	401,817	389,892
Capital Projects for County Colleges (NJSA 18A:64A-22.1 to 22.8)	8,854,000	8,388,000	10,008,000
Pension Refunding Bonds	2,640,000	2,890,000	3,125,000
Emergency Appropriation Refunding Refunding Bonds	2,000,000	2,500,000	
	<u>14,109,035</u>	<u>14,631,992</u>	<u>14,175,067</u>
Net Bonds and Notes Issued and Authorized but not Issued	<u>\$ 74,528,115</u>	<u>\$ 77,111,415</u>	<u>\$ 77,711,140</u>

All debt issued for the Sussex County Community College is a direct obligation of the County.

The Sussex County Vocational School is a Type I School District; therefore, according to statute, the County is responsible for all debt authorized by the Vocational School.

Summary of Municipal Debt Issued and Outstanding - Prior Year

Fund	Balance 12/31/2008	Additions	Retirements	Balance 12/31/2009
Serial Bonds:				
General Capital Fund	\$ 83,901,000.00		\$ 11,230,000.00	\$ 72,671,000.00
Bond Anticipation Notes:				
General Capital Fund	3,504,000.00	\$ 15,177,000.00	3,504,000.00	15,177,000.00
Loans Payable:				
General Capital Fund:				
Economic Development Loan	6,800.00		6,800.00	
	<u>\$ 87,411,800.00</u>	<u>\$ 15,177,000.00</u>	<u>\$ 14,740,800.00</u>	<u>\$ 87,848,000.00</u>

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 2: Long-Term Debt (Cont'd)

Summary of Municipal Debt Issued and Outstanding - Current Year

<u>Fund</u>	<u>Balance 12/31/2009</u>	<u>Additions</u>	<u>Retirements</u>	<u>Balance 12/31/2010</u>
Serial Bonds:				
General Capital Fund	\$ 72,671,000.00	\$ 22,930,000.00	\$ 10,873,000.00	\$ 84,728,000.00
Bond Anticipation Notes:				
General Capital Fund	<u>15,177,000.00</u>	<u>14,677,000.00</u>	<u>29,854,000.00</u>	
	<u>\$ 87,848,000.00</u>	<u>\$ 37,607,000.00</u>	<u>\$ 40,727,000.00</u>	<u>\$ 84,728,000.00</u>

The County's debt issued and outstanding at December 31, 2010 is as follows:

Vocational School Serial Bonds

<u>Final Maturity</u>	<u>Rate</u>	
07/15/2013	5.00%	\$ 280,000
07/01/2016	4.40%	630,000
09/01/2012	3.65-4.00%	600,000
09/01/2017	4.25-4.375%	370,000
08/15/2020	1.00-2.25%	<u>1,300,000</u>
		<u>3,180,000</u>

General Improvement Serial Bonds

<u>Final Maturity</u>	<u>Rate</u>	
07/15/2013	5.00%	\$2,456,000
07/01/2012	4.20%	1,210,000
05/01/2021	5.30%	2,640,000
07/15/2014	3.25%	6,170,000
09/15/2011	3.41%	460,000
07/15/2014	3.625%	11,724,000
09/01/2019	4.00%	13,791,000
09/01/2017	3.75%	2,365,000
08/15/2020	1.00-2.25%	17,277,000
08/15/2014	1.00-2.00%	<u>2,000,000</u>
		<u>60,093,000</u>

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 2: Long-Term Debt (Cont'd)

County College Bonds

<u>Final Maturity</u>	<u>Rate</u>	
07/15/2013	5.00%	\$ 120,000
07/01/2014	4.20%	354,000
05/01/2015	3.125%	1,126,000
07/15/2015	3.625%	2,229,000
09/01/2021	4.00%	5,000,000
09/01/2022	3.75-4.00%	2,595,000
08/15/2020	1.00-2.25%	1,177,000
		<u>12,601,000</u>

County College Bonds (Ch. 12)

<u>Final Maturity</u>	<u>Rate</u>	
08/01/2011	5.20%	\$ 107,000
07/01/2014	4.30%	371,000
09/01/2026	4.125-4.25%	4,800,000
09/01/2022	3.75-4.00%	2,400,000
08/15/2020	1.00-2.25%	1,176,000
		<u>8,854,000</u>

Total Serial Bonds Outstanding \$84,728,000

Total Debt Issued and Outstanding \$84,728,000

Summary of Statutory Debt Condition - Annual Debt Statement

The summarized statement of debt condition which follows is prepared in accordance with the required method of setting up the Annual Debt Statement and indicates a statutory net debt of .36%.

	<u>Gross Debt</u>	<u>Deductions</u>	<u>Net Debt</u>
General, Vocational School and County College Debt	<u>\$ 88,637,150</u>	<u>\$ 14,109,035</u>	<u>\$ 74,528,115</u>

Net Debt \$74,528,115 divided by Equalized Valuation Basis per N.J.S. 40A:2-2 as amended, \$20,760,970,603 = .36%.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 2: Long-Term Debt (Cont'd)

Borrowing Power Under N.J.S. 40A:2-6 As Amended

2% Average Equalized Valuation of Real Property	\$ 415,219,412
Net Debt	74,528,115
Remaining Borrowing Power	\$ 340,691,297

The foregoing debt information is in agreement with the Annual Debt Statement filed by the Chief Financial Officer.

Schedule of Annual Debt Service for Principal and Interest for the Next Five Years and Thereafter for Bonded Debt Issued and Outstanding

Calendar Year	General Improvements		Vocational School		County College*		Total
	Principal	Interest	Principal	Interest	Principal	Interest	
2011	\$ 9,565,000	\$ 1,965,335	\$ 450,000	\$ 106,733	\$ 1,240,000	\$ 456,930	\$ 13,783,998
2012	9,035,000	1,642,210	850,000	90,588	1,305,000	413,064	13,335,862
2013	9,716,000	1,335,530	345,000	57,093	1,599,000	365,960	13,418,583
2014	8,274,000	1,008,803	280,000	43,848	1,594,000	307,055	11,507,706
2015	4,605,000	743,593	280,000	34,603	1,506,000	250,814	7,420,010
2016-2020	18,503,000	1,591,734	975,000	60,043	4,327,000	693,312	26,150,089
2021-2022	395,000	10,468			1,030,000	51,800	1,487,268
	\$ 60,093,000	\$ 8,297,673	\$ 3,180,000	\$ 392,908	\$ 12,601,000	\$ 2,538,935	\$ 87,103,516

\* Does not include principal and interest on County College Bonds issued pursuant to Chapter 12, Public Laws of 1971, which will be paid by the State Department of Treasury.

Note 3: Fund Balances Appropriated

Fund balances at December 31, 2010 which are appropriated and included in the adopted budgets as anticipated revenue in their own respective funds for the year ending December 31, 2011 are as follows:

Current Fund	\$5,857,000
County Health Fund	467,562
County Library Fund	588,377

Note 4: Pension Plans

County employees are enrolled in one of two cost sharing multiple-employer public employee retirement systems: the Public Employees' Retirement System (PERS), the Police and Firemen's Retirement System (PFRS) of New Jersey or the Defined Contribution Retirement Program (DCRP). The State of New Jersey sponsors and administers these plans which cover substantially all County employees. As a general rule, all full-time employees are eligible to join the PERS or the PFRS. However, if an employee is ineligible to enroll in the PERS or PFRS, the employee may be eligible to enroll in the DCRP.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 4: Pension Plans (Cont'd)

Employees who are members of PERS and retire at specified age according to the relevant tier category for that employee are entitled to a retirement benefit based upon a formula which takes "final average salary" during years of creditable service. Vesting occurs after 8 to 10 years of service. Enrolled PFRS members may retire at age 55 with a minimum of 10 years of service required for vesting. The DCRP provides eligible members with a tax-sheltered, defined contribution retirement benefit, along with life insurance and disability coverage. Vesting is immediate upon enrollment for members of the DCRP.

The State of New Jersey, Department of the Treasury, Division of Pensions and Benefits, issues publicly available financial reports that include the financial statements and required supplementary information of each of the above systems, funds and trust. The financial reports may be obtained by writing to the State of New Jersey, Department of Treasury, Division of Pensions and Benefits, PO Box 295, Trenton, New Jersey 08625-0295.

The contribution policy is set by New Jersey State Statutes and, in most retirement systems, contributions are required by active members and contributing employers. Plan member and employer contributions may be amended by State of New Jersey legislation. Employee contributions are based on percentages of 5.5% for PERS and DCRP and 8.5% for PFRS of employees' annual compensation, as defined. Employers are required to contribute at an actuarially determined rate in the PERS and PFRS. The actuarially determined employer contribution includes funding for cost-of-living adjustments and noncontributory death benefits. The DCRP was established July 1, 2007, under the provisions of Chapter 92, P.L. 2007 and Chapter 103, P.L. 2007 and expanded under the provisions of Chapter 89, P.L. 2008. Employee contributions for DCRP are matched by a 3% employer contribution.

County contributions to PFRS amounted to \$1,764,606, \$1,616,028, and \$1,491,003 for 2010, 2009, and 2008, respectively. County contributions to PERS amounted to \$2,353,125, \$2,313,771, and \$1,602,527 for 2010, 2009, and 2008, respectively. The annual pension cost ("APC") for PERS differed from the net pension obligation ("NPO") due to the enactment of Chapter 114, P.L. 1997 for 2008 as the APC was \$2,003,159 and the NPO was \$1,602,527.

The employee and employer contribution for the DCRP for the year ended December 31, 2010 were \$6,088 and \$3,589, respectively.

Chapter 42, P.L. 2002 permitted local government units to issue refunding bonds to retire unfunded accrued liability resulting from early retirement benefits under PERS and PFRS effective July 12, 2002. The County issued \$ 3,900,000 of refunding pension bonds in 2003.

Note 5: Accrued Sick and Vacation Benefits

The County has permitted employees to accrue unused vacation and sick pay, which may be taken as time off or paid at a later date at an agreed-upon rate. The current cost of such unpaid compensation has been estimated at approximately \$2,156,389 at December 31, 2010 and is not reported either as an expenditure or liability. However, it is expected that the cost of such unpaid compensation would be included in the County's budget operating expenditures in the year in which it is used and/or charged.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 5: Accrued Sick and Vacation Benefits (Cont'd)

This amount is partially reserved in the Reserve for Accrued Sick and Vacation of \$1,791,893 on the Other Trust Funds balance sheet at December 31, 2010.

Note 6: Selected Tax Information

County Tax Calendar

County taxes are billed approximately two months prior to the respective due dates to the municipalities in the County. The first three quarterly billings are based on an estimate of the current year's levy based on the prior year's taxes. These three quarterly billings are due February 15<sup>th</sup>, May 15<sup>th</sup> and August 15<sup>th</sup>. The fourth quarter's billing reflects an adjustment to the current year's actual levy and is due November 15<sup>th</sup>.

Comparison of Tax Levies and Collection Currently

A study of this tabulation could indicate a possible trend in future tax levies. A decrease in the percentage of current collection could be an indication of a possible increase in future tax levies.

<u>Year</u>	<u>General Tax Levy</u>	<u>Cash Collections</u>	<u>Percentage of Collection</u>
2010	\$75,209,568	\$75,209,568	100.00%
	71,507,294	71,507,294	100.00%
	68,490,715	68,490,715	100.00%
	<u>Open Space Tax Levy</u>	<u>Cash Collections</u>	<u>Percentage of Collection</u>
2010	\$ 1,354,766	\$ 1,354,766	100.00%
	2,811,076	2,811,076	100.00%
	5,321,306	5,321,306	100.00%
	<u>Health Tax Levy</u>	<u>Cash Collections</u>	<u>Percentage of Collection</u>
2010	\$ 2,031,935	\$ 2,031,935	100.00%
	2,031,935	2,031,935	100.00%
	1,537,729	1,537,729	100.00%
	<u>Library Tax Levy</u>	<u>Cash Collections</u>	<u>Percentage of Collection</u>
2010	\$ 4,541,398	\$ 4,541,398	100.00%
	4,761,398	4,761,398	100.00%
	4,765,620	4,765,620	100.00%

Also, increases in future tax levies can also be warranted if revenue sources outside of those directly generated by the County, such as federal or state aid, should decline without corresponding decreases in budgeted expenditures.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 6: Selected Tax Information (Cont'd)

Comparative Tax Information

<u>Year</u>	<u>Net Valuation on Which Taxes Are Apportioned</u>	<u>County General Tax Rate</u>	<u>County Health Tax Rate</u>	<u>County Library Tax Rate</u>	<u>County Open Space Tax Rate</u>
2010	\$ 20,842,547,207	\$ 0.36	\$ 0.01	\$ 0.03	\$ 0.01
	21,623,664,682	0.33	0.01	0.03	0.01
	19,828,925,789	0.33	0.01	0.03	0.03

Note 7: Sussex County Municipal Utilities Authority Receivable

The Current Fund balance sheet reflects a receivable from the Sussex County Municipal Utilities Authority ("SCMUA") in the amount of \$418,658.42 at December 31, 2010.

The \$418,658.42 represents funds advanced to the SCMUA for the study of several projects. The SCMUA is to repay the funds when the projects have been completed and permanently financed from proceeds of bonds, temporary bonds or from proceeds of grants received for the projects. However, due to the lack of federal funds available, the construction of the projects under study is questionable; therefore, the collection of the receivable is uncertain. The management of the County feels that if the receivable is not collected, it would not adversely affect the County's financial position because the receivable is offset with a reserve.

Note 8: Commitment

The County of Sussex and the Sussex County Municipal Utilities Authority (the "SCMUA") have entered into a Deficiency Advance Contract in order to provide security to the holders of obligations of the SCMUA relative to the existing \$71,995,618 Solid Waste Revenue Bonds, Upper Wallkill Wastewater Facilities Revenue Bonds and Project Notes. Pursuant to the terms of the Deficiency Advance Contract, the SCMUA can impose and collect from the County of Sussex annual charges, as defined in the contract, in any fiscal year that the SCMUA estimates that the amount of revenue received from all sources will be insufficient to satisfy all of its costs, expenses, or other obligations.

As of December 1, 2010, the SCMUA has outstanding approximately \$38,059,874 of Upper Wallkill Wastewater Facilities Revenue Bonds that are supported by a Deficiency Advance Contract. The SCMUA's wastewater revenues have been sufficient to meet all costs of operation and maintenance and all debt service costs of the Authority with respect to its wastewater system.

As of December 1, 2010, the SCMUA has outstanding approximately \$28,439,744 of Solid Waste Revenue Bonds that are supported by a Deficiency Advance Contract. The SCMUA's solid waste revenues and surplus had been sufficient to meet all costs of operation and maintenance and all debt service costs of the Authority with respect to its solid waste system. However, New Jersey's system of waste flow control had previously been ruled unconstitutional in federal court. The United States Supreme Court ruled in *United Haulers v. Oneida Herkner Solid Waste Management Authority* that solid waste flow control is constitutional. In 2010 flow control was reestablished in Sussex County through a Solid Waste Management Plan amendment.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010

(Continued)

Note 8: Commitment (Cont'd)

The prior Supreme Court ruling has caused the SCMUA to reduce its tipping fees to be competitive with other solid waste disposal facilities, resulting in decreased revenues, adversely affecting the SCMUA's ability to meet its debt service obligations. The County is required to advance funds to the SCMUA to cover any deficiencies in revenues over the SCMUA's costs, expenses and debt service obligations. The SCMUA has estimated that the anticipated deficit for 2011 will be \$3,000,000. SCMUA will be covering the 2011 shortfall by realizing higher than expected solid waste revenues and by utilizing \$2.1 million from their landfill closure reserve. The Sussex County Municipal Utilities Authority expects to replenish the landfill closure reserve in future years when debt services costs are expected to decrease. Additionally, SCMUA has proposed a 2012 rate increase to meet its full operating costs, including debt service with respect to its solid waste system.

The County is obligated to advance funds to the SCMUA under the Deficiency Advance Contract to the extent that other revenue is not obtained to finance the SCMUA's operations.

In 2009, the SCMUA issued \$5,496,000 of Project Notes for the Paulinskill Water Reclamation Facilities to serve Branchville Borough and portions of Frankford Township for wastewater treatment.

Note 9: Cash and Cash Equivalents and Investments

Cash and cash equivalents include petty cash, change funds, amounts in deposits, money market accounts, and short-term investments with original maturities of three months or less.

Investments are stated at cost or amortized cost, which approximates market. The County classifies certificates of deposit which have original maturity dates of more than three months but less than twelve months from the date of purchase, as investments.

GASB Statement No. 40, *Governmental Accounting Standards Board Deposit and Investment Risk Disclosures*, requires disclosure of the level of custodial credit risk assumed by the County in its cash, cash equivalents and investments, if those items are uninsured or unregistered. Custodial credit risk is the risk that in the event of a bank failure, the government's deposits may not be returned.

**Interest Rate Risk** - In accordance with its cash management plan, the County ensures that any deposit or investment matures within the time period that approximates the prospective need for the funds, deposited or invested, so that there is not a risk to the market value of such deposits or investments.

**Credit Risk** - The County limits its investments to those authorized in its cash management plan which are those permitted under state statute as detailed on the following page.

Deposits

New Jersey statutes permit the deposit of public funds in institutions located in New Jersey, which are insured by the Federal Deposit Insurance Corporation (FDIC), or by any other agencies of the United States that insure deposits or the State of New Jersey Cash Management Fund.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 9: Cash and Cash Equivalents and Investments (Cont'd)

New Jersey statutes require public depositories to maintain collateral for deposits of public funds that exceed insurance limits as follows:

The market value of the collateral must equal 5% of the average daily balance of public funds on deposit.

In addition to the above collateral requirement, if the public funds deposited exceed 75% of the capital funds of the depository, the depository must provide collateral having a market value at least equal to 100% of the amount exceeding 75%.

All collateral must be deposited with the Federal Reserve Bank, the Federal Home Loan Bank Board or a banking institution that is a member of the Federal Reserve System and has capital funds of not less than \$25,000,000.

Investments:

New Jersey statutes permit the County to purchase the following types of securities:

- (1) Bonds or other obligations of the United States of America or obligations guaranteed by the United States of America;
- (2) Government money market mutual funds;
- (3) Any obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress, which security has a maturity date not greater than 397 days from the date of purchase, provided that such obligation bears a fixed rate of interest not dependent on any index or other external factor;
- (4) Bonds or other obligations of the local unit or bonds or other obligations of school districts of which the local unit is a part or within which the school district is located;
- (5) Bonds or other obligations, having a maturity date not more than 397 days from the date of purchase, approved by the Division of Investment of the Department of the Treasury for investment by local units.
- (6) Local government investment pools;
- (7) Deposits with the State of New Jersey Cash Management Fund; or
- (8) Agreements for the repurchase of fully collateralized securities if:
  - (a) the underlying securities are permitted investments pursuant to paragraphs (1) and (3) above;
  - (b) the custody of collateral is transferred to a third party;
  - (c) the maturity of the agreement is not more than 30 days;
  - (d) the underlying securities are purchased through a public depository as defined in statute; and
  - (e) a master repurchase agreement providing for the custody and security of collateral is executed.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 9: Cash and Cash Equivalents and Investments (Cont'd)

As of December 31, 2010, cash and cash equivalents and investments of the County of Sussex consisted of the following:

Fund	Cash and Cash Equivalents		Investments	Total
	Cash on Hand	Checking and Savings Accounts	Certificates of Deposit	
Current	\$ 325	\$ 20,223,210		\$ 20,223,535
Other Trust		12,530,485	\$ 77,230	12,607,715
General Capital		18,003,960	688,846	18,692,806
County Health	100	149,380		149,480
County Library		880,038	611,790	1,491,828
	<u>\$ 425</u>	<u>\$ 51,787,073</u>	<u>\$ 1,377,866</u>	<u>\$ 53,165,364</u>

The carrying amount of the County's cash and cash equivalents at December 31, 2010, was \$53,165,364 and the bank balance was \$52,385,542. The carrying amount of the County's cash and cash equivalents at December 31, 2009, was \$62,079,351 and the bank balance was \$61,330,311.

Note 10: County Health Fund

The County established a special revenue fund to account for the operations of the Health Division. County Health taxes are levied and other health-related revenue are anticipated to provide for the Health Division's salaries and wages and other expenses; however, certain other costs attributable to the Health Division, such as use of building space and other administrative overhead, are provided from the County's Current Fund.

Note 11: Risk Management

The County is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The County is currently self-insured for its medical health benefits.

Property, Liability and Workers' Compensation

The County of Sussex is a member of the Public Alliance Insurance Coverage Fund. The Public Alliance Insurance Coverage Fund provides its members with Liability and Property Insurance. The Fund is a risk-sharing public entity risk pool that is both an insured and self administered group of governmental entities established for the purpose of providing low-cost insurance coverage for their respective members in order to keep local property taxes at a minimum. Each member appoints an official to represent their respective entity for the purpose of creating a governing body from which officers for the Fund are elected.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010

(Continued)

Note 11: Risk Management (Cont'd)

The County is also a member of the Statewide Insurance Fund (the "Fund"). The Fund provides its members with Workers' Compensation. The Fund is a risk-sharing public entity risk pool that is both an insured and self-administered group of governmental entities established for the purpose of providing low-cost insurance coverage for its members in order to keep local property taxes at a minimum. Each member appoints an official to represent their respective entity for the purpose of creating a governing body from which officers for the Fund are elected.

As a member of these Funds, the County could be subject to supplemental assessments in the event of deficiencies. If the assets of the Funds were to be exhausted, members would become responsible for their respective shares of the Funds' liabilities.

The Funds can declare and distribute dividends to members upon approval of the State of New Jersey Department of Banking and Insurance. These distributions are divided amongst the members in the same ratio as their individual assessment relates to the total assessment of the membership body. The members may either receive payment or offset their subsequent year assessments with their respective share of the distribution.

The December 31, 2010 audit reports are not filed as of the date of this audit. Selected financial information for the Funds as of December 31, 2009 is as follows:

	Public Alliance Insurance Coverage Fund Dec. 31,	Statewide Insurance Fund Dec. 31,
Total Assets	\$ 11,989,120	\$ 30,161,287
Net Assets	\$ 3,300,087	\$ 4,165,758
Total Revenue	\$ 8,513,112	\$ 16,967,676
Total Expenditures	\$ 10,761,326	\$ 17,168,049
Change in Net Assets	\$ (2,248,214)	\$ (200,373)
Net Assets Distribution to Participating Members	\$ 200,000	\$ -0-

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 11: Risk Management (Cont'd)

Property, Liability and Workers' Compensation (Cont'd)

Financial statements for the Funds are available at the office of the Funds' Executive Directors:

Public Alliance Insurance Coverage Fund  
Public Entity Group Administrative Services  
51 Everett Drive  
Suite 40B  
West Windsor, NJ 08550  
(609) 275-1155

Statewide Insurance Fund  
Statewide Insurance Fund  
26 Columbia Turnpike  
P.O. Box 678  
Florham Park, NJ 07932-0678  
(973) 549-1900

New Jersey Unemployment Compensation Insurance

The County has elected to fund its New Jersey Unemployment Compensation Insurance under the "Benefit Reimbursement Method". Under this plan, the County is required to reimburse the New Jersey Unemployment Trust Fund for benefits paid to its former employees and charged to its account with the State. The County is billed quarterly for amounts due to the State.

The following is a summary of the interest earnings, County and employees' contributions and reimbursements to the State for benefits paid, and the ending balance of the County's expendable trust fund for the current and previous two years:

<u>Year</u>	<u>Interest Earnings</u>	<u>County Contributions</u>	<u>Amount Reimbursed</u>	<u>Ending Balance</u>
2010	\$ 272.24	\$320,990.75	\$299,027.39	\$ 60,074.52
2009	535.62	307,585.01	308,870.63	37,838.92
2008	646.10	93,271.08	145,488.42	38,588.92

Prescription Benefit Coverage

The County maintains a self-insured prescription drug program. The County's third party claims administrator for this program is Medco Health Solutions. Amounts paid to Medco Health Solutions for paid claims and administrative costs for the year ended December 31, 2010 were \$4,009,366.38. The County has a reserve entitled Self Insurance Fund – Prescription in the amount of \$260,853.21 on the Other Trust Funds balance sheet which would be utilized to pay Incurred but not Reported Claims. The amount of the Incurred but not Reported Claims as of December 31, 2010 is not known but would most likely exceed the \$260,853.21. However, additional funding would be available from the 2010 Appropriation Reserves if needed.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 11: Risk Management (Cont'd)

Medical Benefit Coverage

The County maintains a self-insured medical program. The County's third party claims administrator for this program is CIGNA Healthcare, Inc. Amounts paid to CIGNA Healthcare, Inc. for paid claims and administrative costs for the year ended December 31, 2010 were \$13,846,082.76. The County has a reserve entitled Self Insurance Fund – Medical in the amount of \$1,477,691.39 on the Other Trust Funds balance sheet as well as unexpended 2010 Appropriation Reserve balances and could transfer in additional funds. These funds would be sufficient to cover the estimated Incurred but not Reported Claims as of December 31, 2010.

Note 12: Interfund Receivables and Payables

The following interfund balances remained on the balance sheet at December 31, 2010:

<u>Fund</u>	<u>Interfund Receivable</u>	<u>Interfund Payable</u>
Current	\$ 2,342,000.00	\$ 2,845,467.18
Other Trust	2,331,068.98	77.03
General Capital	7,671.37	2,342,000.00
Health	624,829.51	68,025.65
Library		50,000.00
	<u>\$ 5,305,569.86</u>	<u>\$ 5,305,569.86</u>

The interfund receivable in the Current Fund is the result of the \$2.5 million Refunding Ordinance funded in the General Capital Fund to refund the Emergency Authorization in 2009. The interfund receivable in the Other Trust Funds is due in part to the prior year interfund receivable from the Current Fund which include funds for the Reserve for Accrued Sick and Vacation due from the Current, Library and Health Funds. Additionally, there are funds due from the Current Fund for the Reserves for Weights and Measures, State Unemployment Insurance and Self Insurance Fund – Damage to County Vehicles. The interfund receivable in the Health Fund from the Current Fund is due primarily to the Health Fund not maintaining a separate bank account until this year.

Note 13: Deferred Compensation

The County of Sussex offers its employees deferred compensation plans (the "Plans") created in accordance with Section 457 of the Internal Revenue Code. The Plans, which are administered by Nationwide Retirement Solutions, Equitable and ICMA Retirement Solutions, are available to all County employees and permits participants to defer a portion of their salary. The deferred compensation is not available to employees until termination, retirement, unforeseeable emergency or upon death to their beneficiaries.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 14: Open Space Trust Fund

On January 17, 2001, the County created an Open Space Trust Fund to provide for farmland preservation and open space acquisition. Collection of funds for the Trust Fund commenced during 2001 with a tax equal to \$.02 per \$100 of total county equalized real property valuation. The levy for 2010 was set at 1 cent. As of December 31, 2010, the balance in the Open Space Trust Fund was \$7,385,681.28.

Note 15: Economic Dependency

The County receives a substantial amount of its support from federal and state governments. A significant reduction in the level of support, if this were to occur, may have an effect on the County's programs and activities.

Note 16: Contingent Liabilities

The County is periodically involved in various lawsuits arising in the normal course of business, including claims for property damage, personal injury, and various contract disputes. The County vigorously contests these lawsuits and believes the ultimate resolution will not have a material adverse effect on their financial position.

Amounts received or receivable from grantors, principally the federal and state governments are subject to regulatory requirements and adjustments by the agencies. Any disallowed claims, including amounts previously recognized by the County as revenue would constitute a liability of the applicable funds. The amount, if any, of expenditures which may be disallowed by the grantors cannot be determined at this time, although County officials expect such amounts, if any, to be immaterial.

Note 17: Related Party Transactions

During the years ended December 31, 2010 and 2009, the County of Sussex provided financial support for current operations to the following component units:

	December 31,	
	2010	2009
Sussex County Technical School	\$ 7,693,686	\$ 7,561,362
Sussex County Community College	4,672,000	4,617,687
Sussex County Division of Social Services	1,473,310	1,342,309
	\$ 13,838,996	\$ 13,521,358

Additionally, the County realized revenue and recorded expenditures in the amount of \$-0- and \$2,098,439 for the years ended December 31, 2010 and 2009 respectively with respect to the Sussex County Municipal Utilities Authority. The Current Fund revenue entitled "State Aid – Solid Waste Bonds – SCMUA" and Current Fund expenditure entitled "Aid to SCMUA – Solid Waste Bonds" relates to a shortfall in revenue at the SCMUA due to a State ruling that caused the SCMUA to reduce its solid waste disposal tipping fees. See Note 8 for additional information on the County's commitment with the SCMUA.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 18: Post-Retirement Benefits

The County provides post-retirement benefits to County employees who meet the following criteria. The benefits are as follows:

If retiring with 25 years or more of pension contributions and the last 15 years of service with the County, the County will pay health benefits premiums (but not the employee's share of health maintenance organization) for the rest of the employee's life. Should the retiree die, the widow(er) will be offered coverage through the County Health Insurance provider.

If retiring with 25 years or more of pension contributions on or after January 1, 1988 and the last 15 years of service with the County, the County will pay for prescription program and dental program premiums for the rest of the employee's life for the employee and the immediate family members for certain employees (the continuation of the prescription program and dental program after 25 years at the County's expense applies to most employees but not all). The County does not pay for coverage for the survivors.

The County provides certain post-retirement benefits to qualifying retired employees and their eligible dependents or survivors pursuant to collective bargaining agreements and Board resolutions. The contributions for retirees and beneficiaries have been funded on a pay-as-you-go basis, in accordance with New Jersey law and regulation. New Jersey budget and financial reporting laws do not require local units to budget amounts that exceed their current cash cost or to reflect the long-term liability on their balance sheet. Governmental units have to calculate and disclose their liability if the liability is material to understanding the financial condition of the local unit.

Funding Policy

The County is not required to nor does it contribute the annual required contribution (ARC) per N.J.S.A. 40A:4-1 et. seq. There is currently no provision under State statute for the County to accrue funds, create a trust or issue debt to finance their other post employment benefit ("OPEB") liability.

Currently, there are no contribution requirements of plan members.

The County's portion of post-retirement benefits is funded on a pay-as-you go basis from the Current Fund operating budget. During 2010 and 2009, the County had approximately 246 and 276 employees who met eligibility requirements and recognized expenses of approximately \$4,518,221 and \$3,222,379, respectively.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 18: Post-Retirement Benefits (Cont'd.)

Annual OPEB Cost per Actuarial Valuation

For 2008, 2009 and 2010, the County's annual OPEB cost (expense) and the ARC was \$15,178,690, \$16,127,035 and \$17,153,693 respectively. The County's annual OPEB cost, the percentage of annual OPEB cost contributed to the plan, and the net OPEB obligation for 2008, 2009 and 2010 were as follows:

Year	Actuarial Estimated OPEB Payments	Annual OPEB Cost	Percentage of Annual OPEB Costs Contributed	Net OPEB Obligations
2010	\$ 4,671,990	\$ 17,153,693	27.24%	\$ 36,920,748
2009	3,314,897	16,127,035	20.55%	24,439,045
2008	3,551,783	15,178,690	23.40%	11,626,907

Funding Status and Funding Progress

The funded status of the plan as of January 1, 2008 – 2010 was as follows:

	2008	2009	2010
Actuarial Accrued Liability (AAL)	\$170,351,956	\$182,779,560	\$192,864,638
Actuarial Value of Plan Assets	-0-	-0-	-0-
Unfunded Actuarial Accrued Liability (UAAL)	<u>\$170,351,956</u>	<u>\$182,779,560</u>	<u>\$192,864,638</u>
Funded Ratio (Actuarial Value of Plan Assets (AAL))	0.00%	0.00%	0.00%
Covered Payroll (Active Plan Members)	\$ 33,715,286	\$ 35,099,887	\$ 35,836,952
UAAL as a Percentage of Covered Payroll	505.27%	520.74%	538.17%

Actuarial valuations of an ongoing plan involve estimates of the value of reported amounts and assumptions about the probability of events far into the future. Examples include economic assumptions; medical assumptions and demographic assumptions. Economic assumptions include the discount rate and health care cost trend rates. Medical assumptions are utilized to project the healthcare costs for employees who remain under the County plan with coverage after retirement. Based on claim information provided to the actuary, per capita costs for the retired group under 65 and the retired group age 65 and older were calculated. Retirees generally become eligible for Medicare at age 65. Finally, demographic assumptions include probabilities concerning the rate of mortality, the rate of withdrawal, the rate of retirement and the rate of disability. Amounts determined regarding the funded status of the plan and the annual required contributions of the employer are subject to continual revision as actual results are compared with past expectations and new estimates are made about the future. The schedule of funding progress, presented as required supplementary information following the notes to the financial statements, will present in future years multi-year trend information that shows whether the

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 18: Post-Retirement Benefits (Cont'd.)

Actuarial Methods and Assumptions

actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liability for benefits.

Projections of benefits for financial reporting purposes are based on the substantive plan (the plan as understood by the employer and plan members) and included the types of benefits provided at the time of each valuation and the historical pattern of sharing of benefit costs between the employer and plan members to that point. The actuarial methods and assumptions used include techniques that are designed to reduce short-term volatility in actuarial accrued liabilities and the actuarial value of assets, consistent with the long-term perspective of the calculations.

In the 2008, 2009 and 2010 actuarial valuations, the projected unit credit cost method was used. Under this method, the present value of benefits is allocated uniformly over an employee's expected working lifetime. The actuarial assumptions included a 4.25% investment rate of return. An initial annual medical cost trend of 10% was utilized as the initial rate which decreases by one-half percent per year until the rate reaches 5% in 2018 and thereafter. For prescription drug benefits, an initial rate increase of 12% was utilized which decreases by one-half percent per year until the rate reaches 5% in 2022 and thereafter. For dental care benefits a constant 5% increase is utilized for all years. For Medicare Part B reimbursements, the initial rate increase is 0% in 2008, 6.5% in 2009 and 5% thereafter.

Note 19: Prior Year Adjustment

The prior year balance for the Patients Accounts Receivable on the Homestead Comparative Balance Sheet in the Supplementary Data Schedule section was not correct and was restated to adjust the receivable to the actual balance at December 31, 2009. The receivable is offset by a reserve and has no impact on the audited financial statements.

	<u>Balance</u> <u>12/31/09</u>	<u>Retroactive</u> <u>Adjustments</u>	<u>Balance</u> <u>12/31/09</u> <u>Restated</u>
<b>Assets:</b>			
Patients - Accounts Receivable	\$434,313.45	\$ 633,583.54	\$ 1,067,896.99
<b>Liabilities and Reserves:</b>			
Reserve for Patients' Accounts Receivable	\$434,313.45	\$ 633,583.54	\$ 1,067,896.99

**APPENDIX C**

*Certain Information Concerning the Company*

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**SunLight General Sussex Solar, LLC (“Company”)**

SunLight General Sussex Solar, LLC (the “Company”) is a limited liability company created and in good standing under the laws of the State of New Jersey. It is a wholly-owned subsidiary of SunLight General Sussex Holdings, LLC (“Holdco”), which is the Company’s only member. Holdco is organized to take advantage of the investment tax credit, the related Treasury Department Grant Program and accelerated depreciation Federal tax benefits under the Internal Revenue Code, which the County is unable to use. Holdco has no responsibility for the Company’s obligations. The Company has no responsibility for Holdco’s obligations. Further, the Company has no obligations other than those associated with the Projects for the Series 2011 Local Units as set forth in the Renewable Energy Program Documents.

The Company is a special purpose entity, formed for the purpose of contracting with the Authority to design and build the Projects for the Series 2011 Local Units, operate and maintain the Projects for the Series 2011 Local Units, lease certain properties and obtain certain rights related to the Renewable Energy Projects from the Authority pursuant to a lease arrangement as set forth in the Company Lease Agreement, and sell the renewable energy from the Renewable Energy Projects through the Authority to the Series 2011 Local Units, all as contemplated by the Renewable Energy Program Documents. See “THE RENEWABLE ENERGY PROGRAM” in the body of this Official Statement. The Company’s principal assets and liabilities are the rights and obligations under the Renewable Energy Program Documents with the Authority. Pursuant to the Company Lease Agreement, the Company is obligated to deposit certain security with the Trustee, for the benefit of the County, to secure the Company’s performance and payment under the Company Lease Agreement. While on deposit with the Trustee, this security is held solely for the benefit of the County and is neither included in the Trust Estate nor otherwise pledged to the Holders.

The Company is managed by SunLight General Capital Management, LLC. Pursuant to the Company Lease Agreement, the Company is obligated to pledge certain revenues to the Authority to secure the Company’s performance and payment under the Company Lease Agreement. The Company is contracting with Power Partners MasTec, LLC to design and construct the Projects for the Series 2011 Local Units. The Company will operate the Renewable Energy Projects for the Series 2011 Local Units, either directly or through one or more operations and maintenance contractors.

**Power Partners MasTec, LLC (“MasTec”)**

Power Partners MasTec, LLC (“MasTec”) will perform the work of acquiring and constructing the Renewable Energy Projects under contract with the Company. MasTec is a limited liability company created and in good standing under the laws of the State of North Carolina. MasTec, an ISO 9001: 2008-certified company, is one of the nation’s leading contractors of wind and solar collection systems, substations and power system interconnection services for private developers, electric utilities and governments.

Since 2002, MasTec has provided turnkey electric system construction services to utilities and industrial businesses.

Today, with the growing need to conserve energy and develop power systems that rely on the earth’s sun and wind, MasTec has integrated its expertise in designing, building and maintaining traditional power systems with the new frontier of renewable energy production.

MasTec is part of the MasTec, Inc. family of companies (NYSE – MTZ), combining the strength of its parent company with its construction and operating experience and expertise to deliver reliable solar and wind power infrastructure engineering and construction services nationwide

#### **SunLight General Sussex Holdings, LLC (“Holdco”)**

SunLight General Sussex Holdings, LLC (“Holdco”) is a limited liability company created and in good standing under the laws of the State of New Jersey. Holdco is organized solely to invest in the Company and be the sole member of the Company. It is currently a wholly-owned subsidiary of SunLight General Capital, LLC, which is Holdco’s only member.

#### **SunLight General Capital, LLC (“SGC”)**

Sunlight General Capital, LLC (“SGC”), the sole member of Holdco, is a limited liability company created and in good standing under the laws of the State of New York and authorized to do business in the State of New Jersey. SGC is a solar energy developer and financier, founded in 2009 by professionals from the solar and finance industries. SGC is currently focused on projects in the north eastern United States.

SGC helps promote access to clean, renewable energy by financing the construction of solar generation facilities on our clients’ rooftops and grounds, and offering electricity through solar Power Purchase Agreements (PPA). Additional information about SGC can be found at its website [www.sunlightgeneral.com](http://www.sunlightgeneral.com).

#### **Biographies of SunLight General Management Team**

**Stacey Hughes** ([shughes@sunlightgeneral.com](mailto:shughes@sunlightgeneral.com)) was previously a Managing Director of Société Générale, in charge of interest rate and currency derivative solutions for corporate clients in North and South America (1998 - 2009). Ms. Hughes has extensive experience structuring sophisticated financial transactions, particularly within the project finance and infrastructure space. Previously, Ms. Hughes worked in the Capital Markets and Financial Institutions groups at Salomon Brothers. She has a B.S. in Finance from California Polytechnic State University and an MBA from Harvard Business School.

**Edouard Klehe** ([eklehe@sunlightgeneral.com](mailto:eklehe@sunlightgeneral.com)) was previously a Managing Director of Société Générale, where he ran the Structured Credit and Principal Finance group. Mr. Klehe has more than 10 years of experience working in various senior trading, investment and structuring roles, where he developed extensive expertise in structuring financial investments both for the bank’s own account and for its customers. In addition, he has managed portfolios of corporate and project finance bonds, asset-backed securities, and alternative investments. He received a Masters degree from H.E.C. School of Management in Paris.

**Jay Mann** ([jmann@sunlightgeneral.com](mailto:jmann@sunlightgeneral.com)) was previously the CEO of IPPsolar, a solar development company. He served as Head of Structured Finance at Soltage, Inc., also a solar development company; Managing Director in the Derivatives and Financial Products Group at Société Générale; Director of structured finance at Goldman Sachs; Senior Manager at Ernst & Young, Manager at Deloitte & Touche; Deputy Assistant Attorney General in the Tax Division of the Department of Justice supervising all federal appellate tax litigation. Mr. Mann has a JD from Harvard Law School, an MBA from Columbia University, and a BA from Cornell University.

**David Wolf** (dwolf@sunlightgeneral.com) was previously a Director of Société Générale, where he was in the Structured Credit and Principal Finance group. Mr. Wolf has more than 13 years of finance experience having worked at the Royal Bank of Scotland, Citibank, and Goldman Sachs. He has had roles in various proprietary investment, marketing and structuring groups. He has managed multi-billion dollar portfolios of project finance bonds, asset-backed securities, and alternative investments. Prior to working in finance, he worked as an actuarial consultant to large pension funds. Mr. Wolf has an MBA in Finance from Columbia University, a B.A. in Economics from Yeshiva University, a CFA, and an Associate of the Society of Actuaries.

**Bill Zachary** (bzachary@sunlightgeneral.com) was previously a Managing Director of Société Générale, where he ran the Municipal Finance Group. Mr. Zachary has nearly twenty years of experience structuring municipal transactions, including highly complex tax-exempt natural gas pre-pay financings, military housing privatizations, and a wide variety of derivative transactions. Before joining Société Générale in 1993, Mr. Zachary worked in the Public Finance Department at Smith Barney. He has a B.A. from Harvard College and attended the Harvard Kennedy School of Government.

### SunLight General Capital's Team Experience: Northeastern Solar Development

#### Project Information

#	Project Name	COD Date	Location	Size	Cost of Contract	Project Status
1	Bergen County Prosecutor's Office	2010	New Jersey	115 KW	\$575,000	Operational
2	Bergen County Parking Garage at County Office	2011	New Jersey	630 KW	\$3,150,000	Operational
3	Jet Aviation at Teterboro Airport	2011	New Jersey	750 KW	\$3,750,000	Operational
4	Ansonia High School	2011	Connecticut	200 KW	\$1,000,000	Operational
5	Somerset County Improvement Authority	2011 / 2012	New Jersey	7.6 MW	\$30-\$35 million	Beginning Construction
6	Mercer County Community College	2012	New Jersey	10.0 MW	\$40-\$45 million	Under Development
7	Morris County Improvement Authority	2012	New Jersey	9.2 KW	\$35-\$40 million	Under Development
8	Morris County Improvement Authority (Sussex)	2012	New Jersey	8.8 MW	\$35-\$40 million	Under Development
9	NJ Meadowlands Co-Op	Q3 2011	New Jersey	1.4 MW	\$7,000,000	Beginning Construction
10	Precision Electronic Glass	Q3 2011	New Jersey	465 KW	\$2,325,000	Beginning Construction
11	Alternatives Inc	Q3 2011	New Jersey	200 KW	\$1,000,000	Beginning Construction
12	Mazza Recycling and Demolition*	2008	New Jersey	280 KW	\$1,400,000	Operational
13	Appliance Dealers Cooperative*	2008	New Jersey	630 KW	\$3,150,000	Operational
14	Pilgrim Furniture Showroom*	2008	New Jersey	300 KW	\$1,500,000	Operational
15	Sikorsky Aircraft*	2010	Connecticut	100 KW	\$500,000	Operational

\*Note: Projects developed by current SunLight partners for other companies

**Total Solar Projects 40.7 MW**

## Representative Project Finance Experience: SunLight General Capital

### SunLight General Capital's Team Experience in Large-Scale Project Finance and Tax (Selected Transactions)

Project Information								
#	Project Name	COD Date	Location	Fuel / Project	Size	PPA/Counterparty	Project Status	Notes
1	Peru LNG (Hunt Oil)	2009	Peru	LNG	(\$3.8 B)	Repsol	Operational	Largest LNG plant in South America
2	Shiloh II Wind Farm	2009	California	Wind	150 MW (\$350m)	20-Year PG&E	Operational	
3	Public Energy Authority of Kentucky	2007	Kentucky	natural gas	(\$451 mm)	Public Energy Authority of Kentucky	Operational	tax-exempt gas prepay
4	Autoroute 25	2007	Montreal	highway	(C \$550 mm)	n/a	Operational	
5	Lower Alabama Gas District	2007	Alabama	natural gas	(\$378 mm)	Lower Alabama Gas District	Operational	tax-exempt gas prepay
6	Chicago Parking Garage System	2007	Chicago	parking	(\$560 mm)	n/a	Operational	
7	Southeast Alabama Gas District	2007	Alabama	natural gas	(\$972 mm)	Southeast Alabama Gas District	Operational	tax-exempt gas prepay
8	Neptune Regional Transmission System	2005	New York / New Jersey	transmission	660 MW (\$650 mm)	20-Year Long Island Power Authority	Operational	65-mile 500-kv underwater cable
9	Sabine Pass LNG (Cheniere Energy)	2006	Louisiana	LNG	(\$820 mm)	20-Year Chevron & Total	Operational	
10	Sea to Sky	2005	Vancouver	highway	(C \$625 mm)	n/a	Operational	
11	Canada Line Rapid Transit	2005	Vancouver	rail	(C \$720 mm)	n/a	Operational	
12	Fort Irwin Family Housing	2004	California	housing	(\$367 mm)	n/a	Operational	
13	Fort Belvoir Military Housing	2003	Washington, DC	housing	(\$434 mm)	n/a	Operational	
14	Camp Pendleton/Quantico Military Housing	2003	California	housing	(\$120 mm)	n/a	Operational	
15	Tri-Command Military Housing	2003	South Carolina	housing	(\$112 mm)	n/a	Operational	
16	American Public Energy Agency	2003	Nebraska	natural gas	(\$305 mm)	American Public Energy Agency	Operational	tax-exempt gas prepay
17	Navy-South Texas Military Housing	2002	Texas	housing	(\$39 mm)	n/a	Operational	
18	Fort Hood Military Housing	2001	Texas	housing	(\$186 mm)	n/a	Operational	
19	New Orleans Naval Housing	2001	Louisiana	housing	(\$56 mm)	n/a	Operational	
20	Project Victoria	2001	London	structured fixed income	(\$1 B)	n/a	Operational	Tax advantaged financing
21	Fort Carson Military Housing	1999	Colorado	housing	(\$147 mm)	n/a	Operational	

**Total Value of SunLight's Project Finance Experience:  
+\$12.6 Billion**

## Appendix D

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RESOLUTION NO. 11-

RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY

TITLE:

RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX  
GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE  
NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF  
THE MORRIS COUNTY IMPROVEMENT AUTHORITY

Adopted: September 28, 2011  
as amended and supplemented by  
a Certificate of an Authorized Officer of the Authority  
dated \_\_\_\_\_, 2011

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RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act,

constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birdsall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants", if any, and together with the Authority Consultants, the "Consultants"); to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement

Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lensep Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$\_\_\_\_\_ and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "Series 2011A Bonds") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount of \$\_\_\_\_\_ and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note, and together with the Series 2011A Bonds, "Series 2011 Bonds"), by the same sale method as the Series 2011A Bonds;

WHEREAS, after taking into account the hereinafter defined Equity Contribution, the

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WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, Contracting for Renewable Energy Services, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, Contracting for Renewable Energy Services: Update on Power Purchase Agreements, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "Company RFP") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "Company Proposal") of Sunlight General Sussex Solar, LLC (the "Company"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Unit's Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of

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Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM); SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, adjacent or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

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Education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "BPU"), whereby, among other things,

- (I) The Company shall have established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis;
  - (II) The Company shall have established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units; and
  - (III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and
- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined

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in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on \_\_\_\_\_, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit

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of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

WHEREAS, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c-12") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County

and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

WHEREAS, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

WHEREAS, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "EPC Contractor"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated (October \_\_), 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "EPC Contract", which by its terms shall supersede that certain "Memorandum of Understanding" dated \_\_\_\_\_, 2011 (the "EPC Contract MOU") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$[\_\_\_\_\_] (the "In-Kind Equity Contribution") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$[\_\_\_\_\_] but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company upon the Initial Basic Lease Payment Date (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "Equity Contribution"); (ii) a cash reserve in the amount of \$[\_\_\_\_\_] (the "County Reserve") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the Initial Basic Lease Payment Date, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty;

WHEREAS, the Company Proposal, including the Equity Contribution and the funding

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Continuing Disclosure Agreement" and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents" with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A-54(i) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated \_\_\_\_\_, 2011 (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i) the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement"); and (ii) the execution and delivery of a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "Sole Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris

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County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Morris County Improvement Authority as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions.

1. The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

- Act
- Additional Bonds
- Authority
- Board of Education Series 2011 Local Units
- Board of Freeholders
- Bond Purchase Agreement
- Bond Resolution
- Bonds
- BPU
- Capital Improvement Projects\*
- Cash Equity Contribution
- Company
- Company Continuing Disclosure Agreement
- Company Documents
- Company Lease Agreement
- Company Pledge Agreement
- Company Proposal
- Company RFP
- Continuing Disclosure Agreements
- County
- County Continuing Disclosure Agreement
- County Documents
- County Guaranty
- County Guaranty Agreement
- County Reserve
- County Security
- County Security Agreement
- County Security Provider
- County Series 2011 Local Units
- Dissertation Agent
- EPC Contract
- EPC Contract MOU
- EPC Contractor
- Equity Contribution
- Initial Tranche

- In-Kind Equity Contribution
- Lessee
- Local Finance Board
- Local Finance Board Application
- Local Units
- Local Unit Facilities\*
- Local Unit License
- Local Unit License Agreement
- Local Unit License Agreements
- Municipal Series 2011 Local Units
- Nonprofit Corporation Series 2011 Local Units
- Preliminary Official Statement
- Preliminary Program Costs
- Power Purchase Agreement
- Preliminary Program Costs
- Program Documents
- Projects\*
- Official Statement
- Renewable Energy Program
- Renewable Energy Projects\*
- Rule 15c2-12
- Sale Documents
- Second Tranche
- Section 13
- Section 37
- Section 1603 Grant
- Series 2011 Bonds
- Series 2011A Bonds
- Series 2011B Note
- Series 2011 Local Unit\*
- Series 2011 Local Units\*
- Series 2011 Project
- Shared Services Act
- SRECs
- State

\*as such defined terms may be amended or supplemented pursuant to Sections 4.6 and 4.7 of the Power Purchase Agreement.

2. The following terms, initially defined in the preambles hereof, shall include the additional terms set forth below.

Reserved.

3. The following defined terms shall, for all purposes of this Bond Resolution, have the following meanings:

"Acceptance Certificates" shall mean, individually or collectively, as the case may be, the CIP Acceptance Certificates and the REP Acceptance Certificates.

"Accounts" shall mean any account established in any of the Funds established by Article V hereof.

"Additional Bonds" means all Bonds authenticated and delivered pursuant to Section 2.04 hereof.

"Additional Lease Payment" shall mean any amount payable by the Company at the times and under the other terms of the Company Lease Agreement, other than Basic Lease Payments, including without limitation, (i) Administrative Expenses not otherwise provided from a portion of the proceeds of the Bonds, including the second and succeeding Bond Year Administrative Fee, (ii) interest on any past due Lease Payments payable at the Overdue Rate (but not any such past due Basic Lease Payment), (iii) to the extent Company funds are available, after payment of all reasonable Company expenses and prior to any member distributions, replenishment of any deficiency in the County Security Fund Requirement, (iv) the Mandatory Purchase Price in accordance with Section 701 of the Company Lease Agreement, (v) the Purchase Option Price in accordance with Section 702 of the Company Lease Agreement, (vi) the Restoration Security Fund deposits up to the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution, and (vii) a one-time payment of \$1,500,000 payable on or before the earlier of (i) ninety (90) days after completion of the Series 2011 Local Unit Projects of (ii) March 15, 2013 for deposit in the County Security Fund to satisfy the County Security Fund Requirement.

"Administrative Expense Account" shall mean the Account within the Administrative Fund so designated and established by Article V hereof.

"Administrative Expenses" shall mean the fees and expenses which are incurred from time to time by or on behalf of the Authority, the County, the County Security Provider, or the Series 2011 Local Units, including the Administrative Fee, if any, in carrying out their respective rights and duties under the terms of the Program Documents, including, without limitation the Preliminary Program Costs, accounting, administrative, financial advisory, and legal expenses, the Consulting Energy Engineering Services, the fees and expenses of the Trustee, any paying agents or any other fiduciaries or agents acting on behalf of the Authority, the County, or the Series 2011 Local Units, under or pursuant to the terms of the Program Documents, which amounts shall be due and payable by the Company as an Additional Lease Payment at the times set forth in the Program Documents, or, as applicable, upon presentation of an invoice for payment; provided, however, that to the extent an Administrative Expense is incurred solely due to the action or inaction of a Series 2011 Local Unit not caused by or otherwise resulting from any action, inaction or request of the Company, such Administrative

Expense shall be paid by such Series 2011 Local Unit upon presentation of an invoice for payment. Other than the Series 2011 Bond proceeds deposited in the Administrative Fund in accordance with Section 2.03(7)(a) of the Bond Resolution and earmarked for certain costs and expenses, including certain Administrative Expenses, and other than the Authority's annual Administrative Fee and the Trustee's annual fee to be paid as an Additional Lease Payment by the Company, the Company and the Series 2011 Local Units shall only be responsible for the reasonable amount of Administrative Expenses caused by the action or inaction of the Company or the Series 2011 Local Unit, as applicable, to the extent any such Administrative Expenses arise in the course of the implementation of the Renewable Energy Projects and/or the performance by the Authority, County, and/or Series 2011 Local Unit of their rights, duties and obligations under the Program Documents.

"Administrative Fee" shall mean the sum of the following, payable by the Company to the Authority at the times and the amounts as set forth below:

(i) With respect to the Series 2011 Bonds for the first Bond Year upon initial issuance thereof, the Authority's fee for the Renewable Energy Program in the amount of \$120,000, consisting of the sum of (a) \$100,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Costs of Issuance Account of the Administrative Fund pursuant to Section 2.03(7)(a)(1) of the Bond Resolution and (b) \$20,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Administrative Expense Account of the Administrative Fund pursuant to Section 2.03(7)(a)(ii)(A) of the Bond Resolution; plus

(ii) For all Bond Years with respect to the Series 2011 Bonds thereafter (commencing June 15, 2013), a sum of money payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund payable on the Basic Lease Payment Date immediately preceding the first day of any such Bond Year, equal to \$20,000, which amount may be referred to as the Authority's annual Administrative Fee; plus

(iii) For all Bond Years with respect to the Series 2011 Bonds commencing December 15, 2017 and thereafter, a sum or sums of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(e) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(iv) For all Bond Years with respect to the Series 2011 Bonds, a sum of money, if any, payable by the Company as an Additional Lease Payment for deposit by the

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2011 Local Unit, the Authority, or the Company, as applicable, with respect to the provision of architectural services relating to the Renewable Energy Projects or the Capital Improvement Projects on, in, affixed or adjacent to, or otherwise for the benefit of the Local Unit Facilities for such Applicable Series 2011 Local Unit, all in accordance with applicable law, which may include the Local Public Contracts Law or the Public Schools Contracts Law, including any rules and regulations relating thereto and to which such Applicable Series 2011 Local Unit, the Authority, or the Company is subject, including without limitation any architect of record with respect to such Projects and/or Local Unit Facilities. The Architect may be a Contractor providing services pursuant to a Development Contract.

"Authority Bondholder," "Authority Bond Holder," "Holder of Authority Bonds," "Holder" or "holder" shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds.

"Authority Series 2011 Bondholder," "Authority Series 2011 Bond Holder," "Holder of Authority Series 2011 Bonds," shall mean the registered owner of any Authority's Series 2011 Bonds.

"Authorized Newspapers" shall mean (i) one newspaper which is customarily published and generally circulated at least once in each calendar week in the County, and (ii) one newspaper which is customarily published in the Borough of Manhattan, City and State of New York, at least once a day for a least five days (other than legal holidays) in each calendar week, each of which newspapers is printed in the English language; *provided however* that with respect to the redemption of Bonds, "Authorized Newspapers" shall refer only to the newspaper which is described in clause (i) of this definition.

"Authorized Officer" or "Authorized Representative" shall mean, (i) with respect to the Authority: the Chairman, the Vice Chairman, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairman or by the Vice Chairman of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to any Series 2011 Local Unit: the person designated as an Authorized Officer in the Applicable Local Unit License Agreement of any such Series 2011 Local Unit or any other person or persons who shall be authorized to act on behalf of such Series 2011 Local Unit by virtue of a resolution of the governing body of such Series 2011 Local Unit, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in

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Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(b) and/or Section 6.3(d) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(v) With respect to any Series of Bonds, interest on any past due Basic Lease Payments payable at the Overdue Rate in accordance with the Company Lease Agreement (but not any such past due Basic Lease Payment); plus

(vi) For all Bond Years with respect to any Series of Additional Bonds, such amounts as may be set forth in a Supplemental Resolution, including without limitation, for any Series of Additional Bonds that refund the Series 2011 Bonds or any other Series of Outstanding Bonds, (a) a financing fee payable upon the issuance of any such Series of Additional Bonds (from the proceeds thereof, from the Company, or otherwise) in the amount of two percent (2%) of the aggregate principal amount of any such Series of Additional Bonds, or such different amount as shall be agreed to by the Company and the Authority, plus (b) all reasonable Administrative Expenses of the Authority and any other Renewable Energy Program Interested Party involved in any such refunding payable upon the issuance of any such Series of Additional Bonds, plus (c) an annual financing fee of one percent (1%) of the aggregate principal amount of any such Series of Additional Bonds Outstanding and payable by the Company as of the first day of each Bond Year until final maturity (stated or otherwise) thereof, plus (d) the amounts, if any, payable to the Authority pursuant to Section 6.3(d) of the Power Purchase Agreement, except as any such amounts may be modified in any such Supplemental Resolution authorizing the issuance of any such Series of Additional Bonds.

"Administrative Fund" means the Fund so designated and established by Article V hereof, consisting of a Costs of Issuance Account and an Administrative Expense Account.

"Aged Account" shall mean the Account within the Revenue Fund so designated and established by Article V hereof.

"Applicable" shall mean (i) with reference to any Series 2011 Local Unit, the Series 2011 Local Unit intended to be benefited or obligated thereby, (ii) with reference to any Renewable Energy Project, the Renewable Energy Project for the intended Series 2011 Local Unit, (iii) with reference to any Local Unit Facilities, the Local Unit Facilities for the intended Series 2011 Local Unit, and (iv) with reference to any Local Unit License Agreement, the Local Unit License Agreement executed for the benefit of the intended Series 2011 Local Unit.

"Architect" shall mean individually or collectively, as the case may be, the individual or entity appointed or caused to be appointed or employed by the Applicable Series

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any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

"Base Rate" shall mean the rate of interest established by the Trustee from time to time as its reference rate in making loans but does not reflect the rate of interest charged to any particular class of borrowers, and is not tied to any external rate of interest or index. The applicable rate will change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any party. If no other rate shall be so established by the Trustee, the Base Rate shall be the Trustee's prime rate as determined from time to time.

"Basic Lease Payment" shall mean, as of each Basic Lease Payment Date, the amount set forth in Exhibit A-3 to the Company Lease Agreement corresponding to such Basic Lease Payment Date and designated as a Basic Lease Payment. The Basic Lease Payment as of any Basic Lease Payment Date is equal to the payment of the Principal Portion and Interest Portion due on such Basic Lease Payment Date, and shall be established as the amount set forth in Exhibit A-3 to the Company Lease Agreement for such date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments), and interest on the Outstanding Bonds on the next occurring (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) Principal Payment Date and Interest Payment Date respectively, of the Outstanding Bonds, including without limitation the credits available under (i) Section 302(a)(ii) and (ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(c)(ii)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701 of the Company Lease Agreement with respect to prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Basic Lease Payment Date" shall mean any date set forth in Exhibit A-3 to the Company Lease Agreement and designated as a Basic Lease Payment Date, which for the Interest Portion (January 15 and July 15, commencing January 15, 2013) and Principal Portion

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(January 15, commencing January 15, 2013) of any Basic Lease Payment, shall be a day five (5) months prior to any (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) regularly scheduled Interest Payment Date and any regularly scheduled Principal Payment Date, respectively, or if either of such days is not a Business Day, the first Business Day prior to such date.

"Board" shall mean the governing body of the Authority, or if said Board shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or to whom the powers and duties granted or imposed by the Bond Resolution shall be given by law.

"Bond" or "Bonds" shall mean any of the Bonds of any Series issued pursuant to the terms of this Bond Resolution, including the Series 2011 Bonds and any Additional Bonds, or any Bonds that are thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Section 4.07 or 11.10 hereof.

"Bond Counsel" shall mean Inglesino, Pearman, Wyciskala & Taylor, LLC, or any other attorney at law, or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exclusion of interest on bonds or other obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state.

"Bond Year" shall mean (i) with respect to any Series of Outstanding Bonds, including the Series 2011 Bonds, a period of twelve (12) consecutive months beginning on June 15 of any calendar year and ending on June 14 of the immediately succeeding calendar year except that (ii) the first Bond Year with respect to the Series 2011 Bonds shall be a period commencing on the date of issuance of the Series 2011 Bonds and ending on June 14, 2012 and (iii) the first Bond Year with respect to any other Series of Bonds shall be a period commencing on the date of issuance of such Series of Bonds and ending on the succeeding 14<sup>th</sup> day of June.

"Bondholder," "Bond Holder," "Holder" or "Holder of Bonds" shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds, which by its terms, upon original issuance of the Series 2011 Bonds, shall mean the respective registered owners of the Series 2011A Bonds and with respect to the Series 2011B Note, the County.

"Business Day" shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or the Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

"Capitalized Interest Account" shall mean the Account within the Debt Service Fund so designated and established by Article V hereof, or by Supplemental Resolution.

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useful and convenient therefor, which shall be funded through any combination of the issuance of Additional Bonds, the application of excess proceeds pursuant to Section 5.02 hereof, any grant or subsidized funding from the Federal, State or local government or other source, the equity contribution of any Renewable Energy Program Interested Party, or otherwise. To the extent such Completion Project shall be funded in whole or in part by Additional Bonds of the Authority, such Completion Project shall not be paid for by or on behalf of the Company unless the Company Lease Agreement is amended and supplemented (with the Company's consent), including as applicable the Basic Lease Payment schedule, to reflect any increased principal of and interest due on any Series of Additional Bonds issued to fund all or a portion of such Completion Project. The Authority may, at its sole discretion, issue Additional Bonds for any Completion Project, but it is under no obligation to do so, and accordingly, the Authority may make the execution and delivery by the Company of an amendment or supplement to the Company Lease Agreement regarding the payment of additional Basic Lease Payments a condition precedent to the issuance of any such Series of Additional Bonds.

"Construction Manager" shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or any Series 2011 Local Unit with the consent of the Authority, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for any Series 2011 Local Unit, or the oversight of the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, if any, by the Lessee for any Series 2011 Local Unit. The Consulting Energy Engineer may act as Construction Manager.

"Contractor" shall mean the Company, the EPC Contractor, or to the extent subsequently designated by the Company or the EPC Contractor, any subcontractor or other third-party designated by the Company through a Development Contract or otherwise (no subcontractor or such third-parties have been designated upon the issuance of the Series 2011A Bonds), in any such case as the entity obligated to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Consulting Energy Engineer" shall mean individually or collectively, as the case may be, Birdall Services Group, Inc. and Gabel Associates, and any other consulting energy and/or engineer that performs Consulting Energy Engineering Services.

"Consulting Energy Engineering Services" shall mean those services performed by or on behalf of the Consulting Energy Engineer that the Authority deems necessary, desirable or convenient in order to implement the Renewable Energy Program, including without limitation review of Local Unit Facilities for feasible inclusion in the Renewable Energy Program and the particular tranche, formulation of the Series 2011 Local Units, assistance in

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"Certificate" shall mean a written certificate signed in the name of the Authority, any Series 2011 Local Unit, the County, the Company or the Trustee. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the instruments so combined shall be read and construed as a single instrument.

"CIP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Capital Improvement Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Capital Improvement Projects for each such Series 2011 Local Unit has been completed in accordance with the Plans and Specifications therefore, and has been accepted by such Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution. The Authority and the Company acknowledge and agree that the Company shall not be responsible for the construction of any Capital Improvement Projects under the Program Documents and any references in such Program Documents to the Capital Improvement Projects shall be of no further force and effect.

"Code" shall mean the Internal Revenue Code of 1986, as amended and supplemented, and the Treasury regulations promulgated pursuant thereto.

"Company Development Fees and Expenses" shall mean the development fees and expenses incurred by the Company in responding to the Company RFP, and in developing the Projects for the Series 2011 Local Units at the Local Unit Facilities, all in accordance with the terms of the Company Documents, and which amount may include a development fee paid to or on behalf of the Company and or its affiliates, and so long as the aggregate of all such fees and expenses paid or payable from the Project Fund shall not exceed \$\_\_\_\_\_ without the express written consent of the Authority, and which amounts shall be payable in accordance with the provisions of Section 5.02(2)(b) of the Bond Resolution and 509(d) of the Company Lease Agreement.

"Completion Conditions" shall have the meaning set forth in Section 3.6(a) of the Power Purchase Agreement.

"Completion Project" shall mean any completion, additions, enlargements, improvements, expansions, repairs, restorations or reconstructions of the Renewable Energy Projects or the Capital Improvement Projects, if any, for the Series 2011 Local Units at their Local Unit Facilities, including to the extent any prior Completion Project shall, for whatever reason, be insufficient for the Local Unit's purposes, for use by the Local Unit pursuant to any amendment or supplement to the Local Unit License Agreement, including, without limitation, all real and personal property and rights therein and any appurtenances that are necessary or

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connection with the Company RFP and review of all proposals, including the Company Proposal and issuance of the report required by applicable law as a pre-condition to the selection of the Company as the successful respondent, assistance with the terms and conditions of the Program Documents, and all services of Construction Manager in overseeing the development of the Renewable Energy Projects for the Series 2011 Local Units.

"Cost", "Costs", "Costs of the Project", "Costs of the Projects", "Project Cost" or "Project Costs" shall mean and be deemed to include, with respect to any Project, together with any other proper item of cost not specifically mentioned herein, whether incurred prior to or after the date of any Program Document, (i) Preliminary Program Costs and the Company Development Fees and Expenses, (ii) costs of and expenses related to the design, permitting, acquisition, construction, installation, operation, maintenance, and financing of the Renewable Energy Projects for the Series 2011 Local Units, and (iii) costs of and expenses related to the design, permitting, acquisition, construction, renovation, installation, and financing of the Capital Improvement Projects for the Series 2011 Local Units; including, without limitation, costs and expenses related to any Architect, Construction Manager or Contractor, the Plans and Specifications, and/or any other costs and expenses related to any Development Contract, the costs of payment of, or reimbursement for, advances, deposits, down-payments or progress payments, administrative costs, insurance costs, costs of surety, construction or performance or payment bonds, financing payments, sales taxes, excise taxes, costs of feasibility, environmental and other reports, inspection costs, permit fees, filing and recording costs, printing costs, reproduction and binding costs, Administrative Expenses, costs of Rating Agencies, credit ratings or credit enhancement, fees for the printing, execution, transportation and safekeeping of the Bonds and charges and fees in connection with the foregoing; the cost of insurance; (iv) any sums required to reimburse the Renewable Energy Program Interested Parties for advances made for any of the above items, or for any other costs incurred and for work done, which is properly chargeable to any Project thereof; (v) deposits in any Fund or Account under the Bond Resolution, all as shall be provided in the Bond Resolution; and (vi) such other expenses not specified herein as may be necessary or incidental to the implementation of the Renewable Energy Program, including those incurred by the Renewable Energy Program Interested Parties and including costs and expenses related to the placing of the Projects in use and operation.

"Costs of Issuance" shall mean all items of expense directly or indirectly payable by or reimbursable to any Renewable Energy Program Interested Parties (other than the Company Development Fees and Expenses payable to the Company) and related to the authorization, execution, sale and delivery of the Bonds of any Series, including the Series 2011 Bonds, including, but not limited to, bond insurance costs or costs of other credit enhancement, Rating Agency fees, advertising and printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of any such Renewable Energy Program Interested Parties, the fees and expenses to be paid to the underwriters of a particular Series of Bonds (which fees and expenses, including their counsel, may be paid as a discount from Bond proceeds, rather than from the Costs of Issuance Account), including the Series 2011 Bonds, legal and financial advisory fees and expenses of such Renewable Energy Program

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Interested Parties, Consulting Energy Engineering Services, and initial charges, and all other initial fees and disbursements contemplated by the Program Documents.

"Costs of Issuance Account" shall mean the Account within the Administrative Fund so designated and established by Article V hereof.

"Counsel" shall mean an attorney at law or firm of attorneys at law (who may be, without limitation, of counsel to, or an employee of any Renewable Energy Program Interested Party) duly admitted to practice law before the highest court of any state.

"County Security Fund" shall mean the Fund so designated and established by Article V hereof.

"County Security Fund Requirement" shall initially mean \$1,500,000, which amount shall be wholly funded on or before (i) the earlier of (i) ninety (90) days after completion of the Series 2011 Local Unit Project or (ii) March 15, 2013, by the Company as an Additional Lease Payment as set forth in clause (vii) of the definition thereof, which amount is the minimum initial amount on deposit in the County Security Fund in the amounts, as of the dates, specified on Exhibit B to the Bond Resolution, to be held as security for the County in the event of a payment or payments to be made by the County under its County Guaranty, and otherwise to be applied in accordance with the terms of the Program Documents; provided, however, that Exhibit B may be modified at any time by a new Exhibit B delivered by the Authority to the Trustee attached to a Certificate of an Authorized Officer of the Authority directing the Trustee to replace such Exhibit B, without the need for an amendment or supplement hereto (and without the need for Bondholder consent), which Certificate shall only be delivered by the Authority to the extent the Company and the County agree to such revised Exhibit B, as evidenced by their acknowledgment in writing to any such Authority Certificate. Such Certificate shall also set forth and direct the Trustee regarding the transfer or disposition of excess funds in the County Security Fund, if such Certificate shall cause same.

"Debt Service Fund" means the Fund so designated and established by Article V hereof, consisting of an Interest Account, and a Principal Account.

"Default" shall mean an event or condition, the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default with respect to the Bonds, including the Series 2011 Bonds.

"Developer" shall mean an Affiliate of the company to be designated at the time of execution of the Development Agreement.

"Development Agreement" means the Development Agreement to be entered into by and between the Company and the Developer for development services related to the Projects.

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"General Account" shall mean the Account within the General Fund so designated and established by Article V of the Bond Resolution.

"General Fund" shall mean the Fund so designated and established by Article V of the Bond Resolution, which shall consist of a General Account.

"Gross Substitute Power Purchase Price" shall have the meaning ascribed to such term in Section 5.2(a)(i) of the Local Unit License Agreements for the Series 2011 Local Units.

"Initial Basic Lease Payment Date" shall mean January 15, 2013, the first Basic Lease Payment Date.

"Interconnection Agreement" shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Applicable Series 2011 Local Unit and/or the Authority, with respect to the interconnection of the completed Renewable Energy Projects for such Series 2011 Local Unit to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

"Interest Account" shall mean the Account within the Debt Service Fund so designated and established by Article V of the Bond Resolution.

"Interest Payment Date" shall mean, the date on which interest on the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June and December until final maturity of the Bonds, including the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Interest Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Interest Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the interest due and owing on the Outstanding Bonds, including the Series 2011 Bonds, on the immediately succeeding Interest Payment Date, as set forth in Exhibit A-3 to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Interest Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the interest on the Bonds on the next occurring Interest Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(i) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess

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"Development Contract" shall mean (i) in the case of the Company, the Company Lease Agreement, (ii) in the case of the EPC Contractor, the EPC Contract, and (iii) in the case of any other Contractor, that certain contract obligating any such other subcontractor or other third-party, as Contractor and on behalf of the Company, to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units. Nothing in any Development Contract shall relieve the Company from its obligations under the Company Lease Agreement and the other Company Documents, which obligations shall include the Company's continual obligation to design, permit, acquire, construct, install, operate and/or maintain all of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, and to design, permit, acquire, construct, renovate and/or install all of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Development Fee" means the fee payable to the Developer for services provided under the Development Agreement.

"Draw Date" shall have the meaning ascribed to such term in Section 510(b) of the Company Lease Agreement, and shall not be a regularly scheduled set of dates, but shall occur no more frequently than twice a month.

"Draw Paper Ratio" shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

"Draw Papers" shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

"DTC" shall mean The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, in its capacity as securities depository for the Bonds, including the Series 2011 Bonds.

"Event of Default" shall mean any occurrence or event designated as such in Section 9.01 of the Bond Resolution.

"Excess Power Purchase Price Payments" shall have the meaning ascribed to such term in Section 311(a) of the Company Lease Agreement.

"Fiduciary" or "Fiduciaries" shall mean individually or collectively, as the case may be, the Trustee or the Paying Agent under the Bond Resolution.

"Funds" shall mean any of the funds established by Article V of the Bond Resolution.

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amounts in the Project Fund, (iv) Section 5.07(3)(e) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(e) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Investment Securities" shall mean and include any of the following securities, if and to the extent the same are at the time legal for investment of the Authority's funds:

(i) Cash, direct non-callable obligations of the United States of America, and securities fully and unconditionally guaranteed as to the timely payment of principal of and interest by the United States of America, to which direct obligation or guarantee the full faith and credit of the United States of America has been pledged, *Rescorp interest strips*, CATS, TIGRS, STRPS or defeased municipal notes or bonds rated in the highest rating category by at least one of the Rating Agencies;

(ii) Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state or of any agency or instrumentality of any such local governmental unit (a) that are not callable prior to maturity or as to which irrevocable instructions have been given to the Trustee of such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds or other obligations for redemption on the date or dates specified in such instructions, (b) that are secured as to principal, interest and redemption premium, if any, by a fund consisting only of cash or bonds or other obligations of the character described in clause (i) above, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the redemption date or dates specified in the irrevocable instructions referred to in sub-clause (a) of this clause (ii), as appropriate, and (c) as to which the principal of and interest on the bonds and obligations of the character in clause (i) above that have been deposited in such fund, along with any cash on deposit in such fund, are sufficient to pay the principal of and interest and redemption premium, if any, on the bonds or other obligations described in this clause (ii) on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in sub-clause (a) of this clause (ii), as appropriate;

(iii) Bonds, debentures or other evidences of indebtedness issued or guaranteed by any agency or corporation that has been or may hereafter

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be created pursuant to an Act of Congress as an agency or instrumentality of the United States of America; provided, however, that at the time of their purchase hereunder such obligations are rated in either of the two highest rating categories by the Rating Agencies;

(iv) New housing authority bonds issued by public agencies or municipalities that are fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or project notes issued by public agencies or municipalities that are fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(v) Direct, general obligations of any state of the United States of America, the payment of the principal of and interest on which the full faith and credit of such state is pledged; provided, however, that at the time of their purchase hereunder such obligations are rated in either of the two highest rating categories by the Rating Agencies;

(vi) Obligations of any state of the United States of America or any political subdivision thereof or of any agency or instrumentality of any such state or political subdivision that shall be rated in the highest short- or long-term rating category by the Rating Agencies;

(vii) Direct and general obligations of the State, the payment of the principal of and interest on which the full faith and credit of the State is pledged; or any bonds, or other obligations the payment of the principal of and interest on which are unconditionally guaranteed by the State;

(viii) Certificates or other instruments that evidence ownership of the right to payments of principal of or interest on obligations of any state of the United States of America or any political subdivision thereof or of any agency or instrumentality of any such state or political subdivision; provided, however, that such obligations shall be held in trust by a bank or trust company or a national banking association meeting the requirements for a successor Trustee under Section 10.09 hereof; and provided, further, that the payments of all principal of and interest on such obligations shall be fully insured or unconditionally guaranteed by, or otherwise unconditionally payable pursuant to a credit support arrangement provided by, one or more financial institutions or insurance companies or associations that shall be rated in the highest short- or long-term rating category by the Rating Agencies, or, in the case of an insurer providing municipal bond insurance policies insuring the payment, when due, of the principal of and interest on municipal bonds, such insurance policy shall result in

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(xvi) Money market funds which seek to maintain a constant net asset value per share and are rated in the highest short term rating categories of such funds, by at least two Rating Agencies;

(xvii) With respect to the County Security Fund only, any other investment for which funds of the County may be legally invested at such time; and

(xviii) Any other investments permitted under N.J.S.A. 40A:5-15.1, or any such successor statute.

"Lease Payments" shall mean all amounts due and payable by the Company pursuant to the terms of the Company Lease Agreement, and shall consist of Basic Lease Payments and the Additional Lease Payments.

"Letter of Instructions" shall mean the letter of instructions attached to any Tax Certificate as an exhibit thereto provided by Inglesino, Pearlman, Wyciskala & Taylor, LLC or other Bond Counsel on the date of issuance and delivery of the Series of Bonds to which it applies, as such letter may be amended from time to time, as a source of guidance for compliance with the Code. There shall be no Letter of Instructions with respect to the Series 2011 Bonds.

"Mandatory Purchase Price" shall have the meaning ascribed to such term in Section 702 of the Company Lease Agreement relating to the acceleration of the Bonds of any Series, including the Series 2011 Bonds.

"Net Proceeds" shall mean any insurance, condemnation, performance bond, or any other financial guaranty proceeds paid with respect to any portion of the Projects, remaining after payment therefrom of all expenses incurred in the collection thereof; and, with respect to insurance, if and at such time as the Company elects to provide self-insurance under Section 614 of the Company Lease Agreement, any moneys payable from any self-insurance fund of the Company which may lawfully be expended for the purposes for which such self-insurance is provided.

"Net Substitute Power Purchase Price" shall have the meaning ascribed to such term in Section 5.2(a)(f) of the Local Unit License Agreements for the Series 2011 Local Units.

"Outstanding" or "outstanding" shall mean, when used with reference to Bonds of any Series, including the Series 2011 Bonds, as of any particular date (subject to the provisions of Section 13.08 hereof), all Bonds of such Series theretofore, or thereupon being, authenticated and delivered by the Trustee under this Bond Resolution, except (i) Bonds of such Series theretofore or thereupon canceled by the Trustee or surrendered to the Trustee for cancellation; (ii) Bonds of such Series with respect to which all liability of the Authority shall have been released or discharged in accordance with Article XII of the Bond Resolution; and (iii) Bonds of such Series in lieu of or in substitution for which other Bonds of such Series shall

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such municipal bonds being rated in the highest rating category by the Rating Agencies;

(ix) Certificates that evidence ownership of the right to payments of principal of or interest on obligations described in clause (i) above; provided, however, that such obligations shall be held in trust by a bank or trust company or a national banking association meeting the requirements for a successor Trustee under Section 10.09 hereof;

(x) Certificates of deposit, whether negotiable or non-negotiable, demand deposits, and banker's acceptances of any of the fifty (50) largest banks by measure of total assets, which banks may include the Trustee, that are rated not lower than the second highest rating category by the Rating Agencies;

(xi) Commercial paper rated at the date of investment in the highest rating category by the Rating Agencies;

(xii) Any repurchase agreement that, by its terms, matures not later than one (1) year from its date of execution with any bank or trust company organized under the laws of any state of the United States of America or any national banking association, including the Trustee, or any government bond dealer reporting to, trading with and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in clause (i), (iii), (iv), (x) or (xi) above and which securities shall at all times have a market value (exclusive of accrued interest) of not less than one hundred two percent (102%) of the full amount of the repurchase agreement, have dates of maturity not in excess of seven (7) years, and be delivered to another bank or trust company organized under the laws of any state of the United States of America or national banking association, as custodian;

(xiii) Shares of an investment company organized under the Investment Company Act of 1940, as amended, including any investment company for which the Trustee is investment advisor, that invests its assets substantially in obligations of the type described in clause (ii), (vii), (xi) or (xii) above;

(xiv) Interests in the State of New Jersey Cash Management Fund or other similar common trust fund for which the State Treasurer is the custodian;

(xv) Local government investment pools;

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have been authenticated and delivered by the Trustee pursuant to any provision of this Bond Resolution.

"Overdue Rate" shall mean two percent (2%) per annum over the Base Rate, which rate shall change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any Renewable Energy Program Interested Parties; provided, however, that notwithstanding the foregoing, to the extent the County Security, if any, shall have been drawn upon to reimburse the County in full for any County payments under the County Guaranty, the Overdue Rate with respect to interest to be paid on past due Basic Lease Payments (such payment of interest constituting an Additional Lease Payment under the Company Lease Agreement) shall have such different meaning, if any, as may be set forth in the County Security Agreement, if any.

"Owner" or "Registered Owner" of a Bond shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds, as shown on the register kept by the Trustee pursuant to Section 3.04 of the Bond Resolution.

"Paying Agent" means the Paying Agent appointed pursuant to Section 10.02 of the Bond Resolution, and its successors.

"Plans and Specifications" shall mean the architectural and engineering drawings and specifications prepared by the Architect or other Contractor (through a Development Contract or otherwise) describing the Renewable Energy Projects or the Capital Improvement Projects (if any), including any Completion Project, as the case may be, as agreed to among the Company and the Applicable Series 2011 Local Unit pursuant to Section 501 of the Company Lease Agreement.

"Power Purchase Price Payments" shall mean the payments made by the respective Series 2011 Local Units for the purchase of electricity to the Trustee, at the direction of the Authority and on behalf of the Company, all in accordance with Section 5.1(e)(j) of the Local Unit License Agreements.

"Principal Account" shall mean the Account within the Debt Service Fund so designated and established by Article V of this Bond Resolution.

"Principal Office" shall mean, when used with reference to the Authority, the Trustee or the Paying Agent, the respective addresses of such parties as set forth in Section 13.07 hereof, and any further or different addresses as such parties may designate pursuant to Section 13.07 hereof, and with reference to the Series 2011 Local Units, the addresses set forth in Exhibit A-2 to the Company Lease Agreement, as such party may update from time to time in accordance with the terms of the Company Lease Agreement.

"Principal Payment Date" shall mean, the date on which principal (including Sinking Fund installments, if any) of the Bonds, including the Series 2011 Bonds, is required to

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be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the first (1<sup>st</sup>) day of each June until final maturity of the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Principal Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Principal Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the principal (including Sinking Fund Installments) of the Outstanding Bonds, including the Series 2011 Bonds, due and owing on the immediately succeeding Principal Payment Date, as set forth in Exhibit A-3 attached to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Principal Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments) the Bonds on the next occurring Principal Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(c)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(n)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Purchase Option Price" shall have the meaning ascribed to such term in Section 701 of the Company Lease Agreement relating to the optional redemption of the Bonds of any Series, including the Series 2011 Bonds.

"Project Account" shall mean the Account within the Project Fund so designated and established by Article V of the Bond Resolution.

"Project Fund" shall mean the Fund so designated and established by Article V hereof, consisting of a Project Account.

"Rating Agency" shall mean individually or collectively, as the case may be, Moody's Investors Service, Standard & Poor's, or any other nationally recognized rating agency that has rated the Bonds, including the Series 2011 Bonds, or any Series of Additional Bonds, which rating was sought and/or purchased by the Authority.

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2011 Local Unit have been completed in accordance with the Plans and Specifications therefor, and have been accepted by the Company and the Applicable Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution.

"Reserved Rights" shall mean the Authority's right to retain the following under the Company Lease Agreement, which shall not be part of the Trust Estate pledged to the Trustee under Section 1.04 of the Bond Resolution:

(i) Receive the Additional Lease Payments earmarked for purposes other than the Purchase Option Price or the Mandatory Purchase Price (which Purchase Option Price or the Mandatory Purchase Price Additional Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), including without limitation (a) the Administrative Fee, if any, and any other Administrative Expenses, which the Authority shall be obligated to pay or cause to be paid to the Renewable Energy Program Interested Parties due such Administrative Expenses, and (b) interest payable on past due Lease Payments at the Overdue Rate (but not the Basic Lease Payments that may be paid together with any payment at the Overdue Rate, which Basic Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), provided, further, that the portion of which interest that is attributable to past due Basic Lease Payments may be assigned by the Authority to the County and/or the County Security Provider, if any, as part of the Reimbursement Collateral;

(ii) The payments set forth in Section 5.2(a)(ii) and (iii) of the Local Unit License Agreements for the Series 2011 Local Units that reflect the difference between the Gross Substitute Power Purchase Price and the Net Substitute Power Purchase Price, which includes the Administrative Fee;

(iii) Receive notices provided for in the Company Lease Agreement or any other Program Document;

(iv) Appoint, replace or remove such parties as shall be appointed, replaced or removed under the Company Lease Agreement or any other Program Document at the direction of the Authority; and

(v) The right to give or withhold consents, including consents to amendments, permitted or required of the Authority under the Company Lease Agreement or any other Program Documents, to the extent that any such consent or amendment would diminish the rights or enlarge the responsibilities or adversely affect the ability of the Authority to realize or perform same, respectively, or which would increase the Authority's potential liability or exposure to any party to any Program Document or to any third party as a result thereof. All such notices, appointments or consents under any other Program

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"Record Date" shall mean with respect to an Interest Payment Date for a particular Series of Bonds, including the Series 2011 Bonds, unless otherwise provided by this Bond Resolution or a Supplemental Resolution authorizing such Series, the fifteenth (15<sup>th</sup>) day (whether or not such day shall be a Business Day) of the month preceding such Interest Payment Date.

"Redemption Price" shall mean, when used with reference to any Series of Bonds, including the Series 2011 Bonds or any portion thereof, the principal amount of such Bonds or such portion thereof and any premium thereon payable upon redemption thereof pursuant to the provisions of such Bonds and this Bond Resolution.

"Reimbursement Collateral" shall mean, to the extent a County Security Agreement shall be delivered to the Authority and the Trustee in accordance with the provisions of Section 5.07(6) of the Bond Resolution, (i) the SRECs, (ii) the Net Substitute Power Purchase Price, and (iii) any past due Basic Lease Payments, together with any Additional Lease Payments constituting interest payable on such past due Basic Lease Payments at the Overdue Rate, all of which shall have been pledged and assigned by the Authority to the County Security Provider under the County Security Agreement, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security. If no County Security Agreement shall be so delivered, which shall be the case upon original issuance of the Series 2011A Bonds, this term shall mean the County Reserve and any other monies and securities on deposit in the County Security Fund at any time, if any, that shall be available to the Company, in such case as County Security Provider, after and to the extent the County has been fully paid under its County Guaranty; provided that no such monies shall be made available to the Company until the County has completed all of its payment obligations under the County Guaranty and been fully reimbursed therefor, from the County Security Fund or otherwise.

"Renewable Energy Program Interested Parties" shall mean individually or collectively, as the case may be, the Authority, the County, the Series 2011 Local Units, the Company, the Construction Manager, the County Security Provider, the Trustee or any other fiduciary under the Program Documents, or any other interested party with a right, duty or obligation under the Program Documents, including any agents (including professional advisors) of any of the foregoing.

"REP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Renewable Energy Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Renewable Energy Projects for each such Series

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Document (i.e., other than the Company Lease Agreement) shall be unaffected by these rights, as the Authority's rights under the other Program Documents are not subject to the pledge of the Trust Estate under Section 1.04 of the Bond Resolution, and are either retained by the Authority, or assigned pursuant to the terms of the Program Documents, but in any event, shall not constitute a Revenue or other part of the Trust Estate for purposes of the Bond Resolution.

"Restoration Security Fund" shall mean the Fund so designated and established by Article V hereof.

"Restoration Security Fund Requirement" shall mean \$75,000 on deposit in the Restoration Security Fund as of the eleventh (11<sup>th</sup>) anniversary of the first Commencement Date under the Power Purchase Agreement, plus an additional \$75,000 for each year thereafter until the end of the Initial Term under the Power Purchase Agreement (for a total of \$375,000); provided, however, the Company shall be required to pay to the Restoration Security Fund any amount to bring the balance therein to the Restoration Security Fund Requirement, from time to time only if the Company has sufficient available cash flow to fund the same after making all other payments payable by the Company during such year but in no event shall cash flow distributions be made to the members of the Company in any year in which the Restoration Security Fund is required to be funded to the extent the Restoration Security Fund is not funded in such year to the level required by the Restoration Security Fund Requirement. Such amount shall be funded by the Company as an Additional Lease Payment to be made on each such anniversary date, all as specified on Exhibit C to the Bond Resolution, to be held as security for the Series 2011 Local Units to ensure that the Company restores their Local Unit Facilities in the manner required by Section 3.7(b) of the Power Purchase Agreement. Notwithstanding the foregoing, Exhibit C to the Bond Resolution may be modified at any time by a new Exhibit C delivered by the Authority to the Trustee attached to a Certificate of an Authorized Officer of the Authority directing the Trustee to replace such Exhibit C, without the need for an amendment or supplement hereto (and without the need for Bondholder consent), which Certificate shall only be delivered by the Authority to the extent the Company and the County agree to such revised Exhibit C, as evidenced by their acknowledgment in writing to any such Authority Certificate. Such Certificate shall also set forth and direct the Trustee regarding the transfer or disposition of excess funds in the Restoration Security Fund, if such Certificate shall cause same.

"Revenue Account" shall mean the Account within the Revenue Fund so designated and established by Article V hereof.

"Revenue Fund" shall mean the Fund so designated and established by Article V of the Bond Resolution.

"Revenues" shall mean (i) all Basic Lease Payments made by the Company under the Company Lease Agreement, together with all Power Purchase Price Payments made by the Series 2011 Local Units to the Trustee, (ii) those Additional Lease Payments related to the Purchase Option Price or the Mandatory Purchase Price made by the Company under the

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Company Lease Agreement, (iii) any investment income which is derived from the investment of any funds which are held by the Trustee pursuant to the terms of the Bond Resolution and which are deposited in the Funds and Accounts established under the Bond Resolution; provided, however, that Revenues shall not include the investment income on moneys or securities held in (a) the Administrative Expense Account or the Costs of Issuance Account of the Administrative Expense Fund, nor (b) the County Security Fund, and (iv) any other amounts received from any other source by or on behalf of the Authority, the Company, the County, the Series 2011 Local Units, the Trustee or the Paying Agent, whereby such amounts are directed or permitted to be applied to the payment of the principal of, Redemption Price, and interest on the Bonds, including the Series 2011 Bonds.

"Series" shall mean all of the Bonds, including the Series 2011 Bonds, authenticated and delivered on original issuance and identified pursuant to this Bond Resolution or any Supplemental Resolution authorizing such Bonds as a separate Series of Bonds, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Sections 4.07 or 11.10 hereof, regardless of variations in maturity, interest rate or other provisions.

"Series 2011B Bonds" shall have the meaning ascribed to such term in Section 311(b) of the Company Lease Agreement.

"Sinking Fund Installments", with respect to any Series of Bonds, shall have the meaning, if any, specified in either this Bond Resolution, including, without limitation and with respect to the Series 2011A Bonds, Section 2.03(6)(e) hereof, or the Applicable Supplemental Resolution.

"Supplemental Resolution" shall mean the certificate or certificates of an Authorized Officer of the Authority referred to in Section 2.02(1)(d) hereof and/or any resolution or resolutions of the Authority amending, modifying or supplementing this Bond Resolution, authorizing the issuance of a Series of Additional Bonds, or any other Supplemental Resolution adopted by the Authority pursuant to the provisions of this Bond Resolution.

"Tax Certificate", with respect to any Series of Bonds other than the Series 2011 Bonds (there shall be no Tax Certificate with respect to the Series 2011 Bonds), means the "Tax Certificate as to Arbitrage and Instructions as to Compliance with the Provisions of Section 103(a) of the Internal Revenue Code of 1986, as amended" or similar document executed and delivered by an Authorized Officer of the Authority on the date of issuance of such Series of Bonds, as the same may be supplemented and amended from time to time, but only to the extent the interest on such Series of Bonds is excludable from the gross income of the Holders thereof for Federal income tax purposes.

"Tax-exempt Bonds" shall mean any Series of Additional Bonds with respect to which an opinion of Bond Counsel is delivered to the effect that interest on such Series of Bonds

is excluded from gross income pursuant to Section 103 of the Code. The Series 2011 Bonds shall not be considered Tax-exempt Bonds.

"Trustee" shall mean the Trustee appointed pursuant to Section 10.01 of the Bond Resolution, and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the provisions of the Bond Resolution.

"Trust Estate" shall mean all right, title and interest of the Authority in, to and under (i) the Revenues, (ii) all moneys payable by the County under the County Guaranty, but only with respect to the Series 2011 Bonds unless extended to any Series of Additional Bonds, (iii) all moneys and securities held in any Funds and Accounts established under the Bond Resolution, except for moneys or securities held in (A) the Administrative Expense Account or the Costs of Issuance Account of the Administrative Expense Fund or (B) the County Security Fund, if any, (iv) the Company Lease Agreement, but only to the extent necessary to enforce the payment of Revenues owed by the Company thereunder, which excludes all of the Authority's obligations thereunder, the Reserved Rights, and the Authority's rights to the Renewable Energy Projects for the Series 2011 Local Units or the Capital Improvement Projects for the Series 2011 Local Units, which (non-reserved) interests shall be assigned by the Authority (A) to the County Security Provider pursuant to the terms of the County Security Agreement, but only if such County Security Agreement shall be delivered to the Authority and the Trustee upon or prior to the issuance of the Series 2011 Bonds, and/or (B) to the County pursuant to the terms of the County Guaranty Agreement, and (v) any other amounts received from any other source by or on behalf of the Authority and pledged by the Authority as security for the payment of the Bonds, including the Series 2011 Bonds, all of which as shall have been pledged by the Authority to the Trustee pursuant to Section 1.04 of the Bond Resolution as security for the payment of the principal, redemption premium, if any, and interest on the Bonds, including the Series 2011 Bonds. None of the Renewable Energy Projects for the Series 2011 Local Units, the Capital Improvement Projects for the Series 2011 Local Units, or the County Security shall be part of the Trust Estate.

**SECTION 1.02. Rules of Interpretation.** For all purposes of this Bond Resolution, except as otherwise expressly provided or unless the context otherwise requires:

1. "This Bond Resolution" means this instrument as originally adopted and as it may be supplemented, modified or amended from time to time by any Certificate of an Authorized Officer in accordance with Article II hereof, or in accordance with any Supplemental Resolution, unless in the case of any one or more Certificates or Supplemental Resolutions, the context requires otherwise.

2. All reference in this Bond Resolution to designated "Articles", "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this Bond Resolution. The words "herein", "hereof", "hereunder" and "herewith" and other words of similar import refer to this Bond Resolution as a whole and not to any particular Article, Section or other subdivision hereof.

3. The terms defined in this Bond Resolution include the plural as well as the singular.

4. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

5. The table of contents and the headings or captions used in this Bond Resolution are for convenience of reference only and shall not define, limit or prescribe any of the provisions hereof or the scope or intent hereof.

**SECTION 1.03. Authority for this Bond Resolution; Appropriation.** This Bond Resolution is adopted pursuant to the provisions of the Act and constitutes a resolution authorizing bonds pursuant to the Act. Promptly after the initial adoption of this Bond Resolution, an Authorized Officer of the Authority shall cause the estoppel notice contemplated by Section 19 of the Act (N.J.S.A. 40:37A-62) to be published in an Authorized Newspaper. The adoption of this Bond Resolution by the governing body of the Authority shall provide an initial appropriation in the amount of \$50,000,000, which appropriation, upon issuance of a Series of Bonds, shall automatically be reduced (without any further action of the Authority) to the aggregate principal amount of Bonds issued and Outstanding (but not in excess of such maximum appropriation amount of \$50,000,000) in the amount of \$\_\_\_\_\_. Accordingly, the Authority shall be, and hereby is, authorized by applicable law to contract for and spend money on the Projects, and other matters related to the Renewable Energy Program, including through the Program Documents, in an aggregate amount not to exceed such maximum appropriation.

**SECTION 1.04. Bond Resolution and Bonds Constitute a Contract; Pledge of Trust Estate.**

With respect to the Bonds, in consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued under this Bond Resolution by those who shall hold the same from time to time: (i) this Bond Resolution and the Bonds issued hereunder shall be deemed to be and shall constitute a contract by and among the Authority, the Trustee and the Holders, from time to time, of such Bonds; (ii) the pledge made herein to the Trustee to pay its fees and expenses shall in every respect be subordinate to the pledge made herein to the Trustee for the benefit of the Holders of the Bonds, except that Bondholders shall have no interest in and shall not be secured by (A) the Administrative Fund and (B) the County Security Fund; (iii) the pledge made herein and the duties, covenants, obligations and agreements set forth herein to be observed and performed by or on behalf of the Authority shall be for the equal and ratable benefit, protection and security of the Holders of any and all of such Bonds, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction as to lien or otherwise, except as expressly provided herein or permitted hereby; (iv) the Authority, as security for the payment of the principal and Redemption Price, if any, of and the interest on the Bonds and as security for the observance and performance

of any other duty, covenant, obligation or agreement of the Authority under this Bond Resolution, all in accordance with the provisions thereof and hereof, does hereby grant a security interest in and further does grant, bargain, sell, convey, pledge, assign and confirm to the Trustee the Trust Estate; (v) notwithstanding any other provision to the contrary herein, that portion of the pledge made in clause (iv) of this Section 1.04 to secure the payment of any redemption premium payable hereunder shall not include clause (ii) of the definition of "Trust Estate"; (vi) the pledge made hereby is valid and binding from the time when the pledge is made, and the Trust Estate shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and regardless of whether held by the Trustee, and the lien of such pledge shall be valid and binding as against all parties having claims of the Authority payable from and otherwise against the Authority, irrespective of whether such parties have notice thereof; and (vii) the Bonds shall be special and limited obligations of the Authority payable from and secured solely by a pledge of the Trust Estate as provided hereby.

ARTICLE II

AUTHORIZATION AND ISSUANCE OF BONDS

SECTION 2.01. Authorization of Bonds; Designation of Bonds of Series.

1. This Bond Resolution authorizes Bonds of the Authority to be designated as "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011", which may be issued in one or more Series. The aggregate principal amount of the Bonds that may be executed, authenticated and delivered under this Bond Resolution is not limited except as may hereafter be provided in this Bond Resolution or as may be limited by law.

2. The Bonds may, if and when authorized by the Authority pursuant hereto or pursuant to one or more Supplemental Resolutions, be issued in one or more Series, and the designation thereof, in addition to the name "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 20\_\_", shall include such further appropriate particular designation added to or incorporated in such title for the Bonds of any particular Series as the Authority may determine. Each Bond shall bear upon its face the designation so determined for the Series to which it belongs.

3. Neither the State, the Series 2011 Local Units, the County (except to the extent of the County Guaranty) nor any political subdivision thereof, other than the Authority (but solely to the extent of the Trust Estate), is obligated to pay the principal or Redemption Price, if any, of or the interest on the Bonds, and neither the full faith and credit nor the taxing power of the State, the Series 2011 Local Units, the County (except to the extent of the County Guaranty) or any political subdivision thereof, including the Authority (which has no taxing power), is pledged to the payment of the principal or Redemption Price, if any, of or the interest on the Bonds. The County Guaranty does not secure redemption premium, if any.

SECTION 2.02. General Provisions for Issuance of Bonds.

1. All (but not less than all) of the Bonds of each Series shall be executed by the Authority for issuance under this Bond Resolution and delivered to the Trustee, and thereupon shall be authenticated by the Trustee and by it delivered to the Authority or upon its order, but only upon the receipt by the Trustee of:

(a) A copy of this Bond Resolution, certified by an Authorized Officer of the Authority.

(b) In the case of each Series of Additional Bonds, (1) a copy of the Supplemental Resolution authorizing such Series of Additional Bonds, certified by an Authorized Officer of the Authority, which shall, among other provisions, specify: (i) the authorized principal amount, designation and Series of such Additional Bonds; (ii) the purposes for which such Series of Additional Bonds are being issued, which shall be one of the purposes

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set forth in Section 2.04 hereof; (iii) the dated date and the maturity date or dates of such Series of Additional Bonds; (iv) the interest rate or rates of such Series of Additional Bonds and the initial Interest Payment Date therefor, provided that the interest rate shall be identical for all such Additional Bonds of like maturity; (v) the denominations of and the manner of dating, numbering and lettering such Series of Additional Bonds, provided that such Additional Bonds shall be in denominations of \$5,000 or any integral multiple thereof as authorized by such Supplemental Resolution; (vi) the Paying Agent or Paying Agents and the place or places of payment of the principal and Redemption Price, if any, and the interest on such Series of Additional Bonds; (vii) the Redemption Price or Prices, if any, and, subject to Article IV hereof, the redemption terms for such Series of Additional Bonds; (viii) the amount and due date of each Sinking Fund Installment, if any, for such Series of Additional Bonds of like maturity; (ix) the form of such Series of Additional Bonds and the Trustee's certificate of authentication, which shall be substantially in the form set forth in Section 14.01 hereof for the Series 2011 Bonds, with such variations, insertions or omissions as are appropriate and not inconsistent therewith; and (x) the provisions for the application of the proceeds of such Series of Additional Bonds; and (2) such other items required pursuant to the provisions of Section 2.05 hereof.

(c) An opinion of Bond Counsel to the effect that (i) the Authority has the right and power under the Act, as amended to the date of such opinion, to adopt this Bond Resolution; this Bond Resolution has been duly and lawfully adopted by the Authority, is in full force and effect, and constitutes a valid and binding agreement of the Authority, enforceable against the Authority in accordance with its terms; and no other authorization for this Bond Resolution is required; (ii) this Bond Resolution creates the valid pledge that it purports to create of the Trust Estate, subject only to the provisions of this Bond Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in this Bond Resolution; and (iii) the Authority is duly authorized and entitled to issue the Bonds of such Series; such Bonds have been duly and validly authorized and issued by the Authority in accordance with all applicable law, including the Act, as amended to the date of such opinion, and this Bond Resolution; and such Bonds constitute the valid and binding obligations of the Authority as provided in this Bond Resolution, enforceable against the Authority in accordance with their terms and the terms of this Bond Resolution, and are entitled to the benefits of the Act, as amended to the date of such opinion, and this Bond Resolution. Such opinion may take exception as to the effect of, or for restrictions or limitations imposed by or resulting from, bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws affecting creditors' rights generally and judicial discretion, and may state that no opinion is being rendered as to the availability of any particular remedy.

(d) A written order to the Trustee as to the delivery of such Bonds, signed by an Authorized Officer of the Authority.

(e) Notwithstanding any other provision to the contrary herein, in the case of the issuance of each Series of Series 2011 Bonds and where contemplated thereafter in accordance with the terms hereof, a Certificate of an Authorized Officer of the Authority setting forth (i) all of the items applicable to the Series 2011 Bonds that are detailed in subsection (b)

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above with respect to a Series of Additional Bonds, (ii) whether the Series 2011 Bonds will be issued in one or more Series, including the Series 2011A Bonds and the Series 2011B Note as contemplated by Section 2.03(1)(a) hereof, and as notes or bonds, and if in note form, such specific terms required to issue, secure and repay such notes not specifically set forth in this Bond Resolution as originally adopted on September 28, 2011, and at private or public sale and the final form of the Sale Documents, all within the parameters of the Local Finance Board Application, (iii) the final pricing terms, including interest rates, principal amortization and Sinking Fund Installments, payment dates and terms of redemption of the Series 2011 Bonds, provided however that the Series 2011B Note shall bear interest at the same rates as the Series 2011A Bonds, (iv) the entities that shall constitute the Company (as selected pursuant to the Company RFP), the County Security Provider, if any, the Trustee, and the Paying Agent, (v) the final terms of the Program Documents within the parameters of the Local Finance Board Application, the Company RFP and the Company Proposal, and (vi) subject to the parameters set forth in the definition of Series 2011 Bonds and the terms set forth in the Local Finance Board Application, and upon the advice of the Authority's Counsel and professional advisors, the addition to, deletion from or modification of any provision of this Bond Resolution as originally adopted on September 28, 2011, the contents of which Certificate may be incorporated in this Bond Resolution without compliance with any other provision herein, including, without limitation, Article XI hereof. The Authorized Officer executing any such Certificate shall report the substance of such Certificate to the Board at the Board's next public meeting.

(f) Such further documents, moneys and securities as are required by the provisions of Section 2.03 or 2.04 or Article XI hereof or by any Supplemental Resolution adopted pursuant to Article XI hereof.

2. All the Bonds of each such Series of like maturity shall be identical in all respects, except as to denominations, numbers and letters. After the original issuance of Bonds of any Series, no Bonds of such Series shall be issued except in lieu of or in substitution for other Bonds of such Series pursuant to Article III or Section 4.07 or 11.10 hereof.

SECTION 2.03. Series 2011 Bonds.

1. One or more Series of Bonds entitled to the benefit, protection and security of this Bond Resolution is hereby authorized in the aggregate principal amount of not to exceed \$50,000,000 for the purpose of acquiring, constructing, renovating, installing, operating and maintaining the Projects as set forth in and in accordance with the terms of the Company Lease Agreement and the Local Unit License Agreements for the Series 2011 Local Units. Such Series of Bonds shall be designated as, and shall be distinguished from the Bonds of all other Series by the title, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011".

(a) To the extent contemplated by the Certificates of an Authorized Officer of the Authority executed pursuant to Section 2.02(1)(e) hereof, the Series 2011 Bonds may be issued in two (2) or more Series, (i) a Series further designated as "Series 2011A Bonds" in an

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aggregate principal amount of \$ \_\_\_\_\_, (ii) a Series further designated as "Series 2011B Note" in an aggregate principal amount of \$ \_\_\_\_\_ and (iii) any other one (1) or more Series further designated and issued for one of the purposes set forth in Section 2.04(1) hereof, as shall be set forth in any such Certificate of an Authorized Officer, but only to the extent the Outstanding aggregate principal amount of Series 2011A Bonds, Series 2011B Note and any such other Outstanding Series of Series 2011 Bonds shall not exceed \$50,000,000.

(b) The Series 2011 Bonds shall be sold in accordance with the provisions of Section 6.04 hereof and all applicable law.

(c) Provided that the Company is not in default, or that the Company has not taken any action or refrained to take action, in either case that would cause an Event of Default to occur with the passage of time, under and as defined in any of the Company Documents, the Authority covenants to issue the Series 2011B Note no later than \_\_\_\_\_, 2012 in an aggregate principal amount of \$ \_\_\_\_\_, unless a Certificate of an Authorized Officer of the Company delivered to the Authority prior to the issuance thereof shall request a lower principal amount [ONLY TO BE LEFT IN IF THE SERIES 2011 B NOTE IS NOT SOLD WITH THE A BONDS]

2. The Series 2011 Bonds shall be dated, and shall bear interest from, their date of issuance, on the basis of a 360-day year consisting of twelve 30-day months, and shall otherwise be payable as provided in Section 3.01 hereof.

(a) The Series 2011 Bonds (consisting of (i) the Series 2011A Bonds in the aggregate principal amount of \$ \_\_\_\_\_ maturing on June 15 in the years, and bearing interest payable on June 15, 2012 and on each June 15 and December 15 thereafter until maturity, all as set forth in subsection (b) below, and (ii) the \$ \_\_\_\_\_ par amount of the Series 2011B Note maturing and bearing interest payable on January 15, 2013 as set forth in subsection (c) below) in the aggregate par amount of \$ \_\_\_\_\_ shall mature on the dates and in the principal amounts, and shall bear interest payable semiannually on June 15 and December 15 in each year until maturity, at the respective rates per annum, shown below:

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2011A Bonds in the amount of \$ \_\_\_\_\_), plus the \$ \_\_\_\_\_ par amount of the Series 2011B Note shall be applied with the delivery of such Series 2011 Bonds as follows. In addition, the balance of Project costs shall be payable from the In-Kind Equity Contribution (in the estimated amount of \$ \_\_\_\_\_) in accordance with Section 510(e) of the Company Lease Agreement or in accordance with Section 5.09(c) of the Company Lease Agreement:

(a) There shall be deposited in the Administrative Fund the amount of \$ \_\_\_\_\_, all of which shall be sourced from the Series 2011A Bonds, (i) \$ \_\_\_\_\_ of which shall be deposited in the Costs of Issuance Account in the Administrative Fund for application to the payment of certain Costs of Issuance incurred in connection with the issuance of the Series 2011 Bonds, including, without limitation, the Authority's initial Administrative Fee of \$100,000.00 and fees for the Trustee and Trustee's counsel, and (ii) \$ \_\_\_\_\_ of which shall be deposited in the Administrative Expense Account in the Administrative Fund, (A) \$20,000.00 of which shall be applied to the payment of the Authority's initial annual Administrative Fee, and (B) the balance of which in the amount of \$ \_\_\_\_\_ shall be applied to the payment of, or reimbursement for, the balance of the Preliminary Program Costs and Administrative Expenses, including without limitation fees for a Construction Manager, if any, upon the Trustee's receipt of a proper invoice or evidence of payment therefore; provided that a Certificate of an Authorized Officer of the Authority delivered to the Trustee may adjust and/or add to the payment categories within the Administrative Fund set forth above.

(b) Upon the issuance of the Series 2011B Note, \$ \_\_\_\_\_ (all from the Series 2011B Note) shall be deposited in the Capitalized Interest Account of the Debt Service Fund, which amount, together with interest earned thereon, if any, shall be sufficient to pay the interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

(c) On or prior to (i) ninety (90) days after completion of the Series 2011 Local Unit Projects or (ii) March 15, 2013, \$1,500,000, the Cash Equity Contribution, shall be deposited in the County Security Fund as the County Security Fund Requirement which shall be funded by the Company for the County Reserve as an Additional Lease Payment as required by clause (vii) of the definition thereof on January 15, 2013. Upon issuance of the Series 2011B Note, \$ \_\_\_\_\_ shall also be deposited by the Trustee in the County Security Fund.

(d) There shall be no Series 2011 Bond proceeds deposited in the General Fund.

(e) The remaining balance of the proceeds of the Series 2011 Bonds in the amount of \$ \_\_\_\_\_ (consisting of \$ \_\_\_\_\_ of the Series 2011A Bonds), shall be deposited in the Project Fund, (i) \$ \_\_\_\_\_ of which shall be deposited in the Project Account and applied to the payment of the Renewable Energy Projects for the balance of Renewable Energy Projects for the Series 2011 Local Units, (ii) none of which shall be applied to the payment of the Capital Improvement Projects for the Series 2011 Local Units and (iii) \$ \_\_\_\_\_ of which shall be applied to the payment of the Company Development Fees and Expenses, all in accordance with Section 5.02(2) hereof; provided that a Certificate of an

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and that is incidental thereto or is deemed by the Authority to be necessary in connection therewith.

2. Any Series of Additional Bonds of the Authority shall be issued only after the authorization thereof by a Supplemental Resolution of the Authority duly adopted prior to the authentication and delivery of such Series of Additional Bonds. Such Supplemental Resolution shall state the purpose or purposes for which such Additional Bonds are being issued and shall direct the application of the proceeds that are to be derived from the sale of such Additional Bonds to such purpose or purposes and the execution and authentication thereof. Such Supplemental Resolution shall fix and determine the date, principal amounts, denominations, designation and numbers thereof, the rate or rates of interest or maximum rate of interest to be borne thereby, the place or places of payment therefor, the redemption privileges of the Authority, if any, with respect thereto, the amount and date of each Sinking Fund Installment, if any, for the retirement of any Bonds and any other provisions thereof, all in accordance with the terms of this Bond Resolution. Upon such authorization, such Additional Bonds may, upon initial issuance, at one time or from time to time, be executed by or on behalf of the Authority and delivered to the Trustee for authentication by the Trustee as provided in this Bond Resolution, and thereafter such Additional Bonds shall be authenticated by the Trustee upon original issuance and, upon fulfillment of the applicable conditions set forth in Section 2.05 hereof, shall be delivered by the Trustee to the Authority or upon its order.

3. All Additional Bonds shall be substantially in the form and tenor of Bonds as provided in Section 14.01 hereof, except that, notwithstanding any other provision contained in this Bond Resolution to the contrary, such Bonds shall be issued in such principal amounts, shall be of such denominations, shall bear such dated date and such maturity dates, shall bear such designation as to Series, numbers or symbols prefixed to their numbers distinguishing them from each other Bond, shall be subject to redemption prior to their maturity on such terms and conditions that are consistent with the provisions of this Bond Resolution, shall bear interest at such rate or such different or varying rates of interest per annum, and shall be payable at such time or times as may be fixed by the Supplemental Resolution of the Authority authorizing the issuance of such Additional Bonds or by a Supplemental Resolution of the Authority duly adopted prior to the authentication and delivery of such Additional Bonds, as the case may be.

4. All Additional Bonds that are authorized by any Supplemental Resolution of the Authority shall constitute Bonds of a single Series. No bonds, notes or other obligations of the Authority shall constitute Additional Bonds unless they are authenticated by the Trustee as provided in this Bond Resolution, nor shall such Additional Bonds be entitled to any right or benefit under the terms of this Bond Resolution unless they are so authenticated, and no Additional Bond shall be valid and obligatory for any purpose of this Bond Resolution unless said Additional Bond shall have been so authenticated.

5. After their authentication and delivery by the Trustee upon original issuance, all Additional Bonds shall for all purposes hereof be deemed to constitute Bonds, shall be entitled to the pledge of the Trust Estate provided by this Bond Resolution, and shall have equal rank with

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Authorized Officer of the Company, as consented to by an Authorized Officer of the Authority, delivered to the Trustee may adjust the payment categories within the Project Fund set forth above.

8. Upon the authentication and delivery of the Series 2011 Bonds, the Authority shall furnish to the Trustee:

(a) An opinion of Bond Counsel to the effect that, under existing law, interest on the Series 2011 Bonds and any gain on the sale thereof are excluded from gross income for purposes of the New Jersey Gross Income Tax Act.

(b) Opinions of Counsel to the effect that each of the Authority and the Company has the right and power under the Act, as amended to the date of such opinion, and any other applicable law to enter into the Company Lease Agreement; the Company Lease Agreement has been duly and lawfully authorized and executed by the Authority and the Company, is in full force and effect, and is valid and binding upon the Authority and the Company, enforceable against the Authority and the Company in accordance with its terms; and no other authorization for the Company Lease Agreement is required. Opinions of Counsel to the effect that each of the Authority and the County has the right and power under the Act, as amended to the date of such opinion, and any other applicable law to enter into the County Guaranty Agreement; the County Guaranty Agreement has been duly and lawfully authorized and executed by the Authority and the County, is in full force and effect, and is valid and binding upon the Authority and the County, enforceable against the Authority and the County in accordance with its terms; and no other authorization for the County Guaranty Agreement is required. Such opinions may take exception as to the effect of, or for restrictions or limitations imposed by or resulting from, bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws affecting creditors' rights generally and judicial discretion, and may state that no opinion is being rendered as to the availability of any particular remedy, but that such limitations do not make the rights and remedies of the Bondholders, taken as a whole, inadequate for the practical realization of the benefits of the Company Lease Agreement and the County Guaranty Agreement.

(c) The fully executed and delivered Company Documents and County Documents, along with all of the Local Unit License Agreements.

#### SECTION 2.04. Purposes, Authorization and Description of Additional Bonds.

1. After the execution, authentication and delivery of the Series 2011 Bonds, Additional Bonds of the Authority may be authorized to be issued pursuant to and in accordance with the terms of the Act either (a) reserved, (b) to refund any Bonds (including Additional Bonds) of the Authority, (c) to raise funds to pay the cost of the acquisition, construction, renovation or installation of part or parts of a Completion Project, including any deposit or increase into any Fund or Account that has been established by the terms of this Bond Resolution

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the Outstanding Series 2011 Bonds and any Outstanding Additional Bonds previously authenticated and delivered, and such Additional Bonds shall be entitled to the security and benefit of such pledge and of the provisions of this Bond Resolution.

6. If Additional Bonds are issued that pay interest on dates different from the Interest Payment Dates of Bonds then Outstanding, there shall be no requirement that, on an Interest Payment Date of any Bond, the Trustee establish reserves for the benefit of the Holder of any other Bond on which interest is not then being paid unless provided herein or under the terms of any Supplemental Resolution.

#### SECTION 2.05. Conditions Precedent to Issuance of Additional Bonds.

1. The Trustee shall not authenticate or deliver upon original issuance any Additional Bonds to the Authority or upon its order, unless theretofore or simultaneously therewith there shall have been delivered or paid to the Trustee, among other things, the following:

(a) Copies of this Bond Resolution and the Supplemental Resolution of the Authority, certified by an Authorized Officer of the Authority and only to the extent adversely affecting the rights, duties and obligations of the Company, then additionally consented to in writing by an Authorized Officer of the Company, authorizing the issuance of such Additional Bonds, stating the purpose or purposes for the issuance of such Additional Bonds and otherwise conforming with the provisions of Section 2.04 hereof; and if such Additional Bonds are authorized for any purpose other than the refunding of Bonds, such Supplemental Resolution shall describe in brief and general terms the Completion Project to be financed by the issuance of such Additional Bonds.

(b) A copy of any Supplemental Resolution that has been duly adopted by the Authority, if required, certified by an Authorized Officer of the Authority, fixing the rate or rates of interest on such Additional Bonds and all other terms and provisions thereof that are not fixed by the terms of the Supplemental Resolution referred to in subparagraph (a) above or in this Bond Resolution.

(c) Reserved.

(d) If such Additional Bonds are authorized for the purpose described in clause (b) or (c) of paragraph (1) of Section 2.04 hereof, (i) a certificate of an Authorized Officer of each of the Authority and the Company to the effect that the Company Lease Agreement has been amended to cover the issuance of the Additional Bonds, but only to the extent Basic Lease Payments, and with respect to the Purchase Option Price or Mandatory Purchase Price, Additional Lease Payments, shall be adjusted to provide a source of payment of the principal of, redemption premium, if any, and interest on Outstanding Bonds, (ii) a copy of such amended Company Lease Agreement, and (iii) a Certificate of an Authorized Officer of the Company, dated the date of issuance of such Additional Bonds, to the effect that all of the representations,

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## ARTICLE III

### GENERAL TERMS AND PROVISIONS OF BONDS

#### SECTION 3.01. Medium of Payment; Form and Date; Letters and Numbers.

1. The Bonds shall be payable, with respect to principal, Redemption Price, if any, and interest, in any coin or currency of the United States of America that at the time of payment is legal tender for the payment of public and private debts.

2. The Bonds of each Series shall be issued only in the form of fully registered Bonds without coupons in denominations of \$5,000 or any integral multiple thereof. The Bonds of each Series shall be in substantially the form set forth in Section 14.01 hereof or substantially in the form set forth in a Supplemental Resolution authorizing such Series.

3. Each Bond shall be lettered and numbered as provided in this Bond Resolution or in a Supplemental Resolution providing for the issuance of the Series of which such Bond is a part and so as to be distinguished from every other Bond.

Bonds of each Series issued on the date of original issuance shall be dated and bear interest from the date set forth in this Bond Resolution or in a Supplemental Resolution authorizing such Series of Bonds. Bonds of each Series issued after the date of original issuance shall be dated as of the date of authentication thereof by the Trustee. Interest on each Bond shall be payable from the most recent Interest Payment Date next preceding the date of such Bond to which interest has been paid, unless the date of such Bond is an Interest Payment Date to which interest has been paid, in which case interest shall be payable from such date, or unless the date of such Bond is prior to the first Interest Payment Date on the Bonds, in which case interest shall be payable from the earliest date on which interest shall have accrued on such Series of Bonds, or unless the date of such Bond is between the Record Date and the next succeeding Interest Payment Date, in which case interest shall be payable from such Interest Payment Date.

4. The principal and Redemption Price, if any, of and the interest on each Series of Bonds shall be payable as provided in this Bond Resolution or in a Supplemental Resolution relating to such Series of Bonds.

#### SECTION 3.02. Legends.

The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Bond Resolution as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission or brokerage board, the Act or otherwise, as may be determined by the Authority prior to the authentication and delivery thereof.

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valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Authority nor any Fiduciary shall be affected by any notice to the contrary.

#### SECTION 3.05. Regulations With Respect to Exchanges and Transfers.

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the Authority shall execute, and the Trustee shall authenticate and deliver, Bonds in accordance with the provisions of this Bond Resolution. All Bonds surrendered in any such exchange or transfer shall forthwith be canceled by the Trustee. For every such exchange or transfer of Bonds, whether temporary or definitive, the Authority or the Trustee may make a charge sufficient to reimburse it for any administrative costs associated with any exchange or transfer and for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. Neither the Authority nor the Trustee shall be required (a) to transfer or exchange Bonds for a period beginning on the Record Date next preceding an Interest Payment Date for the Bonds and ending on such Interest Payment Date, or for a period of fifteen (15) days (or such lesser period as may be specified in a Supplemental Resolution for a particular Series of Bonds) next preceding the date of any selection of Bonds to be redeemed or thereafter until after the mailing of any notice of redemption, or (b) to transfer or exchange any Bonds called or tendered for redemption.

#### SECTION 3.06. Bonds Mutilated, Destroyed, Stolen or Lost.

In case any Bond shall become mutilated or be destroyed, stolen or lost, the Authority shall execute, and thereupon the Trustee shall authenticate and deliver, a new Bond of like Series, maturity and principal amount as the Bond so mutilated, destroyed, stolen or lost (i) in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond or (ii) in lieu of and in substitution for the Bond so destroyed, stolen or lost upon filing with the Trustee evidence satisfactory to the Authority that such Bond has been destroyed, stolen or lost and proof of ownership thereof, and upon furnishing the Authority and the Trustee with indemnity satisfactory to them and complying with such other reasonable regulations as the Authority may prescribe and paying such expenses as the Authority and the Trustee may incur. All mutilated Bonds so surrendered to the Trustee shall be canceled by it. Any such new Bonds issued pursuant to this Section 3.06 in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Authority, whether or not the Bonds so alleged to be destroyed, stolen or lost be at any time enforceable by anyone, and such Bonds shall be equally secured by, and entitled to equal and proportionate benefits with all other Bonds issued under this Bond Resolution in, any moneys or securities held by the Authority or any Fiduciary for the benefit of the Bondholders.

#### SECTION 3.07. Temporary Bonds.

1. Until the definitive Bonds of any Series are prepared in the form required by the Authority, the Authority may execute, in the same manner as is provided in Section 3.03 hereof,

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#### SECTION 3.03. Execution and Authentication.

1. The Bonds shall be executed in the name of the Authority by the manual or facsimile signature of the Chairman or other Authorized Officer of the Authority, and its corporate seal (or a facsimile thereof) shall be impressed, imprinted, engraved or otherwise reproduced thereon and attested by the manual or facsimile signature of the Secretary, Assistant Secretary or other Authorized Officer of the Authority, or in such other manner as may be required or permitted by law. In case any one or more of the Authorized Officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall have been authenticated and delivered by the Trustee, such Bonds may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond of a Series may be signed and sealed on behalf of the Authority by such persons who, at the time of the execution of such Bonds, shall be duly authorized or shall hold the proper office in the Authority, although at the date borne by the Bonds of such Series such persons may not have been so authorized or have held such office.

2. The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in this Bond Resolution or in a Supplemental Resolution authorizing such Series of Bonds, executed manually by the Trustee. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under this Bond Resolution, and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. Such certificate of the Trustee upon any Bond executed on behalf of the Authority shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under this Bond Resolution and that the Holder thereof is entitled to the benefits of this Bond Resolution.

#### SECTION 3.04. Transfer and Registry.

1. Each Bond shall be transferable only upon the books of the Authority, which shall be kept for that purpose at the Principal Office of the Trustee, by the Holder thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Trustee duly executed by the Holder or his duly authorized attorney. Upon the transfer of any such Bond, the Authority shall issue in the name of the transferee a new Bond or Bonds of the same aggregate principal amount, Series and maturity as the surrendered Bond.

2. The Authority and each Fiduciary may deem and treat the person in whose name any Bond shall be registered upon the books of the Authority as the absolute Owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price, if any, of and the interest on such Bond and for all other purposes, and all such payments so made to any such Holder or upon his order shall be

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and the Trustee shall authenticate and deliver, in lieu of definitive Bonds but subject to the same provisions, limitations and conditions as the definitive Bonds, one or more temporary Bonds substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The Authority, at its own expense, shall prepare and execute, and upon the surrender of such temporary Bonds for exchange and the cancellation of such surrendered temporary Bonds, the Trustee shall authenticate and, without charge to the Holder thereof (but at the expense of the Authority), deliver in exchange therefor, definitive Bonds of the same aggregate principal amount, Series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds authenticated and issued pursuant to this Bond Resolution.

2. All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith canceled by the Trustee.

#### SECTION 3.08. Cancellation and Destruction of Bonds.

All Bonds paid or redeemed, either at or before maturity, shall be delivered to the Trustee when such payment or redemption is made, and such Bonds, together with all Bonds purchased by the Trustee, shall thereupon be promptly canceled. Bonds so canceled may at any time be destroyed by the Trustee, which shall execute a certificate of destruction in duplicate by the signature of one of its Authorized Officers describing the Bonds so destroyed, and one executed certificate shall be filed with the Authority and the other executed certificate shall be retained by the Trustee.

#### SECTION 3.09. Parties Interested Herein.

Nothing in this Bond Resolution expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Authority, the Trustee, the Paying Agent and the Registered Owners of the Bonds, any right, remedy or claim under or by reason of this Bond Resolution or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Bond Resolution contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Trustee, the Paying Agent and the Registered Owners of the Bonds. Accordingly, nothing in this Bond Resolution expressed or implied is intended or shall be construed to confer upon, or to give to any other Renewable Energy Program Interested Party any right, remedy or claim under or by reason of this Bond Resolution or any covenant, condition or stipulation hereof.

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## ARTICLE IV

### REDEMPTION OF BONDS PRIOR TO MATURITY

#### SECTION 4.01. Privilege of Redemption and Redemption Price.

Bonds subject to redemption prior to maturity pursuant to this Bond Resolution shall be redeemable, upon notice as provided in this Article IV, at such times, at such Redemption Prices and upon such terms in addition to the terms contained in this Article IV as may be specified in this Bond Resolution, the Certificate of an Authorized Officer of the Authority referred to in Section 2.02(1)(c) hereof or any Supplemental Resolution authorizing such Series of Bonds.

#### SECTION 4.02. Optional Redemption.

1. The Series 2011 Bonds shall be subject to optional redemption in accordance with the provisions of this Bond Resolution, including, without limitation, Section 2.03(5) hereof, and any other Series of Bonds may be subject to optional redemption in accordance with the terms of a Supplemental Resolution and this Article IV.

2. In the case of any redemption of Bonds at the election of the Authority, the Authority shall give written notice to the Trustee of its election or direction to so redeem, of the redemption date and of the principal amounts of the Bonds of each maturity to be redeemed (which maturities and principal amounts thereof to be redeemed shall be determined by the Authority in its sole discretion, subject to any limitations with respect thereto contained in this Bond Resolution).

3. (a) In the case of any redemption of Bonds at the election of the Authority at the direction of the Company pursuant to the terms of the Company Lease Agreement (including without limitation the payment by the Company of the Purchase Option Price as an Additional Lease Payment thereunder), the Company shall give written notice to the Authority of its direction to so redeem, of the redemption date and of the principal amounts of the Bonds of each maturity to be redeemed (which maturities and principal amounts thereof to be redeemed shall be determined by the Company in its sole discretion, subject to any limitations with respect thereto contained in this Bond Resolution).

(b) In the case of any redemption of Series 2011B Note or any Additional Bonds at the election of the Authority at the direction of the County pursuant to the terms of the County Guaranty, the County shall give written notice to the Authority, with a copy to the Trustee, of the County's direction to so redeem, of the redemption date and of the principal amounts of such Bonds of each maturity to be redeemed (which maturities and principal amounts thereof to be redeemed shall be determined by the County in its sole discretion, subject to any limitations with respect thereto contained in this Bond Resolution and the County Guaranty Agreement).

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#### SECTION 4.05. Notice of Redemption.

When Bonds of a Series (other than the redemption of the Series 2011B Note pursuant to the provisions of Section 4.02(3)(b) hereof, the redemption terms and notice for which shall be as set forth in the County Guaranty Agreement) have been selected for redemption pursuant to any provision of this Bond Resolution, the Trustee shall give written notice of the redemption of such Bonds in the name of the Authority at the times specified in the second paragraph of this Section 4.05, which notice shall set forth: (i) the Series of Bonds to be redeemed, (ii) the date fixed for redemption, (iii) the Redemption Price to be paid, (iv) that such Bonds will be redeemed at the Principal Office of the Paying Agent, (v) if less than all of such Bonds shall be called for redemption, the distinctive numbers and letters, if any, of such Bonds to be redeemed, and (vi) in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed. Such notice shall further state that on the redemption date there shall become due and payable the Redemption Price of all Bonds to be redeemed, together with interest accrued to the redemption date, and that, from and after such date, interest thereon shall cease to accrue and be payable. In case any Bond is to be redeemed in part only, the notice of redemption that relates to such Bond shall also state that on or after the redemption date, upon surrender of such Bond, the Holder thereof shall be entitled to a new Bond or Bonds of the same Series bearing interest at the same rate and in the aggregate principal amount equal to the unredeemed portion of such Bond.

The notice required to be given by the Trustee pursuant to this Section 4.05 shall be sent by first-class mail to the Registered Owners of the Bonds to be redeemed, at their addresses as they appear on the registration books of the Authority, not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date. The failure to give notice of the redemption of any Bond or portion thereof to the Registered Owner of such Bond as herein provided or as provided in Section 4.06(2) hereof shall not affect the validity of the proceedings for the redemption of any Bonds for which notice of redemption has been given in accordance with the provisions of this Section 4.05.

#### SECTION 4.06. Payment of Redeemed Bonds.

1. On the date designated for redemption, notice having been given in the manner and under the conditions hereinabove provided, the Bonds or the portions thereof called for redemption shall become and be due and payable at the Redemption Price provided for redemption of such Bonds or such portions thereof on such date. If moneys for the payment of the Redemption Price and the accrued interest to the redemption date are held in a separate account by the Trustee in trust for the Holders of such Bonds, interest on such Bonds or such portions thereof so called for redemption shall cease to accrue and be payable, such Bonds or such portions thereof shall cease to be entitled to any benefit or security under this Bond Resolution, and the Holders of such Bonds or such portions thereof shall have no rights in respect thereof, except to receive payment of the Redemption Price thereof and the accrued interest thereon and, to the extent provided in Section 4.07 hereof, to receive Bonds for any unredeemed portions of Bonds.

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4. Such notice required under subsection (2) or (3)(a) of this Section 4.02 shall be given at least forty-five (45) days prior to the redemption date or such shorter period as shall be agreed to in writing by the Trustee or the Authority, as the case may be. In the event notice of redemption shall have been given as provided in Section 4.05 hereof, the Authority shall pay or require the Company to pay (in accordance with the terms of the Company Lease Agreement) to the Trustee on or prior to the redemption date an amount in cash that, in addition to other moneys, if any, available therefor held by the Trustee, will be sufficient to redeem on the redemption date at the Redemption Price thereof, plus interest accrued and unpaid to the redemption date, all of the Bonds to be redeemed.

#### SECTION 4.03. Redemption by Trustee.

Whenever, by the terms of this Bond Resolution, the Trustee is required to redeem Bonds otherwise than at the election or direction of the Authority or the Company or the County, the Trustee shall select the Bonds to be redeemed, give the notice of redemption as provided in Section 4.05 hereof and pay the Redemption Price thereof out of moneys available therefor, plus interest accrued and unpaid to the redemption date, to the Paying Agent in accordance with the terms of this Article IV and, to the extent applicable, Article V hereof.

#### SECTION 4.04. Selection of Bonds to be Redeemed.

1. If less than all of the Bonds of like maturity shall be called for redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected at random by the Trustee in such manner as the Trustee in its discretion may deem fair and appropriate; provided, however, that the portion of any Bond of a denomination of more than \$5,000 to be redeemed shall be in the principal amount of \$5,000 or any integral multiple thereof, and that, in selecting Bonds for redemption, the Trustee shall treat each Bond as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by the minimum denomination in which Bonds of such Series are authorized to be Outstanding after the redemption date.

2. If less than all of the Outstanding Bonds that are stated to mature on different dates are called for redemption at one time on any given redemption date occasioned by the payment of the Purchase Option Price by the Company in accordance with the terms of the Company Lease Agreement, an Authorized Officer of the Company shall designate, by maturity, those Bonds that are to be redeemed on any such redemption date by delivering to the Trustee not earlier than sixty (60) days and not later than forty-five (45) days prior to any such redemption date a Certificate detailing such maturities and the amounts to be redeemed within each such maturity. If the Trustee has not received the Company's Certificate by such forty-fifth (45th) day, or if the redemption is occurring other than by payment of the Purchase Option Price by the Company in accordance with the terms of the Company Lease Agreement, the Trustee shall select the Bonds to be redeemed in the same manner as those Bonds selected in accordance with Section 4.04(1) hereof.

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2. With respect to any Bonds to be redeemed that have not been presented for redemption within sixty (60) days after the redemption date, the Trustee, at the expense of the Company for any redemption occasioned by the payment of the Purchase Option Price by the Company in accordance with the terms of the Company Lease Agreement, and at the expense of the Authority, if otherwise, shall give a second notice of redemption by registered mail to the Registered Owners of any such Bonds not presented for redemption.

#### SECTION 4.07. Redemption of Portions of Bonds.

In case part but not all of an Outstanding Bond shall be selected for redemption, upon presentation and surrender of such Bond to the Paying Agent on or after the redemption date for payment of the principal amount thereof so called for redemption and accrued interest thereon, the Authority shall execute and the Trustee shall authenticate and deliver to or upon the order of the Registered Owner thereof or his attorney or legal representative, without charge therefor, a new Bond or Bonds of the same Series, bearing interest at the same rate and in any denomination or denominations authorized by this Bond Resolution in the aggregate principal amount equal to the unredeemed portion of such Bond.

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ARTICLE V

REVENUES AND FUNDS

SECTION 5.01. Creation of Funds and Accounts.

1. Project Fund, to be held by the Trustee, which shall consist of a Project Account.
2. Administrative Fund, to be held by the Trustee, which shall consist of a Costs of Issuance Account and an Administrative Expense Account, and which Fund and Accounts are not subject to the pledge of the Trust Estate to the Trustee for the benefit of the Bondholders.
3. Revenue Fund, to be held by the Trustee, which shall consist of a Revenue Account, and an Aged Account.
4. Debt Service Fund, to be held by the Trustee, which shall consist of a Capitalized Interest Account, an Interest Account and a Principal Account. A Supplemental Resolution may establish an Account or subaccount for capitalized interest for any Series of Bonds other than the Series 2011 Bonds, if applicable.
5. (a) County Security Fund, to be held by the Trustee, which Fund shall not be subject to the pledge of the Trust Estate, by the Authority to the Trustee, for the benefit of the Bondholders.  
(b) Restoration Security Fund, to be held by the Trustee, which Fund shall not be subject to the pledge of the Trust Estate, by the Authority to the Trustee, for the benefit of the Bondholders.
6. General Fund, to be held by the Trustee, which shall consist of a General Account.
7. There shall be no other Fund or Account established under the Bond Resolution, including without limitation a rebate fund or account, unless created by Supplemental Resolution.

Each of the Funds and Accounts created by this Bond Resolution, other than the Administrative Fund and the County Security Fund, if any, is hereby pledged to, and charged with, the payment of the principal or Redemption Price, if any, of and the interest on the Bonds as the same shall become due.

SECTION 5.02. Project Fund.

1. (a) There shall be deposited in the Project Account of the Project Fund, (i) from the proceeds of the Series 2011A Bonds, the amounts set forth in Section 2.03(7)(e)(i) and

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3. (a) From time to time, in accordance with the terms of the Company Lease Agreement, the Local Unit License Agreements with respect to the Series 2011 Local Units, and this Bond Resolution, the Company shall file with the Trustee, Acceptance Certificates at the following times and with respect to the following matters, and upon receipt thereof, the Trustee shall take the following actions:

(i) The Company shall file with the Trustee the REP Acceptance Certificates in the form set forth as Exhibit B-1 to the Company Lease Agreement, one for each Series 2011 Local Unit, signed by an Authorized Officer of the Company with respect to the Renewable Energy Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, when (A) the Company has submitted all Draw Papers respecting Costs of such Renewable Energy Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (B) all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed and installed in accordance with the Plans and Specifications therefor, (C) all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by the Company and such Series 2011 Local Unit, and (D) there are remaining funds on deposit in the Project Fund earmarked for any such Renewable Energy Projects, if any, all in accordance with subsection (b) below. Each such REP Acceptance Certificate shall not be filed by the Company with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, until each such Certificate shall be further acknowledged by an Authorized Officer of the Authority as to form only, and until accompanied by one or more Interconnection Agreements with respect to all such Renewable Energy Projects or Completion Projects related thereto;

(ii) The Company shall file with the Trustee the CIP Acceptance Certificates in the form set forth as Exhibit B-2 to the Company Lease Agreement, one for each Series 2011 Local Unit that is financing Capital Improvement Projects with a portion of the proceeds of the Bonds, signed by an Authorized Officer of the Company with respect to such Capital Improvement Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, when (A) the Company has submitted all Draw Papers respecting Costs of such Capital Improvement Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (B) all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed, renovated and installed in accordance with the Plans and Specifications therefor, (C) all such Capital Improvement Projects or Completion

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Section 2.03(7)(e)(ii) hereof, and (ii) from the proceeds of each Series of Additional Bonds for a Completion Project, the amounts set forth for deposit therein pursuant to the Supplemental Resolutions authorizing the issuance of each such Series of Additional Bonds.

(b) The Company shall pay for the balance of all Project Costs not otherwise provided for in the Project Fund through the In-Kind Equity Contribution or in accordance with Section 5.09(c) of the Company Lease Agreement. All draws on the Project Account of the Project Fund shall be paid subject to, and in accordance with, the Draw Paper Ratio.

2. (a) Subject to the Draw Paper Ratio, and Section 510(c) of the Company Lease Agreement, the Trustee shall make payments, if any, from the Project Account of the Project Fund for Costs of the Renewable Energy Projects and the Capital Improvement Projects for the Series 2011 Local Units in the amounts, at the times on each Draw Date, in the manner and on the other terms and conditions set forth in this Section 5.02(2)(a) and Section 510 and 511 of the Company Lease Agreement. Before any such payment shall be made, the Company shall file with the Trustee the Draw Papers therefor (executed by the Company, acknowledged by the Applicable Series 2011 Local Unit that the Renewable Energy Project Cost or Capital Improvement Project Cost has been incurred in accordance with the Plans and Specifications therefor, and acknowledged as to form only by the Authority), which Draw Papers shall be in substantially the form set forth as Exhibit C to the Company Lease Agreement, including the Draw Paper Ratio. The Trustee shall issue a copy of such Draw Papers to the Authority and the Applicable Series 2011 Local Unit at the address set forth in the Applicable Local Unit License Agreement, and thereupon promptly issue the Trustee's check for each payment required by such Draw Papers to or on behalf of the Company, or the Trustee shall, by interbank transfer or other method, arrange to make and promptly make the payment required by such Draw Papers to or on behalf of the Company.

(b) The Trustee shall also make payments, if any, from the Project Fund for Company Development Fees and Expenses in an aggregate amount not to exceed \$ \_\_\_\_\_, unless a higher ceiling is specifically authorized by a Certificate of an Authorized Officer of the Authority (which may be provided in the Company Lease Agreement, Exhibit D, Authority Acknowledgment as to form only), upon the Trustee's receipt of a duly authorized and executed Certificate of an Authorized Officer of the Company in substantially the form set forth in Exhibit D to the Company Lease Agreement, in the manner and on the other terms and conditions set forth in this Section 5.02(2)(b) and Section 509(d) of the Company Lease Agreement. Such Certificate of an Authorized Officer of the Company may be executed and delivered to the Trustee upon issuance of the Series 2011 Bonds, or thereafter, as the Company shall determine, so long as it is acknowledged by an Authorized Officer of the Authority as to form only in the form set forth on Exhibit D to the Company Lease Agreement, and further, so long as it, together with all prior such Certificates, does not exceed the ceiling noted above (absent specific authorization from the Authority). The Trustee shall promptly issue the Trustee's check for each payment required by such Certificate to or on behalf of the Company, or the Trustee shall, by interbank transfer or other method, arrange to make and promptly make the payment required by such Certificate to or on behalf of the Company.

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Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by such Series 2011 Local Unit, and (D) when there are funds remaining on deposit in the Project Fund earmarked for any such Capital Improvement Projects, if any, all in accordance with subsection (b) below. Each such CIP Acceptance Certificate shall not be filed by the Company with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, and until each such Certificate shall be further acknowledged by an Authorized Officer of the Authority as to form only; and

(iii) The Authority is holding \$1,000,000 aggregate retainage for all Renewable Energy Projects and Capital Improvement Projects, if any, to ensure all such Projects are completed in accordance with the terms of the Plans and Specifications and as otherwise required by the Company Lease Agreement. Accordingly, as the Renewable Energy Projects and Capital Improvement Projects, if any, for each Series 2011 Local Unit are completed and filed with the Trustee, the Company shall not be entitled to the release of any retainage, until the submission of the final Acceptance Certificate in accordance with Section 5.02(3)(b)(i)(A) of this Bond Resolution.

(b) Prior to the filing of the last Acceptance Certificate for the last Series 2011 Local Unit that is funding a Project, any remaining moneys, including interest, earmarked for a Project for which an Acceptance Certificate shall have been filed, shall remain in the Project Fund. Upon the filing by the Company, as duly acknowledged by the Series 2011 Local Units and the Authority, all in accordance with the terms hereof, of the Company Lease Agreement, and of the Local Unit License Agreements for the Series 2011 Local Units, of the final Acceptance Certificate for all of the Series 2011 Local Units on or prior to December 31, 2012, unless extended in accordance with the terms of the Company Lease Agreement, regardless of which Project, any such Acceptance Certificate shall additionally provide that the Trustee shall transfer any funds remaining on deposit in the Project Fund as follows, and upon the Trustee's receipt of same, without any further authorization, the Trustee shall so apply any such remaining funds: (i) the Trustee shall (A) release and pay over to the Company the \$1,000,000 retainage previously withheld by the Trustee from all of the Draw Papers previously submitted by the Company with respect to all of the Renewable Energy Projects and Capital Improvement Projects for all of the Series 2011 Local Units, and (B) transfer any such remaining funds to the Debt Service Fund and apply such funds as a credit to the next due interest Portion of Basic Lease Payments due from the Company, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Company, and if still not fully applied, then to the next due future interest Portion, and then Principal Portion, of Basic Lease Payments due from the Company, until fully applied, but only so long as the Company shall not have caused an Event of Default under the Company Lease Agreement or any other Company Document in which later case (ii) the Trustee shall transfer any such remaining funds as set forth in a Certificate of an Authorized Officer of the Authority accompanying any such Acceptance Certificate, as applicable, or subsequently delivered to the Trustee, as applicable. To the extent the final Acceptance Certificate for all of the Series 2011 Local Units shall not have

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been filed by the Company, as duly acknowledged by the Series 2011 Local Units and the Authority, all in accordance with the terms hereof, of the Company Lease Agreement, and of the Local Unit License Agreements for the Series 2011 Local Units, on or prior to December 31, 2012 (hereby causing an Event of Default under, and as defined in, the Company Lease Agreement, but not under this Bond Resolution), the Trustee shall transfer any funds remaining on deposit in the Project Fund as set forth in a Certificate of an Authorized Officer of the Authority.

4. To the extent a Series of Additional Bonds are issued as Tax-exempt Bonds, the Authority shall cause the Company to issue any Draw Papers and Acceptance Certificates on such terms additional to the requirements of this Section 5.02 as shall be required by Bond Counsel as set forth in the provisions of the Tax Certificate for such Series of Additional Bonds.

#### SECTION 5.03. Administrative Fund.

1. There shall be established within the Administrative Fund a Costs of Issuance Account and an Administrative Expense Account.

2. In addition to the amounts deposited in the Costs of Issuance Account from the proceeds of the Series 2011 Bonds pursuant to Section 2.03(7)(a)(i) hereof and in the Administrative Expense Account from the proceeds of the Series 2011 Bonds pursuant to Section 2.03(7)(a)(ii) hereof, there shall be deposited in the Administrative Fund from the proceeds of each Series of Additional Bonds the amounts set forth for deposit therein pursuant to the Supplemental Resolutions authorizing the issuance of each such Series of Additional Bonds.

3. (a) The Authority shall direct the Trustee, in writing, to make payments from the Costs of Issuance Account in the manner and on the terms and conditions as the Authority shall determine to be fair and reasonable in the payment of the particular items of the Costs of Issuance relating to a particular Series of Bonds and, with respect to any Series of Additional Bonds that constitute Tax-exempt Bonds, in accordance with the provisions of the Tax Certificate. With respect to Costs of Issuance incurred on behalf of a Series 2011 Local Unit for which either direct payment or reimbursement is being sought, such terms and conditions shall include, at a minimum, a Certificate of an Authorized Officer of such Series 2011 Local Unit in the form of Exhibit F to the Local Unit License Agreement, to the effect that any such Cost of Issuance for which payment is sought (i) constitutes a Cost of Issuance hereunder, (ii) has been properly incurred in accordance with all applicable law, and (iii) is evidenced by a proper invoice attached to said Certificate. Costs of issuance to be paid by or on behalf of the Company shall not be deemed a Costs of Issuance for purposes of any Program Document, and may be paid or reimbursed as a Company Development Fee and Expense, payable from the Project Fund, in accordance with the terms of Section 5.02(2)(b) hereof and Section 509(d) of the Company Lease Agreement.

(b) Upon the payment of all Costs of Issuance as evidenced by a Certificate of an Authorized Officer of the Authority to such effect, the amounts remaining in the Costs of

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effect, the amounts remaining in the Administrative Expense Account and allocable to such Series 2011 Bond proceeds, together with interest earned thereon and retained therein, if any, shall be transferred according to the direction of any such Certificate of an Authorized Officer of the Authority, to any of the following: (i) to the Debt Service Fund and applied to pay the interest on and, to the extent available therefor, the principal of the Bonds due and owing on the immediately succeeding Interest Payment Date, (ii) to the Project Fund and applied to the Costs of Projects in accordance with Section 5.02 hereof, or (iii) as otherwise set forth in such Certificate of an Authorized Officer of the Authority.

#### SECTION 5.04. Revenues.

All Revenues shall be promptly deposited to the credit of Revenue Account within the Revenue Fund, and all transfers from such Fund shall be made only in accordance with this Article V.

#### SECTION 5.05. Revenue Fund.

1. (a) On each Basic Lease Payment Date or any other date on which the Trustee receives Basic Lease Payments from the Company or Power Purchase Price Payments made by the Series 2011 Local Units on behalf of the Company, the Trustee shall deposit each Basic Lease Payment made by the Company pursuant to the terms of the Company Lease Agreement, and any Power Purchase Price Payments made by the Series 2011 Local Units on behalf of the Company, for immediate credit in the Revenue Account within Revenue Fund. The Trustee shall notify the Company, with a copy to the Authority, of the circumstances and amounts providing credits to Basic Lease Payments due from the Company, all at the times and as otherwise required by Sections 302(s)(iii), 305(b), 306(b), and 310(b) of the Company Lease Agreement.

(b) On each date on which the Trustee receives Additional Lease Payments from the Company allocable to the Purchase Option Price or the Mandatory Purchase Price, the Trustee shall deposit each such Additional Lease Payment made by the Company pursuant to the terms of the Company Lease Agreement for immediate credit in the Revenue Account within Revenue Fund.

(c) After any such funds deposited in the Revenue Account within the Revenue Fund in accordance with subsections (a) or (b) above have been on deposit for one hundred twenty-three (123) consecutive days in the Revenue Account within the Revenue Fund, and have not been recaptured by or on behalf of the Company or its other creditors, the Trustee shall transfer such funds to the Aged Account within the Revenue Fund on the first day of the following month (unless the first day of the following month is an Interest Payment Date, in which case the money should be transferred to the Aged Account on the fifteenth (15<sup>th</sup>) day of such present month, or if the transfer date is after such fifteenth (15<sup>th</sup>) day of such present month preceding an Interest Payment Date, transferred immediately).

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Issuance Account, if any, shall be transferred according to the direction of any such Certificate of an Authorized Officer of the Authority, to any of the following: (i) to the Administrative Expense Account for payment of Administrative Expenses, (ii) to the Debt Service Fund and applied to pay the interest on and, to the extent available therefor, the principal of the Bonds due and owing on the immediately succeeding Interest Payment Date, (iii) to the Project Fund and applied to the Costs of Projects in accordance with Section 5.02 hereof, or (iv) as otherwise set forth in such Certificate of an Authorized Officer of the Authority.

4. (a) The Trustee shall invoice the Company (i) for the annual Administrative Fee not provided for from a portion of the proceeds of a Series of Bonds, if any, at least sixty (60) days prior to the dates such amounts become due, and (ii) for any other Administrative Expense not provided for from a portion of the proceeds of a Series of Bonds, if any, and that is approved by the Authority, promptly after the receipt by the Trustee of a Certificate of an Authorized Officer of the Authority delivered to the Trustee to such effect.

(b) The Company shall pay to the Trustee as Additional Lease Payments under the Company Lease Agreement for deposit in the Administrative Expense Account (i) the Administrative Fee when due in accordance with the definition thereof, if any, not otherwise provided for from a portion of the proceeds of a Series of Bonds, and (ii) any other amounts due as Administrative Expenses, including without limitation interest payable at the Overdue Rate at the times set forth herein or in the Company Lease Agreement, as the case may be.

(c) Upon receipt of such Bond proceeds or Additional Lease Payments, as the case may be, the Trustee shall promptly forward the Administrative Fee including, subject to the following sentence, any amounts payable at the Overdue Rate to the Authority and the other amounts due as Administrative Expenses to the party on whose behalf such payments were made. To the extent the Trustee has made an advance of a payment due and owing by the Company under this Bond Resolution, the Company Lease Agreement or any other Program Document and the Company has paid to the Authority moneys at the Overdue Rate, the Authority shall first reimburse the Trustee from any such Overdue Rate receipts to the extent of any such advances made by the Trustee.

(d) The Administrative Fee may be retained or applied by the Authority in its sole discretion for any corporate purpose allowable under the Act as such funds are not subject to the pledge of the Trust Estate unless and until deposited in any Fund or Account under the Bond Resolution, which purposes may include, without limitation, the application to any Fund or Account under the Bond Resolution at the written direction of a Certificate of an Authorized Officer of the Authority filed with the Trustee, which Certificate for all Series of Tax-exempt Bonds, must also comply with the Tax Certificate or otherwise be subject to an opinion of Bond Counsel filed with the Trustee that such application won't adversely affect exclusion from gross income of the holders of any such Series of Tax-exempt Bonds for Federal income tax purposes.

(e) Upon the payment of all Administrative Expenses funded from the Series 2011 Bonds, as evidenced by a Certificate of an Authorized Officer of the Authority to such

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2. On or prior to each Interest Payment Date, the Trustee shall transfer from moneys on deposit in the Aged Account within the Revenue Fund to the Interest Account in the Debt Service Fund the amount that, together with the amounts, if any, already on deposit in the Interest Account and the amounts, if any, on deposit in the Capitalized Interest Account and designated for use on such Interest Payment Date pursuant to this Bond Resolution or a Supplemental Resolution, is equal in the aggregate to the interest due and payable on the Outstanding Bonds on such Interest Payment Date.

3. On or prior to each Principal Payment Date, the Trustee shall transfer from moneys on deposit in the Aged Account within the Revenue Fund to the Principal Account in the Debt Service Fund the amount that, together with the amounts, if any, already on deposit in the Principal Account, is equal in the aggregate to the principal, Sinking Fund Installment or Redemption Price due and payable on the Outstanding Bonds on such Principal Payment Date.

4. (a) To the extent the County has made payment of a portion of the principal of and interest on the Bonds under the County Guaranty, on the Business Day following each Interest Payment Date or Principal Payment Date, the Trustee shall immediately pay over to the County any moneys on deposit in the Aged Account within the Revenue Fund in satisfaction of and up to the amount of any such County Guaranty payments in the aggregate.

(b) To the extent any funds remain in the Aged Account within the Revenue Fund as of such Business Day following each Interest Payment Date or Principal Payment Date and after accounting for any transfer required by clause (a) above, including in the situation where the County Guaranty has not been drawn, the Trustee shall transfer any such amounts remaining on deposit in the Aged Account within the Revenue Fund (i) first to the Interest Account of the Debt Service Fund up to the amount of the next scheduled interest payment due on the Bonds on the next scheduled Interest Payment Date and (ii) second to the Principal Account of the Debt Service Fund, for which the Company shall receive a credit in the amount of any such monies so transferred first against the Interest Portion and second the Principal Portion of its Basic Lease Payments due on the next scheduled Basic Lease Payment Date, and to the extent any amounts so transferred remain on deposit in the Debt Service Fund, against the next occurring Interest Portion and then Principal Portion of Basic Lease Payments due until fully expended. The Trustee shall promptly notify in writing the Company, the Authority and the County of any transfers made pursuant to this subsection (4).

5. The Trustee shall keep records and accounts with respect to the Revenue Fund so that all amounts received by the Trustee from the Company under the Company Lease Agreement can be properly designated as (i) the Interest Portion of Basic Lease Payments or the Principal Portion of Basic Lease Payments and (ii) other amounts payable under the Company Lease Agreement as Additional Lease Payments (including those attributable to the Purchase Option Price or Mandatory Purchase Price) or investment earnings attributable to such amounts, provided that Basic Lease Payments shall be applied to the Interest Portion prior to the Principal Portion.

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**SECTION 5.06. Debt Service Fund.**

1. (a) On each Interest Payment Date of the Outstanding Bonds of any Series, the Trustee shall withdraw from the Capitalized Interest Account, if so designated, and the Interest Account in the Debt Service Fund amounts equal in the aggregate to the interest due on such Bonds on such Interest Payment Date. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment of such interest to the Holders as of the Record Date, all in accordance with the terms of this Bond Resolution.

(b) If, by 9:00 a.m. Eastern Standard Time or Eastern Daylight Time, as applicable ("EST") thirty (30) days' prior to any Interest Payment Date, the Trustee has determined that there are insufficient funds in the Interest Account in the Debt Service Fund (after taking into account any moneys earmarked for transfer therein from the Revenue Fund and all other amounts available hereunder for transfer into the Interest Account in the Debt Service Fund, including but not limited to all amounts in the County Security Fund) to pay the full amount of interest due and owing on such Bonds on such Interest Payment Date, the Trustee shall immediately notify the Authority, the Company, the County and the Paying Agent of such deficiency. The Trustee shall continue to notify such entities of any continuing deficiency on a weekly basis, with the final notification being 9:00 a.m. EST on any such Interest Payment Date.

(c) The County shall timely satisfy any such deficiency remaining as of 10 a.m. on any such Interest Payment Date, by immediately making a payment under the County Guaranty (in accordance with the terms of the County Guaranty Agreement) in the amount of any continuing deficiency in immediately available funds to the Trustee for deposit in the Interest Account in the Debt Service Fund. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment to Holders as of the Record Date of such interest due on such Bonds on such Interest Payment Date in accordance with this Bond Resolution. The Authority and the Trustee shall enforce the provisions of the County Guaranty to the extent the County fails, for whatever reason, to promptly act in accordance with the terms thereof.

2. (a) On each Principal Payment Date of the Outstanding Bonds of any Series, the Trustee shall withdraw from the Principal Account in the Debt Service Fund amounts equal in the aggregate to the principal (including any Sinking Fund Installment or Redemption Price, as applicable, due on such Bonds on such Principal Payment Date. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment of such principal (including any Sinking Fund Installment or Redemption Price, as applicable, to the Holders as of the Record Date, all in accordance with the terms of this Bond Resolution.

(b) If, by 9:00 a.m. EST one (1) month prior to any Principal Payment Date, the Trustee has determined that there are insufficient funds in the Principal Account in the Debt Service Fund (after taking into account any moneys earmarked for transfer therein from the Revenue Fund and all other amounts available hereunder for transfer into the Principal Account

in the Debt Service Fund) to pay the full amount of principal (including any Sinking Fund Installment) or Redemption Price, as applicable, due and owing on such Bonds on such Principal Payment Date, the Trustee shall immediately notify the Authority, the Company, the County and the Paying Agent of such deficiency. The Trustee shall continue to notify such entities of any continuing deficiency on a weekly basis, with the final notification being 9:00 a.m. EST on any such Principal Payment Date.

(c) The County shall timely satisfy any such deficiency remaining as of 10 a.m. on any such Principal Payment Date, by immediately making a payment under the County Guaranty (in accordance with the terms of the County Guaranty Agreement) in the amount of any continuing deficiency in immediately available funds to the Trustee for deposit in the Principal Account in the Debt Service Fund. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment to Holders as of the Record Date of such principal (including any Sinking Fund Installment or Redemption Price, as applicable, due on such Bonds on such Principal Payment Date in accordance with this Bond Resolution. The Authority and the Trustee shall enforce the provisions of the County Guaranty to the extent the County fails, for whatever reason, to promptly act in accordance with the terms thereof.

3. To the extent moneys on deposit and earned in the Capitalized Interest Account are insufficient to pay interest on any Series of Bonds on any Interest Payment Date through and including the date set forth in the Bond Resolution, including any Supplemental Resolution for that Series of Bonds, the Trustee shall, upon receipt of a Certificate of an Authorized Officer of the Authority to such effect, transfer to the Capitalized Interest Account from moneys on deposit in the Project Fund an amount not exceeding such deficiency at the times set forth in any such Certificate.

**SECTION 5.07. County Security Fund/Restoration Security Fund.**

1. The County Security Fund shall be funded as follows:

(a) On or before the Initial Basic Lease Payment Date, the County Security Fund Requirement shall be initially funded with the County Reserve being deposited in the County Security Fund pursuant to the provisions of Section 2.03(7)(c) hereof and Exhibit B to the Bond Resolution. Upon the issuance of any Series of Additional Bonds (other than the Series 2011B Note), the designated portion of the proceeds of any such Additional Bonds, or such other funds, as applicable, if deemed necessary, convenient or desirable by the Authority (after consultation with the County), shall be deposited in the County Security Fund at the times, in the amounts, and otherwise in conformity with the terms of any Supplemental Resolution authorizing any such Additional Bonds. To the extent the balance in the County Reserve shall drop below the County Security Fund Requirement from time to time and there is available cash flow to do so after payment of all other Company's expenses, the Company shall be obligated to replenish the County Reserve to an amount equal to the then applicable County Security Fund Requirement to the extent the funds on deposit in the County Security Fund shall have been

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drawn upon for any reason under the Program Documents, except as set forth in subsection 3(b) below regarding final payment of all Outstanding Bonds. As security for the Company's obligation, among other things, to replenish the County Security Fund as described above, the Company has assigned to the Trustee a portion of, and caused the Pledgor (as defined in the Company Pledge Agreement) to assign to the Trustee the balance of, the Pledged Collateral under the Company Pledge Agreement.

(b) To the extent the Company has caused an Event of Default under the Company Lease Agreement or any other Program Document and the County has made payments under its County Guaranty, the Authority may, and upon the direction of the County, the Authority shall, direct the Trustee, to the maximum extent practicable, to deposit all or a portion of (i) the Leased Property (including without limitation any product therefrom, including the SRECs, but excluding the Renewable Energy Projects, but only to the extent the Series 2011 Local Units are making their Net Substitute Power Purchase Price payments) or the proceeds therefrom and/or (ii) the Net Substitute Power Purchase Price payments received from time to time, in the County Security Fund, until the County has been reimbursed in full for any such payments. Upon the reimbursement in full of the County for any of its payments under its County Guaranty in accordance with subsection 2 below, in accordance with any County Security Agreement delivered in accordance with subsection 6 below, or otherwise, amounts remaining on deposit in the County Security Fund, shall be distributed in accordance with the County Security Agreement, if any, as Reimbursement Collateral.

2. Upon the Trustee's issuance of a continuing deficiency notice with respect to either or both of the Interest Payment Account or the Principal Payment Account of the Debt Service Fund as of 9:00 a.m. EST on any Interest Payment Date or Principal Payment Date, as the case may be, pursuant to Sections 5.06(1)(b) or 5.06(2)(b), hereof, and upon the Trustee's drawing on the County Guaranty to satisfy any such deficiency in accordance with Sections 5.06(1)(c) or 5.06(2)(c) hereof, as the case may be, the Trustee shall immediately (a) pay over to the County, in immediately available funds, the lesser of (i) the amount of the draw on the County Guaranty or (ii) the entire amount on deposit in the County Security Fund, if any (including after any transfer of amounts pursuant to Section 5.06 hereof) and (b) promptly notify the Authority, and to the extent the Company Lease Agreement has not been terminated, the Company, of the occurrence and amount of such event.

3. (a) Whenever the amount on deposit in the County Security Fund equals or exceeds the principal amount, plus interest due and owing on the next occurring Interest Payment Date and Principal Payment Date, of all Outstanding Series 2011 Bonds plus any Series of Outstanding Additional Bonds so designated by a Supplemental Resolution, the Trustee shall (i) notify the County, the Authority, and the Company of such occurrence, amount, and supporting computations, and (ii) ten (10) Business Days' after such notification, to the extent such computations have been verified by the Authority, promptly transfer any such excess to the Aged Account of the Revenue Fund.

(b) When there are no Series 2011 Bonds Outstanding (and if so designated by a Supplemental Resolution, plus any Series of Outstanding Additional Bonds), whether at final stated maturity, upon redemption of all of such Bonds, or upon acceleration and payment of all of such Bonds, and to the extent the County has been fully reimbursed for all payments it has made under the County Guaranty, the Trustee shall promptly pay over to the Company the entire amount remaining on deposit in the County Security Fund, with notice of such occurrence and amount to be provided by the Trustee to the Authority and the County. To the extent there are funds on deposit in the County Reserve in excess of the County Security Fund Requirement from time to time, such excess shall be promptly released from the County Reserve and be remitted to the Company.

4. Except to the extent expressly permitted in Section 5.06 or this Section 5.07 or in accordance with Section 701 of the Company Lease Agreement, which direction the Trustee shall promptly follow upon receipt of the Company notice detailed therein, and notwithstanding anything to the contrary in this Bond Resolution, unless accompanied by a notice of direction issued to the Trustee, signed by an Authorized Officer of each of the County and the Authority, amounts in the County Security Fund shall not be applied (a) directly, or transferred by the Trustee to any Fund or Account herein, in either case whereby such funds shall be used to pay any portion of the principal of, redemption premium, or interest on the Series 2011 Bonds or any other Series of Additional Bonds or (b) except as expressly set forth in this Bond Resolution. To the extent the Trustee receives any such properly executed notice of direction, the Trustee shall promptly follow such instructions, and simultaneously or promptly thereafter, notify the County, the Authority, and the Company of any such occurrence. Notwithstanding anything to the contrary in this Bond Resolution, as the County Security Fund is excepted from the pledge of the Trust Estate, this Section 5.07 may be amended by the Authority subsequent to the issuance of the Series 2011 Bonds without the consent of the Trustee or the Holders of any Outstanding Bonds.

5. (a) The Trustee shall accept the pledge and assignment of all right, title and interest in and to the Pledged Collateral under the terms of, and as defined in, the Company Pledge Agreement, which shall not be part of the Trust Estate, and therefore shall not be available to Holders of any Series of Outstanding Bonds, including the Series 2011 Bonds. The Trustee shall not exercise any rights and remedies, or take any other action pursuant to the Company Pledge Agreement, without the express written consent of the Authority. Pursuant to Section 4.08 of the Company Pledge Agreement, the Trustee shall be under no obligation to exercise any such rights or take any such action. Any moneys realized by the Trustee from such pledge (or realized by the Authority) shall be promptly paid over to the Trustee, and then shall be promptly deposited by the Trustee in the County Security Fund. In the case of the occurrence of an Event of Default as defined in the Company Pledge Agreement, the Authority may direct the Trustee, through a duly authorized and executed Certificate of an Authorized Officer of the Authority delivered to the Trustee, to further assign all or a portion of the Trustee's right, title and interest in and to the Collateral under the Company Pledge Agreement to the person or entity specified in such Certificate, including without limitation such person or entity undertaking all or

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a portion of the Company's responsibilities with respect to the Projects as set forth in the Program Documents, and/or to take such further action as set forth in such Certificate.

(b) Should no such Event of Default under the Company Pledge Agreement occur prior to or as of the end of the recapture period relating to the investment tax credit (or the Section 1603 Grant, as defined in the Company Pledge Agreement, in lieu of such credit) available to the Company under Sections 38, 46 and 48 of the Code in connection with the Renewable Energy Projects, as certified to the Trustee by an Authorized Officer of the Company in a Certificate to such effect delivered by or on behalf of the Company to the Trustee and the Authority, the Trustee shall promptly take all actions to release and/or terminate the pledge under the Company Pledge Agreement, including without limitation returning any Certificated Securities, received pursuant to and as defined under the Company Pledge Agreement, to the Company.

6. Notwithstanding any provision to the contrary herein or in any other Program Document, to the extent the Company has not caused an Event of Default under any Program Document (or any shall have been cured by such time), and the Company delivers to the County, County Security and a fully executed County Security Agreement providing such County Security in an amount greater than or equal to the County Security Fund Requirement applicable at such time, all in a form and substance acceptable, in the County's sole discretion, to the County, then upon the Company's delivery to the Trustee and the Authority of a Certificate of an Authorized Officer of the Company to such effect, such Certificate to be acknowledged in writing by the County, the Trustee shall promptly release all funds (principal, interest and/or any securities or other investments) on deposit in the County Security Fund to the Company.

7. Funds on deposit in the County Security Fund in excess of the County Security Fund Requirement shall remain therein, including any interest earned in accordance with Section 5.11(3) hereof, unless such monies are specifically required to be transferred pursuant to the provisions of Section 5.06 or this Section 5.07 or elsewhere in this Bond Resolution.

8. Upon the Trustee's receipt of a Certificate of an Authorized Officer of the County and the Authority directing the Trustee to transfer funds on deposit in the County Security Fund to any other Fund or Account under this Bond Resolution, including the Revenue Fund or the Debt Service Fund, the Trustee shall make such transfer at the times and in the amounts as set forth in such Certificate. To the extent there would otherwise be insufficient funds in the Interest Account in the Debt Service Fund as provided in Section 5.06(1)(b) hereof, the Trustee shall transfer funds from the County Security Fund in order to eliminate such shortfall. To the extent the Company is not in default under any Company Document, the Company must acknowledge any such Certificate in writing before the Trustee shall transfer any such funds.

9. The Restoration Security Fund shall be funded in accordance with the terms of the Restoration Security Fund Requirement. Funds may be withdrawn from the Restoration Security Fund by the Company upon their submission to the Trustee of a Certificate of an Authorized Officer of the Company to the effect that such funds shall be utilized for the purposes

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#### SECTION 5.10. Moneys to Be Held in Trust.

All moneys required to be deposited with or paid to the Trustee or the Paying Agent for the account of any Fund or Account established under any provision of this Bond Resolution for the Bonds in accordance with this Bond Resolution, other than the Administrative Fund, shall be held by the Trustee or the Paying Agent, as the case may be, in trust for the Holders of the Bonds and shall constitute part of the Trust Estate while held by the Trustee or the Paying Agent; provided, however, that moneys deposited with or held by the Trustee or the Paying Agent for the redemption of Bonds on or after the redemption date of such Bonds, or for the payment of the principal of, Redemption Price, if any, or the interest on Bonds on or after the date on which such amounts shall have become due, shall be held and applied solely for the redemption or payment of such Bonds or the payment of such interest.

#### SECTION 5.11. Investments.

1. All moneys in any of the Funds and Accounts created under this Bond Resolution shall be invested by the Trustee (a) with respect to the Project Fund and the Restoration Security Fund, as and if directed by the Company in accordance with Section 310(e) of the Company Lease Agreement, (b) with respect to the County Security Fund, as and if directed by the County, in any Investment Securities, or (c) if clause (a) or (b) are not applicable, either because such provisions do not apply to the other Funds or Accounts contemplated by this Bond Resolution, or the Company and/or the County does not exercise their rights to direct such investments, then as directed by the Authority in writing, subject to the further provisions of this Section 5.11. The Trustee may conclusively rely upon such written direction of the Authority as to any and all investments.

2. Moneys in all Funds and Accounts created under this Bond Resolution, other than the Debt Service Fund and the Accounts established therein, shall be invested in Investment Securities, the principal of and the interest on which are payable not later than the dates on which it is estimated, by the Authority, that such moneys will be required hereunder. Moneys in the Debt Service Fund shall only be invested in such securities as are described in clause (f) of the definition of "Investment Securities" in Section 1.01 hereof, the principal of and the interest on which are payable not later than the dates on which it is estimated, by the Authority, that such moneys will be required hereunder. Moneys on deposit in the Revenue Fund and the Debt Service Fund shall be invested in such Investment Securities as to mature or otherwise become available for payment no later than any Interest Payment Date or Principal Payment Date.

3. Investment Securities as an investment of moneys in any Fund or Account created under this Bond Resolution shall be credited to such Fund or Account, except that any interest earned on monies in the Revenue Account of the Revenue Fund shall be transferred by the Trustee, no less frequently than once a month, to the Aged Account of the Revenue Fund. For the purpose of determining the amount in any Fund or Account at any time in accordance with this Bond Resolution, all Investment Securities credited to such Fund or Account shall be valued annually on the first day of any Bond Year at the lesser of amortized cost (exclusive of accrued

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contemplated by Section 3.7 of the Power Purchase Agreement toward restoration of Local Unit Facilities. Pending such withdrawal, funds on deposit in the Restoration Security Fund shall be invested in accordance with the provisions of Section 5.11 of the Bond Resolution, and any investment earnings shall be credited to such Fund until disbursed pursuant to the Certificate noted above.

(a) Alternatively, the funds in the Restoration Security Fund may be transferred by the Trustee in accordance with a Certificate of an Authorized Officer of the Company, so long as such Certificate is acknowledged in writing by the Authority and the affected Series 2011 Local Units, and such transfer shall occur without Bondholder consent.

#### SECTION 5.08. General Fund.

1. On the first day of each Bond Year beginning December 15, 2016, provided, however, that all transfers from the Revenue Fund required pursuant to subsections (2) and (3) of Section 5.05 hereof shall have been made, any remaining amounts in the General Account of the General Fund may be retained therein or applied by the Authority in its sole discretion for any corporate purpose allowable under the Act.

2. Any such funds, upon withdrawal from the General Account of the General Fund, are not subject to the pledge of the Trust Estate unless and until deposited in any Fund or Account under the Bond Resolution, which purposes may include, without limitation, the application to any Fund or Account under the Bond Resolution at the written direction of a Certificate of an Authorized Officer of the Authority filed with the Trustee, which Certificate for all Series of Tax-exempt Bonds, must also comply with the Tax Certificate or otherwise be subject to an opinion of Bond Counsel filed with the Trustee that such application won't adversely affect exclusion from gross income of the holders of any such Series of Tax-exempt Bonds for Federal income tax purposes.

3. Pending withdrawal, funds on deposit in the General Funds shall be invested in accordance with the provisions of Section 5.11 of the Bond Resolution, and any investment earnings shall be credited to such Fund until disbursed pursuant to the provisions noted above in this Section 5.08.

#### SECTION 5.09. Additional Bonds as a Series of Tax-exempt Bonds.

The Supplemental Resolution for any Series of Additional Bonds constituting Tax-exempt Bonds shall contain such provisions regarding a rebate fund, rebatable arbitrage, notice, records and other matters as may be required by a Tax Certificate or otherwise required to allow Bond Counsel to issue an opinion that the interest on the gross income of any such Series of Tax-exempt Bonds shall be excludable from the gross income of the Holders thereof for Federal income tax purposes.

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interest) or fair market value, and any deficiency resulting therefrom shall be payable by the Company as an Additional Lease Payment under the Company Lease Agreement ratably every month over a period not to exceed five (5) months from such valuation date; provided, however, that any deficiency with respect to the County Security Fund shall only be payable to the extent of available cash flow after payment of all Company expenses.

4. All interest, profits and other income earned and received by the Trustee and the Authority, as appropriate, net of any losses suffered (herein called the "net earnings"), from the investment of moneys in any Fund or Account shall be retained in and treated as part of such Fund or Account and applied in accordance with the applicable Sections of this Bond Resolution governing such Fund or Account, except that any interest earned on monies in the Revenue Account of the Revenue Fund shall be transferred by the Trustee, no less frequently than once a month, to the Aged Account of the Revenue Fund, and applied in accordance with the applicable Sections of this Bond Resolution governing such Fund or Account.

5. The Trustee may act as principal or agent in the acquisition or disposition of any Investment Securities. The Trustee shall exercise its best efforts to sell at market price obtainable, or present for redemption, any Investment Securities to the credit of any Fund or Account created under this Bond Resolution and the Accounts established therein whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from such Fund or Account, and the Trustee shall not be liable for any loss resulting from such necessary sale so made of such investments.

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## ARTICLE VI

### PROGRAM DOCUMENTS, BOND PURCHASE AGREEMENT AND OFFICIAL STATEMENTS

#### SECTION 6.01. Terms and Conditions of Program Documents.

The Authority hereby authorizes the Trustee to disburse funds from the Project Fund in accordance with the terms set forth herein and in the Program Documents for the purpose of acquiring, constructing, renovating and installing the Projects. Consequently, the Authority shall enter into or adopt, as the case may be, the Program Documents in the manner, on the terms and conditions and upon submission of the documents required by this Article VI, and not otherwise.

#### SECTION 6.02. Form of Program Documents.

The Authority hereby severally authorizes its Authorized Officers to enter into the Program Documents to be executed or acknowledged by the Authority (a) other than with respect to the Power Purchase Agreement, in the forms thereof attached hereto as Exhibit A upon original adoption of this Bond Resolution on September 28, 2011, with such immaterial changes thereto as shall be within the parameters set forth herein and the terms of the Local Finance Board Application, (b) with respect to the Power Purchase Agreement, in the form thereof attached hereto as Exhibit A upon original adoption of this Bond Resolution on September 28, 2011, with such immaterial changes thereto as shall be within the parameters set forth herein, in the Local Finance Board Application, and the Company RFP, and (c) to the extent not attached hereto, in such forms as shall be consistent with this Bond Resolution and the terms of the Local Finance Board Application, in both cases, as shall be determined exclusively by any such Authorized Officer, after consultation with Counsel, which determination shall be conclusively evidenced by any such Authorized Officer's execution and delivery thereof. To the extent the final forms of the Program Documents attached hereto shall be materially changed from that attached hereto as Exhibit A prior to the issuance of the Series 2011 Bonds, such Program Documents may be authorized by a subsequent authorizing resolution of the Authority without compliance with the provisions of Article XI hereof. The Chairman and any other Authorized Officer shall also take all other actions and execute any other documents, agreements, certificates or other instruments deemed necessary, convenient or desirable by the Chairman or any such other Authorized Officer to consummate the transactions contemplated hereby and by such Program Documents, including without limitation the issuance of the Company RFP; provided, however, that such Program Documents shall in any event conform in all material respects to the provisions of this Article VI.

#### SECTION 6.03. Lease Payments.

The Authority shall establish Basic Lease Payments under the Company Lease Agreement in such amounts that, together with any amounts available and required to be treated as credits thereunder or under this Bond Resolution, shall be sufficient to pay the principal and

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#### SECTION 6.06. Official Statement.

The Authorized Officers of the Authority are hereby severally authorized and directed to execute and deliver a final Official Statement in substantially similar form to the Preliminary Official Statement, with such changes to reflect the final pricing as set forth in the bond purchase agreement, including the Bond Purchase Agreement as such Authorized Officers, after consultation with the Chair and Counsel to the Authority, deems necessary or desirable to effect the issuance of the Series 2011 Bonds and any Series of Additional Bonds and the transactions contemplated by the final Official Statement.

#### SECTION 6.07. Continuing Disclosure.

1. Prior to issuance of the Series 2011 Bonds and any Series of Additional Bonds, the Authority, pursuant to the sole discretion of the Chairman or any other Authorized Officer of the Authority, in consultation with Bond Counsel, general counsel and any other applicable advisors to the Authority, all as may be set forth in the Certificate of an Authorized Officer pursuant to Section 2.02(1)(c) hereof, shall determine if the Company is a materially "obligated person" within the meaning and for the purposes of Rule 15c2-12. If the Company is determined to be a materially "obligated person", it shall be required to enter into the Company Continuing Disclosure Agreement, in such form as set forth in Exhibit A hereto as a Program Document authorized thereby.

2. (a) The Authority hereby determines (i) that the County is a "materially obligated person" and (ii) that the Authority is not an "obligated person" within the meaning and for the purposes of Rule 15c2-12.

(b) Accordingly, (i) the Authority and the County shall be required to enter into the County Continuing Disclosure Agreement, in such form as set forth in Exhibit A hereto as a Program Document authorized thereby, and together with the Company Continuing Disclosure Agreement, (ii) the Authority hereby covenants to provide notice of Bond Disclosure Events (as defined in each of the respective Continuing Disclosure Agreements), if material, with respect to the Series 2011 Bonds and any Series of Additional Bonds to EMMA (as defined within the definition of MSRB in the Continuing Disclosure Agreements), which is recognized by the SEC and any other governmental authorities with jurisdiction, all as shall be set forth in any such Continuing Disclosure Agreements.

3. Notwithstanding any provision to the contrary in Article XI hereof, the Authority may amend or supplement this Section 6.07 and the corresponding provisions of the Continuing Disclosure Agreements to comply with any amendment, supplement, modification, termination or other change to Rule 15c2-12 without the consent of any other Renewable Energy Program Interested Party or any Bondholder.

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prepayment premium, if any, of and the interest on all Series of Bonds as the same become due and payable.

#### SECTION 6.04. Bond Purchase Agreement or Notice of Sale.

The Authority hereby severally authorizes its Authorized Officers to either (a) negotiate with an Underwriter selected in accordance with the terms of applicable Authority resolutions for the sale of all of the Series 2011 Bonds and any Series of Additional Bonds upon terms and conditions to be set forth in a bond purchase agreement, which may include the Bond Purchase Agreement, or (b) sell the Series 2011 Bonds to an Underwriter pursuant to the terms of a Notice of Sale or other competitive process, and if applicable, a bond purchase agreement, including the Bond Purchase Agreement, in either case which terms and conditions shall be within the constraints set forth herein, in the Local Finance Board Application, and in such other Authority resolutions pertaining thereto and shall be determined exclusively by any Authorized Officer, after consultation with Counsel, which determination shall be conclusively evidenced by the Authorized Officer's execution and delivery thereof. The Chairman and any other Authorized Officer shall also take all other actions and execute any other documents, agreements, certificates or other instruments deemed necessary or desirable by the Chair or any such other Authorized Officer to consummate the transactions contemplated hereby and by such bond purchase agreement, including the Bond Purchase Agreement.

#### SECTION 6.05. Preliminary Official Statement.

1. The Authorized Officers of the Authority are hereby severally authorized and directed, upon satisfaction of all of the legal conditions precedent to the delivery of the preliminary official statement relating to the Series 2011 Bonds and any Series of Additional Bonds by the Authority, as determined by an Authorized Officer of the Authority in consultation with the Chair and Counsel to the Authority, to deliver the Preliminary Official Statement "deemed final" within the meaning and for the purposes of Rule 15c2-12, and otherwise in the form and with such provisions as such Authorized Officer, after consultation with the Chair and Counsel to the Authority, deems in their sole discretion to be necessary or desirable for the delivery thereof, which delivery thereof by such Authorized Officer shall conclusively evidence his consent to the provisions thereof.

2. The Authorized Officers of the Authority are hereby severally authorized and directed to execute any certificate or document relating to any statutes, rules or other procedures of the Securities and Exchange Commission, the Municipal Securities Rulemaking Board or any state securities entity that such Authorized Officer, after consultation with the Chair and Counsel to the Authority, deems necessary or desirable to effect the issuance of the Series 2011 Bonds and any Series of Additional Bonds and the transactions contemplated by the Preliminary Official Statement.

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## ARTICLE VII

### SERVICING OF LEASE PAYMENTS

#### SECTION 7.01. Defaults.

The Trustee shall notify the Authority of its failure to receive any Lease Payment of the Company, if any, due under the Company Lease Agreement, or of any other Event of Default under the Company Lease Agreement known to the Trustee.

Upon the occurrence of an Event of Default under the Company Lease Agreement, the Trustee shall diligently enforce, and take all reasonable steps, actions and proceedings necessary for the enforcement of, all of the terms and conditions of the Company Lease Agreement, including (without limitation) the prompt payment of all Lease Payments and all other amounts due the Authority and the observance and performance of all duties, covenants, obligations and agreements thereunder; provided, however, that the Trustee shall not accelerate the payment of amounts due under the Company Lease Agreement following any Event of Default thereunder (other than any Event of Default that shall automatically accelerate such payment under the Company Lease Agreement).

Except as otherwise provided in the Company Lease Agreement or in this Bond Resolution, the Trustee shall not release the duties, covenants, obligations or agreements of the Company under the Company Lease Agreement, and shall at all times, to the extent permitted by law, defend, enforce, preserve and protect the rights and privileges of the Authority and the Holders under or with respect to the Company Lease Agreement; provided, however, that this provision shall not be construed to prevent the Trustee (with the consent of the Authority) from settling a default under the Company Lease Agreement on such terms as the Trustee shall determine to be in the best interests of the Authority and the Holders. The Authority hereby appoints the Trustee as its agent and attorney-in-fact for the purpose of enforcing all rights, title and interests of the Authority on behalf of the Holders under the Company Lease Agreement, except for the Authority's Reserved Rights.

#### SECTION 7.02. Termination of Company Lease Agreement.

Upon the payment in full of all amounts due under the Company Lease Agreement, the Authority shall cancel the obligation of the Company evidenced by the Company Lease Agreement and shall terminate and release all security interests and liens created under the Company Lease Agreement, and the Authority and the Trustee shall take any and all other action required of the Authority or the Trustee thereunder in connection with such cancellation and termination, including (without limitation) the execution of all relevant documents in connection with such actions.

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**SECTION 7.03. Files.**

The Trustee shall keep a file for all records and other documents pertaining to disbursements of the Project Fund in accordance with this Bond Resolution, the Company Lease Agreement and the Local Unit License Agreements for the Series 2011 Local Units, and pertaining to all Lease Payments and other amounts received by the Trustee under the Company Lease Agreement, and all communications from or received by the Trustee with respect to the Projects. Such file shall be kept at the Principal Office of the Trustee and shall be available for inspection by the Authority, the Series 2011 Local Units, the County, and the Company and their respective agents at reasonable times and under reasonable circumstances.

**SECTION 7.04. Trustee's Obligations.**

The Trustee shall observe and perform all duties, covenants, obligations and agreements of the Authority under the Company Lease Agreement to the extent specified herein and therein. *If an inconsistency arises between the Company Lease Agreement and this Bond Resolution, the Trustee shall rely on this Bond Resolution.* Notwithstanding the preceding sentence, the Trustee shall have no duty to acquire, construct, renovate or install the Projects.

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security of the Holders of the Bonds. To the extent Revenues are received, the Authority will pay or cause to be discharged, or will make adequate provision to satisfy and discharge, within sixty (60) days after the same shall accrue, all lawful claims and demands that if unpaid might by law become a lien upon the Trust Estate; provided, however, that nothing contained in this Section 8.03 shall require the Authority to pay or cause to be discharged, or to make provision for, any such lien, encumbrance or charge so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

So long as Bonds of any Series shall be Outstanding, the Authority shall not issue any bonds, notes or other evidences of indebtedness, other than such Bonds, secured by any pledge of or other lien or charge on the Trust Estate. Nothing in this Bond Resolution is intended to or shall affect the right of the Authority to issue bonds, notes and other obligations under other resolutions or indentures for any of its other purposes.

**SECTION 8.04. Accounts and Audits.**

The Authority shall keep, or cause to be kept, proper books of records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Projects, this Bond Resolution and any Supplemental Resolution, which books and accounts (at reasonable hours and subject to the reasonable rules and regulations of the Authority) shall be subject to the inspection of the Trustee, the Series 2011 Local Units, the County, the Company, any Holder of any Bonds or their agents or representatives duly authorized in writing. The Authority shall have the right to cause such books and accounts to be audited annually within ninety (90) days after the end of its fiscal year by an Independent Public Accountant selected by the Authority. Annually, within thirty (30) days after the receipt by the Authority of the report of such audit, a signed copy of such report shall be furnished to the Trustee. Such report shall include at least: (i) a statement of all Funds and Accounts (including investments thereof) held by the Trustee pursuant to the provisions of this Bond Resolution; (ii) a statement of the Revenues collected in connection with this Bond Resolution; and (iii) a statement that, in making such audit, no knowledge of any payment default in the fulfillment of any of the terms, covenants or provisions of this Bond Resolution was obtained or, if knowledge of any such default was obtained, a statement thereof.

**SECTION 8.05. Further Assurances.**

The Authority will pass, make, do, execute, acknowledge and deliver any and all such further resolutions, indentures, actions, instruments and assurances as may be reasonably necessary or proper to carry out the intention, or to facilitate the performance, of this Bond Resolution and for the better assuring and confirming unto the Holders of Bonds the rights and benefits provided in this Bond Resolution.

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**ARTICLE VIII**

**GENERAL COVENANTS**

**SECTION 8.01. Payment of Bonds; Special and Limited Obligations of Authority.**

The Authority shall pay or cause to be paid the principal or Redemption Price, if any, of and the interest on every Bond of each Series on the date, at the place and in the manner provided herein, in the Applicable Supplemental Resolution and in such Bonds according to the true intent and meaning thereof; provided, however, that the Bonds of each Series are special and limited obligations of the Authority, the principal or Redemption Price, if any, of and the interest on which are payable solely from the Trust Estate.

The Bonds of each Series shall not be payable from the general funds of the Authority, and shall not constitute a legal or equitable pledge of, or lien or encumbrance upon, any of the assets or property of the Authority (other than the Trust Estate) or upon any of its income, receipts or revenues, except as provided in this Bond Resolution. The full faith and credit of the Authority are not pledged, either expressly or by implication, to the payment of the Bonds. The Authority has no taxing power, and has no claim on any revenues or receipts of the State or any agency or political subdivision thereof or of the Series 2011 Local Units or the County (except as expressly provided in the County Guaranty).

**SECTION 8.02. Observance and Performance of Duties, Covenants, Obligations and Agreements; Representations as to Authorization and Validity of Bonds.**

The Authority shall faithfully observe and perform at all times all of its duties, covenants, obligations and agreements contained in the Company Lease Agreement, this Bond Resolution, any Supplemental Resolution or any Bond executed, authenticated and delivered under this Bond Resolution or under any Supplemental Resolution or in any proceedings of the Authority pertaining thereto.

The Authority represents and covenants that: (i) it is duly authorized under the Constitution and laws of the State, particularly the Act, to issue the Bonds of each Series, to enter into the Company Lease Agreement, and to pledge the Trust Estate in the manner and to the extent set forth in this Bond Resolution and as shall be set forth in any Supplemental Resolution; (ii) all action on its part for the issuance of the Bonds of each Series will be duly and effectively taken; and (iii) the Bonds of each Series in the hands of the Holders thereof will be valid and binding special and limited obligations of the Authority, enforceable against the Authority in accordance with their terms.

**SECTION 8.03. Liens, Encumbrances and Charges.**

The Authority shall not create or cause to be created and shall not suffer to exist any lien, encumbrance or charge upon the Trust Estate, except the pledge, lien and charge created for the

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**SECTION 8.06. Tax Covenants.**

In connection with the issuance of any Series of Additional Bonds issued as Tax-exempt Bonds, an Authorized Officer of the Authority is hereby authorized to execute on behalf of the Authority (i) the Tax Certificate and (ii) any similar documents relating to the characterization of such Series of Bonds as not being "arbitrage bonds" within the meaning of Sections 103(a)(2) and 148 of the Code. Any further provisions relating thereto shall be as set forth in the Supplemental Resolution authorizing any such Series of Additional Bonds.

**SECTION 8.07. Prepayment of Basic Lease Payments Through the Application of Additional Lease Payments for Purchase Option Price.**

Upon the repayment, in whole or in part, of Basic Lease Payments due and owing under the Company Lease Agreement through the payment of Additional Lease Payments at the then applicable Purchase Option Price, the Authority shall elect to apply such prepayment proceeds (i) to the purchase of Bonds in the secondary market, (ii) to the redemption of Bonds in accordance with Article IV hereof, or (iii) to the payment of Bonds in accordance with Section 12.01 hereof. The Authority may only consent to such partial prepayment pursuant to the Company Lease Agreement if it simultaneously delivers to the Trustee (i) a certificate of an Independent Public Accountant demonstrating that the aggregate Basic Lease Payments due pursuant to the Company Lease Agreement after such prepayment shall be sufficient to pay, when due, the principal of and the interest on all Bonds Outstanding after giving effect to the Authority's election required in the immediately preceding sentence, and (ii) irrevocable instructions to effectuate such election regarding the application of prepayment proceeds, including, without limitation, delivering any documents required under the Company Lease Agreement.

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## ARTICLE IX

### DEFAULT PROVISIONS; REMEDIES OF TRUSTEE AND BONDHOLDERS

#### SECTION 9.01. Defaults; Events of Default.

If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "Event of Default" for the Bonds of all Series then Outstanding:

- (a) default in the due and punctual payment of any interest on any Bond; or
- (b) default in the due and punctual payment of the principal, Sinking Fund Installment or Redemption Price of any Bond whether at the stated maturity thereof or on any date fixed for the redemption of such Bond; or
- (c) if (i) the Authority shall be adjudicated a bankrupt or become subject to an order for relief under federal bankruptcy law, (ii) the Authority shall institute a proceeding seeking an order for relief under federal bankruptcy law or seeking to be adjudicated a bankrupt or insolvent or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or all of its debts under New Jersey bankruptcy or insolvency law, (iii) with the consent of the Authority, there shall be appointed a receiver, liquidator or similar official for the Authority under federal bankruptcy law or under New Jersey bankruptcy or insolvency law, or (iv) without the application, approval or consent of the Authority, a receiver, trustee, liquidator or similar official shall be appointed for the Authority under federal bankruptcy law or under New Jersey bankruptcy or insolvency law or a proceeding described in clause (ii) above shall be instituted against the Authority, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of sixty (60) consecutive days; or
- (d) if (i) the Authority shall make an assignment for the benefit of creditors, (ii) the Authority shall apply for or seek the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its property, (iii) the Authority shall fail to file an answer or other pleading denying the material allegations of any proceeding filed against it described under clause (iv) of paragraph (c) of this Section 9.01, (iv) the Authority shall take any action to authorize or effect any of the actions set forth in paragraph (c) or (d) of this Section 9.01, (v) the Authority shall fail to contest in good faith any appointment or proceeding described in paragraph (c) or (d) of this Section 9.01, or (vi) without the application, approval or consent of the Authority, a receiver, trustee, examiner, liquidator or similar official shall be appointed for any substantial part of the Authority's property, and such appointment shall continue undischarged or such proceeding shall continue undismissed or unstayed for a period of thirty (30) consecutive days; or
- (e) the Authority shall default in the performance or observance of any other of the duties, covenants, obligations, agreements or conditions on the part of the Authority to be

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(b) The Trustee by action or suit in equity may require the Authority to account as if it were the trustee of an express trust for the Holders of Bonds, and may take such action with respect to the Company Lease Agreement as the Trustee deems necessary or appropriate and in the best interests of the Holders of Bonds, subject to the terms of the Company Lease Agreement; and

(c) Upon the filing of a suit or other commencement of judicial proceedings to enforce any rights of the Trustee and of the Holders of Bonds under this Bond Resolution, the Trustee will be entitled as a matter of right to the appointment of a receiver or receivers of the Trust Estate and the issues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

If an Event of Default shall have occurred with respect to any Bonds, and if requested so to do by the Holders of a majority in aggregate principal amount of the Bonds then Outstanding, and upon being indemnified to its reasonable satisfaction therefor, the Trustee shall be obligated to exercise such one or more of the rights, remedies and powers conferred by this Section 9.02 as directed by such Holders of Bonds.

No right or remedy by the terms of this Bond Resolution conferred upon or reserved to the Trustee (or to the Holders of Bonds) is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to the Trustee or to such Holders hereunder or now or hereafter existing at law or in equity or by statute other than pursuant to the Act. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

No waiver of any Event of Default hereunder, whether by the Trustee or by the Holders of any Bonds in default, shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

#### SECTION 9.03. Right of Holders of Bonds to Direct Proceedings.

Anything in this Bond Resolution to the contrary notwithstanding, the Holders of a majority in aggregate principal amount of Bonds in default then Outstanding shall have the right at any time during the continuance of an Event of Default of such Bonds, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Bond Resolution or for the appointment of a receiver or any other proceedings

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performed or observed under this Bond Resolution or under the Bonds of each Series, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Trustee or the Bondholders in accordance with Section 9.09 hereof.

#### SECTION 9.02. Acceleration of Bonds; Remedies.

If an Event of Default described in Section 9.01 hereof shall occur for any Series of Bonds, the Trustee shall give written notice thereof to Holders, and at the written request of the Holders of not less than 25% in aggregate principal amount of the Bonds then Outstanding shall, by telephonic notice to the Authority (promptly confirmed in writing), declare the principal of all Bonds then Outstanding to be due and payable; provided, however, that before making such declaration, the Trustee shall give thirty (30) days' notice to the Authority and the Company during which time the Authority shall be able to cure such default. Upon any such declaration, the Trustee shall forthwith give notice thereof to the Company, each Local Unit and the Paying Agent.

At any time after the principal of the Bonds shall have been so declared to be due and payable and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such Event of Default, or before the completion of the enforcement of any other remedy under this Bond Resolution, the Trustee, by written notice to the Authority, may annul such declaration and its consequences if: (i) moneys shall have accumulated in the Interest Account and the Principal Account in the Debt Service Fund sufficient to pay all arrears of interest, if any, upon all of the Outstanding Bonds (except the interest accrued on such Bonds since the last Interest Payment Date) and the principal then due on all Bonds (except the principal on any such Bonds due solely as a result of any such declaration of acceleration); (ii) moneys shall have accumulated and be available sufficient to pay the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee; and (iii) every other default known to the Trustee in the observance or performance of any duty, covenant, obligation, condition or agreement contained in the Bonds or in this Bond Resolution shall have been remedied to the satisfaction of the Trustee; provided, however, that such declaration may be annulled only with the written consent of the Holders of not less than 25% in aggregate principal amount of the Bonds Outstanding and not then due by their terms. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

Upon the occurrence of an Event of Default, the Trustee shall also have the following rights and remedies:

- (a) The Trustee may pursue any available remedy at law or in equity or by statute to enforce the payment of the principal of and the interest on the Bonds then Outstanding, including (without limitation) enforcement of any rights of the Authority or the Trustee under the Company Lease Agreement;

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hereunder; provided, however, that such direction shall not be otherwise than in accordance with the provisions of law and of this Bond Resolution.

#### SECTION 9.04. Application of Moneys.

All moneys received by the Trustee pursuant to any right or remedy given or action taken under the provisions of this Article IX upon any acceleration of the due date for the payment of the principal of and the interest on the Bonds in default (including, without limitation, moneys received by virtue of action taken under provisions of the Company Lease Agreement, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee and any other moneys owed to the Trustee in connection with such Bonds hereunder) shall be applied, first, to the payment of the principal and the interest then due and unpaid upon the Bonds in default, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto, without any discrimination or privilege.

Whenever moneys are to be applied pursuant to the provisions of this Section 9.04, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard for the amount of such moneys available for application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date, unless the Trustee shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Holder of any Bond in default until such obligation shall be presented to the Trustee for appropriate endorsement or for cancellation, as the case may be.

#### SECTION 9.05. Remedies Vested in Trustee.

All rights of action (including, without limitation, the right to file proofs of claims) under this Bond Resolution or under any of the Bonds in default may be enforced by the Trustee without possession of any of the Bonds or the production thereof in any trial or other proceeding related thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee for the equal and ratable benefit of the Holders of all the Outstanding Bonds without the necessity of joining as plaintiff's or defendants any Holders of such Bonds.

#### SECTION 9.06. Rights and Remedies of Holders of Bonds.

No Holder of Bonds then Outstanding in default shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of this Bond Resolution or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless (a) an Event of Default shall have occurred, (b) the Holders of not less than 25% in

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aggregate principal amount of the Bonds then Outstanding shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the remedies hereinbefore granted or to institute such action, suit or proceeding in its own name, (c) the Holders shall have offered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request, and (d) the Trustee shall have refused, or for sixty (60) days after receipt of such request and offer of indemnification shall have failed, to exercise the remedies hereinbefore granted or to institute such action, suit or proceeding in its own name, and such request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Bond Resolution and to any action or cause of action for the enforcement of this Bond Resolution or for the appointment of a receiver or for any other remedy hereunder. It is understood and intended that no one or more Holders of Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Bond Resolution by his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal and ratable benefit of the Holders of all Bonds then Outstanding; provided, however, that nothing contained in this Bond Resolution shall affect or impair the right of the Holder of any Bond to enforce the payment of the principal or Redemption Price of and the interest on such Bond at and after the maturity thereof, or the obligation of the Authority to pay the principal or Redemption Price of and the interest on each of the Bonds issued hereunder to the respective Holders thereof, at the time and place, from the source and in the manner expressed in the Bonds and in this Bond Resolution and the Applicable Supplemental Resolution.

#### SECTION 9.07. Termination of Proceedings.

In case the Trustee or a Holder of a Bond in default shall have proceeded to enforce any right under this Bond Resolution by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or such Holder, then and in every such case the Authority, the Trustee and the Holders of Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee and the Holders shall continue as if no such proceedings had been taken.

#### SECTION 9.08. Waivers of Events of Default.

The Trustee may, and upon the written request of the Holders of 50% in aggregate principal amount of all Bonds in default then Outstanding shall, waive any Event of Default that shall have been remedied before the completion of the enforcement of any remedy under this Bond Resolution; but no such waiver shall extend to any subsequent or other Event of Default or impair any rights consequent thereon.

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### ARTICLE X

#### THE FIDUCIARIES

##### SECTION 10.01. Appointments, Duties, Immunities and Liabilities of Trustee.

U.S. Bank National Association, a national banking institution authorized and acting under the laws of the United States of America and further authorized to conduct business in the State, where such bank acts as trustee (the "Trustee"), has been appointed as Trustee hereunder by the Authority. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Bond Resolution, the Company Lease Agreement, the County Guaranty Agreement, and all other Program Documents by executing and delivering to the Authority a written acceptance thereof, and, by executing such acceptance, the Trustee shall be deemed to have accepted such duties and obligations with respect to all the Bonds thereafter to be validly issued, but only, however, upon the terms and conditions set forth in this Bond Resolution and in such other Program Documents.

##### SECTION 10.02. Paying Agents; Appointments.

1. The Trustee is hereby appointed Paying Agent for the Series 2011 Bonds. The Authority shall appoint one or more Paying Agents for the Bonds of each additional Series, and may at any time or from time to time appoint one or more other Paying Agents having the qualifications set forth in Section 10.13 hereof for a successor Paying Agent.
2. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Bond Resolution by executing and delivering to the Authority and to the Trustee a written acceptance thereof.
3. Unless otherwise provided, the principal corporate trust officers of the Paying Agents are designated as the respective offices or agencies of the Authority for the payment of the principal or Redemption Price, if any, of and the interest on the Bonds.
4. The Authority may enter into agreements with any Paying Agent providing for the payment to the Authority of amounts in respect of interest earned on moneys held by such Paying Agent for the payment of principal or Redemption Price, if any, of and the interest on the Bonds. Any such payments to the Authority shall be deposited in the Revenue Fund and applied as Revenues.

##### SECTION 10.03. Responsibilities of Fiduciaries.

1. The recitals of fact contained herein and in the Bonds shall be taken as the statements of the Authority, and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representation as to the validity or sufficiency of this Bond Resolution or of any Bonds issued hereunder or as to the security afforded hereby, and no

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##### SECTION 9.09. Notice of Certain Defaults; Opportunity of Authority to Cure Defaults.

Anything herein to the contrary notwithstanding, no Default under Section 9.01(c) hereof shall constitute an Event of Default until actual notice of such Default shall be given to the Authority, by registered or certified mail, by the Trustee or the Holders of not less than 25% in aggregate principal amount of all Bonds then Outstanding, and the Authority shall not have corrected the Default or caused the Default to be corrected within thirty (30) days following the giving of such notice; provided, however, that if the Default be such that it is correctable but cannot be so corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the Authority within the applicable period and diligently pursued until the Default is corrected.

The Authority hereby grants to the Trustee full authority for the account of the Authority (but the Trustee shall have no obligation) to observe or perform any duty, covenant, obligation or agreement in any alleged Default concerning which notice is given to the Authority under the provisions of this Section 9.09 in the name and stead of the Authority, with full power to do any and all things and acts to the same extent that the Authority could do and to perform any such things and acts and with full power of substitution.

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Fiduciary shall incur any liability in respect thereof. The Trustee shall, however, be responsible for its representation contained in its certificate on the Bonds. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid to the Authority or to any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act that would involve it in expense or liability or to institute or defend any suit in respect thereof or to advance any of its own moneys, unless properly indemnified by the Authority or the Local Unit. Subject to the provisions of subsection (2) of this Section 10.03, no Fiduciary shall be liable in connection with the observance and performance of its duties and obligations hereunder except for its own negligence or willful misconduct.

2. The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default that may have occurred, undertakes to perform such duties and obligations and only such duties and obligations as are specifically set forth in this Bond Resolution. In case an Event of Default has occurred (which has not been cured), the Trustee shall exercise such of the rights and powers invested in it by this Bond Resolution, and use the same degree of care and skill in its exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs. Any provision of this Bond Resolution relating to action taken or to be taken by the Trustee or to evidence upon which the Trustee may conclusively rely shall be subject to the provisions of this Section 10.03.

##### SECTION 10.04. Evidence Upon Which Fiduciaries May Act.

1. Each Fiduciary, upon receipt of any written notice, Supplemental Resolution, written request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it pursuant to any provision of this Bond Resolution, shall examine such instrument to determine whether it conforms to the requirements of this Bond Resolution and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with Counsel, who may or may not be counsel to the Authority, and the opinion of such Counsel shall be full and complete authorization and protection in respect of any action taken or suffered by any Fiduciary under this Bond Resolution in good faith and in accordance therewith.

2. Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Bond Resolution, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate of an Authorized Officer of the Authority, and such Certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Bond Resolution upon the faith thereof.

3. Except as otherwise expressly provided in this Bond Resolution, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof by the Authority to any Fiduciary shall be sufficiently executed in the name of the Authority by an Authorized Officer of the Authority.

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4. Whenever any Fiduciary shall receive any written notice, Supplemental Resolution, written request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it via teletype pursuant to any provision of this Bond Resolution, the Fiduciary shall accept same; provided, however, that the original of any notice, Supplemental Resolution, request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it pursuant to any provision of this Bond Resolution be shall be forwarded to the Fiduciary immediately thereafter.

#### SECTION 10.05. Compensation.

The Authority shall pay each Fiduciary from time to time reasonable compensation for all services rendered under this Bond Resolution, including, without limitation, the services rendered pursuant to Section 12.01 hereof, and also all reasonable expenses incurred in and about the performance of their powers and duties under this Bond Resolution, and each Fiduciary shall have a lien therefor on any and all Funds and Accounts at any time held by it under this Bond Resolution. Subject to the provisions of Section 10.03 hereof, each of the Authority and the Company further agrees to indemnify and save each Fiduciary harmless against any losses, liabilities or expenses (including legal fees) that may incur in the exercise and performance of its powers, duties and obligations hereunder that are not due to its negligence or willful misconduct, and such indemnity shall survive the payment of the Bonds and the discharge of this Bond Resolution and the resignation or removal of the Trustee.

#### SECTION 10.06. Certain Permitted Acts.

Any Fiduciary may become the Holder of any Bonds with the same rights that it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as *depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Bond Resolution, whether or not any such committee shall represent the Holders of a majority in aggregate principal amount of the Bonds then Outstanding.*

#### SECTION 10.07. Resignation of Trustee.

The Trustee may at any time resign and be discharged of the duties and obligations created by this Bond Resolution by giving not less than sixty (60) days' written notice to the Authority, and mailing notice thereof to the Holders of the Bonds then Outstanding, specifying the date when such resignation shall take effect, and such resignation shall take effect upon the day specified in such notice unless previously a successor shall have been appointed by the Authority or the Bondholders as provided in Section 10.09 hereof, in which event such resignation shall take effect immediately upon the appointment of such successor, or unless a successor shall not have been appointed by the Authority or the Bondholders as provided in Section 10.09 hereof on that date. In which event such resignation shall not take effect until a successor is appointed.

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#### SECTION 10.10. Transfer of Rights and Property to Successor Trustee.

Any successor Trustee appointed under this Bond Resolution shall execute, acknowledge and deliver to its predecessor Trustee and to the Authority an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all of the moneys, estates, properties, rights, powers, duties and obligations of such predecessor Trustee, with like effect as if originally named as Trustee hereunder; but the Trustee ceasing to act shall nevertheless, on the written request of the Authority or the successor Trustee, execute, acknowledge and deliver such instrument of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all of the right, title and interest of the predecessor Trustee in and to any property held by it under this Bond Resolution, and such predecessor Trustee shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the Authority be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such estates, rights, powers and duties, any and all such deeds, conveyances and instruments in writing shall, on request and so far as may be authorized by law, be executed, acknowledged and delivered by the Authority. Any such successor Trustee shall promptly notify the Paying Agent of its appointment as Trustee.

#### SECTION 10.11. Merger or Consolidation.

Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or substantially all of its corporate trust business, provided such company (i) shall be a bank or trust company organized under the laws of any state of the United States of America or a national banking association and (ii) shall be authorized by law to perform all of the duties imposed upon it by this Bond Resolution, shall be the successor to such Fiduciary without the execution or filing of any paper or the performance of any further act.

#### SECTION 10.12. Adoption of Authentication.

In case any of the Bonds contemplated to be issued under this Bond Resolution shall have been authenticated but not delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee so authenticating such Bonds and deliver such Bonds so authenticated; and in case any of the said Bonds shall not have been authenticated, any successor Trustee may authenticate such Bonds in the name of the predecessor Trustee or in the name of the successor Trustee, and in all such cases such certificate of authentication shall have the same force and effect that it is anywhere in said Bonds or in this Bond Resolution.

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#### SECTION 10.08. Removal of Trustee.

The Trustee may be removed at any time by an instrument or concurrent instruments in writing, filed with the Trustee and signed by the Holders of a majority in aggregate principal amount of the Bonds then Outstanding or their attorneys-in-fact duly authorized, excluding any Bonds held by or for the account of the Authority. So long as no Event of Default or any event that, with notice or passage of time or both, would become an Event of Default shall have occurred and be continuing, the Trustee may be removed at any time for just cause (as determined in the sole judgment of the Authority) by a resolution of the Authority filed with the Trustee.

#### SECTION 10.09. Appointment of Successor Trustee.

1. In case at any time the Trustee shall resign, be removed or become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, a successor Trustee may be appointed by the Authority by a duly executed written instrument signed by an Authorized Officer of the Authority. However, if the Authority does not appoint a successor Trustee within forty-five (45) days, the Holders of a majority in aggregate principal amount of the Bonds then Outstanding, excluding any Bonds held by or for the account of the Authority, may appoint a successor Trustee by an instrument or concurrent instruments in writing signed and acknowledged by such Bondholders or their attorneys-in-fact duly authorized and delivered to such successor Trustee, notification thereof being given to the Authority and the predecessor Trustee. After such appointment of a successor Trustee, the Authority shall mail notice of any such appointment made by it or the Bondholders to the Holders of all Bonds then Outstanding.

2. If in a proper case no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section 10.09 within forty-five (45) days after the Trustee shall have given to the Authority written notice as provided in Section 10.07 hereof or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, the Trustee or the Holder of any Bond may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

3. Any Trustee appointed pursuant to the provisions of this Section 10.09 in succession to the Trustee shall be a bank or trust company or national banking association doing business and having its principal office in the City and State of New York or the State and having capital stock and surplus aggregating at least \$50,000,000, if there be such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all of the duties imposed upon it by this Bond Resolution.

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#### SECTION 10.13. Resignation or Removal of Paying Agent; Appointment of Successor.

1. Any Paying Agent may at any time resign and be discharged of the duties and obligations created by this Bond Resolution by giving at least sixty (60) days' written notice to the Authority, the Trustee and the other Paying Agents. Any Paying Agent may be removed at any time by an instrument filed with such Paying Agent and the Trustee and signed by an Authorized Officer of the Authority. Any successor Paying Agent shall be appointed by the Authority with the approval of the Trustee, and shall be a bank or trust company organized under the laws of any state of the United States of America or a national banking association and having capital stock and surplus aggregating at least \$20,000,000, and be willing and able to accept the office on reasonable and customary terms and authorized by law to perform all of the duties imposed upon it by this Bond Resolution.

2. In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent to its successor or, if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Paying Agent, the Trustee shall act as such Paying Agent.

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ARTICLE XI

AMENDMENTS

SECTION 11.01. Supplemental Resolutions Effective Upon Filing With Trustee.

For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution of the Authority may be adopted, which, upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority, shall be fully effective in accordance with its terms:

1. To close this Bond Resolution against, or provide limitations and restrictions contained in this Bond Resolution on, the authentication and delivery of Bonds;
2. To add to the duties, covenants, obligations and agreements of the Authority in this Bond Resolution, other duties, covenants, obligations and agreements to be observed and performed by the Authority that are not contrary to or inconsistent with this Bond Resolution as heretofore in effect, including without limitation the terms and conditions of the Series 2011B Note upon delivery of the Certificate of an Authorized Officer of the Authority pursuant to Section 2.02(1)(e) hereof;
3. To add to the limitations and restrictions in this Bond Resolution, other limitations and restrictions to be observed by the Authority that are not contrary to or inconsistent with this Bond Resolution as heretofore in effect;
4. To authorize Bonds of a Series and, in connection therewith, to specify and determine the matters and things referred to in Article II hereof and any other matters and things relative to such Bonds, including whether to issue Bonds in book-entry form, that are not contrary to or inconsistent with this Bond Resolution as heretofore in effect, or to amend, modify or rescind any such authorization, specification or determination contained in Article II hereof at any time prior to the first authentication and delivery of such Series of Bonds;
5. To confirm, as further assurance, any security interest, pledge or assignment under this Bond Resolution and the subjection of the Revenues or of any other moneys, securities or funds to any security interest, pledge or assignment created or to be created by this Bond Resolution;
6. To modify any of the provisions of this Bond Resolution in any other respect whatsoever; provided, however, that (i) such modification shall be, and be expressed to be, effective only after all Bonds of each Series Outstanding at the date of adoption of such Supplemental Resolution shall cease to be Outstanding, and (ii) such Supplemental Resolution shall be specifically referred to in the text of all Bonds of any Series authenticated and delivered after the date of the adoption of such Supplemental Resolution and of Bonds issued in exchange therefor or in place thereof;

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SECTION 11.03. Supplemental Resolutions Effective With Consent of Bondholders.

At any time or from time to time, a Supplemental Resolution may be adopted subject to consent by the Bondholders in accordance with and subject to the provisions of Sections 11.06 and 11.07 hereof, which Supplemental Resolution, upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority and upon compliance with the provisions of Sections 11.06 and 11.07 hereof, shall become fully effective in accordance with its terms as provided in Section 11.07 hereof; provided, however, any Supplemental Resolution that, by its terms, only affects one or more Series of Bonds may be adopted subject solely to the consent of the Holders of such Series of Bonds so affected.

SECTION 11.04. General Provisions.

1. This Bond Resolution shall not be modified or amended in any respect except by a Supplemental Resolution as provided in, in accordance with and subject to the provisions of this Article XI. Nothing contained in this Article XI shall affect or limit the right or obligation of the Authority to adopt, make, do, execute, acknowledge or deliver any resolution, act or other instrument pursuant to the provisions of this Bond Resolution or the right or obligation of the Authority to execute and deliver to any Trustee any instrument that it is elsewhere provided in this Bond Resolution shall be delivered to said Trustee.
2. Any Supplemental Resolution referred to in and permitted or authorized by Section 11.01 or 11.02 hereof may be adopted by the Authority without the consent of any Bondholder, but shall become effective only on the conditions, to the extent and at the times provided in Section 11.01 or 11.02, respectively. Every Supplemental Resolution filed with the Trustee shall be accompanied by an opinion of Counsel stating that such Supplemental Resolution has been duly and lawfully adopted by the Authority in accordance with the terms and provisions of this Bond Resolution, is authorized or permitted by this Bond Resolution, and is valid and binding upon the Authority in accordance with its terms.
3. The Trustee is hereby authorized to accept the delivery of a certified copy of any Supplemental Resolution referred to in and permitted or authorized by Section 11.01, 11.02 or 11.03 hereof and to make all further agreements and stipulations that may be therein contained, and the Trustee, in taking such action, shall be fully protected in relying upon an opinion of Counsel that such Supplemental Resolution is authorized or permitted by the terms and provisions of this Bond Resolution.
4. No Supplemental Resolution shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto.

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7. To modify any of the provisions of this Bond Resolution in any respect provided that the modifications affect only Bonds issued subsequent to the date of such modifications;

8. To comply with the provisions of any federal or state securities law, including, without limitation, the Trust Indenture Act of 1939, as amended, or to comply with Section 103 of the Code, as amended, replaced or substituted, with respect to any Series of Additional Bonds constituting Tax-exempt Bonds;

9. To modify any provision of this Bond Resolution relating to the County Security Fund and the County Security Fund Requirement, including without limitation Section 5.07 hereof and Exhibit B hereto; provided, however, the County Security Fund Requirement shall not be increased without having received the consent of the Company with respect thereto;

10. To implement one or more replacement Local Unit Facilities and Projects for the Series 2011 Local Units, all in accordance with the provisions of Section 4.6 of the Power Purchase Agreement; or

Any Rating Agency rating the Series 2011 Bonds must receive notice of each Supplemental Resolution and a copy thereof at least fifteen (15) days in advance of its execution or adoption.

SECTION 11.02. Supplemental Resolutions Effective Upon Consent of Trustee.

For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution may be adopted, which, upon (i) the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority, and (ii) the filing with the Authority of an instrument in writing made by the Trustee consenting thereto, shall be fully effective in accordance with its terms:

1. To cure any ambiguity, supply any omission or cure or correct any defect or inconsistent provision in this Bond Resolution;
2. To insert such provisions clarifying matters or questions arising under this Bond Resolution as are necessary or desirable and are not contrary to or inconsistent with this Bond Resolution as heretofore in effect; or
3. To make any other modification or amendment of this Bond Resolution that will not have a material adverse effect on the interests of Bondholders.

In making any determination under this Section 11.02, the Trustee may conclusively rely upon an opinion of Counsel.

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SECTION 11.05. Mailing.

Any provision in this Article XI for the mailing of a notice or other paper to Holders of Bonds shall be fully complied with if it is mailed, postage prepaid only, to each Registered Owner of Bonds then Outstanding at his address, if any, appearing upon the registry books of the Authority.

SECTION 11.06. Powers of Amendment by Supplemental Resolution.

Unless otherwise permitted under Section 11.01 or 11.02 hereof, any modification or amendment of this Bond Resolution and of the rights and obligations of the Authority and the Holders of Bonds hereunder, in any particular, may be made only by a Supplemental Resolution with the written consent (i) of the Holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds Outstanding at the time such consent is given, (ii) in case less than all of the several Series of Bonds then Outstanding are affected by the modification or amendment, of the Holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds of each Series so affected and Outstanding at the time such consent is given, and (iii) in case the modification or amendment changes the terms of any Sinking Fund Installment, of the Holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds of the particular Series and maturity entitled to such Sinking Fund Installment and Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding, the consent of the Holders of such Bonds shall not be required, and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section 11.06. No such modification or amendment shall (i) permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such obligation, (ii) reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or (iii) change or modify any of the rights or obligations of any Trustee without its written assent thereto. For the purposes of this Section 11.06, a Series shall be deemed to be affected by a modification or amendment of this Bond Resolution if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series. The Trustee may, in its discretion, determine whether or not, in accordance with the foregoing powers of amendment, Bonds of any particular Series or maturity would be affected by any modification or amendment of this Bond Resolution, and any such determination shall be binding and conclusive upon the Authority and all Holders of Bonds. For purposes of this Section 11.06, the Holders of any Bonds may include the initial Holders thereof, regardless of whether or not such Bonds are being held for resale.

SECTION 11.07. Consent of Bondholders.

The Authority may at any time adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of Section 11.06 hereof to take effect when and as

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provided in this Section 11.07. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto in form approved by the Trustee), together with a request to Holders of Bonds for their consent thereto in form satisfactory to the Trustee, shall be mailed by the Authority to Holders of Bonds (but failure to mail such copy and request shall not affect the validity of the Supplemental Resolution when consented to as in this Section 11.07 provided). Such Supplemental Resolution shall not be effective unless and until there shall have been filed with the Trustee (a) the written consent of the Holders of the percentages of Outstanding Bonds specified in Section 11.06 hereof and (b) an opinion of Counsel stating that such Supplemental Resolution has been duly and lawfully adopted and filed by the Authority in accordance with the terms and provisions of this Bond Resolution, is authorized or permitted by this Bond Resolution, and is valid and binding upon the Authority in accordance with its terms. It shall not be necessary that the consents of the Holders of Bonds approve the particular form of wording of the proposed modification or amendment or of the proposed Supplemental Resolution effecting such modification or amendment, but it shall be sufficient if such consents approve the substance of the proposed amendment or modification. Each such consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 12.02 hereof. A certificate or certificates executed by the Trustee and filed with the Authority stating that the Trustee has examined such proof and that such proof is sufficient in accordance with Section 12.02 hereof shall be conclusive evidence that the consents have been given by the Holders of the Bonds described in such certificate or certificates. Any such consent shall be binding upon the Holder of the Bonds giving such consent and, anything in Section 12.02 hereof to the contrary notwithstanding, upon any subsequent Holder of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Holder has notice thereof), unless such consent is revoked in writing by the Holder of such Bonds giving such consent or by a subsequent Holder thereof by filing with the Trustee, prior to the time when the written statement of the Trustee is filed (as hereinafter provided for in this Section 11.07), such revocation and proof that such Bonds are held by the signer of such revocation in the manner permitted by Section 12.02 hereof. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Authority to the effect that no revocation thereof is on file with the Trustee.

At any time after the Holders of the required percentages of Bonds shall have filed their consents to the Supplemental Resolution as hereinabove provided, the Trustee shall make and file with the Authority a written statement that the Holders of such required percentages of such Bonds have filed such consents. Such written statements shall be conclusive that such consents have been so filed. At any time thereafter, notice stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Authority on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of Bonds and will become effective as provided in this Section 11.07 may be given to Bondholders by the Authority by mailing such notice to Bondholders (but failure to mail such notice shall not prevent such Supplemental Resolution from becoming effective and binding as in this Section 11.07 provided). The Authority shall file with the Trustee proof of the mailing thereof. A record, consisting of the certificates or statements

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Outstanding, shall be exchanged upon surrender of such Bonds, without cost to such Holder, for Bonds of the same Series, principal amount, maturity and interest rate then Outstanding. Any action taken as provided in Article X hereof or in this Article XI shall be effective and binding upon all Holders of Bonds notwithstanding that the notation is not endorsed on all Bonds.

#### SECTION 11.11. Effect of Supplemental Resolutions.

Upon the effective date of any Supplemental Resolution, this Bond Resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, covenants, obligations and agreements under this Bond Resolution of the Authority, the Trustee and all Holders of Bonds then Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all of the terms and conditions of any such Supplemental Resolution shall be deemed to be part of the terms and conditions of this Bond Resolution for any and all purposes.

#### SECTION 11.12. Notice of Amendments.

Promptly after the adoption by the Authority of any Supplemental Resolution, the Trustee shall mail a notice, setting forth in general terms the substance of such amendment or modification, to the Holders of any Series of Bonds so affected thereby, and to the other Renewable Energy Program Interested Parties. However, any failure to give such notice, or any defect therein, shall not in any way impair or affect the validity of any such Supplemental Resolution.

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required or permitted by this Section 11.07 to be made by the Trustee, shall be proof of the matters therein stated. Such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the Authority, the Fiduciaries and the Holders of all Bonds at the expiration of forty (40) days after the filing with the Trustee of proof of the mailings of such last-mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Resolution in a legal action or equitable proceeding for such purpose commenced within such forty (40) day period; provided, however, that the Authority and any Fiduciary during such forty (40) day period and any such further period during which any such action or proceeding may be pending shall be entitled in its absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Resolution as it may deem expedient.

#### SECTION 11.08. Modifications or Amendments by Unanimous Consent.

The terms and provisions of this Bond Resolution and the rights and obligations of the Authority and of the Holders of Bonds hereunder may be modified or amended in any respect upon the adoption and filing by the Authority of a Supplemental Resolution and the consent of the Holders of all Bonds then Outstanding, such consent to be given as provided in Section 11.07 hereof, except that no notice to Holders of Bonds either by mail or publication shall be required; provided, however, that no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary without the filing with the Trustee of the written assent thereto of such Fiduciary in addition to the consent of the Holders of Bonds.

#### SECTION 11.09. Exclusion of Bonds.

Bonds owned or held by or for the account of the Authority shall not be deemed Outstanding for the purpose of consent or other action or for any calculation of Outstanding Bonds provided for in this Article XI, and the Authority shall not be entitled with respect to such Bonds to give any consent or to take any other action provided for in this Article XI. At the time of any consent or other action taken under this Article XI, the Authority shall furnish the Trustee a Certificate of an Authorized Officer of the Authority, upon which the Trustee may conclusively rely, describing all Bonds to be so excluded.

#### SECTION 11.10. Notation on Bonds.

Bonds authenticated and delivered after the effective date of any Supplemental Resolution adopted pursuant to this Article XI may, and, if the Authority so determines, shall, bear a notation by endorsement or otherwise in form approved by the Authority as to any modification or amendment provided for in such Supplemental Resolution, and, in that case, upon demand of the Holder of any Bond then Outstanding and upon presentation of any Bond for such purpose at the Principal Office of the Trustee, a suitable notation shall be made on such Bond. If the Authority shall so determine, new Bonds so modified as to conform, in the opinion of the Authority, to any modification or amendment contained in such Supplemental Resolution shall be prepared, authenticated and delivered and, upon demand of the Holder of any Bond then

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## ARTICLE XII

### DEFEASANCE

#### SECTION 12.01. Defeasance of Bonds.

1. If the Authority shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Bonds of any Series the principal or Redemption Price, if applicable, thereof and the interest due or to become due thereon at the times and in the manner stipulated therein and in this Bond Resolution, then the pledge of the Trust Estate and all duties, covenants, agreements and other obligations of the Authority to the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall cause an accounting for such period or periods as shall be requested by the Authority to be prepared and filed with the Authority, and, upon the request of the Authority, shall execute and deliver to the Authority all such instruments as may be desirable to evidence such discharge and satisfaction, and the Trustee shall pay over or deliver to the Authority, or, to the extent provided for in Section 5.07 the County Security Fund to the Company, all moneys or securities held by it pursuant to this Bond Resolution that are not required for the payment of the principal or Redemption Price, if applicable, of and the interest due or to become due on the Bonds of any Series not theretofore surrendered for such payment or redemption. If the Authority shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of any Outstanding Bonds of any Series the principal or Redemption Price, if applicable, thereof and the interest due or to become due thereon at the times and in the manner stipulated therein and in this Bond Resolution, such Bonds shall cease to be entitled to any lien, benefit or security under this Bond Resolution, and all duties, covenants, agreements and other obligations of the Authority to the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. Notwithstanding any other provision in this Article XII, all duties, covenants, agreements and other obligations of the Authority to the Holders of Bonds relating to the exclusion of interest from gross income of the Holders thereof for federal income tax purposes shall survive the defeasance of the Bonds.

2. Bonds or interest installments for the payment or redemption of which moneys shall have been set aside and held in trust by the Paying Agent (through deposit by the Authority of funds for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in subsection (1) of this Section 12.01. Subject to the provisions of subsections (3), (4) and (5) of this Section 12.01, Outstanding Bonds of any Series or Outstanding Bonds of any maturity within any Series shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect expressed in subsection (1) of this Section 12.01 if (a) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Authority shall have given to the Trustee instructions in writing accepted by the Trustee to mail notice of redemption of such Bonds (other than Bonds of a Series that have been purchased by the Trustee at the written direction of the Authority or purchased or otherwise acquired by the Authority and delivered to the Trustee as hereinafter provided prior to the mailing of such notice

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of redemption) on said date, (b) there shall have been deposited with the Trustee either moneys in an amount that shall be sufficient or Investment Securities (including any Investment Securities issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) the principal of and the interest on which, when due, will provide moneys that, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest due and to become due on such Series of Bonds on or prior to the redemption date or maturity date thereof, as the case may be, and (c) in the event such Series of Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Authority shall have given the Trustee, in form satisfactory to it, instructions to mail, as soon as practicable, a notice to the Holders of such Bonds at their last addresses appearing upon the registry books at the close of business on the last Business Day of the month preceding the month for which notice is mailed that the deposit required by clause (b) above has been made with the Trustee and that such Series of Bonds are deemed to have been paid in accordance with this Section 12.01 and stating such maturity or redemption date upon which moneys are expected, subject to the provisions of subsection (5) of this Section 12.01, to be available for the payment of the principal or Redemption Price, if applicable, of and the interest due and to become due on such Series of Bonds (other than Bonds that have been purchased by the Trustee at the written direction of the Authority or purchased or otherwise acquired by the Authority and delivered to the Trustee as hereinafter provided prior to the mailing of the notice of redemption referred to in clause (a) hereof). Any notice of redemption mailed pursuant to the preceding sentence with respect to any Series of Bonds, which notice relates to a redemption contemplating less than all of the Outstanding Bonds of any maturity within a Series being redeemed, shall specify the letter and number or other distinguishing mark of each such Bond to be so redeemed. The Trustee shall, as and to the extent necessary, apply moneys held by it pursuant to this Section 12.01 to the retirement of said Bonds in amounts equal to the unsatisfied balances of any Sinking Fund Installments with respect to such Bonds, all in the manner provided in this Bond Resolution.

The Trustee shall, if so directed in writing by the Authority (i) prior to the maturity date of Bonds deemed to have been paid in accordance with this Section 12.01 that are not to be redeemed prior to their maturity or (ii) prior to the mailing of the notice of redemption referred to in clause (a) above with respect to any Bonds deemed to have been paid in accordance with this Section 12.01 that are to be redeemed on any date prior to their maturity, apply moneys deposited with the Trustee with respect to such Bonds and redeem or sell Investment Securities so deposited with the Trustee and apply the proceeds thereof to the purchase of such Bonds, and the Trustee shall immediately thereafter cancel all such Bonds so purchased; provided, however, that the moneys and Investment Securities remaining on deposit with the Trustee after the purchase and cancellation of such Bonds shall be sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest due or to become due on all Bonds with respect to which such moneys and Investment Securities are being held by the Trustee on or prior to the redemption date or maturity date thereof, as the case may be. If, at any time (i) prior to the maturity date of Bonds deemed to have been paid in accordance with this Section 12.01 that are not to be redeemed prior to their maturity or (ii) prior to the mailing of the notice of redemption referred to in clause (a) above with respect to any Bonds deemed to have been paid

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thereof on a specified date or dates. In the event of an advance refunding, the Authority shall cause to be delivered a verification report of an Independent Public Accountant.

3. Investment Securities described in clause (z) of subsection (2) of this Section 12.01 may be included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01 if and only if, in making the determination as to whether the moneys and Investment Securities to be deposited with the Trustee would be sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest due and to become due on the Bonds that will be deemed to have been paid as provided in subsection (2) of this Section 12.01, such determination is made both (i) on the assumption that the Investment Securities described in said clause (z) were not redeemed at the option of the issuer thereof prior to their maturity date and (ii) on the assumption that such Investment Securities were redeemed by the issuer thereof at its option on each date on which such option could be exercised, that as of such date or dates interest ceased to accrue on such Investment Securities, and that the proceeds of such redemptions were not reinvested by the Trustee.

4. In the event that, after compliance with the provisions of subsection (3) of this Section 12.01, the Investment Securities described in clause (z) of subsection (2) of this Section 12.01 are included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01 and any such Investment Securities are actually redeemed by the issuer thereof prior to their maturity date, then the Trustee, at the written direction of the Authority, shall reinvest the proceeds of such redemption in Investment Securities; provided, however, that the aggregate of the moneys and Investment Securities to be held by the Trustee, taking into account any changes in redemption dates or instructions to give notice of redemption given to the Trustee by the Authority in accordance with subsection (5) of this Section 12.01, shall at all times be sufficient to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01.

5. In the event that, after compliance with the provisions of subsection (3) of this Section 12.01, the Investment Securities described in clause (z) of subsection (2) of this Section 12.01 are included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01, then any notice of redemption to be mailed by the Trustee and any set of instructions relating to a notice of redemption given to the Trustee may provide, at the option of the Authority, that (i) any redemption date or dates with respect to all or any portion of the Bonds to be redeemed on such date or dates may, at the option of the Authority, be changed to any other permissible redemption date or dates, and (ii) redemption dates may be established for any Bonds deemed to have been paid in accordance with this Section 12.01 upon their maturity date or dates at any time prior to the actual mailing of any applicable notice of redemption in the event that all or any portion of any Investment Securities described in clause (z) of subsection (2) of this Section 12.01 have been called for redemption pursuant to an irrevocable notice of redemption or have been redeemed by the issuer thereof prior to their maturity date. No such change of redemption dates or establishment of redemption dates may be made unless, taking into account such changed redemption dates or

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in accordance with this Section 12.01 that are to be redeemed on any date prior to their maturity, the Authority shall purchase or otherwise acquire any such Bonds and deliver such Bonds to the Trustee prior to their maturity date or redemption date, as the case may be. The Trustee shall immediately cancel all such Bonds so delivered; such delivery of Bonds to the Trustee shall be accompanied by directions from the Authority to the Trustee as to the manner in which such Bonds are to be applied against the obligation of the Trustee to pay or redeem Bonds deemed paid in accordance with this Section 12.01. The directions given by the Authority to the Trustee referred to in the preceding sentence shall also specify (i) the portion, if any, of such Bonds so purchased or delivered and canceled to be applied against the obligation of the Trustee to pay Bonds deemed paid in accordance with this Section 12.01 upon their maturity date or dates and (ii) the portion, if any, of such Bonds so purchased or delivered and canceled to be applied against the obligation of the Trustee to redeem Bonds deemed paid in accordance with this Section 12.01 on any date or dates prior to their maturity. In the event that on any date, as a result of any purchases, acquisitions and cancellations of Bonds as provided in this Section 12.01, the total amount of moneys and Investment Securities remaining on deposit with the Trustee under this Section 12.01 is in excess of the total amount that would have been required to be deposited with the Trustee on such date with respect to the remaining Bonds of such Series in order to satisfy clause (b) of this subsection (2) of Section 12.01, the Trustee shall, if requested by the Authority, pay the amount of such excess to the Authority free and clear of any trust, lien, security interest, pledge or assignment securing said Bonds or otherwise existing under this Bond Resolution. Except as otherwise provided in this subsection (2) and in subsections (3), (4) and (5) of this Section 12.01, neither moneys nor Investment Securities deposited with the Trustee pursuant to this Section 12.01 nor principal or interest payments on any such Investment Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal or Redemption Price, if applicable, of and the interest on said Bonds; provided, however, that any cash received from such principal or interest payments on such Investment Securities deposited with the Trustee, (A) to the extent such cash will not be required at any time for such purpose, shall be paid over to the Authority, as received by the Trustee, free and clear of any trust, lien or pledge securing said Bonds or otherwise existing under this Bond Resolution, and (B) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in Investment Securities maturing at times and in amounts sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest to become due on said Bonds on or prior to the redemption date or maturity date thereof, as the case may be, and any interest earned from such reinvestments shall be paid over to the Authority, as received by the Trustee, free and clear of any trust, lien, security interest, pledge or assignment securing said Bonds or otherwise existing under this Bond Resolution.

For the purposes of this Section 12.01, Investment Securities shall mean and include only (y) such securities as are described in clause (f) of the definition of "Investment Securities" in Section 1.01 hereof and that are not subject to redemption prior to their maturity other than at the option of the issuer thereof, or (z) upon compliance with the provisions of subsection (3) of this Section 12.01, such securities as are described in clause (j) of the definition of "Investment Securities" and that are subject to redemption prior to their maturity at the option of the issuer

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newly established redemption dates, the moneys and Investment Securities on deposit with the Trustee (including any Investment Securities deposited with the Trustee in connection with any reinvestment of redemption proceeds in accordance with subsection (4) of this Section 12.01) pursuant to clause (b) of subsection (2) of this Section 12.01 would be sufficient to pay, when due, the principal and Redemption Price, if applicable, of and the interest on all Bonds deemed to have been paid in accordance with subsection (2) of this Section 12.01.

6. Anything in this Bond Resolution to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the payment and discharge of any Bonds that remain unclaimed after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the fiduciaries at such date, or after the date of deposit of such moneys if deposited with the fiduciaries after the said date when such Bonds became due and payable, shall, be applied, when and as provided in the Uniform Unclaimed Property Act, N.J.S.A. 46:30B-1 et seq., and the fiduciary shall thereupon be released and discharged with respect thereto and the Bondholders shall have such rights as are provided in said Uniform Unclaimed Property Act.

#### SECTION 12.02. Evidence of Signatures and Ownership of Bonds.

1. Any request, consent, revocation of consent or other instrument that this Bond Resolution or any Supplemental Resolution may require or permit to be signed and executed by the Holders of Bonds of any Series may be in one or more instruments of similar tenor, and shall be signed or executed by such Holders of Bonds in person or by their attorneys duly appointed in writing. Proof of the execution of any such instrument, or of any instrument appointing any such attorney, shall be sufficient for any purpose of this Bond Resolution or any Supplemental Resolution (except as otherwise expressly provided therein) if made in the following manner, or in any other manner satisfactory to the Trustee, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable. The fact and date of the execution of such instruments by any Holder of any Bond or his attorney may be proved by a guarantee of the signature thereon by a bank or trust company or at the discretion of the Trustee, by a certificate of any notary public or other officer authorized to take acknowledgments of deeds that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or by a member of a partnership on behalf of such corporation, association or partnership, such signature guarantee, certificate or affidavit shall also constitute sufficient proof of his authority.

2. The ownership of Bonds and the amount, numbers, other identification and date of holding the same shall be proved by the registry books maintained by the Authority and kept by the Trustee.

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3. Any request or consent by the Holder of any Bond shall be binding on all future Owners of such Bond with respect to anything done or suffered to be done by the Authority or any Trustee in accordance therewith.

**SECTION 12.03. Moneys Held for Particular Bonds.**

The amounts held by any Fiduciary for the payment of the interest, principal or Redemption Price due on any date with respect to particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Holders of the Bonds entitled thereto.

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**ARTICLE XIII  
MISCELLANEOUS**

**SECTION 13.01. Liability of Authority Limited to Trust Estate.**

Notwithstanding anything to the contrary contained in this Bond Resolution or in the Bonds, the Authority shall not be required to advance any moneys derived from any source other than the Trust Estate for any of the purposes in this Bond Resolution, whether for the payment of the principal or Redemption Price, if any, of or the interest on the Bonds or for any other purpose hereof. Nevertheless, the Authority may, but shall not be required to, advance for any of the purposes hereof any funds of the Authority that may be made available to it for such purposes.

**SECTION 13.02. Successor Is Deemed Included in All References to Predecessor.**

Whenever in this Bond Resolution either the Authority or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all of the duties, covenants, obligations and agreements contained in this Bond Resolution by or on behalf of the Authority or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof, whether so expressed or not.

**SECTION 13.03. Limitation of Rights to Parties.**

Nothing expressed or implied in this Bond Resolution or in the Bonds is intended or shall be construed to give to any person, other than the Authority, the Trustee, the Paying Agent and the Holders of Bonds, any legal or equitable right, remedy or claim under or with respect to this Bond Resolution or any duty, covenant, obligation, agreement, condition or provision herein or therein contained; and all of such duties, covenants, obligations, agreements, conditions and provisions are and shall be for the sole and exclusive benefit of the Authority, the Trustee, the Paying Agent and the Holders of Bonds.

**SECTION 13.04. Waiver of Notice.**

Whenever in this Bond Resolution the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice, and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

**SECTION 13.05. Destruction of Bonds.**

Whenever in this Bond Resolution provision is made for the cancellation of any Bonds by the Trustee and the delivery thereof to the Authority, unless otherwise requested in writing by the Authority, in lieu of such cancellation and delivery, the Trustee shall destroy such Bonds (in

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the presence of an officer of the Authority, if the Authority shall so require) and deliver a certificate of such destruction to the Authority.

**SECTION 13.06. Severability of Invalid Provisions.**

If any one or more of the provisions contained in this Bond Resolution shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained herein, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Bond Resolution shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. The Authority hereby declares that it would have entered into this Bond Resolution and each and every section, paragraph, sentence, clause or phrase hereof, and authorized the issuance of the Bonds pursuant hereto, irrespective of the fact that any one or more of the sections, paragraphs, sentences, clauses or phrases of this Bond Resolution may be held illegal, invalid or unenforceable.

**SECTION 13.07. Notices.**

1. Any notices, certificates or other communications required or permitted to be given herein shall be in writing (unless otherwise specifically required or permitted herein) and shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Authority, the County, the County of Morris, the Company, the Series 2011 Local Units, the Trustee, the Paying Agent and the Rating Agency at the addresses set forth below:

(a) Authority: Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: Chairman

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, NJ 07054

(b) County: County of Sussex, New Jersey  
One Spring Street  
Newton, NJ 07860  
Attention: County Administrator

(b) Morris County: County of Morris, New Jersey  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: County Administrator

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(c) Company: Sunlight General Sussex Solar, LLC  
Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email: principals@sunlightgeneral.com

With a copy to: James F. Duffy, Esq.  
Nixon Peabody, LLP  
180 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com

(d) Series 2011 Local Units: See Exhibit A-4 to the Company Lease Agreement

(e) County Security Provider: None

(f) Trustee and U.S. Bank National Association  
Paying Agent: 21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to:

(g) Rating Agency: Moody's Investor Service  
99 Church Street  
New York, New York 10007-2796

The Authority, the County, the Company, the Series 2011 Local Units, the County Security Provider, the Trustee, the Paying Agent and the Rating Agency may designate any further or different address to which subsequent notices and communications shall be sent by giving notice thereof to the other parties hereto.

2. Whenever any provision hereof requires that notice be sent to the Authority or the Series 2011 Local Unit or the Company, a copy of such notice shall also be sent to the County at the address set forth in Section 13.07(1)(b) hereof.

#### SECTION 13.08. Disqualified Bonds.

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In determining whether the Holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Bond Resolution, Bonds that are owned or held by or for the account of the Authority, the Company, or any other primary or secondary obligor on the Company Lease Agreement, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority, the Company or any other primary or secondary obligor on the Company Lease Agreement, shall be disregarded and deemed not to be Outstanding for the purpose of any such determination. Bonds so owned that have been pledged in good faith may be regarded as Outstanding for the purpose of this Section 13.08 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority, the Company or any other primary or secondary obligor on the Company Lease Agreement. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of Counsel shall be full protection to the Trustee.

#### SECTION 13.09. Funds and Accounts.

Any Fund, Account or subaccount required by this Bond Resolution to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee either as a fund, an account or a subaccount, and, for the purposes of such records, any audits thereof and any reports or statements with respect thereto may be treated either as a fund, an account or a subaccount; but all such records with respect to all such Funds, Accounts or subaccounts shall at all times be maintained in accordance with generally accepted accounting principles to the extent practicable.

#### SECTION 13.10. Waiver of Personal Liability.

No member, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the principal or Redemption Price, if any, of or the interest on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof, all such liability, if any, being expressly waived and released by each Holder of Bonds by the acceptance of such Bonds, but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by this Bond Resolution or by law.

#### SECTION 13.11. Authority Protected in Acting in Good Faith.

In the exercise of the powers of the Authority and its members, officers, agents and employees under this Bond Resolution, the Company Lease Agreement or any other document executed in connection with the Bonds, the Authority shall not be accountable to the Company, the Trustee, the Paying Agent, any Bondholder or any other Renewable Energy Program Interested Party for any action taken or omitted in good faith by it or its members, officers, agents and employees and believed by it or them to be authorized or within the discretion or rights or powers conferred thereon.

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#### SECTION 13.12. Business Days.

Except as otherwise specifically provided in this Bond Resolution, if any date specified herein for the payment of any Bond or the performance of any act shall not be a Business Day at the place of payment or performance, such payment or performance shall be made on the next succeeding Business Day with the same effect as if made on such date, and in case any payment of the principal or Redemption Price, if any, of or the interest on any Bond shall be due on a date that is not a Business Day, interest on such principal amount shall cease to accrue on the date on which such payment was due if such payment is made on the immediately succeeding Business Day.

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### ARTICLE XIV

#### BOND FORM AND EFFECTIVE DATE

##### SECTION 14.01. Form of Bonds, Trustee's Certificate of Authentication and County Guaranty Certificate.

Subject to the provisions of this Bond Resolution, the form of the Series 2011 Bonds and any other Series of Bonds designated by Supplemental Resolution, with any appropriate changes as set forth in any such Supplemental Resolution, the Trustee's certificate of authentication and the County Guaranty Certificate, shall be in substantially the following form:

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[FORM OF BOND]

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF MORRIS

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE [BONDS, SERIES 2011A] [NOTE, SERIES 2011B]

No. R[A/B]-\_\_\_ CUSIP: [ ] Interest Rate % Maturity Date June 15, 20\_\_ Dated Date December \_\_, 2011 Authentication Date December \_\_, 2011 Registered Owner: CEDE & CO. Principal Sum: [ ] DOLLARS (\$[ ])

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Act"), acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner stated herein or its registered assigns, on the Maturity Date stated herein, but solely from the funds pledged therefor, upon presentation and surrender of this bond at the principal corporate trust office of U.S. Bank National Association (such bank and any successors thereto being herein called the "Trustee" and "Paying Agent"), the Principal Sum stated herein in any coin or currency of the United States of America that at the time of such payment is legal tender for the payment of public and private debts, and to pay from such pledged funds on [June 15 and December 15 in each year, commencing June 15, 2013] [January 15, 2013], until the Authority's obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date stated herein on such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However, so long as the Series [2011A Bonds] [2011B Note] as hereinafter defined) are held in book-entry form pursuant to the Bond Resolution (as hereinafter defined),

the provisions of the Bond Resolution governing such book-entry form shall govern the repayment of the principal or Redemption Price of and the interest on the Series [2011A Bonds] [2011B Note].

This bond is one of a duly authorized Series of Bonds of the Authority designated "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Bonds, Series 2011A] [Note, Series 2011B]" (herein called the "Series [2011A Bonds] [2011B Note]"), in the aggregate principal amount of \$[ ] (not exceeding \$50,000,000 in the aggregate) issued under and in full compliance with the Constitution and statutes of the State of New Jersey, including the Act, and under and pursuant to a resolution of the Authority authorizing the Series 2011 Bonds (as hereinafter defined) adopted on September 28, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended by a Certificate of an Authorized Officer of the Authority dated December \_\_, 2011, executed in connection with Section 2.02(1)(c) of said resolution (together with any further amendments thereof or supplements thereto, the "Bond Resolution"). [On December \_\_, 2011, the Authority covenanted to issue its "County of Morris Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B" in the aggregate principal amount of \$[ ] (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Series 2011 Bonds") [On December \_\_, 2011, the Authority issued its "County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A" in the aggregate principal amount of \$[ ] (the "Series 2011A Bonds" and together with the Series 2011B Note, the "Series 2011 Bonds").]

All capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Bond Resolution.

As provided in the Bond Resolution, the Series 2011 Bonds, and all other bonds issued on a parity with the Series 2011 Bonds under the Bond Resolution (herein collectively called the "Bonds"), are special and limited obligations of the Authority payable solely from, and secured as to the payment of the principal or Redemption Price thereof and the interest thereon in accordance with their terms and the provisions of the Bond Resolution solely by, the Trust Estate, subject only to the provisions of the Bond Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Bond Resolution.

The Trust Estate under the Bond Resolution includes (i) certain of the Authority's right, title and interest in and to that certain Company Lease Agreement (Morris County Renewable Energy Program, Series 2011) dated as of December 15, 2011 (the "Company Lease Agreement") by and between the Authority and Sunlight General Morris Solar, LLC, a New Jersey limited liability company (the "Company"), including, without limitation, the Basic Lease Payments and certain Additional Lease Payments earmarked for the Purchase Option Price or the Mandatory Purchase Price (collectively the "Lease Payments") by the Company as defined in and contemplated by the Company Lease Agreement, (ii) with respect to the payment of the principal of and the interest on the Series 2011 Bonds only, payments made by the County under

its guaranty ordinance finally adopted on \_\_, 2011, as amended and supplemented, all in accordance with Section 37 of the Act (N.J.S.A. 40:37A-80) and other applicable law, the guaranty certificate executed by an Authorized Officer of the County on the face of each Series 2011 Bond, and that certain County Guaranty Agreement (Morris County Renewable Energy Program, Series 2011) dated as of December 15, 2011 (the "County Guaranty Agreement") between the Authority and the County (collectively, the "County Guaranty"), and (iii) all other Funds and Accounts established under the Bond Resolution (other than the Administrative Fund, and the County Security Fund), including Investment Securities held in any such Fund thereunder, together with all of the proceeds and revenues of the foregoing, and (iv) all other moneys, securities or funds pledged for the payment of the principal or Redemption Price of and the interest on the Series 2011 Bonds in accordance with the terms and provisions of the Bond Resolution.

Copies of the Bond Resolution are on file at the office of the Authority and at the above-mentioned office of the Trustee, and reference is hereby made to the Act and to the Bond Resolution (including any and all supplements thereto and modifications and amendments thereof) for a description of the pledge, assignment and covenants securing the Bonds, the nature, extent and manner of enforcement of such pledge, the rights and remedies of the Bondholders with respect thereto, the terms and conditions upon which the Bonds are issued and may be issued thereunder, the terms and provisions upon which this bond shall cease to be entitled to any lien, benefit or security thereunder and for the other terms and provisions thereof. All duties, covenants, agreements and obligations of the Authority under the Bond Resolution may be discharged and satisfied at or prior to the maturity or redemption of this bond if moneys or certain specified securities shall have been deposited with the Trustee.

As provided in the Bond Resolution, Bonds may be issued from time to time pursuant to Supplemental Resolutions in one or more Series in various principal amounts, may mature at different times, may bear interest at different rates and may otherwise vary as in the Bond Resolution provided. The aggregate principal amount of Bonds that may be issued under the Bond Resolution is not limited, and all Bonds issued and to be issued under the Bond Resolution are and will be equally secured by the pledge and covenants made therein, except as otherwise expressly provided or permitted in the Bond Resolution.

To the extent and in the manner permitted by the terms of the Bond Resolution, the provisions of the Bond Resolution (including any resolution amendatory thereof or supplemental thereto) may be modified or amended by the Authority, (i) without the consent of the Bondholders as provided in the Bond Resolution or (ii) with the written consent of the Holders of at least two-thirds (2/3) in aggregate principal amount of the Bonds Outstanding under the Bond Resolution at the time such consent is given, and, in case less than all of the several Series of Bonds then Outstanding are affected thereby, with such consent of at least two-thirds (2/3) in aggregate principal amount of the Bonds of each Series so affected and Outstanding; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding under the Bond Resolution, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be

deemed to be Outstanding for the purpose of the calculation of Outstanding Bonds. No such modification or amendment shall permit a change in the terms of redemption (including Sinking Fund Installments) or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of the Trustee or of the Paying Agent without its written assent thereto.

This bond is transferable, as provided in the Bond Resolution, only upon the books of the Authority kept for that purpose at the above-mentioned office of the Trustee, as bond registrar, by the Registered Owner hereof in person or such Registered Owner's duly authorized attorney in writing, upon surrender of this bond together with a written instrument of transfer satisfactory to the Trustee, as bond registrar, duly executed by the Registered Owner or such Registered Owner's duly authorized attorney, and thereupon a new fully registered bond or bonds in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Bond Resolution and upon payment of the charges therein prescribed. The Authority, the Trustee and the Paying Agent may deem and treat the Registered Owner as the absolute Owner hereof for the purpose of receiving payment of, or on account of, the principal or Redemption Price hereof and the interest due hereon and for all other purposes.

[The Series 2011A Bonds maturing on or before June 15, 2021 shall not be subject to optional redemption prior to their respective maturity dates. The Series 2011 Bonds maturing on and after June 15, 2021 shall be subject to redemption prior to their respective maturity dates, on or after June 15, 2021 at the option of the Authority, upon notice as described in the Bond Resolution, either in whole at any time, or in part on any Interest Payment Date in such order of maturity as the Authority shall determine and within a single maturity by lot, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.] [The Series 2011B Note shall not be subject to optional redemption prior to its stated maturity.]

[The Series 2011A Bonds shall not be subject to extraordinary optional redemption prior to their stated maturities.] [The Series 2011B Note shall be subject to extraordinary optional redemption in whole prior to its stated maturity at an aggregate Redemption Price equal to one dollar (\$1.00), if and only if (i) the County is the Holder of one hundred percent (100%) of the Outstanding principal amount of the Series 2011B Note, and (ii) the County so directs the Authority to call all of such Series 2011B Note for redemption on a redemption date and at such Redemption Price, all as authorized by, and pursuant to the terms of, Section 5(a) of the County Guaranty Agreement. Such redemption of the Series 2011B Note shall have no effect on the Series 2011A Bonds.]

[The Series 2011A Bonds maturing June 15, \_\_\_\_ are subject to mandatory redemption prior to their stated maturities, through selection by the Trustee and upon the giving of notice as provided by the Bond Resolution, by payment of the following "Sinking Fund Installments" on June 15 of each year set forth in the table below, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

\$ \_\_\_\_\_ % Term Bond Due June 15, \_\_\_\_ Yield \_\_\_\_ %

Year	Sinking Fund Installment
------	-----------------------------

**\* Final Maturity**

The Series 2011A Bonds maturing June 15, \_\_\_\_ are subject to mandatory redemption prior to their stated maturities, through selection by the Trustee and upon the giving of notice as provided by the Bond Resolution, by payment of the following "Sinking Fund Installments" on June 15 of each year set forth in the table below, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

\$ \_\_\_\_\_ % Term Bond Due June 15, \_\_\_\_ Yield \_\_\_\_ %

Year	Sinking Fund Installment
------	-----------------------------

**\* Final Maturity**[The Series 2011B Note shall not be subject to mandatory sinking fund redemption.]

The Bond Resolution contains additional provisions regarding certain other rights to redemption of one or more Series of the Series 2011 Bonds prior to their stated maturities thereof.

The Series 2011 Bonds are payable upon redemption at the above-mentioned office of the Paying Agent. Notice of redemption, setting forth the place of payment, shall be mailed by the Trustee, postage prepaid, not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date, to the Registered Owners of any Series 2011 Bonds or portions thereof to be redeemed at their last addresses, if any, appearing upon the registry books, all in the manner and upon the terms and conditions set forth in the Bond Resolution. If notice of redemption shall have been mailed as aforesaid, the Series 2011 Bonds or portions thereof specified in said notice

shall become due and payable on the redemption date therein fixed, and if, on the redemption date, moneys for the redemption of all of the Series 2011 Bonds or portions thereof to be redeemed, together with interest to the redemption date, shall be available for such payment on said date, then from and after the redemption date interest on such Series 2011 Bonds or portions thereof so called for redemption shall cease to accrue and be payable. Failure of the Registered Owner of any Series 2011 Bonds to be redeemed to receive any such notice shall not affect the validity of the proceedings for the redemption of Series 2011 Bonds.

The principal or Redemption Price of and the interest on the Series 2011 Bonds are payable by the Authority solely from the Trust Estate, and neither the State of New Jersey, the County (except to the extent of payments under the County Guaranty, which shall not secure the payment of any redemption premium), the Series 2011 Local Units, nor any political subdivision thereof, other than the Authority (but solely to the extent of the Trust Estate), is obligated to pay the principal or Redemption Price of or the interest on this bond and the issue of which it is one, and neither the full faith and credit nor the taxing power of the State of New Jersey, the Series 2011 Local Units, the County (except to the extent of the payments under the County Guaranty, which guaranty shall not secure the payment of any redemption premium) or any political subdivision thereof, including the Authority (which has no taxing power), is pledged to the payment of the principal or Redemption Price of or the interest on this bond and the issue of which it is one.

It is hereby certified and recited that all conditions, acts and things required by law and the Bond Resolution to exist, to have happened and to have been performed precedent to and in the issuance of this bond, exist, have happened and have been performed, and that the Series of Bonds of which this is one, together with all other indebtedness of the Authority, complies in all respects with the applicable laws of the State of New Jersey, including, particularly, the Act.

This bond shall not be entitled to any benefit under the Bond Resolution or be valid or become obligatory for any purpose until this bond shall have been authenticated by the execution by the Trustee of the Trustee's Certificate of Authentication hereon.

IN WITNESS WHEREOF, THE MORRIS COUNTY IMPROVEMENT AUTHORITY has caused this bond to be executed in its name and on its behalf by the manual or facsimile signature of its Chairman or Vice Chairman, and its seal to be impressed, imprinted, engraved or otherwise reproduced hereon and attested by the manual or facsimile signature of its Secretary or Assistant Secretary, all as of the Dated Date hereof.

THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY

By: \_\_\_\_\_  
Chairman or Vice Chairman

[SEAL]

Attest:

\_\_\_\_\_  
Secretary or Assistant Secretary

[FORM OF CERTIFICATE OF AUTHENTICATION ON BONDS]

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the Series [2011A Bonds] [2011B Note] delivered pursuant to the within-mentioned Bond Resolution.

U.S. Bank National Association,  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

[FORM OF COUNTY GUARANTY CERTIFICATE]

GUARANTY OF THE COUNTY OF MORRIS, NEW JERSEY

The payment of the principal of and the interest on this Series [2011A Bond] [2011B Note] shall be fully, irrevocably and unconditionally guaranteed by the County of Morris, New Jersey (the "County"), in accordance with the provisions of N.J.S.A. 40:37A-80, the guaranty ordinance of the County finally adopted pursuant thereto, and that certain "County Guaranty Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 15, 2011, between the County and The Morris County Improvement Authority, and accordingly, the County is fully, irrevocably and unconditionally liable for the payment, when due (whether at stated maturity or earlier on any date of redemption or acceleration), of the principal of and the interest on this Series [2011A Bond] [2011B Note], and, if necessary, the County shall levy *ad valorem* taxes upon all the taxable property within the County, without limitation as to rate or amount, in order to make such payments.

IN WITNESS WHEREOF, the County has caused this Guaranty Certificate to be executed by the manual or facsimile signature of its Freeholder-Director.

COUNTY OF MORRIS,  
NEW JERSEY

By: \_\_\_\_\_  
Freeholder - Director

SECTION 14.02. Effective Date.

This Bond Resolution shall take effect immediately. Notwithstanding the prior sentence, in accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Board of Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Board of Freeholders a certification from the Clerk stating that the minutes of this meeting have not been vetoed by the Director of the Board of Freeholders.

The following abbreviations, when used in the inscription on this bond, shall be construed as though they were written out in full according to applicable laws or regulations (additional abbreviations may also be used though not in the following list):

TEN COM - as tenants in common	UNIF GIFT MIN ACT
TEN ENT - as tenants by the	Custodian
entireties	(Cust) (Minor)
JT TEN - as joint tenants with	under Uniform Gifts to
right of survivorship	Minors Act
and not as tenants in	
common	(State)

ASSIGNMENT

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE (FOR COMPUTER RECORD ONLY): \_\_\_\_\_

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto  
(Please Print or Typewrite Name and Address of Transferee)

\_\_\_\_\_ the within bond, and all rights thereunder and hereby irrevocably constitutes and appoints

\_\_\_\_\_ Attorney, to transfer the within bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated:

Signature Guaranty:

Signature: \_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank, trust company, national bank association or other banking institution incorporated under the laws of the United States or a state of the United States.

NOTICE: The signature of this Assignment must correspond with the name that appears upon the first page of the within bond in every particular, without alteration or enlargement or any change whatever.

MOVED/SECONDED:

Resolution moved by Commissioner \_\_\_\_\_

Resolution seconded by Commissioner \_\_\_\_\_

VOTE:

Commissioner	Yes	No	Abstain	Absent
Pinto				
Ramirez				
Roe				
Sandman				
Bonanni				

ATTESTATION:

This Resolution was acted upon at the Regular Meeting of the Authority held on July 20, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

Attested to this 20<sup>th</sup> day of July, 2011

By: \_\_\_\_\_

Secretary of the Authority

FORM and LEGALITY:

This Resolution is approved as to form and legality as of July 20, 2011

By: \_\_\_\_\_  
Stephen B. Pearlman, Esq., Partner  
Inglesino, Pearlman, Wyciskala, & Taylor, LLC  
Counsel to the Authority

EXHIBIT A

FORM OF PROGRAM DOCUMENTS

A-1

EXHIBIT B

County Security Fund Requirement

\$ \_\_\_\_\_ which shall remain on deposit in the County Security Fund until the earlier of (i) the final maturity of all Outstanding Bonds, (ii) until such funds shall be applied to the payment of all Outstanding Bonds in accordance with Section 5.06 or Section 5.07 of the Bond Resolution, or (iii) the date such funds are drawn or otherwise transferred or applied in accordance with the provisions of Section 5.06 or Section 5.07 of the Bond Resolution.

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EXHIBIT C

RESTORATION SECURITY FUND REQUIREMENT

Date Funded	Amount to be funded	Restoration Security Fund Amount on Deposit, after Funding, Less Interest Earned
Eleventh (11 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$75,000
Twelfth (12 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$150,000
Thirteenth (13 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$225,000
Fourteenth (14 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$300,000
Fifteenth (15 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$375,000

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POWER PURCHASE AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

By and Between

MORRIS COUNTY IMPROVEMENT AUTHORITY

and

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

Dated as of December 1, 2011

with respect to Morris County Improvement Authority's  
\$ \_\_\_\_\_ aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$ \_\_\_\_\_ Series 2011A Bonds, and  
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**POWER PURCHASE AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS "POWER PURCHASE AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "Power Purchase Agreement"), dated as of December 1, 2011, is made by and among the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of the County of Morris (the "County of Morris"), State of New Jersey ("State") as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act") and other applicable law, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a limited liability company organized and existing under the laws of the State (including any successors and assigns, the "Company" or "Service Provider").

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warmatics, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of

another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Bredall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants", if any, and together with the Authority Consultants, the "Consultants"); to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the

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Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatiny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds: (i) one series of bonds in the aggregate principal amount of \$\_\_\_\_\_ and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "Series 2011A Bonds") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount of \$\_\_\_\_\_ and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note, and together with the Series 2011A Bonds, "Series 2011 Bonds"), by the same sale method as the Series 2011A Bonds;

WHEREAS, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the

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Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), Series 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement"), and collectively, the "Local Unit License Agreements" with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to its respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, Contracting for Renewable Energy Services, (iii) the State Board of Public Utilities ("BPU"),

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protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "Company RFP") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "Company Proposal") of Sunlight General Sussex Solar, LLC (the "Company"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

(a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (i) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (ii) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (iii) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

(b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "BPU"), whereby, among other things,

(i) The Company shall have established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(ii) The Company shall have established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy

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defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

WHEREAS, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

WHEREAS, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "EPC Contractor"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated (October \_\_, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "EPC Contract"), which by its terms shall supersede that certain "Memorandum of Understanding" dated \_\_, 2011 (the "EPC Contract MOU") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) and (ii) the "In-Kind Equity Contribution" until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$[ ] but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds

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Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on \_\_, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as

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available to fund such costs through the Initial Basic Lease Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company upon the Initial Basic Lease Payment Date (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "Equity Contribution"), (ii) a cash reserve in the amount of \$ [ ] (the "County Reserve") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the Initial Basic Lease Payment Date, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty;

WHEREAS, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

WHEREAS, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c2-12") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing

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Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement" and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements"); the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A-54(l) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated \_\_\_\_\_, 2011 (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i) the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement"); and (ii) the execution and delivery of a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex

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County Continuing Disclosure Agreement  
 County Guaranty  
 County Guaranty Agreement  
 County Reserve  
 County Security  
 County Security Agreement  
 County Security Provider  
 County Service Agreement  
 County Series 2011 Local Units  
 Dissemination Agent  
 Equity Contribution  
 EPC Contract  
 EPC Contractor  
 Initial Tranche  
 In-Kind Equity Contribution  
 Local Units  
 Local Unit Facilities\*  
 Local Unit License  
 Local Unit License Agreement  
 Local Unit License Agreements  
 Municipal Series 2011 Local Units  
 Official Statement  
 Power Purchase Agreement  
 Preliminary Official Statement  
 Preliminary Program Costs  
 Program Documents  
 Projects\*  
 Renewable Energy Program  
 Renewable Energy Projects\*  
 Rule 15c2-12  
 Sale Documents  
 Second Tranche  
 Section 1603 Grant  
 Series 2011 Bonds  
 Series 2011A Bonds  
 Series 2011B Note  
 Series 2011 Local Unit\*  
 Series 2011 Local Units  
 Shared Services Act  
 SRECS  
 State  
 Underwriter

(c) The following defined terms shall, for all purposes of this Power Purchase Agreement, have the meanings as set forth in the Company Lease Agreement:

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(the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions referenced and exchanged herein, the sufficiency and receipt of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

## ARTICLE I

### DEFINITIONS

#### Section 1.1 Definitions.

(a) The terms set forth in this Section shall have the meanings ascribed to them for all purposes of this Power Purchase Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires.

(b) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

Act  
 Authority  
 Board of Education Series 2011 Local Units  
 Board of Freeholders  
 Bond Purchase Agreement  
 Bond Resolution  
 Bonds  
 BPU  
 Capital Improvement Projects\*  
 Cash Equity Contribution  
 Company  
 Company Continuing Disclosure Agreement  
 Company Documents  
 Company Lease Agreement  
 Company Pledge Agreement  
 Company Proposal  
 Company RFP  
 County

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Acceptance Certificates  
 Administrative Fee  
 Applicable  
 CIP Acceptance Certificates  
 Construction Manager  
 County Security  
 County Security Agreement  
 County Security Provider  
 Development Contract  
 Interconnection Agreement  
 Paying Agent  
 Plans and Specifications  
 Principal Office  
 Renewable Energy Program Interested Party  
 REP Acceptance Certificates  
 Restoration Security Fund  
 Restoration Security Fund Requirement  
 Trustee

(d) The following defined terms shall, for all purposes of this Power Purchase Agreement, have the following meanings:

"Applicable Law" means all applicable provisions of any constitution, statute, law, ordinance, code, rule, regulation, decision, order, decree, judgment, release, license, permit, stipulation or other official pronouncement enacted, promulgated or issued by any Governmental Authority.

"Business Day" shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or the Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

"Commencement Date" shall have the meaning set forth in Section 3.5 of this Power Purchase Agreement.

"Completion Conditions" shall have the meaning set forth in Section 3.6(a) of this Power Purchase Agreement.

"Construction and Interconnection Phase" shall have the meaning set forth in Section 3.2 of this Power Purchase Agreement.

"Construction Performance Bond" shall mean that construction performance bond provided by or on behalf of the Company securing, in part, the Company's obligations under this

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Power Purchase Agreement to complete the Projects, in the form set forth in Exhibit G to this Power Purchase Agreement.

"Customer" shall mean individually or collectively, as the case may be, the Series 2011 Local Units that are receiving or have contracted to receive Electricity under the combination of this Power Purchase Agreement and the Local Unit License Agreements, including Section 5.1(c)(f) thereof, which Series 2011 Local Units shall be entitled to the rights and obligated to perform the duties and obligations of Customer hereunder, both as a third-party beneficiary and third-party obligor of this Power Purchase Agreement.

"Designated Representative" shall have the meaning set forth in Section 3.3 of this Power Purchase Agreement.

"Effective Date" shall have the meaning set forth in Section 3.1(a) of this Power Purchase Agreement.

"Electricity" shall mean that alternating current electricity which is produced by the Renewable Energy Projects at the respective Local Unit Facilities as the result of the conversion of solar energy into electricity pursuant to the terms of this Power Purchase Agreement and pursuant to the Plans and Specifications;

"Event of Default" shall have the various meanings, as applicable, set forth in Article IX of this Power Purchase Agreement.

"Fair Market Value" shall mean the price at which an asset would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell, and both having reasonable knowledge of relevant facts, and which price shall be established by one or more third party appraisals from firms experienced in the valuation of assets similar to those comprising the Renewable Energy Projects, as contemplated by Section 3.7(b) of this Power Purchase Agreement.

"Force Majeure" shall mean any event which is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party or its affiliates, including, but not limited to and without limitation, (a) strikes or other labor disputes (other than strikes or labor disputes solely by employees or contractors of the Parties to this Power Purchase Agreement as a result of such Party's failure to comply with a collective bargaining agreement), (b) adverse weather conditions, breakdown or failure of the utility transmission or distribution system not caused by the Service Provider and (c) other acts of nature, riot or civil unrest. The term Force Majeure does not include (i) any acts or omissions of any third party, including, without limitation, any vendor, customer, or supplier of the Service Provider, unless such acts or omissions are themselves excused by reason of Force Majeure; (ii) any full or partial curtailment in the electric output of the Renewable Energy Projects that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear, unless such mishap is caused by Force Majeure; (iii) changes in market conditions that affect the cost of the Service Provider's supplies, or that affect demand or price for any of the Service Provider's products,

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## ARTICLE II

### CONDITIONS

#### Section 2.1 Conditions Precedent for Service Provider.

The obligations of Service Provider under this Power Purchase Agreement are expressly conditioned on and subject to the satisfaction, or waiver by Service Provider, of the following conditions precedent:

(a) The execution and delivery by the Customer of any license, easement, or other real property interests in or contract rights to use the Customer's real property that Customer is obligated to deliver hereunder prior to the scheduled commencement of construction of the Projects. The Parties acknowledge that such condition precedent shall be satisfied by the authorization, execution and delivery of the Local Unit License Agreements by each Customer and the Authority contemporaneously herewith, which Local Unit License Agreements, among other things, by their respective terms (including Section 3.1(a) thereof) provide authority for the Company (and their subcontractors, consultants, agents or other designees) to access the Local Unit Facilities of Customer for the purpose of (i) designing, permitting, acquiring, constructing, installing, operating and maintaining the Renewable Energy Projects and (ii) designing, permitting, acquiring, constructing, renovating and installing the Capital Improvement Projects, if any.

#### Section 2.2 Conditions Precedent for Authority.

The obligations of the Authority hereunder, assumed by the respective Customers under the Local Unit License Agreements (including Section 5.11 thereof) to accept deliveries of Electricity derived from the Renewable Energy Projects and make service payments hereunder to the Service Provider, are expressly conditioned on and subject to the satisfaction or waiver of the following conditions precedent:

(a) The receipt by or on behalf of the Authority of the County Security, County Security Agreement, if any, the Company Lease Agreement and the other Program Documents.

#### Section 2.3 Conditions Precedent for all Parties.

The respective obligations of Service Provider, the Authority and the Customer with respect to the Projects related to any Customer are each expressly conditioned on and subject to the receipt, prior to the commencement of construction of such Projects, of (a) any policies of insurance that the Service Provider is required to maintain hereunder and under the Company Lease Agreement and (b) the receipt by Service Provider of all required State and local regulatory permits, consents and approvals, including without limitation the New Jersey Department of Education to (i) design, permit, acquire, construct and install the Renewable Energy Projects in accordance with the Plans and Specifications and the technical specifications of Appendix C to the Company RFP attached as a portion of Exhibit A-1 to the Company Lease Agreement, such that the REP Acceptance Certificates required under the Company Lease Agreement can be obtained prior to the Required Completion Date, and (ii) design, permit, acquire, construct, renovate and install the Capital Improvement

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including, but not limited to the price of electricity, SRECs or other environmental attributes; or (iv) any action that constitutes negligence or gross negligence by the Party claiming a Force Majeure event.

"Governmental Authority" means any federal, state or local legislative, executive, judicial, quasi-judicial or other public authority, agency, department, bureau, division, unit, court, tribunal, or other public body, person or entity having jurisdiction over a Party, the Renewable Energy Projects or this Company Lease Agreement.

"Initial Basic Lease Payment Date" shall mean the first Basic Lease Payment Date.

"Initial Term" shall have the meaning set forth in Section 3.1(a) of this Power Purchase Agreement.

"Meter" shall mean that metering system or systems owned or controlled by Service Provider that accurately measures the amount of solar energy that is converted into Electricity by the Renewable Energy Projects and delivered to each Customer pursuant to this Power Purchase Agreement.

"Parties" or "Party" shall mean, individually or collectively, as the case may be, the Authority, the Service Provider, and the Series 2011 Local Units, as third-party beneficiaries and obligors under this Power Purchase Agreement.

"Point of Delivery" shall mean that physical point, which is identified in the Plans and Specifications, at which Service Provider shall deliver Electricity to each Customer's Applicable Local Unit Facility pursuant to this Power Purchase Agreement, it being understood that Service Provider shall be responsible for all operating, maintenance and repair costs associated with the delivery of Electricity from the Renewable Energy Projects to and including the Point of Delivery, and that Customer shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery to Customer's operating site at or in its Local Unit Facility.

"PPA Price" shall have the meaning set forth in Section 6.2 of this Power Purchase Agreement.

"Required Completion Date" shall have the meaning set forth in Section 3.6(a) of this Power Purchase Agreement, as such date may be extended in accordance with the terms of this Power Purchase Agreement.

"SREC" shall mean a New Jersey Solar Renewable Energy Certificate available as a result of the operation of the Renewable Energy Projects.

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Projects, if any, in accordance with the Plans and Specifications and the attached technical specifications of the Company RFP such that the CIP Acceptance Certificates required under the Company Lease Agreement can be obtained prior to the Required Completion Date.

#### Section 2.4 Non-Satisfaction of Conditions.

(a) Notwithstanding the Service Provider's commercially reasonable efforts to satisfy the conditions precedent in Section 2.3, in the event that the conditions precedent in Section 2.3 are not satisfied by \_\_\_\_\_, 2012 (or earlier or later with the written consent of the Parties, which waiver in time shall be granted if Service Provider can demonstrate continued progress in satisfying any such conditions), the Parties agree to act in good faith to secure a replacement Project in accordance with the relevant provisions of Section 4.6 hereof.

(b) In the event that the conditions precedent set forth in this Article II are not satisfied, after the provisions of Section 4.6 hereof have been pursued and both Parties agree in writing that such provisions do not provide a solution to the issues preventing the satisfaction of such conditions, unless Service Provider, or the Authority, on behalf of the Customers, shall elect to waive such conditions precedent, then Service Provider or the Authority may terminate this Power Purchase Agreement with respect to such Projects without further liability effective upon five (5) days advance written notice to the other Party, in which event neither Party shall have any further rights or obligations hereunder.

#### Section 2.5 Inapplicable Terms.

Notwithstanding anything to the contrary contained in this Power Purchase Agreement, the Parties hereto acknowledge and agree that (a) the Service Provider is not responsible for the construction of any Capital Improvement Projects under the Program Documents and any references herein to Capital Improvement Projects, CIP Acceptance Certificates or any other term defined by reference to Capital Improvement Projects (without limiting the application of any such term to the extent not related to Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the County Reserve no later than the Initial Basic Lease Payment Date, shall be the Company for purposes of the Program Documents.

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ARTICLE III

COMMENCEMENT DATES, REQUIRED COMPLETION DATE, AND INITIAL TERM

Section 3.1 Commencement and Length of Initial Term.

(a) This Power Purchase Agreement shall become effective and legally binding upon the Parties (including their permitted successors and assigns) and be enforceable in accordance with its terms, upon the execution and delivery hereof by the Authority, the Company and each Customer (the "Effective Date"), and shall remain in full force and effect, (i) with respect to the Authority and the Service Provider, until the end of the fifteenth (15<sup>th</sup>) annual anniversary of the final Commencement Date of all Customers, as set forth in subsection (b) below, and (ii) with respect to each respective Customer, until the end of the applicable period for such Customer set forth in subsection (b) below (as applicable, the "Initial Term").

(b) Unless otherwise terminated as provided herein, this Power Purchase Agreement shall remain in full force and effect, for each Customer, for a period of time (i) beginning on the respective Commencement Dates for each such Customer as established in accordance with Section 3.5 below and (ii) ending on the fifteenth (15<sup>th</sup>) annual anniversary of each such Commencement Date.

Section 3.2 The Construction and Interconnection Phase.

The period commencing on the Effective Date and continuing until the earlier occurrence of either (a) the respective Commencement Dates for each Customer or (b) a termination of this Power Purchase Agreement as to the Project(s) relative to each such Customer in accordance with Section 2.4 herein shall be hereinafter referred to as the "Construction and Interconnection Phase" for each such Customer. During this phase, the Service Provider shall use commercially reasonable efforts to complete (but in any event shall complete by December 15, 2012, unless extended, per Project, by Force Majeure or Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement), for each such Customer, the construction, start-up and testing of their respective Renewable Energy Projects and the interconnection of their Renewable Energy Projects to their applicable Local Unit Facility, all to permit the transfer of Electricity on or before the applicable Required Completion Date. Note that pursuant to the Company Lease Agreement, the applicable Interconnection Agreement must be in place prior to the issuance of the Acceptance Certificates, which are a prerequisite to the Commencement Dates for each Customer. The Service Provider further agrees to commence construction of the first Renewable Energy Projects by June 15, 2012 and all of the Renewable Energy Projects for each Customer no later than December 15, 2012, unless extended, per Project, by Force Majeure or Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement or cure period which absent a cure would lead to a Series 2011 Local Unit Event of Default. Service Provider agrees to the maximum extent practicable that it shall not interfere with the Customer's use of the Local Unit Facility during the Construction and Interconnection Phase.

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Section 3.5. Commencement Dates and PPA Price.

(a) Each Customer shall have its own Commencement Date (which may or may not be the same date as that for one or more other Customers) determined as set forth in subsection (b) below. As there are \_\_\_\_\_ ( ) Municipal Series 2011 Local Units, \_\_\_\_\_ ( ) Board of Education Series 2011 Local Units, and \_\_\_\_\_ ( ) County Series 2011 Local Units, except as set forth in subsection (c) below, there shall be \_\_\_\_\_ ( ) Commencement Dates for purposes of this Power Purchase Agreement and the Local Unit License Agreements.

(b) Except as the Authority, in its sole discretion, may determine in accordance with subsection (c) below, the "Commencement Date" for each Customer shall be the date on which the Company shall have filed with the Trustee both the REP Acceptance Certificate and the CIP Acceptance Certificate, if any, with respect to all of the Local Unit Facilities for such Customer (see Exhibit A hereto for a list of Customers and their Local Unit Facilities), certifying that all of the Renewable Energy Projects and Capital Improvement Projects, if any, for such Customer have been completed and accepted.

(c) Notwithstanding subsection (b) above, the Authority may, in its sole discretion, determine to establish an earlier Commencement Date for one or more Customers, by written notification of same to the Company, the Trustee, and the affected Customer, but only with respect to the completed Renewable Energy Projects and Capital Improvement Projects for the Local Unit Facilities of such Customer (otherwise eligible for the issuance of Acceptance Certificates, were it not for the following), and only in the event the Authority determines that the Acceptance Certificates (which require completion of all such Projects for a Customer under subsection (b) above) are being unduly delayed for some reason not within the control of the Company.

(i) Nothing in this subsection (c) shall waive the requirement to ultimately receive such Acceptance Certificates for other purposes of the Renewable Energy Program.

(ii) Should the Authority act to establish an earlier Commencement Date for one or more Renewable Energy Projects for a Customer (as opposed to when all Renewable Energy Projects for such Customer shall have received Acceptance Certificates under subsection (b) above) in accordance with this subsection (c), there shall be more than one Commencement Date for such Customer, and the terms and provisions in this Power Purchase Agreement relating to Commencement Dates shall be applied separately, as applicable, for such one or more Renewable Energy Projects of such Customer.

(d) Upon the earlier to occur of (i) the completion of the construction and start-up of each Renewable Energy Project for any Customer and the interconnection thereof to the applicable Local Unit Facility for such Customer, or (ii) the applicable Commencement Date for such Customer, then:

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Section 3.3 Designated Representatives.

(a) To insure a smooth and orderly coordination of activities during the Construction and Interconnection Phase, the Authority, the Service Provider and each Customer shall appoint a designated representative of such Party (each a "Designated Representative") who or which shall be authorized and directed by its principal to meet with the Designated Representative of the other Parties and shall have full power and authority, to the greatest extent practicable in light of Applicable Law governing the actions of the Authority and Customer, to bind its principal with respect to all construction matters relating to the Projects, and all operational matters relating to the Renewable Energy Projects.

(b) As soon as practicable following the Effective Date, the Designated Representatives shall hold, at a mutually acceptable time and location, an initial Project meeting, at which time the Designated Representatives shall prepare jointly, based on the best information available to Customer and Service Provider (and if applicable, the Authority) at such time, a preliminary schedule for completing the construction of the Projects, and the interconnection, testing and start-up of the Renewable Energy Projects. After the initial Project meeting, the Designated Representatives shall meet periodically, but no less frequently than once every two (2) weeks, at such times and locations as they may mutually agree or as may be requested by one of the Parties for the purposes of coordinating all relevant construction matters with respect to the Projects, and all relevant operational matters with respect to the Renewable Energy Projects, and achieving a timely completion of all Project work and all testing of the Renewable Energy Projects.

(c) The Authority hereby appoints the Construction Manager designated by it under the Company Lease Agreement as its Designated Representative. The Service Provider shall submit its proposed Designated Representative to each Customer. Each Customer shall have five (5) Business Days to either approve or reject Service Provider's proposed Designated Representative; provided however, that its approval shall not be unreasonably withheld, and any failure to respond within the five (5) Business Days specified shall be deemed to be a conclusive approval of Service Provider's proposed Designated Representative.

Section 3.4 Cooperation.

The Authority and each Customer agree to reasonably cooperate and assist Service Provider to the fullest extent practicable, at Service Provider's cost, to perform any and all actions within their respective control that Service Provider may reasonably request in connection with (a) the design, permitting, acquisition, construction, installation, interconnection, start-up, and testing of the Renewable Energy Projects, and (b) the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, if any, including, without limitation, the granting of any required rights of access to Service Provider and its contractors in accordance with the terms of the Local Unit License Agreements, the timely execution and return of any required consent of the Authority and/or such Customers, the execution and delivery of any Interconnection Agreement, and the participation as and when required of the Authority's and/or Customers' employees and representatives, including the Construction Manager, in the performance of any test in respect of the Renewable Energy Projects.

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- (A) The full Electricity production capability of such completed Renewable Energy Project for such Customer shall be exclusively dedicated to such Customer for the applicable Initial Term and any extensions thereto;
- (B) Service Provider shall operate and maintain the Renewable Energy Projects for such Customer through the Initial Term and any extensions thereof;
- (C) Service Provider shall commence the delivery of all Electricity produced from such Renewable Energy Projects to such Customer; and
- (D) Upon receipt of such Electricity, such Customer shall pay the PPA Price in the amount and manner as set forth in subsection (e) below, in Section 6.4 hereof, and Exhibit B attached hereto.

(e) (i) When Service Provider commences deliveries of Electricity to such Customer in accordance with subsection (d) above, either prior to or on the applicable Commencement Date for such Customer, such Customer shall pay for such deliveries, at the initial PPA Price specified in Exhibit B, Section 1 attached hereto, without escalation. Therefore, the escalation to the first year PPA Price specified in Exhibit B, Section 1 attached hereto shall not be made until the first annual anniversary of the Commencement Date for such Customer. The escalation (as specified in Exhibit B, Section 2 attached hereto) for amounts payable in any following year shall be made on each succeeding anniversary after such Commencement Date, for such succeeding year. Escalation adjustments (as specified in Exhibit B, Section 2 attached hereto) shall be made on each such anniversary date through the end of the Initial Term and any extension thereto for such Customer. As so adjusted for each subsequent year beyond the first annual anniversary of the Commencement Date, each such escalated amount (as specified in Exhibit B attached hereto) shall be the PPA Price payable for such year.

(ii) Notwithstanding anything to the contrary herein or in any other Program Document, the PPA Price set forth in Exhibit B, Section 1 attached hereto, shall be promptly adjusted (without any further authorization or other action required by any Renewable Energy Program Interested Party, but with notice of such change to be promptly provided by the Authority to the Company (and any other County Security Provider, if any), the County, the Series 2011 Local Units, and the Trustee) to reflect any change in the County Security Fund Requirement in accordance with the terms of the definition thereof as set forth in the Bond Resolution.

(f) The obligations of Customers under this Power Purchase Agreement, including those to take and pay for Electricity with respect to their applicable Local Unit Facilities, shall be several, and not joint. The Authority shall have no obligation with respect to such take and pay obligations other than to obligate the Series 2011 Local Units, as Customers, to take and pay for

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such Electricity in accordance with the terms hereof, including this Section 3.5, and other than to enforce such obligations, all as set forth in the Local Unit License Agreements, including Section 5.11 thereof.

**Section 3.6. Required Completion Date; Liquidated Completion Damages.**

(a) Unless excused by reason of Force Majeure, fault of Customer due to its default under the Local Unit License Agreement, or otherwise as may be expressly provided herein, Service Provider hereby covenants to satisfy the following conditions (the "Completion Conditions") no later than December 15, 2012 (the "Required Completion Date"):

(i) Service Provider shall, in such order and timeframe as Service Provider shall determine, as shall be communicated by Service Provider to the Authority and Customer in accordance with Section 3.3 hereof, complete, in accordance with the Plans and Specifications for Projects prepared by or on behalf of Service Provider and approved by the applicable Customer (all in accordance with Section 501 of the Company Lease Agreement), which Customer approval shall be promptly provided to Service Provider and not withheld unreasonably, which Plans and Specifications shall incorporate, as necessary, desirable or convenient, the technical specifications of the Company RFP, and any further applicable requirements of (A) Exhibits C and D to this Power Purchase Agreement, (B) Exhibit A-2 to the Company Lease Agreement and (C) Exhibit C to the Local Unit License Agreements:

(Y) The design, permitting, acquisition, construction, installation, interconnection, start-up, and testing of all of the Renewable Energy Projects for all Customers on their Local Unit Facilities (see Exhibit A attached hereto); and

(Z) The design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, if any, for all applicable Customers on their Local Unit Facilities (see Exhibit A attached hereto);

(ii) Service Provider shall obtain all of the Acceptance Certificates relating to all Customers on all of the Local Unit Facilities; and

(iii) Service Provider shall commence the production, delivery and sale of Electricity to all Customers through the operation and maintenance of the Renewable Energy Projects, to continue through the Initial Term of this Power Purchase Agreement, and any extensions hereof.

(b) Unless excused by reason of Force Majeure, fault of Customer due to its default under the Local Unit License Agreement, or otherwise as may be expressly provided herein, if Service Provider fails to satisfy the conditions set forth in subsection (a) prior to the Required

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Provider nor Customer shall be legally obligated to enter into or perform any extension or replacement of this Power Purchase Agreement until and unless reduced to a writing duly executed and delivered by both parties, and the provisions of Sections 5.1 and 7.1 of the applicable Local Unit License Agreement are either complied with or waived by the Authority and/or the applicable Customer.

(b) If the parties shall fail to enter into an agreement extending the Initial Term, then Customer shall elect, at its sole option, to either require that the Service Provider promptly remove the Renewable Energy Projects and return and restore the Local Unit Facilities to the state and condition existing prior to construction and installation of the Renewable Energy Projects (i.e., after the construction, renovation and installation of the Capital Improvement Projects on the applicable Local Unit Facility, if applicable), reasonable wear and tear excluded, at Service Provider's sole cost, although Service Provider is permitted to use any and all funds on deposit in the Restoration Security Fund for such purpose, or purchase the physical Renewable Energy Projects at Fair Market Value, in any event in compliance with Sections 5.1 and 7.1 of the applicable Local Unit License Agreement. Such Fair Market Value shall be established by an appraisal firm agreed to by the Parties. The cost of the appraisal shall be shared equally by Service Provider and the applicable Customer. In the event the Parties cannot agree to a single appraisal firm, then the Company, the Authority and the Customer shall each contract with a qualified appraisal firm for an appraisal at its own cost, and Fair Market Value shall be the average of the three (3) appraisals.

(i) In the event the end of term option selected by the Local Unit is removal of the Renewable Energy Projects, Service Provider shall remove all of its tangible property comprising such Renewable Energy Projects from the Local Unit Facility by a mutually convenient date but in no case later than one hundred eighty (180) days after the end of the Initial Term. Service Provider shall provide Customer, the applicable roof warrantior for the applicable Local Unit Facility, and the Authority, with a removal plan, at Service Provider's sole cost and expense, with respect to such removal, although Service Provider is permitted to use any and all funds on deposit in the Restoration Security Fund for such purpose. Such removal plan is subject to the review and approval by Customer, such warrantior, and the Authority, which approval (with respect to Customer and the Authority) shall not be unreasonably withheld or delayed.

(ii) In implementing such removal plan, Service Provider (A) shall cause the portion of the Local Unit Facility on which the Renewable Energy Projects were installed to be returned to the state and condition set forth in subsection (b) above, including removal of above grade electrical wires and conduits, inverters, photovoltaic panels, steel superstructure, combiner boxes, and Renewable Energy Projects disconnect switches, and (B) shall not adversely affect the remaining warranties then in existence with respect to such roofs on such Local Unit Facilities. Not included in the removal schedule are below-grade electric/wiring components (unless otherwise specified in the approved removal plan), material that cannot be removed due to safety concerns, and ordinary wear and tear. Service Provider shall leave the portion of the Local Unit Facilities on which the Renewable Energy Projects were installed in neat and clean order, having sealed any penetrations into

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Completion Date, then Service Provider shall pay liquidated damages to each such Customer equal to the difference between the variable line item per kWh costs for delivered electricity payable by each such Customer to the local electric utility distribution provider, minus the initial PPA Price (as specified in Exhibit B, Section 1 attached hereto per kWh), multiplied by the guaranteed kWh production of Electricity referenced in Section 6.1(b) of this Power Purchase Agreement for each day after the Required Completion Date, until the Renewable Energy Projects for such respective Customers are able to produce, and Service Provider shall deliver, Electricity for and to such Customers as contemplated by this Power Purchase Agreement.

(c) At the Authority's option, whereby the Authority may look to be directed by the respective Customers, or determine on its own, as the Authority shall in its sole discretion decide, the Authority may recover any amounts due and owing by the Service Provider in accordance with subsection (b) above either through realization of such liquidated damage amount under the Construction Performance Bond provided by Service Provider, or alternatively, accrue and offset such liquidated damage amount against next due PPA Price payments made by Customers, or some combination thereof, in any event as such determination shall be communicated in writing by the Authority to Service Provider and Customer.

(d) In the event Service Provider has an allowable excuse as outlined in subsection (a) above, which shall be the sole cause for failing to meet the timeframes and conditions set forth in subsection (a) above, and after Service Provider has used all commercially reasonable efforts to meet such timeframes and conditions (e.g., overtime), then Service Provider shall not be liable to Customer for such liquidated damages contemplated by subsection (b) above. In the event of any such performance excusing event, Service Provider shall promptly give written notice to Customer and the Authority (but in no event later than twenty-four (24) hours following such occurrence), specifying the Force Majeure event or Customer's alleged failure to act, cooperate or assist Service Provider or other performance excusing event, as applicable. Should the Service Provider performance excusing event be caused by Customer's action or inaction, Customer shall promptly respond (but in no event later than forty-eight (48) hours) to Service Provider and the Authority regarding such notice by outlining all such remedial actions to be undertaken by or on behalf of Customer, and further, Customer shall promptly implement such action outlined in such response as shall be necessary, desirable or convenient in order to remedy such event, and allow Service Provider to meet such conditions as set forth in subsection (a), as soon as practicable, after the Required Completion Date.

**Section 3.7 Extension of Initial Term and other options; Obligations at Termination.**

(a) At least one-hundred and twenty (120) days prior to the expiration of the Initial Term, to the extent then permitted by Applicable Law, the Authority, on behalf of one or more Customers, may submit a written request to Service Provider expressing a desire by such Customer to pursue a possible extension of this Power Purchase Agreement. Upon receipt of the Authority's request, Service Provider, the Authority and Customer agree to promptly meet with the intent of negotiating an amendment on mutually agreeable terms and conditions, reflecting, among other things, the cost of any necessary equipment replacements or upgrades, the costs of contract maintenance and operating services, and Service Provider's profit and overhead. Neither Service

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such portion of the roofs of such Local Unit Facilities, all subject to the applicable Customer's inspection and approval, not to be unreasonably withheld or delayed.

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## ARTICLE IV

### DEVELOPMENT OF PROJECTS AND RELATED AGREEMENTS AND UNDERTAKINGS

#### Section 4.1 Development of Projects.

(a) Service Provider has covenanted to undertake the obligations set forth in Section 3.6(a) hereof with respect to the development of the Projects prior to the Required Completion Date. Thereupon, Service Provider shall deliver Electricity to each Customer, each Customer shall pay for such Electricity, and Service Provider shall operate and maintain the Renewable Energy Projects, all through the Initial Term and any extensions thereof, and all as set forth in Section 3.5(d) hereof.

(b) Service Provider shall be solely responsible for taking, and shall take or cause to be taken, with the cooperation of the Authority and Customer, including as applicable and as required pursuant to Section 3.4 hereof, all action deemed necessary, desirable or convenient by Service Provider in order to discharge its obligations set forth in subsection (a) above. Toward that end, Service Provider shall coordinate all Project construction activities with the Authority and the applicable Customer, and shall provide the Authority and such Customer with all Plans and Specifications and other information that the Authority or such Customer may reasonably request from time to time. The Authority and such Customer shall be provided with submittals during design and construction of such Projects. Such Customer shall provide comments, if any, within five (5) Business Days of receipt of such submittals. Review and comments by Customer, if any, shall not relieve Service Provider of its obligations under this Power Purchase Agreement. The Authority shall have no obligation, but may on its own volition undertake, to review and comment on such submittals. Service Provider reserves the right to substitute products provided such substitutions are equal or better in quality and performance than the products submitted in the Company Proposal, based on which the Authority selected Service Provider, as the successful respondent to the Company RFP, as such substitution shall be agreed to and approved in writing (consent not to be unreasonably withheld) by such Customer and the Authority. Service Provider shall timely apply for all required permits and approvals from all applicable authorities having jurisdiction relating to the construction of the Projects, and the operation and maintenance of the Renewable Energy Projects, and any other activities contemplated by this Power Purchase Agreement. If despite commercially reasonable efforts, Service Provider is unable to obtain a required permit, such occurrence shall be deemed an event of Force Majeure hereunder.

(c) For its undertaking of the obligations set forth in subsection (b), Service Provider shall be entitled to receive the PPA Price from Customer in accordance with Section 6.2 hereof, as full and complete consideration for such services and the undertaking and discharging such obligations by Service Provider.

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property loss, or circumstances under which Service Provider's failure to remove its system from service would, in Service Provider's reasonable judgment, constitute an illegality or violation of any statute, regulation or order of any Governmental Authority in the exercise of its regulatory jurisdiction, or any similar events or circumstances.

#### Section 4.5 Removal and Re-installation of Panels: Roof Maintenance & Repairs.

(a) If at any time during the term of this Power Purchase Agreement, Customer is required to remove or interrupt, or cause the removal or interruption, as applicable, of the operation of one or more of Service Provider's solar panels that comprise a portion of the Renewable Energy Projects, to repair or replace the roof of such Customer's Local Unit Facility, or perform required maintenance on any other of the Local Unit's equipment located on such roof, or for any other governmental reason for which no other commercially reasonable solution exists other than to interrupt some portion of service provided by the Renewable Energy Projects, Customer shall promptly notify Service Provider and the Authority of the specific panels and/or other portion of the affected Renewable Energy Project that must be removed or shut down, and when removal or shut-down is required, taking into account to the greatest extent practicable any efforts within Customer's control to minimize the loss of Electricity generated by such removed or shut down (in whole or in part) of the Renewable Energy Project. In such instance, Service Provider agrees to remove and re-install or shut down and re-initiate the operation of such minimum number of panels for the minimum amount of time necessary in order to allow Customer access to its Local Unit Facility to undertake the required task causing the need for such removal.

(b) To the extent Customer is required to take the action set forth in subsection (a) above in whole or in part due to some action or inaction of Service Provider or any of its designees, consultants, subcontractors or agents, or another licensee (other than the Authority or the Authority's designees, consultants, subcontractors or agents) under Customer's Local Unit License Agreement, then Service Provider shall (i) bear and pay for the cost of such removal, and (ii) reimburse Customer for the difference between (A) Customer's actual cost for electricity, as evidenced by that amount delivered and billed by the local electric utility distribution provider to Customer in lieu of the Electricity to have been provided by Service Provider during such applicable period for which Customer is not receiving Electricity from Service Provider, in whole or in part, and (B) the PPA Price that would have been applicable to such amount of electricity so delivered to Customer under clause (i) above, had Service Provider delivered such deficient amount of Electricity during such period.

(c) Conversely, to the extent Service Provider is required, with the Authority's consent, to remove and re-install or shut down and re-initiate the operation of a portion, or all of a Renewable Energy Project due to some action or inaction by Customer or any of its designees, consultants, subcontractors, or agents, Service Provider shall be reimbursed by Customer at Service Provider's actual out-of-pocket cost, plus ten percent (10%) overhead. Further, Customer shall reimburse the Service Provider for the cost of lost production during the period of removal or shut-down in excess of ten (10) days in any twelve (12) month period, starting on the Commencement Date (for such Customer or as applicable, such Local Unit Facility) and each anniversary thereafter. The cost of lost production shall include an allowance for both lost Electricity at the applicable PPA Price, and lost SRECs, at the market value of such SREC's as determined in comparable

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#### Section 4.2 Operation and Maintenance of the Renewable Energy Projects.

Throughout the Initial Term and any extensions thereof, Service Provider shall operate and maintain the Renewable Energy Projects in a manner that meets or exceeds good industry practice, and in good working order and repair, and shall coordinate all planned maintenance activities with Customer in order to minimize any adverse impact on Customer and/or its Local Unit Facility. The Renewable Energy Projects shall remain in Service Provider's sole custody and control during the term of this Power Purchase Agreement and Customer shall not attempt to use, repair or otherwise interfere with Service Provider's custody, except in accordance with Service Provider's express consent. Service Provider shall have the right, but not the obligation, to replace or exchange, in its discretion, any component of the Renewable Energy Projects during the Initial Term or any extensions thereof provided that the Renewable Energy Projects continue to operate in accordance with the Plans and Specifications. Service Provider shall be responsible, at its sole cost and expense, for performing all required Renewable Energy Projects operation and maintenance to insure that the Renewable Energy Projects shall operate in an efficient manner in accordance with the Plans and Specifications. It is understood and agreed that Service Provider may delegate its operation and maintenance responsibilities to a technically qualified and financially responsible third party, upon notification to the Authority and the applicable Customer, and upon their review and approval of any such contract, which Authority and Customer approval shall be promptly provided to Service Provider and not withheld unreasonably. Any delegation by Service Provider to such third party shall not relieve Service Provider from its obligations under this Power Purchase Agreement.

#### Section 4.3 Reserved

#### Section 4.4 Outages.

Service Provider, the Authority and Customer understand and agree that from time to time it shall be necessary for Service Provider to remove all or part of the production, distribution, and interconnection portions of the Renewable Energy Projects from service to make any necessary repairs or replacements. Accordingly, Service Provider shall have the right to interrupt, reduce or discontinue the delivery of Electricity for the purposes of inspection, maintenance, repair, replacement, construction, installation, removal or alteration of the equipment used for the production or delivery of the same; provided however, that unless the exigencies of the situation require otherwise, Service Provider shall use commercially reasonable efforts to only interrupt or restrict delivery of Electricity at such times as Service Provider and Customer shall mutually agree. Customer and Service Provider agree to act in good faith to accommodate the reasonable requests of the other in fulfilling their respective obligations under this Power Purchase Agreement. If the circumstances require Service Provider to remove the Renewable Energy Projects from service for more than several hours, Service Provider shall take such actions as are reasonable under the circumstances to minimize the effect on Customer's Local Unit Facility and its operations. Unless the exigencies of the situation require otherwise, Service Provider shall provide Customer with at least ten (10) days prior notice of any proposed service outage, which notice shall explain in detail the reason for the proposed interruption, the proposed maintenance or other corrective action to be undertaken, and the expected length of the interruption. For the purposes of this Section 4.4, exigent circumstances shall include, but shall not be limited to, conditions which, in Service Provider's reasonable judgment, pose an imminent and unreasonable risk of personal injury or

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transactions. Customer may at its option, elect to pay Service Provider any amounts in this subsection (c) in either a lump sum payment, or in uniform monthly payments, including interest on the unpaid balance, at the rate set out in Section 6.4 (relating to payment terms) over not greater than a twelve (12) month period. For purposes of this subsection, an action of inaction of a Customer's designees, consultants, subcontractors or agents shall not include students unless such students are under the direct control of the Customer at the time such action or inaction occurred.

#### Section 4.6 Certain Local Unit Facility Issues.

(a) Prior to commencement of construction of each of the Renewable Energy Projects, preferably prior to the Effective Date, and no later than the completion of the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, if applicable, for each Local Unit Facility, Service Provider shall investigate and secure an opinion from a structural engineer licensed in the State that the Local Unit Facility roof is structurally sound and requires no structural reinforcement to support the Renewable Energy Projects to be provided in accordance with the terms hereof. To the extent required by the applicable local building code for a Local Unit Facility, a wind analysis shall also be conducted by or on behalf of Service Provider to insure the proposed mounting structures for the Renewable Energy Projects shall be sufficient to meet wind conditions at each Local Unit Facility. A copy of such opinion and analysis, if so required, for each Local Unit Facility shall be delivered to the Authority and applicable Customer.

(b) If the Service Provider delivers to the Authority a Certificate of an Authorized Officer of the Service Provider to the effect that such opinion and/or analysis and/or other credible evidence demonstrates any of the following: (i) that structural reinforcement of a Local Unit Facility would be required in order to support the contemplated Renewable Energy Projects, (ii) that any roof of a Local Unit Facility is structurally unsound or that the Local Unit Facility is not otherwise available for the contemplated Project, including issues of title, damage, or condemnation affecting the Local Unit Facility, (iii) that there are other latent subsurface or structural conditions present at any Local Unit Facility that is not a roof, which latent subsurface or structural conditions were not contemplated in its Company Proposal and would have a material adverse financial impact on the Service Provider or (iv) that the existing warranties can only be maintained through an unreasonable scope of work, or at an unreasonable cost, in either case as determined solely by the Authority, and if in any such case (clauses (i) - (iv) inclusive) the Authority, in exercising its reasonable discretion (with input from the Customer), agrees with such determination as evidenced by their acknowledgment of such Service Provider Certificate by an Authorized Officer of the Authority, then neither the Authority nor Customer shall have any responsibility to provide any additional funding for such Renewable Energy Projects, and Service Provider is not entitled to any additional compensation for such Renewable Energy Projects, it being understood by the Parties that any such circumstance has been preliminarily reviewed and subject to a diligence review by Service Provider, as any contemplated cost relating thereto shall have been included in the Company Proposal as part of the submitted cost of the Projects.

(c) To the extent the Authority executes and delivers to the Service Provider the acknowledgment contemplated by subsection (b) above, notwithstanding the other provisions of subsection (b) above the Parties shall work together in good faith to select an alternative location

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hereinafter, such alternative location shall be known as the revised Local Unit Facility for such Series 2011 Local Unit for all purposes hereof and of the other Program Documents) within the jurisdiction of the following, and in the following order: (i) first of the affected Series 2011 Local Unit for which the Renewable Energy Project shall no longer be developed, in which case the revised Local Unit Facility shall act as the location for the replacement renewable energy project (hereinafter a Renewable Energy Project for all purposes hereof and of the other Program Documents), and as necessary, required or desirable, the revised capital improvement project (hereinafter a Capital Improvement Project for all purposes hereof and of the other Program Documents), (ii) second, within the jurisdiction of any other Series 2011 Local Unit, in which case the revised Local Unit Facility and Project shall be located in such agreed upon jurisdiction, and (iii) if a suitable replacement location within such jurisdiction is still not available on a mutually agreeable basis, then from any location within (and including) the County upon which the Parties can agree, in which case the revised Local Unit Facility and Project shall be located in such agreed upon jurisdiction. Any alternative Projects shall, to the maximum extent practicable, be of a similar (or more advantageous to the Parties) size, scope and economic impact as the Projects being replaced.

(d) Should an alternative Local Unit Facility be selected by the Parties in accordance with subsection (c) above, (i) a new Commencement Date and a new Completion Date shall be developed for the replacement Renewable Energy Project, and as applicable, Capital Improvement Project, (ii) such revised Commencement Date and Completion Date for such replacement Renewable Energy Project shall be incorporated into this Power Purchase Agreement via a written amendment executed by the Parties, which amendment shall also incorporate a revised Exhibit A hereto and any other changes the Parties deem necessary, desirable, or convenient to implement the change in Project and Local Unit Facility, and (iii) the other Program Documents shall be amended to reflect any required changes caused by such amendment hereof, including without limitation the revised Project, the replaced Local Unit Facility, and if necessary, a new Series 2011 Local Unit (in which case instead of an amended Local Unit License Agreement with such new Series 2011 Local Unit, there shall be a new Local Unit License Agreement with such new Series 2011 Local Unit), provided that the economic rights and responsibilities of the Parties shall not be amended (including without limitation, the PPA Price), unless agreed to at the complete discretion of the Parties.

(e) If after good faith negotiations the Parties are unable to secure a replacement Local Unit Facility and Project within six (6) months of the date of the Authority's acknowledgment of the Certificate of an Authorized Officer of the Service Provider contemplated in subsection (b) above, then the Service Provider shall have the option, exercisable at any time within nine (9) months of the date of such Authority Certificate, to abandon the Project associated with the Local Unit Facility that was to be replaced. Such option shall be exercised by the Service Provider delivering a Certificate of an Authorized Officer of the Service Provider to the Trustee, the County, the Authority, and the affected Series 2011 Local Unit, (i) setting forth the authorization for, and the reasons why the Project and Local Unit Facility are being abandoned, and (ii) further, that attached thereto is a partial prepayment of Basic Lease Payments (or evidence thereof, in the case of a wire transfer or other similar conveyance) in immediately available funds that shall be applied in the manner set forth in Section 701(a) of the Company Lease Agreement. Upon the abandonment of any Project, the Service Provider, the Authority and the Customer will enter into such amendments of the

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## ARTICLE V

### LOCAL UNIT LICENSE AGREEMENT -- LOCAL UNIT FACILITY ACCESS

#### Section 5.1. Local Unit License Agreement.

(a) For consideration of the transactions contemplated by this Power Purchase Agreement and the Local Unit License Agreement, Service Provider, the Authority and Customer hereby agree that Service Provider and their subcontractors, including the EPC Contractor pursuant to their Development Contract with Service Provider, and other agents and designees shall each be deemed a permitted licensee under Customer's Local Unit License Agreement, and accordingly, Service Provider and their subcontractors and other agents and designees shall have access to the Local Unit Facility of Customer to (i) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, (ii) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, and (iii) perform the other related Project activities set forth in Section 3.1, including subsection (c) thereof, of the Local Unit License Agreement for Customer.

(b) The license provided to Service Provider in accordance with subsection (a) and Customer's Local Unit License Agreement, subject to Section 3.7 of such Customer's Local Unit License Agreement, shall be irrevocable for the Initial Term of this Power Purchase Agreement and any extension, for so long as Service Provider is not in default of its delivery obligations hereunder, thereby causing an Event of Default hereunder, and except as otherwise expressly provided in this Power Purchase Agreement.

(c) Service Provider shall insure that any equipment used or installed by the Service Provider shall not adversely affect the structural integrity or existing roofing warranties of the Local Unit Facility roof and shall be completed in strict accordance with manufacturer's requirements by a certified manufacturer roofing contractor.

(d) In the event a Customer exercises revocation rights pursuant to Section 3.7 of such Customer's Local Unit License Agreement, upon the satisfaction of all requirements under such Section 3.7, this Power Purchase Agreement shall be terminated in respect of, and solely with respect to, such applicable Project.

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Program Documents as shall be necessary to evidence the partial termination of the Program Documents solely with respect to such Project.

#### Section 4.7 Incorporation of Certain Company RFP Terms and Conditions.

To the extent not otherwise inconsistent with the provisions of this Power Purchase Agreement, the terms and conditions of Article VII and Appendix C to the Company RFP, as attached to the Company Lease Agreement as part of Exhibit A-1 thereto, are hereby incorporated by reference into this Power Purchase Agreement.

#### Section 4.8 Service Provider's Ability to Choose Subcontractors.

Service Provider shall enter into the applicable contract(s) for construction, renovation and installation of the Projects, subject to the terms of any Renewable Energy Program agreement executed by any Party. Prior to implementing any such contract(s), Service Provider and Customer shall have agreed upon a list of acceptable subcontractors, with all other subcontractors subject to notification to the Authority and Customer's consent, such consent not to be unreasonably withheld or delayed; provided, however, that Customer's agreement as to the list of acceptable subcontractors shall not make the Authority or Customer in any way responsible for, or a guarantor of, such subcontractors, nor relieve Service Provider of any of its duties and obligations with respect to subcontractors or otherwise hereunder. Service Provider shall insure all subcontractors are qualified, reputable and adhere to all applicable regulations and laws of the State. The Service Provider identified and the Authority and Customer have approved the initial list of subcontractors, as set forth in Exhibit H, by the time of execution and delivery hereof (such list is not intended to be exclusive, should Service Provider subsequently determine to proffer one or more other subcontractors):

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## ARTICLE VI

### ENERGY SERVICES PROVIDED BY SERVICE PROVIDER PRIOR TO OR UPON COMMENCEMENT DATE

#### Section 6.1 Sale and Purchase of Electricity Converted from Solar Energy.

(a) On the date set forth in Section 3.5(d) of this Power Purchase Agreement, which date shall be on or prior to the Commencement Date, Customer shall purchase and take, and Service Provider shall sell and deliver, all Electricity produced from the Renewable Energy Projects.

(b) The Plans and Specifications for the Renewable Energy Projects shall provide for the output guaranteed by Service Provider in Section 6(b) of its Form A-1 of the Company Proposal attached hereto as Exhibit C (which, in accordance with Form A-1 of the Company Proposal, needs to be adjusted to reflect the actual solar insolation measured at the site for the time period under review), unless Customer agrees in writing to a different output to be set forth in such Plans and Specifications. For the avoidance of doubt, the Parties hereto expressly agree that the proposed output for the Renewable Energy Projects for the Series 2011 Local Units set forth in Form A-1 of the Company Proposal and as detailed in Company Proposal Table 6(b) that is made a part of Exhibit C hereto shall be the standard against which the output guaranty contemplated by this Power Purchase Agreement shall be measured, notwithstanding the fact that the anticipated output for such Renewable Energy Projects shall be as detailed in Company Proposal Table 6(a) and also incorporated in Exhibit C hereto. The Parties hereto agree that Exhibit C hereto shall be amended upon the completion and sizing of the Projects.

(c) Service Provider shall guarantee the output of the Renewable Energy Projects cumulatively through the 5<sup>th</sup>, 10<sup>th</sup>, and 15<sup>th</sup> years of the Initial Term to be within ten percent (10%) of the output (calculated using the PV Watts version 1.0 with initial system sizes rated at STC methodology employed by the Company in the Company Proposal, using a de-rate assumption of .80 and a default location of Newark, based on tilt and azimuth assumptions provided in the Company Proposal) as set forth in the final Plans and Specifications for the Renewable Energy Projects; provided, that to the extent that such output shall fall below such limit, the remedy therefor shall be solely as set forth in subsection (d) below.

(d) To the extent that the Renewable Energy Projects' output shall fall below the limits set out in the preceding subsection (c) and such shortfall is not due to an action of the Customer, Service Provider shall reimburse Customer for the difference between Customer's variable line item cost for electricity, per kWh, as evidenced by that amount delivered and billed by the local electric utility distribution provider to Customer in lieu of the Electricity to have been provided by Service Provider, and the PPA Price, per kWh, set forth in this Power Purchase Agreement, such difference in price per kWh to be applied to the amount of such Renewable Energy Projects' output deficiency. Such reimbursement shall occur no later than sixty (60) days after the next occurring anniversary of the Commencement Date that arises after the date in which the shortfall occurred. In the event such reimbursement payment is not made by Service Provider, Customer shall be entitled to deduct such amount in three (3) equal amounts from its PPA Price

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invoice payments in the following three (3) months after such sixty (60) days, or if invoice amounts are not large enough to allow for the entirety of such credit during such time, the balance shall be credited as quickly as possible thereafter.

(e) To the extent that the Renewable Energy Projects' output shall fall below the limits set out in the preceding subsection (c) at the end of one of the 5-year periods of the Initial Term, and Service Provider reimburses Customer as set out in the preceding subsection (d), the amount of the shortfall in kWh upon which the reimbursement payment is based shall be deducted from the cumulative guaranteed output amounts at the end of subsequent 5-year periods.

(f) To the extent that a reduction in the amount of Electricity produced by the Renewable Energy Projects is caused due to action of the Customer, such as that contemplated in Section 4.5(e) or due to the circumstances described in Sections 3.6(d), 4.6(b) or 6.6 hereof, 100% of the amount of Electricity that would otherwise have been produced will be deducted from both (i) the cumulative guaranteed output at the end of the 5-year period in which the reduction due to Customer action occurs, and (ii) the cumulative guaranteed output amounts at the end of all subsequent 5-year periods.

#### Section 6.2 Rates and Charges.

Customer shall pay to Service Provider the monthly fees and charges for Electricity as set forth in Exhibit B and Sections 3.5(e) and 6.4 hereof (the "PPA Price").

#### Section 6.3 Service Provider Reservation of Rights; Benefits Shared.

(a) Service Provider retains all ownership and rights to use, sell, or transfer (i) except as set forth in subsection (c) below, SRECs and (ii) rights with respect to Federal tax benefits (Investment Tax Credit and MACRS Depreciation) associated with the Renewable Energy Projects. Nothing in this Section 6.3 shall relieve Service Provider from its obligation to sell Electricity generated by the Renewable Energy Projects to the Customers.

(b) The Authority shall have the option, in accordance with Section 6.3(e), to direct an Authorized Officer of the Authority directing the Service Provider to sell to the Authority, from the period on and after the date of the election, sixty percent (60%) of any financial / environmental benefits, with the exception of SRECs or as described in Section 6.3(d) hereof (allocated in accordance with subsections (a) and (c)), determined in the future (but unknown at this time) to be attributable to the Renewable Energy Projects for the Series 2011 Local Units. If the Authority exercises this option, to the extent any such Authority Certificate so directs, Service Provider further agrees to act as agent for the Authority, and sell or otherwise monetize such financial / environmental benefits on behalf of the Authority, paying the proceeds realized from any such sale to the Authority as an additional Administrative Fee. The balance of any such financial / environmental benefits are the property of the Service Provider. If the Authority exercises this option, to the extent any such Authority Certificate so directs, Service Provider further agrees to act as agent for the Authority, and sell such SRECs on behalf of the Authority, paying the proceeds realized from any such sale to the Authority as an additional Administrative Fee.

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#### Section 6.5 Taxes; Other Governmental Charges.

To the extent that Service Provider, Customer, and/or the Authority shall become responsible for the payment of any tax as a result of the placement, operation or maintenance of the Renewable Energy Projects on the Local Unit Facility (other than taxes imposed by Customer after the date of this Power Purchase Agreement), Service Provider shall be responsible for the payment of all such taxes and or assessments. Such obligation shall be limited to the Renewable Energy Project improvements constructed by the Service Provider on the Local Unit Facility. The Service Provider shall have the right to challenge the lawfulness of any tax or assessment associated with the construction, operation, or maintenance of the Renewable Energy Projects on the Local Unit Facility that shall be imposed on Service Provider, or that shall be attributable to Customer and/or the Authority for which Service Provider shall be required to pay. The Authority and Customer shall be notified of any such challenge by Service Provider, and further, shall be periodically kept informed of all developments, including copies of any pleadings or other documents comprising the docket of any such challenge.

#### Section 6.6 Alterations to Customer's Facilities.

The Authority and Customer agree not to undertake any structural alterations or repairs to the Local Unit Facilities that may adversely impact the operation and maintenance of the Renewable Energy Projects by Service Provider, without giving prior written notice to Service Provider, and without obtaining the input from Service Provider regarding the best manner in which such alterations or repairs might be conducted without affecting, or minimizing the effect on, as applicable, the operations and maintenance of the Renewable Energy Projects. If the Authority or Customer shall perform any alterations or repairs that permanently reduce the production of the Renewable Energy Projects resulting from such alteration or repairs, then the Parties shall negotiate a per kWh PPA Price adjustment to make the Service Provider whole for any loss in production capability. The per kWh PPA Price adjustment shall be established by negotiation by the Parties or, failing agreement within a reasonable time, by arbitration pursuant to the provisions of Section 14.5.

#### Section 6.7 Point of Delivery.

Service Provider agrees that it shall provide Electricity services to Customer at the Point of Delivery as specified in the Plans and Specifications.

#### Section 6.8 Energy Metering.

The output of the Renewable Energy Projects will be measured by revenue grade production meters in addition to load metering, inverter monitoring, and sub-combiner monitoring meters installed by the Service Provider in accordance with industry standards. Service Provider shall conduct tests of the Meters at such times as it deems appropriate in accordance with industry standards, but not less than once in any two year period. Service Provider shall promptly repair all Meter failures or defects. Should a Meter ever be deemed to reflect inaccuracies in measurement, the Service Provider shall make corresponding adjustments to the records of the amount of Electricity being provided by the Renewable Energy Project delivered based on the period in

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(c) The Authority shall have the option, exercisable by the Authority in its sole discretion at any time from \_\_\_\_\_ 1, 2017 until and including \_\_\_\_\_ 1, 2017, through the execution by the Authority and delivery to the Service Provider of a Certificate of an Authorized Officer of the Authority directing the Service Provider to sell to the Authority sixty percent (60%) of the remaining SRECs to be realized from the expected generation of electricity from all of the Renewable Energy Projects from \_\_\_\_\_ 1, 2017 through and including \_\_\_\_\_ 1, 2027. The purchase price for any such sale of SRECs, to the extent the Authority exercises this option, shall be four hundred dollars (\$400). If the Authority exercises this option, to the extent any such Authority Certificate so directs, Service Provider further agrees to act as agent for the Authority, and sell such SRECs on behalf of the Authority, paying the proceeds realized from any such sale to the Authority as an additional Administrative Fee.

(d) The Authority shall have the option, in accordance with Section 6.3(e) to direct the Service Provider to sell to the Authority, from the period on and after the date of election, sixty percent (60%) of any additional benefits resulting from the Service Provider's participation in the Second Tranche of the Authority's Renewable Energy Program, including without limitation any savings resulting from one or more refundings of the Series 2011 Bonds, with such specific terms of allocation to be set forth in a Certificate of an Authorized Officer of the Authority, as acknowledged in writing by Service Provider. The purchase price for any such sale, to the extent the Authority exercises this option, shall be set forth in any such Certificate. If the Authority exercises this option, to the extent any such Authority Certificate so directs, Service Provider further agrees to act as agent for the Authority, and monetize such benefit on behalf of the Authority, paying the proceeds realized from any such sale to the Authority as an additional Administrative Fee.

(e) The option provided in Sections 6.3(b) and (d) shall be exercisable simultaneously by the Authority in its sole discretion during the period \_\_\_\_\_ 1, 2017 through \_\_\_\_\_ 1, 2017 by a Certificate of an Authorized Officer of the Authority to the Service Provider and accompanied by (x) the payment of \$250,000, and (y) such other amount as the parties may agree constitutes fair market value therefor, and accompanied by a professional opinion that such alternative amount is consistent with the fair market value of the rights described in Sections 6.3(b) and (d).

#### Section 6.4 Payment Terms.

Service Provider shall measure and read all Meters on or about the first Business Day of each calendar month during the term of this Power Purchase Agreement, commencing the first month immediately following the date set forth in Section 3.5(d) of this Power Purchase Agreement, which date shall be on or prior to the Commencement Date. Promptly thereafter, Service Provider shall provide in writing to Customer, with a copy to the Trustee, an invoice setting forth the Electricity charges as set forth in Exhibit B and quantity of Electricity delivered during the previous period. Should an error in invoicing be determined, then Service Provider agrees to promptly provide for an adjustment of the next due invoice to remedy said error. Customer shall have thirty (30) Business Days after the date of the invoice in which to pay the invoice in full. Any sums owing and remaining unpaid after the expiration of said period of time shall bear interest at a rate equal to the lesser of one and one-half percent (1 and 1/2%) per month until paid in full, or highest rate allowed by law.

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between the date of the discovery of the inaccuracy and the last testing date of the Meter. Should the Meter ever become non-operational, but Electricity is still being provided by Service Provider to Customer hereunder, then the Parties hereto shall endeavor in good faith to address the Meter failure based upon, among other things, historical and cyclical consumption. To the extent that the Parties hereto are unable to adjust the inaccuracy, then they shall appoint their respective engineers or an independent meter consultant who, along with a third party independent engineer chosen by the Parties' engineers, shall review, examine, mediate and arbitrate the Meter adjustment. The decision of the engineers shall be final, and shall be reduced to the form of an invoice adjustment to be delivered by Service Provider to Customer. Notwithstanding the existence of any inaccuracy, or the allegation or belief of the existence of an erroneous Meter reading, Customer shall at all times pay all invoices in accordance with those time periods set forth herein, with the understanding that adjustments shall be reflected on subsequent invoices. Customer shall have no right to withhold invoice payment due to the actual or alleged existence of Meter inaccuracy except in the case when the current invoice varies by thirty percent (30%) or greater compared with historic like month data.

#### Section 6.9 Information Technology Support.

Customer shall provide Service Provider with access to the Customer's data management network for the Service Provider to monitor system performance and metering from remote locations, as required by Section 3.1(c)(iv) of the Local Unit License Agreement.

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## ARTICLE VII

### REPRESENTATIONS AND WARRANTIES

#### Section 7.1 Warranties and Representations of the Authority.

The Authority does hereby warrant, represent, covenant and agree with the other Parties as follows:

(a) The Authority is a duly constituted governmental entity that possesses the full power and authority to enter into this Power Purchase Agreement, and perform its obligations hereunder;

(b) The Authority has obtained all authorizations, consents and approvals that are required in order for the Authority to execute and deliver this Power Purchase Agreement, and to perform its obligations hereunder;

(c) The performance by the Authority of its obligations hereunder do not conflict with the Authority's constituent documents, bylaws and/or resolutions, or otherwise conflict with or be in violation of any other indenture, loan agreement, covenant, condition, order, agreement or other obligation to which the Authority is a party or is otherwise bound; and

(d) The Authority shall cause Customer to purchase and acquire the Electricity from Service Provider during the Initial Term and any extensions hereto, and further, cause Customer to not otherwise look to or utilize any other entity as the source of Electricity until after Customer has acquired all of the Electricity that the Renewable Energy Projects is capable of producing. The Authority shall be deemed to have satisfied this subsection through its entering into and enforcement of the Local Unit License Agreement with Customer.

#### Section 7.2 Warranties and Representations of Customer.

Each Customer does hereby warrant, represent, covenant and agree with the other Parties as follows:

(a) Customer is a duly constituted governmental entity that possesses the full power and authority to acknowledge and be bound by the terms of this Power Purchase Agreement, and to perform its financial and other obligations hereunder;

(b) Customer has obtained all authorizations, consents and approvals that are required in order for Customer to acknowledge, be bound by the terms of, and deliver this Power Purchase Agreement, and perform its financial and other obligations hereunder;

(c) The performance by the Customer of its obligations hereunder does not conflict with the Customer constituent documents, bylaws and/or resolutions, or otherwise conflict with or be in violation of any other indenture, loan agreement, covenant, condition, order, agreement or other obligation to which the Customer is a party or is otherwise bound; and

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(d) Customer shall purchase and acquire the Electricity from Service Provider under this Power Purchase Agreement and Local Unit License Agreement during the Initial Term and any extensions hereto, and shall not otherwise look to or utilize any other entity as the source of Electricity until after Customer has acquired all of the Electricity that the Renewable Energy Projects is capable of producing.

#### Section 7.3 Warranties and Representations of Service Provider.

Service Provider does hereby warrant, represent, covenant and agree with the other Parties as follows:

(a) Service Provider is a duly constituted business entity that possesses the full power and authority to enter into this Power Purchase Agreement and perform its financial and other obligations hereunder;

(b) Service Provider has obtained all authorizations, consents and approvals that are required in order for Service Provider to execute and deliver this Power Purchase Agreement and perform its financial and other obligations hereunder, except for permits and approvals to be obtained after the date hereof as contemplated by Section 2.3(b) hereof;

(c) The performance by Service Provider of its financial and other obligations hereunder do not conflict with Service Provider's constituent documents, bylaws and/or resolutions, or otherwise conflict with or be in violation of any other indenture, loan agreement, covenant, condition, order, agreement or other obligation to which Service Provider is a party or is otherwise bound;

(d) Service Provider warrants that no later than \_\_\_\_\_, 2012 it will cause to be removed (or post security pending resolution as provided by law) any mechanics', suppliers' or similar liens or encumbrance which will exist or attach to the Local Unit Facility as a result of any Project, and by \_\_\_\_\_, 2012, all contractors, vendors, suppliers and workers relating to any Project will have been paid in full; provided, however, that notwithstanding the foregoing, the April 15, 2013 date will be extended to the extent applicable by any number of days the Required Completion Date is extended pursuant to Section 3.6(a) hereof;

(e) All Project equipment shall be new, and all work performed by or on behalf of Service Provider pursuant to this Power Purchase Agreement shall be free of any liens other than such liens and security interests permitted under Section 7.3(d) in connection with the authorization, sale, issuance and security of the Series 2011 Bonds; and

(f) The Renewable Energy Projects shall interconnect with Local Unit Facility's existing electrical system, and the Electricity delivered to the Local Unit Facility's existing system shall conform to utility and BPU requirements, and the Projects and the Electricity generated from the Renewable Energy Projects shall conform to the Plans and Specifications.

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## ARTICLE VIII

### INDEMNIFICATION AND INSURANCE

#### Section 8.1 Indemnification.

Customer and Service Provider shall each indemnify, defend and hold harmless the other, the Authority, and their respective officers, agents, servants, and employees from and against any and all claims, demands, actions, suits, recoveries, judgments, and any associated costs and expenses, including any reasonable attorney fees, expert expenses and costs of litigation, relating to the loss of life, property, or injury to the person or property of any person(s) and which results from, in the case of Service Provider, Service Provider's performance of its obligations under the Power Purchase Agreement, and, in the case of Customer, Customer's operation, maintenance, repair, construction, or alteration of the Local Unit Facility. Notwithstanding the foregoing, the Service Provider shall have no indemnity obligation nor any remediation or other obligation with respect to on-site contamination that exists prior to commencement of the installation work at a Local Unit Facility except to the extent a release of hazardous materials from the contaminated areas occurs due to the negligent acts of the Service Provider or its contractors or subcontractors (or their employees or agents).

#### Section 8.2 Service Provider's Insurance.

(a) Prior to accessing the Local Unit Facilities and at all times thereafter for as long as this Power Purchase Agreement remains in effect, Service Provider shall procure and maintain or cause to be procured and maintained by the EPC Contractor (other than general liability and excess liability which shall be provided by the Service Provider at all times), the following insurance:

(i) Comprehensive General Liability Coverage in the amount of \$5,000,000.00. This coverage must be in writing on an occurrence form, claims made policies will be unacceptable. This Comprehensive General Liability insurance shall cover Service Provider, the Authority, Customer and their employees, agents and officers from and against any claim arising out of personal injury of Service Provider or Service Provider's failure to comply with the terms of this Power Purchase Agreement. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by Service Provider. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in this Power Purchase Agreement. The policy shall also be endorsed to include coverage for products, completed operations, and independent contractors.

(ii) Property and Casualty Damage Coverage in the amount of the aggregate replacement value of all of the Renewable Energy Projects which the

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Parties acknowledge will be maintained as builders risk insurance by the EPC Contractor prior to the Completion of the Projects.

(iii) Workers' Compensation Coverage as statutorily required by the State for all employees of Service Provider. Employers' Liability coverage on the Workers Compensation policy shall be written in the minimal amount of \$5,000,000.00.

(iv) Comprehensive Automobile Liability Coverage, in an amount not less than \$5,000,000.00, shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles, which may be used by the EPC Contractor or the Service Provider in connection with the services, required under the Power Purchase Agreement.

(v) Excess Liability Coverage, in the amount of \$5,000,000.00 shall be in the form of an umbrella policy rather than a following form excess policy. This policy or policies shall be specifically endorsed to be excess of the required coverages in clauses (i), (iii) and (iv) above.

(b) All such insurance coverages, with the exception of Workers' Compensation, shall name the Authority, Customer, and their employees, agents, officers and directors as additional insured hereunder.

(c) Evidence of such coverages being in place shall be promptly delivered to the Authority prior to or simultaneously with accessing a Local Unit Facility. All such coverages shall be endorsed to indicate that such coverages shall not be materially changed or canceled without at least thirty (30) days prior notice to the Authority and Customer, such prior notice being mandatory and not the best efforts of the carrier to notify. Prior to the expiration of the required coverages, Service Provider shall provide the Authority and Customer with evidence of the renewal of all such coverages required on at least the same terms and conditions as originally required for this Power Purchase Agreement. All agents, contractors and other licensees under the Local Unit License Agreement (other than the Authority) working for the Service Provider shall also be required to maintain all insurance coverages set forth in this Section 8.2; however, that any such party covered by the EPC Contractor or the Service Provider's insurance coverage is not required to have duplicative insurance coverage, except (i) property damage coverage will be provided exclusively by the EPC Contractor (in case of builder's risk coverage) and by the Service Provider (in the case of the property insurance covering the Local Unit Facility after it enters into commercial operation), and (ii) to the extent any subcontractor is unable to provide the excess liability coverage in the amount required under Section 8.02(a)(v), the excess liability coverage requirement can be satisfied if such subcontractor is included under the excess liability policy of the EPC Contractor.

(d) Reserved.

#### Section 8.3 Customer's Insurance.

On or before Service Provider shall commence any construction activities at the Local Unit

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Facilities and at all times thereafter for as long as this Power Purchase Agreement remains in effect, Customer shall maintain at its sole expense Comprehensive General Liability (including contractual) and coverage for loss or damage, in an amount not less than \$5,000,000, with respect to any liability, losses, damages, expenses, claims, actions, judgments and settlements for any personal injury, death or property or economic loss occurring in Local Unit Facilities or surrounding premises and arising out of or incident to the operation, maintenance, repair, construction, replacement or modification of the Local Unit Facilities, excluding the Renewable Energy Projects.

#### Section 8.4 Additional Insured and Waiver of Subrogation.

Service Provider and Customer shall each name the other, the Authority, and the local government, if different from Customer that owns the Local Unit Facility as an additional insured on each policy of insurance procured by it in satisfaction of this Article VIII. Further, Service Provider and Customer shall each cause its respective insurance carriers to waive any and all rights of subrogation against the other.

#### Section 8.5 Evidence of Insurance.

Prior to accessing a Local Unit Facility, Service Provider and Customer shall each furnish to the other one or more certificates of insurance evidencing the existence of the coverage set forth in Sections 8.2 and 8.3, respectively. Each certificate shall state that the insurance carrier will give Service Provider and Customer at least thirty (30) days written notice of any cancellation or material change in the terms and conditions of such policy during the periods of coverage.

#### Section 8.6 Use of Insurance Proceeds.

Unless the Authority, the Customer, and the Service Provider agree otherwise, in the event of any loss or liability related to the Projects, Service Provider agrees to promptly restore the Projects to the condition prior to such loss, and Service Provider will use the proceeds received by or on behalf of the Authority (the Authority agreeing to make such proceeds available) or the Service Provider, in either case from any policy of insurance providing coverage for such loss to make all necessary repairs or replacements to the Projects and to promptly restore deliveries of Electricity to Customer.

#### Section 8.7 Casualty and Condemnation with Respect to Underlying Local Unit Facilities.

(a) Casualty. In the instance where a Local Unit Facility has suffered a casualty which renders the applicable Project inoperable and such Customer fails to rebuild such Local Unit Facility within a commercially reasonable time, then Customer shall comply with the terms of Section 3.7(i)-(iv), inclusive, of such Customer's Local Unit License Agreement with respect to such Local Unit Facility as if such failure to rebuild is deemed a revocation pursuant to Section 3.7 of the applicable Local Unit License Agreement.

(b) Condemnation. In the instance where a Local Unit Facility has suffered a taking which renders the construction or operation of the applicable Project unfeasible and such Customer

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fails to remediate such taking, then Customer shall comply with the terms of Section 3.7(i)-(iv), inclusive, of such Customer's Local Unit License Agreement with respect to such Local Unit Facility as if such taking is deemed a revocation pursuant to Section 3.7 of the applicable Local Unit License Agreement.

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## ARTICLE IX

### EVENT OF DEFAULT

#### Section 9.1 Service Provider Event of Default.

Any of the following events shall constitute a Service Provider Event of Default:

(a) Service Provider shall fail or cease to deliver Electricity to a Customer for a continuous period of thirty (30) days unless (i) Service Provider's performance is excused by a Force Majeure event, or by action or inaction of such Customer, or otherwise as provided in this Power Purchase Agreement, and Service Provider is diligently pursuing a cure, or (ii) Service Provider is willing to pay Customer during the term of such non-performance liquidated damages equal to the positive difference, if any, of the cost of replacement power less the per kwh PPA Price provided in this Power Purchase Agreement;

(b) Service Provider fails to make timely lease payments or otherwise causes an Event of Default as defined under the Company Lease Agreement or as defined in any other Company Document, notwithstanding a Force Majeure event; or,

(c) Service Provider shall fail to comply with any other provision of this Power Purchase Agreement, other than as described in subsection (a) and (b) above, and such failure continues for ninety (90) days of a written demand to cure; provided, however, that if such failure cannot be cured within said ninety (90) day period, Service Provider shall not be in default; if it has commenced to cure within such ninety (90) day period if such action to cure the default is acceptable to the Authority and the Authority indicates the same in writing; and provided, further, that Service Provider diligently seeks to cure such failure.

#### Section 9.2 Customer Event of Default.

The following events shall constitute a Customer Event of Default:

(a) Customer shall fail or refuse to pay any bill for service rendered under this Power Purchase Agreement for Electricity on which payment is due in accordance with the terms of this Power Purchase Agreement, within forty-five (45) days of Service Provider's written demand therefor.

(b) Customer shall fail to comply with any other provision of the Agreement or their Local Unit License Agreement (including any failure to comply that constitutes a Licensor Event of Default as defined in the Local Unit License Agreement) and such failure shall continue for a period of sixty (60) days after receipt of written notice of such failure provided, that if such failure cannot be cured within sixty (60) days, then within a reasonable time so long as Customer diligently seeks to cure such failure.

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#### Section 9.3 Authority Event of Default.

The following events shall constitute an Authority Event of Default:

(a) Authority shall fail to comply with any other provision of this Power Purchase Agreement or the Local Unit License Agreements and such failure shall continue for a period of thirty (30) days after receipt of written notice of such failure provided, that if such failure cannot be cured within thirty (30) days, then within a reasonable time so long as the Authority diligently seeks to cure such failure.

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ARTICLE X  
REMEDIES

Section 10.1 Remedies upon a Service Provider Event of Default.

(a) Upon a Service Provider Event of Default as described in Section 9.1(a) hereof, the affected Customer may terminate the Power Purchase Agreement as to such Customer by written notice to Service Provider, which notice shall be effective upon delivery, which may give rights to certain Parties or other interested parties involved in the Renewable Energy Program to the County Security and/or the Construction Performance Bond. Such rights shall be in addition to any and all other rights and remedies that Customer may have at law or in equity including, without limitation, the right to recover monetary damages and thereafter pursue such damages or other relief to which Customer may be entitled with respect to any monetary damages owed by Service Provider which do not result in a termination of this Power Purchase Agreement.

(b) Upon a Service Provider Event of Default as described in Section 9.1(b), the Authority may exercise its rights under any other Company Document

(c) Upon a Service Provider Event of Default as described in Section 9.1(c), the sole remedy of any other Party shall be specific performance or if applicable monetary damages.

Section 10.2 Remedies upon a Customer Event of Default.

(a) Upon a Customer Event of Default as described in Section 9.2(a) hereof (i.e., following expiration of the 45-day period following Service Provider's written demand for payment), (i) Service Provider may suspend performance hereunder until such time as Customer cures the Event of Default, and (ii) if such Event of Default continues for another 30 days, Service Provider may terminate the Power Purchase Agreement with respect to such Customer by written notice to the Authority and such Customer, which notice shall be effective upon delivery, it being expressly understood however that any such termination shall not relieve Service Provider from its obligations under the Company Lease Agreement with respect to the lease payments due thereunder, or under any other Company Lease Agreement, with respect to any other Customer. Such rights shall be in addition to any and all other rights and remedies that Service Provider may have at law or in equity including, without limitation, the right to recover monetary damages and thereafter pursue such damages or other relief to which Service Provider may be entitled.

(b) Upon a Customer Event of Default as described in Section 9.2(b), the sole remedy available to any other Party shall be specific performance or, if applicable, monetary damages.

(c) To the extent a Customer Event of Default would constitute a Licensor Event of Default under the applicable Customer's Local Unit License Agreement, the remedies set forth in Section 6.2 of such Customer's Local Unit License Agreement shall apply to the same extent as set forth herein.

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ARTICLE XIII  
TERMINATION

Section 13.1 Termination.

No Party may terminate the Agreement, except upon the other's Event of Default as provided herein, or as otherwise expressly provided in this Power Purchase Agreement.

ARTICLE XIV  
MISCELLANEOUS

Section 14.1 Assignment.

None of Service Provider, the Authority or any Customer shall assign this Power Purchase Agreement without first having obtained the written consent of the other Parties; provided, however, Service Provider may assign its rights and delegate its duties and obligations under this Power Purchase Agreement to any special purpose entity which it may organize for the purpose of owning and operating the Renewable Energy Projects (a "Permitted Provider Assignee"), so long as contemporaneously herewith such Service Provider, or its Permitted Provider Assignee, delivers the County Security and the Construction Performance Bond; and provided, further, that with the consent of Service Provider and Customer, certain payments hereunder may be assigned to the Trustee for the Series 2011 Bonds as further security therefor.

Section 14.2 Governing Law, Waiver of Right to Jury Trial, and Jurisdiction.

(a) This Power Purchase Agreement and the rights and obligations of the Parties shall be governed by, construed, and enforced in accordance with the laws of the State. In order to expedite resolution of any actions, suits, or proceedings that arise under this Power Purchase Agreement, and in light of the complexity of the transactions contemplated hereby, each of the Parties (i) irrevocably waives the right to trial by jury in any such actions, suit, or proceeding of any kind or nature in any court to which it may be a Party and (ii) other than with respect to arbitration in accordance with the provisions of Section 14.5 hereof, agrees that venue shall be laid in the Superior Courts of Morris County, New Jersey.

(b) With respect to any such action, suit, or proceedings relating to this Power Purchase Agreement or arising in connection with the transactions contemplated hereby, the Parties irrevocably (i) submit to the exclusive jurisdiction of the federal and State courts of the State; (ii) waive any objection which it or they may have at any time to the laying of venue of any action, suit or proceeding in any such court; (iii) waive any claim that any such action, suit, or proceeding has

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Section 10.3 Remedies upon an Authority Event of Default.

(a) Upon an Authority Event of Default as described in Section 9.3, the sole remedy available to any other Party shall be specific performance, or if applicable, monetary damages.

ARTICLE XI  
FORCE MAJEURE

Section 11.1 Suspension of Performance.

No Party shall be in default in respect of any obligation under this Power Purchase Agreement with respect to one or more Projects if the Party is unable to perform such obligation by reason of a Force Majeure event affecting any such Project; provided that the suspension of performance with respect to such Project shall be commensurate with the nature and duration of the Force Majeure event and the nonperforming Party is using its commercially reasonable efforts to restore its ability to perform.

Section 11.2 Termination by Reason of Force Majeure.

If a Party's performance with respect to any Project is excused by reason of Force Majeure for more than twelve (12) consecutive months, any of the Parties (otherwise not in breach of this Power Purchase Agreement) may terminate this Power Purchase Agreement in so far as it relates to such Project upon thirty (30) days written notice to the other Parties, notwithstanding the existence of Force Majeure.

ARTICLE XII  
LIMITATION ON LIABILITY

Section 12.1 Limitation on Liability.

Notwithstanding anything in this Power Purchase Agreement to the contrary, none of the Authority, Customer or Service Provider shall be responsible to any other in contract or in tort for any special, incidental or consequential loss or damage, including opportunity costs, arising out of this Power Purchase Agreement. The Parties hereto agree that Customer is fully responsible for the upkeep and maintenance of all of the Customer's equipment and property after the Point of Delivery to Customer's operating site that is utilized in connection with the operation of the Renewable Energy Projects including, without limitation, electric panels, sub-panels and sub-metering. Except as provided in Section 3.6 hereof, which shall be Customer's sole and exclusive remedy, Service Provider shall not be responsible for any damages that Customer may incur as a result of delays associated with the construction of the Projects.

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been brought in an inconvenient forum and (iv) waive the right to object that such court does not have jurisdiction over the Parties.

Section 14.3. Successors and Assigns.

This Power Purchase Agreement shall inure to the benefit of, and be binding upon the Parties hereto and to their successors and assigns.

Section 14.4 Waiver.

No provision of this Power Purchase Agreement may be waived absent the express written consent of the Authority, the Service Provider and each affected Customer, if any. The failure of any Party hereto to assert any of its rights under this Power Purchase Agreement shall not be construed to constitute a waiver of such provision, nor in any way be deemed to affect the validity of this Power Purchase Agreement or any part hereof or the right of any Party hereto to thereafter subsequently enforce its rights and remedies as otherwise provided herein. No express and written waiver of any breach of this Power Purchase Agreement shall be held to constitute a waiver of any other provision hereof or any subsequent breach hereof.

Section 14.5 Arbitration.

Should any dispute, controversy or claim arise hereunder, then the Parties covenant and agree, to the extent permitted by law, that all such disputes, controversies or claims shall be submitted to non-binding arbitration, and in all other cases legal actions concerning such disputes, controversies and claims shall be brought in the Superior Court of Morris County, New Jersey. Arbitration shall be conducted before an arbitrator chosen by the American Arbitration Association, should the Parties hereto not be able to otherwise agree upon an arbitrator to adjudicate said matter. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The cost of arbitration, along with the prevailing Party's legal fees and costs of arbitration, shall be borne by that Party which the arbitrator deems to be the non-prevailing Party to the arbitration. It is the intent of the Parties that there shall be liberal discovery permitted including depositions and document production.

Section 14.6 Entire Agreement, Amendment.

This Power Purchase Agreement, together with the other Program Documents, constitutes the entire agreement by and between the Parties hereto and supersedes and replaces all previous understandings and agreements, whether written or oral, which may have existed between the Parties hereto. This Power Purchase Agreement may only be modified by a subsequent written instrument which shall be executed by the Authority and the Service Provider, and to the extent any such amendment involves any terms that could adversely affect any Customer, by such Customer.

Section 14.7 Partial Invalidity.

If any non-material part of this Power Purchase Agreement is held to be unenforceable, the

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rest of this Power Purchase Agreement will continue in effect. If a material provision is determined to be unenforceable and the Party which would have been benefited by the provision does not waive its unenforceability, then the Parties shall negotiate in good faith and if they are unable to reach agreement on an appropriate amendment within a reasonable time, their disagreement shall constitute a dispute and be resolved pursuant to the provisions of Section 14.5 (relating to arbitration). The arbitrator may grant any remedy or relief, including reformation of this Power Purchase Agreement, that the arbitrator deems just and equitable.

**Section 14.8 Non-Substitution.**

Customer covenants and agrees that throughout the Initial Term of this Power Purchase Agreement, and all extensions hereof, that with respect to the Local Unit Facility (a) it shall not purchase, lease or rent property to perform the same function or provide the same services as, or functions or services taking the place of, those functions and services being provided by Service Provider under this Power Purchase Agreement, (b) it shall not permit such functions of services to be performed or supplied by Customer's own employees or by Customer or any agency, affiliate or third party of Customer, (c) it shall not otherwise enter into any agreement with any third party or otherwise affiliated party to perform such functions or services, and/or (d) otherwise take steps to circumvent or defeat the intentions of this paragraph of this Power Purchase Agreement. During the Initial Term of this Power Purchase Agreement and throughout all extensions hereof, Customer covenants and agrees to look to and consider Service Provider as the Local Unit's sole and exclusive supplier of Electricity up to the total amount generated by the Renewable Energy Projects.

**Section 14.9 Further Assurances.**

The Parties hereto agree to execute all documents and take all further actions which might be reasonably requested by any other Party in order to better fulfill or evidence the intentions of the Parties hereto.

**Section 14.10 Counterpart Execution: Facsimile Signatures.**

This Power Purchase Agreement may be executed and acknowledged in counterparts, and when signed by all of the Parties hereto shall constitute one binding agreement. Facsimile Signatures shall be deemed the same as originals.

**Section 14.11 Waiver of Sovereign Immunity.**

For the purposes of this Power Purchase Agreement, the Authority and each Customer acknowledge and agree that (a) its execution and delivery of this Power Purchase Agreement and (b) its performance of the actions contemplated by this Power Purchase Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or such Customer in respect of itself or its assets, properties or revenues, shall be entitled to any immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity

to the fullest extent permitted by the laws of such jurisdiction and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding.

**Section 14.12 Notice.**

Unless otherwise provided in writing, any notices to be given or to be served upon any Party hereto, or any other documents to be delivered to Party, all in connection with this Power Purchase Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the Party to whom it is addressed. Such notice or document shall be given to the Party at their following respective addresses or at such other address as any Party may hereafter designate to the other Parties hereto in writing:

(a) If to the Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearman@iandplaw.com

(b) If to Service Provider: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, New York 10017  
Email: principals@sunlightgeneral.com

With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com

If to Customer: See Exhibit F attached hereto.

**Section 14.13. Approvals.**

IN WITNESS WHEREOF, the undersigned have caused this Power Purchase Agreement to be duly executed and delivered as of the date and day first above written.

SUNLIGHT GENERAL SUSSEX  
SOLAR, LLC

By: Sunlight General Capital  
Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY

[SEAL]

By: \_\_\_\_\_  
John Bonanni  
Chairman

ATTEST:

By: \_\_\_\_\_  
Ellen M. Sandman  
Secretary

**ACKNOWLEDGMENT**

Pursuant to Section 5.1(c) of their respective Local Unit License Agreements, the terms and conditions of this Power Purchase Agreement are hereby acknowledged and accepted by each of the Series 2011 Local Units, as acknowledgment parties to this Power Purchase Agreement, intending to be severally entitled to, and bound by, the rights, duties and obligations of Customer hereunder, this \_\_\_\_ day of December, 2011.

**FREDON TOWNSHIP**

BY: \_\_\_\_\_  
Name:  
Title:

**TOWN OF NEWTON**

BY: \_\_\_\_\_  
Name:  
Title:

**BYRAM TOWNSHIP SCHOOL DISTRICT**

BY: \_\_\_\_\_  
Name:  
Title:

**FRANKFORD TOWNSHIP CONSOLIDATED SCHOOLS**

BY: \_\_\_\_\_  
Name:  
Title:

**FRANKLIN BOROUGH BOARD OF EDUCATION**

BY: \_\_\_\_\_  
Name:  
Title:

**GREEN TOWNSHIP BOARD OF EDUCATION**

BY: \_\_\_\_\_  
Name:  
Title:

**HARDYSTON BOARD OF EDUCATION**

BY: \_\_\_\_\_  
Name:  
Title:

**HIGH POINT REGIONAL SCHOOL DISTRICT**

BY: \_\_\_\_\_  
Name:  
Title:

**KITTATINNY REGIONAL SCHOOL DISTRICT**

BY: \_\_\_\_\_  
Name:  
Title:

**LENAPE VALLEY REGIONAL BOARD OF EDUCATION**

BY: \_\_\_\_\_  
Name:  
Title:

**NEWTON BOARD OF EDUCATION**

BY: \_\_\_\_\_  
Name:  
Title:

**SUSSEX COUNTY TECHNICAL SCHOOL**

BY: \_\_\_\_\_  
Name:  
Title:

**COUNTY OF SUSSEX**

BY: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**

**Morris County Improvement Authority**  
\$ \_\_\_\_\_ aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$ \_\_\_\_\_ Series 2011A Bonds, and  
\$ \_\_\_\_\_ Series 2011B Note

**Series 2011 Local Unit List of Local Unit Facilities**

- a. Series 2011 Municipal Local Units
  - (i) Fredon Township (<http://www.town.fredon.nj.us/>)
    - (A) Civic Center (Roof 61 kW)  
436 Route 94  
Fredon, NJ
  - (ii) Town of Newton (<http://www.townofnewtonnj.com/>)
    - (A) DPW Complex (Roof 73 kW)  
39 Trinity Street  
Newton, NJ
    - (B) Wastewater Treatment Plant (Roof 109 kW)  
Townsend Street  
Newton, NJ
- b. Series 2011 Board of Education Local Units
  - (i) Byram Township School District (<http://www.byramschools.org/>)
    - (A) Byram Lakes Elementary School (Roof 38 kW)  
11 Mansfield Drive  
Stanhope, NJ
    - (B) Byram Intermediate School (Parking Canopy 455 kW)  
12 Mansfield Drive  
Stanhope, NJ
  - (ii) Frankford Township Consolidated Schools (<http://www.frankfordschools.org/>)
    - (A) Frankford Township School (Roof 362 kW)  
2 Pinus Road  
Branchville, NJ
  - (iii) Franklin Borough Board of Education (<http://www.franklinboronj.org/>)
    - (A) Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)  
50 Washington Avenue  
Franklin, NJ

- (iv) *Green Township Board of Education (<http://www.hillside.org>)*
    - (A) *Green Hills School (Roof 157 kW)  
69 Mockerley Road  
Greensboro, NJ*
  - (v) *Harbyston Board of Education (<http://www.harbystonnj.org>)*
    - (A) *Harbyston Middle School (Roof 612 kW)  
183 Wheatworth Road  
Harbyston, NJ*
  - (vi) *High Point Regional School District (<http://www.highpoint.org>)*
    - (A) *High Point Regional High School (Roof 453 kW)  
299 Pigeon Hill Road  
Saxton, NJ*
  - (vii) *Kittatony Regional School District (<http://www.krsd.net>)*
    - (A) *Kittatony Regional High School (Roof 187 kW and Parking Canopy 173 kW)  
77 Halsey Road  
Newton, NJ*
  - (viii) *Lenape Valley Regional Board of Education (<http://www.lvh.org>)*
    - (A) *Lenape Valley Regional High School (Parking Canopy 393 kW and Rack 774 kW)  
28 Sparta Road  
Sanhope, NJ*
  - (ix) *Newton Board of Education (<http://www.newtonnj.org>)*
    - (A) *Morriam Avenue School (Roof 165 kW and Parking Canopy 242 kW)  
51 Merriam Avenue  
Newton, NJ, and*
    - (B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)  
44 Ryerson Avenue  
Newton, NJ*
- c. **Series 2011 County Local Units.**
- (i) *Sussex County Technical School (<http://www.sussex-nc.net>)*
    - (A) *Sussex County Technical School (Roof 112 kW, Rack 792 kW and Parking Canopy 298 kW)  
105 North Church Road  
Sparta, NC*
  - (ii) *County of Sussex (<http://www.sussex-nc.net>)*
    - (A) *Sussex County Judicial Center (Parking Canopy 468 kW)*

- (B) *39 High Street  
Newton, NJ*
- (B) *Wheatworth Facility (Rack 149 kW)  
149 Wheatworth Road  
Harbyston, NJ*
- (C) *Main Library (Rack 100 kW)  
125 Morris Turnpike  
Newton, NJ*

A-2

A-3

**Exhibit B**

**PPA Price  
- Electricity Rates and Escalation Adjustments**

For any year of this Power Purchase Agreement and with respect to each respective Customer, the PPA Price payable by any one such Customer is the sum of Sections 1 and 2 below (after the escalation percentage factor in Section 2 below is converted into a dollar amount for the applicable year of computation).

(a) Cost of Electricity, per kWh, pursuant to the Power Purchase Agreement, for the period (a) from the date of the first delivery by the Service Provider to such Customer of Electricity from the Renewable Energy Project on the Local Unit Facility of such Customer (b) to, but excluding, the first anniversary of the applicable Commencement Date for such Customer. \$0.0099/kWh. [final price to be established at pricing of the Series 2011A Bonds, after adjustment for final TIC and Project Development Cost.]

(b) Annual escalation (expressed as a fixed percentage increase from the prior year's PPA Price) applicable as of each anniversary date of the Commencement Date for such Customer in effect for the following year to, but not including, the immediately succeeding anniversary of such Commencement Date for such Customer: three percent (3.00%).

(i) This escalation factor commences on the first anniversary of the Commencement Date for such Customer, and ends at the end of the Initial Term, unless further adjusted in accordance with the terms of any extension of the Initial Term pursuant to the terms of the Power Purchase Agreement.

(c) The Parties further agree to the following:

(i) Although the percentage of escalation is fixed in Section 2, since it is based on the prior year's PPA Price, which is itself increasing on an annual basis, the actual dollar amount of each year's escalation increases.

(ii) With the possibility that each Customer shall have different Commencement Dates, and although each Customer shall be subject to the same base cost of Electricity governed by Section 1 above and the same escalation factor governed by Section 2 above, the actual PPA Price payable by one or more Customers may vary on the same date of computation for different Customers.

(iii) In light of the provisions of Section 6.5 of the Power Purchase Agreement, the PPA Price for any Applicable Customer shall be further escalated for any increase in taxes assessed or levied against the Renewable Energy Projects, which taxes shall be imposed by or on behalf of any such Customer, if any; provided, however, that any such increase shall be solely available to the entity that must pay any such tax, the intent being that there shall be no after tax effect on the PPA Price, should any such tax ever be imposed.

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**EXHIBIT C**

**PLANS AND SPECIFICATIONS FOR RENEWABLE ENERGY PROJECTS**

[NOTE: PHOTOVOLTAIC RENEWABLE ENERGY PROJECTS DESCRIBED BELOW IS SUBJECT TO CHANGE BASED UPON CUSTOMER INPUT, SOLAR MODULE AVAILABILITY AND FINAL DESIGN DETAILS. ALL "AS BUILT" DESIGN DOCUMENTS AND PLANS AND SPECIFICATIONS SHALL BECOME PART OF THIS EXHIBIT C WHEN COMPLETE.]

I. Service Provider shall install the Renewable Energy Projects for each Local Unit Facility as described in Exhibit A to this Power Purchase Agreement and, as applicable, with a roof support system that minimizes roof penetrations and assures the safety and integrity of the system and continued validity of the respective roof warranties for each Local Unit Facility.

C-1

[Attach Company Proposal Table 6(b)-  
Guaranteed Output]

[Attach Company Proposal Table 6(a)-  
Expected Output]

C-2

C-3

**EXHIBIT D**

**PLANS, SPECIFICATIONS AND LOCAL UNIT EXISTING ROOF WARRANTY  
DURATION CHART FOR CAPITAL IMPROVEMENT PROJECTS**

**EXHIBIT E**

**[ATTACH FORM OF LOCAL UNIT LICENSE AGREEMENT]**

**[SEE CLOSING ITEM NO. \_]**

D-1

E-1

**EXHIBIT F**

**Morris County Improvement Authority**  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

Attach local unit distribution list.

F-1

**EXHIBIT G**

[Attach Construction Performance Bond]

G-1

**EXHIBIT H**

[Attach Initial List of Subcontractors]

1. EPC Contractor

H-1

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**LICENSE AND ACCESS AGREEMENT**  
(Sussex County Renewable Energy Program, Series 2011)

By and Between

[Local Unit], as Licensor

And

**MORRIS COUNTY IMPROVEMENT AUTHORITY**, as Licensee

Dated as of December 1, 2011

---

with respect to Morris County Improvement Authority's  
\$ \_\_\_\_\_ aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$ \_\_\_\_\_ Series 2011A Bonds, and  
\$ \_\_\_\_\_ Series 2011B Note

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LICENSE AND ACCESS AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

THIS "LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "[A] Local Unit License Agreement"), dated as of December 1, 2011, is made by and among [insert name of Local Unit] (the "Licensor"), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the "County"), State of New Jersey ("State") and the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority" or the "Licensee"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act") and other applicable law.

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Perlmutter, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants"), if any, and together with the Authority Consultants, the "Consultants"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatiny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$\_\_\_\_\_ and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "Series 2011A Bonds") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount of \$\_\_\_\_\_ and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note, and together with the Series 2011A Bonds, "Series 2011 Bonds"), by the same sale method as the Series 2011A Bonds;

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WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "Company RFP") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "Company Proposal") of Sunlight General Sussex Solar, LLC (the "Company"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts

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WHEREAS, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

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promulgated by the State Board of Public Utilities (the "BPU"), whereby, among other things,

- (I) The Company shall have established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,
  - (II) The Company shall have established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and
  - (III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and
- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b)

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the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on \_\_\_\_\_ (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to end, if necessary, issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

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WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

WHEREAS, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c-12") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement") and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements", the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents" with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person"

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WHEREAS, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

WHEREAS, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "EPC Contractor"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated [December \_\_, 2011] (as the same may be amended or supplemented from time to time in accordance with its terms, the "EPC Contract"), which by its terms shall supersede that certain "Memorandum of Understanding" dated \_\_\_\_\_, 2011 (the "EPC Contract MOU") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$[\_\_\_\_\_] (the "In-Kind Equity Contribution") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$[\_\_\_\_\_] but subject to increase or decrease, as applicable, so as to be equal to the excess of (a) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company upon the Initial Basic Lease Payment Date (the "Equity Contribution"), (ii) a cash reserve in the amount of \$[\_\_\_\_\_] (the "County Reserve") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the Initial Basic Lease Payment Date, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty;

WHEREAS, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

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within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A-54(i) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated \_\_\_\_\_, 2011 (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i) the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement"); and (ii) the execution and delivery of a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement," and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

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ARTICLE I  
DEFINITIONS

Section 1.1. Definitions.

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

[A] Local Unit License Agreement  
Act  
Authority  
Board of Education Series 2011 Local Units  
Board of Freeholders  
Bond Purchase Agreement  
Bond Resolution  
Bonds  
BPU  
Capital Improvement Projects\*  
Cash Equity Contribution  
Company  
Company Continuing Disclosure Agreement  
Company Documents  
Company Lease Agreement  
Company Pledge Agreement  
Company Proposal  
Company RFP  
County  
County Continuing Disclosure Agreement  
County Guaranty  
County Guaranty Agreement  
County Reserve  
County Security  
County Security Agreement  
County Security Provider  
County Service Agreement  
County Series 2011 Local Units  
Dissemination Agent  
Equity Contribution  
EPC Contract  
EPC Contractor  
Initial Tranche  
In-Kind Equity Contribution  
Local Units  
Local Unit Facilities\*  
Local Unit License

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County Security Fund  
County Security Fund Requirement  
Debt Service Fund  
Funds  
General Fund  
Gross Substitute Power Purchase Price  
Interest Account  
Investment Securities  
Net Substitute Power Purchase Price  
Outstanding  
Paying Agent  
Principal Account  
Principal Office  
Project Fund  
Rating Agency  
Renewable Energy Program Interested Party  
Restoration Security Fund  
Restoration Security Fund Requirement  
Revenue Account  
Revenue Fund  
Revenues  
Series  
Series 2011B Bonds  
Sinking Fund Installments  
Supplemental Resolution  
Tax Certificate  
Tax-exempt Bonds  
Trustee  
Trust Estate

(c) The following defined terms shall, for all purposes of this [A] Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

[A] Capital Improvement Projects  
[A] Licensee  
[A] Licensees  
[A] Local Unit Facilities  
[A] Local Unit License  
[A] Project Activities  
[A] Projects  
[A] Renewable Energy Projects

(ii) Section 3.8:

Local Unit License Agreement  
Local Unit License Agreements  
Municipal Series 2011 Local Units  
Official Statement  
Power Purchase Agreement  
Preliminary Official Statement  
Preliminary Program Costs  
Program Documents  
Projects\*  
Renewable Energy Program  
Renewable Energy Projects\*  
Rule 15c2-12  
Sale Documents  
Second Tranche  
Section 1603 Grant  
Series 2011 Bonds  
Series 2011A Bonds  
Series 2011B Note  
Series 2011 Local Unit\*  
Series 2011 Local Units  
Shared Services Act  
SRECs  
State  
Underwriter

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this [A] Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

Account  
Additional Bonds  
Administrative Expense Account  
Administrative Fund  
Aged Account  
Bond  
Capitalized Interest Account  
Cash  
Company Development Fees and Expenses  
Completion Conditions  
Completion Project  
Consulting Energy Engineer  
Consulting Energy Engineering Services  
Cost  
Costs of Issuance Account

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Revised [A] Renewable Energy Projects

(iii) Section 5.2(a)(i)

Gross Substitute Power Purchase Price  
Net Substitute Power Purchase Price

(iv) Section 6.1(a)

Authority Event of Default

(v) Section 6.1(b)

Licenser Event of Default

(vi) Section 7.1(c)

Term

(d) The following defined terms shall, for all purposes of this [A] Local Unit License Agreement, have the following meanings:

"[A] Acceptance Certificates" shall mean individually or collectively, as the case may be, the [A] CIP Acceptance Certificate and the [A] REP Acceptance Certificate, each in the form attached as Exhibit E to the [A] Local Unit License Agreement and Exhibit B to the Company Lease Agreement.

"[A] CIP Acceptance Certificate" shall mean the certificate applicable to the [A] Capital Improvement Projects in the form attached as Exhibit E-2 to the [A] Local Unit License Agreement and Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, Licensor's acceptance of all of the [A] Capital Improvement Projects, all as set forth in Section 4.3 of the [A] Local Unit License Agreement and Section 510(d)(ii) of the Company Lease Agreement. As there are no [A] Capital Improvement Projects for the Licensor, this definition shall have no effect in this [A] Local Unit License Agreement. The Parties acknowledge and agree that no [A] Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

"[A] Construction Manager" shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for the

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Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

"[A] Draw Papers" shall mean the requisitions, and attachments thereto, applicable to either the (i) [A] Renewable Energy Projects or (ii) [A] Capital Improvement Projects, in either case in the form attached as Exhibit D to the [A] Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the [A] Renewable Energy Projects or the [A] Capital Improvement Projects, all as set forth in Section 4.1 of the [A] Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

"[A] Interconnection Agreement" shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed [A] Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

"[A] REP Acceptance Certificate" shall mean the certificate applicable to the [A] Renewable Energy Projects in the form attached as Exhibit E-1 to the [A] Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company's acceptance of all of the [A] Renewable Energy Projects, all as set forth in Section 4.2 of the [A] Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

"Authorized Officer" or "Authorized Representative" shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the [Superintendent, Administrator, Board Secretary] or such other person designated as an Authorized Officer in the [A] Local Unit License Agreement or any other person or persons who shall be authorized to act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County

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## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### Section 2.1. Representations and Warranties of the Licensor.

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this [A] Local Unit License Agreement (and any documents contemplated hereby, including without limitation the [A] Draw Papers, the [A] Acceptance Certificates, and any [A] Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the [A] Local Unit Facilities. Licensor holds good, record and marketable title to each of the [A] Local Unit Facilities and the land underlying the [A] Local Unit Facilities. There are no mortgages or other liens against the [A] Local Unit Facilities or the land except as set forth on Exhibit G.

#### Section 2.2. Representations and Warranties of the Licensee.

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this [A] Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company thereunder, this [A] Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i)

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Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

"Event of Default" shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

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N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

#### Section 2.4. Covenants of the Licensor.

(a) Upon the delivery of the [A] CIP Acceptance Certificate with respect to the [A] Capital Improvement Projects, if any, the Licensor shall own such [A] Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the [A] Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the [A] Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the [A] Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this [A] Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

#### Section 2.5. Covenants of the Licensee.

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the [A] Renewable Energy Projects on, or as applicable, in the [A] Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the [A] Capital Improvement Projects on or as applicable, in the [A] Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized,

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delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the [A] Renewable Energy Projects on or as applicable, in or about the [A] Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such [A] Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the [A] Capital Improvement Projects on or as applicable, in or about the [A] Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that that such [A] Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### Section 2.6. Inapplicable Terms.

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any [A] Capital Improvement Projects under the Program Documents and any references herein to [A] Capital Improvement Projects, [A] Capital Improvement Project Fund, [A] CIP Acceptance Certificates or any other term defined by reference to [A] Capital Improvement Projects (without limiting the application of any such term to the extent not related to [A] Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the premises hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the County Reserve upon issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

## ARTICLE III LICENSE

### Section 3.1. License.

(a) For the Term of this [A] Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this [A] Local Unit License Agreement (each, an "[A] Licensee", and collectively, the "[A] Licensees"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on Exhibit A hereto (the "[A] Local Unit Facilities"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other [A] Licensee access to the [A] Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this [A] Local Unit License Agreement, a license (the "[A] Local Unit License") allowing each [A] Licensee to enter the [A] Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on Exhibit B hereto (the "[A] Renewable Energy Projects"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on Exhibit C hereto (the "[A] Capital Improvement Projects", and together with the [A] Renewable Energy Projects, the "[A] Projects") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "[A] Project Activities"), all at the sole cost and expense of the Authority or any other [A] Licensee, but not the Licensor, unless expressly set forth elsewhere herein. [As there are no [A] Capital Improvement Projects for the Licensor, this definition shall have no effect in this [A] Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site at or in each of its [A] Local Unit Facilities (not including the Solar Improvements, only site.)]

(b) For all purposes of this [A] Local Unit License Agreement, the [A] Local Unit License shall be deemed to include a preliminary license granted by the Licensor to the Authority and shall include, as [A] Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to constitute permissive [A] Activities, which preliminary [A] Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

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(c) The [A] Licensees shall have access to the [A] Local Unit Facilities to conduct [A] Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the [A] Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the [A] Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the [A] Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 5(f) of the Company Lease Agreement;

(iii) All activities in connection with the removal of the [A] Renewable Energy Projects as contemplated by Section 3.7(b)(i) of the Power Purchase Agreement; and

(iv) The monitoring of the [A] Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the [A] Local Unit Facilities.

(d) No other activities beyond the scope of the [A] Project Activities shall be undertaken on the [A] Local Unit Facilities by the Authority or any other [A] Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensor shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensor is obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensor shall use commercially reasonable efforts to avoid interfering with the Company's performance of its obligations under this [A] Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

Section 3.2. [A] Licensees. The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this [A] Local Unit License Agreement, the [A] Licensee shall permit the [A] Licensees to enter upon the [A] Local Unit Facilities to conduct the [A] Project Activities, at which time any such [A] Licensees shall

automatically, without any further action, be bound by the provisions of this [A] Local Unit License Agreement during the Term hereof.

Section 3.3. Observation. In connection with all [A] Project Activities, the Authority and/or any other [A] Licensee shall afford the Licensor and/or its representatives, the opportunity to observe all [A] Project Activities provided, however, that such observation activities shall not interfere with any [A] Project Activities or delay construction of the Projects; and provided, further, that the Licensor hereby releases and agrees to indemnify, defend and hold harmless the Authority and each other [A] Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensor's, or its representatives' or consultant's entry or activities on the [A] Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

Section 3.4. Reports: Inspection. The Authority shall, and shall cause all [A] Licensees, to promptly provide the Licensor with copies of any final written reports prepared, compiled or generated as part of the [A] Project Activities, if any [list of reports can be added here]. Further, the Licensor shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the [A] Local Unit License, to inspect the [A] Local Unit Facilities and/or the [A] Renewable Energy Projects during the Term of this [A] Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

Section 3.5. Restoration. In the event the [A] Local Unit License under this [A] Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other [A] Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the [A] Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

Section 3.6. Insurance. Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing [A] Project Activities on the [A] Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority is given at least thirty (30) days prior written notice of such cancellation or modification.

### Section 3.7. Revocation.

(a) The parties expressly acknowledge that the [A] Local Unit License cannot be revoked (including deemed revocation situations where the [A] Local Unit Facilities are unavailable to allow the Company to perform [A] Project Activities due to damage,

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condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the [A] Local Unit Facilities once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its [A] Local Unit License for the [A] Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the [A] Renewable Energy Projects, with as similar physical conditions to the existing [A] Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute [A] Renewable Energy Project on the [A] Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this [A] Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether the Licensor continues to receive and utilize the electricity from the [A] Renewable Energy Projects located on, or as applicable in, the [A] Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the [A] Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new [A] Local Unit Facilities for all purposes of this [A] Local Unit License Agreement and the other Program Documents, and similarly, the new [A] Renewable Energy Projects on, or as applicable in, such new [A] Local Unit Facilities shall be deemed the new [A] Renewable Energy Projects for all purposes of this [A] Local Unit License Agreement and the other Program Document), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the [A] Renewable Energy Projects, and the fees and expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this [A] Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and

obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the [A] Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (i) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (ii) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the [A] Renewable Energy Projects been operating at the [A] Local Unit Facilities for the remainder of such then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (iii) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the [A] Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the [A] Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the [A] Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

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(c) Any damage, taking, condemnation or otherwise of any [A] Local Unit Facility as a result of which such [A] Local Unit Facility is unavailable to allow the Company to perform its [A] Project Activities shall be deemed to be a revocation of the [A] Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

#### Section 3.8. Material Change to [A] Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.

To the extent the Licensor requests a material change to the [A] Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the [A] Renewable Energy Projects (the "Revised [A] Renewable Energy Projects"), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised [A] Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the [A] Renewable Energy Projects set forth on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

#### Section 3.9. Abandonment.

If any [A] Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this [A] Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such [A] Renewable Energy Project, be deemed terminated and discharged.

### ARTICLE IV

#### [A] DRAW PAPERS; [A] ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE

##### Section 4.1. [A] Draw Papers.

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the [A] Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the [A] Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the [A] Renewable Energy Projects and the [A] Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the [A] Renewable Energy Projects or the [A] Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the [A] Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and Exhibit D hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the [A] Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the [A] Capital Improvement Projects. The Licensor shall promptly review the [A] Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the [A] Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such [A] Draw Papers where indicated, and promptly forward the original of such [A] Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the [A] Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any [A] Draw Papers, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this [A] Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i)

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review, acknowledge, accept, execute and deliver any [A] Draw Papers or (ii) delegate any such action to the [A] Construction Manager.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the [A] Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any [A] Draw Papers to the [A] Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this [A] Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any [A] Draw Papers or (ii) delegate any such action to the [A] Construction Manager.

#### Section 4.2. [A] REP Acceptance Certificate Relating to the [A] Renewable Energy Projects.

(a) When the Company has determined that all of the [A] Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the [A] Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the [A] REP Acceptance Certificate applicable to such [A] Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and Exhibit E-1 hereto.

(b) The Licensor shall promptly review the form [A] REP Acceptance Certificate applicable to the [A] Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the [A] REP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the [A] REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such [A] REP Acceptance Certificate where indicated, and promptly forward the original of such [A] REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the [A] Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the [A] REP Acceptance Certificate to the [A] Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the [A] Construction Manager; provided, however,

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shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this [A] Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the [A] CIP Acceptance Certificate or (ii) delegate any such action to the [A] Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the [A] Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the [A] CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this [A] Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the [A] CIP Acceptance Certificate or (ii) delegate any such action to the [A] Construction Manager.

#### Section 4.4. Costs of Issuance.

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of Exhibit F hereto.

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that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this [A] Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the [A] REP Acceptance Certificate or (ii) delegate any such action to the [A] Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the [A] Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the [A] REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this [A] Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the [A] REP Acceptance Certificate or (ii) delegate any such action to the [A] Construction Manager.

#### Section 4.3. [A] CIP Acceptance Certificate Relating to the [A] Capital Improvement Projects.

(a) When the Company has determined that all of the [A] Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the [A] CIP Acceptance Certificate applicable to such [A] Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and Exhibit E-2 hereto.

(b) The Licensor shall promptly review the form [A] CIP Acceptance Certificate applicable to the [A] Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the [A] CIP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the [A] CIP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such [A] CIP Acceptance Certificate where indicated, and promptly forward the original of such [A] CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the [A] Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the [A] CIP Acceptance Certificate, which delegation

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## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositive evidence by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material effect on the Licensor, it being expressly understood that any such amendment having no material effect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgement of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (c)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the [A] Renewable Energy Projects and restoration of the [A] Local Unit Facilities matters set forth in subsection (c) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositive evidence if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this [A] Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the applicable Series 2011 Local Unit, subject to the proviso below, including without limitation the rights and obligations to purchase power

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from the Company thereunder from the [A] Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (i) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (ii) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(j) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (e), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the [A] Renewable Energy Projects located on, or as applicable, in the [A] Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(k) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the [A] Renewable Energy Projects installed on or, as applicable, in the [A] Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the [A] Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall take into account all the facts and circumstances of the marketplace for such [A] Renewable Energy Projects at such time, including without limitation, its continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by

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termination of the Power Purchase Agreement for the reasons set forth above in subsection (k), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the [A] Renewable Energy Projects located on, or as applicable, in the [A] Local Unit Facilities from the Authority, as owner of the [A] Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "Gross Substitute Power Purchase Price"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "Net Substitute Power Purchase Price") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the [A] Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

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the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; provided, however, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other [A] Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time, the [A] Renewable Energy Projects from the [A] Local Unit Facilities at the sole cost and expense and effort of the Company or any such other [A] Licensees, and (ii) restore, within a reasonable period of time, the [A] Local Unit Facilities, as improved by the [A] Capital Improvement Projects, to the condition prior to the installation of the [A] Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no effort or cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the [A] Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

#### Section 5.2. Substitute Power Purchase Price.

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, this [A] Local Unit License Agreement shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its [A] Renewable Energy Projects so long as the Power Purchase Agreement is in effect, upon the early

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(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the [A] Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the [A] Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

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ARTICLE VI  
EVENT OF DEFAULT

**Section 6.1. Default; Event of Default.**

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this [A] Local Unit License Agreement:

(i) the Authority or any other [A] Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other [A] Licensee to be performed or observed under this [A] Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other [A] Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this [A] Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(e) that are within the Licensor's control) the [A] Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Licensor to be performed or observed under this [A] Local Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same

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**Section 6.3. Remedies Generally.**

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this [A] Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this [A] Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the [A] Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such [A] Projects until cured, including without limitation the requirement that the Company complete all Projects, including the [A] Projects, by December 31, 2012, all in accordance with the terms of the Program Documents.

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to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

**Section 6.2. Remedies.**

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this [A] Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the [A] Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the proceeds funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by statute to enforce the specific performance rights of the Authority under this [A] Local Unit License Agreement.

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ARTICLE VII

MISCELLANEOUS

**Section 7.1 Term.**

(a) This [A] Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This [A] Local Unit License Agreement and the [A] Local Unit License granted herein shall terminate against the Authority, after which date all [A] Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the [A] Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the [A] Renewable Energy Projects shall have been removed from the [A] Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the [A] Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the [A] Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 hereof, and [either the Licensor or the Licensee desires to terminate this [A] Local Unit License Agreement, which termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the Licensee agree in writing to terminate this [A] Local Unit License Agreement].

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(c) The "Term" of this [A] Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this [A] Local Unit License Agreement, none of the Licensor, the Authority, nor any other [A] Licensees shall have any further rights, duties or obligations with respect to the [A] Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this [A] Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the [A] Licensees to gain access under the [A] Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority's rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this [A] Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

- (a) Licensor: [A]  
With a copy to: [Licensor's Counsel]
- (b) Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman

jbonanni@co.morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@jandplaw.com

(e) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to: [ ]

(e) Company: Stacy L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email: principals@sunlightgeneral.com

With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com

(e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Voorhees, NJ 08043  
Email: jvogel@birdsall.com

With a copy to: Joseph Santaiti  
Gabel Associates  
417 Demison St.  
Highland Park, NJ 08904  
Email: joseph.santaiti@gabelassociates.com

**Section 7.4. Successors and Assigns.** This [A] Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This [A] Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This [A] Local Unit License Agreement and the duties and obligations contained

herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other [A] Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This [A] Local Unit License Agreement shall be governed by the laws of the State without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this [A] Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever. To the extent any provision of this [A] Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this [A] Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This [A] Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This [A] Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this [A] Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this [A] Local Unit License Agreement and (b) its performance of the actions contemplated by this [A] Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties or revenues, shall be entitled to any immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding.

[The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow]

[SEAL]

THE MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee

By: John Bonanni, Chairman

ATTEST:

By: Ellen M. Sandman, Secretary

[SEAL]

[ ], as Licensor

By: Authorized Representative

ATTEST:

By: Authorized Representative

The terms and conditions of this [A] Local Unit License Agreement are hereby ACKNOWLEDGED and ACCEPTED by the following acknowledgment party, this \_\_\_ day of December, 2011.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC  
Its Manager

By: \_\_\_\_\_  
Name: Stacy L. Hughes  
Title: Authorized Signatory

STATE OF NEW JERSEY )  
 ) ss.:  
COUNTY OF SUSSEX)

On this \_\_\_ day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared John Bonami, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

\_\_\_\_\_  
Notary Public

STATE OF NEW JERSEY )  
 ) ss.:  
COUNTY OF SUSSEX)

On this \_\_\_ day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ known to me (or proved to me on the basis of satisfactory evidence) to be the \_\_\_\_\_ of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

\_\_\_\_\_  
Notary Public

EXHIBIT A

[Attach Description of [A] Local Unit Facilities]

[See attached list - as applicable to your local Unit -  
To be refined in final License Agreement]

**Morris County Improvement Authority**  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

Series 2011 Local Unit List of Local Unit Facilities

EXHIBIT B

[Attach Description of [A] Renewable Energy Projects]

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

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EXHIBIT D

[Attach [A] Draw Papers]

Requisition No. \_\_\_\_\_

\_\_\_\_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects")] being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, DOES HEREBY CERTIFY and REQUISITION moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "Trustee") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$ \_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition; provided, however, that the Trustee shall reduce such requisition by the amount, if any, required to maintain at least \$1,000,000 of retainage on deposit in the Project Fund until the Trustee receives the final REP Certificate from all of the Local Units pursuant to Section 5.10(d)(3) of the Company Lease Agreement, at which time the final \$1,000,000 may be released.

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EXHIBIT C

[Attach Description of [A] Capital Improvement Projects]

None

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(a) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
with the following Development Contract: \_\_\_\_\_ services] [incurred in connection \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to \_\_\_\_\_ for  
services] [incurred in connection with the following Development Contract: \_\_\_\_\_]; and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
with the following Development Contract: \_\_\_\_\_ services] [incurred in connection \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to \_\_\_\_\_ for  
services] [incurred in connection with the following Development Contract: \_\_\_\_\_];

{Please Note, include Name and Address of any Contractor and the specific Development Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the [A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the [A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

3. Such payment obligation, for which funds have been requested in accordance with Section 1[(a)] 1[(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw

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Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,  
SUNLIGHT GENERAL SUSSEX SOLAR, LLC  
By: Sunlight General Capital Management, LLC  
Its Manager

By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory

The terms of this Requisition are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_ day of \_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_ day of \_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT E-1

[Attach [A] REP Acceptance Certificate]

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_, the [A] Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof.

3. The [A] Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the [A] Renewable Energy Projects for all purposes of Section 510(d)(1)(C) of the Company Lease Agreement and Section 5.02(3)(a)(1)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the [A] Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the [A] Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

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EXHIBIT E

FORMS OF [A] ACCEPTANCE CERTIFICATES

See Attached:

Form E-1, Form of [A] REP Acceptance Certificate  
Form E-2, Form of [A] CIP Acceptance Certificate

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accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the [A] Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC

By: Sunlight General Capital Management, LLC  
Its Manager

By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory

ATTEST:

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ATTEST:

By: Name: Stacy Hughes  
Title: Authorized Signatory

By: Sunlight General Capital Management, LLC  
Its Manager  
SUNLIGHT GENERAL SUSSEX SOLAR, LLC

Very truly yours,

be but one and the same.  
any number of counterparts, each of which shall be regarded for all purposes as one original and shall constitute and

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in applied as set forth in a Certificate of an Authorized Officer of the Authority.  
delivered CIP Acceptance Certificate, upon the Trustee's receipt of this duly authorized and  
a manner as would, with the passage of time, cause an Event of Default under the Company  
Company shall have either caused an Event of Default under the Company Lease Agreement as  
510(e) of the Company Lease Agreement and Section 5.02(3)(f) of the Bond Resolution, and the  
[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section  
510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the  
Company shall not have caused an Event of Default under the Company Lease Agreement as of  
the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such  
a manner as would, with the passage of time, cause an Event of Default under the Company Lease  
Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and  
delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without  
further authorization, shall first be applied to reimburse the Company for its withheld retainer  
under the Company Lease Agreement, and the excess after such application shall be transferred  
by the Trustee to the Debt Service Fund and applied as a credit to the next due Base Lease  
Payments owed by the Company, in accordance with the terms of the Bond Resolution and the  
Company Lease Agreement.]  
[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section  
510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the  
Company shall not have caused an Event of Default under the Company Lease Agreement as of  
the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such  
a manner as would, with the passage of time, cause an Event of Default under the Company Lease  
Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and  
delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without  
further authorization, shall first be applied to reimburse the Company for its withheld retainer  
under the Company Lease Agreement, and the excess after such application shall be transferred  
by the Trustee to the Debt Service Fund and applied as a credit to the next due Base Lease  
Payments owed by the Company, in accordance with the terms of the Bond Resolution and the  
Company Lease Agreement.]  
the other Projects.]  
the (A) Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of

By: Name:  
Title:

By: CONSTRUCTION MANAGER  
Name:  
Title:

The form (only) of this [A] CIP Acceptance Certificate is hereby ACKNOWLEDGED by AUTHORITY this day of 20.

By: CONSTRUCTION MANAGER  
Name:  
Title:

By: LICENSOR  
Name:  
Title:

The terms of this [A] CIP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this day of 20.

4. [Choose one, as applicable]  
This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and, accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for

3. By obtaining the Licensor's execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor's acceptance of (a) the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which [A] Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with the terms as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof shall constitute the Licensor's acceptance of the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof.]

1. As of 20, the [A] Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

1. the undersigned, a duly authorized officer of COMPANY, in Delaware limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects" being developed for [ ] as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in the Agreement), DO HEREBY CERTIFY as follows:  
Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement.)

By: Name:  
Title:

By: CONSTRUCTION MANAGER  
Name:  
Title:

The form (only) of this [A] REP Acceptance Certificate is hereby ACKNOWLEDGED by AUTHORITY this day of 20.

By: CONSTRUCTION MANAGER  
Name:  
Title:

The terms of this [A] REP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this day of 20.

[Attach [A] CIP Acceptance Certificate]

EXHIBIT F

CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR

The Morris County Improvement Authority
P.O. Box 900
Morristown, NJ 07963-0900
Attention: John Bonanni, Chairman
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority
County Guaranteed Renewable Energy Program Lease Revenue Bonds,
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain "Licensed and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "[A] Local Unit License Agreement") by and between The Morris County Improvement Authority (the "Authority") and [ ] (the "Licensor"), and (ii) Section 5.03(3)(a) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the [A] Local Unit License Agreement), the Company, by its Authorized Officer stated below, HEREBY REQUESTS that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ , which amount shall be payable to

[ ]
for [ ] services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to
for [ ] services].

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Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

[LICENSOR]

By: \_\_\_\_\_
Authorized Officer

The form (only) of this Certificate is hereby
ACKNOWLEDGED by the MORRIS COUNTY
IMPROVEMENT AUTHORITY this \_\_\_\_ day
of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_
Name: \_\_\_\_\_
Title: \_\_\_\_\_

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LEASE PURCHASE AGREEMENT
(Sussex County Renewable Energy Program, Series 2011)

By and Between

MORRIS COUNTY IMPROVEMENT AUTHORITY, as Lessor

and

[COMPANY], as Lessee

Dated as of December 1, 2011

with respect to the Morris County Improvement Authority's
Not to exceed \$30,000,000 aggregate principal amount of
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series 2011 (Federally
Taxable)

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**LEASE PURCHASE AGREEMENT**  
(Sussex County Renewable Energy Program, Series 2011)

THIS "LEASE PURCHASE AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "Company Lease Agreement"), dated as of December 1, 2011, is made by and among the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority" or "Lessor"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of the County of Morris (the "County of Morris"), State of New Jersey ("State") as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act") and other applicable law, and [COMPANY], a limited liability company organized and existing under the laws of the State of Delaware, duly authorized to conduct business in the State (including any successors and assigns, the "Company" or "Lessee").

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants"), if any, and together with the Authority Consultants, the "Consultants"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or

for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A, to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyson Township Board of Education, High Point Regional Board of Education, Kittatiny Regional School District, Lafayette Township Board of Education, Loupa Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of

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\$ \_\_\_\_\_ and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "Series 2011A Bonds") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount of \$ \_\_\_\_\_ and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note, and together with the Series 2011A Bonds, "Series 2011 Bonds"), by the same sale method as the Series 2011A Bonds;

WHEREAS, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the Series 2011 Project);

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for

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the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(e) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "Company RFP") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "Company Proposal") of Sunlight General Sussex Solar, LLC (the "Company"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

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- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "BPU"), whereby, among other things,

(I) The Company shall have established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall have established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

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- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on \_\_\_\_\_, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$30,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

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Lease Payment Date (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "Equity Contribution"), (ii) a cash reserve in the amount of \$\_\_\_\_\_ (the "County Reserve") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the Initial Basic Lease Payment Date, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty;

WHEREAS, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral. If any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

WHEREAS, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c2-12") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the

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WHEREAS, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

WHEREAS, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

WHEREAS, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "EPC Contractor"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated (October \_\_, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "EPC Contract", which by its terms shall supersede that certain "Memorandum of Understanding" dated \_\_\_\_\_, 2011 (the "EPC Contract MOU") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$[\_\_\_\_\_] (the "In-Kind Equity Contribution") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$[\_\_\_\_\_] but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company upon the Initial Basic

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same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement" and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A-54(d) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated \_\_\_\_\_, 2011 (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i) the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement"); and (ii) the execution and delivery of a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "Sale Documents");

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WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

ARTICLE I

DEFINITIONS AND EXHIBITS

SECTION 101. Definitions.

(a) The terms set forth in this Section shall have the meanings ascribed to them for all purposes of this Company Lease Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires. Terms used in this Company Lease Agreement and not otherwise defined shall have the meaning assigned to them in the Bond Resolution.

(b) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

Act  
 Authority  
 Board of Education Series 2011 Local Units  
 Board of Freeholders  
 Bond Purchase Agreement  
 Bond Resolution  
 Bonds  
 BPU  
 Capital Improvement Projects\*  
 Cash Equity Contribution  
 Company  
 Company Continuing Disclosure Agreement  
 Company Documents  
 Company Lease Agreement  
 Company Pledge Agreement  
 Company Proposal  
 Company RFP  
 County  
 County Continuing Disclosure Agreement  
 County Guaranty  
 County Guaranty Agreement  
 County Reserve  
 County Security  
 County Security Agreement  
 County Security Provider  
 County Service Agreement  
 County Series 2011 Local Units

Dissemination Agent  
 Equity Contribution  
 EPC Contract  
 EPC Contractor  
 Initial Tranche  
 In-Kind Equity Contribution  
 Local Units  
 Local Unit Facilities\*  
 Local Unit License  
 Local Unit License Agreement  
 Local Unit License Agreements  
 Municipal Series 2011 Local Units  
 Official Statement  
 Power Purchase Agreement  
 Preliminary Official Statement  
 Preliminary Program Costs  
 Program Documents  
 Projects\*  
 Renewable Energy Program  
 Renewable Energy Projects\*  
 Rule 15c2-12  
 Sale Documents  
 Second Tranche  
 Section 1603 Grant  
 Series 2011 Bonds  
 Series 2011A Bonds  
 Series 2011B Note  
 Series 2011 Local Unit\*  
 Series 2011 Local Units  
 Shared Services Act  
 SRECs  
 State  
 Underwriter

Aged Account  
 Bond  
 Capitalized Interest Account  
 Code  
 Company Development Fees and Expenses  
 Completion Conditions  
 Completion Project  
 Consulting Energy Engineer  
 Consulting Energy Engineering Services  
 Cost  
 Costs of Issuance Account  
 County Security Fund  
 County Security Fund Requirement  
 Debt Service Fund  
 Funds  
 General Fund  
 Gross Substitute Power Purchase Price  
 Interest Account  
 Investment Securities  
 Net Substitute Power Purchase Price  
 Outstanding  
 Paying Agent  
 Principal Account  
 Principal Office  
 Project Fund  
 Rating Agency  
 Renewable Energy Program Interested Party  
 Restoration Security Fund  
 Restoration Security Fund Requirement  
 Revenue Account  
 Revenue Fund  
 Revenues  
 Series  
 Series 2011B Bonds  
 Sinking Fund Installments  
 Supplemental Resolution  
 Tax Certificate  
 Tax-exempt Bonds  
 Trustee  
 Trust Estate

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(c) The following defined terms shall, for all purposes of this Company Lease Agreement, have the meanings ascribed to such terms in the Bond Resolution

Account  
 Additional Bonds  
 Administrative Expense Account  
 Administrative Fund

(d) The following defined terms shall, for all purposes of this Company Lease Agreement, have the following meanings:

"Acceptance Certificates" shall mean, individually or collectively, as the case may be, the CIP Acceptance Certificates and the REP Acceptance Certificates.

"Additional Lease Payment" shall mean any amount payable by the Company at the times and under the other terms of the Company Lease Agreement, other than Basic Lease Payments, including without limitation, (i) Administrative Expenses not otherwise provided from a portion of the proceeds of the Bonds, including the second and succeeding Bond Year Administrative Fee, (ii) interest on any past due Lease Payments payable at the Overdue Rate (but not any such past due Basic Lease Payment), (iii) to the extent Company funds are available, after payment of all reasonable Company expenses and prior to any member distributions, replenishment of any deficiency in the County Security Fund Requirement, (iv) the Purchase Option Price in accordance with Section 701 of the Company Lease Agreement, (v) the Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement, (vi) the Restoration Security Fund deposits up to the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution, and (vii) a one-time payment of \$1,500,000 payable on or before the Initial Basic Lease Payment Date, January 15, 2013 for deposit in the County Security Fund to satisfy the County Security Fund Requirement.

"Administrative Expenses" shall mean the fees and expenses which are incurred from time to time by or on behalf of the Authority, the County, the County Security Provider, or the Series 2011 Local Units, including the Administrative Fee, if any, in carrying out their respective rights and duties under the terms of the Program Documents, including, without limitation the Preliminary Program Costs, accounting, administrative, financial advisory, and legal expenses, the Consulting Energy Engineering Services, the fees and expenses of the Trustee, the Paying Agent, or any other fiduciaries or agents acting on behalf of the Authority, the County, or the Series 2011 Local Units, under or pursuant to the terms of the Program Documents, which amounts shall be due and payable by the Company as an Additional Lease Payment at the times set forth in the Program Documents, or, as applicable, upon presentation of an invoice for payment; provided, however, that to the extent an Administrative Expense is incurred solely due to the action or inaction of a Series 2011 Local Unit not caused by or otherwise resulting from any action, inaction or request of the Company, such Administrative Expense shall be paid by such Series 2011 Local Unit upon presentation of an invoice for payment. Other than the Series 2011 Bond proceeds deposited in the Administrative Fund in accordance with Section 2.03(7)(a) of the Bond Resolution and earmarked for certain costs and expenses, including certain Administrative Expenses, and other than the Authority's annual Administrative Fee and the Trustee's annual fee to be paid as an Additional Lease Payment by the Company, the Company and the Series 2011 Local Units shall only be responsible for the reasonable amount of Administrative Expenses caused by the action or inaction of the Company or the Series 2011 Local Unit, as applicable, to the extent any such Administrative Expenses arise in the course of the implementation of the Renewable Energy Projects and/or the performance by the Authority, County, and/or Series 2011 Local Unit of their rights, duties and obligations under the Program Documents.

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(vi) For all Bond Years with respect to any Series of Additional Bonds, such amounts as may be set forth in a Supplemental Resolution, including without limitation, for any Series of Additional Bonds that refund the Series 2011 Bonds or any other Series of Outstanding Bonds, (a) a financing fee payable upon the issuance of any such Series of Additional Bonds (from the proceeds thereof, from the Company, or otherwise) in the amount of two percent (2%) of the aggregate principal amount of any such Series of Additional Bonds, or such different amount as shall be agreed to by the Company and the Authority, plus (b) all reasonable Administrative Expenses of the Authority and any other Renewable Energy Program Interested Party involved in any such refunding payable upon the issuance of any such Series of Additional Bonds, plus (c) an annual financing fee of one percent (1%) of the aggregate principal amount of any such Series of Additional Bonds Outstanding and payable by the Company as of the first day of each Bond Year until final maturity (stated or otherwise) thereof, plus (d) the amounts, if any, payable to the Authority pursuant to Section 6.3(d) of the Power Purchase Agreement, except as any such amounts may be modified in any such Supplemental Resolution authorizing the issuance of any such Series of Additional Bonds.

"Applicable" shall mean (i) with reference to any Series 2011 Local Unit, the Series 2011 Local Unit intended to be benefited or obligated thereby, (ii) with reference to any Renewable Energy Project, the Renewable Energy Project for the intended Series 2011 Local Unit, (iii) with reference to any Local Unit Facilities, the Local Unit Facilities for the intended Series 2011 Local Unit, and (iv) with reference to any Local Unit License Agreement, the Local Unit License Agreement executed for the benefit of the intended Series 2011 Local Unit.

"Applicable Law" means all applicable provisions of any constitution, statute, law ordinance, code, rule, regulation, decision, order, decree, judgment, release, license, permit, stipulation or other official pronouncement enacted, promulgated or issued by any Governmental Authority.

"Architect" shall mean individually or collectively, as the case may be, the individual or entity appointed or caused to be appointed or employed by the Applicable Series 2011 Local Unit, the Lessor, or the Lessee, as applicable, with respect to the provision of architectural services relating to the Renewable Energy Projects or the Capital Improvement Projects on, in, affixed or adjacent to, or otherwise for the benefit of the Local Unit Facilities for such Applicable Series 2011 Local Unit, all in accordance with applicable law, which may include the Local Public Contracts Law or the Public Schools Contracts Law, including any rules and regulations relating thereto and to which such Applicable Series 2011 Local Unit, the Lessor, or the Lessee is subject, including without limitation any architect of record with respect to such Projects and/or Local Unit Facilities. The Architect may be a Contractor providing services pursuant to a Development Contract.

"Authorized Officer" or "Authorized Representative" shall mean, (i) with respect to the Authority; the Chairman, the Vice Chairman, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person

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"Administrative Fee" shall mean the sum of the following, payable by the Company to the Authority at the times and the amounts as set forth below:

(i) With respect to the Series 2011 Bonds for the first Bond Year upon initial issuance thereof, the Authority's fee for the Renewable Energy Program in the amount of \$120,000, consisting of the sum of (a) \$100,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Costs of Issuance Account of the Administrative Fund pursuant to Section 2.03(7)(a)(i) of the Bond Resolution and (b) \$20,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Administrative Expense Account of the Administrative Fund pursuant to Section 2.03(7)(a)(ii)(A) of the Bond Resolution; plus

(ii) For all Bond Years with respect to the Series 2011 Bonds thereafter (commencing June 15, 2013), a sum of money payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund payable on the Basic Lease Payment Date immediately preceding the first day of any such Bond Year, equal to \$20,000, which amount may be referred to as the Authority's annual Administrative Fee; plus

(iii) For all Bond Years with respect to the Series 2011 Bonds commencing December 15, 2017 and thereafter, a sum or sums of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(c) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(iv) For all Bond Years with respect to the Series 2011 Bonds, a sum of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(b) and/or Section 6.3(d) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(v) With respect to any Series of Bonds, interest on any past due Basic Lease Payments payable at the Overdue Rate in accordance with the Company Lease Agreement (but not any such past due Basic Lease Payment); plus

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who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairman or by the Vice Chairman of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to any Series 2011 Local Unit: the person designated as an Authorized Officer in the Applicable Local Unit License Agreement of any such Series 2011 Local Unit or any other person or persons who shall be authorized to act on behalf of such Series 2011 Local Unit by virtue of a resolution of the governing body of such Series 2011 Local Unit, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

"Base Rate" shall mean the rate of interest established by the Trustee from time to time as its reference rate in making loans but does not reflect the rate of interest charged to any particular class of borrowers, and is not tied to any external rate of interest or index. The applicable rate will change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any party. If no other rate shall be so established by the Trustee, the Base Rate shall be the Trustee's prime rate as determined from time to time.

"Basic Lease Payment" shall mean, as of each Basic Lease Payment Date, the amount set forth in Exhibit A-3 to the Company Lease Agreement corresponding to such Basic Lease Payment Date and designated as a Basic Lease Payment. The Basic Lease Payment as of any Basic Lease Payment Date is equal to the payment of the Principal Portion and Interest Portion due on such Basic Lease Payment Date, and shall be established as the amount set forth in Exhibit A-3 to the Company Lease Agreement for such date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments), and interest on the Outstanding Bonds on the next occurring (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) Principal Payment Date and Interest Payment Date respectively, of the Outstanding Bonds, including without limitation the credits available under (i) Section 302(a)(i) and (ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to

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investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(j)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701 of the Company Lease Agreement with respect to prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Basic Lease Payment Date" shall mean any date set forth in Exhibit A-3 to the Company Lease Agreement and designated as a Basic Lease Payment Date, which for the Interest Portion (January 15 and July 15, commencing January 15, 2013) and Principal Portion (January 15, commencing January 15, 2013) of any Basic Lease Payment, shall be a day five (5) months prior to any (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) regularly scheduled Interest Payment Date and any regularly scheduled Principal Payment Date, respectively, or if either of such days is not a Business Day, the first Business Day prior to such date.

"Bond Counsel" shall mean Inglesino, Pearlman, Wyciskula & Taylor, LLC, or any other attorney at law, or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exclusion of interest on bonds or other obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state.

"Bond Year" shall mean (i) with respect to any Series of Outstanding Bonds, including the Series 2011 Bonds, a period of twelve (12) consecutive months beginning on June 15 of any calendar year and ending on June 14 of the immediately succeeding calendar year except that (ii) the first Bond Year with respect to the Series 2011 Bonds shall be a period commencing on the date of issuance of the Series 2011 Bonds and ending on June 14, 2012 and (iii) the first Bond Year with respect to any other Series of Bonds shall be a period commencing on the date of issuance of such Series of Bonds and ending on the succeeding 14<sup>th</sup> day of June.

"Bondholder", "Bond Holder," "Holder" or "Holder of Bonds" shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds, which by its terms, upon original issuance of the Series 2011 Bonds, shall mean the respective registered owners of the Series 2011A Bonds and with respect to the Series 2011B Note, the County.

"Business Day" shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or

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the Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

"Certificate" shall mean a written certificate signed in the name of the Authority, any Series 2011 Local Unit, the County, the Company or the Trustee. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the instruments so combined shall be read and construed as a single instrument.

"CIP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Capital Improvement Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Capital Improvement Projects for each such Series 2011 Local Unit has been completed in accordance with the Plans and Specifications therefore, and has been accepted by such Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution. The Authority and the Company acknowledge and agree that the Company shall not be responsible for the construction of any Capital Improvement Projects under the Program Documents and any references in such Program Documents to the Capital Improvement Projects shall be of no further force and effect.

"CIP Acceptance State" shall mean the good working order condition of the Capital Improvement Projects for the Series 2011 Local Units, at the time of the authorization, execution and delivery of, and as certified and acknowledged by such Applicable Series 2011 Local Units in the respective CIP Acceptance Certificates.

"Company Appendices" shall mean that portion of the Preliminary Official Statement and the Official Statement relating to the Company, including the appendices thereof, which may include financial, demographic or other information supplied by or on behalf of the Company, or a link or other reference to such information, all as shall be designated in the Company Continuing Disclosure Agreement, and as to which the Company shall make certain certifications under federal securities law.

"Construction Manager" shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Lessor or any Series 2011 Local Unit with the consent of the Lessor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Lessee for any Series 2011 Local Unit, or the oversight of the design, permitting, acquisition, construction, renovation, and installation of the Capital

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Improvement Projects, if any, by the Lessee for any Series 2011 Local Unit. The Consulting Energy Engineer may act as Construction Manager.

"Construction Performance Bond" shall have the meaning ascribed to such term in the Power Purchase Agreement.

"Contractor" shall mean the Company and the EPC Contractor, in any such case as the entity obligated to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Developer" shall mean an Affiliate of the Company to be designated at the time of execution of the Development Agreement.

"Development Agreement" means the Development Agreement to be entered into by and between the Company and the Developer for development services related to the Projects.

"Development Contract" shall mean (i) in the case of the Company, the Company Lease Agreement, (ii) as to the EPC Contractor, the EPC Contract, and (iii) in the case of any other Contractor, that certain contract obligating any such other subcontractor or other third-party, as Contractor and on behalf of the Company, to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units. Nothing in any Development Contract shall relieve the Company from its obligations under the Company Lease Agreement and the other Company Documents, which obligations shall include the Company's continual obligation to design, permit, acquire, construct, install, operate and/or maintain all of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, and to design, permit, acquire, construct, renovate and/or install all of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Development Fee" means the fee payable to the Developer for services provided under the Development Agreement.

"Draw Date" shall have the meaning ascribed to such term in Section 510(b) of this Company Lease Agreement, and shall not be a regularly scheduled set of dates, but shall occur no more frequently than twice a month.

"Draw Paper Ratio" shall have the meaning ascribed to such term in Section 510(c) of this Company Lease Agreement.

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"Draw Papers" shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

"Event of Default" shall have the meaning ascribed to such term in Section 1001 of this Company Lease Agreement.

"Excess Power Purchase Price Payments" shall have the meaning ascribed to such term in Section 311(a) of this Company Lease Agreement.

"Exhibit A-3" shall mean Exhibit A-3 to this Company Lease Agreement, which for all purposes of the Program Documents, shall mean Exhibit A-3- attached hereto and made a part of this Company Lease Agreement.

"Force Majeure" shall mean any event which is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party or its affiliates, including, but not limited to and without limitation, (a) strikes or other labor disputes (other than strikes or labor disputes solely by employees or contractors of the Parties to this Power Purchase Agreement as a result of such Party's failure to comply with a collective bargaining agreement), (b) adverse weather conditions, breakdown or failure of the utility transmission or distribution system not caused by the Service Provider, and (c) other acts of nature, riot or civil unrest. The term Force Majeure does not include (i) any acts or omissions of any third party, including, without limitation, any vendor, customer, or supplier of the Service Provider, unless such acts or omissions are themselves excused by reason of Force Majeure; (ii) any full or partial curtailment in the electric output of the Renewable Energy Projects that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear, unless such mishap is caused by Force Majeure; (iii) changes in market conditions that affect the cost of the Service Provider's supplies, or that affect demand or price for any of the Service Provider's products, including, but not limited to the price of electricity, SRECs, or other environmental attributes; or (iv) any action that constitutes negligence or gross negligence by the Party claiming a Force Majeure event.

"Governmental Authority" means any federal, state or local legislative, executive, judicial, quasi-judicial or other public authority, agency, department, bureau, division, unit, court, tribunal, or other public body, person or entity having jurisdiction over a Party, the Renewable Energy Projects or this Company Lease Agreement.

"Independent Insurance Consultant" shall mean a nationally recognized, independent actuary, insurance company or broker acceptable to the Lessor that has actuarial personnel experienced in the area of insurance for which the Lessee is to be self-insured.

"Initial Basic Lease Payment Date" shall mean January 15, 2013, the first Basic Lease Payment Date.

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"Interconnection Agreement" shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Lessee, the Applicable Series 2011 Local Unit and/or the Lessor, with respect to the interconnection of the completed Renewable Energy Projects for such Series 2011 Local Unit to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

"Interest Payment Date" shall mean, the date on which interest on the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June and December until final maturity of the Bonds, including the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Interest Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Interest Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the interest due and owing on the Outstanding Bonds, including the Series 2011 Bonds, on the immediately succeeding Interest Payment Date, as set forth in Exhibit A-3 to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Interest Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the interest on the Bonds on the next occurring Interest Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(i) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Lease Payments" shall mean all amounts due and payable by the Company pursuant to the terms of the Company Lease Agreement, and shall consist of Basic Lease Payments and the Additional Lease Payments.

"Lease Term" or "Term" shall mean the period during which this Company Lease Agreement is in effect, as specified in Section 402 hereof.

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been drawn upon to reimburse the County in full for any County payments under the County Guaranty, the Overdue Rate with respect to interest to be paid on past due Basic Lease Payments (such payment of interest constituting an Additional Lease Payment hereunder) shall have such different meaning, if any, as may be set forth in the County Security Agreement, if any.

"Permitted Encumbrances" shall mean as of any particular time: (i) liens for taxes and assessments not then delinquent with respect to the Leased Property, (ii) the Company Lease Agreement and the other Program Documents, (iii) the pledge and assignment by the Lessor of the Reimbursement Collateral to the County Security Provider, if any, under the County Security Agreement, if any, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security, (iv) the pledge of the Trust Estate by the Lessor to the Trustee under the Bond Resolution, and (v) any mechanic's, laborer's, materialman's, supplier's or vendor's lien or right arising during construction of any Renewable Energy Project prior to December 17, 2012 and not filed or perfected in the manner prescribed by law.

"Plans and Specifications" shall mean the architectural and engineering drawings and specifications prepared by the Architect or other Contractor (through a Development Contract or otherwise) describing the Renewable Energy Projects or the Capital Improvement Projects (if any), including any Completion Project, as the case may be, as agreed to among the Company and the Applicable Series 2011 Local Unit pursuant to Section 501 of the Company Lease Agreement.

"PPA Price" shall have the meaning set forth in Section 6.2 of the Power Purchase Agreement.

"Power Purchase Price Payments" shall mean the payments made by the respective Series 2011 Local Units for the purchase of electricity to the Trustee at the direction of and on behalf of the Lessee and Lessor, all in accordance with Section 5.1(c)(i) of the Local Unit License Agreements.

"Principal Payment Date" shall mean, the date on which principal (including Sinking Fund Installments, if any) of the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the first (1<sup>st</sup>) day of each June until final maturity of the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Principal Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Principal Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the principal (including Sinking Fund Installments) of the Outstanding Bonds, including the Series 2011

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"Leased Property" shall mean the Renewable Energy Projects, as set forth in Exhibit A-1 to the Company Lease Agreement and in Exhibit B to the respective Local Unit License Agreements for the Series 2011 Local Units, together with all properties, rights, duties and obligations related thereto, including without limitation the right to enter upon and locate the Renewable Energy Projects on the Local Unit Facilities, as all such property shall be leased by the Authority, as owner and lessor, to the Company, as lessee, pursuant to Section 401 of the Company Lease Agreement for the Lease Term, with the express intent that such lease shall convey ownership of such property for purposes of the Code to the Company. The Leased Property shall not include the Capital Improvement Projects, if any, of the Series 2011 Local Units, all of which shall be owned by the respective Series 2011 Local Units.

"Mandatory Purchase Price" shall have the meaning ascribed to such term in Section 702 of the Company Lease Agreement relating to the acceleration of the Bonds of any Series, including the Series 2011 Bonds.

"Maximum Gross Bond Funded Project Cost Amount" shall mean the sum of (i) the Maximum Net Bond Funded Project Cost Amount funded with a portion of the proceeds of the Series 2011 Bonds and deposited with the Trustee in the Project Fund upon initial issuance thereof, together with (ii) any interest earned thereon prior to disbursement from the Project Fund in accordance with the Company Lease Agreement and the Bond Resolution, which amount has been estimated by the Lessee to be sufficient, together with the Equity Contribution, to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

"Maximum Net Bond Funded Project Cost Amount" shall mean \$ \_\_\_\_\_ the amount deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(c)(i), (ii) and (iii) of the Bond Resolution to fund a portion of the Project Costs, which amount was established by the Lessee pursuant to the Company Proposal.

"Net Proceeds" shall mean any insurance, condemnation, Construction Performance Bond or other performance bond, or any other financial guaranty proceeds paid with respect to any portion of the Projects, remaining after payment therefrom of all expenses incurred in the collection thereof; and, with respect to insurance, if and at such time as the Lessee elects to provide self-insurance under Section 614 of this Company Lease Agreement, any moneys payable from any self-insurance fund of the Lessee which may lawfully be expended for the purposes for which such self-insurance is provided.

"Overdue Rate" shall mean two percent (2%) per annum over the Base Rate, which rate shall change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any Renewable Energy Program Interested Parties; provided, however, that notwithstanding the foregoing, to the extent the County Security, if any, shall have

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Bonds, due and owing on the immediately succeeding Principal Payment Date, as set forth in Exhibit A-3 attached to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Principal Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments) the Bonds on the next occurring Principal Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Purchase Option Price" shall have the meaning ascribed to such term in Section 701 of the Company Lease Agreement relating to the optional redemption of the Bonds of any Series, including the Series 2011 Bonds.

"Reimbursement Collateral" shall mean, to the extent a County Security Agreement shall be delivered to the Lessor and the Trustee in accordance with the provisions of Section 5.07(6) of the Bond Resolution, (i) the SRECs, (ii) the Net Substitute Power Purchase Price, and (iii) any past due Basic Lease Payments, together with any Additional Lease Payments constituting interest payable on such past due Basic Lease Payments at the Overdue Rate, all of which shall have been pledged and assigned by the Lessor to the County Security Provider under the County Security Agreement, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security. If no County Security Agreement shall be so delivered, which shall be the case upon original issuance of the Series 2011A Bonds, this term shall mean the County Reserve and any other monies and securities on deposit in the County Security Fund at any time, if any, that shall be available to the Lessee, in such case as County Security Provider, after and to the extent the County has been fully paid under its County Guaranty; provided that no such monies shall be made available to the Lessee until the County has completed all of its payment obligations under the County Guaranty and been fully reimbursed therefor, from the County Security Fund or otherwise.

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"REP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Renewable Energy Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Renewable Energy Projects for each such Series 2011 Local Unit have been completed in accordance with the Plans and Specifications therefor, and have been accepted by the Company and the Applicable Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution.

"Reserved Rights" shall mean the Authority's right to retain the following under the Company Lease Agreement, which shall not be part of the Trust Estate pledged to the Trustee under Section 1.04 of the Bond Resolution:

(i) Receive the Additional Lease Payments earmarked for purposes other than the Purchase Option Price or the Mandatory Purchase Price (which Purchase Option Price or the Mandatory Purchase Price Additional Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), including without limitation (a) the Administrative Fee, if any, and any other Administrative Expenses, which the Authority shall be obligated to pay or cause to be paid to the Renewable Energy Program Interested Parties due such Administrative Expenses, and (b) interest payable on past due Lease Payments at the Overdue Rate (but not the Basic Lease Payments that may be paid together with any payment at the Overdue Rate, which Basic Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), provided, further, that the portion of which interest that is attributable to past due Basic Lease Payments may be assigned by the Authority to the County and/or the County Security Provider, if any, as part of the Reimbursement Collateral;

(ii) The payments set forth in Section 5.2(a)(ii) and (iii) of the Local Unit License Agreements for the Series 2011 Local Units that reflect the difference between the Gross Substitute Power Purchase Price and the Net Substitute Power Purchase Price, which includes the Administrative Fee;

(iii) Receive notices provided for in the Company Lease Agreement or any other Program Document;

(iv) Appoint, replace or remove such parties as shall be appointed, replaced or removed under the Company Lease Agreement or any other Program Document at the direction of the Authority; and

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(c) Exhibit C: Form of Draw Papers.

(f) Exhibit C-1. Initial Project Workforce Form AA201.

(d) Exhibit D: Certificate of an Authorized Officer of the Lessee for Company Development Fees and Expenses Incurred on behalf of the Lessee.

(e) Exhibit E: Attach Form of Power Purchase Agreement and Company Continuing Disclosure Agreement.

#### SECTION 103. Inapplicable Terms.

Notwithstanding anything to the contrary contained in this Company Lease Agreement, the parties hereto acknowledge and agree that (a) the Lessee is not responsible for the construction of any Capital Improvements Projects under the Program Documents and any references herein to Capital Improvement Projects, CIP Acceptance Certificates or any other term defined by reference to Capital Improvement Projects (without limiting the application of any such term to the extent not related to Capital Improvement Projects) shall be of no further force and effect, and (b) there shall be no need for a County Security Agreement, a County Security Provider or County Security and any references thereto shall be of no further force and effect.

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(v) The right to give or withhold consents, including consents to amendments, permitted or required of the Authority under the Company Lease Agreement or any other Program Documents, to the extent that any such consent or amendment would diminish the rights or enlarge the responsibilities or adversely affect the ability of the Authority to realize or perform same, respectively, or which would increase the Authority's potential liability or exposure to any party to any Program Document or to any third party as a result thereof. All such notices, appointments or consents under any other Program Document (i.e., other than the Company Lease Agreement) shall be unaffected by these rights, as the Authority's rights under the other Program Documents are not subject to the pledge of the Trust Estate under Section 1.04 of the Bond Resolution, and are either retained by the Authority, or assigned pursuant to the terms of the Program Documents, but in any event, shall not constitute Revenues or other part of the Trust Estate for purposes of the Bond Resolution.

"Tax Benefit Recapture Event" has the meaning set forth in Section 609(g).

#### SECTION 102. Exhibits.

The following Exhibits are attached to, and by reference are made a part of, this Company Lease Agreement pursuant to which the Renewable Energy Projects are to be leased by the Authority to the Lessee:

(a) Exhibit A: Various details regarding a description of the Projects, the schedule of regularly scheduled Basic Lease Payments and maximum Project Costs funded from the Series 2011 Bonds.

(i) Exhibit A-1. Description of Renewable Energy Projects for Series 2011 Local Units;

(ii) Exhibit A-2: Description of Capital Improvement Projects (if any) for Series 2011 Local Units;

(iii) Exhibit A-3: Basic Lease Payment Schedule, consisting of Exhibit A-3-Regular and Exhibit A-3-Alternate; and

(iv) Exhibit A-4: Notice Information for Series 2011 Local Units.

(b) Exhibit B: Form of Acceptance Certificates, consisting of:

(i) Exhibit B-1. Form of REP Acceptance Certificates; and

(ii) Exhibit B-2. Form of CIP Acceptance Certificates.

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## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES; DISCLAIMERS

#### SECTION 201. Representations, Covenants and Warranties of Lessee.

The Lessee represents, covenants and warrants as follows:

(a) The Lessee (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and (ii) has or will have all requisite power and authority, and as applicable, all requisite governmental licenses, authorizations, consents and approvals, to (A) own or lease its assets and carry on and transact its business, including without limitation the conduct of business within the State in accordance with the terms of the Company Documents, (B) authorize, execute, deliver and perform its obligations under the Company Documents, and (C) accept and be bound by the terms of the other Program Documents, and (iii) is duly qualified and is licensed and, as applicable, is in good standing under the laws of each jurisdiction, including the State, where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license. The Lessee has all of the requisite power and authority and has full legal right to (x) enter into each of the Company Documents, (y) perform, observe and comply with all of its respective agreements and obligations under the Company Documents, and (z) otherwise be bound by the terms of all of the other Company Documents.

(b) The constitution and the laws of the State and the jurisdiction of the Lessee's organization authorize the Lessee to, and the Lessee has the right, power, authority and expertise to, and shall (i) design, permit, acquire, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of the Local Unit Facilities for all of the Series 2011 Local Units in accordance with the technical specifications set forth in Appendix C of the Company RFP attached hereto as part of Exhibit A-1, and otherwise in accordance with the terms of the Company Documents, (ii) design, permit, acquire, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities in accordance with the plans and specifications and construction documents included or referred to herein and otherwise in accordance with the terms of the Program Documents, (iii) enter into the Company Documents, to acknowledge and consent and otherwise be bound by the terms of the other Program Documents, and to consummate the transactions and perform the obligations contemplated thereby. Notwithstanding the foregoing, the Lessee shall in all circumstances commence construction of the first Renewable Energy Project on or before June 1, 2012 and all Renewable Energy Projects on or before October 1, 2012, and complete construction and file all Acceptance Certificates for all Projects in accordance with the provisions of Section 510(e) hereof no later than December 15, 2012, unless extended, per Project, by Force Majeure, Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement or cure period which absent a cure would lead to a Series 2011 Local Unit Event of Default. Any such extension shall have no effect on the obligation to make Basic Lease Payments on time and in

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full.

(c) The execution and delivery by the Lessee of the Company Documents, the performance by the Lessee of all of its respective agreements and obligations under each of such documents and to be bound by the other Company Documents, and the incurring by the Lessee of all of the obligations contemplated by the Company Documents, have been duly authorized by all necessary requisite actions on the part of the Lessee, and the provisions of the Company Documents do not and shall not (i) contravene any provision of the Lessee's certificate of incorporation, by-laws and any other organizational documentation (each from time to time in effect), (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessee under any material agreement, mortgage or other instrument to which the Lessee is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessee's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation to which the Lessee is or may be bound, or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable to such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessor, or (v) to the best of Lessee's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of execution and delivery hereof and prior to the date of issuance of the Series 2011 Bonds, or are not required as a matter of law until a future date including the Interconnection Agreement for each Project, under any provision of applicable law.

(d) The officers or other authorized signatories of the Lessee executing and delivering its Company Documents have been duly authorized to execute and deliver the same under the laws of the State and the state of its organization and any other organizational documentation, and upon the Lessee's execution and delivery of the Company Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Company Documents shall constitute valid and binding obligations of the Lessee, enforceable against the Lessee in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessee or, to the best of the Lessee's knowledge, threatened against the Lessee (or, to the best of the Lessee's knowledge, is there any basis therefore) (i) that contests or would contest the Lessee's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Company Document or that would preclude the Lessee from performing in accordance with the terms of any Company Document or (ii) wherein an unfavorable decision, ruling or finding would adversely affect (A) the transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessee is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

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Documents.

(b) Neither the execution and delivery or adoption, as the case may be, of the Program Documents, the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby conflicts with or results in a breach of the terms, conditions or provisions of any restriction, any agreement or any instrument to which the Lessor is now a party or by which the Lessor or its property are bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Lessor or upon the Projects, except Permitted Encumbrances.

(c) The execution and delivery by the Lessor of the Program Documents, the performance by the Lessor of all of its respective agreements and obligations under each of the Program Documents, and the incurring by the Lessor of all of the obligations contemplated by the Program Documents, have been duly authorized by all necessary requisite actions on the part of the Lessor, and the Lessor's authorization, execution, delivery and performance pursuant to the terms of the Program Documents do not and shall not (i) contravene any provision of the Act, (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessor under any material agreement, mortgage or other instrument to which the Lessor is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessor's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation thereunder or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable to such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessor, or (v) to the best of Lessor's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of issuance of the Series 2011 Bonds, under any provision of any applicable law.

(d) The officers of the Lessor executing and delivering its Program Documents have been duly authorized to execute and deliver the same under the Act, and upon the Lessor's execution and delivery of the Program Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Program Documents shall constitute valid and binding obligations of the Lessor, enforceable against the Lessor in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessor or, to the best of the Lessor's knowledge, threatened against the Lessor (or, to the best of the Lessor's knowledge, is there any basis therefore) (i) that contests or would contest the Lessor's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Program Document or that would preclude the Lessor from performing in accordance with the terms of any Program Document or

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(f) The Lessor has obtained all authorizations, consents and approvals that are required in order for Lessee to execute and deliver this Company Lease Agreement and to perform its financial and other obligations hereunder, except for permits and approvals to be obtained after the date hereof pursuant to Section 510(c).

(g) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessee shall not transfer, lease, assign, mortgage or encumber the Projects or any property of the Lessee constituting the Trust Estate.

(h) The Lessee currently intends to continue this Company Lease Agreement for its entire Term and to pay all Basic Lease Payments required hereunder, unless the Lessee shall pay and otherwise comply with the terms related to the Purchase Option Price or Mandatory Purchase Price in accordance with Article VII hereof, or any other termination provisions contained in this Company Lease Agreement.

(i) Information supplied and statements made by the Lessee in any financial statement or current budget delivered prior to or contemporaneously with this Company Lease Agreement, including the Company Appendices, present such information fairly, accurately and completely, in all material respects and in accordance with generally accepted accounting principles. The Lessee agrees to take all reasonable actions in connection with the Authority's marketing and sale of the Bonds, including without limitation executing Certificates of an Authorized Officer of the Lessee (i) regarding the deemed final nature of the Company Appendices for purposes of Rule 15c2-12, and (ii) to the effect that the Company Appendices, and any other information concerning the Company or its rights, duties and obligations under the Company Documents set forth in the Preliminary Official Statement and the Official Statement (A) contain no material misstatement of fact and (B) do not omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, materially misleading.

(j) Information provided by Lessee, in writing or at the interview date with the Authority pursuant to the Company RFP process on September 8, 2011, upon which Lessor relied in selecting Lessee under the Company RFP process, remains materially accurate.

#### SECTION 202. Representations, Covenants and Warranties of Lessor.

The Lessor represents, covenants and warrants as follows:

(a) The Lessor (i) is a public body corporate and politic duly organized, validly existing and in good standing under the Act and other applicable laws of the State, (ii) has full and complete power to enter into or adopt, as the case may be, the Program Documents and to carry out the transactions contemplated thereby, (iii) is possessed with full power to own and hold real and personal property, including the Renewable Energy Projects, and to lease the Leased Property subject to the terms of the Act and any other applicable law, and (iv) has duly authorized the execution and delivery of or has duly adopted, as the case may be, the Program

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(ii) wherein an unfavorable decision, ruling or finding would adversely affect (A) the transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessor is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

(f) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessor shall not transfer, lease, assign, mortgage or encumber the Projects or the Trust Estate.

(g) Upon the exercise by the Lessee of its option to purchase the entire Renewable Energy Projects pursuant to Article VII hereof, the Lessor (i) shall deliver to the Lessee all of the documents that are or may be necessary to vest all of the Lessor's right, title and interest in and to the Renewable Energy Projects in the Lessee, and (ii) shall release all liens and encumbrances created under this Company Lease Agreement, or the other Program Documents with respect to the Renewable Energy Projects, all as provided in Article VII hereof.

(h) Simultaneously with the execution and delivery hereof, Lessor shall issue the Series 2011A Bonds and the Series 2011B Note to provide capitalized interest payments on the Series 2011A Bonds due June 15, 2012 and December 1, 2012. To the extent the Company proposes a Completion Project on one (1) or more existing Local Unit Facility or Facilities whereby additional electricity can be generated at such Local Unit Facility or Facilities beyond that contemplated in the Company Proposal, Lessor may consider issuing Additional Bonds in an amount, together with all Outstanding Series 2011 Bonds, shall not exceed \$50,000,000. To the extent Lessor, in its sole discretion, determines the issuance of any such Additional Bonds is in the best interests of the Authority, the County and the Applicable Local Unit, the Authority shall issue such Additional Bonds in an amount sufficient to pay for any such Completion Project, any reserves or capitalized interest, as required, and the costs of issuance thereof, but only to the extent the Company Lease Agreement is amended and supplemented to increase the Basic Lease Payment schedule to reflect the issuance of such Series of Additional Bonds.

#### SECTION 203. Disclaimer of Lessor and Trustee.

THE TRUSTEE, BY ACCEPTANCE OF THE TRUSTS SET FORTH IN THE BOND RESOLUTION, AND THE LESSOR, BY ADOPTION OF THE BOND RESOLUTION, BY ISSUANCE OF THE BONDS AND BY EXECUTION AND DELIVERY OF ALL OTHER PROGRAM DOCUMENTS, MAKE NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF ANY PROJECT.

#### SECTION 204. Tax Covenants of Lessee.

There shall be no covenants herein arising from or otherwise relating to the issuance of the Series 2011 Bonds, as such Bonds shall not be issued as a Series of Tax-exempt Bonds.

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ARTICLE III

LEASE PAYMENTS

SECTION 301. Lease Payments.

(a) The Lessee agrees to pay to the Trustee the following Lease Payments, as rent for the Leased Property for the Term hereof, in immediately available funds, no later than when due, delivered to the principal corporate trust office of, or some other location designated by, the Trustee:

(i) For deposit in the Revenue Account of the Revenue Fund, Basic Lease Payments, as set forth in Sections 305 and 306 hereof and Exhibit A-3 hereof, on each Basic Lease Payment Date; and

(ii) For deposit in the Administrative Expense Account of the Administrative Fund, from time to time as provided herein, as Additional Lease Payments, all as set forth in Section 308 hereof:

(A) Administrative Expenses (including the Authority's annual Administrative Fee, but excluding those properly payable by the Applicable Series 2011 Local Unit(s)) at the times set forth in invoices to be received by the Lessee from the Trustee in accordance with the Bond Resolution, provided that no further invoice shall be required for payment of the annual Administrative Fee and the Trustee's annual fee in an annual amount not to exceed \$5,000, which shall be due and payable in advance on the first day of any Bond Year (except that the initial Administrative Fee shall be funded from a portion of the proceeds of the Series 2011 Bonds);

(B) Interest on any overdue Lease Payments at the *Overdue Rate*, which amounts shall be immediately due and payable to the extent any Lease Payments are overdue;

(C) The Purchase Option Price in accordance with Section 701 of the Company Lease Agreement;

(D) The Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement; and

(E) All other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder or under the terms of any other Company Document, which shall be deposited in the Administrative Fund if no other direction is set

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Date.

(ii) Lessee shall receive a credit against the Principal Portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of any remaining Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment Date, after accounting for the application of the credit set forth in clause (i) above.

(iii) For purposes of applying this credit, Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee within ten (10) Business Days of any Basic Lease Payment Date shall be deemed to have been received by the Trustee the Business Day after such Basic Lease Payment Date (and therefore the Lessee shall not be entitled to a credit for such amounts paid by the Series 2011 Local Units until the following Basic Lease Payment Date). The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the aggregate amount of all Power Purchase Price Payments made by the Series 2011 Local Units since the prior Basic Lease Payment Date that are available for such credit, (A) as of the date that is thirty (30) days' prior to each Basic Lease Payment Date, and (B) on the Business Day immediately following the ten (10) Business Day credit cutoff date noted above.

(b) Notwithstanding any dispute between the Lessor and the Lessee, or between or among any party hereto and any one or more of any Renewable Energy Program Interested Party or any other person, in any case concerning any provision of any Program Document, the Lessee shall make all Lease Payments in full and when due, and the Lessee shall not withhold any Lease Payment pending final resolution of such dispute, nor shall the Lessee assert against the Lessor, the Trustee, any Renewable Energy Program Interested Party or any other person any right of set-off, recoupment or counterclaim against its obligation to make such Lease Payments, regardless of whether or not the Projects are completed, available for use, or used by the Lessee or any other Renewable Energy Program Interested Party, as applicable.

(c) *However, nothing herein shall be construed to release the Lessor from the performance of its obligations hereunder; and if the Lessor should fail to perform any such obligation, the Lessee may institute such legal action against the Lessor as the Lessee may deem necessary to compel the performance of such obligation, but if and only if the Lessee is not in default under the terms of this Company Lease Agreement and if the Lessee shall have paid all amounts that are required to be paid pursuant to the terms of this Company Lease Agreement; and if the Lessee shall have performed all of its obligations under the terms of this Company Lease Agreement and continues to pay and perform as provided herein, the Lessee shall not be precluded from bringing any action it may otherwise have against the Lessor.*

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forth in the Company Documents or to the particular Fund or Account set forth in any such Company Document.

(iii) For deposit in the Restoration Security Fund, the amounts necessary to fund the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution as Additional Lease Payments, all as set forth in Section 308 hereof;

(iv) For deposit in the County Security Fund, \$1,500,000, the initial amount of the County Security Fund Requirement for the County Reserve, to be funded by the Lessee on or before the Initial Basic Lease Payment Date, January 15, 2013, and thereafter, any deficiency in the County Security Fund Requirement shall be funded by the Company to the extent of any available funds after payment of all reasonable Company expenses and prior to any member distributions; and

(b) The Lessee shall be entitled to a credit against Basic Lease Payments for unused moneys held in the Project Fund in accordance with Section 510(e)(j)(B) hereof, and for earnings on other funds held by the Trustee and certain other Revenue Fund transfers in accordance with Section 310(b) hereof, all at the times and in the amounts and determined in accordance with the provisions of the Bond Resolution and this Company Lease Agreement; provided, however, that such credits, if applicable, shall be applied first to the Interest Portion and then the Principal Portion of Basic Lease Payments and second to Additional Lease Payments due, if any.

(c) Notwithstanding anything to the contrary herein, the Lessee may make any and all Lease Payments in immediately available funds through wire transfer or otherwise, to the extent the Trustee or other payee consents in writing to such method of delivery.

SECTION 302. Lease Payments to be Unconditional, Except for Power Purchase Price Payments; No Abatement or Set-Off.

(a) Except as set forth in clauses (i) and (ii) below, the obligation of the Lessee to make Lease Payments in full and when due shall be absolute and unconditional in all events, including without limitation any circumstance regarding the Projects, regardless of whether any such event shall be foreseen or otherwise, and regardless of whether any such event shall occur by accident or otherwise. The Lessee hereby acknowledges and irrevocably covenants that the terms of this Company Lease Agreement create a valid and binding obligation of the Lessee to make Lease Payments from any available source under all circumstances.

(i) Lessee shall receive a credit against the Interest Portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of all Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment

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SECTION 303. Termination of Lease Term; Lease Payment Obligation.

The Lessee shall not terminate this Company Lease Agreement (other than such termination as is provided for under the terms of this Company Lease Agreement) or be excused from its obligations hereunder, including without limitation Lessee's obligations to make Lease Payments, for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute an eviction or constructive eviction, failure of consideration, failure of title or frustration of purpose, any damage to or destruction of any Project, the taking by eminent domain of title or the right of temporary use of all or any part of any Project, or the failure of the Lessor or any other Renewable Energy Program Interested Party to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation that arises out of or that is related to this Company Lease Agreement or any other Program Document.

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**SECTION 304. Return of Renewable Energy Projects upon Termination of Company Lease Agreement; CIP Acceptance State.**

(a) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value (as defined in the Power Purchase Agreement) in accordance with Section 609(d) hereof, Lessee shall (i) take no action regarding the removal of any such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, or if none, the Local Unit Facilities to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or thereto from that would ordinarily degrade the state of any such Capital Improvement Projects, if any, or Capital Improvement Project from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from the Lessee's operation and maintenance of such Renewable Energy Projects.

(b) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are eligible for sale by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value in accordance with Section 609(d) hereof, but no accommodation on sale price or other terms shall be reached in accordance with Section 3.7(b) of the Power Purchase Agreement, and the Lessee shall accordingly be prospectively entitled to the full use and enjoyment of any such Renewable Energy Projects, the Lessee shall (i) promptly remove such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, for any such Applicable Series 2011 Local Units to the CIP Acceptance State, or if no Capital Improvement Projects, to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or thereto from that would ordinarily degrade the state of any such Capital Improvement Projects or Local Unit Facility from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from either (A) the Lessee's operation and maintenance of such Renewable Energy Projects or (B) the Lessee's removal of such Renewable Energy Projects.

(c) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessor to the Applicable Series 2011 Local Units for nominal consideration in accordance with Section 609(f) hereof (after a Lessee Event of Default), Lessee shall (i) take no action regarding the removal of any such Renewable Energy

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2011 Bonds, on the immediately succeeding Interest Payment Date, with respect to regularly scheduled Interest Payment Dates, all as set forth on Exhibit A-3 hereto; *provided, however*, that no Interest Portion of Basic Lease Payments shall be payable by the Lessee, or the Interest Portion of Basic Lease Payments shall be reduced, as applicable, (a) for any period to the extent interest payable on the Bonds for such period shall have been previously provided to the Trustee as capitalized interest for deposit in the Capitalized Interest Account of the Debt Service Fund from proceeds derived from the sale of the Bonds and (b) to the extent of a balance available for payment of interest on the Bonds on deposit in the Interest Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Interest Portion of Basic Lease Payments in accordance with (A) Section 302(a)(i) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(e)(i)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award, or (ii) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(iii)(B) hereof.

**SECTION 307. Interest Calculation.**

The Interest Portion of Basic Lease Payments is equal to the interest accrued on the Bonds, including the Series 2011 Bonds. Interest on the Bonds is computed upon the basis of a 360-day year, consisting of twelve 30-day months.

**SECTION 308. Additional Lease Payments.**

(a) At the times required in the definition of "Administrative Fee", when not otherwise provided for from a portion of the proceeds of a Series of Bonds, including the Series 2011 Bonds, the Lessee shall pay the Administrative Fee to the Trustee as an Additional Lease Payment for deposit in the Administrative Expense Account of the Administrative Fund.

(b) The Lessee shall pay to the Trustee, for deposit in the Administrative Expense Account of the Administrative Fund as an Additional Lease Payment, from time to time

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Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, for any such Applicable Series 2011 Local Units to the CIP Acceptance State, after giving effect to the normal wear and tear thereon or thereto from that would ordinarily degrade the state of any such Capital Improvement Projects from the date of any such CIP Acceptance Certificate to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, from the Lessee's operation and maintenance of such Renewable Energy Projects.

**SECTION 305. Basic Lease Payments; Principal Portion.**

(a) The Principal Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of principal due and payable on the Bonds, including the Series 2011 Bonds, on the immediately succeeding Principal Payment Date, with respect to regularly scheduled Principal Payment Dates, all as set forth on Exhibit A-3 hereto; *provided, however*, that no Principal Portion of Basic Lease Payments shall be payable by the Lessee, or the Principal Portion of Basic Lease Payments shall be reduced, as applicable, (a) to the extent of a balance available for payment of principal on the Bonds on deposit in the Principal Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Principal Portion of Basic Lease Payments in accordance with (A) Section 302(a)(ii) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(e)(i)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award or (ii) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(iii)(B) hereof.

**SECTION 306. Basic Lease Payments; Interest Portion.**

(a) The Interest Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of interest due and payable on the Bonds, including the Series

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upon the Lessee's receipt from the Trustee of an invoice therefore in accordance with the terms of the Bond Resolution, reasonable compensation for all services rendered by the Trustee pursuant to the Bond Resolution, all reasonable expenses, charges, counsel fees and other disbursements (including those of the Trustee's attorneys, agents and employees) incurred in the performance of its powers and duties under the Bond Resolution, and any other Administrative Expenses.

(c) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, interest on any past due Lease Payment at the Overdue Rate in accordance with Section 1007 hereof.

(d) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Purchase Option Price in accordance with Section 701 hereof, reflecting the optional redemption of a Series of Bonds, including the Series 2011 Bonds.

(e) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Mandatory Purchase Price in accordance with Section 702 hereof, reflecting the acceleration or any other mandatory payment of a Series of Bonds, including the Series 2011 Bonds.

(f) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the amounts required to fund the Restoration Security Fund at the Restoration Security Fund Requirement, in the amounts and at the times as set forth in Section 5.07(9) and Exhibit C to the Bond Resolution. Notwithstanding the foregoing, however, the Lessee shall be required to pay to the Restoration Security Fund an amount to bring the balance therein to the Restoration Security Fund Requirement from time to time if the Lessee has sufficient available cash flow to fund the same after making all other payments payable by the Company during such year; provided, however, in no event shall cash flow distributions be made to the members of the Company in any year in which the Restoration Security Fund is required to be funded to the extent the Restoration Security Fund is not funded in such year to the level required by the Restoration Security Fund Requirement.

(g) The Lessee shall make a one-time payment of \$1,500,000 payable on or before the Initial Basic Lease Payment Date, January 15, 2013, for deposit by the Trustee in the County Security Fund to satisfy the County Security Fund Requirement.

(b) The Lessee shall pay to the Trustee as an Additional Lease Payment all other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder, under the Bond Resolution, under the Tax Certificate for any Series of Tax-exempt Bonds or under any other Program Document, including without limitation deficiencies in the payment of principal (including mandatory sinking fund installments) of and interest on Bonds when due as may be contemplated by Article V of the Bond Resolution, which Article shall not be amended by Lessor to add any such payment obligation without Lessee's consent, and any amounts that may be required to be paid into a rebate fund at the times required

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hereunder and under any such Tax Certificate.

**SECTION 309. General Obligation of Company to Make Lease Payments; Pledge of Reimbursement Collateral; Company Pledge Agreement.**

(a) The Lessee hereby covenants to make all Lease Payments due under this Company Lease Agreement, during the entire Lease Term, from any and all funds or other assets available to the Lessee, including without limitation, but not limited to, such economic benefits as may be conferred upon the Company pursuant to the Program Documents.

(b) **Pledge of Section 1603 Grant to Trustee.** Subject to American Recovery and Reinvestment Act of 2009, as security and further assurance for the Lessee's obligations to make certain initial Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Trustee a collateral security interest in the Section 1603 Grant, such grant of a collateral security interest to remain in effect only so long as set forth in the Company Pledge Agreement, including specifically Sections 2.01 and 7.11 thereof. At the Lessee's discretion for so long as the EPC Contractor is continuing to provide the In-Kind Equity Contribution and no Event of Default has occurred hereunder, the aforementioned security interest granted in favor of the Trustee may be subordinate to that of the EPC Contractor under the EPC Contract.

(c) **Pledge of Certain Revenues to Authority.** As security and further assurance for the Lessee's obligations to perform its obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Authority a collateral security interest in any funds it may receive with respect to the following:

(i) the sale of renewable energy produced by the Renewable Energy Projects under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements;

(ii) the sale of SRECs from the Renewable Energy Projects;

and

(iii) the Construction Performance Bond.

At the Lessee's discretion for so long as the EPC Contractor is continuing to provide the In-Kind Equity Contribution and no Event of Default has occurred hereunder, the aforementioned security interest granted in favor of the Authority may be subordinate to that of the EPC Contractor under the EPC Contract.

The Lessor hereby covenants that the security interest granted pursuant to this Section 309(c) shall not, provided no Event of Default has occurred and is continuing, adversely

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Payments in full and on time.

(ii) upon an Event of Default, including an occurrence as a result of the Lessee's failure to make its Lease Payments on time and in full, the Lessee's rights to the Leased Property may be terminated in accordance with the terms hereof, and the County and the County Security Provider, if any, may realize all or a portion of the Reimbursement Collateral in accordance with the terms of their respective County Guaranty Agreement and County Security Agreement, if any and as applicable, which economic benefits comprising the Reimbursement Collateral had been previously available to the Lessee, and would continue to be so available, should any such Event of Default never occur or be timely cured.

(e) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby covenants to deliver the Company Pledge Agreement from the Pledgor defined in the Company Pledge Agreement contemporaneously herewith, and in any event, no later than the issuance of the Series 2011 Bonds, the terms of which Company Pledge Agreement are hereby acknowledged and accepted by the Lessee.

(f) The Lessee, as debtor, authorizes the Trustee, on behalf of itself as creditor, and the Lessor, as creditor, to file UCC1 financing statements with respect to the foregoing pledge of collateral contemplated by this Section 309.

**SECTION 310. Investment of Bond Resolution Funds: Credit for Certain Investment Earnings.**

(a) The Lessor shall cause the monies in the Funds and Accounts established under the Bond Resolution to be invested in accordance with the provisions of Section 5.11 of the Bond Resolution; provided, however, that the Lessee may direct the Lessor in writing to cause the Trustee to invest the Project Fund, the County Security Fund and the Restoration Security Fund in any Investment Securities available under the Bond Resolution; absent any such direction from the Lessee, the Lessor may cause the investment of the Project Fund, the County Security Fund and the Restoration Security Fund in such Investment Securities as the Lessor shall determine.

(b) (i) To the extent interest earnings on any such Funds or Accounts are transferred to the Aged Account of the Revenue Fund in accordance with the provisions of Section 5.11(3) and (4) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such earnings, plus interest earned thereon as of any such Basic Lease Payment Date, against the next due Interest Portion of Basic Lease Payments due and owing from the Lessee, and if not fully applied, against the

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affect any of the Lessee's:

(A) use and enjoyment of the Renewable Energy Projects,

(B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements, or

(C) SRECs.

(d) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee shall and hereby does acknowledge

(i) that the Lessor has the right to deliver the County Security Agreement, if any, in accordance with the provisions of Section 5.07 of the Bond Resolution, whereupon the Reimbursement Collateral shall be assigned and pledged by the Lessor to the County and the County Security Provider, if any, in accordance with the terms of the County Guaranty Agreement and such County Security Agreement, respectively, as to which terms the Lessor hereby covenants that the rights of the County and the County Security Provider to the Reimbursement Collateral shall not adversely affect any of the Lessee's:

(A) use and enjoyment of the Renewable Energy Projects,

(B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements, or

(C) SRECs.

in all cases prior to the date of an Event of Default caused by the Lessee, it being the express intent of the parties that any such assignment and pledge of the Reimbursement Collateral is only to protect the County and/or the County Security Provider to the extent any such Renewable Energy Program Interested Party shall not have been reimbursed for funds expended under the Program Documents due to the Lessee's actions or inactions under the Program Documents, and it being the further express intent of the parties that any and all such remedies flowing from any such Event of Default caused by the Lessee are within the Lessee's control to prevent by complying with the terms of this and all other Program Documents, including without limitation the making of Lease

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next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied or if additional interest earnings are on deposit in the Aged Account, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), within ten (10) Business Days after each Basic Lease Payment Date, of the amount of such interest earnings credit available to the Company as of the next Basic Lease Payment Date.

(ii) To the extent the amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Interest Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(i) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Interest Portion of Basic Lease Payments due and owing from the Lessee, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

(iii) To the extent amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Principal Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(ii) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

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## ARTICLE IV

### LEASE OF LEASED PROPERTY; TERM OF COMPANY LEASE AGREEMENT

#### SECTION 401. Lease of Leased Property.

(a) The Lessor hereby agrees to (i) finance its share of the Renewable Energy Projects and the Capital Improvement Projects, if any, for the Series 2011 Local Units, through the issuance of the Series 2011 Bonds, the balance of which shall be financed by or on behalf of the Lessee through the Equity Contribution, and (ii) enter into the Local Unit License Agreements with the Series 2011 Local Units, thereby giving the Lessor nominal ownership of the Renewable Energy Projects, and providing the Company with a license and access to the Local Unit Facilities for the Series 2011 Local Units.

(b) The Lessee hereby agrees to (i) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects as described on Exhibit A-1 hereof and (ii) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, as described on Exhibit A-2 hereof, all for the Series 2011 Local Units.

(c) Upon the acquisition of title to the Leased Property from the Contractor (the timing of which does not adversely affect the Lessee's obligations hereunder, including the obligations to make Lease Payments), the Lessor hereby agrees to lease to the Lessee, except for the Reserved Rights, all of its right, title and interest in and to the Leased Property for the duration of the Lease Term hereof, and to grant to the Lessee an option to purchase the Leased Property as set forth in Article VII hereof. The Lessee hereby agrees to take and lease from the Lessor, other than the Reserved Rights, all of the Lessor's right, title and interest in and to the Leased Property on the terms and conditions set forth in this Company Lease Agreement, including, without limitation, all of the Lessee's duties and obligations under the Program Documents. The lease of the Leased Property from the Lessor to the Lessee is also intended to convey to the Lessee any product of the Leased Property, including any right, title and interest of the Lessor in and to the SRECs and the right to electricity generated from the Renewable Energy Projects for the Series 2011 Local Units at their respective Local Unit Facilities, subject to the terms and conditions of the Program Documents. The Lessor hereby acknowledges the Lessee's intent to exercise such option to purchase the Leased Property during or upon the termination of the Lease Term.

(d) It is an express purpose of this Company Lease Agreement that the benefits and burdens of owning the Leased Property being conveyed by the Lessor to the Lessee pursuant to this Company Lease Agreement be such that the Lessee shall be deemed to be the owner of the Leased Property for purposes of the Code. Accordingly, Lessor and Lessee agree and acknowledge that, for federal income tax purposes: (i) Lessee will treat the use of Series 2011 Bond proceeds to purchase, construct and install the Renewable Energy Projects as construction loan advances of Series 2011 Bond proceeds to Lessee by Authority; (ii) Lessee will treat all payments (or credits against such payments) made under this Company Lease

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amendment provisions of Section 1103 hereof), to the extent permitted under then applicable law.

(b) Notwithstanding the foregoing, this Company Lease Agreement shall be in effect until all the obligations created hereunder have been fulfilled.

(c) Notwithstanding the foregoing, any termination by reason of clause (a)(i) above shall not alter or terminate the Lessee's unconditional payment obligations hereunder, including Sections 302 and 309 hereof.

#### SECTION 403. Net Lease.

(a) The Lessee intends for the Lease Payments to be net to the Lessor. The obligation of the Lessee to pay Lease Payments shall be absolute and unconditional and shall in no way be released, discharged or otherwise affected for any reason, including, without limitation, (i) any defect in the condition, quality or fitness for use of, or title to, any Project or (ii) any damage to or abandonment, destruction, requisition or taking of any portion of any Project.

(b) The Lessee shall comply with and pay all (i) local, state and federal taxes incurred with respect to the design, permitting, acquisition, construction, renovation, installation, operation, maintenance, ownership, possession or use of any Renewable Energy Project or the design, permitting, acquisition, construction, renovation or installation of any Capital Improvement Projects, including, without limitation, income, franchise, gross receipts, sales, use, documentary stamp, excise and real and personal property taxes, (ii) payments in lieu of taxes, assessments, licenses, registration fees, freight and transportation charges and any other charges imposed or liabilities incurred with respect to the design, permitting, acquisition, construction, renovation, installation, operation, maintenance, ownership, possession or use of any Renewable Energy Project or the design, permitting, acquisition, construction, renovation or installation of any Capital Improvement Projects, (iii) Lease Payments, and (iv) penalties, fines or interest imposed on any of the foregoing during the Lease Term.

(c) The Lessee shall pay, from a portion of the proceeds of the Bonds or otherwise, all reasonable expenses incurred by the Lessor in connection with all filings or recordings of any documents relating to this Company Lease Agreement, the other Company Documents, or the Lessor's rights hereunder and thereunder. The Lessor shall have the right to make any of the payments required of the Lessee, but shall not be obligated to pay the same, and to charge such payment with interest at the Overdue Rate from the due date thereof through the date of payment as an Additional Lease Payment to be paid by the Lessee with the next Basic Lease Payment due under this Company Lease Agreement.

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Agreement as payments of interest and principal to the Authority with respect to such construction loan, with an allocation of principal and interest based upon the Authority's related principal and interest payments on the Series 2011 Bonds; and (ii) Lessee will report all payments made by the Series 2011 Local Units under the Power Purchase Agreements as revenues earned by Lessee. Notwithstanding the foregoing, for State law purposes, Lessor and Lessee agree that under the Program Document structure, any benefit to the Company shall be deemed incidental, the primary purpose of the Renewable Energy Program being to provide the Series 2011 Local Units with electricity at multi-year locked in rates to the greatest extent practicable below tariff, which goal has been effectively realized through the financing structure contemplated by the Program Documents.

#### SECTION 402. Lease Term.

(a) This Company Lease Agreement shall be and remain in effect with respect to the Leased Property (the "Lease Term") commencing on the date of authorization, execution, authentication and delivery of the Series 2011 Bonds that shall finance, among other things, the Renewable Energy Project component of the Leased Property, and continuing until terminated as provided for in this Section 402. The Term of this Company Lease Agreement shall terminate upon the occurrence of the first of the following events:

(i) The exercise by the Lessee of its option or its requirement to purchase the Lessor's entire interest in the Leased Property pursuant to Article VII hereof;

(ii) The occurrence and continuation of an Event of Default hereunder by the Lessee and the Lessor's election to exercise remedies under this Company Lease Agreement pursuant to Section 1002 hereof;

(iii) Subject to an extension of this Company Lease Agreement in accordance with clause (iv) below, which provisions shall control even if the other requirements of this clause (iii) have been satisfied, the occurrence of all of the following: (A) the payment by the Lessee of all Lease Payments, which requirement as to Basic Lease Payments (unless sooner terminated or extended in accordance with the provisions hereof) shall be fully satisfied on December 15, 2025 (unless extended by an amendment hereto resulting from the issuance of Additional Bonds), (B) the Bonds, including the Series 2011 Bonds, shall no longer be Outstanding under the Bond Resolution, and if the provisions of Section 703(b) are applicable, and (C) on the date specified in the Certificates of Authorized Officer of the Lessee required by Section 703(b)(iii); or

(iv) The expiration date of any extension to the initial term of this Company Lease Agreement, which initial term would be determined by clauses (i), (ii), and (iii) above, as such extension date shall be set forth in any amendment of this Company Lease Agreement (in accordance with the

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## ARTICLE V

### CONSTRUCTION OF PROJECT; CARE AND USE; DRAW PROCEDURES

#### SECTION 501. Design of Project.

(a) Within ninety (90) days of the execution and delivery of this Company Lease Agreement, the Lessee shall cause preliminary Plans and Specifications to be prepared by one or more Architects or other Contractors with respect to all of the Projects for all of the Series 2011 Local Units and within the parameters set forth in the Company RFP. In preparing or causing the preparation of such preliminary Plans and Specifications, the Lessee expressly acknowledges that the Lessor shall only be providing financing, through the issuance of the Series 2011 Bonds, for the Maximum Net Bond Funded Project Cost Amount, and that any costs and expenses beyond such amount, except for any Completion Projects agreed in writing to be financed by the Lessor, are to be borne solely and wholly by the Lessee from any available funds.

(b) Copies of the Plans and Specifications, when in form satisfactory to the Lessee, shall be promptly delivered to the Lessor and the Applicable Series 2011 Local Units for the review, comment and approval of the Applicable Series 2011 Local Units. Within five (5) Business Days of receipt, each Applicable Series 2011 Local Unit shall have reviewed, and either commented on or approved the Plans and Specifications prepared by the Lessee for each respective Renewable Energy Project and each Capital Improvement Project, if any, for the respective Series 2011 Local Units. To the extent approval from any Series 2011 Local Unit shall not be received, the Lessee shall promptly modify the Plans and Specifications to address the Series 2011 Local Unit's reasonable concerns, whereupon the Lessee shall resubmit the Plans and Specifications to the Lessor and the Applicable Series 2011 Local Unit for further review, comment and approval. Such process shall continue until the Lessor and Lessee have received the approval of all of the Series 2011 Local Units; provided however, that both parties and the Applicable Series 2011 Local Units shall endeavor to complete the review, comment and approval process within one (1) month of the original submission to the Lessor and the Series 2011 Local Units. Notwithstanding any other provision of this Agreement or any other Company Document, to the extent an Applicable Series 2011 Local Unit does not adhere to the timetable set forth in this Section 501(b), then the required completion date for the respective Renewable Energy Project shall be extended by a time period equal to the delay by the Applicable Series 2011 Local Unit.

(c) Promptly after having received the respective Series 2011 Local Unit approvals of the Plans and Specifications related to their respective Projects, the Lessee shall submit or cause the submission of such Plans and Specifications to all other federal, state or local governmental or quasi-governmental agencies having jurisdiction over the Projects or any part thereof, and shall receive any required Project permits or approvals.

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**SECTION 502. Construction of Project.**

(a) The Lessee shall be responsible for entering into the Development Agreement with the Developer and for the letting of Development Contracts with Contractors for (a) the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for all of the Series 2011 Local Units, (b) the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for all of the Series 2011 Local Units, (c) the completion and acceptance of the Renewable Energy Projects in accordance with the Plans and Specifications therefor and the other terms hereof, including the filing of the REP Acceptance Certificates in accordance with Section 510(d)(i) hereof, (d) the completion of the Capital Improvement Projects in accordance with the Plans and Specifications therefor and the other terms hereof, including the filing of the CIP Acceptance Certificates in accordance with Section 510(d)(ii) hereof, and (e) all other matters that are incidental to the performance of the duties and powers that are expressly granted to the Lessee herein in connection with any of the foregoing. The Lessee may carry out its functions hereunder without obtaining any further approval of the Lessor; provided, however, that the Lessee shall issue monthly reports to the Lessor and the Applicable Series 2011 Local Unit detailing the progress of the foregoing and the anticipated completion dates thereof.

(b) After complying with the notification provisions of this subsection (b), the Lessee shall enter into one or more Development Contracts with the Contractor(s) providing for (i) the design, permitting, acquisition, construction, installation, operation and/or maintenance of the Renewable Energy Projects in accordance with the Plans and Specifications and/or (ii) the design, permitting, acquisition, construction, renovation, and/or installation of the Capital Improvement Projects in accordance with the Plans and Specifications. At least five (5) Business Days prior to the Lessee's entering into of each such Development Contract, the Lessee shall notify and provide each of the Lessor, the Applicable Series 2011 Local Unit and the Construction Manager with substantially final drafts thereof. Within a reasonable period of time thereafter, the Lessor, the Applicable Series 2011 Local Units and/or the Construction Manager shall notify the Lessee of any deviation therein from the Plans and Specifications for the Projects or from applicable law, if any. The Lessee shall, in its discretion, determine to incorporate or disregard any such advice into the final form of such Development Contracts; provided, however, that any such action or inaction shall not relieve the Lessee from completing the Projects in accordance with the agreed upon Plans and Specifications and in accordance with all applicable law. After such five (5) Business Day notice period, the Lessee may enter into such Development Contracts, providing only that final executed copies thereof be delivered to each of the Lessor, the Applicable Series 2011 Local Unit and the Construction Manager. After such execution, the Lessee shall cause each Contractor to perform its obligations under the Development Contracts, and shall deliver the completed Project available for occupancy and use by the Company with respect to the Renewable Energy Projects and the Applicable Series 2011 Local Unit with respect to the Capital Improvement Projects, on or before December 15, 2012, as such date may be extended in accordance with the Program Documents.

(c) None of the Lessor, the Series 2011 Local Unit or the Trustee makes any

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(b) In the event that the Lessee is unable to comply with its requirements under this Company Lease Agreement prior to the execution of any Acceptance Certificate or if for any reason the design, permitting, acquisition, construction, renovation and installation of any Project is delayed, there shall be no resulting liability on the part of the Lessor and there shall be no diminution in or postponement of the amounts that are due and payable by the Lessee to the Lessor under the terms of this Company Lease Agreement.

**SECTION 505. Additional Rights of Lessee.**

The Lessor agrees that the Lessee shall, at its own expense, have the right to make immaterial changes to any Project or to make such additions, modifications and improvements thereto as in the Lessee's judgment are necessary to enable it to perform its obligations under this Company Lease Agreement without materially impairing the Project or materially changing the design of the Project from the Plans and Specifications; provided, however, that none of the foregoing shall in any way damage the Project or cause the Project to be used for purposes other than those authorized under the provisions of all applicable law. With respect to any such additions (only) to the Project in accordance with the provisions of this Section 505, such additions shall for all purposes of this Company Lease Agreement be deemed to be and remain the property of the Lessee and shall not become part of the Project, and any such item may be removed, altered or changed by the Lessee upon or before the termination of this Company Lease Agreement; provided, however, that such removal, alteration or change shall not damage the Project or, if any such damage shall occur, the Lessee shall repair the same at its sole cost and expense.

**SECTION 506. Maintenance and Use of Project; Lessor Access; Repairs Not to Create Liens.**

(a) With respect to the Renewable Energy Projects or a portion thereof financed under this Company Lease Agreement, the Lessee shall, at its own and sole expense, maintain, preserve and keep such Projects or any portion thereof, as the case may be, in good repair, working order and condition, and shall from time to time make all repairs, replacements and improvements necessary to keep such Projects or any portion thereof in such condition. The requirements to repair and keep the Capital Improvement Projects in good working order shall remain with the owners thereof, the Applicable Series 2011 Local Units.

(b) The Lessee agrees that the Lessor and the Applicable Series 2011 Local Unit shall have the right (but not the obligation) to enter upon the premises at reasonable times and upon reasonable notice in a reasonable manner where the Renewable Energy Projects or a portion thereof, as the case may be, is located in order to inspect the same for the purpose of assuring that such Renewable Energy Projects are being properly maintained, preserved and kept in good repair and condition. The Lessee further agrees that the Lessor or the Applicable Series 2011 Local Unit shall have such rights of access to such Renewable Energy Projects as may be reasonably necessary to cause the proper maintenance, preservation and keeping in good repair of such Renewable Energy Projects in the event of a failure by the Lessee to perform its

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warranties or representations or accepts any liabilities or responsibilities with respect to or for the adequacy, sufficiency or suitability of, or defects in or with respect to, the design, permitting, acquisition, construction, renovation or installation of the Project.

**SECTION 503. Construction Performance Bond and Other Guaranty.**

Any Development Contracts authorized to be entered into by the Lessor under the terms of this Company Lease Agreement in connection with the design, permitting, acquisition, construction, and installation of the Renewable Energy Projects and the design, permitting, acquisition, construction, renovation and installation of the Capital Improvement Projects shall be let in accordance with the requirements set forth in Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP attached as part of Exhibit A-1 hereto. The Lessor shall cause each Contractor to provide a Construction Performance Bond covering, with respect to the portion of the Projects to which the Development Contract applies, the (a) performance of the Development Contract, including coverage for correction of defects developing within one year after completion of construction and commencement of commercial operation of each Project, and (b) payment for labor and materials, in each case issued by a responsible surety company qualified to do business in the State. Such bond or bonds shall name the Lessor, the Lessee as co-obligees, or shall otherwise entitle the Lessor to draw upon such Construction Performance Bond, and shall be in amounts equal to the fixed contract price plus the Equity Contribution, if not so included in the fixed contract price; provided, however, that the one-year post completion and acceptance portion may be limited to ten percent of the Development Contract price allocated to such Project in the Development Contract.

**SECTION 504. Default in Contractors' Performance.**

(a) In the event of default of the Contractor, including any subcontractor, under any Development Contract made in connection with any Project, the Lessee shall promptly proceed, either separately or in conjunction with others, to exhaust the remedies of the Lessee against the Contractor or any subcontractor so in default and against each surety for the performance of such Contractor or subcontractor. All such actions shall be construed to be Costs of the Project for purposes of this Company Lease Agreement, inasmuch as the same shall be necessary to enable any such Project to be designed, permitted, constructed, acquired, renovated or installed in accordance with the terms hereof and of the Development Contracts. The Lessee agrees to advise the Lessor, in writing, of the steps it intends to take in connection with any such default. If the Lessee shall so notify the Lessor, the Lessor may, in good faith, in its own name or in the name of the Lessee, with notice to the Lessee, prosecute or defend any action or proceeding or take such other action involving the Contractor, including any subcontractor, or surety that the Lessor deems reasonably necessary, and in such event the Lessor hereby agrees to cooperate fully with the Lessee, but at the sole cost and expense of the Lessor. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing shall be paid into the Project Fund or the Revenue Fund, as shall be determined by the Lessee.

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obligations hereunder, which rights of access shall in no way imply any obligation on the part of the Lessor or the Applicable Series 2011 Local Unit.

(c) The Lessee shall not permit any mechanic's or materialmen's or other lien to be established or remain against any portion of the Projects for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the Lessee pursuant to Section 505 hereof and this Section 506, other than Permitted Encumbrances; provided, however, that if any such lien is established and the Lessee notifies the Lessor of its intention so to do, the Lessee may, in good faith, contest any lien filed or established against the Projects and, in such event, permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such item, the interest of the Lessor or the Applicable Series 2011 Local Unit in such Project shall be materially endangered or such Project or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide the Lessor and the Applicable Series 2011 Local Unit with full security against any such loss or forfeiture. The Lessor shall cooperate, and shall cause the Applicable Series 2011 Local Unit to cooperate fully with the Lessee in any such contest upon such request at the sole cost and expense of the Lessee.

**SECTION 507. Possession and Enjoyment of Projects during Lease Term.**

(a) From and after the execution and delivery of the REP Acceptance Certificate with respect to the applicable Renewable Energy Projects, the Lessor hereby agrees that during the Lease Term the Lessee, so long as the Lessee is not in default hereunder, shall have the quiet use and enjoyment of such Renewable Energy Projects, and the Lessee shall during such Lease Term peaceably and quietly have, hold and enjoy such Renewable Energy Projects, without suit, trouble or hindrance from the Lessor, any 2011 Local Unit, or any party claiming under or through the Lessor or such Local Unit, except as expressly set forth in the Program Documents. The Lessor and the Applicable Series 2011 Local Unit shall, at the request of the Lessee and at the Lessee's sole cost and expense, join in any legal action in which the Lessee asserts its right to such possession and enjoyment against any third-party to the extent the Lessor and the Applicable Series 2011 Local Unit lawfully may so do; in addition, the Lessee, while not in default hereunder, may in its discretion and at its sole cost and expense bring any such action in the name of the Lessor.

(b) From and after the execution and delivery of the CIP Acceptance Certificate with respect to the applicable Capital Improvement Projects, if any, the Lessor and the Lessee hereby agrees that during the Lease Term, the Applicable Series 2011 Local Unit, as fee owner thereof, shall have the quiet use and enjoyment of such Capital Improvement Projects, and the Applicable Series 2011 Local Unit shall during such Lease Term peaceably and quietly have, hold and enjoy such Capital Improvement Projects, without suit, trouble or hindrance from the Lessor or the Lessee, or any party claiming under or through the Lessor or the Lessee, except as may be expressly set forth in the Program Documents.

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**SECTION 508. Lessee's Negligence.**

Subject to Section 608 hereof, the Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Projects, or any portion thereof, and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of the Lessee or of Contractors or other third parties, and whether such property damage be to the Lessee's property or to the property of others, which injury, death or damage is proximately caused by the negligent conduct of the Lessee or its officers, employees and agents. Including any Contractors. The Lessee hereby assumes responsibility for and agrees to reimburse the Lessor and the Applicable Series 2011 Local Unit for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorneys' fees), of whatsoever kind and nature, imposed on, incurred by or asserted against the Lessor or the Applicable Series 2011 Local Unit that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part upon the negligent conduct of the Lessee or its officers, employees and agents, to the maximum extent permitted by law.

**SECTION 509. Project Costs; Payment.**

(a) The Project Costs to be incurred by the Lessee, or on behalf of the Lessee by any Contractor, relating to the acquisition, construction, and installation of the Renewable Energy Projects and the acquisition, construction, renovation and installation of the Capital Improvement Projects for all Series 2011 Local Units have been estimated by the Lessee under the Company RFP to be an aggregate amount not to exceed the sum of the Maximum Gross Bond Funded Project Cost Amount plus the Equity Contribution. Accordingly, the Lessor shall cause the Series 2011 Bonds to be issued, and further, shall cause the Maximum Net Bond Funded Project Cost Amount to be deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(e)(i) and (ii) of the Bond Resolution. The Lessee represents that such initial deposit of the Maximum Net Bond Funded Project Cost Amount, together with interest to be earned thereon prior to disbursement in accordance with the terms hereof and of the Bond Resolution giving rise to the Maximum Gross Bond Funded Project Cost Amount, together with the Equity Contribution, shall be sufficient to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

(b) It is expressly acknowledged by the Lessee and the Lessor that the Lessor shall be under no obligation to issue any Bonds in an amount in excess of the Maximum Net Bond Funded Project Cost Amount to fund any Project Cost, including the Costs of any Completion Project related to either the Renewable Energy Projects or the Capital Improvement Projects of the Series 2011 Local Units on, in or about their Local Unit Facilities, unless the Authority agrees to issue a Series of Additional Bonds pursuant to the provisions of Section 2.02(h) hereof.

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submit them to the Trustee.

(b) On or before 10:00 a.m. EST on each date on which the Lessee intends to submit Draw Papers requisitioning funds held by the Trustee in the Project Fund for Costs of the Renewable Energy Projects or Capital Improvement Projects for an Applicable Series 2011 Local Unit (each a "Draw Date"), the Lessee shall advise the Trustee in writing of the aggregate amount of funds needed for disbursement to pay such Project Costs. An amount equal to the lesser of (i) such aggregate amount of funds needed and (ii) the amount of funds available in the Project Fund (and not otherwise earmarked to pay the Costs of the Projects for the other Series 2011 Local Units) shall be applied to the payment of such Project Costs upon submission of the Draw Papers in accordance with subsection (c) below.

(c) Except as otherwise provided in Section 511 hereof, the Lessee shall cause the Trustee to make payments from the Project Fund to the Contractors under the Development Contracts or other third-party vendors, in either case for Costs of the Projects, but only after the Lessee shall have supplied the Trustee with a duly authorized, completed and executed requisition from the Lessee substantially in the form of Exhibit C hereto (together with any attachments thereto, the "Draw Papers"), each executed by the Lessee, acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.1(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and acknowledged as to form only by the Lessor (in accordance with Section 4.1(e) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), stating with respect to each such payment to be made: (i) the requisition number, (ii) the name and address of the Contractor, other person, other corporation or other entity to which payment is due or, if for reimbursement to the Lessee, to which Contractor, other person, other corporation or other entity and when payment has previously been made by the Lessee, and as applicable in either case, the Development Contract under which such payment is or was due, (iii) the amount to be paid, which amount shall be net of an overall (for all Series 2011 Local Unit Renewable Energy Projects) \$1,000,000 retainage amount, (iv) the Renewable Energy Project or Capital Improvement Project to which such payment is to be applied, including the Applicable Series 2011 Local Unit and their Local Unit Facility, (v) that such payment obligation has been properly incurred in accordance with the Plans and Specifications, is an item of the Cost of such Project, is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal, (vi) that attached thereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Lessee. Lessee also agrees to file a monthly Initial Project Workforce Form AA201, and (vii) the amount being requisitioned shall not exceed seventy percent (70%) of any Renewable Energy Project Cost for which payment is being sought, it being expressly understood by the Lessee that for each requisition being submitted, the Lessee shall pay or cause to be paid at least thirty percent (30%) from the Equity Contribution (the ratio of not exceeding seventy percent (70%) payment from requisition and at least thirty percent (30%) payment from Equity Contribution for each Project Cost for which a requisition is submitted shall be defined herein as the "Draw Paper Ratio"), substantially in the form of, and consistent with the instructions included in, Exhibit C-1

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(c) Any Project Costs in excess of such estimated Project Cost amount as set forth in subsection (a) above shall be solely borne by and solely paid from any funds available to the Lessee (which shall not include monies under the Bond Resolution, absent the Lessor's written consent). The Lessee hereby covenants to complete all of the Projects in accordance with the Plans and Specifications regardless of the actual Costs of such Projects and regardless of the amounts remaining on deposit in the Project Fund to pay such Project Costs. To the extent the Lessee shall complete all of the Projects in accordance with the Plans and Specifications in an aggregate amount less than any such deposit, plus estimated investment earnings, in the amount of such estimated Project Costs, any excess amounts remaining on deposit in the Project Fund, after the final Acceptance Certificate shall have been filed by the Lessee in accordance with the terms hereof, shall be applied as a credit to the next due Basic Lease Payments otherwise due and owing by the Lessee in accordance with Section 510(e)(1)(B) hereof and Section 5.02(3)(b) of the Bond Resolution.

(d) The Lessee shall cause moneys on hand from time to time in the Project Fund, held by the Trustee, to be made available for payment of all Project Costs, in the manner provided herein for submission of Draw Papers, including Sections 510 and 511 hereof, and in the Bond Resolution, including Sections 5.02(1) and 5.02(2)(a) thereof. The Lessee may cause moneys on hand from time to time in the Project Fund held by the Trustee to be made available for payment of all Company Development Fees and Expenses up to an aggregate amount of \$700,000 unless the Lessee receives the written acknowledgment of a higher ceiling from the Lessor, through the submission of a Certificate of an Authorized Officer of the Lessee substantially in the form of Exhibit D hereto, and otherwise following the terms set forth in Section 5.02(2)(b) of the Bond Resolution; provided, however, that notwithstanding the foregoing, the Lessee may not withdraw moneys from the Project Fund for payment of Company Development Fees and Expenses in excess of \$250,000, excluding those third-party and other Company Development Fees and Expenses approved by the Authority and paid upon issuance of the Series 2011A Bonds or thereafter, until the Company has satisfied, or caused the satisfaction of, all of the Completion Conditions. The Lessee, at its sole discretion, may apply less of the aggregate amount on deposit in the Project Fund and earmarked for payment of Company Development Fees and Expenses to such purpose, and instead apply all or a portion of such amount (including any interest earned thereon) toward Costs of the Renewable Energy Projects or Capital Improvement Projects in the manner contemplated by Sections 510 and 511 hereof, and Section 5.02(2)(a) of the Bond Resolution. Any moneys remaining on deposit in the Project Fund, including interest earnings, upon the payment of all Project Costs (for which the Company shall submit Draw Papers) and all Company Development Fees and Expenses (for which the Company shall submit such Exhibit D form Certificate), shall be applied in the manner set forth in Section 510(e) hereof.

**SECTION 510. Submission of Draws; Procedures; Acceptance Certificates.**

(a) As payments are required for the Project under this Company Lease Agreement, the Lessee shall prepare and assemble the Draw Papers (as defined below) and

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attached hereto, with the Lessor and the Division of Public Contracts Equal Opportunity Compliance, through and including the month after the final Acceptance Certificate has been filed.

(d) From time to time, in accordance with the terms of the Company Lease Agreement, the Local Unit License Agreements with respect to the Series 2011 Local Units, and this Bond Resolution, the Lessee shall file with the Trustee, duly authorized, completed, executed, acknowledged, and delivered Acceptance Certificates in the form of Exhibit B hereto at the following times and with respect to the following matters, and upon receipt thereof, the Trustee shall take the following actions:

(i) The Lessee shall file with the Trustee (A) the REP Acceptance Certificates in the form of Exhibit B-1 hereto, one for each Series 2011 Local Unit, signed by an Authorized Officer of the Lessee with respect to the Renewable Energy Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, (x) when the Lessee has submitted all Draw Papers respecting Costs of such Renewable Energy Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed and installed in accordance with the Plans and Specifications therefor, (z) when all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by the Lessee and such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Renewable Energy Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.2(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.2(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager) and until accompanied by one or more Interconnection Agreements with respect to all such Renewable Energy Projects or Completion Projects related thereto;

(ii) The Lessee shall file with the Trustee (A) the CIP Acceptance Certificates in the form of Exhibit B-2 hereto, one for each Series 2011 Local Unit that is financing Capital Improvement Projects with a portion of the proceeds of the Bonds, signed by an Authorized Officer of the Lessee with respect to such Capital Improvement Projects or, where applicable, any

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Completion Project related thereto, for each such Series 2011 Local Units, (x) when the Lessee has submitted all Draw Papers respecting Costs of such Capital Improvement Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed, renovated and installed in accordance with the Plans and Specifications therefor, (z) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Capital Improvement Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only. Each such CIP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.3(e) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.3(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager); and

(iii) The Lessor is holding \$1,000,000 aggregate retainage for all REP Acceptance Certificates and CIP Acceptance Certificates, if any, to ensure all such Projects are completed in accordance with the terms of the Plans and Specifications and as otherwise required by this Company Lease Agreement. Accordingly, as the REP Acceptance Certificates and CIP Acceptance Certificates, if any, for each Series 2011 Local Unit are completed and filed with the Trustee, the Lessee shall not be entitled to the release of any retainage, until the submission of the final Acceptance Certificate in accordance with Section 5.10(e) of the Company Lease Agreement.

(c) If, upon the completion of the design, permitting, acquisition, construction, renovation and installation of all of the Projects for the Series 2011 Local Units on or prior to December 15, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), as evidenced by the filing of all Acceptance Certificates by the Company, as duly acknowledged by the Series 2011 Local Units and the Lessor, on or prior to December 15, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), all in accordance with the terms hereof, of the Bond

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#### SECTION 513. Taxes and Other Governmental Charges and Utility Charges.

The Lessee shall pay when due all gas, water, steam, electricity, heat, power, telephone and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Renewable Energy Projects. The Lessee shall also pay all property and excise taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Renewable Energy Projects or any part thereof or the Lease Payments, which become due during the Term of this Company Lease Agreement with respect thereto, and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Renewable Energy Projects; provided, however, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only such installments as are required to be paid during the Term of this Company Lease Agreement as and when the same become due. The Lessee shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate or other similar tax payable by the Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any real estate or other tax upon property and arises out of or is levied upon the Lessor's interest in the Renewable Energy Projects hereunder.

The Lessee may, at its own expense and in its or the Lessor's name, contest in good faith any such taxes, assessments or utility or other charges (and the Lessor shall cooperate fully in any such contest) and, in the event of any such contest, permit such taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items, the interest of the Lessor in the Renewable Energy Projects shall be materially endangered, or the Renewable Energy Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss or forfeiture that may result from nonpayment.

#### SECTION 514. Site Visits.

The Lessor shall visit the site of the Project at least quarterly to monitor the acquisition, construction, renovation and installation of the Projects by the Lessee and/or the Contractors, as the case may be.

#### SECTION 515. Construction Manager.

At its sole discretion, the Lessor may employ one or more Construction Manager, payable from a portion of the proceeds of the Series 2011 Bonds in excess of the Maximum Net Bond Funded Project Cost Amount, to act on behalf of the Lessor in exercising any of its rights, or in discharging any of its duties and obligations under this Company Lease Agreement or other Program Document with respect to the (a) design, permitting, acquisition, construction,

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Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, then upon the Trustee's receipt of the final Acceptance Certificate so designated, the Trustee shall, without any further authorization, (i) (A) release and pay over to the Lessee the \$1,000,000 retainage, and (B) transfer any surplus funds remaining on deposit in the Project Fund to the Debt Service Fund for application as a credit to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and if still not fully applied, then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied, all unless the provisions of Section 5.02 of the Bond Resolution require application otherwise, in which case the Trustee shall (ii) apply any such retainage and surplus funds remaining on deposit in the Project Fund in accordance with the terms of Section 5.02 of the Bond Resolution. To the extent the final Acceptance Certificate for all of the Series 2011 Local Units shall not have been filed by the Lessee, as duly acknowledged by the Series 2011 Local Units and the Lessor, all in accordance with the terms hereof, of the Bond Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, on or prior to December 15, 2012, as extended if applicable (thereby causing an Event of Default hereunder, but not under the Bond Resolution), the Trustee shall transfer any funds remaining on deposit in the Project Fund as set forth in a Certificate of an Authorized Officer of the Authority, as required pursuant to the provisions of Section 5.02(3)(b) of the Bond Resolution.

#### SECTION 511. Reimbursement to Lessee from Moneys in the Project Fund.

Notwithstanding the provisions of Section 510 hereof to the contrary, the Lessee shall be entitled to submit Draw Papers to the Trustee and receive reimbursement for the amounts set forth in such Draw Papers for advances made with respect to the Projects, prior to a given Draw Date, so long as the Lessee submits the requisite requisition and supporting copies of invoices prior to being reimbursed directly by the Trustee.

#### SECTION 512. Construction Period Insurance.

Each Contractor shall be required to provide and maintain in force during the entire acquisition, construction, renovation or installation period of all Projects, and prior to the Contractor's performance of work under any Development Contract, builder's risk or property damage insurance (in an amount not less than the full value of all work done and materials and equipment provided or delivered by the Contractor and, in any event, not less than the applicable Purchase Option Price at such time), comprehensive liability insurance, worker's compensation insurance and any other insurance required by law or customarily maintained with respect to like projects. All such policies of insurance shall show the Lessor, the Lessee and the Applicable Series 2011 Local Unit as named insureds, in such amounts as their interests may appear. Evidence of such insurance shall be filed with the Lessor. Notwithstanding the foregoing, the EPC Contractor and the Company will not be required to maintain property insurance concurrently. The EPC Contractor shall supply builder's risk insurance until completion and the Company shall supply property insurance thereafter.

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installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units and/or the (b) design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units.

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ARTICLE VI

INSURANCE; TITLE TO PROJECT AND OTHER MATTERS

SECTION 601. Insurance Coverage for the Projects.

The Lessee shall procure and maintain or cause to be procured and maintained, from and after the date it accesses a Local Unit Facility and through the balance of the Term of this Company Lease Agreement and in accordance with the further terms of this Article VI, (i) public liability insurance, including, without limitation, bodily injury and property damage coverage, (ii) auto liability insurance, including, without limitation, bodily injury and property damage coverage, (iii) worker's compensation insurance, and (iv) property insurance, including, without limitation, fire and comprehensive other risk coverage, all to be procured and maintained with an insurance company approved by the State and such insurance policy or policies naming the Lessee, the Lessor and the Applicable Series 2011 Local Units as insureds or, if the Lessee elects and receives the consent of the Lessor, the Lessee shall provide to the Lessor a Certificate of an Authorized Officer of the Lessee to the effect that adequate reserves are deposited and maintained in trust with an independent trustee in the amounts sufficient to cover the loss or damage to any Project. Any insurance proceeds in excess of the Purchase Option Price for all of the Bonds Outstanding at such time with respect to the Projects under this Company Lease Agreement shall be remitted to the Lessee. Notwithstanding the foregoing, the timing of delivery of insurance required by this Company Lease Agreement can be changed with a Certificate of an Authorized Officer of the Authority.

SECTION 602. Public Liability Insurance.

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard commercial general liability insurance policy or policies in protection of the Lessee, the Lessor and the Applicable Series 2011 Local Units. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by the operation or ownership of the Projects. Said policy or policies shall provide coverage in the amount of \$5,000,000.00. This coverage must be in writing on an occurrence form, claims made policies will be unacceptable. This Comprehensive General Liability insurance shall cover the Lessee, the Authority, each of the Series 2011 Local Units and their employees, agents and officers from and against any claim arising out of personal injury of Lessee or the Lessee's failure to comply with the terms of this Company Lease Agreement. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by a Lessee or by any other persons. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in this Company Lease Agreement. The policy shall also be endorsed to include coverage for products, completed operations, and independent contractors.

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resulting from a single accident or event.

SECTION 606. Excess Liability

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, an excess liability insurance policy or policies in protection of the Lessee, the Lessor, and the Applicable Local Unit Facility, each applicable Series 2011 Local Unit. Said policy or policies shall be in the amount of \$5,000,000.00 shall be in the form of an Umbrella policy rather than a following form excess policy. This policy or policies shall be specifically endorsed to be excess of the required Comprehensive General Liability Coverage, the Employers' Liability Coverage on the Workers' Compensation policy, and the Comprehensive Automobile Liability policy.

SECTION 607. Other Insurance and Requirements for All Insurance.

All insurance required by Article V hereof or this Article VI (a) may be carried under a separate policy or a rider or endorsement, (b) shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State, or may be maintained as part of any insurance pool permitted under the laws of the State, (c) shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the Lessor at least thirty (30) days before the cancellation or revision becomes effective, and (d) shall name the Lessee, the Lessor and the Applicable Series 2011 Local Units as insured parties as their respective interests may appear. The Lessee shall deposit with the Lessor original policies evidencing any such insurance procured by it or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy, the party obligated under the terms of this Company Lease Agreement to maintain such insurance shall furnish to the other party evidence that the policy has been renewed or replaced by another policy conforming to the provisions of Article V hereof and this Article VI, unless such insurance is no longer obtainable in which event such party shall notify the other party of this fact and the Lessee shall thereafter self-insure pursuant to the terms of this Article VI. Neither the Trustee nor any Applicable Series 2011 Local Unit shall have responsibility with respect to any determinations as to the sufficiency of any insurance required under this Company Lease Agreement nor as to the compliance by the Lessee with the provisions of the Bond Resolution regarding insurance.

SECTION 608. Indemnification.

The Lessee shall (a) indemnify and save harmless the Lessor and the Series 2011 Local Units and their agents, employees, officers and directors from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of any breach or non-performance by the Lessee of its

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Such public liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

SECTION 603. Auto Liability Insurance.

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard comprehensive automobile liability insurance policy or policies in protection of the Lessee, the Lessor, and the Applicable Series 2011 Local Unit. Said policy or policies shall be written in a comprehensive form, shall comply with N.J.S.A. 39:6b-1 et seq. and all local regulations and case law regarding the scope and effect of the New Jersey Compulsory Motor Vehicle Insurance Statute, and shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage arising from the maintenance, use or operation of any owned or non-owned vehicle used in or in connection with the Projects. Said policy or policies shall provide coverage in an amount not less than \$5,000,000.00, shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles, which may be used by Lessee in connection with the services, required under the Power Purchase Agreement, such auto liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

SECTION 604. [Reserved].

SECTION 605. Worker's Compensation Insurance.

If required by State law, the Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, worker's compensation insurance covering all of Lessee's and its Contractors' employees on, in, near or about the Projects, and, upon request, shall furnish to the Lessor certificates evidencing such coverage. To the extent the Lessee is procuring or maintaining such insurance, such coverage may, at the option of the Lessee, be provided through a self-insurance program that is established and operating in conformity with all applicable State law. To the extent that any other entity is procuring or maintaining such insurance, such insurance shall be provided under a policy written by an insurance company approved by the State in a minimum amount of \$5,000,000 for damage

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obligations under this Company Lease Agreement, or negligence or misconduct by the Lessee in connection with such performance or non-performance, or the ownership, rental, possession, operation, condition, sale or return of the Projects, and (b) reimburse the Lessor or the Series 2011 Local Units for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Lessor or the Series 2011 Local Units, as applicable, has acted with gross negligence or willful misconduct in connection with the liabilities for which the Lessor or the Series 2011 Local Units, as applicable, is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 608 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefore by the Lessor or the Series 2011 Local Units, as applicable (which demand cannot be made prior to the Lessee's receipt thereof), and shall survive the termination or expiration of this Company Lease Agreement.

SECTION 609. Title to Projects Upon Termination of Company Lease Agreement.

(a) Upon the financing of the Renewable Energy Projects with a portion of the proceeds of the Bonds and the filing of the REP Acceptance Certificates, the Lessor shall be the holder of title to such Renewable Energy Projects for all State law purposes, subject to the lease of the Lessor contemplated hereby. Upon the filing of the CIP Acceptance Certificates, if any, the parties hereto acknowledge that the respective Series 2011 Local Units shall be the fee owners of the respective Capital Improvement Projects described in any such Certificates. The parties further acknowledge that the Lessor may assign the Reimbursement Collateral pursuant to the terms of the County Security Agreement, if any, and/or the County Guaranty Agreement. So long as no Event of Default shall have occurred and be continuing hereunder, the Lessor shall not sell, assign or alienate all or any part of the Renewable Energy Projects (but such provision shall not apply to the Capital Improvement Projects, the Lessor having no interest therein) or any interest therein to any other Renewable Energy Program Interested Party or other third-party (other than to the Lessee pursuant to Article VII hereof), it being the purpose and intent hereof that the Lessee shall have the option to purchase all of the Lessor's right, title and interest in and to the Renewable Energy Projects during or upon the termination of this Company Lease Agreement, with credit toward the Basic Lease Payments for any such purchase price paid, all in accordance with Article VII hereof.

(b) Upon the termination of this Company Lease Agreement in accordance with Section 402(a)(iii) or (iv) hereof, (i) all of the Lessor's right, title and interest in and to the Renewable Energy Projects (and not the Capital Improvement Projects, the Lessor having no interest therein) shall be deemed sold, for purposes of State law, by the Lessor to the Lessee for the consideration of all previous Basic Lease Payments, and to the extent the Lessor was deemed to have a fee interest therein or to have retained title thereto for purposes of State law, such

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interest shall be deemed extinguished under State Law and such title thereto shall be deemed automatically and without further action conveyed by Lessor to Lessee, (ii) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(c) Upon the termination of this Company Lease Agreement due to an optional or mandatory pre-purchase of the Renewable Energy Projects in accordance with Section 402(a)(j) and Sections 701 or 702, as applicable, hereof, (i) the rights of the Lessor and the Lessee in the title to the Renewable Energy Projects (but not the Capital Improvement Projects, which title shall remain with the respective Series 2011 Local Units) shall be as set forth in Section 703 hereof, (ii) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(d) Upon the termination of the Power Purchase Agreement, the parties acknowledge that (i) the Company and each Series 2011 Local Unit shall have thirty (30) days from any such termination to negotiate a fair market value purchase price for the Renewable Energy Project developed for any such Applicable Series 2011 Local Unit and (ii) to the extent the Company and any such Applicable Series 2011 Local Unit can agree to any such fair market value purchase price for such Renewable Energy Project, the parties acknowledge that the right, title and interest in and to such Renewable Energy Project may be sold by the Lessee to any such

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#### SECTION 610. No Further Encumbrances; Exceptions.

(a) The Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Projects, other than the respective rights of the Lessor and the Lessee as herein provided and the Permitted Encumbrances or in any other Program Document. Except as expressly provided in this Article VI, the Lessee shall promptly, at its own expense, take such action as may be necessary to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Lessee shall reimburse the Lessor and/or the Applicable Series 2011 Local Units, as applicable, for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

(b) The Lessee may, at its own expense and in its name, contest in good faith any taxes, assessments or utility and other charges and, in the event of any such contest, permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items the interest of the Lessor in the Projects shall be materially affected or the Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss that may result from nonpayment, in form satisfactory to the Lessor.

#### SECTION 611. Trustee Indemnification.

The Lessee shall (a) indemnify and save harmless the Trustee and its agents, employees, officers and directors from and against any and all liabilities, including, without limitation, all claims, demands, damages, losses, costs, penalties, charges and expenses (including, but not limited to, reasonable attorneys' fees) in any way relating to or arising from (i) the development, ownership, possession, operation, condition, sale, rental, sub-rental or return of the Projects, (ii) the Program Documents, and (iii) any resignation by the Trustee in accordance with Section 10.07(2) of the Bond Resolution; and (b) reimburse the Trustee for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Trustee may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Trustee has acted with negligence or willful misconduct in connection with the liabilities for which the Trustee is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 611 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefor by the Trustee, and shall survive the termination or expiration of this Company Lease Agreement.

#### SECTION 612. Advances.

If the Lessee shall fail to perform any of its obligations under this Company Lease

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Applicable Series 2011 Local Unit for such fair market value price, and any other terms and conditions, all in accordance with the provisions of Section 5.2(d) of the Local Unit License Agreement for any such Applicable Series 2011 Local Unit.

(e) Upon the termination of this Company Lease Agreement due to a Lessee Event of Default in accordance with Section 402(a)(i) hereof, (i) Lessor shall possess full right, title and interest in and to the Renewable Energy Projects for all of the Series 2011 Local Units (but not the Capital Improvement Projects, if any, which title shall remain with the respective Series 2011 Local Units), (ii) Lessee shall have no further leasehold or other right, title and interest in and to such Renewable Energy Projects (nor any such Capital Improvement Projects), (iii) except for the rights of the Series 2011 Local Units to effect a nominal value purchase of their respective Renewable Energy Projects in accordance with subsection (f) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (ii) the Lessee and its officers shall take all actions necessary to authorize, execute and deliver to the Lessor any and all documents necessary to vest in the Lessor all of the Lessee's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessee or the Lessor to be prepared and filed with the Lessee and the Lessor, and, upon the request of the Lessee or the Lessor, shall execute and deliver to the Lessee and the Lessor all such instruments as may be desirable to evidence such discharge and satisfaction.

(f) Upon the termination of this Company Lease Agreement as contemplated in Section 609(e) above, the parties acknowledge that the right, title and interest in and to the Renewable Energy Project developed for any one or more Series 2011 Local Units may be sold by the Lessor to any such Applicable Series 2011 Local Unit for nominal consideration in accordance with the provisions of Section 5.2(a)(iv) of the Local Unit License Agreement for such Applicable Series 2011 Local Unit.

(g) Notwithstanding any other provision of this Section 609, in no event shall there be any transfer of any Renewable Energy Project or any interest therein to any person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event. The expression "Tax Benefit Recapture Event" means an event which would entitle the United States Department of the Treasury or the Internal Revenue Service to require that the Lessee return all or part of the Section 1603 Grant in lieu of tax credit received in connection with the Renewable Energy Projects, or to disallow the Lessee's tax deductions or recapture all or a portion of the investment tax credits previously claimed with respect to investments in energy property for depreciation.

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Agreement, the Lessor or the Applicable Series 2011 Local Units may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and the Lessee shall be obligated to repay all such advances on demand to the Lessor or the Applicable Series 2011 Local Units, as the case may be, as Additional Lease Payments with interest at the Overdue Rate from the date of the advance to the date of repayment.

#### SECTION 613. Net Proceeds of Insurance; Form of Policies.

(a) Each policy of insurance obtained pursuant to or required by this Article VI shall provide that all Net Proceeds thereunder shall be payable (i) with respect to the Renewable Energy Projects, to the Lessor for deposit with the Trustee in the Project Fund, the Revenue Fund or such other Fund or Account under the Bond Resolution, in any event as directed by the Lessee, but only so long as the Lessee has not caused an Event of Default hereunder, in which latter case such Net Proceeds shall be payable to the Lessor, (ii) with respect to the Capital Improvement Projects, to the Applicable Series 2011 Local Unit, or at their direction, to the Trustee for deposit in the Project Fund, or other Fund or Account under the Bond Resolution, or (iii) if not discernible as to Project or otherwise, payable to the Lessor or at the Lessor's direction, to the Trustee for deposit in the Project Fund, the Revenue Fund, or other Fund or Account under the Bond Resolution.

(b) The Lessee shall pay or cause to be paid when due the premiums for all insurance policies required by this Company Lease Agreement, and shall promptly furnish or cause to be furnished to the Lessor and the Series 2011 Local Units evidence of such payments. All such policies shall provide that the Applicable Series 2011 Local Units and the Lessor shall be given not less than thirty (30) days' notice of each expiration, any intended cancellation and any intended reduction of the coverage provided thereby.

(c) Neither the Applicable Series 2011 Local Units nor the Authority shall be responsible for the sufficiency of any insurance herein required, and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Applicable Series 2011 Local Units or the Authority, as the case may be.

(d) The Lessee shall cause to be delivered to the Applicable Series 2011 Local Units and the Lessor on each anniversary of the date of issuance of the Series 2011 Bonds a Certificate of an Authorized Officer of the Lessee, satisfactory to the Applicable Series 2011 Local Units and the Lessor, that the insurance policies required by this Company Lease Agreement are in full force and effect.

#### SECTION 614. Self-Insurance.

Self-insurance, in lieu of policy coverage, maintained by the Lessee pursuant to this Article VI shall only be deemed to comply with this Article VI to the extent all of the following are satisfied:

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(a) The self-insurance program shall be acceptable to the Lessor, the Applicable Series 2011 Local Units and the Lessee, as evidenced by Certificates of Authorized Officers to such effect;

(b) The self-insurance program shall be approved by an Independent Insurance Consultant;

(c) The self-insurance program shall include an actuarially sound claims reserve fund out of which each self-insured claim shall be paid; the adequacy of each such fund shall be evaluated on an annual basis by an Independent Insurance Consultant; and any deficiencies in any self-insurance claims reserve fund shall be remedied in accordance with the recommendation of an Independent Insurance Consultant;

(d) The self-insurance claims fund shall be held in a separate trust fund by an independent trustee, which independent trustee may also be the Trustee serving as such under the Bond Resolution;

(e) The self-insurance program shall comply in every particular with all applicable law; and

(f) In the event the self-insurance program shall be discontinued, the actuarial soundness of its claims reserve fund, as determined by an Independent Insurance Consultant, shall be maintained.

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of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, if any) in whole, at the times set forth in Section 701(c) hereof, by paying to the Trustee the "Purchase Option Price", which for any date of calculation shall be the sum of (i) the aggregate amount of unpaid principal of the Bonds to their maturity date under the terms of the Bond Resolution and as set forth in the Lessee's notice to the Trustee of such prepayment, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the final maturity date set forth in clause (j) above, (iii) the redemption premium, if any, applicable to the payment of the Bonds on the maturity date set forth in clause (j) above, and (iv) any costs of redemption or defeasance or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

The Lessee may direct the Trustee in writing, with a copy to the Lessor, that all or a portion of the Purchase Option Price (where all of the Outstanding Bonds shall be paid) shall be funded from the County Security Fund, if any, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(c) The prepayment options set forth in subsections (a) and (b) above may be exercised by the Lessee at any time by (i) giving written notice to the Trustee and the Lessor of the exercise of such option at least fifty-two (52) days prior to the final maturity date set forth in such notice, and (ii) if the prepayment shall occur before January 15, 2021, complying with any other requirements of Article XII of the Bond Resolution that may be required by the Trustee or the Lessor to defease the Bonds in accordance with the terms of the Bond Resolution, including, without limitation, a verification report from a nationally recognized accounting firm approved by the Trustee and the Lessor to the effect that the amount so prepaid shall equal the Purchase Option Price (for a full prepayment) and shall therefore be sufficient to defease the Bonds (in whole or in part, as the case may be) by paying all of the principal thereof and redemption premium, if any, thereon through and including the final maturity thereof, plus all interest accruing thereon to such final maturity date. Such option shall be exercised by depositing with said notice cash and/or Investment Securities in such amount as shall be sufficient, together with interest to accrue thereon, to pay the Bonds to be defeased on said redemption date.

(d) Notwithstanding any provision herein or in any Program Document to the contrary, the Lessee may not advance refund, currently refund or otherwise refund any Series of Bonds with bonds, notes or other obligations of the Lessee, or such other moneys available to the Lessee, and use such moneys to make any prepayments hereunder unless (i) provision has been made by the Lessee for the payment of all (A) principal of, redemption premium if any, and interest on the Series of Bonds being refunded to any redemption date and (B) Administrative Expenses of the Lessor relating thereto, and (ii) if applicable, prior written notification of any such refunding has been given to the Lessor. Notwithstanding the foregoing, the Lessor may, in its sole discretion at the times and under the circumstances and for the purposes set forth in the Bond Resolution, advance refund, currently refund, or otherwise refund any Series of Bonds, the allocation of the benefit from which shall be determined between the Lessor and the Lessee at the time of any such defeasance and/or refunding.

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## ARTICLE VII

### OPTION TO PURCHASE; PREPAYMENT OF LEASE PAYMENTS

#### SECTION 701. Lessee's Prepayment and Purchase Option; Purchase Option Price.

(a) The Lessee is hereby granted the option to prepay its Basic Lease Payments in part, in accordance with Section 8.07 of the Bond Resolution. Any partial prepayment shall not affect the Lessor's right, title and interest in and to the Renewable Energy Projects, nor the Series 2011 Local Units' right, title and interest in and to the Capital Improvement Projects. At the Lessee's option, as directed in a Certificate of an Authorized Officer of the Company delivered by the Company to the Trustee, the Lessor, and the County accompanying any such partial prepayment, any such partial prepayment shall be either (i) credited to the next due interest portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and then to the next due future interest portion, and then Principal Portion, of Basic Lease Payments until fully applied or (ii) applied to defease Outstanding Bonds in the manner contemplated by Article XII of the Bond Resolution, and in the amounts and on the dates as set forth in any such partial prepayment Certificate of the Company, which in the case of such defeasance option selected by the Company, such Certificate of the Company shall be acknowledged by an Authorized Officer of the Authority to the effect that such dates and amounts conform to the requirements of the Bond Resolution. Upon any such partial prepayment, new schedules reflecting the revised Basic Lease Payments due from the Lessee, taking into account any such partial prepayment, shall be attached by the Lessor hereto.

The Lessee may not utilize funds in the County Security Fund or Restoration Security Fund, if any, toward any such partial prepayment; provided, however, that such limitation does not extend to monies previously released from the County Security Fund and transferred to the Aged Account in the Revenue Fund in accordance with Section 5.07(3)(a) of the Bond Resolution at the time of any such partial prepayment; provided, further however, that such limitation does not extend to such amounts that would be eligible for release pursuant to the calculations referred to in Section 5.07(3)(a) of the Bond Resolution immediately after any such partial prepayment (to the extent the Series 2011 Bonds will not be redeemed simultaneously with the prepayment, the Series 2011 Bonds that will be defeased upon the prepayment shall not be considered Outstanding for purposes of such calculations, and therefore can be released and applied to any such prepayment if the calculations so warrant release), to the extent the Lessor has verified such calculations in writing to the Lessee and the Trustee. In any such instance where this limitation does not so extend, the Lessee may direct the Trustee in writing, with a copy to the Lessor, to apply any such amounts in the County Security Fund, if any, to any such partial prepayment, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(b) The Lessee is further hereby granted the option to prepay and purchase all

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#### SECTION 702. Mandatory Prepayment and Purchase of Project; Mandatory Purchase Price.

(a) Upon the acceleration of the Bonds, the Lessee shall forthwith prepay and purchase all of the Renewable Energy Projects (but not the Capital Improvement Projects, if any) by paying to the Trustee, immediately upon receipt of notice of such acceleration, the "Mandatory Purchase Price", which for any date of calculation shall be the sum of (i) the aggregate amount of the unpaid principal of the Bonds, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the date that the amount in clause (i) above has been paid in full, and (iii) any costs of acceleration or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

(b) In the event the Mandatory Purchase Price remains unpaid when due, the Lessee shall make an Additional Lease Payment immediately due and payable equal to, for any date of such deficiency, the amount of such deficiency times the per diem Overdue Rate.

#### SECTION 703. Effect of Prepayment.

(a) In the event of a deposit sufficient to purchase the Renewable Energy Projects (but not the Capital Improvement Projects, if any) pursuant to Section 701 or 702 hereof and to pay any and all amounts due hereunder, (i) all of the Lessor's right, title and interest in and to such Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest) shall be deemed sold to the Lessee for the consideration set forth in such Sections, (ii) except for the rights of the Series 2011 Local Units to effect a Fair Market Value purchase of their respective Renewable Energy Projects in accordance with Section 609(d) hereof, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest), free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(b) Notwithstanding anything to the contrary herein or in any Program Document, including without limitation subsection (a) above, to the extent the Lessee has satisfied all of the conditions of subsection (a) above in order to terminate this Company Lease Agreement,

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including the payment of all amounts due and owing hereunder and under the other Company Documents, and at the date all of such conditions are satisfied, (i) the Lessee is not in any continuing default or Event of Default hereunder or under any Company Document, (ii) the term of one (1) or more Local Unit License Agreements with one (1) or more Series 2011 Local Units has not expired, (iii) the Lessee delivers to the Lessor and such Series 2011 Local Unit a Certificate of an Authorized Officer of the Lessee expressing the Lessee's interest in continuing the term of this Company Lease Agreement to a specified date which date shall be no later than the termination date of any such Local Unit License Agreements, then without any further action (a) the Company Lease Agreement shall not terminate, but rather shall continue for a term no longer than the termination date of the Applicable Local Unit License Agreement, all as set forth in any such Certificate, (b) the Lessee's only remaining payment obligations under the Company Lease Agreement are to pay rent for the Leased Property in an amount that shall be the sum of (I) the Authority's annual Administrative Fee, (II) any Administrative Expense that Lessee causes the Authority, the County or any such Series 2011 Local Unit to incur, both as Additional Lease Payments hereunder, there being no continuing obligation to make Basic Lease Payments as the Series 2011 Bonds and any Additional Bonds that are Outstanding are either defeased or redeemed under the Bond Resolution, and (III) ten (10) dollars per annum, payable annually in advance, (c) the Lessee can only cause an Event of Default hereunder should the Lessee fail to pay such amounts, fail to operate and maintain the Applicable Renewable Energy Project, or fail to allow the Applicable Series 2011 Local Unit to discharge its obligations under its Local Unit License Agreement, such as to take and pay for the Electricity generated under the Renewable Energy Program by the Lessee for the benefit of any such Series 2011 Local Unit, and (d) the Company retains all other rights, duties and obligations under the Program Documents, until the termination of the Applicable Local Unit License Agreement with respect to the particular Project, including without limitation the right to receive the PPA Price, as escalated, for the duration of any such term. The Lessee may continue this arrangement with the Authority and more than one (1) Series 2011 Local Unit, to the extent all such conditions are satisfied with respect to any other Series 2011 Local Unit and their respective Renewable Energy Projects, until the termination of this Company Lease Agreement, without interruption, in accordance with the terms of Section 402(a)(iii) hereof, in which case title to the Applicable Renewable Energy Project(s) shall transfer in accordance with the provisions of Section 609(b) hereof.

#### SECTION 704. Substitution of Project.

The Lessee is hereby granted the full power of substitution with respect to any Project so long as the Lessor and the Trustee receive the prior written consent of the Applicable Series 2011 Local Unit and the Authority, along with revised Exhibits to the Applicable Program Documents.

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Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to have no further obligation with respect to the affected Project(s). Subsections (y) and (z) above are mutually exclusive.

(c) In the event of any damage, destruction, condemnation, taking or other event that constitutes a revocation or deemed revocation under Section 3.7 of any Local Unit License Agreement with respect to a Project requiring payment of the amounts set forth in Section 3.7(a)(iv) of such Local Unit License Agreement, upon receipt of such amount, this Company Lease Agreement and the obligations of Lessee thereunder with respect of and solely with respect to such Project, shall terminate and title thereto shall vest in Lessee. Such event shall have no effect on the Lessee's obligations to continue to make all Lease Payments on time and in full.

#### SECTION 802. Insufficiency of Net Proceeds.

If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement relating to the Projects as so damaged or taken, the Lessee shall either:

(a) direct the application of the Net Proceeds in the manner as set forth in Sections 801(a)(y) or 801(b)(y) above, thereby requiring the Lessee to complete the work relating to the Projects as so set forth, except that the Lessee shall itself pay any Project Costs in excess of the amount of the Net Proceeds, and, if by reason of any such insufficiency of the Net Proceeds the Lessee shall make any payments pursuant to the provisions of this Section 802(a), the Lessee shall not be entitled to any reimbursement therefor from the Lessor, nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Projects;

(b) direct the application of the Net Proceeds in the manner as set forth in Section 801(a)(z) above, thereby requiring the Lessee to make an equity contribution to the extent the Net Proceeds are insufficient to cover the Purchase Option Price and thereupon exercise Lessee's option to purchase the Project in whole, in accordance with Article VII hereof, in which event the Net Proceeds shall be used toward this purpose; or

(c) direct the application of the Net Proceeds consistent with the determination contemplated in Section 801(b)(y) above, thereby causing the Net Proceeds to be applied to the payment of the Interest Portion and, to the extent available, the Principal Portion of the Basic Lease Payments due on the immediately succeeding Basic Lease Payment Dates until all of the Net Proceeds have been so applied, in which event the Lessee shall not be entitled to any reimbursement therefor from the Lessor nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Project. Subsections (a), (b) and (c) above are mutually exclusive.

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## ARTICLE VIII

### DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

#### SECTION 801. Damage, Destruction and Condemnation.

(a) If either (i) the Projects or any portion thereof are destroyed or damaged by fire or other casualty or (ii) title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by any governmental body, other than Sussex County, a division of Sussex County Government, any Series 2011 Local Unit, or by any person, firm or corporation acting under governmental authority, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to purchase the Project in whole by paying the then applicable Purchase Option Price in accordance with Section 701 hereof and causing the Lessor to deposit, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so deposit, such Net Proceeds with the Trustee in the Revenue Fund, the Debt Service Fund, or such other Fund or Account that would allow the application of the Net Proceeds toward the Purchase Option Price. Subsections (y) and (z) above are mutually exclusive.

(b) If title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by Sussex County, a division of Sussex County Government, or any Series 2011 Local Unit, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project

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#### SECTION 803. Cooperation of Lessor.

The Lessor and the Applicable Series 2011 Local Unit shall cooperate fully with the Lessee, at the sole cost and expense of the Lessee, in filing any proof of loss with respect to any insurance policy covering the casualties described in Section 801 hereof and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Projects or any part thereof. In no event shall the Lessor or the Applicable Series 2011 Local Unit voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim or any prospective or pending condemnation proceeding with respect to the Projects or any part thereof, without the prior written consent of the Lessee.

#### SECTION 804. Condemnation of Other Property Owned by Lessee.

The Lessee shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for the destruction of, damage to or taking of its property not included in the Project.

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## ARTICLE IX

### ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING

#### SECTION 901. Assignment by Lessor.

Except for this Company Lease Agreement and as otherwise provided below and in any other Program Document, including without limitation with respect to its payment obligations under the Power Purchase Agreement to the Series 2011 Local Units under the Local Unit License Agreements, or with respect to the assignment of the Reimbursement Collateral to the County and the County Security Provider, if any, under the County Guaranty Agreement and the County Security Agreement, if any and as applicable, the Lessor shall not assign its obligations under this Company Lease Agreement and no such purported assignment thereof shall be effective. All of the Lessor's right, title and interest in and to this Company Lease Agreement, the Lease Payments and the other amounts due to it hereunder and under the Project shall be assigned by the Lessor to the Trustee pursuant to the pledge of the Trust Estate under the Bond Resolution no later than the execution and delivery hereof.

#### SECTION 902. Lease Payments to Trustee.

The Lessor and the Lessee hereby agree that from and after the adoption of the Bond Resolution and the execution of this Company Lease Agreement, so long as the same shall remain in effect, payment by the Lessee to the Trustee or, if applicable, to the successor thereto of any moneys or sums due hereunder from the Lessee to the Lessor shall satisfy the obligation of the Lessee to pay such money or sums.

#### SECTION 903. Assignment and Subleasing by Lessee.

This Company Lease Agreement may not be assigned or subleased by the Lessee without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Lessee entered into this Company Lease Agreement as the successful respondent pursuant to the Company RFP and all applicable law, and the Lessor and the Series 2011 Local Units have selected the Lessee, and not any assignee, to receive the rights, and perform the duties and obligations hereunder. Any such purported assignment or sublease shall be deemed null and void without such prior written consent.

#### SECTION 904. Restriction on Mortgage or Sale of Project by Lessee.

The Lessee shall not mortgage, sell, assign, transfer or convey the Projects or any portion thereof during the Term of this Company Lease Agreement without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Program Documents contemplate such Projects being available, directly in the case of the Capital Improvement Projects, or indirectly in the case of the Renewable Energy Projects as a source of power, for the benefit of the Series 2011 Local Units.

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#### SECTION 905. Reorganization.

It is understood and agreed by the parties hereto that reorganization of the Lessee with the consent of the Lessor shall not constitute an assignment under this Article IX.

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## ARTICLE X

### EVENTS OF DEFAULT; REMEDIES

#### SECTION 1001. Events of Default.

(a) An Event of Default hereunder means the occurrence of any one or more of the following events:

(i) The Lessee fails to (A) make any Basic Lease Payment as it becomes due or (B) make any Additional Lease Payment as it becomes due or maintain any insurance requirement set forth hereunder, and in the case of (B) only, such failure is not cured within thirty (30) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, if the Basic Lease Payment is paid with funds from the County Reserve, such payment will not constitute an Event of Default.

(ii) The Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder or under any Company Document, and such failure is not cured within ninety (90) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, that if such failure cannot be cured within said ninety (90) day period, the Lessee shall not be in default if it has commenced to cure within such ninety (90) day period, it continuously proceeds with the cure, and if such action to cure the default is acceptable to the Lessor and the Lessor indicates the same in writing.

(iii) The discovery by the Lessor or the Trustee that any material statement, representation or warranty made by the Lessee in this Company Lease Agreement, or in any writing delivered by the Lessee pursuant hereto or in connection herewith, is false, misleading or erroneous in any material respect.

(iv) The Lessee becomes insolvent or admits in writing its inability to pay its debts as they mature or applies for, consents to or acquiesces in the appointment of a trustee, receiver or custodian for the Lessee or a substantial part of its property; or in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed for the Lessee or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, moratorium or other proceeding under bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or, if permitted by law, against the Lessee and, if instituted against the Lessee, is consented to or acquiesced in by the Lessee or is not dismissed within sixty (60) days.

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(v) The entering of an order or decree appointing a receiver for the Leased Property or for any part thereof or for the revenues thereof with or without the consent or acquiescence of the Lessee, and such order or decree shall not be vacated, discharged or stayed within ninety (90) days after the date of such entry.

(b) Upon the occurrence of an Event of Default under this Section 1001, the Trustee shall transmit a written notice, including electronic mail, of such Event of Default to the Lessor, the Lessee and the Series 2011 Local Units within thirty (30) days of the Trustee's knowledge thereof.

(c) Upon the occurrence of an Event of Default under this Section 1001, all obligations of the Lessee under this Company Lease Agreement shall remain in full force and effect.

#### SECTION 1002. Remedies.

(a) Upon the occurrence and continuation of any Event of Default as described in Section 1001 hereof, at the option of the Lessor, the Mandatory Purchase Price with respect to the Project shall become immediately due and payable by the Lessee upon the Lessor's declaration. So long as the Lessor is not in default hereunder, the Lessor shall have the right to direct all remedial proceedings under this Company Lease Agreement, including the consent to remedies taken upon an Event of Default. Subject to the preceding sentence, the Lessor shall have the right, without any further demand or notice, to take one or any combination of the remedial steps below:

(i) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and exclude the Lessee from using it; provided, however, that if this Company Lease Agreement has not been terminated, the Lessor shall return possession of same to the Lessee when the Event of Default has been cured; and provided, further, that the Lessee shall continue to be responsible for the Lease Payments due hereunder during the remainder of the Lease Term.

(ii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and sell, lease or sublease its interest therein or any part thereof.

(iii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and apply any portion of same, or of the

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proceeds of same (in accordance with clause (ii) above) in accordance with the provisions of Section 5.07(1)(b) of the Bond Resolution

(iv) With or without terminating this Company Lease Agreement, declare all Lease Payments due or to become due hereunder to be immediately due and payable by the Lessee, whereupon such Lease Payments shall be immediately due and payable.

(v) Take whatever action at law or in equity may appear necessary or desirable to collect the Lease Payments then due and thereafter to become due hereunder with respect to the Project or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Company Lease Agreement.

(b) Notwithstanding any other provisions of this Section 1002, in no event shall there be any transfer of any Renewable Energy Project or any interest therein to any person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event as described in Section 609.

#### SECTION 1003. Reinstatement.

Notwithstanding any termination of this Company Lease Agreement that shall be made in accordance with the provisions of Section 1002 hereof, unless the Lessor shall have entered into a firm bilateral agreement providing for the reletting of the Project for a period of at least one year, if, after the maturity of the Outstanding Bonds shall have been accelerated by the Trustee (upon the occurrence of an Event of Default) under the terms of the Bond Resolution, (a) all arrears of interest on such Outstanding Bonds and interest on overdue installments of principal, redemption premium, if any, and (to the extent permitted by law) interest on such Bonds at a rate per annum equal to the highest rate per annum borne by any of the Bonds shall have been paid, (b) the principal and redemption premium, if any, on all Outstanding Bonds that have become due and payable (other than by an acceleration) shall have been paid, (c) all other sums payable under the terms of the Bond Resolution, except the principal of and the interest on such Bonds that by such acceleration shall have become due and payable, and under the terms of the other Program Documents shall have been paid, (d) all other things shall have been performed in respect of which there was an Event of Default, (e) the reasonable fees and expenses of the Lessor, the Trustee, the Series 2011 Local Units, the County, the County Security Provider, and the Bondholders, including Administrative Expenses thereof (including reasonable attorneys' fees paid or incurred) shall have been paid, and (f) such acceleration under the terms of the Bond Resolution is rescinded, then the Lessee's Event of Default hereunder shall be waived without further action by the Trustee or the Lessor or any other Renewable Energy Program Interested Party. Upon such payment and waiver, this Company Lease Agreement shall be fully reinstated as if it had never been terminated, and the Lessee shall be restored to the use, occupancy and possession of the Renewable Energy Projects and the other Leased Property.

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#### SECTION 1004. Election of Remedies; No Waiver of Elected Remedies.

No failure on the part of either party to exercise, and no delay in exercising any right or remedy so provided for herein, shall operate as a waiver thereof, nor shall any single or partial exercise by either party of any right or remedy so provided hereunder preclude any other or further exercise of any other right or remedy provided hereunder.

#### SECTION 1005. No Additional Waiver Implied by One Waiver.

In the event any agreement contained in this Company Lease Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder, and shall not be construed to be an implied term hereof or a course of dealing between the parties hereto.

#### SECTION 1006. Agreement to Pay Attorneys' Fees and Expenses.

In the event either party to this Company Lease Agreement should default under any of the provisions hereof and the non-defaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement, performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall, on demand therefor, pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

#### SECTION 1007. Late Charges.

Whenever any payment of Lease Payments is not made when due, the Lessee promises to pay to the Lessor, in addition to the amount due, interest thereon at the Overdue Rate; provided, however, that this Section 1007 shall not be applicable if or to the extent the application thereof would affect the validity of this Company Lease Agreement.

#### SECTION 1008. Delay; Notice.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof. Any such right or power may be exercised from time to time and as often as may be deemed expedient, and any one exercise thereof shall not be deemed an exclusive exercise. To entitle any party to exercise any remedy reserved to it in this Company Lease Agreement, it shall not be necessary to give any notice other than as may be specifically required in this Company Lease Agreement.

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### ARTICLE XI

#### ADMINISTRATIVE PROVISIONS

##### SECTION 1101. Notices.

Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Company Lease Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) If to Lessor: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
Email: jbonanni@co.morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com

(b) If to the Lessee: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email: principals@sunlightgeneral.com

With a copy to: James F. Duffy, Esq.  
Nixon Peabody, LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com

(c) If to the Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: nconcilio@mdmc-law.com

(d) If in the Series 2011 Local Units: See Exhibit A-4 attached hereto.

(e) If to the Construction Manager: Jessica Vogel, CBSB  
Birdsall Services Group, Inc.  
1101 Laurel Oak Road, Suite 160  
Voorhees, NJ 08043  
Email: jvogel@birdsall.com

With a copy to: Joseph Santaiti  
Gabel Associates  
417 Denison Street  
Highland Park, NJ 08904  
Email: Joseph.santaiti@gabelassociates.com

##### SECTION 1102. Severability.

In the event any provision of this Company Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

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**SECTION 1103. Amendments, Changes and Modifications.**

(a) This Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to the recomputation of Basic Lease Payments or Additional Lease Payments related to the Purchase Option Price or Mandatory Purchase Price, or with respect to any other term of this Company Lease Agreement affecting the security of the Bond Resolution, by (i) written amendment authorized and delivered by each of the Lessor and the Lessee and (ii) by compliance with Article XI of the Bond Resolution regarding conditions required for amendment of the Bond Resolution, which may include the consent of the Trustee.

(b) Other than as provided in subsection (a) above, this Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to its Term or any of its other provisions by written amendment authorized and executed by the Lessor, the Lessee, and to the extent any of the rights, duties or obligations of any Series 2011 Local Units or other Renewable Energy Program Interested Parties under a Program Document are affected, with the written acknowledgment and consent of any one or more such Series 2011 Local Units and/or Renewable Energy Program Interested Parties, as applicable.

(c) To the extent Bonds are Outstanding at the time of any amendment, supplement or modification of this Company Lease Agreement, any such proposed amendment, supplement or modification, in substantially final form, shall be delivered by the Lessor at least fifteen (15) days in advance of its execution to the Trustee and each Rating Agency that at such time is rating any such Bonds, unless this provision is waived by any such Rating Agency and the Trustee; moreover, no such amendment, supplement or modification shall be entered into by the parties unless there shall be no adverse affect on the rating of such Bonds. Where there shall be no such adverse affect on the rating of such Bonds, a final copy of any such authorized, executed and delivered amendment, supplement or modification of this Company Lease Agreement shall be promptly delivered to each such Rating Agency and the Trustee.

**SECTION 1104. Further Assurances and Corrective Instruments.**

The Lessor and the Lessee agree that they shall, if necessary, execute, acknowledge and deliver such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Projects or the Leased Property, or any inadequate or incorrect description intended so to be, or for carrying out the expressed intention of this Company Lease Agreement.

**SECTION 1105. Applicable Law.**

This Company Lease Agreement shall be governed by and construed in accordance with the laws of the State.

**SECTION 1106. Lessor and Lessee Officers.**

Whenever under the provisions of this Company Lease Agreement the approval of the Lessor or the Lessee is required or the Lessor or the Lessee is required to take some action at the request of the other, such approval of such request shall be given for each party by its respective Authorized Officer, and any party hereto shall be authorized to rely upon any such approval or request.

**SECTION 1107. Captions.**

The captions or headings in this Company Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Company Lease Agreement.

**SECTION 1108. Company Lease Agreement is Original.**

For all purposes of filing, perfection or any other matter requiring identification or possession of the "original" copy of a lease, the executed original hereof identified as the "original" shall be the "original" to evidence this Company Lease Agreement.

**SECTION 1109. Binding; Counterparts.**

This Company Lease Agreement shall be binding upon the parties hereto only when duly executed on behalf of both the Lessor and the Lessee together; provided, however, that each set of counterparts taken together shall constitute an original.

**SECTION 1110. Inspections Permitted.**

The Lessee shall, whenever requested, advise the Lessor and the Applicable Series 2011 Local Units of the exact location and condition of the Projects. The Lessor and the Applicable Series 2011 Local Units may enter upon the premises of the Projects for the purpose of inspection at all reasonable times, and, upon reasonable notice, may enter upon the job, building or place where the Projects and the books and records of the Lessee with respect thereto are located.

**SECTION 1111. Time is of the Essence.**

Time is of the essence with respect to this Company Lease Agreement, and no covenant or obligation hereunder to be performed by the Lessee may be waived except by the written consent of the Lessor and the Lessee. Waiver of any such covenant or obligation or a forbearance to invoke any remedy on any occasion shall not constitute or be treated as a waiver of such covenant or obligation or any other covenant or obligation as to any other occasion and shall not preclude the Lessor from invoking such remedy at any later time prior to the Lessee's cure of the condition giving rise to such remedy. Each of the Lessor's rights hereunder is

cumulative to its other rights hereunder and not alternative thereto.

**SECTION 1112. No Personal Liability or Accountability.**

No covenant or agreement contained in this Company Lease Agreement shall be deemed to be the covenant or agreement of any present, past or future officer, agent or employee of the Lessor or the Lessee, in his or her individual capacity, and neither the officers, agents or employees of the Lessor or the Lessee nor any official executing this Company Lease Agreement shall be liable personally on this Company Lease Agreement or be subject to any personal liability or accountability by reason of any transaction or activity relating to this Company Lease Agreement.

**SECTION 1113. Gender.**

Use of the masculine, feminine or neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the other genders whenever and wherever appropriate.

**SECTION 1114. Receipt of Company Lease Agreement.**

The parties hereto each acknowledge receipt of a signed, true and exact copy of this Company Lease Agreement.

**SECTION 1115. Waiver of Sovereign Immunity.**

For the purposes of this Company Lease Agreement, the Lessor acknowledges and agrees that (a) its execution and delivery of this Company Lease Agreement and (b) its performance of the actions contemplated by this Company Lease Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Lessor in respect of itself or its assets, properties or revenues, shall be entitled to any immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, the Lessor hereby (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding.

**SECTION 1116. Approvals.**

In order to ensure that construction of the Renewable Energy Projects is not unduly delayed, in the event that any party to this Company Lease Agreement seeks the approval or consent of another party to this Company Lease Agreement, the party considering such request shall not unreasonably condition, withhold or delay such consent or approval.

IN WITNESS WHEREOF, the Lessor and the Lessee have each caused this Company Lease Agreement to be executed in its name by its respective duly authorized officers, all as of the date first above written.

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY, as Lessor**

[SEAL]

By: \_\_\_\_\_  
John Bonanni, Chairman

ATTEST:

By: \_\_\_\_\_  
Ellen M. Sandman, Secretary

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

STATE OF NEW JERSEY )  
 ) ss.:  
COUNTY OF SUSSEX)

On this \_\_\_ day of \_\_\_\_\_, 2011, before me, a Notary Public in and for said County and State, personally appeared John Bonanni, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

\_\_\_\_\_  
Notary Public

STATE OF NEW JERSEY )  
 ) ss.:  
COUNTY OF SUSSEX)

On this \_\_\_ day of \_\_\_\_\_, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes, known to me (or proved to me on the basis of satisfactory evidence) to be an Authorized Signatory the Manager of the Company, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

**1. DESCRIPTION OF PROJECTS**

**EXHIBIT A-1:** See attached Description of Renewable Energy Project for each Series 2011 Local Unit, to be constructed in accordance with Exhibit C to the Company RFP, also attached. See also attachment of Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP

**EXHIBIT A-2:** See attached Description of Capital Improvement Project for each Series 2011 Local Unit

**2. BASIC LEASE PAYMENT SCHEDULE**

**EXHIBIT A-3:** See attached Basic Lease Payment Schedule

Exhibit A-3-Regular  
Exhibit A-3-Alternate

**3. NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS**

**EXHIBIT A-4:** Notice Information for Series 2011 Local Units

**4. MAXIMUM PROJECT COSTS FINANCED BY THE SERIES 2011 BONDS**

The maximum Project Costs financed by the Series 2011 Bonds is the Maximum Net Bond Funded Project Cost Amount of \$\_\_\_\_\_.

**EXHIBIT A-1**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP.

**Morris County Improvement Authority**

\$ \_\_\_\_\_ aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$ \_\_\_\_\_ Series 2011A Bonds, and  
\$ \_\_\_\_\_ Series 2011B Note

**Series 2011 Local Unit List of Local Unit Facilities**

**EXHIBIT A-1 (cont.)**

[Attach Appendix C to the Company RFP]

**EXHIBIT A-1 (cont.)**

[Attach Article VII to the Company RFP]

A-1-2

A-1-3

**EXHIBIT A-2**

Please see the Local Unit Facility Roof Warranty Chart at the end of this Exhibit A-2 for information concerning roof warranties and duration of existing roof warranties for each Local Unit Facility. The Capital Improvement Projects set forth below related to maintaining and extending existing roof warranties must be compatible with the information contained in the Chart.

**Local Unit Facility Roof Warranty Chart**

*See Attached*

A-2-1

**EXHIBIT A-3-Regular  
BASIC LEASE PAYMENT SCHEDULE  
(paying 5 months prior to Series 2011 Bonds)**

Note: There are no Basic Lease Payment Dates on January 15, 2012 and July 15, 2012, each five (5) months prior to the corresponding interest payment dates for the Series 2011A Bonds of June 15, 2012 and December 15, 2012, because the Series 2011A Bond interest due on such Series 2011A Bond interest payment dates has been provided for through the deposit of the Series 2011B Note proceeds in the Capitalized Interest Account of the Debt Service Fund. There is no Series 2011B Note interest due on such dates.

A-3-1

EXHIBIT A-4  
NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS

Morris County Improvement Authority  
\$ \_\_\_\_\_ aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$ \_\_\_\_\_ Series 2011A Bonds, and  
\$ \_\_\_\_\_ Series 2011 B Note

Series 2011 Local Unit Distribution List

A-3-2

A-4-1

EXHIBIT B

FORMS OF ACCEPTANCE CERTIFICATES

See Attached:

Form B-1, Form of REP Acceptance Certificate  
Form B-2, Form of CIP Acceptance Certificate

B-1

EXHIBIT B-J

FORM OF REP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the [A] Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof, or if such funds were insufficient, the Company has provided available funding as the Equity Contribution, to complete the design, permitting, acquisition, construction and installation thereof.

3. The [A] Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the [A] Renewable Energy Projects for all purposes of Section 510(d)(1)(C) of the Company Lease Agreement and Section 5.02(3)(a)(1)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the [A] Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the [A] Renewable Energy Projects.

5. [Choose one, as applicable]

B-1-1

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the [A] Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, release the retainage remaining on deposit, and any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

B-1-2

6. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, Its Manager

By: \_\_\_\_\_  
Name: Stacy L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The terms of this REP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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The form (only) of this REP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_, 20\_\_.

By: BIRDSALL SERVICES GROUP, INC., AS CONSTRUCTION MANAGER

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

B-1-4

EXHIBIT B-2

FORM OF CIP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_, the [A] Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof, or if such funds were insufficient, the Company has provided available funding as the Equity Contribution, to complete the design, permitting, acquisition, construction, renovation, and installation thereof.

3. By obtaining the Licensor's execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor's acceptance of (a) the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which [A] Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor's acceptance of the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. [Choose one, as applicable]

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

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Accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the [A] Capital Improvement Projects shall remain on deposit in the Project Fund for costs of other Projects.

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(c) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, release the remaining amount on deposit, and any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(c) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, release the remaining amount on deposit, and any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

SUNLIGHT GENERAL, SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager  
Name: Stacy L. Hughes  
Title: Authorized Signatory

ATTEST:

U.S. Bank National Association, as Trustee  
The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (the "Series 2011 Bonds")  
Dear Sir or Madam:

Pursuant to (i) Section 510(c) of the certain "Lease Purchase Agreement" (Sussex County Renewable Energy Program, Series 2011) (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects], or as applicable, any Completion Project, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects")], being developed for [ ] (the "[A] Capital Improvement Projects") (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, DOES HEREBY CERTIFY and REQUISITION moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "Trustee") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition; provided, however, that the Trustee shall reduce such amount pursuant to Section 5.10(d)(3) of the Company Lease Agreement, at which time the final \$5,000,000 may be released.

(a) \_\_\_\_\_ of which aggregate amount shall be payable to: \_\_\_\_\_

EXHIBIT C  
FORM OF DRAW PAPERS

Requisition No. \_\_\_\_\_, 20\_\_\_\_

for \_\_\_\_\_ with the following Development Contract: \_\_\_\_\_  
[The Company for reimbursement of Costs of the Project previously paid by the Company to [ ] for \_\_\_\_\_ services] [incurred in connection with the following Development Contract: \_\_\_\_\_]  
[Please Note, include Name and Address of any Contractor and the specific Development Contract pursuant to which this Requisition is submitted.]

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, renovation or installation of the [A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, renovation or installation of the [A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

3. Such payment obligation, for which funds have been requested in accordance with Section 1(a) [(b)] [(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been on any previous withdrawal, (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company, and (vi) the amount being requisitioned shall not exceed the Draw Paper Ratio. This Requisition, together with any such attachments

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The terms of this CIP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

[LICENSOR]

By: CONSTRUCTION MANAGER  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: Name: Stacey L. Hughes Title: Authorized Signatory

ATTEST:

By: Name: Title:

The terms of this Requisition are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this day of 20.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: Name: Title:

The form (only) of this Requisition is hereby

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ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this day of 20.

By: BIRDSALL SERVICES GROUP, INC., AS CONSTRUCTION MANAGER

By: Name: Title:

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EXHIBIT C-1

[Attach Initial Project Workforce Form AA201]

[Insert Form found at http://www.state.nj.us/treasury/contract\_compliance/pdf/aa201.pdf]

C-1-1

EXHIBIT D

CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LESSEE FOR COMPANY DEVELOPMENT FEES AND EXPENSES INCURRED ON BEHALF OF THE LESSEE

The Morris County Improvement Authority P.O. Box 900 Morristown, NJ 07963-0900 Attention: John Bonanni, Chairman jbonanni@co.morris.nj.us

U.S. Bank National Association, as Trustee Corporate Trust Services 21 South Street, 3rd Floor Morristown, NJ 07960 Attention: Paul O'Brien paul.obrien@usbank.com

Re: The Morris County Improvement Authority County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (j) Section 509(d) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), as lessee, and (i) Section 5.02(2)(b) of the Authority's bond resolution duly adopted 2011 and entitled "Resolution Authorizing the Issuance of County Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, HEREBY REQUESTS that the Authority direct the Trustee (which direction has occurred through Section 5.02(2)(b) of the Bond Resolution) to pay the following Company Development Fees and Expenses incurred by or on behalf of the Company from moneys on deposit in the Project Fund in the aggregate amount of \$ , which amount shall be payable to

[ for services]

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[the Company for reimbursement of Company Development Fees and Expenses previously paid by the Company to \_\_\_\_\_ for \_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Company Development Fees and Expense as such term is defined in the Bond Resolution, including without limitation within the aggregate ceiling of \$\_\_\_\_\_ for such defined term (unless the Authority agrees, below or otherwise in writing, to an increase above such ceiling), is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Company Development Fees and Expenses is due or has been paid by or on behalf of the Company.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacy L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

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D-3

EXHIBIT E

[Attach form of Power Purchase Agreement and Company Continuing Disclosure Agreement]

COUNTY GUARANTY AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

By and Between

MORRIS COUNTY IMPROVEMENT AUTHORITY

And

COUNTY OF SUSEX

Dated: as of December 1, 2011

with respect to Morris County Improvement Authority's  
\$\_\_\_\_\_ aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$\_\_\_\_\_ Series 2011A Bonds, and  
\$\_\_\_\_\_ Series 2011B Note

THIS "COUNTY GUARANTY AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "County Guaranty Agreement") by and between the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of the hereinafter defined County as a public body corporate and politic of the State of New Jersey ("State") pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act") and other applicable law, and the COUNTY OF SUSSEX, a political subdivision of the State (the "County").

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act"), and other applicable law;

Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatiny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$\_\_\_\_\_ and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "Series 2011A Bonds") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants", if any, and together with the Authority Consultants, the "Consultants"); to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local

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Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount of \$\_\_\_\_\_ and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note, and together with the Series 2011A Bonds, "Series 2011 Bonds"), by the same sale method as the Series 2011A Bonds;

WHEREAS, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011

Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(e) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "Company RFP") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "Company Proposal") of Sunlight General Sussex Solar, LLC (the "Company"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (i) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (ii) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (iii) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(e) of the Public Schools Contracts Law (regarding that

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portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "BPU"), whereby, among other things,

- (I) The Company shall have established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,
  - (II) The Company shall have established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and
  - (III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and
- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable

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to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on \_\_\_\_\_, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

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WHEREAS, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full,

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thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

WHEREAS, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c-12") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement" and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements"); the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents" with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain

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and hereby is, authorized and directed to execute and deliver the County Guaranty Certificate in the form set forth in Section 14.01 of the Bond Resolution upon initial issuance of the Series 2011 Bonds, as part of each such Series 2011 Bond. This County Guaranty Agreement shall not guaranty the payment of any redemption premium with respect to the Series 2011 Bonds. Capitalized terms not defined herein shall have the meaning ascribed to such terms in the Bond Resolution.

Section 2. The Authority agrees to apply the proceeds derived from the sale of the Series 2011 Bonds to Costs associated with the Projects for the Series 2011 Local Units, including payment of Costs of Issuance, Administrative Expenses and required reserves, if any, and such other matters as set forth in the Bond Resolution.

Section 3. The Authority will keep, or cause to be kept by the Trustee or otherwise, proper books of record and account in which complete and correct entries shall be made of its transactions relating to the Projects and which, together with all other books and papers of the Authority, shall at all reasonable times be subject to inspection by the County.

Section 4. Attached hereto as Exhibit A is the following information required by the County in order to discharge its obligations under this County Guaranty Agreement:

(a) The date of issuance, the maturity dates, the principal amortization, the interest rate or rates, and the Trustee and Paying Agent for the Series 2011 Bonds.

(b) The Basic Lease Payments and the Basic Lease Payment Dates.

Section 5. If, thirty (30) days prior to any Interest Payment Date or Principal Payment Date, the amounts that are on deposit in the Aged Account of the Revenue Fund established under the Bond Resolution are insufficient to provide for the payment of the principal of (including sinking fund payments, if any) and/or interest on the Series 2011 Bonds that are due and payable on such payment dates, the Trustee shall notify the County's Chief Financial Officer on such day of the amounts that are necessary to provide for the payment of the principal of and/or interest on the Series 2011 Bonds (the "Deficiency"). The County shall be obligated to make payment of the Deficiency to the Trustee no later than one (1) Business Day prior to the Interest Payment Date or the Principal Payment Date, as applicable, of the Series 2011 Bonds. Notwithstanding any other provision of this Guaranty Agreement, failure by the Trustee to give the County notice as provided herein shall not relieve the County of its obligations to make payment under the terms of the County Guaranty.

(a) Notwithstanding the foregoing provisions of this Section 5, upon the occurrence and continuance of the Deficiency one (1) Business Day prior to the Interest Payment Date or the Principal Payment Date,

(i) with respect to the Series 2011A Bonds only, the County may, in its sole discretion determine to exercise its right to cause the optional redemption or, if applicable, defeasance and subsequent optional redemption, of all or a portion of the Series 2011A Bonds, which optional redemption is contemplated by Section

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material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A-54(j) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated \_\_\_\_\_, 2011 (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i) the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement"); and (ii) the execution and delivery of a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth herein, the Authority and the County and its successors and assigns, do mutually covenant, promise and agree as follows:

Section 1. Pursuant to the provisions of the Act and the County Guaranty ordinance, the County shall, and hereby agrees to fully, irrevocably, and unconditionally guarantee the punctual payment of the principal of (including sinking fund installments) and the interest on the Series 2011 Bonds. The full faith and credit of the County are hereby pledged for the full and punctual performance of the County Guaranty. Accordingly, the Freeholder-Director of the County shall,

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2.03(5)(a) and (b) of the Bond Resolution, and which defeasance is contemplated by Article XII of the Bond Resolution. In any such instance, the County may establish the defeasance date, as applicable, at any time, and the redemption date at any time on or after \_\_\_\_\_, 2021, all with written notice to the Authority and the Trustee and otherwise in accordance with the terms of the Bond Resolution. Nothing in this Section 5(a)(i) is intended to diminish the County's rights to reimbursement, including those rights set forth in Section 7 hereof.

(ii) with respect to the Series 2011B Note only, [B Note subject to redemption?].

Section 6. Subject to Section 5(a) hereof, when notice has been provided, as described above, the County shall take all necessary actions to make payment of the Deficiency to the Trustee as provided above. Such actions shall include the adoption of an emergency appropriation or an emergency temporary appropriation and the funding of such appropriation in accordance with the requirements of the Local Budget Law (N.J.S.A. 40A:4A-1 *et seq.*), the levy of *ad valorem* taxes on all taxable property in the County, without limitation as to rate or amount, or any other actions that are legally permitted to be taken to meet the requirements of such County Guaranty (including the adoption of a bond ordinance pursuant to the provisions of the Local Bond Law).

Section 7. (a) The Authority hereby covenants to the County that in the event the County Guaranty is called upon, the Authority shall be obligated and shall take all actions within its power (in accordance with the terms of the Act), including causing the Trustee to pay over to the County all funds on deposit in the County Security Fund, if any, held by the Trustee under the Bond Resolution as monies therein shall not be part of the Trust Estate pledged to the payment of debt service on the Series 2011 Bonds, so as to enable the County to be reimbursed, to the maximum extent practicable, up to the amount that shall have been paid by the County pursuant to the terms of this County Guaranty Agreement (i.e., the Deficiency), at the earliest practicable date. The Authority shall not be obligated to pay the Deficiency from funds within its general control that are not contemplated by the Program Documents; the Authority, shall, however, pay or cause the Deficiency to be paid from amounts the Authority controls on deposit in the County Security Fund, or from any past due Basic Lease Payments it receives from the Company. The County and the Authority acknowledge and agree that as of the date of this Guaranty Agreement, it has been determined that the amount of the County Security Fund Requirement will be \$1,500,000, and there is no County Security Agreement, County Security Provider or other form of County Security, and any provisions herein with respect to such terms are hereby of no further force or effect.

(b) Nothing herein provided shall in any way diminish the County's rights to receive payment from the County Security Fund for reimbursement of any County payment of the Deficiency. The Authority shall take all actions necessary, desirable or convenient to assist the County in any such reimbursement action, and simultaneously with the authorization, execution and delivery hereof, the Authority shall (i) deliver or cause to be delivered for the benefit of the County the County Reserve to be deposited with the Trustee in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, and further, the Authority

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shall (ii) incorporate into the Program Documents repayment provisions to the County relating to the County Security, including without limitation Section 5.07 of the Bond Resolution.

(c) As further security and further assurance for the Company's obligations to (i) make Basic Lease Payments, (ii) make those Additional Lease Payments constituting part of the Trust Estate, and (iii) pay interest at the Overdue Rate on such amounts in clauses (i) and (ii), all at the times, in the amounts, and otherwise in accordance with the terms and provisions of the Company Lease Agreement, the failure to make timely and full payment of which could cause any such Deficiency, the Authority hereby further assigns and pledges all of its right, title and interest in and to the Reimbursement Collateral to the County, to be held as collateral to secure such Deficiency payment; provided, however, that to the extent the County is never required to make payment under its County Guaranty or the County is reimbursed in full for its Deficiency payment(s) by or on behalf of the County Security Provider from the County Security, the County expressly acknowledges it shall have no further rights to the Reimbursement Collateral, and further, that the County Security Provider (upon issuance of the Series 2011 Bonds, with no County Security Agreement, being the Company) shall, in such instance, be exclusively entitled to any balance of the Reimbursement Collateral. This County Guaranty Agreement shall be deemed to be a security agreement for purposes of the Uniform Commercial Code and all other applicable law.

**Section 8.** The obligations of the County under this County Guaranty Agreement shall be full, absolute, irrevocable, and unconditional, and shall remain in full force and effect until the entire principal of (including Sinking Fund Installments, if any) and interest on the Series 2011 Bonds shall have been paid or duly provided for in accordance with the provisions of the Bond Resolution. The County Guaranty is a guaranty of payment and not of collectability. The obligations of the County hereunder shall not be affected, modified or impaired upon the occurrence from time to time of any event, including without limitation any of the following, whether or not with notice to, or the consent of, the County:

- (a) The waiver, compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of the Authority which are contained in the Bond Resolution and any other Program Document, or of the payment, performance or observance thereof;
- (b) The failure to give notice to the County of the occurrence of an event of default under the provisions of this County Guaranty Agreement;
- (c) The transfer, assignment or mortgaging or the purported transfer, assignment or mortgaging of all or any part of the interest or security interest of the Authority in the Projects;
- (d) The extension of the time for payment of the principal of or interest on the Series 2011 Bonds or of the time for performance of any obligations, covenants or agreements under or arising out of the Program Documents;
- (e) The modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Program Documents;

or exhausting any other remedies which it may have and without resorting to any other security held by the Authority or the Trustee. In any such event, the County shall be subrogated to the rights of such party with respect to such security. All moneys recovered pursuant to this County Guaranty Agreement shall be applied in accordance with the provisions of the Bond Resolution.

**Section 12.** The County hereby acknowledges that it is an "obligated person" as such term is defined in Rule 15c2-12, and the preparation, negotiation, execution and delivery of the County Continuing Disclosure Agreement in accordance with Rule 15c2-12 is hereby approved in the form attached as Exhibit B hereto, and the Freeholder Director of the County is hereby authorized to execute the County Continuing Disclosure Agreement and to deliver the same to the Trustee and the Authority. The Freeholder Director is hereby authorized and directed to execute and deliver such other documents, certificates and agreements required to be delivered by the County under the County Continuing Disclosure Agreement, and the Clerk of the County is hereby authorized and directed to attest and affix the seal of the County to any such document, certificate or agreement, if necessary.

**Section 13.** This County Guaranty Agreement shall terminate after (a) payment in full of the principal of and interest on the Series 2011 Bonds have been made, or provision for the payment of same has been made in accordance with the terms of the Bond Resolution, including without limitation Article XII thereof, provided, however, this Guaranty Agreement shall survive if payment of principal and interest is made pursuant to Section 10 hereof and (b) the County shall have been fully reimbursed for any payments made by it, if any, under the County Guaranty.

**Section 14.** This County Guaranty Agreement may be executed in any number of counterparts, each of which shall be executed by the Authority and by the County and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same. This County Guaranty Agreement shall be governed by the laws of the State.

**Section 15.** The County hereby acknowledges and consents to the irrevocable assignment of the right of the Authority to receive payments from the County under the provisions of the County Guaranty by the Authority to the Trustee for the benefit of the holders of the Series 2011 Bonds, as and to the extent provided in the Bond Resolution.

**Section 16.** Notwithstanding anything contained herein to the contrary, in the event that the form of government is changed so that there is no longer a Chief Financial Officer of the County, any notices contemplated hereunder shall be provided to and any actions contemplated to be taken hereunder shall be taken by the chief executive officer of the County.

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(f) The taking, suffering or the omission of any of the actions referred to in the Series 2011 Bond Resolution or of any actions under this County Guaranty Agreement;

(g) Any failure, omission, delay or lack on the part of the Authority to enforce, assert or exercise any right, power or remedy conferred on the Authority in this County Guaranty Agreement, the Series 2011 Bond Resolution or any other act or acts on the part of the Authority or any of the holders from time to time of the Series 2011 Bonds;

(h) The voluntary or involuntary liquidation, dissolution, sale of other disposition of all or substantially all of the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment or other similar proceedings affecting the Authority, the Company or any other Renewable Energy Program Interested Party or any assets of any of them, or any allegation or contest of the validity of the County Guaranty, or the Series 2011 Bond Resolution;

(i) To the extent permitted by law, any event or action that would, in the absence of this clause, result in the release or discharge by operation of law of the County from the performance or observance of any obligation, covenant or agreement contained in this County Guaranty Agreement; or

(j) The default or failure of the County fully to perform any of its obligations set forth in this County Guaranty Agreement.

**Section 9.** No set-off, counterclaim, reduction, recoupment, or diminution of any obligation, or any defense of any kind or nature (other than full and timely performance by the County of its obligations hereunder) which the County or the Authority has or may have against the Authority, the County, the Trustee, any other Renewable Energy Program Interested Party, or against any holder of the Series 2011 Bonds, shall be available to the County or the Authority hereunder against the Authority, the County, the Trustee, any other Renewable Energy Program Interested Party, or against any holder of the Series 2011 Bonds or anyone succeeding to the respective interests thereof.

**Section 10.** The County further guarantees that all payments made with respect to the Series 2011 Bonds, when made, will be final and agree that if such payment is recovered from or repaid by or on behalf of the Authority or the holders of the Series 2011 Bonds in whole or in part in any bankruptcy, insolvency or similar proceeding instituted by or against the Authority or the Company, the County Guaranty shall continue to be fully applicable to such liabilities to the same extent as though the payment so recovered or repaid had never been originally made on such liabilities.

**Section 11.** In the event of a default in payment of the principal of or interest on the Series 2011 Bonds when and as the same shall become due, whether at the stated maturity thereof or otherwise, the Authority, the Trustee or any party to whom the Authority's or the Trustee's rights have been assigned may proceed to enforce their rights hereunder and may proceed first and directly against the County under the terms of this County Guaranty Agreement without proceeding against

**Section 17.** Notwithstanding anything contained herein to the contrary, the following defined terms may be amended or supplemented in accordance with the provisions of Section 4.6 of the Power Purchase Agreement, and to the extent the Power Purchase Agreement is amended for such purpose, such following defined terms shall automatically (without any further action) be amended and supplemented for all purposes hereof: Capital Improvement Projects, Local Unit Facilities, Projects, Renewable Energy Projects, and Series 2011 Local Units.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their respective officers thereunto duly authorized and this agreement to be dated as of the date and the year first above written.

ATTEST:

THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY

By: \_\_\_\_\_

Ellen M. Sandman  
Secretary

By: \_\_\_\_\_

John Bonanni  
Chairman

ATTEST:

COUNTY OF SUSSEX,  
NEW JERSEY

By: \_\_\_\_\_

Elaine A. Morgan  
Clerk,  
Board of Chosen Freeholders

By: \_\_\_\_\_

Richard A. Zeoli  
Freeholder Director

EXHIBIT A

Pricing Information with respect to the Series 2011 Bonds

1. Dated Date, Issuance Date and Date of Authentication of Series 2011 Bonds:  
Dated Date, Issuance Date and Date of Authentication of Series 2011A Bonds:  
December \_\_, 2011  
Dated Date, Issuance Date and Date of Authentication of Series 2011B Note:  
December \_\_, 2011
2. Paying Agent and Trustee for Series 2011 Bonds: U.S. Bank National Association
3. Amortization, including Sinking Fund Installments, and Interest Rates of Series 2011 Bonds:  
See 4 below.

[Remainder of page intentionally left blank]

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4. Scheduled debt service payments for Series 2011 Bonds, including Sinking Fund Installments:

[insert schedule]

- \* Series 2011A Bond interest due on such dates provided for through deposit of the Series 2011B Note proceeds in the Capitalized Interest Account of the Debt Service Fund.
- \*\* Series 2011B Note principal repayment, plus interest.

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5. Basic Lease Payments and Basic Lease Payment Dates relating to the Series 2011 Bonds:

[Attach supporting schedules from Authority financial advisor allocating debt service payments among the Series 2011A Bonds and the Series 2011B Note, and allocating Basic Lease Payments to each such Series of Series 2011 Bonds]

[insert schedule]

*Note: There are no Basic Lease Payment Dates on January 15, 2012 and July 15, 2012, each five (5) months prior to the corresponding interest payment dates for the Series 2011A Bonds of June 15, 2012 and December 15, 2012, because the Series 2011A Bond interest due on such Series 2011A Bond interest payment dates has been provided for through the deposit of the Series 2011B Note proceeds in the Capitalized Interest Account of the Debt Service Fund. There is no Series 2011B Note interest due on such dates.*

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**EXHIBIT B**

[Attach Form of County Continuing Disclosure Agreement]

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## Appendix E

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INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

ATTORNEYS AT LAW

600 PARSIPPANY ROAD  
PARSIPPANY, NEW JERSEY 07054  
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[Date of Closing]

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, New Jersey 07963

**Re: The Morris County Improvement Authority**  
**\$ \_\_\_\_\_ County of Sussex Guaranteed Renewable Energy Program Lease**  
**Revenue Bonds, Series 2011A (Federally Taxable) and**  
**\$ \_\_\_\_\_ County of Sussex Guaranteed Renewable Energy Program Lease**  
**Revenue Note, Series 2011B (Federally Taxable)**

Dear Authority Commissioners:

We have acted as bond counsel to The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*"), organized and existing under the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State and the acts amendatory thereof and supplemental thereto (the "*Act*"), in connection with the authorization, sale and issuance this day of its \$ \_\_\_\_\_ aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" (the "*Series 2011A Bonds*") and \$ \_\_\_\_\_ aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*").

The Series 2011 Bonds are issued pursuant to a bond resolution of the Authority adopted on September 28, 2011 and entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY", as amended and supplemented by a Certificate of the Chairman of the Authority dated the date hereof executed and delivered in accordance with Section 2.02(1)(e) thereof, and as may be further amended or supplemented from time to time in accordance with the terms thereof (the "*Bond Resolution*"), the Act and all other applicable law. All capitalized terms which are used herein and are not defined herein shall have the meanings ascribed to such terms in the Bond Resolution.

The Series 2011A Bonds are being issued for the purpose of (i) funding the Projects for the Series 2011 Local Units as part of the Authority's Renewable Energy Program, (ii) reimbursing or paying, as applicable, the Authority and the County for certain development costs of the Renewable Energy Program, (iii) paying certain fees and costs incurred by or for the Company (as hereinafter defined) in connection with the Renewable Energy Program, (iv) paying the various costs of issuing the Series 2011 Bonds, and (v) providing a reserve to secure the County Guaranty. The Series 2011B Note is being issued for the purpose of paying capitalized interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

The Series 2011 Bonds are special and limited obligations of the Authority, payable as to principal, redemption premium, if any, and interest solely from and secured by the Authority's pledge of the Trust Estate to the hereinafter defined Trustee in accordance with the terms of the Bond Resolution. The Trust Estate includes, without limitation, (i) the Revenues, (ii) payments made by the County of Sussex, New Jersey (the "*County*") under the County Guaranty (as hereinafter defined), and (iii) the Funds and Accounts (except the Administrative Expense Account and the Costs of Issuance Account of the Administrative Fund and the County Security Fund) established under the Bond Resolution and held by the Trustee.

The Revenues include, without limitation, the Basic Lease Payments to be made by SunLight General Sussex Solar, LLC (the "*Company*" or the "*Lessee*"), a limited liability company created and in good standing under the laws of the State, and registered and authorized to transact business in the State, under that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Lease Agreement*"), by and between the Authority, as lessor, and the Company, as lessee. In conjunction with the Company Lease Agreement, the Authority has entered into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" with the Company, dated as of December 1, 2011, (the "*Power Purchase Agreement*") for the right and obligation to purchase from the Company electricity generated by the Renewable Energy Projects. The Authority has assigned certain of these rights and obligations to each of the Series 2011 Local Units pursuant to the terms of the respective "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)", each dated as of December 1, 2011 (the "*Local Unit License Agreements*"), by and between each of the respective Series 2011 Local Units, as licensor, and the Authority, as licensee.

Simultaneously with the execution and delivery of the Company Lease Agreement, the Power Purchase Agreement, and the Local Unit License Agreements, (i) the Authority, the Trustee, and the Company have entered into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Continuing Disclosure Agreement*") and (ii) the Authority, the County and the Trustee have entered into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*").

The Company Lease Agreement, the Power Purchase Agreement, the Local Unit License Agreements, the County Guaranty Agreement (as defined herein) and the Continuing Disclosure Agreements shall be collectively referred to herein as the "*Authority Financing Documents*".

The Series 2011A Bonds are dated the date hereof, mature in the principal amounts and bear interest at the rates of interest as stated therein and in the Bond Resolution, and are issued in fully registered form in denominations of \$5,000 or any integral multiple thereof. The Series 2011B Note is dated the date hereof and matures on January 15, 2013.

Interest on the Series 2011A Bonds is payable semiannually on June 15 and December 15 in each year until final maturity thereof (each an "*Interest Payment Date*"), commencing June 15, 2012. The Series 2011A Bonds are subject to optional [and mandatory sinking fund] redemption prior to their stated maturities in the manner and upon the terms and conditions set forth therein and in the Bond Resolution. Principal and redemption premium, if any, of the Series 2011 Bonds are payable by presentation and surrender thereof at the principal corporate trust office of U.S. Bank, National Association, Morristown, New Jersey (the "*Trustee*", "*Registrar*" and "*Paying Agent*"). Except as set forth below regarding payments made to Cede & Co., interest on the Series 2011 Bonds is payable by check of the Paying Agent mailed to each registered owner of the Series 2011 Bonds at the address of such registered owner shown on the registration books maintained by the Trustee, in its capacity as registrar, as of the first day of the month next preceding the Interest Payment Date.

The Series 2011 Bonds are issued in fully registered form without coupons, initially registered in the name of and held by Cede & Co., as nominee for The Depository Trust Company, New York, New York ("*DTC*"), an automated depository for securities and clearinghouse for securities transactions. Purchases of the Series 2011 Bonds will be made in book-entry-only form (without certificates) in denominations of \$5,000 or any integral multiple thereof. So long as DTC or its nominee is the registered owner of the Series 2011 Bonds, payment of the principal and redemption premium, if any, of and interest on the Series 2011 Bonds will be made by the Trustee or the Paying Agent, as the case may be, directly to Cede & Co., as nominee for DTC, in immediately available funds when due. Disbursal of such payments to the DTC participants is the responsibility of DTC, and disbursal of such payments to the beneficial owners of the Series 2011 Bonds is the responsibility of the DTC participants and not the responsibility of the Authority, the Trustee or the Paying Agent.

Payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with the terms of (i) a guaranty ordinance of the County finally adopted by the Board of Chosen Freeholders of the County on August 17, 2011, (ii) a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond, and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") between the County and the Authority, as acknowledged by the Company, all pursuant to Section 37 of the Act (N.J.S.A. 40:37A-80) (collectively, the "*County*

*Guaranty*”).

In our capacity as bond counsel, we have examined (i) the Constitution and statutes of the State, including the Act, (ii) the Bond Resolution, (iii) the Authority Financing Documents, (iv) the County Guaranty, (v) a specimen of the Series 2011A Bonds and (vi) a specimen of the Series 2011 B Note, and such other documents, records of the Authority and instruments as we have deemed necessary to enable us to express the opinions hereinafter set forth. As to matters of fact, we have relied upon the representations of the Authority and, where we have deemed appropriate, representations or other certifications of public officials and, to the extent that we have deemed such reliance proper, on certain representations, certifications of facts, and statements of reasonable expectations made by the Authority in connection with the Series 2011 Bonds.

Further, in expressing such opinions, we have relied upon the genuineness, truthfulness and completeness of the resolutions, documents, records and instruments referred to above.

Based upon and subject to the foregoing, we are of the opinion that:

(1) The Authority has been duly created and is validly existing as a public body corporate and politic under the provisions of the Constitution and statutes of the State, including the Act, with the right and power to adopt the Bond Resolution, to enter into the Authority Financing Documents and to issue the Series 2011 Bonds.

(2) The Bond Resolution has been duly adopted by the Authority, is in full force and effect, is valid and binding upon the Authority, is enforceable in accordance with its terms and no other authorization for the Bond Resolution is required. The Bond Resolution creates the valid pledge which it purports to create of the Trust Estate.

(3) The Series 2011 Bonds have been duly authorized and issued by the Authority in accordance with law, including the Act, and in accordance with the Bond Resolution and are valid and binding special obligations of the Authority, enforceable in accordance with their terms and the terms of the Bond Resolution, and are entitled to the benefits of the Bond Resolution and the Act. Neither the State, nor the County (except to the extent of the County Guaranty, which does not guaranty the payment of redemption premium, if any), nor any municipality therein nor any other political subdivision thereof, other than the Authority (but solely to the extent of the Trust Estate in accordance with the terms of the Bond Resolution), is obligated to pay the principal of, redemption premium, if any, or interest on the Series 2011 Bonds, and neither the faith and credit nor the taxing power of the State, the County (except to the extent of the County Guaranty, which does not guaranty the payment of redemption premium, if any), any municipality therein or any other political subdivision thereof, is pledged to the payment of the principal of, redemption premium, if any, or interest on the Series 2011 Bonds.

(4) The Authority Financing Documents have each been duly authorized, executed and delivered by the Authority, and assuming their due authorization, execution and delivery by the other parties thereto, constitute valid and binding agreements of the Authority and such other parties, and are enforceable in accordance with their respective terms.

(5) The County has the full legal right and power to adopt and execute, as the case may be, the County Guaranty and the County Guaranty creates the valid and binding obligation of the County, enforceable in accordance with its terms. Under the County Guaranty, the County is obligated to make any required payments under the terms of the County Guaranty to the Authority or the Trustee out of the first funds becoming legally available to the County for this purpose and to provide the funds for such payments, if not otherwise available, from the levy of *ad valorem* taxes upon all the taxable property in the County without limitation as to rate or amount. The obligations of the County under the County Guaranty to make full payment of the principal of and interest on the Series 2011 Bonds (which does not include redemption premium, if any) shall be full, unconditional and irrevocable.

(6) Under current law, interest on the Series 2011 Bonds and any gain on the sale thereof are not includable as gross income under the New Jersey Gross Income Tax Act.

The above opinions are limited to and based upon the laws and judicial decisions of the State and the federal laws and judicial decisions of the United States of America as of the date hereof, and are subject to any amendment, repeal or other modification of the applicable laws or judicial decisions that served as the basis for their opinions or to any laws or judicial decisions hereafter enacted or rendered. No opinion is expressed regarding federal tax consequences arising with respect to the Series 2011 Bonds.

We note, in connection with the opinions expressed herein, that the enforceability of rights or remedies with respect to the Bond Resolution, the Series 2011 Bonds, the Authority Financing Documents and the County Guaranty may be limited, however, by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or remedies heretofore or hereafter enacted and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases. We express no opinion as to the availability of any particular remedy.

In rendering the opinions contained in paragraphs 4 and 5 above, we have relied upon the respective opinions, dated the date hereof, of independent counsel to the Company and the County, as the case may be, (i) with respect to the due authorization, execution and delivery of the Authority Financing Documents by the other parties thereto, (ii) with respect to the due authorization, adoption, execution and delivery of the County Guaranty by the County, including, without limitation, proper compliance with all publication, hearing and other procedural requirements of Section 37 of the Act (N.J.S.A. 40:37A-80) and of the Local Bond Law, constituting Chapter 169 of the Pamphlet Laws of 1960 of the State, (iii) to the effect that the County Guaranty has not been amended, modified or repealed since the date of final adoption and that the County Guaranty is still in full force and effect, and (iv) to the effect that the County Guaranty is a valid and binding obligation of the County, enforceable against the County in

accordance with its terms.

This opinion is being delivered to you at your request. Our engagement by you with respect to the opinions expressed herein does not require, and shall not be construed to constitute, a continuing obligation on our part to notify or otherwise inform you or the reliance parties hereof of the amendment, repeal or other modification of the applicable laws, judicial decisions, actions, facts, or circumstances that served as the basis for this opinion letter or of laws or judicial decisions hereafter enacted or rendered which impact on this opinion letter.

We have examined one of the Series 2011A Bonds as executed by the Authority and as authenticated by the Trustee, and, in our opinion, the form, execution and authentication of said Series 2011A Bonds are regular and proper. We have examined the Series 2011B Note as executed by the Authority and as authenticated by the Trustee, and, in our opinion, the form, execution and authentication of said Series 2011B Note is regular and proper.

Very truly yours,

Inglesino, Pearlman, Wyciskala & Taylor, LLC

## Appendix F

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**COUNTY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)**

**among**

**COUNTY OF SUSSEX**

**and**

**U.S. BANK NATIONAL ASSOCIATION, as Trustee**

**and**

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

**Dated as of December 1, 2011**

---

with respect to Morris County Improvement Authority's  
\$ \_\_\_\_\_ aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$ \_\_\_\_\_ Series 2011A Bonds, and  
\$ \_\_\_\_\_ Series 2011B Note

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**COUNTY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)**

THIS COUNTY CONTINUING DISCLOSURE AGREEMENT (SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011) (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "*County Continuing Disclosure Agreement*") is made and entered into as of December 1, 2011 by and among the COUNTY OF SUSSEX, NEW JERSEY, a political subdivision of the hereinafter defined State (the "*County*"), U.S. BANK NATIONAL ASSOCIATION (the "*Bank*"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State of New Jersey (the "*State*"), where the Bank acts as trustee under and pursuant to the hereinafter defined Bond Resolution (including any successors and assigns, the "*Trustee*"), and the MORRIS COUNTY IMPROVEMENT AUTHORITY, a public body corporate and politic duly created and validly existing under the laws of the State (including any successors and assigns, the "*Authority*").

---

WHEREAS, the Authority has been duly created by resolution duly adopted by the Board of Freeholders of the County in the State as a public body corporate and politic of the State pursuant to and in accordance with the Act and other applicable law;

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

WHEREAS, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a

public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “Act”), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, “*Section 11*”), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the “*Shared Services Act*”), and all other applicable law, the terms of which agreement has been set forth in that certain “Service Agreement (Sussex County Renewable Energy Program)” dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the “*Service Agreement*”) between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority’s energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the “*Authority Consultants*”) and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the “*Sussex County Consultants*”, if any, and together with the Authority Consultants, the “*Consultants*”; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the

Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the

issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$\_\_\_\_\_ and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "*Series 2011A Bonds*") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "*Series 2011A Bonds*"), and (ii) one series of notes in the aggregate principal amount of \$\_\_\_\_\_ and entitle, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*", and together with the Series 2011A Bonds, "*Series 2011 Bonds*"), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License*");

*Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "*Company Proposal*") of Sunlight General Sussex Solar, LLC (the "*Company*"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Lease Agreement*") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire,

construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "*BPU*"), whereby, among other things,

(I) The Company shall have established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall have established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("*SRECs*") generated by the Renewable Energy Projects for

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the

terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on \_\_\_\_\_, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall

only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated [October \_\_], 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*", which by its terms shall supersede that certain "Memorandum of Understanding" dated \_\_\_\_\_, 2011 (the "*EPC Contract MOU*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$[\_\_\_\_\_] (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$[\_\_\_\_\_] but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is

responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company upon the Initial Basic Lease Payment Date (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$\_\_\_\_\_ (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the Initial Basic Lease Payment Date, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12 (“*Rule 15c-12*”) promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain “Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the “*Company Continuing Disclosure Agreement*”) with the Authority and the Trustee, as dissemination agent (the “*Dissemination Agent*”) in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain “County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the “*County Continuing Disclosure Agreement*” and together with the Company Continuing Disclosure Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “County Documents”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A-54)l) of the At and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated \_\_\_\_\_, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and (ii) the execution and delivery of a bond purchase agreement (the “*Bond Purchase Agreement*”) with an underwriter to be selected by the Authority through a fair and open process (alternatively, the “*Underwriter*”) to purchase all of the Series 2011 Bonds, and

(iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "*Sale Documents*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("*Section 13*") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program Documents*"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE**, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

#### SECTION 1.1. Definitions.

The following additional terms shall have the meanings specified below:

“Annual Report” means Financial Statements and Operating Data provided at least annually with respect to the County.

“Bondholder” or “Holder” or any similar term, when used with reference to the Series 2011 Bonds, means any person who shall be the registered owner of any outstanding the Series 2011 Bonds, including holders of beneficial interests in the Series 2011 Bonds.

“Bond Disclosure Event” means any event described in subsection 2.6(a) of this County Continuing Disclosure Agreement.

“Bond Disclosure Event Notice” means the notice to the MSRB as provided in subsection 2.6(b) of this County Continuing Disclosure Agreement.

“Dissemination Agent” means an entity acting in its capacity as Dissemination Agent under this County Continuing Disclosure Agreement, or any successor Dissemination Agent designated in writing by the County and which has filed a written acceptance of such designation.

“Final Official Statement” means the Official Statement relating to the Series 2011A Bonds dated December \_\_, 2011.

“Financial Statements” means the audited financial statements of the County for each Fiscal Year and includes balance sheets, statements of changes in fund balances and statements of current funds, revenues, expenditures and other charges or statements which convey similar information.

“Fiscal Year” means the fiscal year of the County as determined by the County from time to time pursuant to State law. As of the date of this County Continuing Disclosure Agreement, the Fiscal Year of the County begins on January 1 of each calendar year and closes on the following December 31.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States of America, consistently applied, as modified by governmental accounting

standards and mandated State statutory principles applicable to the County as may be in effect from time to time.

“GAAS” means generally accepted auditing standards as in effect from time to time in the United States of America, consistently applied, as modified by governmental auditing standards and mandated State statutory principles applicable to the County as may be in effect from time to time.

“MSRB” means the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to Rule 15c2-12. Effective August 1, 2009 and until otherwise designated by the MSRB or the SEC, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) website of the MSRB, currently located at <http://emma.msrb.org>.

“Operating Data” means certain financial and statistical information of the County, which for purposes of this County Continuing Disclosure Agreement shall include the financial and statistical information in Appendix A and B to the Final Official Statement, a copy of which is attached hereto as Exhibit A.

“SEC” means the Securities and Exchange Commission.

Notwithstanding anything contained herein to the contrary, the following defined terms may be amended or supplemented in accordance with the provisions of Section 4.6 and 4.7 of the Power Purchase Agreement, and to the extent the Power Purchase Agreement is amended for such purpose, such following defined terms shall automatically (without any further action) be amended and supplemented for all purposes hereof: Capital Improvement Projects, Local Unit Facilities, Projects, Renewable Energy Projects, and Series 2011 Local Units.

Section 1.3. Interpretation. Words of masculine gender include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular include the plural and vice versa, and words importing Persons include corporations, associations, partnerships (including limited partnerships), trusts, firms and other legal entities, including public bodies, as well as natural persons. Articles and Sections referred to by number mean the corresponding Articles and Sections of this County Continuing Disclosure Agreement. The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms as used in this County Continuing Disclosure Agreement, refer to this County Continuing Disclosure Agreement as a whole unless otherwise expressly stated.

The headings of this County Continuing Disclosure Agreement are for convenience only and shall not define or limit the provisions hereof.

## ARTICLE 2

### CONTINUING DISCLOSURE COVENANTS AND REPRESENTATIONS

Section 2.1. Continuing Disclosure Covenants of the County. The County agrees that it will provide, or, if the County has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to provide:

(a) Not later than two hundred twenty-five (225) days after the end of each Fiscal Year, commencing with the Fiscal Year of the County ending after December 31, 2011, an Annual Report to the MSRB via electronic format (accompanied by such identifying information as is prescribed by the MSRB) and to the Authority; provided that the Financial Statements of the County may be submitted separately from the balance of the Annual Report and later than the date required herein for the filing of the Annual Report if the Financial Statements of the County are not available by that date, but only if the unaudited financial statements of the County are included in the Annual Report; and

(b) Not later than fifteen (15) days prior to the date of each year specified in subsection 2.1(a), a copy of the Annual Report, complete to the extent required in Section 2.1(a), to the Trustee and the Dissemination Agent, if the County has appointed or engaged a Dissemination Agent.

Section 2.2. Continuing Disclosure Representations of the County. The County represents and warrants that:

(a) Financial Statements shall be prepared according to the audit requirements prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey and Government Auditing standards issued by the Comptroller General of the United States.

(b) Financial Statements shall be audited by an independent certified public accountant or a registered municipal accountant or such other accountant as shall be permitted or required under State law in accordance with GAAS.

Section 2.3. Form of Annual Report. (a) The Annual Report may be submitted by the County, or on behalf thereof, as a single document or as separate documents comprising a package.

(b) Any or all of the items which must be included in the Annual Report may be incorporated by reference from other documents, including official statements delivered in connection with other financings issued on behalf of the County or related public entities thereof which have been made available to the public on the MSRB's website or filed with the SEC. If the document incorporated by reference is a final official statement, it must be available from the

MSRB. The County shall clearly identify each such other document so incorporated by reference.

(c) The Annual Report for any Fiscal Year containing any modified operating data or financial information (as contemplated by Sections 4.9 and 4.10 hereof) for such Fiscal Year shall explain, in narrative form, the reasons for such modification and the effect of such modification on the Annual Report being provided for such Fiscal Year.

Section 2.4. Responsibilities and Duties of the Authority, the County, the Dissemination Agent and the Trustee.

(a) If fifteen (15) days prior to the date specified in subsection 2.1(a), the Trustee has not received a copy of the Annual Report, complete to the extent required in Section 2.1(a), the Trustee shall notify the County in writing to provide notice of the County's obligations pursuant to Sections 2.1(a), 2.1(b) and 2.4(c) hereof.

(b) If the Trustee, by the date specified in subsection 2.1(a) herein, has not received a written report from the County, as required by Section 2.4(c) hereof, indicating that an Annual Report, complete to the extent required in Section 2.1(a), been provided to the MSRB and to the Authority by the date specified in subsection 2.1(a), the Trustee shall send a notice to the MSRB, in electronic format, substantially in the form attached hereto as Exhibit B, together with identifying information as prescribed by the MSRB, with a copy thereof to the Authority and the County.

(c) The County shall, or, if the County has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to, by the date specified in subsection 2.1(a) herein, provide a written report to the Authority and the Trustee (and, if a Dissemination Agent has been appointed, to the County), upon which said parties may rely, certifying that the Annual Report, complete to the extent required in Section 2.1(a), has been provided pursuant to this Continuing Disclosure Agreement, and stating the date that it was provided to the MSRB.

(d) If the Fiscal Year of the County changes, the County shall promptly notify, in writing, the Authority and the Trustee, and shall disclose such change in its next Annual Report.

Section 2.5. Appointment, Removal and Resignation of the Dissemination Agent.

(a) The County may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this County Continuing Disclosure Agreement and shall provide notice of such appointment to the Trustee and the Authority. Thereafter, the County may discharge any such Dissemination Agent and satisfy its obligations under this County Continuing Disclosure Agreement without the assistance of a Dissemination Agent, or the County may discharge a Dissemination Agent and appoint a successor Dissemination Agent, such discharge to be effective on the date of the appointment of a successor Dissemination Agent. The County shall provide notice of the discharge of a Dissemination Agent to the Trustee

and the Authority and shall further indicate either the decision of the County to satisfy its obligations under this County Continuing Disclosure Agreement without the assistance of a Dissemination Agent or the identity of the new Dissemination Agent. In the absence of a separate Dissemination Agent, the Trustee shall assume and discharge all of the obligations as Dissemination Agent under this County Continuing Disclosure Agreement.

(b) The Dissemination Agent shall have only such duties as are specifically set forth in this County Continuing Disclosure Agreement.

(c) The Dissemination Agent, or any successor thereto, may at any time resign and be discharged of its duties and obligations hereunder by giving not less than thirty (30) days written notice to the County. Such resignation shall take effect on the date specified in such notice.

Section 2.6. Responsibilities and Duties of the Authority.

(a) Authority agrees that it will provide in a timely manner to the MSRB not in excess of ten (10) business days, notice of any of the following events with respect to the Series 2011 Bonds (each, a "Bond Disclosure Event"), and will provide a copy of such notice to the Trustee and the County, for informational purposes only:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves, reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements, reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Series 2011 Bonds, or other material events affecting the tax status of the Series 2011 Bonds;
- (vii) Modifications to rights of the holder of the Series 2011 Bonds, if material;
- (viii) Bond calls, if material and tender offers;
- (ix) Defeasances;

(x) Release, substitution, or sale of property securing repayment of the Series 2011 Bonds, if material; and

(xi) Rating changes;

(xii) Bankruptcy, insolvency, receivership or similar events of the County;

(xii) The consummation of a merger, consolidation or acquisition involving the County of the sale of all or substantially all of the assets of the County, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action of the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

(xiv) Appointment of a successor or additional trustee or the change of name of trustee, if material.

(b) If the Authority has determined that the occurrence of a Bond Disclosure Event has occurred, the Authority shall promptly provide a notice of such occurrence to the MSRB (the "Bond Disclosure Event Notice") in electronic format together with identifying information as prescribed by the MSRB, in the form determined by the Authority; provided, that the Bond Disclosure Event Notice pertaining to the occurrence of a Bond Disclosure Event described in clauses 2.6(a)(viii) (Bond calls) or 2.6(a)(ix) (defeasances) need not be given under this subsection any earlier than the time when the notice (if any) of such Bond Disclosure Event shall be given to Series 2011 Bondholders of affected Bonds as provided in the Bond Resolution. The obligations of the Authority to provide the notices required under this Continuing Disclosure Agreement are in addition to, and not in substitution of, any of the obligations (if any) of the Trustee to provide notices of events of default to Series 2011 Bondholders under said Bond Resolution. The Authority shall file a copy of each Bond Disclosure Event Notice with the Trustee and the County, for informational purposes only.

#### Section 2.7. Immunities and Liabilities of the Trustee.

Article X of the Bond Resolution, relating to compensation, reimbursement, immunities and liabilities of the Trustee, is hereby made applicable to its and the Dissemination Agent's responsibilities under this County Continuing Disclosure Agreement. The immunities and liabilities of the Trustee and Dissemination Agent shall survive the termination of the Bond Resolution, as amended and supplemented and the removal or resignation of the Trustee or the Dissemination Agent. The Trustee shall have no obligation hereunder to provide, or to monitor the Authority's obligation to provide, Bond Disclosure Event Notices.

## ARTICLE 3

### REMEDIES [Subject to Bond Resolution]

#### Section 3.1 Remedies.

(a) The Trustee may (and at the request of the Holders of at least twenty-five percent (25%) in aggregate principal amount of outstanding the Series 2011 Bonds, and after provision of indemnity in accordance with Section 10.03 of the Bond Resolution, shall), or any Bondholder, for the equal benefit and protection of all Bondholders similarly situated, may take whatever action at law or in equity against the County and the Authority and any of their respective officers, agents and employees which is necessary or desirable to enforce the specific performance and observance of any obligation, agreement or covenant of the County and the Authority under this County Continuing Disclosure Agreement and may compel the County or the Authority or any of their respective officers, agents or employees (except for the Dissemination Agent with respect to the obligations, agreements and covenants of the County), to perform and carry out their duties under this County Continuing Disclosure Agreement; provided, that no person or entity shall be entitled to recover monetary damages hereunder under any circumstances; and provided further that any Bondholder, acting for the equal benefit and protection of all Bondholders similarly situated, may pursue specific performance only with respect to the failure to file the Annual Reports and Bond Disclosure Event Notices required by this County Continuing Disclosure Agreement, and may not pursue specific performance in challenging the adequacy of Annual Reports which have been filed pursuant to the provisions hereof.

(b) In case the Trustee or any Bondholder shall have proceeded to enforce its rights under this County Continuing Disclosure Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or any Bondholder, as the case may be, then and in every such case the County, the Authority, the Trustee and any Bondholder, as the case may be, shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the County, the Authority, the Trustee and any Bondholder shall continue as though no such proceeding had been taken.

(c) A failure by the Authority or the County to perform their respective obligations under this County Continuing Disclosure Agreement shall not be deemed an event of default under any other agreement entered into in connection with the issuance of the Series 2011 Bonds or the Bond Resolution, and the sole remedy under this County Continuing Disclosure Agreement in the event of any failure by the Authority or the County to comply with this County Continuing Disclosure Agreement shall be as set forth in subsection 3.1(a) of this County Continuing Disclosure Agreement.

## ARTICLE 4

### MISCELLANEOUS

Section 4.1. Purposes of this County Continuing Disclosure Agreement. This County Continuing Disclosure Agreement is being executed and delivered by the County, the Trustee and the Authority for the benefit of the Bondholders and in order to assist the Participating Underwriter in complying with clause (b)(5) of Rule 15c2-12.

Section 4.2. The Authority and the Bondholders.

(a) The Authority may enforce any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee or the Holders of the Series 2011 Bonds.

(b) Each Bondholder is hereby recognized as being a third-party beneficiary hereunder and each may enforce, for the equal benefit and protection of all Bondholders similarly situated, any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee, to the extent permitted in Section 3.1(a) hereof.

Section 4.3. Obligations of the Authority Hereunder; Indemnified Parties. Neither the Authority nor any member, official, employee, counsel, consultant or agent of the Authority or any person executing the Series 2011 Bonds shall bear any obligation for the performance of any duty, agreement or covenant of the County or the Trustee under this County Continuing Disclosure Agreement. The obligations of the Authority under this County Continuing Disclosure Agreement are expressly limited to the duties set forth in Sections 2.6, 4.9(c) and 4.12 herein.

The County agrees to indemnify and hold harmless the Authority, any member, officer, official, employee, counsel (including, without limitation, Bond Counsel to the Authority), consultant and agent of the Authority, including the Trustee and the Dissemination Agent and any of their members, officers or employees or agents or any purchaser of the Series 2011 Bonds (collectively, the "Indemnified Parties"), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by the County's failure to perform or observe any of the County's obligations, agreements or covenants under the terms of this County Continuing Disclosure Agreement, but only if and insofar as such losses, claims, damages, liabilities or expenses are caused directly or indirectly by any such failure of the County to perform. In case any action shall be brought against the Indemnified Parties based upon this County Continuing Disclosure Agreement and in respect of which indemnity may be sought against the County, the Indemnified Parties shall promptly notify the County in writing. Upon receipt of such notification, the County shall promptly assume the defense of such action, including the retention of counsel, the payment of all expenses in connection with such action and the right to negotiate and settle any such action on behalf of such party to the extent allowed by law. Any Indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such

Indemnified Party unless the employment of such counsel has been specifically authorized by the County, or unless by reason of conflict of interest determined by the written opinion of counsel to any such party, it is advisable for such party to be represented by separate counsel, to be retained by the County, in which case the fees and expenses of such separate counsel shall be borne by the County. The County shall not be liable for any settlement of any such action effected without its written consent, but if settled with the written consent of the County or if there be a final judgment for the plaintiff in any such action with or without written consent, the County agrees to indemnify and hold harmless the Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Nothing in this paragraph shall require or obligate the County to indemnify or hold harmless the Indemnified Parties from or against any loss, claim, damage, liability or expense caused by any negligence, recklessness or intentional misconduct of the Indemnified Parties in connection with the County's performance of its obligations, agreements and covenants under this County Continuing Disclosure Agreement. The provisions of this section shall survive the termination of this County Continuing Disclosure Agreement and the removal or resignation of the Trustee.

Section 4.4. Additional Information. Nothing in this County Continuing Disclosure Agreement shall be deemed to prevent the County or the Authority (a) from disseminating any other information, using the means of dissemination set forth in this County Continuing Disclosure Agreement or any other means of communication, or (b) including, in addition to that which is required by this County Continuing Disclosure Agreement, in the case of the County, any other information in any Annual Report and in the case of the Authority, any other information in any Bond Disclosure Event Notice. If the County chooses to include any information in any Annual Report or if the Authority chooses to include any information in any Bond Disclosure Event Notice, in addition to that which is specifically required by this County Continuing Disclosure Agreement, neither the County nor the Authority shall have any obligation under this County Continuing Disclosure Agreement to update such information or include it in any future Annual Report or Bond Disclosure Event Notice, as the case may be.

Section 4.5. Notices. All notices required to be given or authorized to be given by each party pursuant to this County Continuing Disclosure Agreement shall be in writing and shall be sent by registered or certified mail (as well as by facsimile), addressed to: in the case of the County, One Spring Street, Newton, New Jersey \_\_\_\_\_ (attention: County Treasurer); in the case of the Trustee, U.S. Bank National Association, 21 South Street, 3rd Floor, Morristown, New Jersey 07960, Attention Paul O'Brien, with a copy to Nicholas A. Concilio, Esq., McElroy, Deutsch, Mulvaney & Carpenter, LLP, 1300 Mt. Kemble Avenue, P.O. Box 2075, Morristown, NJ 07962-2075, Email: nconcilio@mdmc-law.com; and in the case of the Authority, the Morris County Improvement Authority, P.O. Box 900, Morristown, NJ 07963-0900 (attention: Chairman), with a copy to Stephen B. Pearlman, Esq., of Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, NJ 07054. In addition, all notices sent to the County shall also be sent to the County's auditor and bond counsel.

Section 4.6. Assignments. This County Continuing Disclosure Agreement may not be assigned by any party without the consent of the others and, as a condition to any such

assignment, only upon the assumption in writing of all of the obligations imposed upon such party by this County Continuing Disclosure Agreement.

Section 4.7. Severability. If any provision of this County Continuing Disclosure Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 4.8. Execution of Counterparts. This County Continuing Disclosure Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Each party hereto may sign the same counterpart or each party hereto may sign a separate counterpart.

Section 4.9. Amendments, Changes and Modifications.

(a) Except as otherwise provided in this County Continuing Disclosure Agreement, subsequent to the initial issuance of the Series 2011 Bonds and prior to their payment in full (or provision for payment thereof having been made in accordance with the provisions of the Bond Resolution), this County Continuing Disclosure Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto.

(b) Without the consent of any Bondholders, the County, the Trustee and the Authority at any time and from time to time may enter into any amendments or modifications to this County Continuing Disclosure Agreement for any of the following purposes:

(i) to add to covenants and agreements of the County or the Authority hereunder for the benefit of the Bondholders, or to surrender any right or power conferred upon the County or the Authority by this County Continuing Disclosure Agreement;

(ii) to modify the contents, presentation and format of the Annual Report from time to time to conform to changes in accounting or disclosure principles or practices and legal requirements followed by or applicable to the County or to reflect changes in the identity, nature or status of the County or in the business, structure or operations of the County or any mergers, consolidations, acquisitions or dispositions made by or affecting the County; provided that any such modification shall not be in contravention of Rule 15c2-12 as then in effect at the time of such modification; or

(iii) to cure any ambiguity, to correct or supplement any provision hereof which may be inconsistent with any other provision hereof, or to include any other provisions with respect to matters or questions arising under this County Continuing Disclosure Agreement which, in each case, would have complied with the requirements of Rule 15c2-12 at the time of the primary offering, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances;

provided, that prior to approving any such amendment or modification an opinion of Bond Counsel to the Authority is delivered to the Trustee to the effect that such amendment or modification does not adversely affect the interests of the Holders of the Series 2011 Bonds in any material respect.

(c) Upon entering into any amendment or modification required or permitted by this County Continuing Disclosure Agreement which materially affects the interests of the Holders of the Series 2011 Bonds, the Authority shall deliver to the MSRB written notice of any such amendment or modification.

(d) The County, the Trustee and the Authority shall be entitled to rely conclusively upon a written opinion of Bond Counsel to the Authority to the effect that such amendments or modifications comply with the conditions and provisions of this Section 4.9.

Section 4.10. Amendments Required by Rule 15c2-12. The County, the Trustee and the Authority each recognize that the provisions of this County Continuing Disclosure Agreement are intended to enable the compliance with Rule 15c2-12. If, as a result of a change in Rule 15c2-12 or in the interpretation thereof or the promulgation of a successor rule, statute or regulation thereto, a change in this County Continuing Disclosure Agreement shall be permitted or necessary to assure continued compliance with Rule 15c2-12 and upon delivery of an opinion of Bond Counsel to the Authority to the effect that such amendments shall be permitted or necessary to assure continued compliance with Rule 15c2-12 as so amended or interpreted, then the County, the Trustee and the Authority shall amend this County Continuing Disclosure Agreement to comply with and be bound by any such amendment to this County Continuing Disclosure Agreement to the extent necessary or desirable to assure compliance with the provisions of Rule 15c2-12 and provide the written notice of such amendment as required by subsection 4.9(c) hereof.

Section 4.11. Governing Law. This County Continuing Disclosure Agreement shall be governed exclusively by and construed in accordance with the laws of the State and the laws of the United States, as applicable.

Section 4.12. Commencement and Termination of Continuing Disclosure Obligations. Except as otherwise provided herein, the obligations of the Authority, the County and the Trustee hereunder shall be in full force and effect from the date of issuance of the Series 2011 Bonds and shall continue in effect until the earlier of (i) the date the Series 2011 Bonds are no longer outstanding in accordance with the terms of the Bond Resolution or (ii) the County's obligations under the County Refunding Bond are no longer outstanding, and only after the Authority delivers written notice to such effect to the MSRB.

Section 4.13. Prior Undertakings. The County has not failed to comply in any material respect with any prior continuing disclosure undertaking made by the County, if any, in accordance with Rule 15c2-12.

Section 4.14. Binding Effect. This County Continuing Disclosure Agreement shall inure to the benefit of and shall be binding upon the County, the Trustee and the Authority and their respective successors and assigns.

IN WITNESS WHEREOF, the COUNTY OF SUSSEX, U.S. BANK NATIONAL ASSOCIATION and the MORRIS COUNTY IMPROVEMENT AUTHORITY have caused this County Continuing Disclosure Agreement to be executed in their respective names and their corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

[SEAL]

ATTEST:

COUNTY OF SUSEX, NEW JERSEY

\_\_\_\_\_  
Elaine A. Morgan  
Deputy Clerk of the Board of Freeholders

By: \_\_\_\_\_  
Richard Zeoli  
Freeholder Director

ATTEST:

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

\_\_\_\_\_

By: \_\_\_\_\_

[SEAL]

ATTEST:

THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY

\_\_\_\_\_  
Ellen M. Sandman  
Secretary

By: \_\_\_\_\_  
John bonanni  
Chairman

**EXHIBIT A**

**EXCERPT OF FINAL OFFICIAL STATEMENT**

1. **Appendix A to the Final Official Statement.**  
[See Closing Item No. \_\_]
2. **Appendix B to the Final Official Statement.**  
[See Closing Item No. \_\_]

**EXHIBIT B**

**FORM OF NOTICE TO MSRB OF  
FAILURE TO FILE ANNUAL REPORT**

Name of Obligated Person: The County of Sussex

Name of Bond Issue: The Morris County Improvement Authority's  
County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011 ("Bonds")

Date of Issuance: Series 2011A Bonds: December \_\_, 2011  
Series 2011B Note: December \_\_, 2012

CUSIP Numbers:

**NOTICE IS HEREBY GIVEN** that the County of Sussex (the "County") has not provided an Annual Report with respect to the above-named Bonds as required by the "Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 among the County, U.S. Bank National Association, as Trustee, and the Morris County Improvement Authority. [The County anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_

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**COMPANY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)**

**among**

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**and**

**U.S. BANK NATIONAL ASSOCIATION, as Trustee**

**and**

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

**Dated as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$ \_\_\_\_\_ aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$ \_\_\_\_\_ Series 2011A Bonds, and  
\$ \_\_\_\_\_ Series 2011B Note

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**COMPANY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)**

THIS COMPANY CONTINUING DISCLOSURE AGREEMENT (SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011) (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "*Company Continuing Disclosure Agreement*") is made and entered into as of December 1, 2011 by and among SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a limited liability company organized and existing under the laws of the State of New Jersey (the "*State*") (including any successors and assigns, the "*Company*"), U.S. BANK NATIONAL ASSOCIATION (the "*Bank*"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State, where the Bank acts as trustee under and pursuant to the hereinafter defined Bond Resolution (including any successors and assigns, the "*Trustee*"), and the MORRIS COUNTY IMPROVEMENT AUTHORITY, a public body corporate and politic duly created and validly existing under the laws of the State (including any successors and assigns, the "*Authority*").

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act; and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or

for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$ \_\_\_\_\_ and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease

Revenue Bonds, Series 2011A (Federally Taxable)” dated their date of delivery (the “*Series 2011A Bonds*”) the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the “*Series 2011A Bonds*”), and (ii) one series of notes in the aggregate principal amount of \$ \_\_\_\_\_ and entitle, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)” (the “*Series 2011B Note*”, and together with the Series 2011A Bonds, “*Series 2011 Bonds*”), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year’s worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*”);

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the “*Bonds*”) shall be issued pursuant to the terms of that certain “RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY” to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the “*Bond Resolution*”), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a “*Local Unit License Agreement*”, and collectively, the “*Local Unit License Agreements*”) with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the “*Local Unit License*”), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a

portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) of Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its

terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "*BPU*"), whereby, among other things,

(I) The Company shall have established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall have established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("*SRECs*") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may

be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on \_\_\_\_\_, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such

case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated [October \_\_], 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*", which by its terms shall supersede that certain "Memorandum of Understanding" dated \_\_\_\_\_, 2011 (the "*EPC Contract MOU*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$[\_\_\_\_\_] (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$[\_\_\_\_\_] but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "*Cash Equity Contribution*") which will be funded by or on behalf of the Company upon the Initial Basic Lease Payment Date (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$\_\_\_\_\_ (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the Initial Basic Lease Payment Date, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under

the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be

required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 15, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A-54(l) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated \_\_\_\_\_, 2011 (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*"); and (ii) the execution and delivery of a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "*Sale Documents*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("*Section 13*") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program*

*Documents*”), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE**, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

#### SECTION 1.1. Definitions.

The following additional terms shall have the meanings specified below:

“Annual Report” means Financial Statements and Operating Data provided at least annually with respect to the Company.

“Bondholder” or “Holder” or any similar term, when used with reference to the Series 2011 Bonds, means any person who shall be the registered owner of any outstanding the Series 2011 Bonds, including holders of beneficial interests in the Series 2011 Bonds.

“Bond Disclosure Event” means any event described in subsection 2.6(a) of this Company Continuing Disclosure Agreement.

“Bond Disclosure Event Notice” means the notice to the MSRB as provided in subsection 2.6(b) of this Company Continuing Disclosure Agreement.

“Dissemination Agent” means an entity acting in its capacity as Dissemination Agent under this Company Continuing Disclosure Agreement, or any successor Dissemination Agent designated in writing by the Company and which has filed a written acceptance of such designation.

“Final Official Statement” means the Official Statement relating to the Series 2011A Bonds dated December \_\_, 2011.

“Financial Statements” means the audited financial statements of the Company for each Fiscal Year and includes balance sheets, statements of changes in fund balances and statements of current funds, revenues, expenditures and other charges or statements which convey similar information.

“Fiscal Year” means the fiscal year of the Company as determined by the Company from time to time pursuant to State law. As of the date of this Company Continuing Disclosure Agreement, the Fiscal Year of the Company begins on January 1 of each calendar year and closes on the following December 31.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States of America, consistently applied.

“GAAS” means generally accepted auditing standards as in effect from time to time in the United States of America, consistently applied.

“MSRB” means the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to Rule 15c2-12. Effective August 1, 2009 and until otherwise designated by the MSRB or the SEC, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) website of the MSRB, currently located at <http://emma.msrb.org>.

“Operating Data” means certain financial and statistical information of the Company, which for purposes of this Company Continuing Disclosure Agreement shall include the financial and statistical information in Appendix C to the Final Official Statement, if any, a copy of which is attached hereto as Exhibit A.

“SEC” means the Securities and Exchange Commission.

Notwithstanding anything contained herein to the contrary, the following defined terms may be amended or supplemented in accordance with the provisions of Section 4.6 and 4.7 of the Power Purchase Agreement, and to the extent the Power Purchase Agreement is amended for such purpose, such following defined terms shall automatically (without any further action) be amended and supplemented for all purposes hereof: Capital Improvement Projects, Local Unit Facilities, Projects, Renewable Energy Projects, and Series 2011 Local Units.

Section 1.3. Interpretation. Words of masculine gender include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular include the plural and vice versa, and words importing Persons include corporations, associations, partnerships (including limited partnerships), trusts, firms and other legal entities, including public bodies, as well as natural persons. Articles and Sections referred to by number mean the corresponding Articles and Sections of this Company Continuing Disclosure Agreement. The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms as used in this Company Continuing Disclosure Agreement, refer to this Company Continuing Disclosure Agreement as a whole unless otherwise expressly stated.

The headings of this Company Continuing Disclosure Agreement are for convenience only and shall not define or limit the provisions hereof.

## ARTICLE 2

### CONTINUING DISCLOSURE COVENANTS AND REPRESENTATIONS

Section 2.1. Continuing Disclosure Covenants of the Company. The Company agrees that it will provide, or, if the Company has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to provide:

(a) Not later than two hundred twenty-five (225) days after the end of each Fiscal Year, commencing with the Fiscal Year of the Company ending after December 31, 2011, an Annual Report to the MSRB via electronic format (accompanied by such identifying information as is prescribed by the MSRB) and to the Authority; provided that the Financial Statements of the Company may be submitted separately from the balance of the Annual Report and later than the date required herein for the filing of the Annual Report if the Financial Statements of the Company are not available by that date, but only if the unaudited financial statements of the Company are included in the Annual Report; and

(b) Not later than fifteen (15) days prior to the date of each year specified in subsection 2.1(a), a copy of the Annual Report, complete to the extent required in Section 2.1(a), to the Trustee and the Dissemination Agent, if the Company has appointed or engaged a Dissemination Agent.

Section 2.2. Continuing Disclosure Representations of the Company. The Company represents and warrants that:

(a) Financial Statements shall be prepared according to GAAP.

(b) Financial Statements shall be audited by an independent certified public accountant or a registered municipal accountant or such other accountant as shall be permitted or required under State law in accordance with GAAS.

Section 2.3. Form of Annual Report. (a) The Annual Report may be submitted by the Company, or on behalf thereof, as a single document or as separate documents comprising a package.

(b) Any or all of the items which must be included in the Annual Report may be incorporated by reference from other documents, including official statements delivered in connection with other financings issued on behalf of the Company or related public entities thereof which have been made available to the public on the MSRB's website or filed with the SEC. If the document incorporated by reference is a final official statement, it must be available from the MSRB. The Company shall clearly identify each such other document so incorporated by reference.

(c) The Annual Report for any Fiscal Year containing any modified operating data or financial information (as contemplated by Sections 4.9 and 4.10 hereof) for such Fiscal Year

shall explain, in narrative form, the reasons for such modification and the effect of such modification on the Annual Report being provided for such Fiscal Year.

Section 2.4. Responsibilities and Duties of the Authority, the Company, the Dissemination Agent and the Trustee.

(a) If fifteen (15) days prior to the date specified in subsection 2.1(a), the Trustee has not received a copy of the Annual Report, complete to the extent required in Section 2.1(a), the Trustee shall notify the Company in writing to provide notice of the Company's obligations pursuant to Sections 2.1(a), 2.1(b) and 2.4(c) hereof.

(b) If the Trustee, by the date specified in subsection 2.1(a) herein, has not received a written report from the Company, as required by Section 2.4(c) hereof, indicating that an Annual Report, complete to the extent required in Section 2.1(a), been provided to the MSRB and to the Authority by the date specified in subsection 2.1(a), the Trustee shall send a notice to the MSRB, in electronic format, substantially in the form attached hereto as Exhibit B, together with identifying information as prescribed by the MSRB, with a copy thereof to the Authority and the Company.

(c) The Company shall, or, if the Company has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to, by the date specified in subsection 2.1(a) herein, provide a written report to the Authority and the Trustee (and, if a Dissemination Agent has been appointed, to the Company), upon which said parties may rely, certifying that the Annual Report, complete to the extent required in Section 2.1(a), has been provided pursuant to this Continuing Disclosure Agreement, and stating the date that it was provided to the MSRB.

(d) If the Fiscal Year of the Company changes, the Company shall promptly notify, in writing, the Authority and the Trustee, and shall disclose such change in its next Annual Report.

Section 2.5. Appointment, Removal and Resignation of the Dissemination Agent.

(a) The Company may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Company Continuing Disclosure Agreement and shall provide notice of such appointment to the Trustee and the Authority. Thereafter, the Company may discharge any such Dissemination Agent and satisfy its obligations under this Company Continuing Disclosure Agreement without the assistance of a Dissemination Agent, or the Company may discharge a Dissemination Agent and appoint a successor Dissemination Agent, such discharge to be effective on the date of the appointment of a successor Dissemination Agent. The Company shall provide notice of the discharge of a Dissemination Agent to the Trustee and the Authority and shall further indicate either the decision of the Company to satisfy its obligations under this Company Continuing Disclosure Agreement without the assistance of a Dissemination Agent or the identity of the new Dissemination Agent. In the absence of a separate Dissemination Agent, the Trustee shall assume and discharge all of the obligations as Dissemination Agent under this Company Continuing Disclosure Agreement.

(b) The Dissemination Agent shall have only such duties as are specifically set forth in this Company Continuing Disclosure Agreement.

(c) The Dissemination Agent, or any successor thereto, may at any time resign and be discharged of its duties and obligations hereunder by giving not less than thirty (30) days written notice to the Company. Such resignation shall take effect on the date specified in such notice.

Section 2.6. Responsibilities and Duties of the Authority.

(a) Authority agrees that it will provide in a timely manner to the MSRB not in excess of ten (10) business days, notice of any of the following events with respect to the Series 2011 Bonds (each, a "Bond Disclosure Event"), and will provide a copy of such notice to the Trustee and the Company, for informational purposes only:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves, reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements, reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Series 2011 Bonds, or other material events affecting the tax status of the Series 2011 Bonds;
- (vii) Modifications to rights of the holder of the Series 2011 Bonds, if material;
- (viii) Bond calls, if material and tender offers;
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Series 2011 Bonds, if material; and
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar events of the Company;

(xii) The consummation of a merger, consolidation or acquisition involving the Company of the sale of all or substantially all of the assets of the Company, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action of the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

(xiv) Appointment of a successor or additional trustee or the change of name of trustee, if material.

(b) If the Authority has determined that the occurrence of a Bond Disclosure Event has occurred, the Authority shall promptly provide a notice of such occurrence to the MSRB (the "Bond Disclosure Event Notice") in electronic format together with identifying information as prescribed by the MSRB, in the form determined by the Authority; provided, that the Bond Disclosure Event Notice pertaining to the occurrence of a Bond Disclosure Event described in clauses 2.6(a)(viii) (Bond calls) or 2.6(a)(ix) (defeasances) need not be given under this subsection any earlier than the time when the notice (if any) of such Bond Disclosure Event shall be given to Series 2011 Bondholders of affected Bonds as provided in Section 4.05, Article XII and other related sections of the Bond Resolution. The obligations of the Authority to provide the notices required under this Continuing Disclosure Agreement are in addition to, and not in substitution of, any of the obligations (if any) of the Trustee to provide notices of events of default to Series 2011 Bondholders under said Section 4.05, Article XII and other related sections of the Bond Resolution. The Authority shall file a copy of each Bond Disclosure Event Notice with the Trustee and the Company, for informational purposes only.

#### Section 2.7. Immunities and Liabilities of the Trustee.

Article X of the Bond Resolution, relating to compensation, reimbursement, immunities and liabilities of the Trustee, is hereby made applicable to its and the Dissemination Agent's responsibilities under this Company Continuing Disclosure Agreement. The immunities and liabilities of the Trustee and Dissemination Agent shall survive the termination of the Bond Resolution, as amended and supplemented and the removal or resignation of the Trustee or the Dissemination Agent. The Trustee shall have no obligation hereunder to provide, or to monitor the Authority's obligation to provide, Bond Disclosure Event Notices.

## ARTICLE 3

### REMEDIES

#### Section 3.1 Remedies.

(a) The Trustee may (and at the request of the Holders of at least twenty-five percent (25%) in aggregate principal amount of outstanding the Series 2011 Bonds, and after provision of indemnity in accordance with Section 10.03 of the Bond Resolution, shall), or any Bondholder, for the equal benefit and protection of all Bondholders similarly situated, may take whatever action at law or in equity against the Company and the Authority and any of their respective officers, agents and employees which is necessary or desirable to enforce the specific performance and observance of any obligation, agreement or covenant of the Company and the Authority under this Company Continuing Disclosure Agreement and may compel the Company or the Authority or any of their respective officers, agents or employees (except for the Dissemination Agent with respect to the obligations, agreements and covenants of the Company), to perform and carry out their duties under this Company Continuing Disclosure Agreement; provided, that no person or entity shall be entitled to recover monetary damages hereunder under any circumstances; and provided further that any Bondholder, acting for the equal benefit and protection of all Bondholders similarly situated, may pursue specific performance only with respect to the failure to file the Annual Reports and Bond Disclosure Event Notices required by this Company Continuing Disclosure Agreement, and may not pursue specific performance in challenging the adequacy of Annual Reports which have been filed pursuant to the provisions hereof.

(b) In case the Trustee or any Bondholder shall have proceeded to enforce its rights under this Company Continuing Disclosure Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or any Bondholder, as the case may be, then and in every such case the Company, the Authority, the Trustee and any Bondholder, as the case may be, shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Company, the Authority, the Trustee and any Bondholder shall continue as though no such proceeding had been taken.

(c) A failure by the Authority or the Company to perform their respective obligations under this Company Continuing Disclosure Agreement shall not be deemed an event of default under any other agreement entered into in connection with the issuance of the Series 2011 Bonds or the Bond Resolution, and the sole remedy under this Company Continuing Disclosure Agreement in the event of any failure by the Authority or the Company to comply with this Company Continuing Disclosure Agreement shall be as set forth in subsection 3.1(a) of this Company Continuing Disclosure Agreement.

## ARTICLE 4

### MISCELLANEOUS

Section 4.1. Purposes of this Company Continuing Disclosure Agreement. This Company Continuing Disclosure Agreement is being executed and delivered by the Company, the Trustee and the Authority for the benefit of the Bondholders and in order to assist the Underwriter in complying with clause (b)(5) of Rule 15c2-12.

Section 4.2. The Authority and the Bondholders.

(a) The Authority may enforce any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee or the Holders of the Series 2011 Bonds.

(b) Each Bondholder is hereby recognized as being a third-party beneficiary hereunder and each may enforce, for the equal benefit and protection of all Bondholders similarly situated, any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee, to the extent permitted in Section 3.1(a) hereof.

Section 4.3. Obligations of the Authority Hereunder; Indemnified Parties. Neither the Authority nor any member, official, employee, counsel, consultant or agent of the Authority or any person executing the Series 2011 Bonds shall bear any obligation for the performance of any duty, agreement or covenant of the Company or the Trustee under this Company Continuing Disclosure Agreement. The obligations of the Authority under this Company Continuing Disclosure Agreement are expressly limited to the duties set forth in Sections 2.6, 4.9(c) and 4.12 herein.

The Company agrees to indemnify and hold harmless the Authority, any member, officer, official, employee, counsel (including, without limitation, Bond Counsel to the Authority), consultant and agent of the Authority, including the Trustee and the Dissemination Agent and any of their members, officers or employees or agents or any purchaser of the Series 2011 Bonds (collectively, the "Indemnified Parties"), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by the Company's failure to perform or observe any of the Company's obligations, agreements or covenants under the terms of this Company Continuing Disclosure Agreement, but only if and insofar as such losses, claims, damages, liabilities or expenses are caused directly or indirectly by any such failure of the Company to perform. In case any action shall be brought against the Indemnified Parties based upon this Company Continuing Disclosure Agreement and in respect of which indemnity may be sought against the Company, the Indemnified Parties shall promptly notify the Company in writing. Upon receipt of such notification, the Company shall promptly assume the defense of such action, including the retention of counsel, the payment of all expenses in connection with such action and the right to negotiate and settle any such action on behalf of such party to the extent allowed by law. Any Indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless the employment of such counsel has been specifically

authorized by the Company, or unless by reason of conflict of interest determined by the written opinion of counsel to any such party, it is advisable for such party to be represented by separate counsel, to be retained by the Company, in which case the fees and expenses of such separate counsel shall be borne by the Company. The Company shall not be liable for any settlement of any such action effected without its written consent, but if settled with the written consent of the Company or if there be a final judgment for the plaintiff in any such action with or without written consent, the Company agrees to indemnify and hold harmless the Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Nothing in this paragraph shall require or obligate the Company to indemnify or hold harmless the Indemnified Parties from or against any loss, claim, damage, liability or expense caused by any negligence, recklessness or intentional misconduct of the Indemnified Parties in connection with the Company's performance of its obligations, agreements and covenants under this Company Continuing Disclosure Agreement. The provisions of this section shall survive the termination of this Company Continuing Disclosure Agreement and the removal or resignation of the Trustee.

Section 4.4. Additional Information. Nothing in this Company Continuing Disclosure Agreement shall be deemed to prevent the Company or the Authority (a) from disseminating any other information, using the means of dissemination set forth in this Company Continuing Disclosure Agreement or any other means of communication, or (b) including, in addition to that which is required by this Company Continuing Disclosure Agreement, in the case of the Company, any other information in any Annual Report and in the case of the Authority, any other information in any Bond Disclosure Event Notice. If the Company chooses to include any information in any Annual Report or if the Authority chooses to include any information in any Bond Disclosure Event Notice, in addition to that which is specifically required by this Company Continuing Disclosure Agreement, neither the Company nor the Authority shall have any obligation under this Company Continuing Disclosure Agreement to update such information or include it in any future Annual Report or Bond Disclosure Event Notice, as the case may be.

Section 4.5. Notices. All notices required to be given or authorized to be given by each party pursuant to this Company Continuing Disclosure Agreement shall be in writing and shall be sent by registered or certified mail (as well as by facsimile), addressed to: in the case of the Company, c/o Sunlight General Sussex Solar, LLC, 501 Fifth Avenue, Suite 602, New York, NY 10017, Attention : Stacey L. Hughes, with a copy to: James F. Duffy, Esq., Nixon Peabody, LLP, 100 Summer Street, Boston, MA 02110-2131; in the case of the Trustee, U.S. Bank National Association, 21 South Street, 3rd Floor, Morristown, New Jersey 07960, Attention Paul O'Brien; Nicholas A. Concilio, Esq., McElroy, Deutsch, Mulvaney & Carpenter, LLP, 1300 Mt. Kemble Avenue, P.O. Box 2075, Morristown, NJ 07962-2075, Email: nconcilio@mdmc-law.com and in the case of the Authority, the Morris County Improvement Authority, P.O. Box 900, Morristown, NJ 07963-0900 (attention: Chairman), with a copy to Stephen B. Pearlman, Esq., of Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, NJ 07054. In addition, all notices sent to the Company shall also be sent to the Company's auditor and bond counsel.

Section 4.6. Assignments. This Company Continuing Disclosure Agreement may not be assigned by any party without the consent of the others and, as a condition to any such assignment, only upon the assumption in writing of all of the obligations imposed upon such party by this Company Continuing Disclosure Agreement.

Section 4.7. Severability. If any provision of this Company Continuing Disclosure Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 4.8. Execution of Counterparts. This Company Continuing Disclosure Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Each party hereto may sign the same counterpart or each party hereto may sign a separate counterpart.

Section 4.9. Amendments, Changes and Modifications.

(a) Except as otherwise provided in this Company Continuing Disclosure Agreement, subsequent to the initial issuance of the Series 2011 Bonds and prior to their payment in full (or provision for payment thereof having been made in accordance with the provisions of the Bond Resolution), this Company Continuing Disclosure Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto.

(b) Without the consent of any Bondholders, the Company, the Trustee and the Authority at any time and from time to time may enter into any amendments or modifications to this Company Continuing Disclosure Agreement for any of the following purposes:

(i) to add to covenants and agreements of the Company or the Authority hereunder for the benefit of the Bondholders, or to surrender any right or power conferred upon the Company or the Authority by this Company Continuing Disclosure Agreement;

(ii) to modify the contents, presentation and format of the Annual Report from time to time to conform to changes in accounting or disclosure principles or practices and legal requirements followed by or applicable to the Company or to reflect changes in the identity, nature or status of the Company or in the business, structure or operations of the Company or any mergers, consolidations, acquisitions or dispositions made by or affecting the Company; provided that any such modification shall not be in contravention of Rule 15c2-12 as then in effect at the time of such modification; or

(iii) to cure any ambiguity, to correct or supplement any provision hereof which may be inconsistent with any other provision hereof, or to include any other provisions with respect to matters or questions arising under this Company Continuing Disclosure Agreement which, in each case, would have complied with the requirements of Rule 15c2-12 at the time of the primary offering, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances;

provided, that prior to approving any such amendment or modification an opinion of Bond Counsel to the Authority is delivered to the Trustee to the effect that such amendment or modification does not adversely affect the interests of the Holders of the Series 2011 Bonds in any material respect.

(c) Upon entering into any amendment or modification required or permitted by this Company Continuing Disclosure Agreement which materially affects the interests of the Holders of the Series 2011 Bonds, the Authority shall deliver to the MSRB written notice of any such amendment or modification.

(d) The Company, the Trustee and the Authority shall be entitled to rely conclusively upon a written opinion of Bond Counsel to the Authority to the effect that such amendments or modifications comply with the conditions and provisions of this Section 4.9.

Section 4.10. Amendments Required by Rule 15c2-12. The Company, the Trustee and the Authority each recognize that the provisions of this Company Continuing Disclosure Agreement are intended to enable the compliance with Rule 15c2-12. If, as a result of a change in Rule 15c2-12 or in the interpretation thereof or the promulgation of a successor rule, statute or regulation thereto, a change in this Company Continuing Disclosure Agreement shall be permitted or necessary to assure continued compliance with Rule 15c2-12 and upon delivery of an opinion of Bond Counsel to the Authority to the effect that such amendments shall be permitted or necessary to assure continued compliance with Rule 15c2-12 as so amended or interpreted, then the Company, the Trustee and the Authority shall amend this Company Continuing Disclosure Agreement to comply with and be bound by any such amendment to this Company Continuing Disclosure Agreement to the extent necessary or desirable to assure compliance with the provisions of Rule 15c2-12 and provide the written notice of such amendment as required by subsection 4.9(c) hereof.

Section 4.11. Governing Law. This Company Continuing Disclosure Agreement shall be governed exclusively by and construed in accordance with the laws of the State and the laws of the United States, as applicable.

Section 4.12. Commencement and Termination of Continuing Disclosure Obligations. Except as otherwise provided herein, the obligations of the Authority, the Company and the Trustee hereunder shall be in full force and effect from the date of issuance of the Series 2011 Bonds and shall continue in effect until the earlier of (i) the date the Series 2011 Bonds are no longer outstanding in accordance with the terms of the Bond Resolution or (ii) the Company's obligations under the Series 2011 Bonds are no longer outstanding, and only after the Authority delivers written notice to such effect to the MSRB.

Section 4.13. Prior Undertakings. The Company has not failed to comply in any material respect with any prior continuing disclosure undertaking made by the Company, if any, in accordance with Rule 15c2-12.

Section 4.14. Binding Effect. This Company Continuing Disclosure Agreement shall inure to the benefit of and shall be binding upon the Company, the Trustee and the Authority and their respective successors and assigns.

IN WITNESS WHEREOF, SUNLIGHT GENERAL SUSSEX SOLAR, LLC, U.S. BANK NATIONAL ASSOCIATION and the MORRIS COUNTY IMPROVEMENT AUTHORITY have caused this Company Continuing Disclosure Agreement to be executed in their respective names and their corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

[ATTEST]

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

BY: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

\_\_\_\_\_

By: \_\_\_\_\_

[SEAL]

ATTEST:

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

\_\_\_\_\_  
Ellen M. Sandman  
Secretary

By: \_\_\_\_\_  
John Bonanni  
Chairperson

**EXHIBIT A**

**EXCERPT OF FINAL OFFICIAL STATEMENT**

- 1. Section heading of the Final Official Statement entitled "THE COMPANY".  
[See Closing Item No. 21a]**
  
- 2. Appendix C to the Final Official Statement.  
[See Closing Item No. 21a]**

**EXHIBIT B**

**FORM OF NOTICE TO THE MSRB OF  
FAILURE TO FILE ANNUAL REPORT**

Name of Obligated Person: SUNLIGHT GENERAL SUSSEX SOLAR, LLC

Name of Bond Issue: The Morris County Improvement Authority's  
County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011 ("Bonds")

Date of Issuance: Series 2011A Bonds: December \_\_, 2011  
Series 2011B Note: December \_\_, 2011

CUSIP Numbers:

**NOTICE IS HEREBY GIVEN** that SUNLIGHT GENERAL SUSSEX SOLAR, LLC (the "Company") has not provided an Annual Report with respect to the above-named Bonds as required by the "Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 among the Company, U.S. Bank National Association, as Trustee, and the Morris County Improvement Authority. [The Company anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_

## Appendix G

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# **Solar Proposal Evaluation Report**

**Morris County Improvement Authority  
Sussex County Renewable Energy Program,  
(County of Sussex Program) Series 2011  
Proposals of October 13, 2011**

**Prepared for  
Morris County Improvement Authority  
and Sussex County**

Prepared by:  
Sussex County Evaluation Team  
October 24, 2011

# Evaluation Report

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### Attachments

Sussex Program Solar Savings Summary

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Evaluation Matrix	ATT. 2
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# **Morris County Improvement Authority Sussex County Renewable Energy Program (County of Sussex) Series 2011**

## **1. Executive Summary**

This Report is being provided pursuant to the requirements of the competitive contracting provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-4.1(k)), Public School Contracts Law, specifically, (N.J.S.A. 18A:18A-4.1(k)); Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services* (LFB Notice 2008-20); the Board of Public Utilities (BPU) protocol for measuring energy savings in PPA agreements (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines, Dated February 20, 2009*), and Local Finance Board Notice 2009-10, dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements* (LFB Notice 2009-10).

Attached is a Service Agreement ("Agreement"), regarding the Sussex County Renewable Energy Program, between the County of Sussex, New Jersey ("Sussex") and the Morris County Improvement Authority ("Authority"). The Agreement has been entered into pursuant to the interlocal services act and county improvement authority law. Pursuant to the Agreement, Sussex, which has not created its own county improvement authority, has determined to use the services of the Authority, which has developed and implemented a renewable energy program for Morris County, to develop and implement a renewable energy program for Sussex County. The Authority will act as the conduit for issuing bonds to finance the Sussex Renewable Energy Program and Sussex will provide the guaranty regarding the repayment of those bonds.

On September 8, 2011, the Authority issued a Request for Proposals (RFP), as amended, for a Power Purchase Agreement (PPA) for the design, acquisition, installation, tax ownership, commissioning, operation, and maintenance of solar systems (Solar Systems) to be located at certain county and local government facilities (Local Unit Facilities) across Sussex. Below is a complete list of all participating Local Units included in the RFP:

1. Byram Township School District
2. County of Sussex
3. Frankford Township Board of Education
4. Franklin Borough Board of Education
5. Fredon Township
6. Green Township Board of Education
7. Hardyston Board of Education
8. High Point Regional Board of Education

9. Kittatinny Regional School District
10. Lenape Valley Regional Board of Education
11. Newton Board of Education
12. Sussex County Technical School
13. Town of Newton

The goal of Sussex is to implement solar renewable energy projects that are environmentally responsible and economically beneficial to the County, its Local Units, and its citizens.

The Authority, on behalf of Sussex, intends to enter into a long-term (fifteen (15) year) PPA with the Successful Solar Respondent (Successful Respondent) to purchase solar electric power produced from installed renewable energy projects located at certain Local Unit Facilities for the Local Units identified above. Under a PPA, a developer designs and installs solar projects and the site energy user purchases the electricity produced at a fixed rate per kilowatt hour (kWh). A county or local government can only enter into a PPA if the PPA price is lower than the delivered cost of power from the local electric utility company. In a typical PPA, a Local Unit will, for a portion of its energy needs, save on its energy bills, and will be, to the greatest extent possible, insulated from energy market fluctuation, construction risks, operational risks, and financial risks.

Pursuant to the Agreement, Sussex has determined to use the professional services of the Consultants that administered the Morris County renewable energy program to provide those same services to Sussex in the development and implementation of its Renewable Energy program. The Sussex Evaluation Team (Evaluation Team) is comprised of: John Eskilson, Dennis McConnell and Bernard Re of Sussex; Steve Pearlman, Esq. and Deborah Verderame, Esq. of Inglesino, Pearlman, Wyciskala & Taylor, LLC; Tom Brys and Gerry Genna, of Birdsall Services Group; Douglas Bacher and Heather Litzebauer of NW Financial Group, LLC; and Steven Gabel, Richard Preiss and Cadence Bowden of Gabel Associates. The Evaluation Team assisted in developing and implementing the RFP, and administered the procurement process as well as a comprehensive evaluation of qualified proposals on the basis of price and non-price criteria.

This process was undertaken in accordance with competitive contracting provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-4.1(k)) and on behalf of the board of education Local Units, the Public Schools Contracts Law (N.J.S.A. 18A:18A-4.1(k)) of the State of New Jersey (the "State"), all pursuant to (i) Local Finance Board Notice 2008-20, December 3, 2008, Contracting for Renewable Energy Services, (ii) the Board of Public Utilities protocol for measuring energy savings in PPA agreements (Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines, Dated February 20, 2009), (iii) Local Finance Board Notice 2009-10 dated June 12, 2009, Contracting for Renewable Energy Services: Update on Power Purchase Agreements and applicable law.

Sussex received a proposal from one (1) Solar Respondent (Respondent): SunLight General Capital and Power Partners MasTec (SunLight/MasTec). In addition, shortly after the time for submission of proposals (i.e. 1:00 PM, Eastern time, October 13, 2011), a second Respondent arrived to submit a proposal. When informed that the submission period had closed and Sussex could not accept the second proposal, the second Respondent inquired as to the publicly announced PPA price submitted by SunLight/MasTec. When informed of the subject PPA price, the second Respondent indicated that their proposal was not competitive with the proposal of SunLight/MasTec, declined to leave their proposal and left.

The one (1) Respondent submitted the required RFP documents and, based on Phase I requirements (compliance with the minimum terms of the RFP), was deemed compliant. The SunLight/MasTec proposal, therefore, qualified to be further evaluated under Phase II (technical and economic evaluation) requirements. The Evaluation Team has undertaken an economic and technical review of the proposals to evaluate them in accordance with established criteria under Phase II evaluation. The Evaluation Team considered and weighed the following:

- Financial benefits;
- Technical design;
- Project experience;
- Vendor qualifications; and,
- Financial strength.

The SunLight/MasTec team possesses high quality management, installation capabilities, and sound solar development experience. In addition, the SunLight/MasTec proposal provides Sussex benefits in the following key areas:

1. It provides substantial direct energy cost savings;
2. It provides the Local Units the potential for additional savings through the sharing of revenues from the sale of Solar Renewable Energy Certificates (SRECs) and other environmental benefits;
3. Due to SunLight/MasTec's proposed capital investment, which reduces the required size of the Authority bonds, it provides a strong level of protection for Sussex from financial risk;
4. It provided additional financial protection for Sussex in the form of a Debt Service Reserve Fund; and,
5. It includes a restoration security providing for additional Local Unit protection at the end of contract.

Over the fifteen (15) years of the PPA, the SunLight/MasTec proposal yields nominal benefits of \$5.6 million or net present value (NPV) benefits of \$4.0 million. These

benefits have been calculated under the conservative assumption that bond interest rates will be at 5.0%. The RFP also required Respondents to submit an adjustment factor to the PPA Price to account for a change in the bond rate from the assumed level of 5.0% to the actual bond issuance rate. Based upon SunLight's adjustment factor and the current expectation for the bond issuance rate (4.6%), the SunLight/MasTec proposal would yields nominal benefits of \$5.9 million or net present value (NPV) benefits of \$4.3 million.

The Respondent provided a financial structure limiting the financial risk to Sussex (as the guarantor of the bonds) and the mitigated risk to the Authority as the conduit bond issuer. By offering to self-finance a substantial portion of the overall cost of the renewable energy projects in the amount of \$7.6 million, the SunLight/MasTec proposal allows the Authority, on behalf of Sussex, to significantly reduce its bond size. The Authority's \$26 million in bonds will be combined with SunLight/MasTec's \$7.6 million self-financing to finance the total project cost (\$33.6 million). The SunLight/MasTec proposal also protects Sussex from the potential risk of reductions in the price of SRECs. Moreover, by self-financing a portion of the total cost of the project this protection has a very high degree of certainty. In addition, SunLight/MasTec proposed to post a \$1.5 million reserve, funded with an equity contribution from the company, to provide additional financial protection to Sussex.

The Evaluation Team recognizes the value of the financial provisions of the SunLight/MasTec proposal in terms of the protection of Sussex, its guaranty and its bond rating. The preservation of this bond rating provides future economic benefits to Sussex and its citizens and businesses by allowing Sussex, through the Authority, to borrow money at low interest rates due to its Aa2 rating. Accordingly, a high premium is placed on its protection. The financial protections of the SunLight/MasTec proposal, including a significant reduction in the size of the Authority bond amounts, on behalf of Sussex, provides a strong and distinguishing level of protection which, in combination with other factors considered, lead to the recommended selection.

The RFP reserves the right for Sussex to conduct interviews with qualified Respondents. After reviewing all aspects of the submitted proposals, in particular the savings in energy costs preferred by Sussex and as required under applicable law (see the details in Section 8(a) and as reflected in the Evaluation Matrix through Phase II), the Evaluation Team decided to conduct an interview with SunLight/MasTec to better understand their proposal. Based on the results of the Phase II and Phase III evaluation, the Evaluation Team recommends that the proposal of SunLight/MasTec be accepted (see **Attachment 2** for the Evaluation Matrix). The SunLight/MasTec proposal results in significant savings on energy costs for the participating Local Units, and strong financial protections for the Authority and Sussex.

Members of the Sussex Evaluation Team have significant experience in evaluating proposals from solar developers submitted in response to similarly structured solar renewable energy programs. That experience has been drawn upon in the evaluation of the SunLight/MasTec proposal. The scoring in the Evaluation Matrix (see

**Attachment 2)** identifies SunLight/MasTec as a well qualified Respondent providing great overall value to Sussex. SunLight/MasTec's proposal scored 94 out of 100 points.

Given that there was only one (1) proposal officially received (as mentioned above a second proposal (which was withdrawn) arrived after the closing time for submission of proposals and could not be accepted), the Evaluation Team considered the possibility of rejecting the SunLight proposal and rebidding the RFP. For the following reasons, the Evaluation Team recommended not to rebid the RFP:

1. A major element supporting the financing and pricing of solar projects is the ability of the solar developer to capture the Federal benefit of the 1603 Grant. Since the 1603 Grant expires at the end of calendar year 2011, the timing of the RFP process was such to allow the solar developer the opportunity to capture this benefit. The Evaluation Team judged that there was not sufficient time to rebid the RFP and provide this opportunity. Without the benefit of the 1603 Grant, the Evaluation Team believes there would be a negative impact on the proposal pricing.
2. The SREC market has experienced a significant downturn in pricing and an increase in volatility. Given the current SREC market, the Evaluation Team judged the pricing of the SunLight proposal to be consistent with that market.
3. SunLight/MasTec is known to be a quality solar team with a successful security structure as part of their proposals. They have been the successful solar team on several county renewable energy programs. As such, SunLight/MasTec is familiar with the documentation required to close and execute the transaction, which is critical to realizing the 1603 Grant.
4. The SunLight/MasTec proposal provides a significant level of energy cost savings for the Local Units, while providing Sussex with important financial protections through its equity contribution which reduces the amount of the bonds required to be issued and its debt service reserve fund, which taken together virtually eliminate the potential for a Sussex deficiency should SunLight/MasTec default.

**Accordingly, the Evaluation Team recommends that the Authority select SunLight/MasTec as the Successful Respondent, subject to clarification of the SREC sharing issue discussed in Section 12, page 28.**

The evaluation of "price and non-price" factors allowed by law permits and supports this recommendation.

SunLight/MasTec has proposed to install and operate solar systems at seventeen Local Unit Facilities. The basic terms and benefits of the SunLight/MasTec proposal are as follows:

1. A fifteen (15) year PPA, with a first year rate of \$0.099 per kWh and annual escalation of 3% which results in a final price of \$0.150 in Year 15.
2. A 6.678 MW solar system. This is expected to generate approximately 8.0 million kWh per year. The solar energy will serve approximately 46% of the combined load for all Local Unit Facilities (see **Attachment 4**) based, conservatively, on the guaranteed level of solar generation.
3. Based upon the PPA Price in the SunLight/MasTec proposal, participating Local Unit Facilities will realize, in aggregate, an annual energy cost savings of approximately \$280,000 in the first year and these savings are expected to grow to approximately \$488,000 in the last year of the PPA (see **Attachment 3**). When based upon a less conservative, current bond issuance rate, with an adjusted PPA Price, the participating Local Unit Facilities would realize, in aggregate, an annual energy cost savings of approximately \$301,000 in the first year and these savings are expected to grow to approximately \$516,000 in the last year of the PPA.
4. Based upon the PPA Price in the SunLight/MasTec proposal, over the fifteen year term of the PPA, the Local Units, in aggregate, will realize \$5.6 million in energy cost savings on a nominal basis (\$4.0 million on a NPV basis) (see **Attachment 5**). When based upon a less conservative, current bond issuance rate, with an adjusted PPA Price, over the fifteen year term of the PPA, the Local Units, in aggregate, would realize \$5.9 million in energy cost savings on a nominal basis (\$4.3 million on a NPV basis).
5. Participating Local Unit Facilities will realize an average rate reduction, for the portion of their electricity purchased through this program, of 28% relative to utility delivered power in the first year.
6. A significant reduction in the amount of Authority bonds required to fund the renewable energy projects, on behalf of Sussex, to an amount of approximately \$26.0 million; which creates significant financial security to Sussex and the Authority.
7. A \$1.5 million reserve fund, funded with an equity contribution from the company, provides additional financial protection to Sussex and the Authority.
8. A stable and known cost of electricity for fifteen years allows for budgetary certainty for the participating Local Units.
9. Potential use of the locally manufactured solar panels of MX Solar, a New Jersey based solar panel company.

10. Restoration Security of \$375,000 to provide additional protection to the Local Units that will be set aside to cover the cost of system removal at the end of the term if such option is selected.

11. Sharing of SREC revenue benefits.

12. An educational component including an educational program, with the ability to access operational data for the solar systems via a web enabled system.

The above benefits may be recalculated after the sale of the Authority bonds if materially different from the estimate in this report.

## 2. Overview of the Sussex County Renewable Energy Program

The following is a brief synopsis describing the Morris County Improvement Authority, Sussex County Renewable Energy Program, Series 2011 (Solar Initiative) as outlined in the RFP.

On September 8, 2011, the Authority issued a Request for Proposals (RFP), as amended, for a Power Purchase Agreement (PPA) for the design, acquisition, installation, tax ownership, commissioning, operation, and maintenance of solar systems (Solar Systems) to be located at certain county and local government facilities (Local Unit Facilities) across Sussex County (Sussex). See Section 4 for a list of the final participating Local Units and Local Unit Facilities.

The goal of Sussex is to implement Renewable Energy Projects including Solar Systems that are both environmentally responsible and economically beneficial.

The RFP's total size (kW dc) of the Solar Systems at Sussex's thirteen (13) local units and seventeen (17) Local Unit Facilities was estimated to be 6.7 MW, thus reducing the carbon footprints of the Local Unit Facilities for the term of the agreement and, potentially, beyond.

Sussex intends to enter into a long-term (fifteen (15) year) PPA with the Successful Respondent to purchase solar electric power produced from installations located on some, or all, of the Local Unit Facilities identified above. Sussex does not intend to enter into a PPA unless the cost of the PPA is lower than the delivered cost of power from the local electric utility company.

In evaluating proposals, the Evaluation Team used a Proposal Evaluation Matrix (Matrix) to rank Respondents (see **Attachment 2**). The Matrix includes a three step process:

1. Phase I is a checklist to determine if the Respondent has included all required documentation and information in their proposal. Once all requirements have been met, a Respondent is deemed compliant and qualifies to move to the Phase II of the evaluation. As the RFP makes clear, if a Respondent does not meet the Phase I requirements, it does not receive further consideration.
2. Phase II is a weighted rating of the value provided by the proposal across several categories (financial benefits, technical design, experience, qualifications and financial strength) and evaluation factors within those categories.
3. Phase III is an interview of the Respondents and final evaluation.

The Respondent with the top ranking in Phase II and III, after being determined to be in compliance with the requirements of Phase I, will be recommended for award as the

Successful Respondent. The purpose of this Evaluation Report is to provide the Authority and Sussex with a full evaluation of qualified proposals, and to recommend which proposal provides the greatest value to the Authority, Sussex County and the Local Units.

### **3. Financial Structure for the Sussex County Renewable Energy Program**

The following is a brief synopsis of the financial structure as provided in the RFP.

The Authority will issue taxable bonds, on behalf of and guaranteed by Sussex County, to finance the solar systems to be designed and installed by a private solar developer for the benefit of the Local Units. This structure offers the opportunity for the Successful Respondent to maintain the tax ownership of the investment and will allow them to access the low cost of capital available in the public markets, through Sussex County's "Aa2" credit rating.

The benefits of the federal tax benefits (which Sussex cannot take as a public entity) and low cost county debt have been combined in Sussex's Solar Initiative.

This structure provides the Successful Respondent with the opportunity to take advantage of federal tax benefits (such as the 1603 Treasury Grant or the 30% renewable energy investment tax credit and five year accelerated depreciation). The Successful Respondent will also own and monetize SRECs realized through New Jersey's Renewable Portfolio Standard (RPS) Program. The value realized from the sale of SRECs in the competitive market is a major component supporting the financing of a solar project. The Successful Respondent will take on the responsibility and risk of managing SREC sales.

The Authority will enter into a series of license agreements with the local governments that desire renewable energy, to gain access to their roof and/or ground space and parking lots for the installation of solar panels. After the Authority issues the Sussex County guaranteed bonds, on behalf of Sussex, to finance the solar projects, the Authority will lease the solar panels to the competitively procured Successful Respondent, structuring that lease in such a way as to provide the Successful Respondent with an opportunity to become the tax owner of the solar projects.

The Successful Respondent, in turn, makes lease payments to the Authority to fully pay the debt service on the Authority bonds. Through a PPA, the Successful Respondent sells the electricity generated by the solar projects through the Authority back to the local government entities at a rate below the local utility tariff. The Successful Respondent must either provide some form of security to Sussex, or eliminate the need for it. As part of the RFP process, the Respondents had to include either a County Security Amount (CSA), or an alternate structure that would minimize or eliminate the CSA, to provide security that the lease payments will be made and that the Authority and Sussex have adequate financial protection.<sup>1</sup> The CSA calculates the difference between the lease payments and the revenue the Successful Respondent earns through SREC sales and PPA payments. This is to ensure that if the Successful Respondent

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<sup>1</sup> See page 9 of the RFP Section 1.3.

defaults in any year during the fifteen year contract, Sussex will have sufficient reserve in the form of the CSA, together with remaining SREC and PPA revenues, to pay the remaining debt service (assuming the continuation of PPA payments and conservatively estimated SREC revenue streams).

The RFP also permitted Respondents to propose alternate structures using their own sources of financing.

This financing structure, in effect, allows the Successful Respondent to design, construct, own and operate the solar systems, assume the burdens of the project (pay the debt service and provide security), and embed its costs and revenue streams into a fixed, indexed sales price for the solar energy generated.

The program allows Local Units to demonstrate environmental responsibility while realizing economic benefits. The PPA offers a reduction in current energy costs for a portion of the Local Units energy needs and long term stability of energy prices.

#### 4. RFP Preliminary Solar System Size

The original RFP, as released on September 8, 2011, contained the results of a preliminary feasibility assessment, as performed by Sussex's Energy Consultants. This assessment estimated the technical potential for Solar Systems at fourteen (14) Local Units and eighteen (18) Local Unit Facilities. Released on September 20, 2011 Addendum 1, provided changes to the original Local Unit Facility list and system sizes.

The tranche list as included in the original RFP was as follows:

LU #	Local Unit	Facility	Local Unit Facility Solar KW Size			TOTAL
			Roof Mounted	Parking Canopy	Ground Mounted	
1	Byram Township School District	Byram Lakes Elem./ Int. School	38	455	0	493
2	County of Sussex	SC Judicial Center - Parking Deck	0	468	0	468
		Wheatworth Facility	0	0	149	149
		Main Library	0	0	100	100
3	Frankford BOE	Frankford Township School	0	0	309	309
4	Franklin Borough BOE	Franklin Elementary School	123	104	0	227
5	Fredon Township	Civic Center	61	0	0	61
6	Green Township	Green Hills School	157	0	0	157
7	Hardyston Township	Hardyston Middle School	0	0	612	612
8	High Point Regional BOE	High Point Regional High School	453	0	0	453
9	Kittatinny Regional SD	Kittatinny Regional High School	187	173	0	360
10	Lafayette Township BOE	Lafayette Township School	49	0	206	255
11	Lenape Valley BOE	Lenape Valley High School	0	393	774	1,167
12	Newton BOE	Merriam Avenue School	105	242	0	347
		Newton High School	222	124	0	346
13	Sussex County Technical School	Main Building and Parking Lots	112	290	792	1,194
14	Town of Newton	DPW Complex	73	0	0	73
		Wastewater Treatment - Moran Street	0	0	109	109
<b>TOTAL</b>			<b>1,580</b>	<b>2,249</b>	<b>3,051</b>	<b>6,880</b>

The total system size across the above fourteen (14) local units was 6.880 MW. However, Addendum 1 released on September 20, 2011 decreased the system size from 6.880 MW to 6.681 MW. The following Local Unit Facilities were removed or amended as part of Addendum 1:

- Lafayette Township School (49 kW roof mounted system and 206 kW ground mounted system)
- Frankford Township School (309 kW ground mounted system)

The following represents the tranche list as updated through Addendum 1 to the RFP:

LU #	Local Unit	Facility	Local Unit Facility Solar KW Size			TOTAL
			Roof Mounted	Parking Canopy	Ground Mounted	
1	Byram Township School District	Byram Lakes Elem./ Int. School	38	456	0	494
2	County of Sussex	SC Judicial Center - Parking Deck	0	468	0	468
		Wheatsthworth Facility	0	0	149	149
		Main Library	0	0	100	100
3	Frankford BOE	Frankford Township School	0	0	362	362
4	Franklin Borough BOE	Franklin Elementary School	123	104	0	227
5	Fredon Township	Civic Center	61	0	0	61
6	Green Township	Green Hills School	157	0	0	157
7	Hardyston Township	Hardyston Middle School	0	0	612	612
8	High Point Regional BOE	High Point Regional High School	453	0	0	453
9	Kittatinny Regional SD	Kittatinny Regional High School	187	173	0	360
11	Lenape Valley BOE	Lenape Valley High School	0	393	775	1,168
12	Newton BOE	Merriam Avenue School	105	242	0	347
		Newton High School	223	124	0	347
13	Sussex County Technical School	Main Building and Parking Lots	112	290	792	1,194
14	Town of Newton	DPW Complex	73	0	0	73
		Wastewater Treatment - Moran Street	0	0	109	109
<b>TOTAL</b>			<b>1,532</b>	<b>2,250</b>	<b>2,899</b>	<b>6,681</b>
<b>Percentage</b>			<b>22.9%</b>	<b>33.7%</b>	<b>43.4%</b>	<b>100.0%</b>

Therefore, after the Addendum 1 changes, the total system size of the Sussex County program includes thirteen (13) Local Units and seventeen (17) Local Unit Facilities, with a solar system size of 6.681 MW.

## **5. PPA Pricing Design**

Sussex requested one PPA Price and index from the Respondents for the entire project. Respondents are required to insure that every Local Unit Facility is included in the response. Respondents were provided the option of submitting a proposal based upon public (County) financing, private financing or a combination in accordance with the RFP. Respondents were also required to provide two price adjustment factors to be used to adjust PPA rates upward or downward based on the final project development costs and the final interest rate on the debt service determined at the closing of project financing.

## **6. Respondent Response to RFP**

The Authority received a proposal in response to the RFP from the following one (1) Respondent:

1. SunLight General Capital and Power Partners MasTec (SunLight/MasTec)

The proposal was determined by counsel to Sussex to have met the Phase I requirements of the RFP and was further evaluated under the Phase II evaluation.

Key information from the conforming proposal submitted by SunLight/MasTec is summarized below.

Note: Shortly after the time for submission of proposals (i.e. 1:00 PM, Eastern time, October 13, 2011), a second Respondent arrived to submit a proposal. When informed that the submission period had closed and Sussex could not accept the second proposal, the second Respondent inquired as to the publicly announced PPA price submitted by SunLight/MasTec. When informed of the subject PPA price, the second Respondent indicated that their proposal was not competitive with the proposal of SunLight/MasTec, declined to leave their proposal and left.

SunLight/MasTec proposed a fifteen (15) year PPA term to install solar at all seventeen (17) Local Unit Facilities. The total size of the solar systems to be installed is 6.7 MW dc. The total project cost is \$33.6 million although SunLight/MasTec offered to reduce the bond size to \$26.0 million through a \$7.6 million capital investment in the project. The capital investment would be provided in conjunction with the issuance of the Authority bonds.

SunLight/MasTec's first year PPA price is \$0.099 per kWh. The annual escalation rate is 3%. SunLight/MasTec offered SREC sharing at 50% of the upside on SRECs above \$300 after Year 5 to maturity, a debt service reserve fund of \$1.5 million, and restoration security of \$375,000.

## 7. Proposal Evaluation Matrix

Once proposals are deemed compliant based on Phase I requirements, the proposals are subject to Phase II and III evaluation in accordance with the process defined in the RFP. The evaluation was conducted in accordance with an evaluation matrix, which is based on a total potential score of 100. The Matrix is broken into the following criteria and weighting factors:

Financial Benefits (50)	NPV of Benefits Option - Sharing of Benefits Non-Material Changes to Program Documents
Technical Design/Approach (10)	Output Guarantee (kWh) Design Strategy Project Team Approach O&M Plan and Approach
Respondent Experience (10)	Project Management Contractor Expertise Project Experience New Jersey Experience
Financial Strength (20)	Financial Capability/Strength of Provider Financial Risk
Oral Interview Evaluation (10)	Presentation Explanation Key Factors Understanding Financial Factors/SREC Market

## **8. Financial Benefits Evaluation**

The Sussex County Renewable Energy Program has been developed and implemented with no capital cost to the Local Units. In addition to this benefit, below is a summary of the financial benefits section of the Phase II evaluation. Proposals were evaluated and awarded points in the Matrix based on their responses to the following criteria: NPV of benefits; sharing of benefits; and, non-material changes to documents. Since there was only one compliant bid, Gabel Associates completed the Phase II evaluation based upon their experience with other County solar programs.

### **a. NPV of Benefits**

Local Units realize economic benefits from the installation of renewable energy projects through the savings in energy costs by purchasing electricity from the solar project rather than from the local electric utility.

In calculating energy cost savings, the Evaluation Team compares a forecast of the cost of the local utility tariff rate electricity delivered to the Local Unit Facility that is avoided by purchasing the solar generation from the renewable energy projects at the PPA rate proposed by the Respondent and multiplies the difference by the expected solar output. This yields the projected savings in energy costs realized through the installation of the renewable energy projects.

It is important to note that the energy cost savings are calculated at the guaranteed level of solar generation (90% of the expected level). Thus, the level of energy cost savings are stated on a conservative basis. Actual energy cost savings to the Local Unit Facilities are likely to exceed the levels indicated in this Evaluation Report.

The forecast of the avoided cost of the local utility tariff rate is the result of a detailed analysis of each utility tariff by each of its components over the fifteen year term of the PPA. This detailed analysis takes into account many factors, including the following:

1. Those components of the utility tariff rate that are not avoided as a result of the solar installation. For example, the customer charge and a portion of demand charges are not avoided through the purchase of solar energy generated by the solar systems. In addition, if the local unit facility is purchasing the commodity component of electric supply in the competitive market, it is assumed that the local utility will continue this practice in the development of their non-solar electricity costs.
2. The most recent energy market fundamentals (ex. New York Mercantile Exchange futures, Energy Information Administration long term escalation rates and environmental and RPS programs such as the SREC program) are incorporated to provide the best indication of future energy market costs.

3. The impact on future energy costs of national, state and regional environmental initiatives currently being considered (ex. carbon credits). The forecast includes the low Environmental Protection Agency estimate for carbon legislation originally slated to start in 2012 but pushed out to 2015.
4. The impact that general energy market escalation will have upon long-term energy prices.

To calculate the NPV benefits provided by each proposal, guaranteed production values were used. In addition, a 5.00% discount rate was assumed to calculate NPV of benefits; which was the assumed interest cost of the Authority bonds in the RFP. This also assumes an average retail electric escalation of 3.6%.

**Attachment 1** summarizes the PPA pricing (first year PPA price and annual escalation) proposed by the conforming Respondents.

Sussex's energy cost savings are also shown in **Attachment 1**. The savings calculations in **Attachment 1** are shown in both NPV and nominal dollars, however, the most appropriate way to compare the value of projects is on a NPV basis to recognize the time value of money and the opportunity cost of capital.

Over the fifteen (15) years of the PPA, the SunLight/MasTec proposal yields nominal benefits of \$5.6 million or net present value (NPV) benefits of \$4.0 million. These benefits have been calculated under the conservative assumption that bond interest rates will be at 5.0%. The RFP also required Respondents to submit an adjustment factor to the PPA Price to account for a change in the bond rate from the assumed level of 5.0% to the actual bond issuance rate. Based upon SunLight's adjustment factor and the current expectation for the bond issuance rate (4.6%), the SunLight/MasTec proposal would yields nominal benefits of \$5.9 million or net present value (NPV) benefits of \$4.3 million.

The Respondent with the highest NPV of benefits (SunLight/MasTec) earned the maximum number of points (40) in the Matrix for this criterion.

A sensitivity analysis of the NPV benefits was also conducted by evaluating changes in the average electric rate escalation and is provided in **Attachment 5**. The results show that the SunLight/MasTec proposal will provide significant levels of energy cost savings, even assuming no escalation in the average electric rate.

#### **a. Option – Sharing of Benefits**

The RFP asked the Respondents whether they would be willing to share additional benefits with Sussex. As an example of such benefits, the RFP listed (a) sharing of SREC market revenues, (b) sharing in any Federal or State tax benefits, (c) sharing in other financial / environmental market value, (d) end on contract provisions beyond

those identified in the RFP and (e) any other additional services that would provide value to Sussex.

As it relates to the sharing in SREC market revenues, the level of this potential benefit and the probability of it occurring are very difficult to determine since it depends on future SREC prices. SREC prices will depend on the level of SREC supply and the cost and efficiency of new solar projects at that time. Scoring was based on whether or not SREC sharing was proposed and how beneficial the sharing would be to Sussex.

### **SunLight/MasTec**

SunLight/MasTec offered the following additional benefits:

1. SREC sharing in the amount of 50% of the upside of SRECs above \$300 after Year 5.
2. Should other environmental attributes arise in the future from these projects, SunLight/MasTec proposed to share in the proceeds from the sale of such attributes.
3. Should a change in law result in significantly more favorable tax treatment, SunLight/MasTec would use best efforts to share with Sussex.
4. Finally, they would deliver an educational program about the science and benefits of solar systems, including solar energy science kits, teacher training about renewable energy, the ability to access operational data and personnel to promote the educational program.

SunLight/MasTec was awarded the maximum value of five (5) points for this sharing proposal.

### **b. Non-Material Changes to Program Documents**

SunLight/MasTec proposed no changes to the program documents and received the maximum number of points in this section of the Matrix.

## 9. Technical Design/Approach

The evaluation of the technical design/approach has several elements including output guarantees, construction schedules, project team approach, and operation and maintenance plans. Below is a technical review of the proposal. The Proposal was evaluated and awarded points in the Matrix based on the responses to the following criteria: output guarantee, design strategy, project team approach, and operations and maintenance (O&M) plan and strategy.

### a. Output Guarantee (MWH)

The Respondent provided the output guarantees required in the RFP and were therefore awarded maximum points for this requirement. Below is a description of the Respondent's design strategy including their total system size and output.

#### SunLight/MasTec

Total System Size	Total System Output
6.678 MW	7.998 MWh

SunLight/MasTec's proposed capacity was compared with the conceptual site plans provided in the RFP. SunLight/MasTec based their proposal 100% on the Birdsall conceptual layouts without exception. The total system size is within 3kw of the conceptual site plans due to round-off differences. The SunLight/MasTec proposal will provide a 4.5% increase in kWh, over Birdsall's calculated production numbers. All system sizes and productions are within 90% of consumption at the facilities with the exception of Lenape Valley that will generate 90.5%. This is acceptable.

### b. Design Strategy

Below is a description of the proposal design strategy. The Respondent was evaluated based on the major system components and design of the systems. The Respondent received the maximum points for this requirement.

#### SunLight/MasTec

SunLight/MasTec's PV design followed the Birdsall concept layout exactly. This includes roof mounted PV panels, ground mounted PV panels, and parking canopies. Below is a description of the Major system components proposed by Sunlight/MasTec. All information was not included in the proposal but was provided in the oral interview. They are using quality products in all areas. The evaluation team accepts SunLight/MasTec's design and system components.

System Component	Manufacturer
PV Modules	Trina/Canadian/ MX Solar
Inverters	SMA/PV Powered
Mounting Systems	Allied Building, Panel Claw, Grizzly Bear
Canopy System	Baja/Protek/ Solar Ventures
DAS	Noveda or Deck

### c. Project Team Approach

Below is a description of the proposer's project team approach. Based on their responses, they were awarded the maximum points for this requirement.

Sunlight/MasTec's project team approach seemed well organized and complete. They have an experienced team which has completed similar large solar projects. In addition, they have also been the successful proposer at Somerset County Improvement Authority Tranche 2, Mercer County Improvement Authority for Mercer County Community College and Morris County Improvement Authority Tranche 2. All of the design and engineering will be completed by MasTec. They are a national energy contractor with experience, and technical depth to complete this project successfully. They have a plan to schedule installations with minimal disruptions, will be staffing locally, and plan on bringing in experienced solar contractors. They plan on meeting with local units for communications sessions, to assess the best time to schedule installations, and will be open on canopy designs to meet the needs of local units.

### d. Operations and Maintenance Plan and Approach

Below is a description of the proposal's O&M plan and approach. Based on their response, the respondent was awarded the maximum points for this requirement.

The operations and maintenance will be monitored on a daily basis by an inverter level monitoring package. This will provide the latest data for system performance and availability. It will also provide any error messages from the inverters, regarding the system operation, mal-function, and inverter status or system fault. The data acquisition system (DAS) will be designed for remote web based operation and the data will be transferred to a third party server via the internet.

SunLight MasTec also provided a comprehensive Operation and Maintenance procedures document at the oral interview. They have an acceptable approach for O&M.

## **10. Respondent Experience**

The evaluation of respondent experience has several elements including: project management, contractor experience, project experience, and New Jersey experience. Below is a summary of the SunLight/MasTec proposal.

### **a. Project Management**

SunLight/MasTec demonstrated their ability to successfully manage the project through the involvement of well qualified/experienced management, supervisory, and key staff. The respondent was awarded the maximum points for this requirement.

### **b. Contractor Experience**

SunLight/MasTec has teamed with very experienced and technically qualified EPC's. The maximum number of points for this section in the evaluation matrix is awarded.

### **c. Project Experience**

SunLight/MasTec has demonstrated extensive project experience with respect to similar types of projects in New Jersey and other States. Maximum number of points awarded for this section.

### **d. New Jersey Experience**

The SunLight/MasTec team has won other County Renewable Energy Program awards to implement solar systems. They and their contractors are well experienced in New Jersey. SunLight/MasTec has established an office in NJ to implement solar systems and will establish a second office in Sussex County, to maintain and enhance their NJ experience. The maximum number of points have been awarded for evaluation in this section.

## **11. Financial Strength**

The evaluation of the financial strength of the proposals has two (2) elements including financial capability/strength of provider and financial risk to Sussex. Below is a summary of the Respondent's proposal.

### **a. Financial Capability/Strength of Respondent**

Below is a description of the financial capability and the financial strength of the Respondent. The Respondents received the maximum amount of points for this section.

#### **SunLight/MasTec**

SunLight has financed 3.7 MW of projects since 2009 and has an additional 12.1 MW scheduled over the next year. SunLight's current equity is over \$10 million and they recently launched the SunLight General Solar Fund Two in the amount of \$30 million. Power Partners MasTec, LLC is a wholly-owned subsidiary of MasTec, Inc. a minority business enterprise with over 9,000 employees and annual revenues of \$2.3 billion (2010). MasTec has over \$500 million in bonding capacity. MasTec will provide the construction bond for the project installation. SunLight/MasTec has provided sufficient financial information and an adequate finance package.

### **b. County Security/Deficiency Amount**

Financial risk to Sussex specifically concerns proposals where the Authority is committing funds to the solar project and Sussex is committing its guaranty on those funds. A second, but much less significant, financial risk involves whether the solar developer is willing to offer a restoration security.

SunLight/MasTec has proposed to use the public financing approach which imposes a financial risk upon Sussex, however, their proposal to self-finance a substantial portion of the overall cost of the renewable energy projects has significantly reduced that risk by effectively eliminating the need to fund a County Security Amount (CSA). The SunLight/MasTec proposal has been structured such that, using the conservative SREC assumptions provided by the Authority, a CSA of approximately \$1.0 million exists only during the first year. For the majority of the program (years 2 through 15) there is no CSA and, in fact, a cushion is provided in each of the subject years.

In addition, SunLight/MasTec has proposed a \$1.5 million reserve fund to provide additional financial protection to Sussex. This reserve fund exceeds the annual bond service requirements. Finally, the SunLight/MasTec proposal offered a performance security of \$375,000 which would be built up through setting aside \$75,000 a year for five years beginning in Year 11 (a positive for Sussex). The SunLight/MasTec proposal allows the bond size to be significantly reduced and limit its associated risk to Sussex with a very high degree of certainty. Since there is still some financing risk to the

Sussex, the SunLight/MasTec proposal has been awarded less than the maximum number of points in this rating category.

The SunLight/MasTec Proposal reduced the bond size from \$33.6 million to approximately \$26.0 million by proposing to self finance \$7.6 million. This approach reduces financial risk to Sussex by reducing the amount of the Authority bonds required to be issued to approximately \$26.0 million. The smaller size of the Authority bond reduces the Sussex exposure and provides strong SREC price risk protection as the balance of transaction revenues (i.e. SRECs and PPA payments) should this Respondent default, are estimated to be fully sufficient to make all debt service payments on the bonds in all but the first year. In addition, the SunLight/MasTec proposal includes a \$1.5 million reserve fund to provide additional financial protection to Sussex.

## 12. Phase III Evaluation

The RFP reserves the right for Sussex to conduct interviews with qualified Respondents. After reviewing all aspects of the submitted proposals, in particular the savings in energy costs preferred by Sussex and as required under applicable law (see the details in Section 8(a) and as reflected in the Evaluation Matrix through Phase II), the Evaluation Team decided to conduct an interview with SunLight/MasTec to explore all aspects of their proposal.

Prior to the interview, the Evaluation Team provided a list of issues (see **Attachment 6**) that they wanted SunLight/MasTec to address at the interview. SunLight/MasTec did an excellent job during their presentation and was able to explain all key issues as well as demonstrating an understanding of financial matters. Additionally, during the interview, the potential for the monetized sharing of SREC value in the early years (year 1 through 5) was discussed. The possible tax implications of such sharing will be reviewed. Pending the result of that review, SunLight/MasTec indicated that they would be open to the monetized sharing of SREC value in the early years. SunLight/MasTec received the maximum number of points for this criterion of the Evaluation Matrix.

### **13. Recommendation – Successful Respondent**

In recommending a Successful Respondent, the Evaluation Team uses the Proposal Evaluation Matrix to rank the Respondents.

The SunLight/MasTec team possesses high quality management, installation capabilities, and sound solar development experience. In addition, the SunLight/MasTec proposal provides Sussex benefits in the following key areas:

1. It provides substantial direct energy cost savings;
2. It provides the Local Units the potential for additional savings through the sharing of revenues from the sale of Solar Renewable Energy Certificates (SRECs) and other environmental benefits;
3. Due to SunLight/MasTec's proposed capital and in kind equity investment, which reduces the required size of the Authority bond issuance, it provides a strong level of protection for Sussex from financial risk;
4. It provided additional financial protection for Sussex in the form of a Debt Service Reserve Fund; and,
5. It includes a restoration security providing for additional Local Unit protection at the end of contract.

Over the fifteen (15) years of the PPA, the SunLight/MasTec proposal yields nominal benefits of \$5.6 million or net present value (NPV) benefits of \$4.0 million. These benefits have been calculated under the conservative assumption that bond interest rates will be at 5.0%. The RFP also required Respondents to submit an adjustment factor to the PPA Price to account for a change in the bond rate from the assumed level of 5.0% to the actual bond issuance rate. Based upon SunLight's adjustment factor and the current expectation for the bond issuance rate (4.6%), the SunLight/MasTec proposal would yields nominal benefits of \$5.9 million or net present value (NPV) benefits of \$4.3 million.

The Respondent provided a financial structure limiting the financial risk to Sussex. By offering to self-finance a substantial portion of the overall cost of the renewable energy projects in the amount of \$7.6 million, the SunLight/MasTec proposal allows the Authority, on behalf of Sussex, to significantly reduce its bond size. The Authority's \$26.0 million in bonds will be combined with SunLight/MasTec's \$7.6 million self-financing to finance the total project cost (\$33.6 million). The SunLight/MasTec proposal also protects Sussex (which will be providing its guaranty on the Authority bonds) from the potential risk of reductions in the price of SRECs. Moreover, by self-financing a portion of the total cost of the project, this protection has a very high degree of certainty. In addition, SunLight/MasTec proposed to post a \$1.5 million

reserve, funded with an equity contribution from the company, to provide additional financial protection to Sussex.

The Evaluation Team recognizes the value of the financial provisions of the SunLight/MasTec proposal in terms of the protection of Sussex, its guaranty and its bond rating. The preservation of this bond rating provides future economic benefits to Sussex and its citizens and businesses by allowing the Authority to borrow money at low interest rates due to its "Aa2" rating. Accordingly, a high premium is placed on its protection. The financial protections of the SunLight/MasTec proposal, including a significant reduction in the size of the Authority bond amounts, on behalf of Sussex, provides a strong and distinguishing level of protection which, in combination with other factors considered, lead to the recommended selection.

The overall Matrix scoring identified SunLight/MasTec as the Respondent providing the greatest value. Based on the above discussions, the evaluation indicates that SunLight/MasTec's proposal scored 94 out of a total of 100 points. The proposal scoring is shown in **Attachment 4**.

**Accordingly, the Evaluation Team recommends that the Authority select SunLight/MasTec as the Successful Respondent, subject to clarification of the SREC sharing issue discussed in Section 12, page 28.** This will result in estimated aggregate annual benefits of approximately \$280,000 in the first year, total savings of \$4.0 million (NPV) over the life of the PPA, and average rate reductions for electricity purchased through this program of 35% relative to utility delivered power. These benefits will be recalculated after the sale of bonds and may likely increase due to the conservative assumptions used in this analysis.

The evaluation of "price and non-price" factors allowed by law permits and supports this recommendation.

**Attachment 1**  
**Sussex County Program Solar Savings Summary**

**Sussex County Renewable Energy Program**

**Proposal Evaluation**  
**October 20, 2011**

Respondent	KW	PPA Rate	Escalation	Solar Savings	
				Nominal (\$)	NPV (\$)
Sunlight General Capital/Power Partners MasTec	6.678	\$0.099	3.0%	\$5,565,316	\$3,979,057

## Attachment 2

### Evaluation Matrix

#### Sussex County Renewable Energy Program Proposal Evaluation Matrix

**Phase I - RFP Requirements Checklist**  
**Phase II - Proposal Evaluation**  
**Phase III - Short List Evaluation**

**Attachment 2**  
**Page 1 of 2**

October 18, 2011

Requirement Checklist	SunLight/MasTec
PPA Price Quotation Sheet (Form A-1):	
- PPA Price & Escalation	Y
- Total Project Cost	Y
- Amortization Schedule	Y
- Structural/Interconnection Adjustment Factor	Y
- Additional Economic Benefits	Y
Appendix D Forms:	
- Respondent Information (Form A-2)	Y
- Proposal Security in lieu of Bond (Form A-4)	Y
- Proposal Bond (Form A- 5)	Y
- Ownership Disclosure Statement (Form A-6)	Y
- Non-Collusion Affidavit (Form A-7)	Y
- Consent to Investigation (Form A-8)	Y
- Relevant Experience	Y
- Respondent's Qualifications (Form A-9)	Y
- Receipt of Addenda (Form A-10)	Y
- Sealed Proposal Checklist (Form A-11)	Y
- County Deficiency Amount (Exhibit F)	Y
Form of PPA (Private Option Only)	Y
Business Registration Certificate	Y
<b>QUALIFY (Y/N)</b>	<b>Y</b>

**Sussex County Renewable Energy Program  
Proposal Evaluation Matrix**

**Attachment 2  
Page 2 of 2**

**Phase I - RFP Requirements Checklist**

**Phase II - Proposal Evaluation**

**Phase III - Short List Evaluation**

October 20, 2011

<b>Phase II Category</b>	<b>Evaluation Factor</b>	<b>WEIGHTING</b>	<b>SunLight/MasTec</b>
Financial Benefits (50)	NPV of Benefits	40	40
	Option - Sharing of Benefits	5	4
	Material Changes to Program Documents	5	5
Technical Design / Approach (10)	Output Guarantee (KWH)	3	3
	Design Strategy	3	3
	Project Team Approach	2	2
	O&M Plan and Approach	2	2
Proposer Experience (10)	Project Management	2	2
	Contractor Expertise	3	3
	Project Experience	3	3
	New Jersey Experience	2	2
Financial Strength (20)	Financial Capability / Strength of Provider	5	5
	Financial Risk to the County	15	10
<b>TOTAL PHASE II</b>		<b>90</b>	<b>84</b>

<b>Phase III Category</b>	<b>Evaluation Factor</b>	<b>WEIGHTING</b>	<b>SunLight/MasTec</b>
Short List Evaluation (10)	Presentation	2	2
	Explanation Key Factors	3	3
	Understanding Financial Factors / SREC Market	5	5
<b>TOTAL PHASE III</b>		<b>10</b>	<b>10</b>

<b>Overall Evaluation</b>		<b>WEIGHTING</b>	<b>SunLight/MasTec</b>
<b>TOTAL PHASE II and III</b>		<b>100</b>	<b>94</b>

# Attachment 3

## Savings by Local Unit Facility

Bidder	Local Unit Facility		Life of Project		Life of Project		Annual Savings		Nominal Savings on Solar Energy Purchased		Nominal Savings Total Electric Costs		
	Local Unit Facility	Nominal Savings	NPV Savings	Year 1	Year 15	Year 1	Year 15	Year 1	Year 15	Year 1	Year 15	Year 1	Year 15
	Byram Twp BOE- Byram Lakes Elementary School	\$443,936.15	\$326,109.32	\$22,496.69	\$38,227.21	28.20%	31.96%	15.92%	16.82%				
	Frankford Twp BOE- Frankford Twp School	\$344,058.20	\$252,250.31	\$17,099.34	\$30,033.51	26.33%	31.14%	18.69%	20.60%				
	Franklin Borough BOE- Franklin Elementary School	\$204,122.99	\$149,964.68	\$10,350.07	\$17,559.27	29.50%	33.14%	10.71%	11.22%				
	Fredon Township Civic Center	\$63,597.32	\$46,787.94	\$3,205.27	\$5,418.41	28.79%	33.13%	21.66%	23.24%				
	Green Twp SD BOE- Green Hills School	\$159,462.79	\$117,807.49	\$8,442.03	\$13,147.96	32.58%	34.10%	7.20%	7.02%				
	Hardyston SD BOE- Hardyston Middle School	\$619,969.72	\$455,985.72	\$31,718.19	\$52,897.39	27.75%	31.36%	17.29%	18.22%				
	High Point Reg SD BOE- High Point Regional HS	\$443,764.35	\$327,635.22	\$23,374.44	\$36,778.34	32.68%	34.41%	8.00%	7.86%				
	Kittatiny Reg SD BOE- Kittatiny Regional HS	\$367,529.54	\$271,620.18	\$19,511.36	\$30,223.64	33.03%	34.30%	5.79%	5.61%				
	Lenape Valley Reg BOE- Lenape Valley Regional HS	\$308,179.72	\$215,439.62	\$14,571.57	\$35,783.88	7.50%	13.07%	6.16%	10.00%				
	Newton Public Schools BOE- Merriam Ave School	\$288,872.85	\$211,563.43	\$14,264.24	\$25,420.50	25.82%	30.78%	20.44%	22.71%				
	Newton Public Schools BOE- Newton HS	\$304,081.28	\$223,268.46	\$15,339.68	\$26,263.55	27.69%	31.81%	15.92%	17.05%				
	Sussex County Judicial Center	\$498,706.59	\$367,063.50	\$25,611.06	\$42,477.65	34.16%	37.33%	11.91%	12.13%				
	Sussex County Main Library	\$113,542.99	\$83,445.21	\$5,742.53	\$9,773.74	30.34%	34.54%	22.49%	23.87%				
	Sussex County Technical School	\$1,062,236.16	\$777,386.72	\$51,834.31	\$93,898.12	25.89%	31.22%	20.76%	23.34%				
	Sussex County Wheatsthworth Facility	\$176,674.89	\$129,795.72	\$8,941.10	\$15,258.83	31.96%	36.02%	16.38%	17.21%				
	Town of Newton- Department of Public Works 1	\$4,098.26	\$39,376.82	\$2,049.40	\$4,849.31	17.00%	27.00%	13.00%	20.00%				
	Town of Newton- Wastewater Treatment Plant	\$112,482.70	\$82,851.12	\$5,819.52	\$9,489.32	32.56%	34.83%	5.39%	5.37%				
	<b>Total</b>	<b>\$5,565,316.50</b>	<b>\$4,078,351.45</b>	<b>\$280,370.80</b>	<b>\$487,500.62</b>	<b>28.00%</b>	<b>31.00%</b>	<b>15.00%</b>	<b>16.00%</b>				

## Attachment 4

### Load Served by Solar by Local Unit Facility

#### Sussex County Renewable Energy Program

#### Local Unit Facility - Solar Statistics October 20, 2011

Local Unit	Annual Electric	Sunlight General Capital/Power Partners MasTec		Electric Load Served by Solar Generation**	
	Metered Load* (KWH)	Expected	Guaranteed		
		kW	kWh	kWh	(%)
Byram Twp BOE- Byram Lakes Elementary School	906,080	493	568,442	511,598	56%
Fredon Township Civic Center	83,771	81	70,045	63,040	75%
Frankford Twp BOE- Frankford Twp School	579,200	382	456,677	411,009	71%
Franklin Borough BOE- Franklin Elementary School	669,667	227	261,757	235,581	35%
Green Twp SD BOE- Green Hills School	747,360	157	183,426	165,083	22%
Hardyston SD BOE- Hardyston Middle School	1,395,427	612	774,471	697,024	50%
High Point Reg SD BOE- High Point Regional HS	1,938,792	453	513,808	462,427	24%
Kittatinny Reg SD BOE- Kittatinny Regional HS	2,225,026	360	417,047	375,344	17%
Lenape Valley Reg BOE- Lenape Valley Regional HS	1,586,751	1167	1,436,317	1,292,686	81%
Newton Public Schools BOE- Merriam Ave School	447,360	347	393,380	354,043	79%
Newton Public Schools BOE- Newton HS	784,465	346	392,673	353,405	45%
Sussex County Technical School	1,626,600	1194	1,449,254	1,304,328	80%
Sussex County Judicial Center	1,381,120	468	534,829	481,346	35%
Sussex County Main Library	153,600	100	126,514	113,863	74%
Sussex County Wheatsworth Facility***	346,840	149	197,492	177,743	51%
Town of Newton- Departement of Public Works	183,778	73	84,024	75,621	41%
Town of Newton- Wastewater Treatment Plant	751,200	109	138,121	124,309	17%
<b>total</b>	<b>15,807,037</b>	<b>6,678.00</b>	<b>7,998,277</b>	<b>7,198,450</b>	<b>46%</b>

\* Metered load is based on total consumption at the site, including meters that solar energy will not be interconnected to.

\*\* Electric Load Served by Solar Generation is based on Guaranteed kwh production

\*\*\*Sussex County's Wheatsworth Facility's electric consumption is estimated

# Attachment 5

## Sensitivity Analysis

### Sussex County Renewable Energy Program

#### Estimated Savings Summary October 20, 2011

Discount Rate of 5%, Average Retail Electric Rate of 3.6%

Respondent	Solar Savings	
	Nominal (\$)	NPV (\$)
Sunlight General Capital & Power Partners MasTec	\$5,565,316	\$3,979,057

Discount Rate of 5%, Average Retail Electric Rate of 6%

Respondent	Solar Savings	
	Nominal (\$)	NPV (\$)
Sunlight General Capital & Power Partners MasTec	\$10,492,725	\$7,144,229

Discount Rate of 5%, Average Retail Electric Rate of 0%

Respondent	Solar Savings	
	Nominal (\$)	NPV (\$)
Sunlight General Capital & Power Partners MasTec	\$1,403,826	\$1,340,664

# **Attachment 6**

## **Interview Questions**

### **Sussex County Solar Program Interview Questions**

#### **SunLight General Capital / Power Partners MasTec October 19, 2011**

Sussex County would like to have a general discussion on the following items to better understand the basis for the Response to Request for Proposals:

1. Financial strength of Proposer.
2. Proposed solar project financing approach. Specific discussion regarding:
  - a. Equity contribution of \$7.6 million.
  - b. Debt Service Reserve Fund account of \$1.5 million.
  - c. CDA calculation:
    - i. O&M value.
3. Discuss plans to realize 1603 grant.
4. Proposer view of current and future SREC market.
5. Expected solar production - basis for expected output.
6. Guaranteed solar production.
  - a. How and when measured.
  - b. Financial implications of production shortfall.
7. Additional economic benefits:
  - a. SREC sharing:
    - i. 50% sharing above \$300 per SREC after year 5.
    - ii. How and when measured.
    - iii. Financial sharing mechanism
  - b. Refund bonds for savings
    - i. 50% sharing resulting from refunding
    - ii. Financial sharing mechanism
  - c. Other currently unidentified environmental benefits - Discuss potential
8. Fair market value purchase option tax implications and potential formula approach.
9. Proposer experience and qualifications.

10. "Technical Drawings and Specifications" section of the proposal, section 1.3.1 (Clarifications and Assumptions): Discuss items - 3 (module pricing timing), 7 (work schedule requirement) and 12 (Construction impediments and impact on PPA price).

The following are technical questions to be discussed that will help Sussex County better understand the basis for the Response to Request for Proposals:

1. I reviewed all of the proposed system productions estimates and compared them to the facilities consumption data. All system sizes and productions are within 90.5% of total consumption. Lenape Valley was the highest at 90.5%, all other were less than 90%.
2. Under Section 4 of the Sunlight Proposal (Technical Drawings and Specification) Power Partners MasTec Section 1.3.1 Item 13. Power Partners assumes the rooftop sites do not require any upgrades and are structurally sufficient to accept ballasted racking system.

Our Technical specification: Appendix C, Part 3 Section H. Roof installations: states contractor shall maintain roof integrity with installation.

3. Power Partners MasTec's List of contracts underway states "see attached". Is the attached the meant to be SunLight's list of projects underway or is there another list?
4. The proposal includes Business registrations forms for Pfister Energy Inc., Helios Solar Energy, LLC, and Lighton Elec, Inc. Please describe how these firms will be involved in this project?
5. Describe your installation strategy to minimize disruptions at schools and other facilities? What is the construction schedule you plan of follow for the project timeline?
6. **What specific manufacturer are you using for?**

System Component	Manufacturer
PV Modules	
Inverters	
Mounting Systems	
Canopy System	
DAS	

7. How will the operations be monitored after installation is completed? What is the response time for error messages? Problems with the system? Who do you plan on using? What is the maintenance plan you have for all site?

## CERTIFICATE OF THE AUTHORITY AS TO OFFICIAL STATEMENT

I, JOHN BONANNI, Chairman of The Morris County Improvement Authority (the “*Authority*”), a public body corporate and politic of the State of New Jersey (the “*State*”) organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A.* 40:37A-44 *et seq.*, the “*Act*”) and other applicable law, and in connection with the issuance by the Authority of its \$26,715,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated the date hereof (the “*Series 2011A Bonds*”) and the \$985,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)” dated the date hereof (the “*Series 2011B Note*” and together with the Series 2011A Bonds, the “*Series 2011 Bonds*”), **DO HEREBY CERTIFY** on behalf of the Authority as follows:

As of the date hereof, the description and information contained in the Official Statement dated December 7, 2011 issued in connection with the Series 2011 Bonds (the “*Official Statement*”), a true copy of which is attached hereto as **Exhibit A**, relating to the Authority, its operations, and the transactions contemplated hereby and otherwise by any of the Renewable Energy Program Documents, the Authority Bond Resolution (as such terms are defined in the Official Statement) and the Official Statement and other information therein pertaining to the Authority is true and correct in all material respects and does not contain any untrue or incorrect statement or misleading statement of a material fact and does not and will not omit to state a material fact which is necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Authority this  
7th day of December, 2011.

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By:  \_\_\_\_\_  
**John Bonanni**  
**Chairman**

**EXHIBIT A**

**[Attach copy of Official Statement]**

Interest on the Series 2011 Bonds (as defined herein) is included in gross income for federal income tax purposes under current law. In the opinion of Inglesino, Pearlman, Wyciskala & Taylor LLC, Bond Counsel to the Authority (as defined herein), under current law interest on the Series 2011 Bonds and any gain on the sale thereof are not includable as gross income under the New Jersey Gross Income Tax Act. See "TAX MATTERS" herein.

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY**  
(Morris County, New Jersey)

**\$26,715,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A**  
(Federally Taxable)  
and  
**\$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B**  
(Federally Taxable)

Dated: Date of Delivery

Due: As shown on the inside front cover

The \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" (the "Series 2011A Bonds") will be issued by The Morris County Improvement Authority (the "Authority") as fully registered bonds. One certificate for each stated maturity of the Series 2011A Bonds will be issued in the principal amount of each such maturity. The Series 2011A Bonds will be registered initially in the name of Cede & Co. ("Cede"), as nominee for The Depository Trust Company ("DTC"), an automated depository for securities and clearing house transactions, which will act as securities depository for the Series 2011A Bonds. Individual purchases of the Series 2011A Bonds will be made in book-entry form (without certificates) in denominations of \$5,000 or any integral multiple thereof. See "DESCRIPTION OF THE SERIES 2011 BONDS – Book-Entry Only System" herein. Capitalized terms not defined on this cover page shall have the meanings set forth in this Official Statement.

The principal of the Series 2011A Bonds is payable on June 15 in the years and in the amounts set forth on the inside front cover hereof. The Series 2011A Bonds shall be dated and bear interest from their date of delivery, payable on June 15 and December 15 of each year until final maturity (stated or otherwise) commencing on June 15, 2012, at the interest rates per annum set forth on the inside front cover page of this Official Statement. The principal or redemption price, if any, of the Series 2011A Bonds will be payable upon presentation and surrender thereof at the principal corporate trust office of U.S. Bank National Association, Morristown, New Jersey, as trustee, registrar and paying agent (the "Trustee," "Registrar," and "Paying Agent") for the Series 2011A Bonds. Interest on the Series 2011A Bonds is payable by check or draft of the Paying Agent mailed to the registered owners of the Series 2011A Bonds as of the Record Date, as described herein. Provided DTC or its nominee Cede is the registered owner of the Series 2011A Bonds, payment of the principal, redemption premium, if any, and interest on the Series 2011A Bonds will be made directly to DTC or its nominee, which is obligated to remit such principal, redemption premium and interest to DTC Participants. DTC Participants and Indirect Participants (each as defined herein) will be responsible for remitting such payments to the beneficial owners of the Series 2011A Bonds. See "DESCRIPTION OF THE SERIES 2011 BONDS – Book-Entry Only System".

The \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Series 2011 Bonds") will be issued by Authority as one fully registered note. One certificate for the stated maturity of the Series 2011B Note will be issued in the principal amount of such maturity. The Series 2011B Note will be registered initially in the name of Cede, as nominee of DTC, which will act as securities depository for the Series 2011B Note. Individual purchases of the Series 2011B Note will be made in book-entry form (without certificates) in denominations of \$5,000 or any integral multiple thereof. See "DESCRIPTION OF THE SERIES 2011 BONDS – Book-Entry Only System".

The Series 2011B Note shall be dated and bear interest from its date of delivery and will be payable as to principal and interest on their maturity date, January 15, 2013, at the interest rate per annum set forth on the inside front cover page of this Official Statement. The principal of the Series 2011B Note will be payable upon presentation and surrender thereof at the principal corporate trust office of the Paying Agent for the Series 2011B Note. Interest on the Series 2011B Note is payable by check or draft of the Paying Agent mailed to the registered owners of the Series 2011B Note as of the Record Date, as described herein. Provided DTC or its nominee Cede is the registered owner of the Series 2011B Note, payment of the principal and interest on the Series 2011B Note will be made directly to DTC or its nominee, which is obligated to remit such principal, redemption premium and interest to DTC Participants. DTC Participants and Indirect Participants will be responsible for remitting such payments to the beneficial owners of the Series 2011B Note. See "DESCRIPTION OF THE SERIES 2011 BONDS – Book-Entry Only System".

The Series 2011A Bonds are subject to optional redemption and mandatory sinking fund redemption prior to their stated maturities as more fully described herein. The Series 2011B Note is not subject to optional redemption prior to its stated maturity. See "DESCRIPTION OF THE SERIES 2011 BONDS - Optional Redemption" and "Mandatory Sinking Fund Redemption" herein.

The Series 2011 Bonds are being issued pursuant to the county improvement authorities law, as amended and supplemented (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), other applicable law, and a bond resolution of the Authority adopted on September 28, 2011, as amended and supplemented by certificates of an Authorized Officer of the Authority to be executed in connection with the issuance of each of the Series 2011A Bonds and the Series 2011B Note (collectively, the "Bond Resolution"). The Series 2011A Bonds are being issued to: (i) finance a portion of the costs of the Renewable Energy Projects for each of the Series 2011 Local Units, (ii) reimburse certain Renewable Energy Program development costs paid by the County of Sussex, New Jersey (the "County") and the Authority, (iii) pay certain fees and costs incurred by or for SunLight General Sussex Solar, LLC (the "Company") in connection with the Renewable Energy Program, and (iv) pay the various costs of issuing the Series 2011A Bonds and the Series 2011B Note. The Series 2011B Note is being issued to pay capitalized interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012. A portion of the costs of the Renewable Energy Projects will be provided from certain deferred equity contributed by the Company. See "THE RENEWABLE ENERGY PROGRAM" and "SOURCES AND USES OF SERIES 2011A BONDS AND SERIES 2011B NOTE PROCEEDS" herein.

The Series 2011 Bonds are special and limited obligations of the Authority, payable as to principal, redemption premium, if any, and interest solely from and secured by the Authority's pledge of the Trust Estate to the Trustee under the Bond Resolution. The Trust Estate includes, without limitation: (i) the Revenues, (ii) payments made by the County under the County Guaranty (as defined herein) and (iii) the Funds and Accounts (except (A) the Administrative Expense Account and the Costs of Issuance Account of the Administrative Fund and (B) the County Security Fund) established under the Bond Resolution and held by the Trustee. The payment of the principal of (including Sinking Fund Installments, if any) and interest on the Series 2011 Bonds (but not any redemption premium) shall be guaranteed by the County pursuant to the County Guaranty. The County has the right, power and obligation to cause the levy of *ad valorem* taxes upon all the taxable property within the County, without limitation as to rate or amount, if necessary, in order to meet its payment obligations under the County Guaranty. See "SECURITY FOR THE SERIES 2011 BONDS" herein.

THE SERIES 2011 BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE AUTHORITY. NEITHER THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE AUTHORITY BUT SOLELY TO THE EXTENT OF THE TRUST ESTATE, AND OTHER THAN THE COUNTY TO THE EXTENT OF THE COUNTY GUARANTY), IS OBLIGATED TO PAY THE PRINCIPAL OF, OR INTEREST ON, THE SERIES 2011 BONDS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE COUNTY TO THE EXTENT OF THE COUNTY GUARANTY) IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, OR INTEREST ON, THE SERIES 2011 BONDS. THE AUTHORITY HAS NO TAXING POWER.

This cover page and the inside cover page contain certain information for quick reference only. It is not a summary of the issue. Investors must read the entire Official Statement including all appendices to obtain information essential to making an informed investment decision.

The Series 2011 Bonds are offered for delivery when, as and if issued and delivered to the Underwriters, subject to the approving legal opinion of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Parsippany, New Jersey, Bond Counsel to the Authority. Certain legal matters will be passed upon for the Underwriters by their counsel, Gibbons P.C., Newark, New Jersey. Certain legal matters concerning the obligations of the County will be passed upon by Wilentz, Goldman & Spitzer, P.A., Woodbridge, New Jersey, County Bond Counsel. NW Financial Group, LLC, Jersey City, New Jersey, is acting as Financial Advisor to the Authority in connection with the issuance of the Series 2011 Bonds. It is expected that the Series 2011 Bonds will be available for delivery through DTC in New York, New York, and that settlement for the Series 2011 Bonds will occur at the offices of Bond Counsel in Parsippany, New Jersey, on or about December 14, 2011.



RBC Capital Markets®

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
(MORRIS COUNTY, NEW JERSEY)**

**\$26,715,000**

**County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A  
(Federally Taxable)**

**\$15,645,000 Serial Bonds**

<u>Maturity (June 15)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP*</u>
2013	\$ 865,000	1.138%	1.138%	618027BM7
2014	1,850,000	1.562	1.562	618027BN5
2015	1,850,000	2.136	2.136	618027BP0
2016	1,850,000	2.486	2.486	618027BQ8
2017	1,850,000	2.910	2.910	618027BR6
2018	1,845,000	3.210	3.210	618027BS4
2019	1,845,000	3.388	3.388	618027BT2
2020	1,845,000	3.588	3.588	618027BU9
2021	1,845,000	3.688	3.688	618027BV7

**\$11,070,000 4.938% Term Bond Due June 15, 2027 Priced at 100% - CUSIP\* - 618027BW5**

**\$985,000**

**County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B  
(Federally Taxable)**

<u>Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP*</u>
January 15, 2013	\$985,000	1.50%	1.50%	618027BX3

\* Registered trademark of American Bankers Association. CUSIP numbers are provided by Standard & Poor's, CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc. The CUSIP numbers listed above are being provided solely for the convenience of Bondholders only at the time of issuance of the Series 2011 Bonds and the Agency does not make any representation with respect to such numbers or undertake any responsibility for its accuracy now or at any time in the future. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Series 2011 Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of such maturity as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the Series 2011 Bonds.

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

**MEMBERS AND PROFESSIONALS**

**MEMBERS**

John Bonanni, Chairperson and Commissioner  
Christina Ramirez, Vice Chairperson and Commissioner  
Glenn Roe, C.C.F.O., Treasurer and Commissioner  
Ellen M. Sandman, Secretary and Commissioner  
Frank T. Pinto, Jr., Assistant Secretary and Commissioner

**AUTHORITY GENERAL COUNSEL**

Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Parsippany, New Jersey

**AUTHORITY BOND COUNSEL**

Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Parsippany, New Jersey

**AUTHORITY FINANCIAL ADVISOR**

NW Financial Group, LLC  
Jersey City, New Jersey



**COUNTY OF MORRIS, NEW JERSEY**  
**BOARD OF CHOSEN FREEHOLDERS**

<b>Freeholder</b>	<b>Title</b>	<b>Term Expires</b>
William J. Chegwiddden	Freeholder Director	December 31, 2012
Douglas R. Cabana	Deputy Freeholder Director	December 31, 2013
Gene F. Feyl	Freeholder	December 31, 2012
Ann F. Grossi	Freeholder	December 31, 2013
Thomas J. Mastrangelo	Freeholder	December 31, 2013
John J. Murphy	Freeholder	December 31, 2012
Margaret Nordstrom	Freeholder	December 31, 2011

**CLERK OF THE BOARD OF CHOSEN FREEHOLDERS**

Diane M. Ketchum

**COUNTY ADMINISTRATOR**

John Bonanni

**COUNTY TREASURER**

Glenn Roe, C.C.F.O.

**COUNTY COUNSEL**

Daniel W. O'Mullan, Esq.

**ADVISORS TO THE COUNTY**

Drinker Biddle & Reath LLP  
Bond Counsel

Nisivoccia & Company, LLP  
Auditors

Acacia Financial Group, Inc.  
Financial Advisor

**COUNTY OF SUSSEX, NEW JERSEY**

**BOARD OF CHOSEN FREEHOLDERS**

<b>Freeholder</b>	<b>Title</b>	<b>Term Expires</b>
Richard A. Zeoli	Freeholder Director	December 31, 2012
Susan M. Zellman	Deputy Freeholder Director	December 31, 2012
Phillip R. Crabb	Freeholder	December 31, 2011
Parker Space	Freeholder	December 31, 2013
Richard A. Vohden	Freeholder	December 31, 2013

**CLERK OF THE BOARD OF CHOSEN FREEHOLDERS**

Elaine A. Morgan

**COUNTY ADMINISTRATOR**

John H. Eskilson

**COUNTY TREASURER**

Bernard A. Re

**COUNTY COUNSEL**

Dennis R. McConnell, Esq.

**ADVISORS TO THE COUNTY**

Wilentz, Goldman & Spitzer, P.A.  
Bond Counsel

Nisivoccia & Company LLP  
Auditors

No broker, dealer, salesperson or other person has been authorized by the Authority, the Company or the Underwriters to give any information or to make any representations, other than those contained in this Official Statement, in connection with the offering of the Series 2011 Bonds made hereby and, if given or made, such information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Series 2011 Bonds in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. Capitalized terms not defined on this page shall have the meanings set forth in this Official Statement and in the Bond Resolution.

The information which is set forth herein has been provided by the Authority, the Company and by other sources which are believed to be reliable by the Authority, the Company and the Underwriters, but such information provided by such other sources is not guaranteed as to accuracy or completeness by the Authority, the Company or the Underwriters, and is not intended to be and is not to be construed as a representation by the Authority, the Company or the Underwriters. Certain financial, economic and demographic information concerning the County is contained in Appendices A and B to this Official Statement. Such information has been furnished by the County. Certain general information concerning the Company is contained in Appendix C to this Official Statement. Such information has been furnished by the Company. The Authority, the Underwriters and their respective counsel have not confirmed the accuracy or completeness of information relating to the Company, and the Authority and the Underwriters and their respective counsel disclaim any responsibility for the accuracy or completeness thereof. The Authority's "Solar Proposal Evaluation Report" contained in Appendix G was prepared by the Sussex County Evaluation Team in connection with the evaluation of the proposals received for the Renewable Energy Projects.

The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale hereunder shall under any circumstances create any implication that there has been no change in the affairs of the Authority, the County or the Company, since the date hereof or any earlier date as of which any information contained herein is given. This Official Statement is submitted in connection with the sale of the Series 2011 Bonds referred to herein and may not be used, in whole or in part, for any other purpose.

IN CONNECTION WITH THE OFFERING, THE UNDERWRITERS MAY OVER ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2011 BONDS OFFERED HEREBY AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME WITHOUT PRIOR NOTICE.

The Underwriters have provided the following sentence for inclusion in this Official Statement. The Underwriters have reviewed the information in this Official Statement pursuant to their responsibilities to investors under the Federal securities laws, but the Underwriters do not guarantee the accuracy or completeness of such information.

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## OFFICIAL STATEMENT

of

### THE MORRIS COUNTY IMPROVEMENT AUTHORITY (MORRIS, NEW JERSEY)

relating to its

**\$26,715,000**

**County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011A (Federally Taxable)**

and

**\$985,000**

**County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note,  
Series 2011B (Federally Taxable)**

### INTRODUCTION

This Official Statement, which includes the cover page, the inside cover page, and the Appendices attached hereto, sets forth certain information concerning the offering by The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*"), of its \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A" (the "*Series 2011A Bonds*") and its \$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*"). The Series 2011 Bonds are to be issued pursuant to the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, as amended and supplemented (the "*Act*"), other applicable law, and that certain bond resolution of the Authority entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted on September 28, 2011, as amended and supplemented by a Certificate of an Authorized Officer of the Authority to be executed in connection with the issuance of each of the Series 2011A Bonds and the Series 2011B Note (collectively, the "*Bond Resolution*").

The Series 2011 Bonds are special and limited obligations of the Authority, payable as to principal, redemption premium, if any, and interest solely from and secured by the Authority's pledge of the Trust Estate to the Trustee (as such terms are hereinafter defined) under the Bond Resolution. The Trust Estate includes, without limitation, (i) the Revenues (as defined in the Bond Resolution), (ii) payments made by the County of Sussex, New Jersey (the "*County*") under the County Guaranty (as hereinafter defined) and (iii) the Funds and Accounts (except the (A) Administrative Expense Account and the Costs of Issuance Account of the Administrative Fund and (B) County Security Fund) defined and established under the Bond Resolution and

held by the Trustee. For a full description of the Trust Estate, see "SECURITY FOR THE SERIES 2011 BONDS – General" herein.

The Revenues include, without limitation, the Basic Lease Payments (as hereinafter defined) to be made by SunLight General Sussex Solar, LLC (the "*Company*" or the "*Lessee*"), a limited liability company created and in good standing under the laws of the State of New Jersey, under that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Lease Agreement*"), by and between the Authority, as lessor, and the Company, as lessee. In conjunction with the Company Lease Agreement, the Authority will enter into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" with the Company, dated as of December 1, 2011, for the right and obligation to purchase electricity from the Company (the "*Power Purchase Agreement*"), which right and obligation the Authority shall assign to each of the Series 2011 Local Units (as hereinafter defined) under the Local Unit License Agreements (as hereinafter defined). Pursuant to the terms of the Company Lease Agreement, the Company receives certain credits against its obligation to pay the Basic Lease Payments. In particular, the Company receives a credit for, and therefore the Revenues also include, the Power Purchase Price Payments (as hereinafter defined) made by the Series 2011 Local Units to the Trustee for the purchase of electricity under the respective "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)", each to be dated as of December 1, 2011, (the "*Local Unit License Agreements*"), by and between each of the respective Series 2011 Local Units, as licensor, and the Authority, as licensee. For a description of the Revenues and the Basic Lease Payments, see "SECURITY FOR THE SERIES 2011 BONDS – Flow of Payments" herein.

The payment of the principal of (including Sinking Fund Installments, if any, as defined in the Bond Resolution) and interest on the Series 2011 Bonds (but not any redemption premium) shall be fully, unconditionally, and irrevocably guaranteed by the County pursuant to the County Guaranty under the Act and applicable law. The County has the right, power and obligation to cause the levy of *ad valorem* taxes upon all the taxable property within the County, without limitation as to rate or amount, if necessary, in order to meet its payment obligations under the County Guaranty. The County Guaranty shall remain in effect until the Series 2011 Bonds have been paid in full.

**THE SERIES 2011 BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE AUTHORITY. NEITHER THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE AUTHORITY BUT SOLELY TO THE EXTENT OF THE TRUST ESTATE, AND OTHER THAN THE COUNTY TO THE EXTENT OF THE COUNTY GUARANTY), IS OBLIGATED TO PAY THE PRINCIPAL OF, OR INTEREST ON, THE SERIES 2011 BONDS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE COUNTY TO THE EXTENT OF THE COUNTY GUARANTY) IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, OR INTEREST ON, THE SERIES 2011 BONDS. THE AUTHORITY HAS NO TAXING POWER.**

See "SECURITY FOR THE SERIES 2011 BONDS" herein for a more complete description of the pledge of the Trust Estate, including certain provisions of the Bond Resolution, the Company Lease Agreement, the Power Purchase Agreement, the Local Unit License Agreements and the County Guaranty. See also "APPENDIX D – Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein.

The Series 2011 Local Units are local governments located in, and including, the County, participating in the County's Renewable Energy Program being implemented through the Authority (the "*Renewable Energy Program*"). The Series 2011A Bonds are being issued to finance, together with the Series 2011B Note and certain deferred equity provided by the Company, the Renewable Energy Projects (as hereinafter defined) for each of the Series 2011 Local Units. For a more complete description of the Renewable Energy Program, see "THE RENEWABLE ENERGY PROGRAM" herein. The balance of the proceeds of the Series 2011A Bonds are being used to (i) reimburse certain Renewable Energy Program development costs paid by the Authority, (ii) pay certain fees and costs incurred by or for the Company in connection with the Renewable Energy Program, and (iii) pay the various costs of issuing the Series 2011 Bonds. The proceeds of the Series 2011B Note are being used to pay capitalized interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012. See "SOURCES AND USES OF SERIES 2011A BONDS AND SERIES 2011B NOTE PROCEEDS" herein.

In accordance with the Local Authorities Fiscal Control Law, constituting Chapter 313 of the Pamphlet Laws of 1983 of the State, as amended and supplemented (the "*Local Authorities Fiscal Control Law*"), the Local Finance Board, Division of Local Government Services of the Department of Community Affairs of the State (the "*Local Finance Board*"), has reviewed and held a public hearing regarding the issuance of the Series 2011 Bonds and the adoption and execution of the County Guaranty. By resolution adopted August 18, 2011, the Local Finance Board made favorable findings and recommendations with respect to the Series 2011 Bonds and the County Guaranty in accordance with the Local Authorities Fiscal Control Law. The Authority adopted a resolution on October 19, 2011 acknowledging the Authority members' review of the Local Finance Board's findings, and each member of the Authority present at such meeting executed a group affidavit dated as of October 19, 2011 to such effect. U.S. Bank National Association, Morristown, New Jersey (the "*Trustee*") has been appointed to serve as trustee, paying agent and registrar for the Series 2011 Bonds.

This Official Statement contains brief descriptions of the Bond Resolution, the County Guaranty, the Company Lease Agreement, the Local Unit License Agreements, and the Power Purchase Agreement (collectively, the "*Renewable Energy Program Documents*"), the Series 2011 Bonds, the Authority, the Company, and the County. See also "APPENDIX D – Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein. Copies of the Renewable Energy Program Documents are on file in the office of the Authority in Morristown, New Jersey, and reference is made to such documents for the provisions relating to, among other things, the terms of and security for the Series 2011 Bonds, the custody and application of the proceeds of the Series 2011 Bonds, the rights and remedies of the holders of the Series 2011 Bonds and the rights, duties and obligations of the Authority, the Series 2011 Local Units, the Company, the County and the Trustee. A brief description of the County and its financial statements are contained in

Appendices A and B hereto. A brief description of the Company is contained in Appendix C hereto and further description of the Renewable Energy Program and the Sussex County Evaluation Team's report evaluating the Company's proposal is contained in Appendix G hereto. Capitalized words and terms which are used herein which are not ordinarily capitalized and which are not otherwise defined herein shall have the meanings which are assigned to such words and terms in the Bond Resolution. See "APPENDIX D - Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein. The summaries of and references to all documents, statutes, reports and other instruments which are referred to herein do not purport to be complete, comprehensive or definitive, and each such summary and reference is qualified in its entirety by reference to such document, statute, report or instrument.

### **THE RENEWABLE ENERGY PROGRAM**

At the direction and with the support of the County, the Authority structured, developed and is in the process of implementing the Renewable Energy Program. The Renewable Energy Program provides for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications or other work required or convenient for the installation of such systems (collectively, the "*Renewable Energy Projects*") for and on behalf of the County and local governmental units within the County, including without limitation, municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*"). The Renewable Energy Projects procured under the Renewable Energy Program are to be installed on, in, affixed or adjacent to and/or for any Local Unit-controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*").

In connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, it may be necessary, desirable or convenient to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems (collectively, the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project, the "*Projects*"). The Authority anticipates no Capital Improvement Projects in connection with projects financed by the Series 2011 Bonds on behalf of the Series 2011 Local Units.

The primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits (including their contribution toward the State 2011 Energy Master Plan goal of achieving thirty percent (30%) renewable energy sources by 2020), and to reduce the energy-related operating costs of the Local Units for their Local Unit Facilities, all without obligating the Local Units to pay for the debt service on the Authority bonds (in this pool, the Series 2011 Bonds) issued to finance the costs of such Projects.

In order to implement the Renewable Energy Program, the Authority will apply a portion of the proceeds of the Series 2011A Bonds (together with all of the proceeds of the Series 2011B Note to pay capitalized interest on the Series 2011A Bonds) to finance the respective Renewable Energy Projects on the respective Local Unit Facilities, all as set forth in Exhibit B (i.e., photovoltaic panel and electrical system upgrades), and Exhibit A (the roofs, ground and parking lots for twenty-seven (27) Renewable Energy Projects located at twenty (20) public facilities) to the License and Access Agreement (a form of which is attached hereto in Appendix D) for each of the following thirteen (13) participating Local Units, or other qualifying Local Units if necessary (the "Series 2011 Local Units"):

- (i) Fredon Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittatinny Regional School District and Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "*County Series 2011 Local Units*");

Pursuant to the Local Unit License Agreement with each Series 2011 Local Unit, the Authority and/or its assignees have the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement.

Under the competitive contracting provisions of the Local Public Contracts Law constituting, Chapter 198 of the Pamphlet Laws of 1971 of the State, as amended and supplemented (the "*Local Public Contracts Law*"), the Authority has procured the services of the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the Local Unit Facilities of (i) the Municipal Series 2011 Local Units and (ii) the County Series 2011 Local Units. The Company has secured rights to access these Local Unit Facilities from the rights and obligations set forth in the Local Unit License Agreements of such respective Series 2011 Local Units, all of which rights and obligations have been assigned from the Authority to the Company pursuant to the terms of the Company Lease Agreement. The funding for such Renewable Energy Projects shall be provided (i) to the Company in the amount of 70% of each requisition on a requisition basis from a portion of the proceeds of the Series 2011 Bonds and (ii) by the Company in the amount of 30% of each requisition through its in-kind equity contribution discussed herein.

Under the competitive contracting provisions of the Public Schools Contracts Law constituting Chapter 114 of the Pamphlet Laws of 1977 of the State, as amended and supplemented (the "*Public Schools Contracts Law*" and together with the Local Public Contracts Law, the "Contract Law"), the Authority has procured the services of the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the Local Unit Facilities of the Board of Education Series 2011 Local Units. The Company has secured rights to access these Local Unit Facilities from the rights and obligations set forth in the Local Unit License Agreements of such respective Series 2011 Local Units, all of which rights and obligations have been assigned from the Authority to the Company pursuant to the terms of the Company Lease Agreement. The funding for such Renewable Energy Projects shall be provided to the Company (i) to the Company in the amount of 70% of each requisition on a requisition basis from a portion of the proceeds of the Series 2011 Bonds and (ii) by the Company in the amount of 30% of each requisition through its in-kind equity contribution discussed herein.

In accordance with the terms of the Power Purchase Agreement, the Company shall sell to the Authority, for a term of fifteen (15) years, unless extended in accordance with then applicable law, the renewable energy generated from the Renewable Energy Projects for the Series 2011 Local Units for a fixed price of 0.0935 cents per kilowatt hour, as escalated annually by 3% in accordance with the terms thereof (the "*Power Purchase Price*"), which Authority right and obligation to purchase and pay (the "*Power Purchase Price Payments*") for such renewable energy shall be assigned severally, not jointly, to the Series 2011 Local Units as part of the Local Unit License Agreements. The Power Purchase Price fixed under the Power Purchase Agreement shall be based, in part, upon the Authority's assignment in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all of the Authority's rights to the Solar Renewable Energy Certificates (the "*SRECs*") generated by the Renewable Energy Projects for the Series 2011 Local Units.

The structure of the Renewable Energy Program, summarized above, is intended to provide the Series 2011 Local Units with a Power Purchase Price below their existing and anticipated cost of electricity for the term of their Local Unit License Agreements. According to the report prepared by the County's consulting team dated October 24, 2011, on file with the Authority and attached hereto as Appendix G, in particular Attachment 3 thereto, the average annual nominal savings on solar energy purchased by the Series 2011 Local Units participating in the Renewable Energy Program equals or exceeds 28%.

### **THE AUTHORITY**

The Authority was created in accordance with the provisions of the Act and by ordinance of the County Board of Chosen Freeholders duly adopted on April 10, 2002.

The Authority is a public body corporate and politic, constituting a political subdivision of the State, and was established as an instrumentality exercising public and essential governmental functions to provide for the public convenience, benefit and welfare and shall have perpetual succession. Under the terms of the Act, the Authority has the power, among others, to (i) acquire, construct, renovate and install any "Public Facility" as such term is defined in the Act, including the Projects for the Series 2011 Local Units, (ii) issue its bonds, notes or other

obligations to finance or refinance the costs of such Public Facilities, including the Series 2011 Bonds, and (iii) purchase bonds, bond anticipation notes or other notes or obligations of the Authority out of any funds available therefor.

The Authority is governed by a five member Board of Commissioners appointed by the County Board of Chosen Freeholders. The current Commissioners and officers are set forth below:

<b>MEMBER</b>	<b>TITLE</b>	<b>EXPIRATION OF CURRENT TERM</b>
John Bonanni	Chairperson and Commissioner	February 1, 2012
Christina Ramirez	Vice Chairperson and Commissioner	February 1, 2013
Glenn Roe	Treasurer and Commissioner	February 1, 2016
Ellen M. Sandman	Secretary and Commissioner	February 1, 2014
Frank T. Pinto, Jr.	Assistant Secretary and Commissioner	February 1, 2015

The officers of the Authority are appointed by the members of the Authority. The Chairperson, Treasurer, and Assistant Secretary of the Authority are also employees of the County. Inglesino, Pearlman, Wyciskala & Taylor, LLC, Parsipanny, New Jersey, is General Counsel and Bond Counsel to the Authority. The Financial Advisor to the Authority for the Series 2011 Bonds is NW Financial Group, LLC. In addition the joint venture team of (a) Gabel Associates, of Highland Park, New Jersey, and (b) Birdsall Services Group, of Cranford, New Jersey, provided a full range of energy consulting and engineering services to the Authority.

#### **THE COMPANY**

SunLight General Sussex Solar, LLC (the “*Company*”) is a limited liability company created and in good standing under the laws of the State of New Jersey. It is a wholly-owned subsidiary of SunLight General Sussex Holdings, LLC (“*Holdco*”), which is the Company’s only member. Holdco is organized to take advantage of the investment tax credit, the related Treasury Department Grant Program and accelerated depreciation Federal tax benefits under the Internal Revenue Code, which the County is unable to use. Holdco has no responsibility for the Company’s obligations although Holdco has pledged its membership interest in and to the Company to the Authority under a pledge agreement in order to secure the Company’s obligation to make the \$1,500,000 million cash equity contribution to the County Security Fund from the 1603 grant to be obtained from the Renewable Energy Projects of the Series 2011 Bonds, or from other funds available to the Company. The Company has no responsibility for Holdco’s obligations. Further, the Company has no obligations other than those associated with the Projects for the Series 2011 Local Units as set forth in the Renewable Energy Program Documents.

The Company is a special purpose entity, formed for the purpose of contracting with the Authority to design and build the Projects for the Series 2011 Local Units, operate and maintain the Projects for the Series 2011 Local Units, lease certain properties and obtain certain rights related to the Renewable Energy Projects from the Authority pursuant to a lease arrangement as set forth in the Company Lease Agreement, and sell the renewable energy from the Renewable

Energy Projects through the Authority to the Series 2011 Local Units, all as contemplated by the Renewable Energy Program Documents. See "THE RENEWABLE ENERGY PROGRAM" herein. The Company's principal assets and liabilities are the rights and obligations under the Renewable Energy Program Documents with the Authority. Pursuant to the Company Lease Agreement, the Company is obligated to deposit certain security with the Trustee, for the benefit of the County, to secure the Company's performance and payment under the Company Lease Agreement. While on deposit with the Trustee, this security is held solely for the benefit of the County and is neither included in the Trust Estate nor otherwise pledged to the Holders.

The Company is managed by SunLight General Capital Management, LLC. Pursuant to the Company Lease Agreement, the Company is obligated to pledge certain revenues to the Authority to secure the Company's performance and payment under the Company Lease Agreement. The Company is contracting with Power Partners MasTec, LLC to design and construct the Projects for the Series 2011 Local Units. The Company will operate the Renewable Energy Projects for the Series 2011 Local Units, either directly or through one or more operations and maintenance contractors.

Summary descriptions of Holdco and Power Partners MasTec, LLC are included as Appendix C to this Official Statement. Further information regarding the Company and the Renewable Energy Projects is included in Appendix G to this Official Statement, which information has been prepared by the Sussex County Evaluation Team in connection with the evaluation of proposals received for the Renewable Energy Projects.

## **DESCRIPTION OF THE SERIES 2011 BONDS**

### **General**

The Series 2011A Bonds shall be dated and bear interest from their date of delivery, payable on June 15 and December 15 of each year until final maturity (stated or otherwise) commencing on June 15, 2012, at the interest rates per annum set forth on the inside front cover page of this Official Statement. The Series 2011A Bonds are scheduled to mature on June 15 in the years also set forth on the inside front cover page of this Official Statement.

The Series 2011B Note shall be dated and bear interest from its date of delivery and will be payable as to principal and interest on their maturity date, January 15, 2013, at the interest rate per annum set forth on the inside front cover page of this Official Statement.

The Series 2011 Bonds will be issued as fully registered book-entry bonds/notes, and registered in the name of Cede & Co. ("Cede"), as nominee for The Depository Trust Company, New York, New York ("DTC"), which will act as securities depository for the Series 2011 Bonds under its book-entry only system (the "DTC Book-Entry Only System"). An individual purchaser may purchase a Series 2011 Bond in book-entry form (without certificates) in denominations of \$5,000, or any integral multiple thereof. Provided DTC, or its nominee Cede, is the registered owner of the Series 2011 Bonds, the principal, redemption premium, if any, of, and interest on, the Series 2011 Bonds will be paid to DTC or Cede, as its nominee. See "DESCRIPTION OF THE SERIES 2011 BONDS – Book-Entry Only System" herein. In the event the Series 2011 Bonds are no longer subject to the DTC Book-Entry Only System, the

principal of and redemption premium, if any, on the Series 2011 Bonds will be payable upon surrender of the respective Series 2011 Bonds at a designated corporate trust office of the Paying Agent. Interest on the Series 2011A Bonds will then be paid by check or bank draft mailed by the Paying Agent to the registered owner thereof as of the June 1 and December 1 preceding any interest payment date at their addresses on file with the Bond Registrar. Interest on the Series 2011B Note will then be paid by check or bank draft mailed by the Paying Agent to the registered owner thereof as of January 1, 2013 at their addresses on file with the Bond Registrar.

### **Optional Redemption**

The Series 2011A Bonds maturing on or before June 15, 2021 shall not be subject to redemption prior to their respective maturity dates. The Series 2011A Bonds maturing on and after June 15, 2022 shall be subject to optional redemption by the Authority prior to their respective maturity dates, on or after June 15, 2021, upon notice as herein described, either in whole or in part at any time in any order of maturity as the Authority shall determine and within a single maturity by lot, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

Pursuant to the terms of the County Guaranty Agreement, under certain circumstances, the County may direct the Authority to utilize this otherwise discretionary optional redemption feature set forth above. To the extent the Company causes an Event of Default, as defined under the Company Lease Agreement, to occur and such Event of Default requires the County to make a payment of the principal of and interest on the Series 2011A Bonds under the County Guaranty, so long as the County is not in default under the County Guaranty Agreement, the County has the right to cause the Authority to refund all or a portion of the Series 2011A Bonds. To the extent the County were to exercise this right prior to the first optional call date of June 15, 2021, the County would be required to cause the Authority to defease the Series 2011A Bonds in accordance with Article XII of the Bond Resolution, in which case the Series 2011A Bonds would not be called for redemption until such first optional call date of June 15, 2021. See "TAX MATTERS - Defeasance of the Series 2011A Bonds" herein for a discussion of the tax implications in the event of a defeasance of the Series 2011A Bonds.

The Series 2011B Note shall not be subject to optional redemption prior to its maturity date.

### **Mandatory Sinking Fund Redemption**

The Series 2011A Bonds maturing on June 15, 2027 are subject to mandatory redemption prior to their stated maturities, through selection by the Trustee and upon the giving of notice as provided by the Bond Resolution, by payment of the following "Sinking Fund Installments" on June 15 of each year set forth in the table below, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

<u>Date</u>	<u>Principal Amount</u>
June 15, 2022	\$1,845,000
June 15, 2023	1,845,000
June 15, 2024	1,845,000
June 15, 2025	1,845,000
June 15, 2026	1,845,000
June 15, 2027 <sup>†</sup>	1,845,000

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<sup>†</sup> Final Maturity.

### **No Extraordinary Optional Redemption**

The Series 2011 Bonds shall not be subject to extraordinary optional redemption in whole or in part, prior to their respective maturity dates.

### **Notice of Redemption**

When the Series 2011A Bonds have been selected for redemption pursuant to any provision of the Bond Resolution, the Trustee shall give written notice of the redemption of such Series 2011A Bonds in the name of the Authority, which notice shall set forth: (i) the date fixed for redemption, (ii) the Redemption Price to be paid, (iii) the designated office of the Paying Agent at which redemption will occur, (iv) the CUSIP numbers on the Series 2011A Bonds to be redeemed, (v) if less than all of such Series 2011A Bonds shall be called for redemption, the distinctive numbers and letters, if any, of such Series 2011A Bonds to be redeemed, (vi) in the case of Series 2011A Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed, and (vii) except with respect to a mandatory sinking fund redemption, that such redemption is conditioned upon there being on deposit with the Trustee on the date designated for redemption moneys sufficient for the payment of the Redemption Price and the accrued interest to the redemption date. Such notice shall further state that on the redemption date there shall become due and payable the Redemption Price of all Series 2011A Bonds to be redeemed, together with interest accrued thereon to the redemption date, and that, from and after such date, interest thereon shall cease to accrue. If any Series 2011A Bond is to be redeemed in part only, the notice of redemption that relates to such Series 2011A Bond shall state also that on or after the redemption date, upon surrender of such Series 2011A Bond, the Holder thereof shall be entitled to a new Series 2011A Bond or Series 2011A Bonds, bearing interest at the same rate and in aggregate principal amount equal to the unredeemed portion of such Series 2011A Bond.

The notice required to be given by the Trustee shall be sent by first class mail to the registered Holders of the Series 2011A Bonds to be redeemed, at their addresses as they appear on the Bond registration books of the Authority, not less than thirty (30) nor more than forty-five (45) days prior to the redemption date. The failure to give notice of the redemption of any Series 2011A Bond or portion thereof to the registered Holder of such Series 2011A Bonds shall not affect the validity of the proceedings for the redemption of any Series 2011A Bonds for which notice of redemption has been given in accordance with the provisions of the Bond Resolution.

## **Additional Bonds**

The Authority does not presently anticipate issuing any Series of Additional Bonds under the Bond Resolution, as the Company is anticipated to fund any cost overruns of the Renewable Energy Projects for the Series 2011 Local Units under the Company Lease Agreement. The initial financing pool for the Renewal Energy Program has been, and any additional tranches of bonds for further Authority Renewable Energy Programs shall be, issued under separate Authority bond resolutions.

Thereafter, upon the Authority's adoption of a Supplemental Resolution and the amendment of the Company Lease Agreement to adjust and conform the Basic Lease Payment amounts to the principal of and interest on any Series of Additional Bonds, and further, upon compliance with the laws and procedures applicable for issuance of any series of Authority bonds, then one or more Series of Additional Bonds of the Authority may be authorized to be issued pursuant to and in accordance with the terms of the Act either to (i) refund any Bonds (including Additional Bonds) of the Authority, or (ii) raise funds for any Completion Project. After the issuance of the Series 2011 Bonds, and after the authentication and delivery by the Trustee upon original issuance of any Series of Additional Bonds (collectively, the "*Bonds*"), all Additional Bonds shall for all purposes of the Bond Resolution be deemed to constitute Bonds, shall be entitled to the pledge of the Trust Estate provided by the Bond Resolution, and shall have equal rank with the Outstanding Series 2011 Bonds and any Series of Outstanding Additional Bonds previously authenticated and delivered, if any, and such Additional Bonds shall be entitled to the security and benefit of such pledge and of the provisions of the Bond Resolution.

## **Book-Entry Only System**

The following description of DTC, and the procedures and record keeping with respect to beneficial ownership interests in the Series 2011 Bonds, payment of principal, interest and other payments on the Series 2011 Bonds to Direct Participants, Indirect Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interests in such Series 2011 Bonds and other related transactions by and between DTC, the Direct Participants, the Indirect Participants and the Beneficial Owners is based solely on information provided by DTC, and the Authority, the Company and the Underwriters assume no responsibility therefor. Accordingly, no representations can be made concerning these matters and neither the Direct Participants, the Indirect Participants nor the Beneficial Owners should rely on the following information with respect to such matters but should instead confirm the same with DTC or the Direct Participants or the Indirect Participants, as the case may be. Information concerning DTC and the Book-Entry Only System has been obtained from DTC and is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation of, the Authority, the Company and the Underwriters.

DTC will act as the initial securities depository for the Series 2011 Bonds. The Series 2011 Bonds will be issued as fully-registered securities registered in the name of Cede (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered bond certificate will be issued for each maturity of the Series 2011 Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC's participants ("*Direct Participants*") deposit with DTC. DTC also facilitates the post-trade settlement among computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("*DTCC*"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("*Indirect Participants*"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission.

Purchases of Series 2011 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2011 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2011 Bond ("*Beneficial Owner*") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2011 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Series 2011 Bonds, except in the event that use of the book-entry system for the Series 2011 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2011 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede, or such other name as may be requested by an authorized representative of DTC. The deposit of the Series 2011 Bonds with DTC and their registration in the name of Cede or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2011 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2011 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to

Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Series 2011 Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede (nor any other DTC nominee) will consent or vote with respect to any matter related to the Series 2011 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede's consenting or voting rights to those Direct Participants to whose accounts the Series 2011 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, redemption premium, if any, and interest payments on the Series 2011 Bonds will be made to Cede, or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from the Authority or the Paying Agent on payable dates in accordance with their respective holdings shown on DTC's records. Payments by Direct Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Authority or its Paying Agent, if any, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, redemption premium, if any, and interest to Cede (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Authority or its Paying Agent, if any, disbursement of such payments to Direct Participants shall be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of the Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Series 2011 Bonds at any time by giving reasonable notice to the Authority or its Paying Agent, if any. Under such circumstances, in the event that a successor securities depository is not obtained, physical Series 2011 Bonds are required to be printed and delivered. The Authority may decide to discontinue use of the system of book-entry only transfers through DTC (or a successor securities depository). In such event, physical Series 2011 Bonds will be printed and delivered to the Beneficial Owners.

The information in this section concerning DTC and DTC's book-entry system has been obtained from DTC, but the Authority, the Company and the Underwriters take no responsibility for the accuracy thereof.

THE AUTHORITY OR THE TRUSTEE WILL HAVE NO RESPONSIBILITY OR OBLIGATION, EITHER SINGULARLY OR JOINTLY, TO DIRECT PARTICIPANTS, TO INDIRECT PARTICIPANTS, OR TO ANY BENEFICIAL OWNER WITH RESPECT TO (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, CEDE, ANY DIRECT PARTICIPANT, OR ANY INDIRECT PARTICIPANT; (II) ANY NOTICE THAT IS

PERMITTED OR REQUIRED TO BE GIVEN TO THE OWNERS OF THE SERIES 2011 BONDS UNDER THE BOND RESOLUTION; (III) THE SELECTION BY DTC OR ANY DIRECT PARTICIPANT OF ANY PERSON TO RECEIVE PAYMENT IN THE EVENT OF A PARTIAL REDEMPTION OF THE SERIES 2011 BONDS; (IV) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OR REDEMPTION PREMIUM, IF ANY, OR INTEREST DUE WITH RESPECT TO THE SERIES 2011 BONDS; (V) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF SERIES 2011 BONDS; OR (VI) ANY OTHER MATTER.

### **Discontinuance of Book-Entry Only System**

In the event that the Book-Entry Only System is discontinued, the following provisions would apply. The Trustee shall keep the registration books for the Series 2011 Bonds at its principal corporate trust office. Subject to the further conditions contained in the Bond Resolution, the Series 2011 Bonds may be transferred or exchanged for one or more Series 2011 Bonds in different authorized denominations upon surrender thereof at the principal corporate trust office of the Trustee by the registered owners or their duly authorized attorneys. Upon surrender of any Series 2011 Bonds to be transferred or exchanged, the Trustee shall record the transfer or exchange in its registration books, and shall authenticate and deliver new Series 2011 Bonds appropriately registered and in appropriate authorized denominations. During the fifteen (15) days immediately preceding the date of mailing of any notice of redemption or any time following the mailing of any notice of redemption, the Trustee shall not be required to effect or register any transfer or exchange of any Series 2011 Bond which has been selected for such redemption. The Authority and the Trustee shall be entitled to treat the registered owners of the Series 2011 Bonds, as their names appear in the registration books as of the appropriate dates, as the owners of such Series 2011 Bonds for all purposes under the Bond Resolution. No transfer or exchange made other than as described above and in the Bond Resolution shall be valid or effective for any purposes under the Bond Resolution.

## **SECURITY FOR THE SERIES 2011 BONDS**

### **General**

The Series 2011 Bonds are special and limited obligations of the Authority. As the sole security for the payment of the principal and redemption premium, if any, of and the interest on the Bonds, including the Series 2011 Bonds, and as security for the observance and performance of any other duty, covenant, obligation or agreement of the Authority under the Bond Resolution, the Authority has pledged the Trust Estate to the Trustee pursuant to the Bond Resolution. Such pledge was valid and binding from the time when the pledge was made, and the Trust Estate was immediately subject to the lien of such pledge without any physical delivery thereof or further act and regardless of whether held by the Trustee, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof.

The provisions of the Bonds and the Bond Resolution are deemed to be and do constitute contracts by and among the Authority, the Trustee and the registered owners, from time to time,

of the Bonds, and the security interest which is granted and the pledge which is made in the Bond Resolution and the duties, covenants and agreements which are set forth in the Bond Resolution to be performed on behalf of the Authority and the Trustee shall be for the equal and ratable benefit, protection and security of the registered owners of any and all Bonds, including the Series 2011 Bonds and the Series 2011B Note, all of which, regardless of the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction as to lien or otherwise of any of the Bonds over any other thereof, except as expressly provided in or pursuant to the terms of the Bond Resolution. For a description of the Authority's authority to issue Additional Bonds, see "DESCRIPTION OF THE SERIES 2011 BONDS – Additional Bonds" herein. For a form of the Bond Resolution, see "APPENDIX D – Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein.

The Trust Estate includes all right, title and interest of the Authority in, to and under (i) the Revenues, (ii) all moneys payable by the County under the County Guaranty, (iii) all moneys and securities held in any Funds and Accounts established under the Bond Resolution (except for moneys or securities held in (A) the Administrative Expense Account and the Costs of Issuance Account of the Administrative Fund and (B) the County Security Fund), (iv) the Company Lease Agreement, but only to the extent necessary to enforce the payment of Revenues owed by the Company thereunder, which excludes all of the Authority's obligations thereunder, the Reserved Rights, and the Authority's rights to the Projects for the Series 2011 Local Units and (v) any other amounts received from any other source by or on behalf of the Authority and pledged by the Authority as security for the payment of the Bonds, including the Series 2011 Bonds, all of which as shall have been pledged by the Authority to the Trustee pursuant to Section 1.04 of the Bond Resolution as security for the payment of the principal, redemption premium, if any, and interest on the Bonds, including the Series 2011 Bonds.

The Revenues include (i) all Basic Lease Payments made by the Company under the Company Lease Agreement, together with all Power Purchase Price Payments made by the Series 2011 Local Units to the Trustee, (ii) those Additional Lease Payments related to the Purchase Option Price or the Mandatory Purchase Price made by the Company under the Company Lease Agreement, (iii) any investment income which is derived from the investment of any funds which are held by the Trustee pursuant to the terms of the Bond Resolution and which are deposited in the Funds and Accounts established under the Bond Resolution; provided, however, that Revenues shall not include the investment income on moneys or securities held in (A) the Administrative Expense Account and the Costs of Issuance Account of the Administrative Fund and (B) the County Security Fund, and (iv) any other amounts received from any other source by or on behalf of the Authority, the Company, the County, the Series 2011 Local Units, the Trustee or the Paying Agent, whereby such amounts are directed or permitted to be applied to the payment of the principal of, redemption premium, if any, and interest on the Bonds, including the Series 2011 Bonds.

**THE SERIES 2011 BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE AUTHORITY. NEITHER THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE AUTHORITY BUT SOLELY TO THE EXTENT OF THE TRUST ESTATE, AND OTHER THAN THE COUNTY TO THE EXTENT OF THE COUNTY GUARANTY), IS OBLIGATED TO PAY THE PRINCIPAL OF, OR**

**INTEREST ON, THE SERIES 2011 BONDS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE COUNTY TO THE EXTENT OF THE COUNTY GUARANTY) IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, OR INTEREST ON, THE SERIES 2011 BONDS. THE AUTHORITY HAS NO TAXING POWER.**

### **Company Lease Agreement**

The following is a summary of certain provisions of the Company Lease Agreement. The summary does not purport to be complete and comprehensive and reference is made to a form of the Company Lease Agreement which is included in Appendix D hereto. All capitalized terms used in this subsection and not otherwise defined shall have the meaning ascribed to such terms in the Company Lease Agreement.

Under the Company Lease Agreement, the Company is obligated to commence construction of the first Project by no later than June 15, 2012, to proceed diligently and to complete the Projects on or before December 15, 2012, unless such date is extended due to Force Majeure or an Event of Default under a Local Unit License by a Series 2011 Local Unit. Prior to the issuance of the Series 2011 Bonds, the Company shall enter into an engineering, procurement and construction contract with Power Partners MasTec, LLC for the design, engineering and construction of the Projects financed by the Series 2011 Bonds.

Under the terms of the Company Lease Agreement, the Company is required to make Basic Lease Payments to the Trustee. A substantial portion of the revenue to the Company used to make the Basic Lease Payments consists of the sale of SRECs generated by the Renewable Energy Projects for the Series 2011 Local Units. The Principal Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of principal due and payable on the Bonds, including the Series 2011A Bonds, on the immediately succeeding Principal Payment Date, with respect to regularly scheduled Principal Payment Dates, all as set forth on Exhibit A-3 Regular to the Company Lease Agreement, (except for the January 15, 2013 payment, where the Basic Lease Payment Date and the Principal Payment Date for the Series 2011B Note shall be the same date). The Interest Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of interest due and payable on the Bonds, including the Series 2011A Bonds, on the immediately succeeding Interest Payment Date, with respect to regularly scheduled Interest Payment Dates (except for the January 15, 2013 payment, where the Basic Lease Payment Date and the Interest Payment Date for the Series 2011B Note shall be the same date), all as set forth on Exhibit A-3 Regular to the Company Lease Agreement.

The Basic Lease Payment Dates have been established as any date set forth in Exhibit A-3 Regular to the Company Lease Agreement and designated as a Basic Lease Payment Date, which for the Interest Portion and Principal Portion of any Basic Lease Payment, shall be a day five (5) months prior (i.e., each January 15 and July 15, commencing January 15, 2013) to any regularly scheduled Interest Payment Date for the Series 2011A Bonds (i.e., each June 15 and December 15, commencing June 15, 2012); provided that the interest payable on the Series 2011A Bonds on June 15, 2012 and December 15, 2012 shall be paid from the proceeds of the Series 2011B Note deposited in the Capitalized Interest Account of the Debt Service Fund, and

any regularly scheduled Principal Payment Date for the Series 2011A Bonds (i.e., each June 15), respectively, or if either of such days is not a Business Day, the first Business Day prior to such date.

Except for the credits to be received by the Company, including the Power Purchase Price Payments made by the Series 2011 Local Units to the Trustee under their respective Local Unit License Agreements, the obligation of the Company, as Lessee, to make Lease Payments (including Basic Lease Payments) in full and when due under the Company Lease Agreement shall be absolute and unconditional in all events, including without limitation any circumstance regarding the Projects, regardless of whether any such event shall be foreseen or otherwise, and regardless of whether any such event shall occur by accident or otherwise. See "SECURITY FOR THE SERIES 2011 BONDS – Flow of Payments" herein. The Company, as Lessee, has further acknowledged and irrevocably covenanted under the Company Lease Agreement that the terms of the Company Lease Agreement create a valid and binding obligation of the Company, as Lessee, to make Lease Payments (including Basic Lease Payments) from any available source under all circumstances.

As the initial County Security Fund Requirement is \$1,500,000, the Company is obligated to deposit certain security with the Trustee no later than the earlier of (i) ninety (90) days after completion of the Series 2011 Local Unit projects or (ii) March 15, 2013, for the sole benefit of the County to secure the Company's performance and payment under the Company Lease Agreement. After the first year of operations of the Company (assuming receipt of Section 1603 Grant proceeds by the Company and elimination of the County Deficiency Amount (as defined in the Company RFP)), the funds in the County Security Fund shall be moved to the Debt Service Fund (utilized as a credit to debt service on the Series 2011 Bonds) and be invested in Investment Securities held by the Trustee or another financial institution deemed acceptable by the County. In the event that the Series 2011 Bonds are not issued by December 22, 2011 (the date stated by the Company as the time required for the Company to obtain the Section 1603 Grant), the \$1,500,000 held in the County Security Fund will be released to the Company immediately after the first year of Company operations provided that the County Deficiency Amount has been eliminated. All moneys are required to be on deposit with the Trustee, in the County Security Fund, and such security is held solely for the benefit of the County and is neither included in the Trust Estate nor otherwise pledged to the Holders.

To the extent Additional Bonds are authorized under the Bond Resolution, one of the conditions precedent to issuance of any such Series of Additional Bonds is an amendment and supplement to the Company Lease Agreement, including, as applicable, the Basic Lease Payment schedule, to reflect any increased principal of and interest due on any Series of Additional Bonds issued to fund all or a portion of a Completion Project (which the Authority is under no obligation to issue, as the Company is obligated to fund any Renewable Energy Project cost overruns).

Basic Lease Payments made by the Company and received by the Trustee shall be deposited in the Revenue Account of the Revenue Fund. After any such funds have been on deposit for one hundred twenty-three (123) consecutive days in the Revenue Account within the Revenue Fund, and have not been withdrawn or recaptured by or on behalf of the Company or its

other creditors, the Trustee shall transfer such funds to the Aged Account within the Revenue Fund.

On or prior to each Interest Payment Date, the Trustee shall transfer from moneys on deposit in the Aged Account within the Revenue Fund to the Interest Account in the Debt Service Fund the amount that, together with the amounts, if any, already on deposit in the Interest Account and the amounts, if any, on deposit in the Capitalized Interest Account and designated for use on such Interest Payment Date pursuant to the Bond Resolution or a Supplemental Resolution, is equal in the aggregate to the interest due and payable on the Outstanding Bonds, including the Outstanding Series 2011 Bonds, on such Interest Payment Date.

On or prior to each Principal Payment Date, the Trustee shall transfer from moneys on deposit in the Aged Account within the Revenue Fund to the Principal Account in the Debt Service Fund the amount that, together with the amounts, if any, already on deposit in the Principal Account, is equal in the aggregate to the principal, Sinking Fund Installment or Redemption Price due and payable on the Outstanding Bonds, including the Outstanding Series 2011 Bonds, on such Principal Payment Date.

The Underwriters and Authority make no representation of the Company's ability to make payments under the *Company Lease Agreement*. For further information about the Company see "THE COMPANY" and "APPENDIX C - Certain Information Concerning the Company".

#### **Local Unit License Agreements**

The following is a summary of certain provisions of the Local Unit License Agreements. The summary does not purport to be complete and comprehensive and reference is made to a form of the Local Unit License Agreements which is included in Appendix D hereto. All capitalized terms used in this subsection and not otherwise defined shall have the meaning ascribed to such terms in the Local Unit License Agreements.

Under the Renewable Energy Program, and specifically, the respective Local Unit License Agreements, the Series 2011 Local Units are required to pay the Power Purchase Price, through Power Purchase Price Payments made by or on behalf of such Series 2011 Local Units, directly to the Trustee. The Power Purchase Price has been established by the Company and the Authority pursuant to the Power Purchase Agreement for a minimum term of fifteen (15) years, subject to the terms of the Power Purchase Agreement.

The Authority's right and obligation to purchase the renewable energy produced from the Renewable Energy Project located on the Local Unit Facility of each such respective Series 2011 Local Unit (i) commences severally but not jointly once the installation of the Projects, for such Series 2011 Local Unit, on their Local Unit Facility, has been completed by or on behalf of the Company in accordance with mutually agreed upon Plans and Specifications therefor, and (ii) has been assigned to each respective Series 2011 Local Unit under their Local Unit License Agreements. Pursuant to the *Company Lease Agreement*, the Company has until December 15, 2012 (as such date may be extended for Force Majeure or a Series 2011 Local Unit Event of

Default) to complete the installation of all Projects for the Series 2011 Local Units. Accordingly there are different Power Purchase Price Payment commencement dates (the “*Commencement Dates*”) for the various Series 2011 Local Units, but all shall be obligated to commence such payments no later than January 15 2013, assuming the Company completes its Project installation obligations on a timely basis (as such date may be extended for Force Majeure or a Series 2011 Local Unit Event of Default).

Under the Local Unit License Agreements, the Series 2011 Local Units are obligated to pay the Power Purchase Price, through Power Purchase Price Payments made to the Trustee, in full and on time, without regard to set-off or any other rights they might assert against the Authority or the Trustee for any reason, which rights against the Company, the Authority or the Trustee are waived by the Series 2011 Local Units. Upon receipt, the Trustee shall deposit the Power Purchase Price Payments in the Revenue Account of the Revenue Fund, and the Company shall receive a credit to its Basic Lease Payments owed under the Company Lease Agreement. After any such funds deposited in the Revenue Account within the Revenue Fund have been on deposit for one hundred twenty-three (123) consecutive days in the Revenue Account within the Revenue Fund, and have not been withdrawn or recaptured by or on behalf of the Company or its other creditors, the Trustee shall transfer such funds to the Aged Account within the Revenue Fund, where such funds are available to pay the principal of, redemption premium, if any, and interest on the Outstanding Bonds, including the Series 2011 Bonds. See “SECURITY FOR THE SERIES 2011 BONDS – Company Lease Agreement” above.

The following chart sets forth the expected percentage of revenue from the following sources for the Company’s payment of the Basic Lease Payments to the Trustee, which shall be applied by the Trustee to the payment of debt service on the Series 2011 Bonds: (1) the annual revenue from Power Purchase Price Payments scheduled to be made by the respective Series 2011 Local Units under the Power Purchase Agreement and their Local Unit License Agreements, assuming (i) no interruptions in service, (ii) the Company is able to produce and sell the full guaranteed amount of renewable energy as set forth in the Power Purchase Agreement, and (iii) the Series 2011 Local Units make Power Purchase Price Payments for, all of such amount of electricity; (2) Company revenue from the tax benefits related to the Projects for the Series 2011 Local Units; and (3) Company revenue from the sale of SRECs and other revenue available to the Company.

		<b>Source of Basic Lease Payments</b>
<b>Power Purchase Price Payments:</b>		24.6%
Fredon Township	0.2%	
Town of Newton	0.7	
Byram Township School District	1.7	
Frankford Board of Education	1.4	
Franklin Borough Board of Education	0.8	
Green Township Board of Education	0.6	
Hardyston Township Board of Education	2.4	
High Point Regional School District	1.6	
Kittatinny Regional School District	1.3	
Newton Board of Education	2.4	
County of Sussex	2.6	
Sussex County Community College	3.7	
Sussex County Technical School	5.4	
<b>Company Revenue:</b>		75.4%
Tax Credits/Benefits	27.2%	
SREC Revenue	48.2	
<b>Total:</b>		<hr/> 100%

Source: Gabel Associates.

The Company has the right under the Renewable Energy Program Documents to change the sizing of the Renewable Energy Projects, within the parameters of the Company Proposal (as such term is defined in the Bond Resolution), for and with the consent of each affected Series 2011 Local Unit (and the Authority's consent) as the Company proceeds with the development of each Renewable Energy Project. Any such changes may alter the allocation of the relative Power Purchase Price Payment set forth in the above chart.

To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, the Local Unit License Agreements shall continue in full force and effect, with the following changes, which shall not require amendment or supplement thereof or thereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement. In such event, instead of paying the Power Purchase Price to the Trustee for the credit and benefit of the Company under the Company Lease Agreement (such amount being defined as the "Gross Substitute Power Purchase Price", payable for the benefit of the Authority as the owner of the Renewable Energy Projects), the Series 2011 Local Units shall pay the Trustee a lower adjusted Power Purchase Price (defined as the "Net Substitute Power Purchase Price" thereunder), reflecting the payment of certain administrative fees and the costs of operating and maintaining their Renewable Energy Projects for the balance of the original fifteen (15) year or extended term. No assurance can be given that

either the Gross Substitute Power Purchase Price or the aggregate Net Substitute Power Purchase Price will be sufficient to make scheduled payments of debt service on the Series 2011 Bonds.

### County Guaranty

The following is a summary of certain provisions of the County Guaranty. The summary does not purport to be complete and comprehensive and reference is made to a form of the County Guaranty which is included in Appendix D hereto. All capitalized terms used in this subsection and not otherwise defined shall have the meaning ascribed to such terms in the County Guaranty.

The payment of the principal of (including Sinking Fund Installments, if any) and interest on the Series 2011 Bonds (but not any redemption premium), and the interest thereon, shall be fully, unconditionally, and irrevocably guaranteed by the County pursuant to the County Guaranty. The County has the right, power and obligation to cause the levy of *ad valorem* taxes upon all the taxable property within the County, without limitation as to rate or amount, if necessary, in order to meet its payment obligations under the County Guaranty.

On August 17, 2011, the County finally adopted that certain guaranty ordinance (the "*County Guaranty Ordinance*") entitled "GUARANTY ORDINANCE OF THE COUNTY OF SUSSEX, NEW JERSEY, SECURING THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000.00". Pursuant to the terms of that County Guaranty Ordinance and Section 37 of the Act (N.J.S.A. 40:37A-80), the County and the Authority are scheduled to enter into that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011) to be dated as of December 1, 2011, (the "*County Guaranty Agreement*"). In accordance with the terms of the County Guaranty Ordinance, the County Guaranty Agreement, and the Bond Resolution, an authorized officer of the County shall execute a guaranty certificate (the "*County Guaranty Certificate*", and together with the County Guaranty Ordinance and the County Guaranty Agreement, the "*County Guaranty*") within each Series 2011 Bond for each maturity thereof. The County Guaranty Certificate shall state that the County is fully, irrevocably and unconditionally liable for the payment, when due (whether at stated maturity or earlier on any Sinking Fund Installment due date or date of redemption or acceleration), of the principal of (including mandatory Sinking Fund Installments, if any) and the interest on the Series 2011 Bond, and, if necessary, the County shall levy *ad valorem* taxes upon all the taxable property within the County, without limitation as to rate or amount, in order to make such payments. The County Guaranty shall be for the benefit of both Series of Series 2011 Bonds.

If, thirty (30) days prior to any Interest Payment Date or Principal Payment Date, the amounts that are on deposit in the Aged Account of the Revenue Fund established under the Bond Resolution are insufficient to provide for the payment of the principal of (including Sinking Fund Installments, if any, but not redemption premiums) and/or interest on the Series 2011 Bonds that are due and payable on such payment dates, the Trustee shall notify the County's Chief Financial Officer on such day of the amounts that are necessary to provide for the payment of the principal of and/or interest on the Series 2011 Bonds (the "*Deficiency*").

Pursuant to the Act, payments of redemption premium are not permitted to be made by the County under the County Guaranty. The County shall be obligated to make payment of the Deficiency to the Trustee no later than one (1) business day prior to the Interest Payment Date or the Principal Payment Date, as applicable, of the Series 2011 Bonds. Notwithstanding any other provision of the County Guaranty Agreement, failure by the Trustee to give the County notice as provided herein shall not relieve the County of its obligations to make payment under the terms of the County Guaranty.

When notice has been provided, as described above, the County shall take all necessary actions to make payment of the Deficiency to the Trustee as provided above. Such actions shall include the adoption of an emergency appropriation or an emergency temporary appropriation and the funding of such appropriation in accordance with the requirements of the Local Budget Law (N.J.S.A. 40A:4A-1 *et seq.*), the levy of *ad valorem* taxes on all taxable property in the County, without limitation as to rate or amount, or any other actions that are legally permitted to be taken to meet the requirements of such County Guaranty (including the adoption of a bond ordinance pursuant to the provisions of the Local Bond Law).

The County is required to make payments under the County Guaranty, if, for any reason, the Trustee should have insufficient funds on hand in the Debt Service Fund one (1) business day prior to any Interest Payment Date or Principal Payment Date to make the full and timely payment of the principal (including Sinking Fund Installments, if any, but not including redemption premiums) and interest on the Series 2011 Bonds due on such dates, regardless of whether any of the following events occur: (i) any default under the Company Lease Agreement due to the Company's failure to pay all of its Basic Lease Payments on the respective Basic Lease Payment Dates, or otherwise, and/or (ii) any default or termination of the Local Unit License Agreements due to the Series 2011 Local Unit's failure to make all Power Purchase Price Payments (including, as applicable, the payment of the Net Substitute Power Purchase Price), or otherwise.

To the extent the Company causes an Event of Default, as defined under the Company Lease Agreement, to occur and such Event of Default requires the County to make a payment under the County Guaranty, the County has the option under the County Guaranty Agreement to provide sufficient funding with the Trustee and cause the Authority to redeem or defease all or a portion of the Series 2011 Bonds in accordance with the terms of the Bond Resolution. See, "DESCRIPTION OF THE SERIES 2011 BONDS – Optional Redemption" herein.

For more information on the County, see "APPENDIX A – Certain Information Concerning the County" and "APPENDIX B – Audited Financial Statements of the County" herein. For a description of County Guaranty, see "APPENDIX D – Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein.

### **Flow of Payments**

Assuming the Company has successfully installed all the Renewable Energy Projects for the Series 2011 Local Units at their respective Local Unit Facilities, the following is a brief description of the flow of payments from the various Renewable Energy Program participants

that are available to pay the principal of, redemption premium, if any, and interest on the Series 2011 Bonds. County Guaranty payments, if any are made, are not permitted under the Act to be applied to redemption premiums. For a description of the Bond Resolution and the County Guaranty, see "APPENDIX D – Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein.

Every six (6) months, on Basic Lease Payment Dates (i.e., each January 15 and July 15) commencing January 15, 2013, that have been established to occur five (5) months prior to the Interest Payment Dates (i.e., each June 15 and December 15) and the Principal Payment Dates (i.e., each June 15) of the Series 2011A Bonds, the Company is required to make its Interest Portion and Principal Portion Basic Lease Payments to the Trustee. See Sections 305 and 306 of the Company Lease Agreement. The Basic Lease Payment schedule set forth in Exhibit A-3 Regular to the Company Lease Agreement is identical to the scheduled debt service amounts due on the Series 2011A Bonds, except that the Basic Lease Payments come due five (5) months prior to the scheduled debt service payment dates on the Series 2011A Bonds and the interest payments due on June 15, 2012 and December 15, 2012 will be made from proceeds of the Series 2011B Note deposited in the Capitalized Interest Account. Although the Basic Lease Payment schedule sets forth the gross amount of Basic Lease Payments owed by the Company, Sections 305 and 306 of the Company Lease Agreement also provide that the actual Basic Lease Payments made by the Company on each Basic Lease Payment Date shall be net of the various credits described below, if and when the funds giving rise to such credits have been received by the Trustee.

The Trustee, upon receipt of such Basic Lease Payments from the Company and as directed by Sections 5.05(1)(a) and 5.11 of the Bond Resolution, shall deposit the funds in the Revenue Account of the Revenue Fund and invest the funds in Investment Obligations, pending disbursement. After such monies have been on deposit for one hundred twenty-three (123) consecutive days in the Revenue Account within the Revenue Fund, and have not been withdrawn or recaptured by or on behalf of the Company or its other creditors, the Trustee shall pursuant to Section 5.05(1)(c) of the Bond Resolution transfer such funds to the Aged Account within the Revenue Fund.

On or prior to each Interest Payment Date, the Trustee shall, pursuant to Section 5.05(2) of the Bond Resolution, transfer, from moneys on deposit in the Aged Account within the Revenue Fund to the Interest Account in the Debt Service Fund, the amount that, together with the amounts, if any, already on deposit in the Interest Account and the amounts, if any, on deposit in the Capitalized Interest Account and designated for use on such Interest Payment Date pursuant to the Bond Resolution or Supplemental Resolution, is equal in the aggregate to the interest due and payable on the Outstanding Bonds on such Interest Payment Date. Subsection (3) requires a similar transfer, but from the Principal Account in the Debt Service Fund, on each Principal Payment Date, in order to pay the aggregate amount of principal (or Sinking Fund Installment or Redemption Price, if applicable) due and payable on the Outstanding Bonds on such Principal Payment Date.

The Trustee shall withdraw both the interest due on the Outstanding Bonds on each such Interest Payment Date from the funds in the Interest Account and the Capitalized Interest Account, if so designated, of the Debt Service Fund (Section 5.06(1)(a) of the Bond Resolution),

and the principal (including Sinking Fund Installments, if any) also due on the Outstanding Bonds on each such Principal Payment Date from the funds in the Principal Account of the Debt Service Fund (Section 5.06(2)(a) of the Bond Resolution), and pay such amounts over to the Paying Agent. The same bank is acting as both Trustee and Paying Agent for the Series 2011 Bonds. The Bond Resolution also authorizes the completion of the payment process, where the Paying Agent pays the principal of and interest on the Bonds on such respective Principal Payment Dates and Interest Payment Dates from the funds so received.

Sections 5.06(1)(b) and 2(b) of the Bond Resolution require that the County receive certain advance notification of any Deficiency and the possible need for a draw on the County Guaranty as follows. If, by 9:00 a.m. Eastern Standard Time or Eastern Daylight Time, as applicable, thirty (30) days prior to any Interest or Principal Payment Date, the Trustee has determined that there are insufficient funds in the Interest or Principal Accounts in the Debt Service Fund (after taking into account any moneys earmarked for transfer therein from the Revenue Fund and all other amounts available under the Bond Resolution for transfer into the Interest or Principal Accounts in the Debt Service Fund) to pay the full amount of interest and/or principal (including Sinking Fund Installments) due and owing on such Bonds on such Interest or Principal Payment Date, the Trustee shall immediately notify the Authority, the Company, the County and the Paying Agent of such Deficiency. The Trustee shall continue to notify such entities of any continuing Deficiency on a weekly basis, with the final notification being 9:00 a.m. Eastern Standard Time or Eastern Daylight Time, as applicable, on the Interest or Principal Payment Date.

The County shall satisfy any such Deficiency remaining as of 10:00 a.m. Eastern Standard Time or Eastern Daylight Time, as applicable, on any such Interest or Principal Payment Date, by immediately making a payment under the County Guaranty (in accordance with the terms of the County Guaranty Agreement, if not already made) in the amount of any Deficiency, in immediately available funds to the Trustee for deposit in the Interest or Principal Accounts in the Debt Service Fund. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment to Holders as of the Record Date of such interest and principal (including any Sinking Fund Installment) or Redemption Price, as applicable, due on such Bonds on such Interest or Principal Payment Date in accordance with the terms of the Bond Resolution. The Authority and the Trustee shall enforce the provisions of the County Guaranty to the extent the County fails, for whatever reason, to perform its obligations thereunder.

Although the Company is obligated, as set forth above, to pay the full amount of Basic Lease Payments on each Basic Lease Payment Date, the Company is entitled to several credits, some recurring, and others that may occur infrequently or only once. The following briefly describes the recurring credits, such as those for Power Purchase Payments made by the Series 2011 Local Units, for interest earned on amounts on deposit in the Revenue Account of the Revenue Fund, and for a sweep of funds remaining in the Aged Account of the Revenue Fund after debt service has been paid. For a description of the credit provisions relating to the Base Lease Payments under the Company Lease Agreement, see "APPENDIX D – Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein.

Pursuant to Section 6.4 of the Power Purchase Agreement, the Company shall, based on on-site meters the Company installs as part of the Projects, provide the Series 2011 Local Units with monthly billing information for the electricity (i) provided to their Local Unit Facilities from the Renewable Energy Projects installed on the roofs or parking facilities of such Local Unit Facilities, and (ii) sold to the Series 2011 Local Units at the pre-established Power Purchase Price rate, plus escalation. A copy of such billing information shall be supplied to the Trustee.

Under Section 5.1(c)(i) of the applicable Local Unit License Agreements, the Series 2011 Local Units are obligated to make their monthly Power Purchase Price Payments to the Trustee, on behalf of the Company, in a timely manner and without set-off or other reduction. The Company acknowledges, under the Power Purchase Agreement, that the obligation of the Series 2011 Local Units to make such Power Purchase Price Payments for their respective Local Unit Facilities is several, and not joint.

The Company receives a credit against the Basic Lease Payment owed on each Basic Lease Payment Date for all Power Purchase Price Payments made by the Series 2011 Local Units from the preceding Basic Lease Payment Date (or the Commencement Date at the outset) through and including ten (10) Business Days prior to any such Basic Lease Payment Date, all as provided in Section 302(a) of the Company Lease Agreement. In accordance with Section 5.05(1)(a) of the Bond Resolution, the Trustee is required to notify the Company of the aggregate amount of these Series 2011 Local Unit Power Purchase Price Payments available as a credit both thirty (30) days prior to each Basic Lease Payment Date, and one (1) Business Day after the ten (10) day cut off period described above. Power Purchase Price Payments received after the ten (10) day cut off period are deemed to have been received one (1) Business Day after any such Basic Lease Payment Date, and are therefore available as a credit to Basic Lease Payments due from the Company on the following Basic Lease Payment Date.

In addition, Section 5.11(3) of the Bond Resolution requires the Trustee to transfer the interest earned on monies in the Revenue Account of the Revenue Fund, no less frequently than once a month, to the Aged Account of the Revenue Fund. Section 310(b) of the Company Lease Agreement provides the Company with a credit in the amount of such earnings, plus interest earned thereon as of any such Basic Lease Payment Date, against the next due Interest Portion of Basic Lease Payments due and owing from the Company, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Company, and if still not fully applied or if additional interest earnings are on deposit in the Aged Account, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Trustee, pursuant to Section 5.05(1)(a) of the Bond Resolution, shall notify the Company in writing (with a copy to the Authority), within ten (10) Business Days after each Basic Lease Payment Date, of the amount of such interest earnings credit available to the Company as of the next Basic Lease Payment Date.

On the Business Day following an Interest Payment Date and a Principal Payment Date for all Outstanding Bonds, including the Series 2011 Bonds, Section 5.05(4) of the Bond Resolution directs the Trustee to transfer any monies remaining on deposit in the Aged Account of the Revenue Fund, FIRST, to the County, as reimbursement for the County to the extent of any draw on their County Guaranty, if applicable, and SECOND, into the Interest Account of the Debt Service Fund to pay the next due interest on such Bonds, and then the Principal Account of

the Debt Service Fund to pay the next due principal of (including Sinking Fund Installments, if any) such Bonds. The Trustee is further required to promptly notify the Company that such transferred amounts shall be a credit against their Interest Portion, and then Principal Portion, of Basic Lease Payments next due.

With regard to the recurring credits against Basic Lease Payments owed by the Company under the Company Lease Agreement, as set forth above, the Company will be apprised of (i) the Revenue Account investment earnings credit almost a full six (6) months prior to the Company's next Basic Lease Payment Date, (ii) the Aged Account sweep transfer and credit almost one (1) month prior to their Basic Lease Payment Date, and (iii) the aggregate of all Power Purchase Price Payments as of ten (10) Business Days prior to any scheduled Basic Lease Payment Date (with an initial notice of five (5) months' worth of Power Purchase Price Payments to be made by the Trustee a full thirty (30) days prior to the Company's Basic Lease Payment Date).

The non-recurring, or infrequent, credits against Basic Lease Payments, set forth in the definition thereof in the Company Lease Agreement and the Bond Resolution, owed by the Company under the Company Lease Agreement, are for the following:

(i) Excess amounts remaining in the Project Fund, once all Projects have been installed and certifications have been executed by the Series 2011 Local Units (either directly or through a construction manager), on a form acknowledged by the Authority, to the effect that such Project installation is in conformity with the Plans and Specifications mutually agreed upon among the Company, the Authority and the Local Unit prior to the onset of acquisition, construction and installation of the Projects;

(ii) Partial Release of the County Security Fund, if any, held by the Trustee as a non-pledged Fund to fund any shortfall in otherwise available funds to make Basic Lease Payments or to reimburse the County in the event of a draw on the County Guaranty, when the amount in the County Security Fund exceeds the debt service owed on all Outstanding Series 2011 Bonds (plus a Series of Additional Bonds, if so designated by Supplemental Resolution);

(iii) Optional, partial pre-payments of Basic Lease Payments by the Company (the Basic Lease Payment obligation is eliminated in the event of a full pre-payment);

(iv) Payments to the Trustee in an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the Renewable Energy Projects or other payments required pursuant to Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit Licenses; and

(v) The net proceeds of any condemnation or insurance award.

## **Acceleration**

The Series 2011 Bonds are subject to acceleration prior to their stated maturities upon the occurrence of certain Events of Default under and as defined in the Bond Resolution, at the times and in the manner set forth in the Bond Resolution. For a description of the Events of Default and acceleration provisions under the Renewable Energy Program Documents, see "APPENDIX D – Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement" herein.

## **SUMMARY OF CERTAIN PROVISIONS FOR THE PROTECTION OF GENERAL OBLIGATION DEBT OF NEW JERSEY MUNICIPALITIES AND COUNTIES**

The following is a summary of certain provisions of New Jersey law relating to the protection of general obligation debt of New Jersey municipalities and counties. This summary does not purport to be a full and complete statement of all of the provisions referred to herein, and the cited statutes should be read in full for a complete understanding of all of said provisions.

### **Local Bond Law**

*The Local Bond Law (N.J.S.A. 40A:2-1 et. seq.).*

The Local Bond Law generally governs the issuance of bonds and notes by local units to finance certain capital improvements and appropriations. The Local Bond Law requires that bonds must mature within the statutory period of usefulness of the projects bonded and that bonds be retired in serial installments. A 5% cash down payment is generally required toward the financing of capital expenditures.

### **Debt Limits**

*Debt Limits.*

The net authorized debt of all local units which are municipalities in the State of New Jersey is generally limited by statute to an amount equal to 3.5% of its equalized valuation basis. The equalized valuation basis of the local unit is set by statute as the average for the last three years of the sum of the equalized value of all taxable real property and improvements and certain Class II railroad property within its boundaries, as annually determined by the State Department of the Treasury, Division of Taxation. Certain categories of debt are permitted by statute to be deducted for purposes of computing the statutory debt limit.

*Exemption To Debt Limits.*

Extensions of Credit. The debt limit of a local unit may be exceeded with the approval of the Local Finance Board, and as permitted by other statutory exceptions. If all or any part of a proposed debt authorization would exceed its debt limit, the Local Unit must apply to the Local Finance Board for an extension of credit. If the Local Finance Board determines that a proposed debt authorization would not materially impair the ability of a Local Unit to meet its obligations or to provide essential services, and the Local Finance Board makes other statutory determinations, approval is granted.

School Debt. In the State of New Jersey, in a Type II school district without a Board of School Estimate, school debt authorized by the board of education must be approved by the registered voters of the school district. When the amount authorized exceeds the school district's limit, the district may use the municipality's share of available borrowing capacity upon approval of the proposed debt by the State Commissioner of Education and the Local Finance Board, and subsequently by the registered voters of the district. School debt of a Type I school district is authorized by a Board of School Estimate and the governing body of a local unit.

*The Local Budget Law (N.J.S.A. 40A:4-1, et seq.)*

The foundation of the New Jersey local finance system is the annual budget. Every local unit must adopt an operating budget in the form required by the Division of Local Government Services, Department of Community Affairs, State of New Jersey (the "Division"). Items of revenue and appropriation are regulated by law and must be certified by the Director of the Division (the "Director") prior to final adoption of the budget. The Local Budget Law requires each local unit to appropriate sufficient funds for payment of current debt service, and the Director is required to review the adequacy of such appropriations.

The Director has no authority over individual operating appropriations, unless a specific amount is required by law, but the review focusing on anticipated revenues serves to protect the solvency of all local units. The budgets of local units must be in balance; i.e., total anticipated revenues must equal total appropriations.

If in any year a Local Unit's expenditures exceed (or are less than) its realized revenues for that year, then such deficit (excess) must be raised (accounted for) in the succeeding year's budget.

*Real Estate Taxes.*

The same general principal that revenue cannot be anticipated in a budget in excess of that realized in the preceding year applies to property taxes. The Local Budget Law (N.J.S.A. 40A:4-29) provides that the maximum which may be anticipated is the sum produced by the multiplication of the amount of delinquent taxes unpaid and owing to the Local Unit on the first day of the current fiscal year by the percentage of collection of delinquent taxes for the year immediately preceding the current fiscal year.

The Local Budget Law (N.J.S.A. 40A:4-41) also provides with regard to current taxes that receipts from the collection of taxes levied or to be levied in the municipality, or in the case of a county for general county purposes and payable in the fiscal year, shall be anticipated in an amount which is not in excess of the percentage of taxes levied and payable during the next preceding fiscal year which was received in cash by the last day of such preceding fiscal year.

This provision requires that an additional amount (the "Reserve for Uncollected Taxes") be added to the tax levy required to balance the budget so that when the percentage collected of the prior year's tax levy is applied to the combined total, the product will at least be equal to the tax levy required to balance the budget. The Reserve for Uncollected Taxes is calculated to be the levy required to balance a local unit's budget multiplied by the prior year's percentage of uncollected taxes (or a lesser percentage).

### *Miscellaneous Revenues.*

The Local Budget Law (N.J.S.A. 40A:4-26) provides that no miscellaneous revenue from any source shall be included as an anticipated revenue in the budget in an amount in excess of the amount actually realized in cash from the same source during the next preceding fiscal year, unless the Director shall determine upon application by the governing body that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the fiscal year and shall certify such determination in writing to the local unit.

No budget or amendment thereof shall be adopted unless the Director shall have previously certified his approval thereof with the exception of the inclusion of categorical grants-in-aid contracts for their face amount with an offsetting appropriation.

### *CAP Limitations.*

A Statute passed in 1976, as amended (N.J.S.A. 40A:4-45.1 *et seq.*) commonly known as the "Cap Law", imposed limitations on increases in municipal appropriations subject to various exceptions. On August 20, 1990, the Governor signed into law P.L. 1990, c.89, which revised and made permanent the "Cap Law". While the revised "Cap Law" is more restrictive on the ability of a municipality to increase its overall appropriations, the payment of debt service is an exception from this limitation. The Cap formula is somewhat complex, but basically, it permits a municipality to increase its overall appropriations by 2.5% or the "Index Rate", whichever is less. The "Index Rate" is the rate of annual percentage increase in the Implicit Price Deflator for State and Local Government purchases of goods and services computed by the U.S. Department of Commerce. Exceptions to the limitations imposed by the Cap Law also exist for other things including capital expenditures; extraordinary expenses approved by the Local Finance Board for implementation of an interlocal services agreement; expenditures mandated as a result of certain emergencies; and certain expenditures for services mandated by law.

Additionally, legislation constituting P.L. 2007, c.62, effective April 3, 2007, imposes a 4% cap on the tax levy of a municipality, county, fire district or solid waste collection district, with certain exceptions and subject to a number of adjustments. The exclusions from the limit include increases required to be raised for debt service and certain lease payments to county improvement authorities, increases to replace certain lost state aid, increases in certain pension contributions, increases in the reserve for uncollected taxes required for municipalities, and certain increases in health care costs over 4%. The Local Finance Board may approve waivers for certain extraordinary costs identified by the statute, and voters may approve increases above 4% not otherwise permitted by a vote of 60% of the voters voting on a public question.

This legislation has now been amended by P.L. 2010, c. 44, approved July 13, 2010 and applicable to the next local budget year following enactment to limit tax levy increases for those local units to 2% with exceptions only for capital expenditures including debt service, increases in pension contributions and accrued liability for pension contributions in excess of 2%, certain healthcare increases, extraordinary costs directly related to a declared emergency and amounts approved by a simple majority of voters voting at a special election. Chapter 44 eliminates the process for obtaining waivers for additional spending under the tax levy limitation.

Neither the tax levy limitation nor the "Cap Law" limits the obligation of a municipality to levy *ad valorem* taxes upon all taxable real property within that municipality to pay debt service on its bonds or notes.

For municipalities, the levy cap is in addition to the existing appropriation cap; both cap laws must be met.

#### *Deferral of Current Expenses.*

A local unit may make emergency appropriations after the adoption of a budget and the determination of the tax rate, but only to meet unforeseen pressing needs to protect or promote public health, safety, morals or welfare, or to provide temporary housing or public assistance. With limited exceptions set forth below, such appropriations must be included in full in the following year's budget. If such emergency appropriations exceed 3% of the adopted operating budget, consent of the Director is required (N.J.S.A. 40A:4-46, -47, -49). The exceptions are certain enumerated quasi-capital projects such as ice, snow, and flood damage to streets, roads and bridges, which may be amortized over three years, and tax map preparation, revision of ordinances, and master plan preparations, which may be amortized over five years (N.J.S.A. 40A:4-55, -55.3).

Under the CAP Law, emergency resolutions aggregating less than 3% of the previous year's final current operating appropriations may be raised in that portion of the budget outside its limitations if approved by at least two-thirds of the members of the governing body and the Director. Emergency resolutions that aggregate more than 3% of the previous year's final current operating appropriations must be raised within its limitations. Emergency resolutions for debt service, capital improvements, the County's share of Federal or State grants and other statutorily permitted items are outside its limitation.

#### *Budget Transfers.*

Budget transfers provide a degree of flexibility and afford a control mechanism. Transfers between major appropriation accounts are prohibited until the last two months of the year. Subaccounts (line items) within an appropriation are not subject to the same year-end transfer restriction; however, they are subject to internal review and approval.

#### *Capital Budget.*

In accordance with the Local Budget Law, each local unit must adopt and annually revise a capital program budget. The capital budget, when adopted, does not constitute the approval or appropriation of funds, but sets forth a plan of the possible capital expenditures which the Local Unit may contemplate over a period of up to six years. Expenditures for capital purposes may be made either by ordinances adopted by the governing body of a local unit setting forth the items and the method of financing or from the annual operating budget if the items were detailed.

#### *Operation of Utilities.*

Municipal public utilities are supported, in addition to the general taxing power upon real property, by the revenues generated by the respective operations of the utilities.

For each utility, there is established a separate budget. The anticipated revenues and appropriations for each utility are set forth in the separate budget. The budget is required to be balanced and to fully provide for debt service. The regulations regarding anticipation of revenue and deferral of charges apply equally to the budgets of the utilities.

Deficits or anticipated deficits in utility operations which cannot be provided for from utility surplus, if any, are required to be raised in the current or operating budget.

*Local Fiscal Affairs Law (N.J.S.A. 40A:5-1, et seq.).*

This law regulates the non-budgetary financial activities of local governments. The chief financial officer of a local unit must file annually with the Director a verified statement of the financial condition of the local unit. The statements of the County are on file with the Clerk.

An independent examination of a local unit's financial statements must be performed annually by a licensed registered municipal accountant. The audit, conforming to the Division's "Requirements of Audit," includes recommendations for improvement of a local unit's financial procedures and must be filed with the Clerk within six months after the close of its fiscal year and, within five days thereafter, a certified duplicate copy must be filed in the office of the Director (N.J.S.A. 40A:5-6). The filing date of an audit may be extended by the Director upon a showing of good cause. A synopsis of the audit report, together with all recommendations made, must be published in a local newspaper within 30 days of its completion (N.J.S.A. 40A:5-7).

**SOURCES AND USES OF SERIES 2011A BONDS  
AND SERIES 2011B NOTE PROCEEDS**

The sources and uses of funds will be as follows:

<b>Sources of Funds</b>	
Principal Amount of Series 2011A Bonds	\$26,715,000.00
Principal Amount of Series 2011B Note	985,000.00
Company In-Kind Equity Contribution <sup>(1)</sup>	7,818,860.00
Cash <sup>(2)</sup>	<u>1,500,000.00</u>
<b>TOTAL SOURCES OF FUNDS</b>	<b>\$37,018,860.00</b>
<b>Uses of Funds</b>	
Project Fund <sup>(3)</sup>	\$33,318,860.00
Debt Service Fund <sup>(4)</sup>	983,418.75
Administrative Fund <sup>(5)</sup>	1,216,581.25
County Security Fund	<u>1,500,000.00</u>
<b>TOTAL USES OF FUNDS</b>	<b>\$37,018,860.00</b>

(1) The Company has agreed to make a deferred equity contribution upon the issuance of the Series 2011 Bonds. Such contribution is further described in the Company Lease Agreement. In particular, requisitions for Renewable Energy Project costs will be paid 70% from Series 2011A Bond proceeds, and 30% by or on behalf of the Company.

(2) The Cash equity contribution shall be funded no later than the earlier of (i) ninety (90) days after completion of the Series 2011 Local Unit projects or (ii) March 15, 2013.

(3) Such costs include monies for the Cost of the Projects, along with payment of certain Renewable Energy Program Costs to the Company. \$25,500,000 shall be derived from the Series 2011A Bond proceeds and the balance shall be derived from the Company in-kind equity contribution.

(4) The proceeds of the Series 2011B Note shall be deposited into the Capitalized Interest Account of the Debt Service Fund and applied, together with any interest earned thereon, if any, to the payment of the interest payable on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

(5) Such costs include the Underwriter's discount and legal, rating, printing, financial advisory and fiduciary expenses incurred in connection with the issuance of the Series 2011 Bonds, as well as monies to reimburse the County and the Authority for a portion of, and to pay to third parties a portion of, the Renewable Energy Program development costs, plus the Authority's initial Administrative Fee.

## DEBT SERVICE SCHEDULE

The following tables set forth the debt service requirements, including Sinking Fund Installments, in each Bond Year of the Series 2011 Bonds, consisting of the Series 2011A Bonds and the Series 2011B Note:

Bond Year ended June 15	Series 2011A Bonds		Total Debt Service**
	Principal	Interest*	
2012	-	\$ 493,071.45	\$ 493,071.45
2013	\$ 865,000	980,694.60	1,845,694.60
2014	1,850,000	970,850.90	2,820,850.90
2015	1,850,000	941,953.90	2,791,953.90
2016	1,850,000	902,437.90	2,752,437.90
2017	1,850,000	856,446.90	2,706,446.90
2018	1,845,000	802,611.90	2,647,611.90
2019	1,845,000	743,387.40	2,588,387.40
2020	1,845,000	680,878.80	2,525,878.80
2021	1,845,000	614,680.20	2,459,680.20
2022	1,845,000	546,636.60	2,391,636.60
2023	1,845,000	455,530.50	2,300,530.50
2024	1,845,000	364,424.40	2,209,424.40
2025	1,845,000	273,318.30	2,118,318.30
2026	1,845,000	182,212.20	2,027,212.20
2027	1,845,000	91,106.10	1,936,106.10
<b>Total</b>	<b><u>\$26,715,000</u></b>	<b><u>\$9,900,242.00</u></b>	<b><u>\$36,615,242.00</u></b>

Bond Year ended June 15	Series 2011B Note		Total Debt Service**
	Principal	Interest*	
2013	\$985,000	\$16,047.29	\$1,001,047.29
<b>Total</b>	<b><u>\$985,000</u></b>	<b><u>\$16,047.29</u></b>	<b><u>\$1,001,047.29</u></b>

\* The proceeds of the Series 2011B Note shall be earmarked, together with any interest earned thereon, if any, to the payment of the interest payable on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

\*\* Totals may not add due to rounding.

### PLEDGE OF THE STATE NOT TO LIMIT POWER OF AUTHORITY OR RIGHTS OF BONDHOLDERS

The Act sets forth the pledge and agreement of the State that it will not limit or alter the rights vested by the Act in the Authority to fulfill the terms of any agreements made with holders of obligations of the Authority or in any way impair the rights and remedies of such holders, until such obligations, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged.

## LEGALITY FOR INVESTMENT

The Act provides that (i) the State and all public officers, municipalities, counties, political subdivisions and public bodies, and agencies thereof; (ii) all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, which banks, trust companies, and other such institutions are organized and existing under the laws of the State; and (iii) all executors, administrators, guardians, trustees and other fiduciaries acting under the laws of the State, may legally invest any sinking funds, monies or other funds belonging to them or within their control in obligations of authorities created pursuant to the Act and such obligations will be authorized security for any and all public deposits.

## BANKRUPTCY

### Municipal Bankruptcy

The undertakings of the Authority and the County should be considered with reference to Chapter 9 of the United States Bankruptcy Code of 1978, as amended (the "*Bankruptcy Code*"), 11 U.S.C. Section 901 to 946. Under Chapter 9 of the Bankruptcy Code, a municipality, a political subdivision or a public agency or instrumentality of the State that is insolvent or unable to pay its debts as they become due may file a petition in a United States Bankruptcy Court (the "*Bankruptcy Court*") to adjust its debts. Chapter 9 of the Bankruptcy Code does not permit such entity to liquidate its assets and distribute the proceeds of its assets to its creditors. Chapter 9 of the Bankruptcy Code permits a financially distressed public entity to seek protection from its creditors by staying the commencement or continuation of certain actions against such public entity while it formulates and negotiates a plan of adjustment of its debts which can be binding on a dissenting minority of creditors if it is acceptable to the majority of creditors. Should the Authority or the County file a petition in the Bankruptcy Court under Chapter 9 of the Bankruptcy Code prior to the payment in full of the principal of and interest on the Series 2011 Bonds, the holders of the Series 2011 Bonds would be considered creditors and would be bound by the Authority's or County's plan of adjustment of its debt.

Reference should also be made to N.J.S.A. 52:27-40 *et seq.* which provides that any "political subdivision" of the State as defined therein has the power to file a petition with the Bankruptcy Court under the Bankruptcy Code provided the "political subdivision" has obtained approval of the Local Finance Board. Section 903 of the Bankruptcy Code, 11 U.S.C. Section 903, specifically provides that Chapter 9 of the Bankruptcy Code does not limit or impair the power of a state to control, by legislation or otherwise, a municipality of or in such state in the exercise of the political or governmental powers of such municipality; provided, however, that a state law prescribing a method of composition of indebtedness of the municipality may not bind any creditor that does not consent to such composition and that a judgment entered under such state law may not bind a creditor that does not consent to such composition.

THE ABOVE REFERENCES TO THE BANKRUPTCY CODE ARE NOT TO BE CONSTRUED AS AN INDICATION THAT THE AUTHORITY OR THE COUNTY EXPECTS TO RESORT TO THE PROVISIONS OF SUCH BANKRUPTCY CODE OR

THAT, IF IT DID, SUCH ACTION WOULD BE APPROVED BY THE LOCAL FINANCE BOARD, OR THAT ANY PROPOSED PLAN WOULD INCLUDE A DILUTION OF THE SOURCES OF PAYMENT OF AND SECURITY FOR THE SERIES 2011 BONDS.

### **Company Bankruptcy**

The Interest Portion and the Principal Portion of the Basic Lease Payments payable by the Company under the Company Lease Agreement and constituting Revenues that are part of the Trust Estate pledged by the Authority to the Trustee as security for the Series 2011 Bonds under the Bond Resolution, are scheduled for payment five (5) months prior to the interest coming due, and the principal (or Sinking Fund Installment, if any) maturing on the Series 2011 Bonds in accordance with Exhibit A-3 to the Company Lease Agreement. Should the Company file (or be the subject of an involuntary filing of) a petition for bankruptcy under the Bankruptcy Code, this prior payment structure minimizes the risk that the Basic Lease Payments, previously applied by the Trustee to pay debt service on the Series 2011 Bonds to the Bondholders, will be recaptured from such Bondholders by the Company, as a debtor in possession, or a bankruptcy trustee, in either case as an avoidable property transfer under Section 547(b) of the Bankruptcy Code.

The filing of any such bankruptcy petition by or against the Company results in the imposition of an automatic stay in accordance with Section 362(a) of the Bankruptcy Code, thereby precluding, for a time, the Authority or the Trustee from enforcing any remedies against the Company should it fail to make full and timely Basic Lease Payments under the Company Lease Agreement. Filing a petition may allow the Company under Section 365 of the Bankruptcy Code to reject the Company Lease Agreement. A Chapter 11 petition could also be converted to a Chapter 7 liquidation, or the Company could file for the same relief directly, in which case the Company's assets would be liquidated by a bankruptcy trustee, the bankruptcy trustee may have the right to reject the Company Lease Agreement causing the Company to cease making Basic Lease Payments under the Company Lease Agreement, and the creditors' recovery against the Company would be limited to their *pro rata* share of monies realized from liquidation.

Any of these options available to, or to be imposed upon, the Company, could adversely affect the Company's ability to make Basic Lease Payments on time and in full in accordance with the terms of the Company Lease Agreement. In such instance, the Trustee is obligated to pursue the other Revenues constituting a portion of the Trust Estate for payment of the principal of (including Sinking Fund Installments) and interest on the Series 2011 Bonds, including the County Guaranty. Pursuant to the Act, payments for redemption premium, if any, cannot be made from payments under the County Guaranty. See "SECURITY FOR THE SERIES 2011 BONDS – County Guaranty" herein.

### **NEGOTIABILITY OF THE SERIES 2011 BONDS**

Section 24 of the Act (N.J.S.A. 40:37A-67) provides that any bond or obligation issued pursuant to the Act shall be fully negotiable within the meaning and for all purposes of the negotiable instruments law of the State of New Jersey and each holder or owner of such bond or other obligation, or of any coupon appurtenant thereto, by accepting such bond or coupon shall

be conclusively deemed to have agreed that such bond, obligation or coupon is and shall be fully negotiable within the meaning and for all purposes of said negotiable instruments law.

### **SERIES 2011 BONDS NOT A DEBT OF THE STATE OF NEW JERSEY**

The Series 2011 Bonds shall not in any way be a debt, liability or obligation of the State or any political subdivision thereof, except the Authority, but solely to the extent of the Trust Estate and its application in accordance with the terms of the Bond Resolution, and except the County, to the extent of the County Guaranty.

### **LITIGATION**

#### **The Authority**

There is no litigation pending or threatened involving the Authority that would materially impair the financial status of the Authority, or affect the issuance, sale or delivery of the Series 2011 Bonds or the valid execution, delivery or performance by the Authority of or under the Renewable Energy Program Documents to which the Authority is a party.

#### **The Company**

There is no litigation pending or threatened involving the Company that would materially impair the financial status of the Company, or affect the valid execution, delivery or performance by the Company of or under the Renewable Energy Program Documents to which the Company is a party.

#### **The Series 2011 Local Units**

The Authority is not aware of any litigation pending or threatened involving the Series 2011 *Local Units* that would materially impair the valid execution, delivery or performance by the Series 2011 Local Units of or under the Renewable Energy Program Documents to which each such respective Series 2011 Local Unit is a party, including their Local Unit License Agreement.

#### **The County**

There is no controversy or litigation of any nature now pending or threatened against the County, restraining or enjoining the adoption, execution or delivery of the County Guaranty or in any way contesting or affecting the validity of the County Guaranty, or any proceedings of the County taken with respect to the adoption, execution or delivery thereof or existence or powers of the County related to the adoption, execution and delivery of the County Guaranty, or wherein an adverse decision would have a material adverse impact on the financial position of the County or its ability to pay or to provide for payment under the County Guaranty.

## **TAX MATTERS**

### **Notice Pursuant to IRS Circular 230**

The discussion below is not intended or written by the Authority or Bond Counsel to be used, and cannot be used by any person, for the purpose of avoiding tax penalties that might be imposed under federal tax laws. This discussion is provided to support an offering of the Series 2011 Bonds and accordingly, is written in support of the promotion or marketing of the Series 2011 Bonds. Each taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor concerning the potential tax consequences of an investment in the Series 2011 Bonds.

### **General**

Interest on the Series 2011 Bonds is included in gross income for federal income tax purposes under current law.

The Internal Revenue Code of 1986, as amended (the "Code") contains a number of provisions relating to the taxation of securities such as the Series 2011 Bonds (including but not limited to the tax treatment of and accounting for interest, premium, original issue discount and market discount thereon, gain from the sale, exchange or other disposition thereof and withholding and backup withholding tax on income therefrom) that may affect the taxation of certain owners, depending on their particular tax situations. Owners of the Series 2011 Bonds should consult their own tax advisors as to the particular federal income tax consequences of their ownership of the Series 2011 Bonds.

In the opinion of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Bond Counsel to the Authority, under current law, interest on the Series 2011 Bonds and any gain on the sale thereof are not includable as gross income under the New Jersey Gross Income Tax Act.

The discussion of tax matters in this Official Statement applies only in the case of purchasers of the Series 2011 Bonds at original issuance and at the respective prices indicated on the inside cover page hereof. It does not address any other tax consequences such as, among others, the consequences of the existence of any market discount to subsequent purchasers of the Series 2011 Bonds.

### **Certain United States Federal Income Tax Consequences**

The following is a summary of the principal United States federal income tax consequences of ownership of the Series 2011 Bonds. It deals only with Series 2011 Bonds held as capital assets by initial purchasers, and not with special classes of holders, such as dealers in securities or currencies, banks, tax-exempt organizations, life insurance companies, persons that hold Series 2011 Bonds that are a hedge or that are hedged against currency risks or that are part of a straddle or conversion transaction, or persons whose functional currency is not the U.S. dollar. The summary is based on the Code, its legislative history, existing and proposed regulations thereunder, published rulings and court decisions, all as currently in effect and all subject to change at any time, perhaps with retroactive effect.

The following summary does not address the tax treatment of Series 2011 Bonds acquired by partnerships (or other entities that are treated as partnerships for United States federal income tax purposes). Federal income tax and withholding tax treatment of income and gain recognized by a partnership generally depends, in substantial part, on the characteristics and tax circumstances of the partners in the partnership. Prospective purchasers of the Series 2011 Bonds that are partnerships should consult their own tax advisors regarding these matters.

## **United States Holders**

### *Payments of Interest.*

Interest on the Series 2011 Bonds will be taxable to a United States Holder (as defined below) as ordinary income at the time it is received or accrued, depending on the holder's method of accounting for tax purposes in accordance with generally applicable principles.

A United States Holder for purposes of this discussion is a beneficial owner of a Series 2011 Bond for U.S. federal income tax law purposes and (i) a citizen or resident of the United States, (ii) a corporation which is created or organized in or under the laws of the United States or of any political subdivision thereof, (iii) an estate the income of which is subject to United States federal income taxation regardless of its source, or (iv) a trust if (A) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust or (B) the trust was in existence on August 10, 1996 and properly elected to continue to be treated as a U.S. person. The term "Non-U.S. Holder" refers to any beneficial owner of a Series 2011 Bond who or which is not a United States Holder or a partnership or other entity that is treated as a partnership for United States federal income tax purposes.

## **Sale and Retirement of the Series 2011 Bonds**

United States Holders of the Series 2011 Bonds will recognize gain or loss on the sale, redemption, retirement or other disposition of such Series 2011 Bonds. The gain or loss is measured by the difference between the amount realized on the disposition of a Series 2011 Bond and the United States Holder's adjusted tax basis in the Series 2011 Bond. Such gain or loss will be capital gain or loss and will be long-term capital gain or loss if at the time of disposition such Series 2011 Bond has been held for more than one year.

## **Defeasance of the Series 2011 Bonds**

If the Authority defeases any of the Series 2011 Bonds, such Series 2011 Bonds may be deemed to be retired and "reissued" for federal income tax purposes as a result of the defeasance. In such event, a Holder of a Series 2011 Bond would recognize gain or loss on the Series 2011 Bond at the time of defeasance.

## **Backup Withholding and Information Reporting**

Information reporting will apply to payments of interest made by the Authority to United States Holders, and to the proceeds of the sale or other disposition of the Series 2011 Bonds with respect to certain non-corporate United States Holders, and backup withholding may apply

unless the recipient of such payment supplies a taxpayer identification number, certified under penalties of perjury, as well as certain other information or otherwise establishes an exemption from backup withholding. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against that owner's U.S. federal income tax liability provided the required information is furnished to the Internal Revenue Service.

Prospective purchasers of the Series 2011 Bonds should consult their own tax advisors concerning the consequences described above, as well as other consequences, in their particular circumstances, of ownership of the Series 2011 Bonds, under the Code and the laws of any other taxing jurisdiction.

ALL POTENTIAL PURCHASERS OF THE SERIES 2011 BONDS SHOULD CONSULT WITH THEIR TAX ADVISORS IN ORDER TO UNDERSTAND THE IMPLICATIONS OF THE CODE.

#### **APPROVAL OF LEGALITY**

All legal matters incident to the authorization, issuance, sale and delivery of the Series 2011 Bonds are subject to the approval of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Parsippany, New Jersey, Bond Counsel to the Authority, whose approving legal opinion will be delivered with the Series 2011 Bonds, substantially in the form annexed hereto as Appendix E.

#### **CREDIT RATING**

Moody's Investors Service, Inc. ("Moody's") has assigned the Series 2011A Bonds the rating of "Aa2" (negative outlook). Such rating reflects only the view of such organization, and an explanation of the significance of such rating may be obtained only from Moody's. There is no assurance that such rating will be retained for any given period of time or that such rating will not be revised downward entirely by the Moody's if in their judgment circumstances so warrant. Any such downward revision or withdrawal of such rating may have an adverse effect on the market price of the Series 2011 Bonds. Moody's is in the process of completing its negative outlook review, and none of the County, the Authority, the Underwriters nor the Company can predict the outcome of that review, and any subsequent effect on the market pricing of the Series 2011 Bonds.

#### **FINANCIAL ADVISOR**

NW Financial Group, LLC, Jersey City, New Jersey, has served as financial advisor to the Authority with respect to this transaction (the "*Financial Advisor*"). The Financial Advisor is not obligated to undertake, and has not undertaken, either to make an independent verification of or to assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement or in the appendices hereto. The Financial Advisor is an independent firm and is not engaged in the business of underwriting, trading, or distributing municipal securities or other public securities.

## UNDERWRITING

The Series 2011 Bonds are being purchased from the Authority by RBC Capital Markets, LLC, as senior managing underwriter on behalf of itself and its co-managing underwriters (the "Underwriter") as set forth in that certain Bond Purchase Agreement dated December 7, 2011 (the "Bond Purchase Agreement") between the Underwriter and the Authority, and acknowledged and accepted by the Company. The Bond Purchase Agreement provides that the purchase price of the Series 2011A Bonds is \$26,593,392.74 (representing the principal amount of the Series 2011A Bonds, less an Underwriter's discount in the amount of \$121,607.26). The Bond Purchase Agreement provides that the purchase price of the Series 2011B Note is \$980,516.26 (representing the principal amount of the Series 2011B Note, less an Underwriter's discount in the amount of \$4,483.74).

The obligation of the Underwriter to make such purchase is subject to certain additional terms and conditions set forth in the Bond Purchase Agreement, to the approval of certain legal matters by counsel, and to certain other conditions. The Underwriter intends to offer the Series 2011 Bonds at the rates and prices shown on the inside front cover hereof, which rates and prices may be changed from time to time by the Underwriter.

The Underwriter may offer and sell the Series 2011 Bonds to certain dealers (including dealers depositing bonds into investment trusts) and certain dealer banks acting as agents at prices lower or yields higher than the public offering prices or yields stated on the inside front cover hereof.

## SECONDARY MARKET DISCLOSURE

Pursuant to the requirements of Rule 15c2-12 (the "Rule") adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, the County and the Company will each deliver concurrently with the delivery of the Series 2011 Bonds a Continuing Disclosure Agreement with the Authority and the Trustee in substantially the forms annexed hereto as Appendix F (each, a "Continuing Disclosure Agreement" and together, the "Continuing Disclosure Agreements"). The County and the Company have each covenanted for the benefit of Bondholders, in accordance with the provisions of the respective Continuing Disclosure Agreement, to provide or cause to be provided, in accordance with the requirements of the Rule, certain financial information and operating data to the Municipal Securities Rulemaking Board (as defined in each Continuing Disclosure Agreement). The County, the Authority and the Company have each also covenanted in their respective Continuing Disclosure Agreements to provide notices of the occurrence of certain enumerated events.

A failure by the County, the Authority or the Company to comply with the provisions of the respective Continuing Disclosure Agreements will not constitute a default under the Series 2011 Bonds, and holders and beneficial owners are limited to the remedies set forth in the Continuing Disclosure Agreements. However, failure by any of the County, the Authority or the Company to comply with its Continuing Disclosure Agreement must be reported in accordance with the Rule and must be considered by any broker or dealer before recommending the purchase or sale of Series 2011 Bonds in the secondary market. Consequently, such failure may adversely affect the transferability and liquidity of the Series 2011 Bonds and their market price.

The County has never failed to fully satisfy the requirements of an undertaking previously executed by the County pursuant to the Rule in connection with a prior issue of bonds of the County. The Authority has never failed to fully satisfy the requirements of an undertaking previously executed by the Authority pursuant to the Rule in connection with a prior issue of bonds of the Authority. This is the first undertaking signed by the Company pursuant to the Rule.

### **INDEPENDENT AUDITORS**

The financial statements of the County as of December 31, 2010, included in Appendix B to this Official Statement, have been audited by Nisivoccia & Company LLP, independent certified public accountants, as stated in their report appearing in Appendix B to this Official Statement.

### **APPENDICES**

Appendix A to this Official Statement consists of certain general information concerning the County which has been provided by the County from public documents of the County and from other public or official documents or publications which are referred to therein. The Authority, the Company and the Underwriters have not confirmed the accuracy or completeness of said information, and the Authority, the Company and the Underwriters disclaim any responsibility for the accuracy and completeness thereof.

Appendix B to this Official Statement consists of certain financial information concerning the County. The Authority, the Company and the Underwriters have not confirmed the accuracy or completeness of said information, and the Authority, the Company and the Underwriters disclaim any responsibility for the accuracy and completeness thereof.

Appendix C to this Official Statement consists of certain general information concerning the Company that has been provided the Company. The Authority and the Underwriters have not confirmed the accuracy or completeness of said information, and the Authority and the Underwriters disclaim any responsibility for the accuracy and completeness thereof.

Appendix D to this Official Statement consists of the forms of the following Renewable Energy Program Documents: the Bond Resolution, the Power Purchase Agreement, the Company Lease Agreement, a License and Access Agreement and the County Guaranty Agreement. Each has been provided by Bond Counsel to the Authority. The Underwriters have not confirmed the accuracy or completeness of said information, and the Underwriter disclaims any responsibility for the accuracy and completeness thereof.

Appendix E of this Official Statement consists of the form of approving legal opinion of Inglesino, Pearlman, Wyciskala & Taylor, LLC, Bond Counsel to the Authority. Copies of such opinion will be available at the time of delivery of the Series 2011 Bonds.

Appendix F of this Official Statement consists of the forms of Continuing Disclosure Agreements to be entered into by the County and the Company, respectively, with the Authority and the Trustee.

Appendix G of this Official Statement consists of the "Solar Proposal Evaluation Report" dated October 24, 2011, which information has been prepared by the Sussex County Evaluation Team in connection with the evaluation of proposals received for the Renewable Energy Projects. Further information regarding the Authority's solar procurement process may be found at <http://www.co.morris.nj.us/improvement/renewable.asp>. The Company and the Underwriters have not confirmed the accuracy or completeness of said information, and the Company and the Underwriters disclaim any responsibility for the accuracy and completeness thereof.

#### MISCELLANEOUS

The references herein to the Act, the Bond Resolution, and the other Renewable Energy Program Documents are brief outlines of certain provisions thereof. Such outlines do not purport to be complete and reference is made to the Act, the Bond Resolution, and the other Renewable Energy Program Documents for full and complete statements of such provisions. These documents may be inspected at the principal corporate trust office of the Trustee.

Any statements which are contained in this Official Statement involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact. All estimates and assumptions herein have been made on the best information available and are believed to be reliable but no representations whatsoever are made that such estimates or assumptions are correct or will be realized. This Official Statement is not to be construed as a contract or agreement between the Authority and the purchasers or holders of the Series 2011 Bonds.

The execution and delivery of this Official Statement have been duly authorized by the Authority.

#### THE MORRIS COUNTY IMPROVEMENT AUTHORITY

By: /s/ John Bonanni  
John Bonanni, Chairman

Dated: December 7, 2011

## Appendix A

COUNTY OF SUSSEX  
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## COUNTY OF SUSSEX

### General Information

Sussex County includes 526 square miles and is situated in the northwestern corner of New Jersey. The County has 9 square miles of water on more than 110 lakes and streams. Newton, the County Seat, is centrally located in the County approximately 60 miles from New York City and 100 miles from downtown Philadelphia. The County is easily accessible from metropolitan areas via Interstate Route 80 and major state roadways.

### Governmental Structure

The County operates under the Freeholder form of County government, in which a five-member Board of Chosen Freeholders are elected for staggered three-year terms. The Board expanded from three members to five members effective January 1, 1990, pursuant to voter approval. The Board of Chosen Freeholders enacted the Sussex County Administrative Code on November 17, 1989, so as to maintain the separation of legislative and administrative powers and organize the administration of County government as provided in the Code. The legislative, policy making and investigative powers of County government are vested in the Board. In addition to said powers, the Freeholders operate through an undefined liaison system and are required to perform legislative responsibilities for: (i) adopting whatever ordinances and resolutions it deems necessary and proper for the good governance of the County, (ii) approving the operating and capital budget and appropriating the funds of the County to maintain all County services. A County Administrator is appointed by the Board to be the chief administrative officer responsible for the proper and efficient administration of the County. The County Administrator: (i) supervises, directs and controls all County administrative departments, (ii) organizes the work of the County administrative departments subject to the Code, (iii) reviews the administration and operation of the administrative department and makes recommendations to the Board.

The County has 699 employees of whom approximately 600 are represented by five collective bargaining units. The largest unit is the Communications Workers of America, A.F.L.-C.I.O. Two C.W.A. contracts expire on December 31, 2013. One P.B.A. contract with Prosecutor's Office expires on December 31, 2011; two P.B.A. contracts with Corrections Officers and Sheriff's Officers expire on December 31, 2013.

All full-time County employees are enrolled in one of two State of New Jersey retirement systems. Both the employer and employees make contributions to the systems. In 2009, the County appropriated \$2,108,435 to pay its share of costs associated with the Public Employees' Retirement System and \$1,616,028 for the Police and Firemen's Retirement System. In 2010, the County appropriated \$2,353,125 or 100% of full contribution for the PERS invoice and \$1,764,606 or 100% contribution for the PFRS invoice.

County employees are also enrolled in the Social Security System and are covered by Workers' Compensation, Temporary Disability and Unemployment Insurance, New Jersey Dental Plan and a recently adopted self-insured Medical Program administered by Cigna and Prescription Drug Plan administered by Medco.

### Responsibilities of Government

The County is responsible for providing diverse government services including the construction and maintenance of the County road and bridge system, the provision of human and health care services, library system, fire training, law enforcement, education and a variety of other programs.

Pursuant to the requirements of Section 326 of the State of New Jersey's Solid Waste Management Act, the Board of Chosen Freeholders has adopted a Solid Waste Management Plan and Update. This Plan includes recycling to meet State goals and solid waste flow control for Sussex County generated solid waste.

## FINANCIAL INFORMATION

### COUNTY REVENUE AND TAXES REALIZED

<u>Year</u>	<u>Total Revenue Realized</u>	<u>County Taxes</u>	<u>County Taxes as a % of Total Revenue</u>	<u>Other Revenue</u>
2010	\$ 113,210,396	\$ 75,209,568	66.43%	\$ 38,000,828
2009	115,738,790	71,507,294	61.78%	44,231,496
2008	111,321,395	68,490,715	61.53%	42,830,680

### COUNTY TAXES

County taxes are collected by the municipalities and paid to the County Treasurer. The municipal levy includes all County, library, health, school, and municipal taxes. Each municipality is required to pay to the County Treasurer its share of the County Purpose Tax on the fifteenth day of February, May, August and November of each year. The County receives its share of the taxes collected from the first taxes collected by each municipality. The State Division of Local Government Services requires that each municipality establish a reserve for uncollected taxes that is equal to the product of total taxes assessed by the County multiplied by the percentage of uncollected taxes in the prior year. This reserve is included in the municipal budget when the municipality establishes its own tax rate and assures the County that it will receive 100% of the taxes due. The County reports that it received virtually 100% of its tax levy during the levy year for each of the last three years.

### COMPARISON OF TAX LEVIES AND COLLECTIONS

<u>Year</u>	<u>Tax Levy</u>	<u>Cash Collection</u>	<u>Percentage of Collection</u>
2010	\$ 75,209,568	\$ 75,209,568	100.00%
2009	71,507,294	71,507,294	100.00%
2008	68,490,715	68,490,715	100.00%

EQUALIZED VALUATIONS FOR APPORTIONMENT OF COUNTY TAXES

<u>Taxing District</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>
Andover Borough	\$ 86,718,562	\$ 79,662,312	\$ 77,509,143
Andover Township	882,694,272	900,544,085	907,696,531
Branchville Borough	149,534,694	160,616,325	165,922,928
Byram Township	1,158,651,730	1,187,662,199	1,208,520,486
Frankford Township	929,197,534	969,749,412	918,469,471
Franklin Borough	535,613,771	514,460,518	526,736,674
Fredon Township	531,329,855	556,324,174	558,965,857
Green Township	569,716,075	579,774,786	574,388,803
Hamburg Borough	356,252,093	386,169,033	384,783,759
Hampton Township	756,766,252	792,388,864	786,727,501
Hardyston Township	1,306,080,537	1,406,434,964	1,399,306,603
Hopatcong Borough	1,896,190,997	1,927,858,579	1,858,757,494
Lafayette Township	451,312,650	491,230,736	475,990,366
Montague Township	453,597,230	481,711,730	480,425,465
Newton, Town of	821,900,949	815,490,987	835,648,931
Ogdensburg Borough	246,933,065	248,778,902	246,064,375
Sandyston Township	276,815,900	304,828,906	289,535,447
Sparta Township	3,621,991,535	3,767,867,651	3,711,373,217
Stanhope Borough	419,493,289	442,899,919	434,820,741
Stillwater Borough	578,551,595	597,995,147	580,601,044
Sussex Borough	161,479,129	149,022,809	152,335,911
Vernon Township	3,188,592,155	3,310,050,113	3,285,887,465
Walpack Township	3,059,927	2,897,014	2,887,175
Wantage Township	1,460,073,411	1,549,245,517	1,421,853,168
	<u>\$ 20,842,547,207</u>	<u>\$ 21,623,664,682</u>	<u>\$ 21,285,208,555</u>

ASSESSED AND EQUALIZED VALUATIONS AND TAX RATES

<u>Year</u>	<u>Assessed Valuation</u>	<u>Equalized Assessed Valuation</u>	<u>Tax Levy</u>	<u>Total Tax Rate</u>
2010	\$ 17,716,758,327	\$ 20,842,547,207	\$ 75,209,568	\$ 0.36
2009	17,141,712,811	21,623,664,682	71,507,294	0.33
2008	15,117,256,883	21,285,208,555	68,490,715	0.32

Source: County of Sussex Department of Finance

**ASSESSED VALUATION OF REAL PROPERTY BY CATEGORY**

<u>Year</u>	<u>Vacant Land</u>	<u>Residential</u>	<u>Farm</u>	<u>Commercial</u>	<u>Industrial</u>	<u>Apartments</u>
2010	2.76%	82.45%	3.72%	9.24%	1.27%	0.56%
2009	2.80%	82.87%	3.81%	8.89%	1.11%	0.52%
2008	2.85%	82.33%	4.07%	8.99%	1.17%	0.59%

Source: County of Sussex Board of Taxation

**LARGEST TAXPAYERS**

Listed below are the 15 major ratables in Sussex County currently listed on the tax rolls and their equalized market value for the year 2010:

<u>Taxpayer</u>	<u>Type of Business</u>	<u>Assessed Valuation</u>
1. Crystal Springs, Grand Cascades, Skylands Ballyowen Spa	Resort/Recreation	\$ 134,627,200
2. Mountain Creek Resorts	Resort/Recreation	41,066,000
3. Wantage Avenue Holding Co., Inc.	Insurance	38,696,700
4. Kenneth D. Martin Properties	Real Estate Developer	31,252,100
5. Schering Plough Corporation	Pharmaceutical	29,273,000
6. Metairie Corp.	Resort/Recreation	24,730,000
7. Wal-Mart Stores	Retail Shopping	23,010,200
8. Gordon Byram Associates LLC	Real Estate Developer	22,696,700
9. Weldon Quarry	Quarry	18,309,400
10. Weis Market, Inc.	Grocery Shopping	17,775,200
11. Turco Properties/Andover Nursing	Health Care	17,750,400
12. Shinnihon USA, LTD	Resort/Recreation	14,248,000
13. Newark Watershed Conservation	Watershed Conservation	12,995,600
14. United Telephone	Telecommunications	11,797,280
15. Sussex, Nine, Inc	Health Care	11,063,100
<b>Total</b>		<b>\$ 449,290,880</b>

Source: County of Sussex Tax Board

**SUMMARY OF BUDGET OPERATIONS  
FOR THE YEAR ENDED DECEMBER 31, 2010**

	<u>Anticipated</u>	<u>Realized</u>	<u>% Realized</u>	<u>Prior Year Realized</u>
<b>Revenue:</b>				
Fund Balance	\$ 7,867,523	\$ 7,867,523	100%	\$ 7,898,000
Miscellaneous	28,321,764	28,534,409	101%	34,278,276
Current Tax Collections	75,209,586	75,209,568	100%	71,507,294
<b>Total Revenue</b>	<b><u>\$111,398,873</u></b>	<b><u>\$111,611,500</u></b>	100%	<b><u>\$113,683,570</u></b>
	<u>Appropriated (Modified)</u>	<u>Paid or Charged</u>	<u>% Paid or Charged</u>	<u>Prior Year Paid or Charged</u>
<b>Expenditures:</b>				
<b>Operations:</b>				
Salaries and Wages	\$ 32,640,714	\$ 32,241,339	99%	\$ 32,076,792
Other Expenses	57,211,535	54,267,520	95%	56,671,036
Capital Improvements	503,566	403,566		
Debt Service	14,510,623	14,510,620	100%	14,544,162
Deferred Charges and Statutory Expenditures	<u>6,532,435</u>	<u>6,170,568</u>	94%	<u>6,541,490</u>
<b>Total Expenditures</b>	<b><u>\$111,398,873</u></b>	<b><u>\$107,593,613</u></b>	97%	<b><u>\$109,833,480</u></b>

Source: County of Sussex Department of Finance

**COMPARATIVE SCHEDULE OF FUND BALANCES**

	<u>Year</u>	<u>Balance December 31</u>	<u>Used in Succeeding Budget</u>
Current Fund	2010	\$ 11,716,285	\$ 5,857,000
	2009	15,831,572	7,867,523
	2008	18,034,700	7,898,000
County Health Fund	2010	\$ 512,955	\$ 467,562
	2009	1,042,217	808,000
	2008	1,439,203	720,000
County Library Fund	2010	\$ 848,050	\$ 588,377
	2009	835,555	602,632
	2008	921,428	595,000

Source: County of Sussex Department of Finance

**SUMMARY OF STATUTORY DEBT CONDITION - ANNUAL DEBT STATEMENT**

The summarized statement of debt condition which follows is prepared in accordance with the required method of setting up the Annual Debt Statement as of December 31, 2010, and indicates a statutory net debt of 0.37%.

	<u>Gross Debt</u>	<u>Deductions</u>	<u>Net Debt</u>
General, Vocational School and County College Debt	<u>\$ 88,637,150</u>	<u>\$ 14,109,035</u>	<u>\$ 74,528,115</u>

Net Debt \$74,528,115 divided by Equalized Valuation Basis per N.J.S. 40A:2-2 as amended, \$20,760,970,603 = 0.36%.

**DEBT LIMIT OF THE COUNTY OF SUSSEX  
DECEMBER 31, 2010**

Average Equalized Valuation Basis (2008, 2009 and 2010)	<u>\$ 20,760,970,603</u>
Permitted Debt Limitation (2.00%)	\$ 415,219,412
Net Debt Issued and Authorized but not Issued	<u>74,528,115</u>
Remaining Borrowing Power	<u>\$ 340,691,297</u>

Source: County of Sussex Department of Finance

COUNTY OF SUSSEX  
SCHEDULE OF EXISTING BOND MATURITIES  
AND DEBT SERVICE REQUIREMENTS (1)  
AS OF DECEMBER 31, 2010

Year	Vocational Bonds		General Improvement Bonds		County College		Total Debt Service
	Principal	Interest	Principal	Interest	Principal	Interest	
2011	450,000	106,733	9,565,000	1,965,335	1,240,000	456,930	13,783,997
2012	850,000	90,587	9,035,000	1,642,210	1,305,000	413,064	13,335,861
2013	345,000	57,093	9,716,000	1,335,530	1,599,000	365,960	13,418,582
2014	280,000	43,848	8,274,000	1,008,803	1,594,000	307,055	11,507,705
2015	280,000	34,603	4,605,000	743,593	1,506,000	250,814	7,420,009
2016	315,000	25,358	4,535,000	593,070	820,000	199,883	6,488,310
2017	210,000	15,188	4,570,000	444,958	840,000	169,983	6,250,128
2018	150,000	9,563	3,570,000	295,318	840,000	139,683	5,004,563
2019	150,000	6,563	3,601,000	185,948	925,000	108,883	4,977,393
2020	150,000	3,375	2,227,000	72,443	902,000	74,883	3,429,700
2021			395,000	10,468	765,000	41,200	1,211,668
2022					265,000	10,600	275,600
	<u>\$ 3,180,000</u>	<u>\$ 392,907</u>	<u>\$ 60,093,000</u>	<u>\$ 8,297,673</u>	<u>\$ 12,601,000</u>	<u>\$ 2,538,935</u>	<u>\$ 87,103,514</u>

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(1) Does not include County College Bonds pursuant to the County College Bond Act (P.L. 1971, C.12) which are paid by the NJ Department of Treasury.

Source: County of Sussex Finance Department

## EMPLOYMENT AND UNEMPLOYMENT COMPARISONS

For the years 2008, 2009 and 2010, the New Jersey Department of Labor and Workforce Development reported the following annual average employment information for the County of Sussex and the State of New Jersey.

<u>County of Sussex</u>	<u>Annual Average</u>		<u>Total Unemployed</u>	<u>Unemployment Rate</u>
	<u>Labor Force</u>	<u>Employed</u>		
2010	84,561	76,671	7,890	9.3%
2009	85,400	77,950	7,450	8.7%
2008	85,150	80,850	4,300	5.0%
<u>State of New Jersey</u>				
2010	4,502,450	4,076,713	425,737	9.5%
2009	4,536,650	4,118,350	418,300	9.2%
2008	4,502,750	4,256,950	245,800	5.5%

Source: New Jersey Department of Labor and Workforce Development

### PER CAPITAL INCOME

	<u>2010</u>	<u>2009</u>	<u>2008</u>
County of Sussex	N/A	\$ 47,497	\$ 48,828
State of New Jersey	N/A	48,455	49,857

Source: New Jersey Department of Labor and Workforce Development

### MAJOR PRIVATE AND PUBLIC EMPLOYEES

<u>Employer</u>	<u>Municipality</u>	<u>Number of Employees</u>
1. Selective Insurance Company	Branchville	954
2. Newton Medical Center	Newton	805
3. Andover Sub acute & Rehab Center	Andover Township	800
4. Mountain Creek/Intrawest	Vernon	776
5. County of Sussex	Newton	771
6. Ronetco Supermarkets	Newton/Franklin/Byram	672
7. Vernon Township Board of Education	Vernon	664
8. F.O. Phoenix, Inc. (Econo-Pac)	Sussex	600
9. Sparta Board of Education	Sparta	517
10. Hopatcong Board of Education	Hopatcong	450

Source: Sussex County Strategic Growth Plan, July, 2009

## LAND AREA

The land area of Sussex County is approximately 525 square miles or approximately 337,000 acres. Of that amount, the federal or state government for recreational use holds 64,200 acres. Approximately 12,000 acres of the County are still virgin woodland of the approximately 100,000 acres of total woodland. Agricultural uses account for 84,000 acres. In order to preserve this agricultural base, the County operates a farmland preservation program, which is partially State funded and with a dedicated property tax that began in 2001. There are 100 lakes and streams in the County.

## ECONOMY

The County has shifted from a principally agricultural, mining, and recreational based economy to one, which is more diversified. The growth of population in the County has led to the development of substantial construction activity, increased retail and office development, as well as other service sector jobs that are supported by the increasing population. The County encourages economic growth that is consistent with its zoning and subdivision laws. Approximately 51,000 County residents are employed outside the County. These commuters are employed in Morris, Bergen, and Essex Counties in New Jersey as well as in New York City. The development of commercial complexes in Morris County has supported the residential growth in Sussex County.

Adjacent to Sussex County are Picatinny Arsenal, a U.S. military installation, and the New Jersey Foreign Trade Zone, an authorized Foreign trade Zone developed by the Rockefeller Group. The International Trade Center is home to foreign-owned manufacturing, assembly and distribution operations that employ approximately 815 people, of which an estimated 80-100 are County residents. The Center has developed 2 million square feet of office and light industrial space with plans to develop up to 3 million additional square feet.

Agriculture's contribution to county business exceeds \$20 million a year spread across a varied mix of animal, forage and grain, and direct consumer product sales. Sussex County growers consistently rank near the top in the State in hay production and sales, milk production and sales, cattle, calves, sheep and lamb production and sales, equine production and value, and sweet corn production. Growth continues in pick-your-own fruit and vegetable farms and in nursery and greenhouse/floriculture industry that is accommodating the increasing urban population and tourism interests in northern New Jersey.

## TRANSPORTATION

The transportation network in Sussex County links federal Interstate 80 in the south eastern part of the County and Interstate 84 in the northwestern portion of the County to a variety of U.S. and state routes; U.S. Route 206 connects Interstate 80 with Newton, the County seat, and continues into Pennsylvania. State Routes 15, 23, 94, and 284 provide access to all parts of the County. In addition, the County route system is comprised of 47 separate routes totaling 320 two-lane miles. The towns within the County also maintain a system of local roads and streets. Of the 480 bridges that are located within the County, 440 bridges are part of the County system, 37 are State owned, and 3 are privately owned.

Two commuter bus lines offer transportation to the Port Authority Terminal in New York City and the Sussex County Transit system offers daily trips throughout the County. The Sussex County Transit system also provides Dial-A-Ride services to senior and handicapped citizens. NJ Transit offers rail service in neighboring counties with close proximity to Sussex County

The New York, Susquehanna, and Western Railway provides freight service to the County.

There are four licensed airfields that serve private pilots. The Newark International Airport is approximately one hour from the County.

## EDUCATIONAL FACILITIES

There are 20 public school districts in the County, of which 5 offer K-6 instruction, 11 offer K-8 instruction, and 4 offer K-12 instruction. In addition, there are four regional schools that provide 7-12 and 9-12 educational programs for district students. There are also nine nonpublic schools as well as private preschool programs offered in most communities. Also, there is one Charter School for Technology and one educational services commission. The secondary school districts cooperate in offering a vocational-technical school serving the County. Students are enrolled in trade, vocational and technical programs including electronics, computer science, automotive technology, engineering and health care fields.

There is one college in the County. The Sussex County Community College opened in 1982 and was fully accredited by the Middle States Association in 1993.

### SUSSEX COUNTY RESIDENT SCHOOL ENROLLMENTS

<u>Year</u>	<u>Total</u>
2006-07	27,649
2007-08	26,995
2008-09	26,334
2009-10	25,655
2010-11	24,880

Source: Sussex County Superintendent of Schools Office October 15, ASSA Counts

## HEALTH CARE FACILITIES

There are two hospitals that serve the County, Newton Medical Center and Northwest Covenant Medical Center. Newton Hospital has been serving the County for more than 50 years and has 146 acute care beds. Approximately 96 beds are for medical surgical patients, a pediatric unit, a physical rehabilitation unit and an OB/GYN unit. In addition, it houses health education programs, the American Heart Association, the Cancer Society, a hospice for the terminally ill, and a Center for Mental Health. The hospital provides an American College of Surgeons Commission approved oncology program providing radiotherapy and chemotherapy. Newton Medical Center is part of the Atlantic Health Care System and often refers patients to Morristown Hospital or Saint Joseph's Hospital in Philadelphia.

The Northwest Covenant Medical Center was the result of a merger between the St. Clare's Riverside Medical Center in Denville Township and the Wallkill Valley General Hospital. The Northwest Covenant Medical Center provides an Acute Care Center and geriatric services in the Sussex Borough facility.

An interconnecting network of volunteer and private ambulance and rescue squads also serves the County.

## RECREATIONAL FACILITIES

Located in the northwest corner of New Jersey, Sussex County is bordered by the 72,000 acre Delaware Water Gap National Recreation Area, developed by the United States Department of Interior. In addition, the County is home to the 15,734 acre Stokes State Forest and to six additional state parks totaling 41,382 acres, and nine wildlife management areas. Some of the state parks recreational facilities include swimming, fishing, hiking, mountain biking, horseback riding, hunting, boating, picnicking, camping, snow shoeing, cross country skiing, and snowmobiling. Also, there are over 15,000 acres of farmland preserved in perpetuity in the county.

Other recreational offerings consist of two ski resorts, twenty public and private golf courses, a large water park, and a minor league baseball team. The best known of these are Mountain Creek for its winter and summer recreation parks.

SUSSEX COUNTY MUNICIPAL POPULATION AND POPULATION DENSITIES

	<u>Form of Government</u>	<u>Estimated Population July 1, 2008</u>	<u>Population Per Square Mile</u>	<u>Square Mile July 1, 2008</u>
Andover Borough	Mayor-Council	633	452	1.40
Andover Township	Township Committee	6,531	308	21.20
Branchville Borough	Mayor-Council	814	1,454	0.56
Byram Township	Council-Manager	8,465	411	20.60
Frankford Township	Township Committee	5,594	161	34.70
Franklin Borough	Mayor-Council	5,077	1,154	4.40
Fredon Township	Township Committee	3,316	184	18.00
Green Township	Township Committee	3,599	228	15.80
Hamburg Borough	Mayor-Council	3,466	2,888	1.20
Hampton Township	Township Committee	5,099	204	24.95
Hardyston Township	Council-Manager	8,295	255	32.50
Hopatcong Borough	Mayor-Council	15,491	1,434	10.80
Lafayette Township	Township Committee	2,466	132	18.70
Montague Township	Township Committee	3,906	86	45.20
Newton Town	Council-Manager	8,096	2,453	3.30
Ogdensburg Borough	Mayor-Council	2,545	1,157	2.20
Sandyston Township	Township Committee	1,882	45	41.40
Sparta Township	Council-Manager	19,206	499	38.50
Stanhope Borough	Mayor-Council	3,562	2,095	1.70
Stillwater Township	Township Committee	4,292	157	27.35
Sussex Borough	Mayor-Council	2,124	2,832	0.75
Vernon Township	Council-Manager	24,854	370	67.25
Walpack Township	Township Committee	39	2	24.10
Wantage Township	Township Committee	11,557	170	68.15
		<u>150,909</u>	<u>288</u>	<u>524.71</u>

Source: Population Division, U.S. Census Bureau

## SUSSEX COUNTY MUNICIPAL UTILITIES AUTHORITY

The Sussex County Municipal Utilities Authority (the "Authority") is a public body corporate and politic of the State of New Jersey. The Sussex County Municipal Utilities Authority was organized pursuant to the Municipal and County Utilities Authorities law (N.J.S.A. 40:14A-1 et seq.) (the "MUA Act"). The governing body of the Authority consists of nine members appointed by the Board of Chosen Freeholders for terms on a staggered basis for a maximum term of five years.

The Authority was created for the purpose of acquiring, constructing, maintaining and operating sewerage facilities for the relief of waters in, bordering or entering the areas within the territorial boundaries of the County from pollution or the threatened pollution and for the improvement of conditions affecting the public health. The Authority has been granted additional powers to implement the County solid waste plan.

The Authority has broad power under the MUA Act including, among others, the following: to sue and to be sued; to enter into leases and contracts; to acquire property by any lawful means, including the exercise of the power of eminent domain; to hold, operate and administer its property; to issue its negotiable bonds and to secure their payment and rights of holders thereof under a bond resolution; to enter into contracts with municipalities, other authorities and corporations for the treatment and disposal of sewage and solid waste; to charge and collect service charges for the use of its facilities and to revise such service charges which the MUA Act requires to such that the revenue of the Authority will at all times be adequate to pay operating and maintenance expenses including reserves, insurance, extensions and replacements; to pay punctually the principal of and interest on any bonds and to maintain reserves and sinking funds therefor as may be required by the terms of any contracts with bondholders; and to make and enforce rules and regulations for the management of its business affairs.

The County of Sussex and the Sussex County Municipal Utilities Authority ("SCMUA") have entered into Deficiency Advance Contracts in order to provide security to the holders of obligations of SCMUA relative to the existing permanent debt issued and outstanding as listed in the following schedule. Pursuant to the terms of the Deficiency Advance Contracts, SCMUA can impose and collect from the County of Sussex annual charges, as defined in the contract, in any fiscal year that SCMUA estimates that the amount of revenue received from all sources will be insufficient to satisfy all of its costs, expenses, or other obligations.

As of December 31, 2010, the SCMUA has outstanding approximately \$38,059,874 of Upper Wallkill Wastewater Facilities Revenue Bonds that are supported by the Deficiency Advance Contract. The SCMUA's wastewater revenues have been sufficient to meet all costs of operation and maintenance and all debt service costs of the Authority with respect to its wastewater system.

As of December 31, 2010, the SCMUA has outstanding approximately \$28,439,744 of Solid Waste Revenue Bonds that are supported by a Deficiency Advance Contract. The Authority's Solid Waste Facilities, as a result of the Supreme Court decision regarding solid waste flow direction control, has realized a significant drop in revenue from tipping fees. SCMUA projected the anticipated budget deficit for 2011 would be \$3.0 million. SCMUA will be covering the 2011 shortfall by realizing higher than expected solid waste revenues and by utilizing \$2.1 million from their landfill closure reserve. The Sussex County Municipal Utilities Authority expects to replenish the landfill closure reserve in future years when debt services costs are expected to decrease. Additionally, SCMUA has proposed a 2012 rate increase to meet its full operating costs, including debt service with respect to its solid waste system.

SUSSEX COUNTY MUNICIPAL UTILITIES AUTHORITY  
 PERMANENT DEBT ISSUED AND OUTSTANDING  
 As of December 31, 2010

<u>Purpose</u>	<u>Interest Rates</u>	<u>Date of Issue</u>	<u>Final Maturity Date</u>	<u>Amount Outstanding</u>
Wastewater Trust Loan	4.6-4.8%	5/7/2003	12/1/2012	\$ 655,482
Wastewater Trust Loan	0.00%	10/15/1993	12/1/2011	275,788
2001 Series F	4.0-5.0%	12/12/2001	12/1/2031	2,535,000
2003 Series G	2.0-4.0%	10/12/2003	12/1/2018	6,035,000
Series 2008 A & B	2.57-5.75%	9/15/2008	12/1/2039	28,558,594
Upper Walkill Wastewater Facilities				<u>38,059,864</u>
Refunding Series 2003	2.0-5.0%	4/4/2003	12/1/2013	13,235,000
Revenue Series 2006	3.7%-4.48%	6/21/2006	12/1/2016	15,204,744
Solid Waste Facilities				<u>28,439,744</u>
 Total Wastewater and Solid Waste Revenue Bonds				 66,499,608
 Other Loans: County Loan				 <u>435,701</u>
 Total Debt				 <u><u>\$ 66,935,309</u></u>

Source: Sussex County Municipal Utilities Authority

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## Appendix B

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**FINANCIAL STATEMENTS OF THE COUNTY OF SUSSEX  
YEARS ENDED DECEMBER 31, 2010, 2009 AND 2008**

COUNTY OF SUSSEX  
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200 Valley Road, Suite 300  
Mt. Arlington, NJ 07856  
973-328-1825 | 973-328-0507 Fax  
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11 Lawrence Road  
Newton, NJ 07860  
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### Independent Auditors' Report

The Honorable Director and Members  
of the Board of Chosen Freeholders  
County of Sussex  
Newton, NJ 07860

We have audited the accompanying financial statements of the various funds of the County of Sussex (the "County") as of and for the years then ended December 31, 2010, 2009 and 2008, as listed in the table of contents. These financial statements are the responsibility of the County's management. Our responsibility is to express opinions on these financial statements based on our audits.

Except as discussed in the fourth paragraph, we conducted our audits in accordance with auditing standards generally accepted in the United States of America, audit requirements prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey (the "Division"), and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinions.

As described in Note 1, these financial statements have been prepared in conformity with accounting principles prescribed by the Division that demonstrate compliance with the modified accrual basis, with certain exceptions, and the budget laws of New Jersey, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The effects on the financial statements of the variances between the statutory basis of accounting and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

The financial statements referred to in the first paragraph do not include the general fixed assets account group, which should be included to conform with the Technical Accounting Directives of the Division. The amount that should be recorded as total fixed assets and the corresponding reserve for fixed assets in the general fixed assets account group is not known.

In our opinion, because the County prepares its financial statements on the basis of accounting discussed in the third paragraph, the financial statements referred to in the first paragraph do not present fairly, in conformity with accounting principles generally accepted in the United States of America, the financial position of the County as of December 31, 2010, 2009 and 2008 and the results of its operations for the years then ended.

The Honorable Director and Members of  
the Board of Chosen Freeholders  
County of Sussex  
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However, in our opinion, except for the effects on the financial statements of the omission described in the fourth paragraph, the financial statements referred to above present fairly, in all material respects, the financial position of the various funds of the County of Sussex at December 31, 2010, 2009 and 2008, and the results of operations and changes in fund balance, where applicable, of such funds, thereof for the years then ended, in conformity with accounting principles prescribed by the Division, as described in Note 1.

June 30, 2011  
except for Note 8  
which is dated  
November 18, 2011

NISIVOC CIA LLP

Nisivocia LLP

COUNTY OF SUSSEX  
COMPARATIVE BALANCE SHEET  
CURRENT FUND

	December 31,		
	2010	2009	2008
<u>ASSETS</u>			
Cash and Cash Equivalents	\$ 20,223,535.03	\$ 15,799,281.79	\$ 16,703,956.30
Investments		7,979,814.56	9,669,832.26
Added and Omitted Taxes Receivable	135,130.89	185,024.81	340,398.16
Grant Funds Receivable	8,518,272.21	11,599,575.74	10,183,460.06
Interfund Receivable			6,938.76
Other Receivables	588,127.90	611,211.14	626,587.81
Deferred Charges	2,342,000.00	2,500,000.00	
<u>TOTAL ASSETS</u>	<u>\$ 31,807,066.03</u>	<u>\$ 38,674,908.04</u>	<u>\$ 37,531,173.35</u>
<u>LIABILITIES, RESERVES AND FUND BALANCE</u>			
Appropriation Reserves	\$ 6,197,807.68	\$ 7,388,077.69	\$ 5,236,870.32
Other Encumbrances Payable and Other Liabilities	5,476,542.31	2,448,296.17	1,830,680.29
Interfund Payables	2,845,467.18	2,975,293.47	3,565,716.60
Cash Reserves for Various Purposes	4,847,705.38	9,235,432.28	7,889,281.27
Reserve for Receivables	723,258.79	796,235.95	973,924.73
Fund Balance	11,716,284.69	15,831,572.48	18,034,700.14
<u>TOTAL LIABILITIES, RESERVES AND FUND BALANCE</u>	<u>\$ 31,807,066.03</u>	<u>\$ 38,674,908.04</u>	<u>\$ 37,531,173.35</u>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

**COUNTY OF SUSSEX**  
**COMPARATIVE STATEMENT OF OPERATIONS AND CHANGE IN FUND BALANCE**  
**CURRENT FUND**

	Year Ended December 31,		
	2010	2009	2008
<b><u>Revenue and Other Income Realized</u></b>			
Fund Balance Anticipated	\$ 1,726,250.32	\$ 7,851,240.08	\$ 7,060,687.40
Fund Balance Anticipated with Prior Written Consent of Director of Local Government Services	6,141,272.68	46,759.92	901,004.60
Miscellaneous Revenue Anticipated	28,534,408.55	34,278,276.02	33,157,541.17
Receipts from Current Taxes	75,209,568.00	71,507,294.00	68,490,715.00
Receipts from Delinquent Taxes			
Non-Budget Revenue	1,598,896.78	2,055,220.40	1,711,446.63
Other Credits to Income	1,815,448.43	2,378,003.71	5,493,559.44
<b>Total Income</b>	<b>115,025,844.76</b>	<b>118,116,794.13</b>	<b>116,814,954.24</b>
<b><u>Expenditures</u></b>			
<b>Budget and Emergency Appropriations:</b>			
Operations	89,726,988.97	93,653,145.66	86,426,517.13
Capital Improvements	503,566.00		710,000.00
County Debt Service	14,510,620.24	14,544,162.13	14,898,454.15
Deferred Charges and Statutory Expenditures	6,532,434.34	6,724,614.00	5,812,023.24
Other Debits to Income			1,586.05
Interfunds and Other Receivables Advanced			
<b>Total Expenditures</b>	<b>111,273,609.55</b>	<b>114,921,921.79</b>	<b>107,848,580.57</b>
<b>Excess in Revenue</b>	<b>3,752,235.21</b>	<b>3,194,872.34</b>	<b>8,966,373.67</b>
<b>Adjustments Before Fund Balance:</b>			
Expenditures Included Above Which Are By Statute Deferred Charges to Budget of Succeeding Year		2,500,000.00	
<b>Statutory Excess to Fund Balance</b>	<b>3,752,235.21</b>	<b>5,694,872.34</b>	<b>8,966,373.67</b>
<b><u>Fund Balance</u></b>			
Balance January 1	15,831,572.48	18,034,700.14	17,030,018.47
	19,583,807.69	23,729,572.48	25,996,392.14
Decreased by:			
Utilization as Anticipated Revenue	7,867,523.00	7,898,000.00	7,961,692.00
<b>Balance December 31</b>	<b>\$ 11,716,284.69</b>	<b>\$ 15,831,572.48</b>	<b>\$ 18,034,700.14</b>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF REVENUE - CURRENT FUND

	For the Years Ended December 31,					
	2010		2009		2008	
	Budget After Modification	Realized	Budget After Modification	Realized	Budget After Modification	Realized
Fund Balance Anticipated	\$ 1,726,250.32	\$ 1,726,250.32	\$ 7,851,240.08	\$ 7,851,240.08	\$ 7,060,687.40	\$ 7,060,687.40
Fund Balance Anticipated with Prior Written Consent of Director of Local Government Services	6,141,272.68	6,141,272.68	46,759.92	46,759.92	901,004.60	901,004.60
Miscellaneous Revenue Anticipated	28,321,763.97	28,534,408.55	33,103,183.86	34,278,276.02	31,395,796.13	33,157,541.17
Amount to be Raised by Taxes for Support of Municipal Budget:						
Local Taxes for County Purposes	75,209,586.00	75,209,568.00	71,507,294.00	71,507,294.00	68,490,715.00	68,490,715.00
Total Budget Revenue	<u>111,398,872.97</u>	<u>111,611,499.55</u>	<u>112,508,477.86</u>	<u>113,683,570.02</u>	<u>107,848,203.13</u>	<u>109,609,948.17</u>
Nonbudget Revenue		<u>1,598,896.78</u>		<u>2,055,220.40</u>		<u>1,711,446.63</u>
Grand Total	<u>\$ 111,398,872.97</u>	<u>\$ 113,210,396.33</u>	<u>\$ 112,508,477.86</u>	<u>\$ 115,738,790.42</u>	<u>\$ 107,848,203.13</u>	<u>\$ 111,321,394.80</u>

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THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

**COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF EXPENDITURES  
CURRENT FUND**

	For the Years Ended December 31,							
	2010		2009					
	Budget After Modification	Paid or Charged	Reserved	Unexpended Balance Canceled	Budget After Modification	Paid or Charged	Reserved	Unexpended Balance Canceled
Operations:	\$ 32,640,714.00	\$ 32,241,338.60	\$ 399,375.40	\$ 125,260.00	\$ 32,472,056.64	\$ 32,076,792.20	\$ 395,264.44	\$ 86,553.20
Salaries and Wages	57,211,534.97	54,267,520.12	2,818,754.85		61,267,642.22	56,671,035.73	4,510,053.29	
Other Expenses	503,566.00	403,566.00	100,000.00					
Capital Improvements	14,510,623.00	14,510,620.24		2.76	14,544,165.00	14,544,162.13		2.87
County Debt Service								
Deferred Charges and Statutory Expenditures	6,532,435.00	6,170,567.90	361,866.44	0.66	6,724,614.00	6,541,490.03	183,123.97	
	<u>\$ 111,398,872.97</u>	<u>\$ 107,593,612.86</u>	<u>\$ 3,679,996.69</u>	<u>\$ 125,263.42</u>	<u>\$ 115,008,477.86</u>	<u>\$ 109,833,480.09</u>	<u>\$ 5,088,441.70</u>	<u>\$ 86,556.07</u>
Budget Emergency	<u>\$ 111,398,872.97</u>				<u>\$ 112,508,477.86</u>			
					<u>2,500,000.00</u>			
					<u>\$ 115,008,477.86</u>			

For the Year Ended December 31, 2008

	Budget After Modification	Paid or Charged	Reserved	Unexpended Balance Canceled
Operations:	\$ 32,628,822.00	\$ 31,860,021.83	\$ 768,800.17	
Salaries and Wages	53,797,695.13	52,051,118.38	1,746,576.75	
Other Expenses	710,000.00	537,419.18	172,580.82	
Capital Improvements	14,898,455.00	14,898,454.15		\$ 0.85
County Debt Service				
Deferred Charges and Statutory Expenditures	5,813,231.00	5,650,950.13	161,073.11	1,207.76
	<u>\$ 107,848,203.13</u>	<u>\$ 104,997,963.67</u>	<u>\$ 2,849,030.85</u>	<u>\$ 1,208.61</u>
Budget Emergency	<u>\$ 107,848,203.13</u>			

COUNTY OF SUSSEX  
COMPARATIVE BALANCE SHEET  
TRUST FUNDS

	December 31,		
	2010	2009	2008
<u>ASSETS</u>			
Cash and Cash Equivalents	\$ 12,530,484.74	\$ 12,867,154.93	\$ 10,155,091.58
Investments	77,229.99	4,847,222.05	16,470,907.17
Open Space Added and Omitted			
Taxes Receivable	3,537.02	8,801.99	27,539.03
Interfunds Receivable	2,331,068.98	2,117,450.40	2,042,603.52
<u>TOTAL ASSETS</u>	<u>\$ 14,942,320.73</u>	<u>\$ 19,840,629.37</u>	<u>\$ 28,696,141.30</u>
 <u>LIABILITIES, RESERVES AND FUND BALANCE</u>			
Escrow Deposits	\$ 458,581.65	\$ 518,491.73	\$ 518,450.99
Cash Reserves for Various Purposes	14,448,580.62	19,286,979.18	28,142,531.85
Interfunds Payable	77.03	77.03	77.03
Fund Balance	35,081.43	35,081.43	35,081.43
<u>TOTAL LIABILITIES, RESERVES AND FUND BALANCE</u>	<u>\$ 14,942,320.73</u>	<u>\$ 19,840,629.37</u>	<u>\$ 28,696,141.30</u>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE BALANCE SHEET  
GENERAL CAPITAL FUND

	December 31,		
	2010	2009	2008
<b><u>ASSETS</u></b>			
Cash and Cash Equivalents	\$ 18,003,959.46	\$ 15,561,834.66	\$ 10,371,613.68
Investments	688,846.36	2,716,032.74	4,478,201.11
Interfunds Receivable	7,671.37	1,228.02	
Accounts Receivable	10,242,271.26	10,250,271.26	9,130,271.26
Deferred Charges to Future Taxation:			
Funded	84,728,000.00	72,671,000.00	83,907,800.00
Unfunded	3,909,150.29	19,072,407.26	7,978,407.26
<b><u>TOTAL ASSETS</u></b>	<b><u>\$ 117,579,898.74</u></b>	<b><u>\$ 120,272,773.94</u></b>	<b><u>\$ 115,866,293.31</u></b>
 <b><u>LIABILITIES, RESERVES AND FUND BALANCE</u></b>			
Vocational School and General Improvement Serial Bonds	\$ 63,273,000.00	\$ 51,724,000.00	\$ 60,199,000.00
County College Serial Bonds	21,455,000.00	20,947,000.00	23,702,000.00
Loans Payable			6,800.00
Bonds Anticipation Notes		15,177,000.00	3,504,000.00
Improvement Authorizations	26,882,077.05	25,378,242.51	23,649,275.09
Capital Improvement Fund	269,383.56	346,982.56	711,732.56
Due to State of NJ	308,912.77	308,807.50	308,807.50
Interfunds Payable	2,342,000.00	2,500,000.00	6,938.76
Cash Reserves for Various Purposes	2,354,025.22	3,258,001.81	3,411,842.89
Capital Fund Balance	695,500.14	632,739.56	365,896.51
<b><u>TOTAL LIABILITIES, RESERVES AND FUND BALANCE</u></b>	<b><u>\$ 117,579,898.74</u></b>	<b><u>\$ 120,272,773.94</u></b>	<b><u>\$ 115,866,293.31</u></b>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF FUND BALANCE  
GENERAL CAPITAL FUND

	For the Years Ended December 31,		
	2010	2009	2008
Balance January 1	\$ 632,739.56	\$ 365,896.51	\$ 317,185.74
Increased by:			
Premium on Sale of Bonds	340,475.43		
Cancellation of Outstanding Checks	13,880.57		
Cancellation of Fully Funded Improvement Authorizations	5,175.64	438,343.08	181,041.71
Premium on Sale of Bonds Anticipation Notes	3,228.94	240,499.97	17,669.06
	<u>995,500.14</u>	<u>1,044,739.56</u>	<u>515,896.51</u>
Decreased by:			
Payment to Current Fund as Anticipated Revenue	300,000.00	175,000.00	150,000.00
Appropriated to Finance Improvement Authorizations		237,000.00	
		<u>237,000.00</u>	
Balance December 31	<u>\$ 695,500.14</u>	<u>\$ 632,739.56</u>	<u>\$ 365,896.51</u>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE BALANCE SHEET  
SPECIAL REVENUE - COUNTY HEALTH FUND

	December 31,		
	2010	2009	2008
<u>ASSETS</u>			
Cash and Cash Equivalents	\$ 149,479.81	\$ 333,411.93	\$ 100.00
Interfund Receivable	624,829.51	974,717.73	1,641,215.76
Receivables with Full Reserves:			
County Taxes Receivable	9.00	9.00	9.32
Added and Omitted Taxes Receivable	3,695.26	5,296.33	9,132.71
Revenue Accounts Receivable	19,786.40	55,665.86	20,648.75
<u>TOTAL ASSETS</u>	<u>\$ 797,799.98</u>	<u>\$ 1,369,100.85</u>	<u>\$ 1,671,106.54</u>
<u>LIABILITIES, RESERVES AND FUND BALANCE</u>			
Appropriation Reserves	\$ 193,328.32	\$ 197,887.43	\$ 134,087.26
Interfunds Payable	68,025.65	68,025.65	68,025.65
Reserve for Receivables	23,490.66	60,971.19	29,790.78
Fund Balance	512,955.35	1,042,216.58	1,439,202.85
<u>TOTAL LIABILITIES, RESERVES AND FUND BALANCE</u>	<u>\$ 797,799.98</u>	<u>\$ 1,369,100.85</u>	<u>\$ 1,671,106.54</u>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF OPERATIONS AND CHANGE IN FUND BALANCE  
SPECIAL REVENUE - COUNTY HEALTH FUND

	Year Ended December 31,		
	2010	2009	2008
<u>Revenue and Other Income Realized</u>			
Fund Balance Utilized	\$ 808,000.00	\$ 720,000.00	\$ 551,054.00
Receipts from Current and Prior Year Taxes	2,031,935.00	2,031,935.32	1,537,729.00
Miscellaneous Revenue Anticipated	233,510.27	222,081.25	246,889.20
Nonbudget Revenue	100,594.53	145,622.60	38,345.09
Other Credits to Income	169,343.97	109,897.56	335,123.51
 Total Income	 <u>3,343,383.77</u>	 <u>3,229,536.73</u>	 <u>2,709,140.80</u>
 <u>Expenditures</u>			
Budget Expenditures:			
Operations	<u>3,064,645.00</u>	<u>2,906,523.00</u>	<u>2,243,371.00</u>
Excess in Revenue	278,738.77	323,013.73	465,769.80
 <u>Fund Balance</u>			
Balance January 1	<u>1,042,216.58</u>	<u>1,439,202.85</u>	<u>1,524,487.05</u>
	1,320,955.35	1,762,216.58	1,990,256.85
Decreased by:			
Utilization as Anticipated Revenue	<u>808,000.00</u>	<u>720,000.00</u>	<u>551,054.00</u>
Balance December 31	<u>\$ 512,955.35</u>	<u>\$ 1,042,216.58</u>	<u>\$ 1,439,202.85</u>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF REVENUE  
SPECIAL REVENUE - COUNTY HEALTH FUND

	For the Years Ended December 31,					
	2009		2009		2008	
	Budget After Modification	Realized	Budget After Modification	Realized	Budget After Modification	Realized
Fund Balance Anticipated	\$ 808,000.00	\$ 808,000.00	\$ 720,000.00	\$ 720,000.00	\$ 551,054.00	\$ 551,054.00
Miscellaneous Revenue Anticipated	224,710.00	233,510.27	154,588.00	222,081.25	154,588.00	246,889.20
Amount to be Raised by Taxes for Support of Health Budget:						
Local Tax for County Health Purposes	2,031,935.00	2,031,935.00	2,031,935.00	2,031,935.32	1,537,729.00	1,537,729.00
Total Budget Revenue	3,064,645.00	3,073,445.27	2,906,523.00	2,974,016.57	2,243,371.00	2,335,672.20
Nonbudget Revenue		100,594.53		145,622.60		38,345.09
 Grand Total	 <u>\$ 3,064,645.00</u>	 <u>\$ 3,174,039.80</u>	 <u>\$ 2,906,523.00</u>	 <u>\$ 3,119,639.17</u>	 <u>\$ 2,243,371.00</u>	 <u>\$ 2,374,017.29</u>

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THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF EXPENDITURES  
SPECIAL REVENUE - COUNTY HEALTH FUND

For the Years Ended December 31,

	2010			2009		
	Budget After Modification	Paid or Charged	Reserved	Budget After Modification	Paid or Charged	Reserved
County Health Operations:						
Salaries and Wages	\$ 1,302,649.00	\$ 1,268,257.80	\$ 34,391.20	\$ 1,348,328.00	\$ 1,281,442.16	\$ 66,885.84
Other Expenses	970,145.00	901,514.18	68,630.82	838,920.00	781,381.00	57,539.00
Public Health Priority Funds:						
Salaries and Wages	403,898.00	391,031.33	12,866.67	409,427.00	408,866.69	560.31
Other Expenses	387,953.00	347,446.56	40,506.44	309,848.00	281,387.31	28,460.69
	<u>\$ 3,064,645.00</u>	<u>\$ 2,908,249.87</u>	<u>\$ 156,395.13</u>	<u>\$ 2,906,523.00</u>	<u>\$ 2,753,077.16</u>	<u>\$ 153,445.84</u>

For the Year Ended December 31, 2008

	Budget	Paid or	Reserved
	After Modification	Charged	
County Health Operations:			
Salaries and Wages	\$ 1,346,046.00	\$ 1,323,100.26	\$ 22,945.74
Other Expenses	880,549.00	801,569.42	78,979.58
Public Health Priority Funds:			
Salaries and Wages			
Other Expenses	16,776.00	16,776.00	
	<u>\$ 2,243,371.00</u>	<u>\$ 2,141,445.68</u>	<u>\$ 101,925.32</u>

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THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
 ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE BALANCE SHEET  
SPECIAL REVENUE - COUNTY LIBRARY FUND

	December 31,		
	2010	2009	2008
<u>ASSETS</u>			
Cash and Cash Equivalents	\$ 880,037.99	\$ 1,364,957.52	\$ 1,413,798.73
Investments	611,789.88	609,639.34	602,371.90
Receivables with Full Reserves:			
Added and Omitted Taxes Receivable	7,017.75	10,614.25	21,021.78
Library Taxes Receivable			20.00
Revenue Accounts Receivable	9,561.62	11,969.75	8,344.52
	<u>16,579.37</u>	<u>22,584.00</u>	<u>29,386.30</u>
<u>TOTAL ASSETS</u>	<u>\$ 1,508,407.24</u>	<u>\$ 1,997,180.86</u>	<u>\$ 2,045,556.93</u>
 <u>LIABILITIES, RESERVES, AND FUND BALANCE</u>			
Appropriation Reserves	\$ 481,492.54	\$ 639,503.72	\$ 642,071.95
Accounts Payable	41,760.70	99,519.50	37,910.90
Unrestricted State per Capita Library Aid	47,849.00	87,343.00	102,084.00
Interfunds Payable	50,000.00	50,000.00	30,000.00
Reserve for Donations	22,675.98	262,675.98	262,675.98
	<u>643,778.22</u>	<u>1,139,042.20</u>	<u>1,074,742.83</u>
Reserve for Receivables	16,579.37	22,584.00	29,386.30
Fund Balance	848,049.65	835,554.66	921,427.80
<u>TOTAL LIABILITIES, RESERVES, AND FUND BALANCE</u>	<u>\$ 1,508,407.24</u>	<u>\$ 1,997,180.86</u>	<u>\$ 2,025,556.93</u>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF OPERATIONS AND CHANGE IN FUND BALANCE  
SPECIAL REVENUE - COUNTY LIBRARY FUND

	Year Ended December 31,		
	2010	2009	2008
<u>Revenue and Other Income Realized</u>			
Fund Balance Utilized	\$ 602,632.00	\$ 595,000.00	\$ 548,269.00
Receipts from Current Taxes	4,541,398.00	4,761,418.00	4,765,620.00
Miscellaneous Revenue Anticipated	87,343.00	108,191.00	108,191.00
Nonbudget Revenue	167,966.71	185,420.26	200,861.90
Other Credits to Income	447,160.28	323,686.60	447,179.83
 Total Income	 <u>5,846,499.99</u>	 <u>5,973,715.86</u>	 <u>6,070,121.73</u>
 <u>Expenditures</u>			
Budget Expenditures:			
Operating:			
Salaries and Wages	2,425,830.00	2,411,337.00	2,618,197.00
Other Expenses	2,805,543.00	3,053,252.00	2,803,883.00
 Total Expenditures	 <u>5,231,373.00</u>	 <u>5,464,589.00</u>	 <u>5,422,080.00</u>
 Excess in Revenue	 615,126.99	 509,126.86	 648,041.73
 <u>Fund Balance</u>			
Balance January 1	835,554.66	921,427.80	821,655.07
	<u>1,450,681.65</u>	<u>1,430,554.66</u>	<u>1,469,696.80</u>
Decreased by:			
Utilization as Anticipated Revenue	602,632.00	595,000.00	548,269.00
 Balance December 31	 <u>\$ 848,049.65</u>	 <u>\$ 835,554.66</u>	 <u>\$ 921,427.80</u>

THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF REVENUE  
SPECIAL REVENUE - COUNTY LIBRARY FUND

	For the Years Ended December 31,					
	2010		2009		2008	
	Budget After Modification	Realized	Budget After Modification	Realized	Budget After Modification	Realized
Fund Balance Anticipated	\$ 602,632.00	\$ 602,632.00	\$ 595,000.00	\$ 595,000.00	\$ 548,269.00	\$ 548,269.00
Miscellaneous Revenue Anticipated	87,343.00	87,343.00	108,191.00	108,191.00	108,191.00	108,191.00
Amount to be Raised by Taxes for Support of Library Budget:						
Local Tax for County Library Purposes	4,541,398.00	4,541,398.00	4,761,398.00	4,761,418.00	4,765,620.00	4,765,620.00
Total Budget Revenue	5,231,373.00	5,231,373.00	5,464,589.00	5,464,609.00	5,422,080.00	5,422,080.00
Nonbudget Revenue		167,966.71		185,420.26		200,861.90
Grand Total	<u>\$ 5,231,373.00</u>	<u>\$ 5,399,339.71</u>	<u>\$ 5,464,589.00</u>	<u>\$ 5,650,029.26</u>	<u>\$ 5,422,080.00</u>	<u>\$ 5,622,941.90</u>

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THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
COMPARATIVE STATEMENT OF EXPENDITURES  
SPECIAL REVENUE - COUNTY LIBRARY FUND

For the Years Ended December 31,

	2009			2009		
	Budget After Modification	Paid or Charged	Reserved	Budget After Modification	Paid or Charged	Reserved
Operations:						
Salaries and Wages	\$ 2,425,830.00	\$ 2,370,156.35	\$ 55,673.65	\$ 2,411,337.00	\$ 2,373,480.96	\$ 37,856.04
Other Expenses	2,805,543.00	2,537,669.07	267,873.93	3,053,252.00	2,627,495.33	425,756.67
	<u>\$ 5,231,373.00</u>	<u>\$ 4,907,825.42</u>	<u>\$ 323,547.58</u>	<u>\$ 5,464,589.00</u>	<u>\$ 5,000,976.29</u>	<u>\$ 463,612.71</u>

For the Year Ended December 31, 2008

	Budget After Modification	Paid or Charged	Reserved
Operations:			
Salaries and Wages	\$ 2,618,197.00	\$ 2,466,681.95	\$ 151,515.05
Other Expenses	2,803,883.00	2,570,728.50	233,154.50
	<u>\$ 5,422,080.00</u>	<u>\$ 5,037,410.45</u>	<u>\$ 384,669.55</u>

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THE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS  
ARE AN INTEGRAL PART OF THIS STATEMENT

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010

Note 1: Summary of Significant Accounting Policies

A. Reporting Entity

Except as noted below, the financial statements of the County of Sussex include every board, body, officer or commission supported and maintained wholly or in part by funds appropriated by the County of Sussex, as required by N.J.S. 40A:5-5. Accordingly, the financial statements of the County of Sussex do not include the operations of the County Community College, County Municipal Utilities Authority or the County Vocational School, inasmuch as their activities are administered by separate boards. The operations of the County Welfare Agency have also been excluded inasmuch as they serve as an agent of the State of New Jersey and their records are maintained separately.

Governmental Accounting Standards Board ("GASB") Codification Section 2100, "Defining the Financial Reporting Entity" establishes standards to determine whether a governmental component unit should be included in the financial reporting entity. The basic criterion for inclusion or exclusion from the financial reporting entity is the exercise of oversight responsibility over agencies, boards and commissions by the primary government. The exercise of oversight responsibility includes financial interdependency, selection of governing authority, designation of management, ability to significantly influence operations, and accountability for fiscal matters. In addition, certain legally separate, tax-exempt entities that meet specific criteria (i.e., benefit of economic resources, access/entitlement to resources, and significance) should be included in the financial reporting entities. As the financial reporting entity was established in accordance with New Jersey statutes, the requirements of GASB Codification Section 2100 were not followed and, accordingly, the reporting entity could be different from accounting principles generally accepted in the United States of America.

*Financial Statements for each of the component units may be obtained from the entity's administrative offices.*

Sussex County Community College  
College Hill  
Newton, NJ 07860

Sussex County Municipal Utilities Authority  
34 South Route 94  
Lafayette, NJ 07848

Sussex County Division of Social  
Services  
83 Spring Street  
PO Box 218  
Newton, NJ 07860

Sussex County Technical School  
105 North Church Road  
Sparta, NJ 07871

B. Description of Funds

The accounting policies of the County of Sussex conform to the accounting principles applicable to municipalities and counties which have been prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey (the "Division"). Such principles and practices are designed primarily for determining compliance with legal provisions and budgetary restrictions and as a means of reporting on the stewardship of public officials with respect to public funds. Under this method of accounting, the County of Sussex accounts for its financial transactions through the following separate funds:

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 1: Summary of Significant Accounting Policies (Cont'd)

B. Description of Funds (Cont'd)

Current Fund - Resources and expenditures for governmental operations of a general nature, including federal and state grant funds.

Trust Funds - Receipts, custodianship and disbursement of funds in accordance with the purpose for which each reserve was created.

General Capital Fund - Receipt and disbursement of funds for the acquisition of general capital facilities, other than those acquired in the Current Fund.

Special Revenue - County Health Fund - Resources and expenditures for the operations of the County Health Division.

Special Revenue - County Library Fund - Resources and expenditures for the operations of the County Library system.

C. Basis of Accounting

Basis of accounting refers to when revenue and expenditures or expenses are recognized in the accounts and reported in the financial statements. Basis of accounting relates to the timing of the measurements made, regardless of the measurement focus applied.

The accounting policies of the County of Sussex conform to the accounting principles applicable to municipalities and counties which have been prescribed by the Division which differ in certain respects from accounting principles generally accepted in the United States of America applicable to local governmental units. The more significant policies in New Jersey follow.

Revenue is recorded when received in cash except for the prepayment of future years' revenue and State and Federal Grant Funds which are recorded as revenue in the year they are anticipated in the budget. The amounts recorded as County taxes receivable have not been included in revenue. Amounts that are due to the County which are susceptible of accrual are recorded as receivables with offsetting reserves in the Current, Health and Library Funds. Expenditures are charged to operations generally based on budgeted amounts.

Exceptions to this general rule include:

1. Accumulated unpaid vacation, sick pay and other employee amounts are not accrued.
2. Prepaid expenses, such as insurance premiums applicable to subsequent periods, are charged to current budget appropriations in total.
3. Principal and interest on long-term debt are recognized when due.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 1: Summary of Significant Accounting Policies (Cont'd)

C. Basis of Accounting (Cont'd)

Expenditures, if any, in excess of appropriations, appropriation reserves or ordinances, become deferred charges which must be raised by future taxes. Outstanding encumbrances at December 31 are reported as a cash liability in the financial statements and constitute part of the statutory appropriation reserve balance. Appropriation reserves covering unexpended appropriation balances are automatically created at December 31 of each year and recorded as liabilities, except for amounts which may be cancelled by the governing body. Appropriation reserves are available, until lapsed at the close of the succeeding year, to meet additional encumbrances which have not been recorded as of December 31, for specific claims, commitments or contracts incurred during the preceding fiscal year. Lapsed appropriation reserves are recorded as income.

The cash basis of accounting is followed in the Trust and General Capital Funds.

D. Deferred Charges to Future Taxation – The General Capital Fund balance sheet includes both funded and unfunded deferred charges. Funded means that bonds have been issued and are being paid off on a serial basis. Unfunded means the debt has been authorized but not permanently financed. A county can eliminate an unfunded deferred charge by raising it in the budget or collecting a grant. The unfunded deferred charge may also be funded by selling bonds, by issuing loans or through capital lease purchase agreements.

E. Other significant accounting policies include:

Management Estimates – The preparation of financial statements requires management to make estimates and assumptions that affect the reported amounts of revenues and expenditures/expenses during the reporting period. Actual results could differ from those estimates.

Cash and Cash Equivalents – Amounts include petty cash, change funds, amounts on deposit, and short-term investments with original maturities of three months or less.

Investments – Investments are stated at cost or amortized cost, which approximates market.

Allowance for Uncollectible Accounts – A reserve for uncollectible grant receivables has been recorded in the Current Fund. This allowance has been established based on management's evaluation of its collection experience over the last several years.

Compensated Absences – Expenditures relating to unused vested accumulated vacation and sick pay are not recorded until paid.

Interfunds – Interfund receivables in the Current Fund are recorded with offsetting reserves which are created by charges to operations. Income is recognized in the year the receivables are liquidated. Interfund receivables in the other funds are not offset by reserves.

Inventories of Supplies - The cost of inventories of supplies for all funds are recorded as expenditures at the time individual items are purchased. The cost of inventories is not included on the various balance sheets.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010

(Continued)

Note 1: Summary of Significant Accounting Policies (Cont'd)

E. Other significant accounting policies include: (Cont'd)

Fixed Assets - Property and equipment purchased by the Current and General Capital Funds are recorded as expenditures at the time of purchase and are not capitalized.

Grants Receivable - Grants receivable represent the total grant awards less amounts collected to date. Because the amount of grant funds to be collected is dependent on the total costs eligible for reimbursement, the actual amount collected may be less than the total amount awarded.

Had the County's financial statements been prepared under accounting principles generally accepted in the United States of America, encumbrances would not be considered as expenditures; appropriation reserves would not be recorded; revenue susceptible to accrual would have been reflected without offsetting reserves; Federal and State grants and assistance would be recognized when earned, not when awarded; and inventories would not be reflected as expenditures at the time of purchase.

- F. Budget/Budgetary Control - Annual appropriated budgets are usually prepared in the 1<sup>st</sup> quarter for the current operating and open space trust funds. The budget is submitted to the governing body and the State Division of Local Government Services. Additionally, budgets are prepared for the County Health and Library Funds which are approved by the governing body but do not require approval by the State Division of Local Government Services. The budgets are prepared using the cash basis of accounting. The legal level of budgetary control is established at the line item accounts within each fund. Line item accounts are defined as the lowest (most specific) level of detail as established pursuant to the flexible chart of accounts referenced in NJSA 40A. All budget amendments/transfers must be approved by the County during the year.

Note 2: Long-Term Debt

Summary of County Debt

The Local Bond Law governs the issuance of bonds to finance general County capital expenditures. All bonds are retired in serial installments within the statutory period of usefulness. All bonds issued by the County are general obligation bonds. The County's full faith and credit and taxing power has been pledged to the payment of general obligation debt principal and interest.

**COUNTY OF SUSSEX**  
**NOTES TO FINANCIAL STATEMENTS**  
**YEAR ENDED DECEMBER 31, 2010**  
(Continued)

Note 2: Long-Term Debt (Cont'd)

	December 31,		
	2010	2009	2008
<u>Issued</u>			
General Bonds, Notes and Loans	\$ 84,728,000	\$ 87,848,000	\$ 87,411,800
Authorized but not Issued:			
General Bonds and Notes	3,909,150	3,895,407	4,474,407
	<u>88,637,150</u>	<u>91,743,407</u>	<u>91,886,207</u>
Less:			
Funds Temporarily Held to Pay Bond and Note Principal:			
Reserve to Pay Debt Service	252,175	452,175	652,175
Reserve to Pay Vocational School Bonds	362,860	401,817	389,892
Capital Projects for County Colleges (NJSA 18A:64A-22.1 to 22.8)	8,854,000	8,388,000	10,008,000
Pension Refunding Bonds	2,640,000	2,890,000	3,125,000
Emergency Appropriation Refunding Refunding Bonds	2,000,000	2,500,000	
	<u>14,109,035</u>	<u>14,631,992</u>	<u>14,175,067</u>
Net Bonds and Notes Issued and Authorized but not Issued	<u>\$ 74,528,115</u>	<u>\$ 77,111,415</u>	<u>\$ 77,711,140</u>

All debt issued for the Sussex County Community College is a direct obligation of the County.

The Sussex County Vocational School is a Type I School District; therefore, according to statute, the County is responsible for all debt authorized by the Vocational School.

Summary of Municipal Debt Issued and Outstanding - Prior Year

Fund	Balance 12/31/2008	Additions	Retirements	Balance 12/31/2009
Serial Bonds:				
General Capital Fund	\$ 83,901,000.00		\$ 11,230,000.00	\$ 72,671,000.00
Bond Anticipation Notes:				
General Capital Fund	3,504,000.00	\$ 15,177,000.00	3,504,000.00	15,177,000.00
Loans Payable:				
General Capital Fund:				
Economic Development Loan	6,800.00		6,800.00	
	<u>\$ 87,411,800.00</u>	<u>\$ 15,177,000.00</u>	<u>\$ 14,740,800.00</u>	<u>\$ 87,848,000.00</u>

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 2: Long-Term Debt (Cont'd)

Summary of Municipal Debt Issued and Outstanding - Current Year

<u>Fund</u>	<u>Balance 12/31/2009</u>	<u>Additions</u>	<u>Retirements</u>	<u>Balance 12/31/2010</u>
Serial Bonds:				
General Capital Fund	\$ 72,671,000.00	\$ 22,930,000.00	\$ 10,873,000.00	\$ 84,728,000.00
Bond Anticipation Notes:				
General Capital Fund	<u>15,177,000.00</u>	<u>14,677,000.00</u>	<u>29,854,000.00</u>	
	<u>\$ 87,848,000.00</u>	<u>\$ 37,607,000.00</u>	<u>\$ 40,727,000.00</u>	<u>\$ 84,728,000.00</u>

The County's debt issued and outstanding at December 31, 2010 is as follows:

Vocational School Serial Bonds

<u>Final Maturity</u>	<u>Rate</u>	
07/15/2013	5.00%	\$ 280,000
07/01/2016	4.40%	630,000
09/01/2012	3.65-4.00%	600,000
09/01/2017	4.25-4.375%	370,000
08/15/2020	1.00-2.25%	<u>1,300,000</u>
		<u>3,180,000</u>

General Improvement Serial Bonds

<u>Final Maturity</u>	<u>Rate</u>	
07/15/2013	5.00%	\$2,456,000
07/01/2012	4.20%	1,210,000
05/01/2021	5.30%	2,640,000
07/15/2014	3.25%	6,170,000
09/15/2011	3.41%	460,000
07/15/2014	3.625%	11,724,000
09/01/2019	4.00%	13,791,000
09/01/2017	3.75%	2,365,000
08/15/2020	1.00-2.25%	17,277,000
08/15/2014	1.00-2.00%	<u>2,000,000</u>
		<u>60,093,000</u>

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 2: Long-Term Debt (Cont'd)

County College Bonds

<u>Final Maturity</u>	<u>Rate</u>	
07/15/2013	5.00%	\$ 120,000
07/01/2014	4.20%	354,000
05/01/2015	3.125%	1,126,000
07/15/2015	3.625%	2,229,000
09/01/2021	4.00%	5,000,000
09/01/2022	3.75-4.00%	2,595,000
08/15/2020	1.00-2.25%	1,177,000
		<u>12,601,000</u>

County College Bonds (Ch. 12)

<u>Final Maturity</u>	<u>Rate</u>	
08/01/2011	5.20%	\$ 107,000
07/01/2014	4.30%	371,000
09/01/2026	4.125-4.25%	4,800,000
09/01/2022	3.75-4.00%	2,400,000
08/15/2020	1.00-2.25%	1,176,000
		<u>8,854,000</u>

Total Serial Bonds Outstanding \$84,728,000

Total Debt Issued and Outstanding \$84,728,000

Summary of Statutory Debt Condition - Annual Debt Statement

The summarized statement of debt condition which follows is prepared in accordance with the required method of setting up the Annual Debt Statement and indicates a statutory net debt of .36%.

	<u>Gross Debt</u>	<u>Deductions</u>	<u>Net Debt</u>
General, Vocational School and County College Debt	<u>\$ 88,637,150</u>	<u>\$ 14,109,035</u>	<u>\$ 74,528,115</u>

Net Debt \$74,528,115 divided by Equalized Valuation Basis per N.J.S. 40A:2-2 as amended,  
\$20,760,970,603 = .36%.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 2: Long-Term Debt (Cont'd)

Borrowing Power Under N.J.S. 40A:2-6 As Amended

2% Average Equalized Valuation of Real Property	\$ 415,219,412
Net Debt	74,528,115
Remaining Borrowing Power	\$ 340,691,297

The foregoing debt information is in agreement with the Annual Debt Statement filed by the Chief Financial Officer.

Schedule of Annual Debt Service for Principal and Interest for the Next Five Years and Thereafter for Bonded Debt Issued and Outstanding

Calendar Year	General Improvements		Vocational School		County College*		Total
	Principal	Interest	Principal	Interest	Principal	Interest	
2011	\$ 9,565,000	\$ 1,965,335	\$ 450,000	\$ 106,733	\$ 1,240,000	\$ 456,930	\$ 13,783,998
2012	9,035,000	1,642,210	850,000	90,588	1,305,000	413,064	13,335,862
2013	9,716,000	1,335,530	345,000	57,093	1,599,000	365,960	13,418,583
2014	8,274,000	1,008,803	280,000	43,848	1,594,000	307,055	11,507,706
2015	4,605,000	743,593	280,000	34,603	1,506,000	250,814	7,420,010
2016-2020	18,503,000	1,591,734	975,000	60,043	4,327,000	693,312	26,150,089
2021-2022	395,000	10,468			1,030,000	51,800	1,487,268
	\$ 60,093,000	\$ 8,297,673	\$ 3,180,000	\$ 392,908	\$ 12,601,000	\$ 2,538,935	\$ 87,103,516

\* Does not include principal and interest on County College Bonds issued pursuant to Chapter 12, Public Laws of 1971, which will be paid by the State Department of Treasury.

Note 3: Fund Balances Appropriated

Fund balances at December 31, 2010 which are appropriated and included in the adopted budgets as anticipated revenue in their own respective funds for the year ending December 31, 2011 are as follows:

Current Fund	\$5,857,000
County Health Fund	467,562
County Library Fund	588,377

Note 4: Pension Plans

County employees are enrolled in one of two cost sharing multiple-employer public employee retirement systems: the Public Employees' Retirement System (PERS), the Police and Firemen's Retirement System (PFRS) of New Jersey or the Defined Contribution Retirement Program (DCRP). The State of New Jersey sponsors and administers these plans which cover substantially all County employees. As a general rule, all full-time employees are eligible to join the PERS or the PFRS. However, if an employee is ineligible to enroll in the PERS or PFRS, the employee may be eligible to enroll in the DCRP.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010

(Continued)

Note 4: Pension Plans (Cont'd)

Employees who are members of PERS and retire at specified age according to the relevant tier category for that employee are entitled to a retirement benefit based upon a formula which takes "final average salary" during years of creditable service. Vesting occurs after 8 to 10 years of service. Enrolled PFRS members may retire at age 55 with a minimum of 10 years of service required for vesting. The DCRP provides eligible members with a tax-sheltered, defined contribution retirement benefit, along with life insurance and disability coverage. Vesting is immediate upon enrollment for members of the DCRP.

The State of New Jersey, Department of the Treasury, Division of Pensions and Benefits, issues publicly available financial reports that include the financial statements and required supplementary information of each of the above systems, funds and trust. The financial reports may be obtained by writing to the State of New Jersey, Department of Treasury, Division of Pensions and Benefits, PO Box 295, Trenton, New Jersey 08625-0295.

The contribution policy is set by New Jersey State Statutes and, in most retirement systems, contributions are required by active members and contributing employers. Plan member and employer contributions may be amended by State of New Jersey legislation. Employee contributions are based on percentages of 5.5% for PERS and DCRP and 8.5% for PFRS of employees' annual compensation, as defined. Employers are required to contribute at an actuarially determined rate in the PERS and PFRS. The actuarially determined employer contribution includes funding for cost-of-living adjustments and noncontributory death benefits. The DCRP was established July 1, 2007, under the provisions of Chapter 92, P.L. 2007 and Chapter 103, P.L. 2007 and expanded under the provisions of Chapter 89, P.L. 2008. Employee contributions for DCRP are matched by a 3% employer contribution.

County contributions to PFRS amounted to \$1,764,606, \$1,616,028, and \$1,491,003 for 2010, 2009, and 2008, respectively. County contributions to PERS amounted to \$2,353,125, \$2,313,771, and \$1,602,527 for 2010, 2009, and 2008, respectively. The annual pension cost ("APC") for PERS differed from the net pension obligation ("NPO") due to the enactment of Chapter 114, P.L. 1997 for 2008 as the APC was \$2,003,159 and the NPO was \$1,602,527.

The employee and employer contribution for the DCRP for the year ended December 31, 2010 were \$6,088 and \$3,589, respectively.

Chapter 42, P.L. 2002 permitted local government units to issue refunding bonds to retire unfunded accrued liability resulting from early retirement benefits under PERS and PFRS effective July 12, 2002. The County issued \$ 3,900,000 of refunding pension bonds in 2003.

Note 5: Accrued Sick and Vacation Benefits

The County has permitted employees to accrue unused vacation and sick pay, which may be taken as time off or paid at a later date at an agreed-upon rate. The current cost of such unpaid compensation has been estimated at approximately \$2,156,389 at December 31, 2010 and is not reported either as an expenditure or liability. However, it is expected that the cost of such unpaid compensation would be included in the County's budget operating expenditures in the year in which it is used and/or charged.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 5: Accrued Sick and Vacation Benefits (Cont'd)

This amount is partially reserved in the Reserve for Accrued Sick and Vacation of \$1,791,893 on the Other Trust Funds balance sheet at December 31, 2010.

Note 6: Selected Tax Information

County Tax Calendar

County taxes are billed approximately two months prior to the respective due dates to the municipalities in the County. The first three quarterly billings are based on an estimate of the current year's levy based on the prior year's taxes. These three quarterly billings are due February 15<sup>th</sup>, May 15<sup>th</sup> and August 15<sup>th</sup>. The fourth quarter's billing reflects an adjustment to the current year's actual levy and is due November 15<sup>th</sup>.

Comparison of Tax Levies and Collection Currently

A study of this tabulation could indicate a possible trend in future tax levies. A decrease in the percentage of current collection could be an indication of a possible increase in future tax levies.

<u>Year</u>	<u>General Tax Levy</u>	<u>Cash Collections</u>	<u>Percentage of Collection</u>
2010	\$75,209,568	\$75,209,568	100.00%
	71,507,294	71,507,294	100.00%
	68,490,715	68,490,715	100.00%
<u>Year</u>	<u>Open Space Tax Levy</u>	<u>Cash Collections</u>	<u>Percentage of Collection</u>
2010	\$ 1,354,766	\$ 1,354,766	100.00%
	2,811,076	2,811,076	100.00%
	5,321,306	5,321,306	100.00%
<u>Year</u>	<u>Health Tax Levy</u>	<u>Cash Collections</u>	<u>Percentage of Collection</u>
2010	\$ 2,031,935	\$ 2,031,935	100.00%
	2,031,935	2,031,935	100.00%
	1,537,729	1,537,729	100.00%
<u>Year</u>	<u>Library Tax Levy</u>	<u>Cash Collections</u>	<u>Percentage of Collection</u>
2010	\$ 4,541,398	\$ 4,541,398	100.00%
	4,761,398	4,761,398	100.00%
	4,765,620	4,765,620	100.00%

Also, increases in future tax levies can also be warranted if revenue sources outside of those directly generated by the County, such as federal or state aid, should decline without corresponding decreases in budgeted expenditures.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 6: Selected Tax Information (Cont'd)

Comparative Tax Information

<u>Year</u>	<u>Net Valuation on Which Taxes Are Apportioned</u>	<u>County General Tax Rate</u>	<u>County Health Tax Rate</u>	<u>County Library Tax Rate</u>	<u>County Open Space Tax Rate</u>
2010	\$ 20,842,547,207	\$ 0.36	\$ 0.01	\$ 0.03	\$ 0.01
	21,623,664,682	0.33	0.01	0.03	0.01
	19,828,925,789	0.33	0.01	0.03	0.03

Note 7: Sussex County Municipal Utilities Authority Receivable

The Current Fund balance sheet reflects a receivable from the Sussex County Municipal Utilities Authority ("SCMUA") in the amount of \$418,658.42 at December 31, 2010.

The \$418,658.42 represents funds advanced to the SCMUA for the study of several projects. The SCMUA is to repay the funds when the projects have been completed and permanently financed from proceeds of bonds, temporary bonds or from proceeds of grants received for the projects. However, due to the lack of federal funds available, the construction of the projects under study is questionable; therefore, the collection of the receivable is uncertain. The management of the County feels that if the receivable is not collected, it would not adversely affect the County's financial position because the receivable is offset with a reserve.

Note 8: Commitment

The County of Sussex and the Sussex County Municipal Utilities Authority (the "SCMUA") have entered into a Deficiency Advance Contract in order to provide security to the holders of obligations of the SCMUA relative to the existing \$71,995,618 Solid Waste Revenue Bonds, Upper Wallkill Wastewater Facilities Revenue Bonds and Project Notes. Pursuant to the terms of the Deficiency Advance Contract, the SCMUA can impose and collect from the County of Sussex annual charges, as defined in the contract, in any fiscal year that the SCMUA estimates that the amount of revenue received from all sources will be insufficient to satisfy all of its costs, expenses, or other obligations.

As of December 1, 2010, the SCMUA has outstanding approximately \$38,059,874 of Upper Wallkill Wastewater Facilities Revenue Bonds that are supported by a Deficiency Advance Contract. The SCMUA's wastewater revenues have been sufficient to meet all costs of operation and maintenance and all debt service costs of the Authority with respect to its wastewater system.

As of December 1, 2010, the SCMUA has outstanding approximately \$28,439,744 of Solid Waste Revenue Bonds that are supported by a Deficiency Advance Contract. The SCMUA's solid waste revenues and surplus had been sufficient to meet all costs of operation and maintenance and all debt service costs of the Authority with respect to its solid waste system. However, New Jersey's system of waste flow control had previously been ruled unconstitutional in federal court. The United States Supreme Court ruled in *United Haulers v. Oneida Herkner Solid Waste Management Authority* that solid waste flow control is constitutional. In 2010 flow control was reestablished in Sussex County through a Solid Waste Management Plan amendment.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 8: Commitment (Cont'd)

The prior Supreme Court ruling has caused the SCMUA to reduce its tipping fees to be competitive with other solid waste disposal facilities, resulting in decreased revenues, adversely affecting the SCMUA's ability to meet its debt service obligations. The County is required to advance funds to the SCMUA to cover any deficiencies in revenues over the SCMUA's costs, expenses and debt service obligations. The SCMUA has estimated that the anticipated deficit for 2011 will be \$3,000,000. SCMUA will be covering the 2011 shortfall by realizing higher than expected solid waste revenues and by utilizing \$2.1 million from their landfill closure reserve. The Sussex County Municipal Utilities Authority expects to replenish the landfill closure reserve in future years when debt services costs are expected to decrease. Additionally, SCMUA has proposed a 2012 rate increase to meet its full operating costs, including debt service with respect to its solid waste system.

The County is obligated to advance funds to the SCMUA under the Deficiency Advance Contract to the extent that other revenue is not obtained to finance the SCMUA's operations.

In 2009, the SCMUA issued \$5,496,000 of Project Notes for the Paulinskill Water Reclamation Facilities to serve Branchville Borough and portions of Frankford Township for wastewater treatment.

Note 9: Cash and Cash Equivalents and Investments

Cash and cash equivalents include petty cash, change funds, amounts in deposits, money market accounts, and short-term investments with original maturities of three months or less.

Investments are stated at cost or amortized cost, which approximates market. The County classifies certificates of deposit which have original maturity dates of more than three months but less than twelve months from the date of purchase, as investments.

GASB Statement No. 40, *Governmental Accounting Standards Board Deposit and Investment Risk Disclosures*, requires disclosure of the level of custodial credit risk assumed by the County in its cash, cash equivalents and investments, if those items are uninsured or unregistered. Custodial credit risk is the risk that in the event of a bank failure, the government's deposits may not be returned.

Interest Rate Risk - In accordance with its cash management plan, the County ensures that any deposit or investment matures within the time period that approximates the prospective need for the funds, deposited or invested, so that there is not a risk to the market value of such deposits or investments.

Credit Risk - The County limits its investments to those authorized in its cash management plan which are those permitted under state statute as detailed on the following page.

Deposits

New Jersey statutes permit the deposit of public funds in institutions located in New Jersey, which are insured by the Federal Deposit Insurance Corporation (FDIC), or by any other agencies of the United States that insure deposits or the State of New Jersey Cash Management Fund.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 9: Cash and Cash Equivalents and Investments (Cont'd)

New Jersey statutes require public depositories to maintain collateral for deposits of public funds that exceed insurance limits as follows:

The market value of the collateral must equal 5% of the average daily balance of public funds on deposit.

In addition to the above collateral requirement, if the public funds deposited exceed 75% of the capital funds of the depository, the depository must provide collateral having a market value at least equal to 100% of the amount exceeding 75%.

All collateral must be deposited with the Federal Reserve Bank, the Federal Home Loan Bank Board or a banking institution that is a member of the Federal Reserve System and has capital funds of not less than \$25,000,000.

Investments:

New Jersey statutes permit the County to purchase the following types of securities:

- (1) Bonds or other obligations of the United States of America or obligations guaranteed by the United States of America;
- (2) Government money market mutual funds;
- (3) Any obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress, which security has a maturity date not greater than 397 days from the date of purchase, provided that such obligation bears a fixed rate of interest not dependent on any index or other external factor;
- (4) Bonds or other obligations of the local unit or bonds or other obligations of school districts of which the local unit is a part or within which the school district is located;
- (5) Bonds or other obligations, having a maturity date not more than 397 days from the date of purchase, approved by the Division of Investment of the Department of the Treasury for investment by local units.
- (6) Local government investment pools;
- (7) Deposits with the State of New Jersey Cash Management Fund; or
- (8) Agreements for the repurchase of fully collateralized securities if:
  - (a) the underlying securities are permitted investments pursuant to paragraphs (1) and (3) above;
  - (b) the custody of collateral is transferred to a third party;
  - (c) the maturity of the agreement is not more than 30 days;
  - (d) the underlying securities are purchased through a public depository as defined in statute; and
  - (e) a master repurchase agreement providing for the custody and security of collateral is executed.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 9: Cash and Cash Equivalents and Investments (Cont'd)

As of December 31, 2010, cash and cash equivalents and investments of the County of Sussex consisted of the following:

<u>Fund</u>	<u>Cash and Cash Equivalents</u>		<u>Investments</u>	<u>Total</u>
	<u>Cash on Hand</u>	<u>Checking and Savings Accounts</u>	<u>Certificates of Deposit</u>	
Current	\$ 325	\$ 20,223,210		\$ 20,223,535
Other Trust		12,530,485	\$ 77,230	12,607,715
General Capital		18,003,960	688,846	18,692,806
County Health	100	149,380		149,480
County Library		880,038	611,790	1,491,828
	<u>\$ 425</u>	<u>\$ 51,787,073</u>	<u>\$ 1,377,866</u>	<u>\$ 53,165,364</u>

The carrying amount of the County's cash and cash equivalents at December 31, 2010, was \$53,165,364 and the bank balance was \$52,385,542. The carrying amount of the County's cash and cash equivalents at December 31, 2009, was \$62,079,351 and the bank balance was \$61,330,311.

Note 10: County Health Fund

The County established a special revenue fund to account for the operations of the Health Division. County Health taxes are levied and other health-related revenue are anticipated to provide for the Health Division's salaries and wages and other expenses; however, certain other costs attributable to the Health Division, such as use of building space and other administrative overhead, are provided from the County's Current Fund.

Note 11: Risk Management

The County is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The County is currently self-insured for its medical health benefits.

Property, Liability and Workers' Compensation

The County of Sussex is a member of the Public Alliance Insurance Coverage Fund. The Public Alliance Insurance Coverage Fund provides its members with Liability and Property Insurance. The Fund is a risk-sharing public entity risk pool that is both an insured and self administered group of governmental entities established for the purpose of providing low-cost insurance coverage for their respective members in order to keep local property taxes at a minimum. Each member appoints an official to represent their respective entity for the purpose of creating a governing body from which officers for the Fund are elected.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 11: Risk Management (Cont'd)

The County is also a member of the Statewide Insurance Fund (the "Fund"). The Fund provides its members with Workers' Compensation. The Fund is a risk-sharing public entity risk pool that is both an insured and self-administered group of governmental entities established for the purpose of providing low-cost insurance coverage for its members in order to keep local property taxes at a minimum. Each member appoints an official to represent their respective entity for the purpose of creating a governing body from which officers for the Fund are elected.

As a member of these Funds, the County could be subject to supplemental assessments in the event of deficiencies. If the assets of the Funds were to be exhausted, members would become responsible for their respective shares of the Funds' liabilities.

The Funds can declare and distribute dividends to members upon approval of the State of New Jersey Department of Banking and Insurance. These distributions are divided amongst the members in the same ratio as their individual assessment relates to the total assessment of the membership body. The members may either receive payment or offset their subsequent year assessments with their respective share of the distribution.

The December 31, 2010 audit reports are not filed as of the date of this audit. Selected financial information for the Funds as of December 31, 2009 is as follows:

	Public Alliance Insurance Coverage Fund Dec. 31,	Statewide Insurance Fund Dec. 31,
Total Assets	\$ 11,989,120	\$ 30,161,287
Net Assets	\$ 3,300,087	\$ 4,165,758
Total Revenue	\$ 8,513,112	\$ 16,967,676
Total Expenditures	\$ 10,761,326	\$ 17,168,049
Change in Net Assets	\$ (2,248,214)	\$ (200,373)
Net Assets Distribution to Participating Members	\$ 200,000	\$ -0-

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 11: Risk Management (Cont'd)

Property, Liability and Workers' Compensation (Cont'd)

Financial statements for the Funds are available at the office of the Funds' Executive Directors:

Public Alliance Insurance Coverage Fund  
Public Entity Group Administrative Services  
51 Everett Drive  
Suite 40B  
West Windsor, NJ 08550  
(609) 275-1155

Statewide Insurance Fund  
Statewide Insurance Fund  
26 Columbia Turnpike  
P.O. Box 678  
Florham Park, NJ 07932-0678  
(973) 549-1900

New Jersey Unemployment Compensation Insurance

The County has elected to fund its New Jersey Unemployment Compensation Insurance under the "Benefit Reimbursement Method". Under this plan, the County is required to reimburse the New Jersey Unemployment Trust Fund for benefits paid to its former employees and charged to its account with the State. The County is billed quarterly for amounts due to the State.

The following is a summary of the interest earnings, County and employees' contributions and reimbursements to the State for benefits paid, and the ending balance of the County's expendable trust fund for the current and previous two years:

<u>Year</u>	<u>Interest Earnings</u>	<u>County Contributions</u>	<u>Amount Reimbursed</u>	<u>Ending Balance</u>
2010	\$ 272.24	\$320,990.75	\$299,027.39	\$ 60,074.52
2009	535.62	307,585.01	308,870.63	37,838.92
2008	646.10	93,271.08	145,488.42	38,588.92

Prescription Benefit Coverage

The County maintains a self-insured prescription drug program. The County's third party claims administrator for this program is Medco Health Solutions. Amounts paid to Medco Health Solutions for paid claims and administrative costs for the year ended December 31, 2010 were \$4,009,366.38. The County has a reserve entitled Self Insurance Fund – Prescription in the amount of \$260,853.21 on the Other Trust Funds balance sheet which would be utilized to pay Incurred but not Reported Claims. The amount of the Incurred but not Reported Claims as of December 31, 2010 is not known but would most likely exceed the \$260,853.21. However, additional funding would be available from the 2010 Appropriation Reserves if needed.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 11: Risk Management (Cont'd)

Medical Benefit Coverage

The County maintains a self-insured medical program. The County's third party claims administrator for this program is CIGNA Healthcare, Inc. Amounts paid to CIGNA Healthcare, Inc. for paid claims and administrative costs for the year ended December 31, 2010 were \$13,846,082.76. The County has a reserve entitled Self Insurance Fund – Medical in the amount of \$1,477,691.39 on the Other Trust Funds balance sheet as well as unexpended 2010 Appropriation Reserve balances and could transfer in additional funds. These funds would be sufficient to cover the estimated Incurred but not Reported Claims as of December 31, 2010.

Note 12: Interfund Receivables and Payables

The following interfund balances remained on the balance sheet at December 31, 2010:

<u>Fund</u>	<u>Interfund Receivable</u>	<u>Interfund Payable</u>
Current	\$ 2,342,000.00	\$ 2,845,467.18
Other Trust	2,331,068.98	77.03
General Capital	7,671.37	2,342,000.00
Health	624,829.51	68,025.65
Library		50,000.00
	<u>\$ 5,305,569.86</u>	<u>\$ 5,305,569.86</u>

The interfund receivable in the Current Fund is the result of the \$2.5 million Refunding Ordinance funded in the General Capital Fund to refund the Emergency Authorization in 2009. The interfund receivable in the Other Trust Funds is due in part to the prior year interfund receivable from the Current Fund which include funds for the Reserve for Accrued Sick and Vacation due from the Current, Library and Health Funds. Additionally, there are funds due from the Current Fund for the Reserves for Weights and Measures, State Unemployment Insurance and Self Insurance Fund – Damage to County Vehicles. The interfund receivable in the Health Fund from the Current Fund is due primarily to the Health Fund not maintaining a separate bank account until this year.

Note 13: Deferred Compensation

The County of Sussex offers its employees deferred compensation plans (the "Plans") created in accordance with Section 457 of the Internal Revenue Code. The Plans, which are administered by Nationwide Retirement Solutions, Equitable and ICMA Retirement Solutions, are available to all County employees and permits participants to defer a portion of their salary. The deferred compensation is not available to employees until termination, retirement, unforeseeable emergency or upon death to their beneficiaries.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 14: Open Space Trust Fund

On January 17, 2001, the County created an Open Space Trust Fund to provide for farmland preservation and open space acquisition. Collection of funds for the Trust Fund commenced during 2001 with a tax equal to \$.02 per \$100 of total county equalized real property valuation. The levy for 2010 was set at 1 cent. As of December 31, 2010, the balance in the Open Space Trust Fund was \$7,385,681.28.

Note 15: Economic Dependency

The County receives a substantial amount of its support from federal and state governments. A significant reduction in the level of support, if this were to occur, may have an effect on the County's programs and activities.

Note 16: Contingent Liabilities

The County is periodically involved in various lawsuits arising in the normal course of business, including claims for property damage, personal injury, and various contract disputes. The County vigorously contests these lawsuits and believes the ultimate resolution will not have a material adverse effect on their financial position.

Amounts received or receivable from grantors, principally the federal and state governments are subject to regulatory requirements and adjustments by the agencies. Any disallowed claims, including amounts previously recognized by the County as revenue would constitute a liability of the applicable funds. The amount, if any, of expenditures which may be disallowed by the grantors cannot be determined at this time, although County officials expect such amounts, if any, to be immaterial.

Note 17: Related Party Transactions

During the years ended December 31, 2010 and 2009, the County of Sussex provided financial support for current operations to the following component units:

	-- December 31, --	
	2010	2009
Sussex County Technical School	\$ 7,693,686	\$ 7,561,362
Sussex County Community College	4,672,000	4,617,687
Sussex County Division of Social Services	1,473,310	1,342,309
	\$ 13,838,996	\$ 13,521,358

Additionally, the County realized revenue and recorded expenditures in the amount of \$-0- and \$2,098,439 for the years ended December 31, 2010 and 2009 respectively with respect to the Sussex County Municipal Utilities Authority. The Current Fund revenue entitled "State Aid - Solid Waste Bonds - SCMUA" and Current Fund expenditure entitled "Aid to SCMUA - Solid Waste Bonds" relates to a shortfall in revenue at the SCMUA due to a State ruling that caused the SCMUA to reduce its solid waste disposal tipping fees. See Note 8 for additional information on the County's commitment with the SCMUA.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010

(Continued)

Note 18: Post-Retirement Benefits

The County provides post-retirement benefits to County employees who meet the following criteria. The benefits are as follows:

If retiring with 25 years or more of pension contributions and the last 15 years of service with the County, the County will pay health benefits premiums (but not the employee's share of health maintenance organization) for the rest of the employee's life. Should the retiree die, the widow(er) will be offered coverage through the County Health Insurance provider.

If retiring with 25 years or more of pension contributions on or after January 1, 1988 and the last 15 years of service with the County, the County will pay for prescription program and dental program premiums for the rest of the employee's life for the employee and the immediate family members for certain employees (the continuation of the prescription program and dental program after 25 years at the County's expense applies to most employees but not all). The County does not pay for coverage for the survivors.

The County provides certain post-retirement benefits to qualifying retired employees and their eligible dependents or survivors pursuant to collective bargaining agreements and Board resolutions. The contributions for retirees and beneficiaries have been funded on a pay-as-you-go basis, in accordance with New Jersey law and regulation. New Jersey budget and financial reporting laws do not require local units to budget amounts that exceed their current cash cost or to reflect the long-term liability on their balance sheet. Governmental units have to calculate and disclose their liability if the liability is material to understanding the financial condition of the local unit.

Funding Policy

The County is not required to nor does it contribute the annual required contribution (ARC) per N.J.S.A. 40A:4-1 et. seq. There is currently no provision under State statute for the County to accrue funds, create a trust or issue debt to finance their other post employment benefit ("OPEB") liability.

Currently, there are no contribution requirements of plan members.

The County's portion of post-retirement benefits is funded on a pay-as-you go basis from the Current Fund operating budget. During 2010 and 2009, the County had approximately 246 and 276 employees who met eligibility requirements and recognized expenses of approximately \$4,518,221 and \$3,222,379, respectively.

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 18: Post-Retirement Benefits (Cont'd.)

Annual OPEB Cost per Actuarial Valuation

For 2008, 2009 and 2010, the County's annual OPEB cost (expense) and the ARC was \$15,178,690, \$16,127,035 and \$17,153,693 respectively. The County's annual OPEB cost, the percentage of annual OPEB cost contributed to the plan, and the net OPEB obligation for 2008, 2009 and 2010 were as follows:

Year	Actuarial Estimated OPEB Payments	Annual OPEB Cost	Percentage of Annual OPEB Costs Contributed	Net OPEB Obligations
2010	\$ 4,671,990	\$ 17,153,693	27.24%	\$ 36,920,748
2009	3,314,897	16,127,035	20.55%	24,439,045
2008	3,551,783	15,178,690	23.40%	11,626,907

Funding Status and Funding Progress

The funded status of the plan as of January 1, 2008 – 2010 was as follows:

	2008	2009	2010
Actuarial Accrued Liability (AAL)	\$170,351,956	\$182,779,560	\$192,864,638
Actuarial Value of Plan Assets	-0-	-0-	-0-
Unfunded Actuarial Accrued Liability (UAAL)	<u>\$170,351,956</u>	<u>\$182,779,560</u>	<u>\$192,864,638</u>
Funded Ratio (Actuarial Value of Plan Assets (AAL))	0.00%	0.00%	0.00%
Covered Payroll (Active Plan Members)	\$ 33,715,286	\$ 35,099,887	\$ 35,836,952
UAAL as a Percentage of Covered Payroll	505.27%	520.74%	538.17%

Actuarial valuations of an ongoing plan involve estimates of the value of reported amounts and assumptions about the probability of events far into the future. Examples include economic assumptions; medical assumptions and demographic assumptions. Economic assumptions include the discount rate and health care cost trend rates. Medical assumptions are utilized to project the healthcare costs for employees who remain under the County plan with coverage after retirement. Based on claim information provided to the actuary, per capita costs for the retired group under 65 and the retired group age 65 and older were calculated. Retirees generally become eligible for Medicare at age 65. Finally, demographic assumptions include probabilities concerning the rate of mortality, the rate of withdrawal, the rate of retirement and the rate of disability. Amounts determined regarding the funded status of the plan and the annual required contributions of the employer are subject to continual revision as actual results are compared with past expectations and new estimates are made about the future. The schedule of funding progress, presented as required supplementary information following the notes to the financial statements, will present in future years multi-year trend information that shows whether the

COUNTY OF SUSSEX  
NOTES TO FINANCIAL STATEMENTS  
YEAR ENDED DECEMBER 31, 2010  
(Continued)

Note 18: Post-Retirement Benefits (Cont'd.)

Actuarial Methods and Assumptions

actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liability for benefits.

Projections of benefits for financial reporting purposes are based on the substantive plan (the plan as understood by the employer and plan members) and included the types of benefits provided at the time of each valuation and the historical pattern of sharing of benefit costs between the employer and plan members to that point. The actuarial methods and assumptions used include techniques that are designed to reduce short-term volatility in actuarial accrued liabilities and the actuarial value of assets, consistent with the long-term perspective of the calculations.

In the 2008, 2009 and 2010 actuarial valuations, the projected unit credit cost method was used. Under this method, the present value of benefits is allocated uniformly over an employee's expected working lifetime. The actuarial assumptions included a 4.25% investment rate of return. An initial annual medical cost trend of 10% was utilized as the initial rate which decreases by one-half percent per year until the rate reaches 5% in 2018 and thereafter. For prescription drug benefits, an initial rate increase of 12% was utilized which decreases by one-half percent per year until the rate reaches 5% in 2022 and thereafter. For dental care benefits a constant 5% increase is utilized for all years. For Medicare Part B reimbursements, the initial rate increase is 0% in 2008, 6.5% in 2009 and 5% thereafter.

Note 19: Prior Year Adjustment

The prior year balance for the Patients Accounts Receivable on the Homestead Comparative Balance Sheet in the Supplementary Data Schedule section was not correct and was restated to adjust the receivable to the actual balance at December 31, 2009. The receivable is offset by a reserve and has no impact on the audited financial statements.

	<u>Balance</u> <u>12/31/09</u>	<u>Retroactive</u> <u>Adjustments</u>	<u>Balance</u> <u>12/31/09</u> <u>Restated</u>
<b>Assets:</b>			
Patients - Accounts Receivable	\$434,313.45	\$ 633,583.54	\$ 1,067,896.99
<b>Liabilities and Reserves:</b>			
Reserve for Patients' Accounts Receivable	\$434,313.45	\$ 633,583.54	\$ 1,067,896.99

**Appendix C**

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**SunLight General Sussex Solar, LLC (“Company”)**

SunLight General Sussex Solar, LLC (the “Company”) is a limited liability company created and in good standing under the laws of the State of New Jersey. It is a wholly-owned subsidiary of SunLight General Sussex Holdings, LLC (“Holdco”), which is the Company’s only member. Holdco is organized to take advantage of the investment tax credit, the related Treasury Department Grant Program and accelerated depreciation Federal tax benefits under the Internal Revenue Code, which the County is unable to use. Holdco has no responsibility for the Company’s obligations. The Company has no responsibility for Holdco’s obligations. Further, the Company has no obligations other than those associated with the Projects for the Series 2011 Local Units as set forth in the Renewable Energy Program Documents.

The Company is a special purpose entity, formed for the purpose of contracting with the Authority to design and build the Projects for the Series 2011 Local Units, operate and maintain the Projects for the Series 2011 Local Units, lease certain properties and obtain certain rights related to the Renewable Energy Projects from the Authority pursuant to a lease arrangement as set forth in the Company Lease Agreement, and sell the renewable energy from the Renewable Energy Projects through the Authority to the Series 2011 Local Units, all as contemplated by the Renewable Energy Program Documents. See “THE RENEWABLE ENERGY PROGRAM” in the body of this Official Statement. The Company’s principal assets and liabilities are the rights and obligations under the Renewable Energy Program Documents with the Authority. Pursuant to the Company Lease Agreement, the Company is obligated to deposit certain security with the Trustee, for the benefit of the County, to secure the Company’s performance and payment under the Company Lease Agreement. While on deposit with the Trustee, this security is held solely for the benefit of the County and is neither included in the Trust Estate nor otherwise pledged to the Holders.

The Company is managed by SunLight General Capital Management, LLC. Pursuant to the Company Lease Agreement, the Company is obligated to pledge certain revenues to the Authority to secure the Company’s performance and payment under the Company Lease Agreement. The Company is contracting with Power Partners MasTec, LLC to design and construct the Projects for the Series 2011 Local Units. The Company will operate the Renewable Energy Projects for the Series 2011 Local Units, either directly or through one or more operations and maintenance contractors.

**Power Partners MasTec, LLC (“MasTec”)**

Power Partners MasTec, LLC (“MasTec”) will perform the work of acquiring and constructing the Renewable Energy Projects under contract with the Company. MasTec is a limited liability company created and in good standing under the laws of the State of North Carolina. MasTec, an ISO 9001: 2008-certified company, is one of the nation’s leading contractors of wind and solar collection systems, substations and power system interconnection services for private developers, electric utilities and governments.

Since 2002, MasTec has provided turnkey electric system construction services to utilities and industrial businesses.

Today, with the growing need to conserve energy and develop power systems that rely on the earth’s sun and wind, MasTec has integrated its expertise in designing, building and maintaining traditional power systems with the new frontier of renewable energy production.

MasTec is part of the MasTec, Inc. family of companies (NYSE – MTZ), combining the strength of its parent company with its construction and operating experience and expertise to deliver reliable solar and wind power infrastructure engineering and construction services nationwide

#### **SunLight General Sussex Holdings, LLC (“Holdco”)**

SunLight General Sussex Holdings, LLC (“Holdco”) is a limited liability company created and in good standing under the laws of the State of New Jersey. Holdco is organized solely to invest in the Company and be the sole member of the Company. It is currently a wholly-owned subsidiary of SunLight General Capital, LLC, which is Holdco’s only member.

#### **SunLight General Capital, LLC (“SGC”)**

Sunlight General Capital, LLC (“SGC”), the sole member of Holdco, is a limited liability company created and in good standing under the laws of the State of New York and authorized to do business in the State of New Jersey. SGC is a solar energy developer and financier, founded in 2009 by professionals from the solar and finance industries. SGC is currently focused on projects in the north eastern United States.

SGC helps promote access to clean, renewable energy by financing the construction of solar generation facilities on our clients’ rooftops and grounds, and offering electricity through solar Power Purchase Agreements (PPA). Additional information about SGC can be found at its website [www.sunlightgeneral.com](http://www.sunlightgeneral.com).

#### **Biographies of SunLight General Management Team**

**Stacey Hughes** ([shughes@sunlightgeneral.com](mailto:shughes@sunlightgeneral.com)) was previously a Managing Director of Société Générale, in charge of interest rate and currency derivative solutions for corporate clients in North and South America (1998 - 2009). Ms. Hughes has extensive experience structuring sophisticated financial transactions, particularly within the project finance and infrastructure space. Previously, Ms. Hughes worked in the Capital Markets and Financial Institutions groups at Salomon Brothers. She has a B.S. in Finance from California Polytechnic State University and an MBA from Harvard Business School.

**Edouard Klehe** ([eklehe@sunlightgeneral.com](mailto:eklehe@sunlightgeneral.com)) was previously a Managing Director of Société Générale, where he ran the *Structured Credit and Principal Finance* group. Mr. Klehe has more than 10 years of experience working in various senior trading, investment and structuring roles, where he developed extensive expertise in structuring financial investments both for the bank’s own account and for its customers. In addition, he has managed portfolios of corporate and project finance bonds, asset-backed securities, and alternative investments. He received a Masters degree from H.E.C. School of Management in Paris.

**Jay Mann** ([jmann@sunlightgeneral.com](mailto:jmann@sunlightgeneral.com)) was previously the CEO of IPPsolar, a solar development company. He served as Head of Structured Finance at Soltage, Inc., also a solar development company; Managing Director in the Derivatives and Financial Products Group at Société Générale; Director of structured finance at Goldman Sachs; Senior Manager at Ernst & Young; Manager at Deloitte & Touche; Deputy Assistant Attorney General in the Tax Division of the Department of Justice supervising all federal appellate tax litigation. Mr. Mann has a JD from Harvard Law School, an MBA from Columbia University, and a BA from Cornell University.

**David Wolf** (dwolf@sunlightgeneral.com) was previously a Director of Société Générale, where he was in the Structured Credit and Principal Finance group. Mr. Wolf has more than 13 years of finance experience having worked at the Royal Bank of Scotland, Citibank, and Goldman Sachs. He has had roles in various proprietary investment, marketing and structuring groups. He has managed multi-billion dollar portfolios of project finance bonds, asset-backed securities, and alternative investments. Prior to working in finance, he worked as an actuarial consultant to large pension funds. Mr. Wolf has an MBA in Finance from Columbia University, a B.A. in Economics from Yeshiva University, a CFA, and an Associate of the Society of Actuaries.

**Bill Zachary** (bzachary@sunlightgeneral.com) was previously a Managing Director of Société Générale, where he ran the Municipal Finance Group. Mr. Zachary has nearly twenty years of experience structuring municipal transactions, including highly complex tax-exempt natural gas pre-pay financings, military housing privatizations, and a wide variety of derivative transactions. Before joining Société Générale in 1993, Mr. Zachary worked in the Public Finance Department at Smith Barney. He has a B.A. from Harvard College and attended the Harvard Kennedy School of Government.

### SunLight General Capital's Team Experience: Northeastern Solar Development

#### Project Information

#	Project Name	COD Date	Location	Size	Cost of Contract	Project Status
1	Bergen County Prosecutor's Office	2010	New Jersey	115 KW	\$575,000	Operational
2	Bergen County Parking Garage at County Office	2011	New Jersey	630 KW	\$3,150,000	Operational
3	Jet Aviation at Teterboro Airport	2011	New Jersey	750 KW	\$3,750,000	Operational
4	Arsonia High School	2011	Connecticut	200 KW	\$1,000,000	Operational
5	Somerset County Improvement Authority	2011 / 2012	New Jersey	7.6 MW	\$30-\$35 million	Beginning Construction
6	Mercer County Community College	2012	New Jersey	10.0 MW	\$40-\$45 million	Under Development
7	Morris County Improvement Authority	2012	New Jersey	9.2 KW	\$35-\$40 million	Under Development
8	Morris County Improvement Authority (Sussex)	2012	New Jersey	8.8 MW	\$35-\$40 million	Under Development
9	NJ Meadowlands Co-Op	Q3 2011	New Jersey	1.4 MW	\$7,000,000	Beginning Construction
10	Precision Electronic Glass	Q3 2011	New Jersey	465 KW	\$2,325,000	Beginning Construction
11	Alternatives Inc	Q3 2011	New Jersey	200 KW	\$1,000,000	Beginning Construction
12	Mazza Recycling and Demolition*	2008	New Jersey	280 KW	\$1,400,000	Operational
13	Appliance Dealers Cooperative*	2008	New Jersey	630 KW	\$3,150,000	Operational
14	Pilgrim Furniture Showroom*	2008	New Jersey	300 KW	\$1,500,000	Operational
15	Sikorsky Aircraft*	2010	Connecticut	100 KW	\$500,000	Operational

\*Note: Projects developed by current SunLight partners for other companies

<b>Total Solar Projects</b>	<b>40.7 MW</b>
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## Representative Project Finance Experience: SunLight General Capital

### SunLight General Capital's Team Experience in Large-Scale Project Finance and Tax (Selected Transactions)

Project Information								
#	Project Name	COD Date	Location	Fuel / Project	Size	PPA/Counterparty	Project Status	Notes
1	Peru LNG (Hunt Oil)	2009	Peru	LNG	(\$3.8 B)	Repsol	Operational	Largest LNG plant in South America
2	Shiloh II Wind Farm	2009	California	Wind	150 MW (\$350m)	20-Year PG&E	Operational	
3	Public Energy Authority of Kentucky	2007	Kentucky	natural gas	(\$451 mm)	Public Energy Authority of Kentucky	Operational	tax-exempt gas prepay
4	Autoroute 25	2007	Montreal	highway	(C\$550 mm)	n/a	Operational	
5	Lower Alabama Gas District	2007	Alabama	natural gas	(\$378 mm)	Lower Alabama Gas District	Operational	tax-exempt gas prepay
6	Chicago Parking Garage System	2007	Chicago	parking	(\$560 mm)	n/a	Operational	
7	Southeast Alabama Gas District	2007	Alabama	natural gas	(\$972 mm)	Southeast Alabama Gas District	Operational	tax-exempt gas prepay
8	Neptune Regional Transmission System	2005	New York / New Jersey	transmission	660 MW (\$650 mm)	20-Year Long Island Power Authority	Operational	65-mile 500-kv underwater cable
9	Sabine Pass LNG (Cheniere Energy)	2006	Louisiana	LNG	(\$820 mm)	20-Year Chevron & Total	Operational	
10	Sea to Sky	2005	Vancouver	highway	(C\$625 mm)	n/a	Operational	
11	Canada Line Rapid Transit	2005	Vancouver	rail	(C\$720 mm)	n/a	Operational	
12	Fort Irwin Family Housing	2004	California	housing	(\$367 mm)	n/a	Operational	
13	Fort Belvoir Military Housing	2003	Washington, DC	housing	(\$434 mm)	n/a	Operational	
14	Camp Pendleton/Quantico Military Housing	2003	California	housing	(\$120 mm)	n/a	Operational	
15	Tri-Command Military Housing	2003	South Carolina	housing	(\$112 mm)	n/a	Operational	
16	American Public Energy Agency	2003	Nebraska	natural gas	(\$305 mm)	American Public Energy Agency	Operational	tax-exempt gas prepay
17	Navy-South Texas Military Housing	2002	Texas	housing	(\$39 mm)	n/a	Operational	
18	Fort Hood Military Housing	2001	Texas	housing	(\$186 mm)	n/a	Operational	
19	New Orleans Naval Housing	2001	Louisiana	housing	(\$56 mm)	n/a	Operational	
20	Project Victoria	2001	London	structured fixed income	(\$1 B)	n/a	Operational	Tax advantaged financing
21	Fort Carson Military Housing	1999	Colorado	housing	(\$147 mm)	n/a	Operational	

**Total Value of SunLight's Project Finance Experience:  
+\$12.6 Billion**

**Appendix D**

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RESOLUTION NO. 11-\_\_

RESOLUTION OF THE BOARD OF COMMISSIONERS  
MORRIS COUNTY IMPROVEMENT AUTHORITY

TITLE:

RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX  
GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE  
NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF  
THE MORRIS COUNTY IMPROVEMENT AUTHORITY

Adopted: September 28, 2011  
as amended and supplemented by  
a Certificate of an Authorized Officer of the Authority  
dated December 14, 2011

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RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act,

constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wysockala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants"), if any, and together with the Authority Consultants, the "Consultants"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, sited or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects", and to the extent no Capital Improvement

Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatiny Regional School District, Lafayette Township Board of Education, Lensep Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "Series 2011A Bonds") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note", and together with the Series 2011A Bonds, "Series 2011 Bonds"), by the same sale method as the Series 2011A Bonds;

WHEREAS, after taking into account the hereinafter defined Equity Contribution, the

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Law for the College Series 2011 Local Unit;

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (f) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "Company RFP") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "Company Proposal") submitted with respect to Sunlight General Sussex Solar, LLC (the "Company"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools

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Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts

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Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

- (I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,
  - (II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and
  - (III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and
- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund

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installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011

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Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty;

WHEREAS, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, reduce the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

WHEREAS, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic lease Payments;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

WHEREAS, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c-12") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms,

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Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

WHEREAS, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

WHEREAS, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "EPC Contractor"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated [December \_\_], 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "EPC Contract") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "In-Kind Equity Contribution") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the "In-Kind Equity Contribution"), (ii) a cash reserve in the amount of \$1,500,000 (the "County Reserve") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local

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the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement" and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i) the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement"); and (ii) the execution and delivery of a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "Sale Documents");

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WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Morris County Improvement Authority as follows:

## ARTICLE I

### DEFINITIONS

#### SECTION 1.01. Definitions.

1. The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

Act  
 Additional Bonds  
 Authority  
 Board of Education Series 2011 Local Units  
 Board of Freeholders  
 Bond Purchase Agreement  
 Bond Resolution  
 Bonds  
 BPU  
 Capital Improvement Projects\*  
 Cash Equity Contribution  
 Company  
 Company Continuing Disclosure Agreement  
 Company Documents  
 Company Lease Agreement  
 Company Pledge Agreement  
 Company Proposal  
 Company RFP  
 Continuing Disclosure Agreements  
 County  
 County Continuing Disclosure Agreement  
 County Documents  
 County Guaranty  
 County Guaranty Agreement  
 County Reserve  
 County Security  
 County Security Agreement  
 County Security Provider  
 County Series 2011 Local Units  
 Dissemination Agent  
 EPC Contract  
 EPC Contract MOU  
 EPC Contractor  
 Equity Contribution  
 Initial Tranche

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In-Kind Equity Contribution  
 Lessee  
 Local Finance Board  
 Local Finance Board Application  
 Local Units  
 Local Unit Facilities\*  
 Local Unit License  
 Local Unit License Agreement  
 Local Unit License Agreements  
 Municipal Series 2011 Local Units  
 Nonprofit Corporation Series 2011 Local Units  
 Preliminary Official Statement  
 Preliminary Program Costs  
 Power Purchase Agreement  
 Preliminary Program Costs  
 Program Documents  
 Projects\*  
 Official Statement  
 Renewable Energy Program  
 Renewable Energy Projects\*  
 Rule 15c2-12  
 Sale Documents  
 Second Tranche  
 Section 13  
 Section 37  
 Section 1603 Grant  
 Series 2011 Bonds  
 Series 2011A Bonds  
 Series 2011B Note  
 Series 2011 Local Unit\*  
 Series 2011 Local Units\*  
 Series 2011 Project  
 Shared Services Act  
 SRECS  
 State

\*as such defined terms may be amended or supplemented pursuant to Sections 4.6 and 4.7 of the Power Purchase Agreement.

2. The following terms, initially defined in the preambles hereof, shall include the additional terms set forth below.

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Reserved.

3. The following defined terms shall, for all purposes of this Bond Resolution, have the following meanings:

"Acceptance Certificates" shall mean, individually or collectively, as the case may be, the CIP Acceptance Certificates and the REP Acceptance Certificates.

"Accounts" shall mean any account established in any of the Funds established by Article V hereof.

"Additional Bonds" means all Bonds authenticated and delivered pursuant to Section 2.04 hereof.

"Additional Lease Payment" shall mean any amount payable by the Company at the times and under the other terms of the Company Lease Agreement, other than Basic Lease Payments, including without limitation, (i) Administrative Expenses not otherwise provided from a portion of the proceeds of the Bonds, including the second and succeeding Bond Year Administrative Fee, (ii) interest on any past due Lease Payments payable at the Overdue Rate (but not any such past due Basic Lease Payment), (iii) to the extent Company funds are available, after payment of all reasonable Company expenses and prior to any member distributions, replenishment of any deficiency in the County Security Fund Requirement, (iv) the Purchase Option Price in accordance with Section 701 of the Company Lease Agreement, (v) the Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement, (vi) the Restoration Security Fund deposits up to the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution, and (vii) a one-time payment of \$1,500,000 payable on or before the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects of (ii) March 15, 2013 for deposit in the County Security Fund to satisfy the County Security Fund Requirement.

"Administrative Expense Account" shall mean the Account within the Administrative Fund so designated and established by Article V hereof.

"Administrative Expenses" shall mean the fees and expenses which are incurred from time to time by or on behalf of the Authority, the County, the County Security Provider, or the Series 2011 Local Units, including the Administrative Fee, if any, in carrying out their respective rights and duties under the terms of the Program Documents, including, without limitation the Preliminary Program Costs, accounting, administrative, financial advisory, and legal expenses, the Consulting Energy Engineering Services, the fees and expenses of the Trustee, any paying agents or any other fiduciaries or agents acting on behalf of the Authority, the County, or the Series 2011 Local Units, under or pursuant to the terms of the Program Documents, which amounts shall be due and payable by the Company as an Additional Lease Payment at the times set forth in the Program Documents, or, as applicable, upon presentation of an invoice for payment; provided, however, that to the extent an Administrative Expense is

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incurred solely due to the action or inaction of a Series 2011 Local Unit not caused by or otherwise resulting from any action, inaction or request of the Company, such Administrative Expense shall be paid by such Series 2011 Local Unit upon presentation of an invoice for payment. Other than the Series 2011 Bond proceeds deposited in the Administrative Fund in accordance with Section 2.03(7)(a) of the Bond Resolution and earmarked for certain costs and expenses, including certain Administrative Expenses, and other than the Authority's annual Administrative Fee and the Trustee's annual fee to be paid as an Additional Lease Payment by the Company, the Company and the Series 2011 Local Units shall only be responsible for the reasonable amount of Administrative Expenses caused by the action or inaction of the Company or the Series 2011 Local Unit, as applicable, to the extent any such Administrative Expenses arise in the course of the implementation of the Renewable Energy Projects and/or the performance by the Authority, County, and/or Series 2011 Local Unit of their rights, duties and obligations under the Program Documents.

"Administrative Fee" shall mean the sum of the following, payable by the Company to the Authority at the times and the amounts as set forth below:

(i) With respect to the Series 2011 Bonds for the first Bond Year upon initial issuance thereof, the Authority's fee for the Renewable Energy Program in the amount of \$120,000, consisting of the sum of (a) \$100,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Administrative Fund pursuant to Section 2.03(7)(a)(i) of the Bond Resolution and (b) \$20,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Administrative Expense Account of the Administrative Fund pursuant to Section 2.03(7)(a)(ii)(A) of the Bond Resolution; plus

(ii) For all Bond Years with respect to the Series 2011 Bonds thereafter (commencing June 15, 2013), a sum of money payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund payable on the Basic Lease Payment Date immediately preceding the first day of any such Bond Year, equal to \$20,000, which amount may be referred to as the Authority's annual Administrative Fee; plus

(iii) For all Bond Years with respect to the Series 2011 Bonds commencing December 15, 2017 and thereafter, a sum or sums of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(c) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

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"Architect" shall mean individually or collectively, as the case may be, the individual or entity appointed or caused to be appointed or employed by the Applicable Series 2011 Local Unit, the Authority, or the Company, as applicable, with respect to the provision of architectural services relating to the Renewable Energy Projects or the Capital Improvement Projects on, in, affixed or adjacent to, or otherwise for the benefit of the Local Unit Facilities for such Applicable Series 2011 Local Unit, all in accordance with applicable law, which may include the Local Public Contracts Law or the Public Schools Contracts Law, including any rules and regulations relating thereto and to which such Applicable Series 2011 Local Unit, the Authority, or the Company is subject, including without limitation any architect of record with respect to such Projects and/or Local Unit Facilities. The Architect may be a Contractor providing services pursuant to a Development Contract.

"Authority Bondholder," "Authority Bond Holder," "Holder of Authority Bonds," "Holder" or "holder" shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds.

"Authority Series 2011 Bondholder," "Authority Series 2011 Bond Holder," "Holder of Authority Series 2011 Bonds," shall mean the registered owner of any Authority's Series 2011 Bonds.

"Authorized Newspapers" shall mean (i) one newspaper which is customarily published and generally circulated at least once in each calendar week in the County, and (ii) one newspaper which is customarily published in the Borough of Manhattan, City and State of New York, at least once a day for a least five days (other than legal holidays) in each calendar week, each of which newspapers is printed in the English language; *provided however* that with respect to the redemption of Bonds, "Authorized Newspapers" shall refer only to the newspaper which is described in clause (ii) of this definition.

"Authorized Officer" or "Authorized Representative" shall mean, (i) with respect to the Authority: the Chairman, the Vice Chairman, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or by the laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairman or by the Vice Chairman of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to any Series 2011 Local Unit: the person designated as an Authorized Officer in the Applicable Local Unit License Agreement of any such Series 2011 Local Unit or any other person or persons who shall be authorized to act on behalf of such Series 2011 Local Unit by virtue of a resolution of the governing body of such Series 2011 Local Unit, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security

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(iv) For all Bond Years with respect to the Series 2011 Bonds, a sum of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(b) and/or Section 6.3(d) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(v) With respect to any Series of Bonds, interest on any past due Basic Lease Payments payable at the Overdue Rate in accordance with the Company Lease Agreement (but not any such past due Basic Lease Payment); plus

(vi) For all Bond Years with respect to any Series of Additional Bonds, such amounts as may be set forth in a Supplemental Resolution, including without limitation, for any Series of Additional Bonds that refund the Series 2011 Bonds or any other Series of Outstanding Bonds, (a) a financing fee payable upon the issuance of any such Series of Additional Bonds (from the proceeds thereof, from the Company, or otherwise) in the amount of two percent (2%) of the aggregate principal amount of any such Series of Additional Bonds, or such different amount as shall be agreed to by the Company and the Authority, plus (b) all reasonable Administrative Expenses of the Authority and any other Renewable Energy Program Interested Party involved in any such refunding payable upon the issuance of any such Series of Additional Bonds, plus (c) an annual financing fee of one percent (1%) of the aggregate principal amount of any such Series of Additional Bonds Outstanding and payable by the Company as of the first day of each Bond Year until final maturity (stated or otherwise) thereof, plus (d) the amounts, if any, payable to the Authority pursuant to Section 6.3(d) of the Power Purchase Agreement, except as any such amounts may be modified in any such Supplemental Resolution authorizing the issuance of any such Series of Additional Bonds.

"Administrative Fund" means the Fund so designated and established by Article V hereof, consisting of a Costs of Issuance Account and an Administrative Expense Account.

"Aged Account" shall mean the Account within the Revenue Fund so designated and established by Article V hereof.

"Applicable" shall mean (i) with reference to any Series 2011 Local Unit, the Series 2011 Local Unit intended to be benefited or obligated thereby, (ii) with reference to any Renewable Energy Project, the Renewable Energy Project for the intended Series 2011 Local Unit, (iii) with reference to any Local Unit Facilities, the Local Unit Facilities for the intended Series 2011 Local Unit, and (iv) with reference to any Local Unit License Agreement, the Local Unit License Agreement executed for the benefit of the intended Series 2011 Local Unit.

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Provider: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (i) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

"Base Rate" shall mean the rate of interest established by the Trustee from time to time as its reference rate in making loans but does not reflect the rate of interest charged to any particular class of borrowers, and is not tied to any external rate of interest or index. The applicable rate will change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any party. If no other rate shall be so established by the Trustee, the Base Rate shall be the Trustee's prime rate as determined from time to time.

"Basic Lease Payment" shall mean, as of each Basic Lease Payment Date, the amount set forth in Exhibit A-3 to the Company Lease Agreement corresponding to such Basic Lease Payment Date and designated as a Basic Lease Payment. The Basic Lease Payment as of any Basic Lease Payment Date is equal to the payment of the Principal Portion and Interest Portion due on such Basic Lease Payment Date, and shall be established as the amount set forth in Exhibit A-3 to the Company Lease Agreement for such date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments), and interest on the Outstanding Bonds on the next occurring (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) Principal Payment Date and Interest Payment Date respectively, of the Outstanding Bonds, including without limitation the credits available under (i) Section 302(a)(i) and (ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701 of the Company Lease Agreement with respect to prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

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"Basic Lease Payment Date" shall mean any date set forth in Exhibit A-3 to the Company Lease Agreement and designated as a Basic Lease Payment Date, which for the Interest Portion (January 15 and July 15, commencing January 15, 2013) and Principal Portion (January 15, commencing January 15, 2013) of any Basic Lease Payment, shall be a day five (5) months prior to any (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) regularly scheduled Interest Payment Date and any regularly scheduled Principal Payment Date, respectively, or if either of such days is not a Business Day, the first Business Day prior to such date.

"Board" shall mean the governing body of the Authority, or if said Board shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or to whom the powers and duties granted or imposed by the Bond Resolution shall be given by law.

"Bond" or "Bonds" shall mean any of the Bonds of any Series issued pursuant to the terms of this Bond Resolution, including the Series 2011 Bonds and any Additional Bonds, or any Bonds that are thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Section 4.07 or 11.10 hereof.

"Bond Counsel" shall mean Inglesino, Pearlman, Wyciskala & Taylor, LLC, or any other attorney at law, or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exclusion of interest on bonds or other obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state.

"Bond Year" shall mean (i) with respect to any Series of Outstanding Bonds, including the Series 2011 Bonds, a period of twelve (12) consecutive months beginning on June 15 of any calendar year and ending on June 14 of the immediately succeeding calendar year except that (ii) the first Bond Year with respect to the Series 2011 Bonds shall be a period commencing on the date of issuance of the Series 2011 Bonds and ending on June 14, 2012 and (iii) the first Bond Year with respect to any other Series of Bonds shall be a period commencing on the date of issuance of such Series of Bonds and ending on the succeeding 14<sup>th</sup> day of June.

"Bondholder," "Bond Holder," "Holder" or "Holder of Bonds" shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds, which by its terms, upon original issuance of the Series 2011 Bonds, shall mean the respective registered owners of the Series 2011A Bonds and with respect to the Series 2011B Note, the County.

"Business Day" shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or the Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

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reason, be insufficient for the Local Unit's purposes, for use by the Local Unit pursuant to any amendment or supplement to the Local Unit License Agreement, including, without limitation, all real and personal property and rights therein and any appurtenances that are necessary or useful and convenient therefor, which shall be funded through any combination of the issuance of Additional Bonds, the application of excess proceeds pursuant to Section 5.02 hereof, any grant or subsidized funding from the Federal, State or local government or other source, the equity contribution of any Renewable Energy Program Interested Party, or otherwise. To the extent such Completion Project shall be funded in whole or in part by Additional Bonds of the Authority, such Completion Project shall not be paid for by or on behalf of the Company unless the Company Lease Agreement is amended and supplemented (with the Company's consent), including as applicable the Basic Lease Payment schedule, to reflect any increased principal of and interest due on any Series of Additional Bonds issued to fund all or a portion of such Completion Project. The Authority may, at its sole discretion, issue Additional Bonds for any Completion Project, but it is under no obligation to do so, and accordingly, the Authority may make the execution and delivery by the Company of an amendment or supplement to the Company Lease Agreement regarding the payment of additional Basic Lease Payments a condition precedent to the issuance of any such Series of Additional Bonds.

"Construction Manager" shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or any Series 2011 Local Unit with the consent of the Authority, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Company for any Series 2011 Local Unit, or the oversight of the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, if any, by the Lessee for any Series 2011 Local Unit. The Consulting Energy Engineer may act as Construction Manager.

"Contractor" shall mean the Company, the EPC Contractor, or to the extent subsequently designated by the Company or the EPC Contractor, any subcontractor or other third-party designated by the Company through a Development Contract or otherwise (no subcontractor or such third-parties have been designated upon the issuance of the Series 2011A Bonds), in any such case as the entity obligated to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Consulting Energy Engineer" shall mean individually or collectively, as the case may be, Birdsall Services Group, Inc. and Gabel Associates, and any other consulting energy and/or engineer that performs Consulting Energy Engineering Services.

"Consulting Energy Engineering Services" shall mean those services performed by or on behalf of the Consulting Energy Engineer that the Authority deems necessary, desirable

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"Capitalized Interest Account" shall mean the Account within the Debt Service Fund so designated and established by Article V hereof, or by Supplemental Resolution.

"Certificate" shall mean a written certificate signed in the name of the Authority, any Series 2011 Local Unit, the County, the Company or the Trustee. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the instruments so combined shall be read and construed as a single instrument.

"CIP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Capital Improvement Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Capital Improvement Projects for each such Series 2011 Local Unit has been completed in accordance with the Plans and Specifications therefore, and has been accepted by such Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution. The Authority and the Company acknowledge and agree that the Company shall not be responsible for the construction of any Capital Improvement Projects under the Program Documents and any references in such Program Documents to the Capital Improvement Projects shall be of no further force and effect.

"Code" shall mean the Internal Revenue Code of 1986, as amended and supplemented, and the Treasury regulations promulgated pursuant thereto.

"Company Development Fees and Expenses" shall mean the development fees and expenses incurred by the Company in responding to the Company RFP, and in developing the Projects for the Series 2011 Local Units at the Local Unit Facilities, all in accordance with the terms of the Company Documents, and which amount may include a development fee paid to or on behalf of the Company and or its affiliates, and so long as the aggregate of all such fees and expenses paid or payable from the Project Fund shall not exceed \$\_\_\_\_\_ without the express written consent of the Authority, and which amounts shall be payable in accordance with the provisions of Section 5.02(2)(b) of the Bond Resolution and 509(d) of the Company Lease Agreement.

"Completion Conditions" shall have the meaning set forth in Section 3.6(a) of the Power Purchase Agreement.

"Completion Project" shall mean any completion, additions, enlargements, improvements, expansions, repairs, restorations or reconstructions of the Renewable Energy Projects or the Capital Improvement Projects, if any, for the Series 2011 Local Units at their Local Unit Facilities, including to the extent any prior Completion Project shall, for whatever

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or convenient in order to implement the Renewable Energy Program, including without limitation review of Local Unit Facilities for feasible inclusion in the Renewable Energy Program and the particular tranche, formulation of the Series 2011 Local Units, assistance in connection with the Company RFP and review of all proposals, including the Company Proposal and issuance of the report required by applicable law as a pre-condition to the selection of the Company as the successful respondent, assistance with the terms and conditions of the Program Documents, and all services of Construction Manager in overseeing the development of the Renewable Energy Projects for the Series 2011 Local Units.

"Cost", "Costs", "Costs of the Project", "Costs of the Projects", "Project Cost" or "Project Costs" shall mean and be deemed to include, with respect to any Project, together with any other proper item of cost not specifically mentioned herein, whether incurred prior to or after the date of any Program Document, (i) Preliminary Program Costs and the Company Development Fees and Expenses, (ii) costs of and expenses related to the design, permitting, acquisition, construction, installation, operation, maintenance, and financing of the Renewable Energy Projects for the Series 2011 Local Units, and (iii) costs of and expenses related to the design, permitting, acquisition, construction, renovation, installation, and financing of the Capital Improvement Projects for the Series 2011 Local Units; including, without limitation, costs and expenses related to any Architect, Construction Manager or Contractor, the Plans and Specifications, and/or any other costs and expenses related to any Development Contract, the costs of payment of, or reimbursement for, advances, deposits, down-payments or progress payments, administrative costs, insurance costs, costs of surety, construction or performance or payment bonds, financing payments, sales taxes, excise taxes, costs of feasibility, environmental and other reports, inspection costs, permit fees, filing and recording costs, printing costs, reproduction and binding costs, Administrative Expenses, costs of Rating Agencies, credit ratings or credit enhancement, fees for the printing, execution, transportation and safekeeping of the Bonds and charges and fees in connection with the foregoing; the cost of insurance; (iv) any sums required to reimburse the Renewable Energy Program Interested Parties for advances made for any of the above items, or for any other costs incurred and for work done, which is properly chargeable to any Project thereof; (v) deposits in any Fund or Account under the Bond Resolution, all as shall be provided in the Bond Resolution; and (vi) such other expenses not specified herein as may be necessary or incidental to the implementation of the Renewable Energy Program, including those incurred by the Renewable Energy Program Interested Parties and including costs and expenses related to the placing of the Projects in use and operation.

"Costs of Issuance" shall mean all items of expense directly or indirectly payable by or reimbursable to any Renewable Energy Program Interested Parties (other than the Company Development Fees and Expenses payable to the Company) and related to the authorization, execution, sale and delivery of the Bonds of any Series, including the Series 2011 Bonds, including, but not limited to, bond insurance costs or costs of other credit enhancement, Rating Agency fees, advertising and printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of any such Renewable Energy Program Interested Parties, the fees and expenses to be paid to the underwriters of a particular

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Series of Bonds (which fees and expenses, including their counsel, may be paid as a discount from Bond proceeds, rather than from the Costs of Issuance Account), including the Series 2011 Bonds, legal and financial advisory fees and expenses of such Renewable Energy Program Interested Parties, Consulting Energy Engineering Services, and initial charges, and all other initial fees and disbursements contemplated by the Program Documents.

"Costs of Issuance Account" shall mean the Account within the Administrative Fund so designated and established by Article V hereof.

"Counsel" shall mean an attorney at law or firm of attorneys at law (who may be, without limitation, of counsel to, or an employee of any Renewable Energy Program Interested Party) duly admitted to practice law before the highest court of any state.

"County Security Fund" shall mean the Fund so designated and established by Article V hereof.

"County Security Fund Requirement" shall initially mean \$1,500,000, which amount shall be wholly funded on or before (i) the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, by the Company as an Additional Lease Payment as set forth in clause (vii) of the definition thereof, which amount is the minimum initial amount on deposit in the County Security Fund in the amounts, as of the dates, specified on Exhibit B to the Bond Resolution, to be held as security for the County in the event of a payment or payments to be made by the County under its County Guaranty, and otherwise to be applied in accordance with the terms of the Program Documents, provided, however, that Exhibit B may be modified at any time by a new Exhibit B delivered by the Authority to the Trustee attached to a Certificate of an Authorized Officer of the Authority directing the Trustee to replace such Exhibit B, without the need for an amendment or supplement hereto (and without the need for Bondholder consent), which Certificate shall only be delivered by the Authority to the extent the Company and the County agree to such revised Exhibit B, as evidenced by their acknowledgment in writing to any such Authority Certificate. Such Certificate shall also set forth and direct the Trustee regarding the transfer or disposition of excess funds in the County Security Fund, if such Certificate shall cause same.

"Debt Service Fund" means the Fund so designated and established by Article V hereof, consisting of an Interest Account, and a Principal Account.

"Default" shall mean an event or condition, the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default with respect to the Bonds, including the Series 2011 Bonds.

"Developer" shall mean an Affiliate of the Company to be designated at the time of execution of the Development Agreement.

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"Funds" shall mean any of the funds established by Article V of the Bond Resolution.

"General Account" shall mean the Account within the General Fund so designated and established by Article V of the Bond Resolution.

"General Fund" shall mean the Fund so designated and established by Article V of the Bond Resolution, which shall consist of a General Account.

"Gross Substitute Power Purchase Price" shall have the meaning ascribed to such term in Section 5.2(a)(i) of the Local Unit License Agreements for the Series 2011 Local Units.

"Initial Basic Lease Payment Date" shall mean January 15, 2013, the first Basic Lease Payment Date.

"Interconnection Agreement" shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Applicable Series 2011 Local Unit and/or the Authority, with respect to the interconnection of the completed Renewable Energy Projects for such Series 2011 Local Unit to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

"Interest Account" shall mean the Account within the Debt Service Fund so designated and established by Article V of the Bond Resolution.

"Interest Payment Date" shall mean, the date on which interest on the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June and December until final maturity of the Bonds, including the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Interest Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Interest Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the interest due and owing on the Outstanding Bonds, including the Series 2011 Bonds, on the immediately succeeding Interest Payment Date, as set forth in Exhibit A-3 to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Interest Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the interest on the Bonds on the next occurring Interest Payment Date of the Bonds, including without limitation the credits

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"Development Agreement" means the Development Agreement to be entered into by and between the Company and the Developer for development services related to the Projects.

"Development Contract" shall mean (i) in the case of the Company, the Company Lease Agreement, (ii) in the case of the EPC Contractor, the EPC Contract, and (iii) in the case of any other Contractor, that certain contract obligating any such other subcontractor or other third-party, as Contractor and on behalf of the Company, to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units. Nothing in any Development Contract shall relieve the Company from its obligations under the Company Lease Agreement and the other Company Documents, which obligations shall include the Company's continual obligation to design, permit, acquire, construct, install, operate and/or maintain all of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, and to design, permit, acquire, construct, renovate and/or install all of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Development Fee" means the fee payable to the Developer for services provided under the Development Agreement.

"Draw Date" shall have the meaning ascribed to such term in Section 510(b) of the Company Lease Agreement, and shall not be a regularly scheduled set of dates, but shall occur no more frequently than twice a month.

"Draw Paper Ratio" shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

"Draw Papers" shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

"DTC" shall mean The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, in its capacity as securities depository for the Bonds, including the Series 2011 Bonds.

"Event of Default" shall mean any occurrence or event designated as such in Section 9.01 of the Bond Resolution.

"Excess Power Purchase Price Payments" shall have the meaning ascribed to such term in Section 311(a) of the Company Lease Agreement.

"Fiduciary" or "Fiduciaries" shall mean individually or collectively, as the case may be, the Trustee or the Paying Agent under the Bond Resolution.

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available under (i) Section 302(a)(1) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(1)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Investment Securities" shall mean and include any of the following securities, if and to the extent the same are at the time legal for investment of the Authority's funds:

(i) Cash, direct non-callable obligations of the United States of America, and securities fully and unconditionally guaranteed as to the timely payment of principal of and interest by the United States of America, to which direct obligation or guarantee the full faith and credit of the United States of America has been pledged, Refcorp interest strips, CATS, TIGRS, STRPS or defeased municipal notes or bonds rated in the highest rating category by at least one of the Rating Agencies;

(ii) Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state or of any agency or instrumentality of any such local governmental unit (a) that are not callable prior to maturity or as to which irrevocable instructions have been given to the Trustee of such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds or other obligations for redemption on the date or dates specified in such instructions, (b) that are secured as to principal, interest and redemption premium, if any, by a fund consisting only of cash or bonds or other obligations of the character described in clause (i) above, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the redemption date or dates specified in the irrevocable instructions referred to in subclause (a) of this clause (ii), as appropriate, and (c) as to which the principal of and interest on the bonds and obligations of the character in clause (i) above that have been deposited in such fund, along with any cash on deposit in such fund, are sufficient to pay the principal of and interest and redemption premium, if any, on the bonds or other obligations described in this clause (ii) on the maturity date or dates

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thereof or on the redemption date or dates specified in the irrevocable instructions referred to in subclause (a) of this clause (ii), as appropriate;

(iii) Bonds, debentures or other evidences of indebtedness issued or guaranteed by any agency or corporation that has been or may hereafter be created pursuant to an Act of Congress as an agency or instrumentality of the United States of America; provided, however, that at the time of their purchase hereunder such obligations are rated in either of the two highest rating categories by the Rating Agencies;

(iv) New housing authority bonds issued by public agencies or municipalities that are fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or project notes issued by public agencies or municipalities that are fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(v) Direct, general obligations of any state of the United States of America, the payment of the principal of and interest on which the full faith and credit of such state is pledged; provided, however, that at the time of their purchase hereunder such obligations are rated in either of the two highest rating categories by the Rating Agencies;

(vi) Obligations of any state of the United States of America or any political subdivision thereof or of any agency or instrumentality of any such state or political subdivision that shall be rated in the highest short- or long-term rating category by the Rating Agencies;

(vii) Direct and general obligations of the State, the payment of the principal of and interest on which the full faith and credit of the State is pledged; or any bonds or other obligations the payment of the principal of and interest on which are unconditionally guaranteed by the State;

(viii) Certificates or other instruments that evidence ownership of the right to payments of principal of or interest on obligations of any state of the United States of America or any political subdivision thereof or of any agency or instrumentality of any such state or political subdivision; provided, however, that such obligations shall be held in trust by a bank or trust company or a national banking association meeting the requirements for a successor Trustee under Section 10.09 hereof; and provided, further, that the payments of all principal of and interest on such obligations shall be fully insured or unconditionally guaranteed by, or otherwise unconditionally payable pursuant to a credit support arrangement provided by, one or more financial institutions or insurance

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(xiv) Interests in the State of New Jersey Cash Management Fund or other similar common trust fund for which the State Treasurer is the custodian;

(xv) Local government investment pools;

(xvi) Money market funds which seek to maintain a constant net asset value per share and are rated in the highest short term rating categories of such funds, by at least two Rating Agencies;

(xvii) With respect to the County Security Fund only, any other investment for which funds of the County may be legally invested at such time; and

(xviii) Any other investments permitted under N.J.S.A. 40A:5-15.1, or any such successor statute.

"Lease Payments" shall mean all amounts due and payable by the Company pursuant to the terms of the Company Lease Agreement, and shall consist of Basic Lease Payments and the Additional Lease Payments.

"Letter of Instructions" shall mean the letter of instructions attached to any Tax Certificate as an exhibit thereto provided by Inglesino, Pearlman, Wyciskala & Taylor, LLC or other Bond Counsel on the date of issuance and delivery of the Series of Bonds to which it applies, as such letter may be amended from time to time, as a source of guidance for compliance with the Code. There shall be no Letter of Instructions with respect to the Series 2011 Bonds.

"Mandatory Purchase Price" shall have the meaning ascribed to such term in Section 702 of the Company Lease Agreement relating to the acceleration of the Bonds of any Series, including the Series 2011 Bonds.

"Net Proceeds" shall mean any insurance, condemnation, performance bond, or any other financial guaranty proceeds paid with respect to any portion of the Projects, remaining after payment therefrom of all expenses incurred in the collection thereof; and, with respect to insurance, if and at such time as the Company elects to provide self-insurance under Section 614 of the Company Lease Agreement, any moneys payable from any self-insurance fund of the Company which may lawfully be expended for the purposes for which such self-insurance is provided.

"Net Substitute Power Purchase Price" shall have the meaning ascribed to such term in Section 5.2(a)(i) of the Local Unit License Agreements for the Series 2011 Local Units.

"Outstanding" or "outstanding" shall mean, when used with reference to Bonds of any Series, including the Series 2011 Bonds, as of any particular date (subject to the

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companies or associations that shall be rated in the highest short- or long-term rating category by the Rating Agencies, or, in the case of an insurer providing municipal bond insurance policies insuring the payment, when due, of the principal of and interest on municipal bonds, such insurance policy shall result in such municipal bonds being rated in the highest rating category by the Rating Agencies;

(ix) Certificates that evidence ownership of the right to payments of principal of or interest on obligations described in clause (f) above; provided, however, that such obligations shall be held in trust by a bank or trust company or a national banking association meeting the requirements for a successor Trustee under Section 10.09 hereof;

(x) Certificates of deposit, whether negotiable or non-negotiable, demand deposits, and banker's acceptances of any of the fifty (50) largest banks by measure of total assets, which banks may include the Trustee, that are rated not lower than the second highest rating category by the Rating Agencies;

(xi) Commercial paper rated at the date of investment in the highest rating category by the Rating Agencies;

(xii) Any repurchase agreement that, by its terms, matures not later than one (1) year from its date of execution with any bank or trust company organized under the laws of any state of the United States of America or any national banking association, including the Trustee, or any government bond dealer reporting to, trading with and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in clause (f), (ii), (iv), (x) or (xi) above and which securities shall at all times have a market value (exclusive of accrued interest) of not less than one hundred two percent (102%) of the full amount of the repurchase agreement, have dates of maturity not in excess of seven (7) years, and be delivered to another bank or trust company organized under the laws of any state of the United States of America or national banking association, as custodian;

(xiii) Shares of an investment company organized under the Investment Company Act of 1940, as amended, including any investment company for which the Trustee is investment advisor, that invests its assets substantially in obligations of the type described in clause (ii), (vii), (xi) or (xii) above;

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provisions of Section 13.08 hereof), all Bonds of such Series theretofore, or thereupon being, authenticated and delivered by the Trustee under this Bond Resolution, except: (i) Bonds of such Series theretofore or thereupon canceled by the Trustee or surrendered to the Trustee for cancellation; (ii) Bonds of such Series with respect to which all liability of the Authority shall have been defeased or discharged in accordance with Article XII of the Bond Resolution; and (iii) Bonds of such Series in lieu of or in substitution for which other Bonds of such Series shall have been authenticated and delivered by the Trustee pursuant to any provision of this Bond Resolution.

"Overdue Rate" shall mean two percent (2%) per annum over the Base Rate, which rate shall change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any Renewable Energy Program Interested Parties; provided, however, that notwithstanding the foregoing, to the extent the County Security, if any, shall have been drawn upon to reimburse the County in full for any County payments under the County Guaranty, the Overdue Rate with respect to interest to be paid on past due Basic Lease Payments (such payment of interest constituting an Additional Lease Payment under the Company Lease Agreement) shall have such different meaning, if any, as may be set forth in the County Security Agreement, if any.

"Owner" or "Registered Owner" of a Bond shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds, as shown on the register kept by the Trustee pursuant to Section 3.04 of the Bond Resolution.

"Paying Agent" means the Paying Agent appointed pursuant to Section 10.02 of the Bond Resolution, and its successors.

"Plans and Specifications" shall mean the architectural and engineering drawings and specifications prepared by the Architect or other Contractor (through a Development Contract or otherwise) describing the Renewable Energy Projects or the Capital Improvement Projects (if any), including any Completion Project, as the case may be, as agreed to among the Company and the Applicable Series 2011 Local Unit pursuant to Section 501 of the Company Lease Agreement.

"Power Purchase Price Payments" shall mean the payments made by the respective Series 2011 Local Units for the purchase of electricity to the Trustee, at the direction of the Authority and on behalf of the Company, all in accordance with Section 5.1(e)(i) of the Local Unit License Agreements.

"Principal Account" shall mean the Account within the Debt Service Fund so designated and established by Article V of this Bond Resolution.

"Principal Office" shall mean, when used with reference to the Authority, the Trustee or the Paying Agent, the respective addresses of such parties as set forth in Section 13.07 hereof, and any further or different addresses as such parties may designate pursuant to Section

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13.07 hereof, and with reference to the Series 2011 Local Units, the addresses set forth in Exhibit A-2 to the Company Lease Agreement, as any such party may update from time to time in accordance with the terms of the Company Lease Agreement.

"Principal Payment Date" shall mean, the date on which principal (including Sinking Fund Installments, if any) of the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15th) day of each June until final maturity of the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Principal Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Principal Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the principal (including Sinking Fund Installments) of the Outstanding Bonds, including the Series 2011 Bonds, due and owing on the immediately succeeding Principal Payment Date, as set forth in Exhibit A-3 attached to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Principal Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments) the Bonds on the next occurring Principal Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Purchase Option Price" shall have the meaning ascribed to such term in Section 701 of the Company Lease Agreement relating to the optional redemption of the Bonds of any Series, including the Series 2011 Bonds.

"Project Account" shall mean the Account within the Project Fund so designated and established by Article V of the Bond Resolution.

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"REP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Renewable Energy Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Renewable Energy Projects for each such Series 2011 Local Unit have been completed in accordance with the Plans and Specifications therefor, and have been accepted by the Company and the Applicable Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution.

"Reserved Rights" shall mean the Authority's right to retain the following under the Company Lease Agreement, which shall not be part of the Trust Estate pledged to the Trustee under Section 1.04 of the Bond Resolution:

(i) Receive the Additional Lease Payments earmarked for purposes other than the Purchase Option Price or the Mandatory Purchase Price (which Purchase Option Price or the Mandatory Purchase Price Additional Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), including without limitation (a) the Administrative Fee, if any, and any other Administrative Expenses, which the Authority shall be obligated to pay or cause to be paid to the Renewable Energy Program Interested Parties due such Administrative Expenses, and (b) interest payable on past due Lease Payments at the Overdue Rate (but not the Basic Lease Payments that may be paid together with any payment at the Overdue Rate, which Basic Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), provided, further, that the portion of which interest that is attributable to past due Basic Lease Payments may be assigned by the Authority to the County and/or the County Security Provider, if any, as part of the Reimbursement Collateral;

(ii) The payments set forth in Section 5.2(a)(ii) and (iii) of the Local Unit License Agreements for the Series 2011 Local Units that reflect the difference between the Gross Substitute Power Purchase Price and the Net Substitute Power Purchase Price, which includes the Administrative Fee;

(iii) Receive notices provided for in the Company Lease Agreement or any other Program Document;

(iv) Appoint, replace or remove such parties as shall be appointed, replaced or removed under the Company Lease Agreement or any other Program Document at the direction of the Authority; and

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"Project Fund" shall mean the Fund so designated and established by Article V hereof, consisting of a Project Account.

"Rating Agency" shall mean individually or collectively, as the case may be, Moody's Investors Service, Standard & Poor's, or any other nationally recognized rating agency that has rated the Bonds, including the Series 2011 Bonds, or any Series of Additional Bonds, which rating was sought and/or purchased by the Authority.

"Record Date" shall mean with respect to an Interest Payment Date for a particular Series of Bonds, including the Series 2011 Bonds, unless otherwise provided by this Bond Resolution or a Supplemental Resolution authorizing such Series, the fifteenth (15<sup>th</sup>) day (whether or not such day shall be a Business Day) of the month preceding such Interest Payment Date.

"Redemption Price" shall mean, when used with reference to any Series of Bonds, including the Series 2011 Bonds or any portion thereof, the principal amount of such Bonds or such portion thereof and any premium thereon payable upon redemption thereof pursuant to the provisions of such Bonds and this Bond Resolution.

"Reimbursement Collateral" shall mean, to the extent a County Security Agreement shall be delivered to the Authority and the Trustee in accordance with the provisions of Section 5.07(6) of the Bond Resolution, (i) the SRECs, (ii) the Net Substitute Power Purchase Price, and (iii) any past due Basic Lease Payments, together with any Additional Lease Payments constituting interest payable on such past due Basic Lease Payments at the Overdue Rate, all of which shall have been pledged and assigned by the Authority to the County Security Provider under the County Security Agreement, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security. If no County Security Agreement shall be so delivered, which shall be the case upon original issuance of the Series 2011A Bonds, this term shall mean the County Reserve and any other monies and securities on deposit in the County Security Fund at any time, if any, that shall be available to the Company, in such case as County Security Provider, after and to the extent the County has been fully paid under its County Guaranty; provided that no such monies shall be made available to the Company until the County has completed all of its payment obligations under the County Guaranty and been fully reimbursed therefor, from the County Security Fund or otherwise.

"Renewable Energy Program Interested Parties" shall mean individually or collectively, as the case may be, the Authority, the County, the Series 2011 Local Units, the Company, the Construction Manager, the County Security Provider, the Trustee or any other fiduciary under the Program Documents, or any other interested party with a right, duty or obligation under the Program Documents, including any agents (including professional advisors) of any of the foregoing.

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(v) The right to give or withhold consents, including consents to amendments, permitted or required of the Authority under the Company Lease Agreement or any other Program Documents, to the extent that any such consent or amendment would diminish the rights or enlarge the responsibilities or adversely affect the ability of the Authority to realize or perform same, respectively, or which would increase the Authority's potential liability or exposure to any party to any Program Document or to any third party as a result thereof. All such notices, appointments or consents under any other Program Document (i.e., other than the Company Lease Agreement) shall be unaffected by these rights, as the Authority's rights under the other Program Documents are not subject to the pledge of the Trust Estate under Section 1.04 of the Bond Resolution, and are either retained by the Authority, or assigned pursuant to the terms of the Program Documents, but in any event, shall not constitute a Revenue or other part of the Trust Estate for purposes of the Bond Resolution.

"Restoration Security Fund" shall mean the Fund so designated and established by Article V hereof.

"Restoration Security Fund Requirement" shall mean \$75,000 on deposit in the Restoration Security Fund as of the eleventh (11<sup>th</sup>) anniversary of the first Commencement Date under the Power Purchase Agreement, plus an additional \$75,000 for each year thereafter until the end of the Initial Term under the Power Purchase Agreement (for a total of \$375,000); provided, however, the Company shall be required to pay to the Restoration Security Fund any amount to bring the balance therein to the Restoration Security Fund Requirement from time to time only if the Company has sufficient available cash flow to fund the same after making all other payments payable by the Company during such year but in no event shall cash flow distributions be made to the members of the Company in any year in which the Restoration Security Fund is required to be funded to the extent the Restoration Security Fund is not funded in such year to the level required by the Restoration Security Fund Requirement. Such amount shall be funded by the Company as an Additional Lease Payment to be made on each such anniversary date, all as specified on Exhibit C to the Bond Resolution, to be held as security for the Series 2011 Local Units to ensure that the Company restores their Local Unit Facilities in the manner required by Section 3.7(b) of the Power Purchase Agreement. Notwithstanding the foregoing, Exhibit C to the Bond Resolution may be modified at any time by a new Exhibit C delivered by the Authority to the Trustee attached to a Certificate of an Authorized Officer of the Authority directing the Trustee to replace such Exhibit C, without the need for an amendment or supplement hereto (and without the need for Bondholder consent), which Certificate shall only be delivered by the Authority to the extent the Company and the County agree to such revised Exhibit C, as evidenced by their acknowledgment in writing to any such Authority Certificate. Such Certificate shall also set forth and direct the Trustee regarding the transfer or disposition of excess funds in the Restoration Security Fund, if such Certificate shall cause same.

"Revenue Account" shall mean the Account within the Revenue Fund so designated and established by Article V hereof.

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"Revenue Fund" shall mean the Fund so designated and established by Article V of the Bond Resolution.

"Revenues" shall mean (i) all Basic Lease Payments made by the Company under the Company Lease Agreement, together with all Power Purchase Price Payments made by the Series 2011 Local Units to the Trustee, (ii) those Additional Lease Payments related to the Purchase Option Price or the Mandatory Purchase Price made by the Company under the Company Lease Agreement, (iii) any investment income which is derived from the investment of any funds which are held by the Trustee pursuant to the terms of the Bond Resolution and which are deposited in the Funds and Accounts established under the Bond Resolution; provided, however, that Revenues shall not include the investment income on moneys or securities held in (a) the Administrative Expense Account or the Costs of Issuance Account of the Administrative Expense Fund, nor (b) the County Security Fund, and (iv) any other amounts received from any other source by or on behalf of the Authority, the Company, the County, the Series 2011 Local Units, the Trustee or the Paying Agent, whereby such amounts are directed or permitted to be applied to the payment of the principal of, Redemption Price, and interest on the Bonds, including the Series 2011 Bonds.

"Series" shall mean all of the Bonds, including the Series 2011 Bonds, authenticated and delivered on original issuance and identified pursuant to this Bond Resolution or any Supplemental Resolution authorizing such Bonds as a separate Series of Bonds, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Sections 4.07 or 11.10 hereof, regardless of variations in maturity, interest rate or other provisions.

"Series 2011B Bonds" shall have the meaning ascribed to such term in Section 311(b) of the Company Lease Agreement.

"Sinking Fund Installments", with respect to any Series of Bonds, shall have the meaning, if any, specified in either this Bond Resolution, including, without limitation and with respect to the Series 2011A Bonds, Section 2.03(6)(a) hereof, or the Applicable Supplemental Resolution.

"Supplemental Resolution" shall mean the certificate or certificates of an Authorized Officer of the Authority referred to in Section 2.02(1)(d) hereof and/or any resolution or resolutions of the Authority amending, modifying or supplementing this Bond Resolution, authorizing the issuance of a Series of Additional Bonds, or any other Supplemental Resolution adopted by the Authority pursuant to the provisions of this Bond Resolution.

"Tax Certificate", with respect to any Series of Bonds other than the Series 2011 Bonds (there shall be no Tax Certificate with respect to the Series 2011 Bonds), means the "Tax Certificate as to Arbitrage and Instructions as to Compliance with the Provisions of Section 103(a) of the Internal Revenue Code of 1986, as amended" or similar document executed and

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Resolution, unless in the case of any one or more Certificates or Supplemental Resolutions, the context requires otherwise.

2. All reference in this Bond Resolution to designated "Articles", "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this Bond Resolution. The words "herein", "hereof", "hereunder" and "herewith" and other words of similar import refer to this Bond Resolution as a whole and not to any particular Article, Section or other subdivision hereof.

3. The terms defined in this Bond Resolution include the plural as well as the singular.

4. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

5. The table of contents and the headings or captions used in this Bond Resolution are for convenience of reference only and shall not define, limit or prescribe any of the provisions hereof or the scope or intent hereof.

**SECTION 1.03. Authority for this Bond Resolution; Appropriation.** This Bond Resolution is adopted pursuant to the provisions of the Act and constitutes a resolution authorizing bonds pursuant to the Act. Promptly after the initial adoption of this Bond Resolution, an Authorized Officer of the Authority shall cause the estoppel notice contemplated by Section 19 of the Act (N.J.S.A. 40:37A-62) to be published in an Authorized Newspaper. The adoption of this Bond Resolution by the governing body of the Authority shall provide an initial appropriation in the amount of \$50,000,000, which appropriation, upon issuance of a Series of Bonds, shall automatically be reduced (without any further action of the Authority) to the aggregate principal amount of Bonds issued and Outstanding (but not in excess of such maximum appropriation amount of \$50,000,000) in the amount of \$27,700,000. Accordingly, the Authority shall be, and hereby is, authorized by applicable law to contract for and spend money on the Projects, and other matters related to the Renewable Energy Program, including through the Program Documents, in an aggregate amount not to exceed such maximum appropriation.

**SECTION 1.04. Bond Resolution and Bonds Constitute a Contract; Pledge of Trust Estate.**

With respect to the Bonds, in consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued under this Bond Resolution by those who shall hold the same from time to time: (i) this Bond Resolution and the Bonds issued hereunder shall be deemed to be and shall constitute a contract by and among the Authority, the Trustee and the Holders, from time to time, of such Bonds; (ii) the pledge made herein to the Trustee to pay its fees and expenses shall in every respect be subordinate to the pledge made herein to the Trustee for the benefit of the Holders of the Bonds, except that Bondholders shall have no interest in and

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delivered by an Authorized Officer of the Authority on the date of issuance of such Series of Bonds, as the same may be supplemented and amended from time to time, but only to the extent the interest on such Series of Bonds is excludable from the gross income of the Holders thereof for Federal income tax purposes.

"Tax-exempt Bonds" shall mean any Series of Additional Bonds with respect to which an opinion of Bond Counsel is delivered to the effect that interest on such Series of Bonds is excluded from gross income pursuant to Section 103 of the Code. The Series 2011 Bonds shall not be considered Tax-exempt Bonds.

"Trustee" shall mean the Trustee appointed pursuant to Section 10.01 of the Bond Resolution, and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the provisions of the Bond Resolution.

"Trust Estate" shall mean all right, title and interest of the Authority in, to and under (i) the Revenues, (ii) all moneys payable by the County under the County Guaranty, but only with respect to the Series 2011 Bonds unless extended to any Series of Additional Bonds, (iii) all moneys and securities held in any Funds and Accounts established under the Bond Resolution, except for moneys or securities held in (A) the Administrative Expense Account or the Costs of Issuance Account of the Administrative Fund or (B) the County Security Fund, if any, (iv) the Company Lease Agreement, but only to the extent necessary to enforce the payment of Revenues owed by the Company thereunder, which excludes all of the Authority's obligations thereunder, the Reserved Rights, and the Authority's rights to the Renewable Energy Projects for the Series 2011 Local Units or the Capital Improvement Projects for the Series 2011 Local Units, which (non-reserved) interests shall be assigned by the Authority (A) to the County Security Provider pursuant to the terms of the County Security Agreement, but only if such County Security Agreement shall be delivered to the Authority and the Trustee upon or prior to the issuance of the Series 2011 Bonds, and/or (B) to the County pursuant to the terms of the County Guaranty Agreement, and (v) any other amounts received from any other source by or on behalf of the Authority and pledged by the Authority as security for the payment of the Bonds, including the Series 2011 Bonds, all of which as shall have been pledged by the Authority to the Trustee pursuant to Section 1.04 of the Bond Resolution as security for the payment of the principal, redemption premium, if any, and interest on the Bonds, including the Series 2011 Bonds. None of the Renewable Energy Projects for the Series 2011 Local Units, the Capital Improvement Projects for the Series 2011 Local Units, or the County Security shall be part of the Trust Estate.

**SECTION 1.02. Rules of Interpretation.** For all purposes of this Bond Resolution, except as otherwise expressly provided or unless the context otherwise requires:

1. "This Bond Resolution" means this instrument as originally adopted and as it may be supplemented, modified or amended from time to time by any Certificate of an Authorized Officer in accordance with Article II hereof, or in accordance with any Supplemental

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shall not be secured by (A) the Administrative Fund and (B) the County Security Fund; (ii) the pledge made herein and the duties, covenants, obligations and agreements set forth herein to be observed and performed by or on behalf of the Authority shall be for the equal and ratable benefit, protection and security of the Holders of any and all of such Bonds, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction as to lien or otherwise, except as expressly provided herein or permitted hereby; (iv) the Authority, as security for the payment of the principal and Redemption Price, if any, of and the interest on the Bonds and as security for the observance and performance of any other duty, covenant, obligation or agreement of the Authority under this Bond Resolution, all in accordance with the provisions thereof and hereof, does hereby grant a security interest in and further does grant, bargain, sell, convey, pledge, assign and confirm to the Trustee the Trust Estate; (v) notwithstanding any other provision to the contrary herein, that portion of the pledge made in clause (iv) of this Section 1.04 to secure the payment of any redemption premium payable hereunder shall not include clause (ii) of the definition of "Trust Estate"; (vi) the pledge made hereby is valid and binding from the time when the pledge is made, and the Trust Estate shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and regardless of whether held by the Trustee, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof; and (vii) the Bonds shall be special and limited obligations of the Authority payable from and secured solely by a pledge of the Trust Estate as provided hereby.

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## ARTICLE II

### AUTHORIZATION AND ISSUANCE OF BONDS

#### SECTION 2.01. Authorization of Bonds; Designation of Bonds of Series.

1. This Bond Resolution authorizes Bonds of the Authority to be designated as "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011", which may be issued in one or more Series. The aggregate principal amount of the Bonds that may be executed, authenticated and delivered under this Bond Resolution is not limited except as may hereafter be provided in this Bond Resolution or as may be limited by law.

2. The Bonds may, if and when authorized by the Authority pursuant hereto or pursuant to one or more Supplemental Resolutions, be issued in one or more Series, and the designation thereof, in addition to the name "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011", shall include such further appropriate particular designation added to or incorporated in such title for the Bonds of any particular Series as the Authority may determine. Each Bond shall bear upon its face the designation so determined for the Series to which it belongs.

3. Neither the State, the Series 2011 Local Units, the County (except to the extent of the County Guaranty) nor any political subdivision thereof, other than the Authority (but solely to the extent of the Trust Estate), is obligated to pay the principal or Redemption Price, if any, of or the interest on the Bonds, and neither the full faith and credit nor the taxing power of the State, the Series 2011 Local Units, the County (except to the extent of the County Guaranty) or any political subdivision thereof, including the Authority (which has no taxing power), is pledged to the payment of the principal or Redemption Price, if any, of or the interest on the Bonds. The County Guaranty does not secure redemption premium, if any.

#### SECTION 2.02. General Provisions for Issuance of Bonds.

1. All (but not less than all) of the Bonds of each Series shall be executed by the Authority for issuance under this Bond Resolution and delivered to the Trustee, and thereupon shall be authenticated by the Trustee and by it delivered to the Authority or upon its order, but only upon the receipt by the Trustee of:

(a) A copy of this Bond Resolution, certified by an Authorized Officer of the Authority.

(b) In the case of each Series of Additional Bonds, (1) a copy of the Supplemental Resolution authorizing such Series of Additional Bonds, certified by an Authorized Officer of the Authority, which shall, among other provisions, specify: (i) the authorized principal amount, designation and Series of such Additional Bonds; (ii) the purposes for which such Series of Additional Bonds are being issued, which shall be one of the purposes

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above with respect to a Series of Additional Bonds, (ii) whether the Series 2011 Bonds will be issued in one or more Series, including the Series 2011A Bonds and the Series 2011B Note as contemplated by Section 2.03(1)(a) hereof, and as notes or bonds, and if in note form, such specific terms required to issue, secure and repay such notes not specifically set forth in this Bond Resolution as originally adopted on September 28, 2011, and at private or public sale and the final form of the Sale Documents, all within the parameters of the Local Finance Board Application, (iii) the final pricing terms, including interest rates, principal amortization and Sinking Fund Installments, payment dates and terms of redemption of the Series 2011 Bonds, provided however that the Series 2011B Note shall bear interest at the same rates as the Series 2011A Bonds, (iv) the entities that shall constitute the Company (as selected pursuant to the Company RFP), the County Security Provider, if any, the Trustee, and the Paying Agent, (v) the final terms of the Program Documents within the parameters of the Local Finance Board Application, the Company RFP and the Company Proposal, and (vi) subject to the parameters set forth in the definition of Series 2011 Bonds and the terms set forth in the Local Finance Board Application, and upon the advice of the Authority's Counsel and professional advisors, the addition to, deletion from or modification of any provision of this Bond Resolution as originally adopted on September 28, 2011, the contents of which Certificate may be incorporated in this Bond Resolution without compliance with any other provision herein, including, without limitation, Article XI hereof. The Authorized Officer executing any such Certificate shall report the substance of such Certificate to the Board at the Board's next public meeting.

(f) Such further documents, moneys and securities as are required by the provisions of Section 2.03 or 2.04 or Article XI hereof or by any Supplemental Resolution adopted pursuant to Article XI hereof.

2. All the Bonds of each such Series of like maturity shall be identical in all respects, except as to denominations, numbers and letters. After the original issuance of Bonds of any Series, no Bonds of such Series shall be issued except in lieu of or in substitution for other Bonds of such Series pursuant to Article III or Section 4.07 or 11.10 hereof.

#### SECTION 2.03. Series 2011 Bonds.

1. One or more Series of Bonds entitled to the benefit, protection and security of this Bond Resolution is hereby authorized in the aggregate principal amount of not to exceed \$50,000,000 for the purpose of acquiring, constructing, renovating, installing, operating and maintaining the Projects as set forth in and in accordance with the terms of the Company Lease Agreement and the Local Unit License Agreements for the Series 2011 Local Units. Such Series of Bonds shall be designated as, and shall be distinguished from the Bonds of all other Series by the title, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011".

(a) To the extent contemplated by the Certificates of an Authorized Officer of the Authority executed pursuant to Section 2.02(1)(e) hereof, the Series 2011 Bonds may be issued in two (2) or more Series, (i) a Series further designated as "Series 2011A Bonds" in an

set forth in Section 2.04 hereof; (ii) the dated date and the maturity date or dates of such Series of Additional Bonds; (iv) the interest rate or rates of such Series of Additional Bonds and the Initial Interest Payment Date therefor, provided that the interest rate shall be identical for all such Additional Bonds of like maturity; (v) the denominations of and the manner of dating, numbering and lettering such Series of Additional Bonds, provided that such Additional Bonds shall be in denominations of \$5,000 or any integral multiple thereof as authorized by such Supplemental Resolution; (vi) the Paying Agent or Paying Agents and the place or places of payment of the principal and Redemption Price, if any, of and the interest on such Series of Additional Bonds; (vii) the Redemption Price or Prices, if any, and, subject to Article IV hereof, the redemption terms for such Series of Additional Bonds; (viii) the amount and due date of each Sinking Fund Installment, if any, for such Series of Additional Bonds of like maturity; (ix) the form of such Series of Additional Bonds and the Trustee's certificate of authentication, which shall be substantially in the form set forth in Section 14.01 hereof for the Series 2011 Bonds, with such variations, insertions or omissions as are appropriate and not inconsistent therewith; and (x) the provisions for the application of the proceeds of such Series of Additional Bonds; and (2) such other items required pursuant to the provisions of Section 2.05 hereof.

(c) An opinion of Bond Counsel to the effect that (i) the Authority has the right and power under the Act, as amended to the date of such opinion, to adopt this Bond Resolution; this Bond Resolution has been duly and lawfully adopted by the Authority, is in full force and effect, and constitutes a valid and binding agreement of the Authority, enforceable against the Authority in accordance with its terms; and no other authorization for this Bond Resolution is required; (ii) this Bond Resolution creates the valid pledge that it purports to create of the Trust Estate, subject only to the provisions of this Bond Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in this Bond Resolution; and (iii) the Authority is duly authorized and entitled to issue the Bonds of such Series; such Bonds have been duly and validly authorized and issued by the Authority in accordance with all applicable law, including the Act, as amended to the date of such opinion, and this Bond Resolution; and such Bonds constitute the valid and binding obligations of the Authority as provided in this Bond Resolution, enforceable against the Authority in accordance with their terms and the terms of this Bond Resolution, and are entitled to the benefits of the Act, as amended to the date of such opinion, and this Bond Resolution. Such opinion may take exception as to the effect of, or for restrictions or limitations imposed by or resulting from, bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws affecting creditors' rights generally and judicial discretion, and may state that no opinion is being rendered as to the availability of any particular remedy.

(d) A written order to the Trustee as to the delivery of such Bonds, signed by an Authorized Officer of the Authority.

(e) Notwithstanding any other provision to the contrary herein, in the case of the issuance of each Series of Series 2011 Bonds and where contemplated thereafter in accordance with the terms hereof, a Certificate of an Authorized Officer of the Authority setting forth (i) all of the items applicable to the Series 2011 Bonds that are detailed in subsection (b)

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aggregate principal amount of \$26,715,000, (ii) a Series further designated as "Series 2011B Note" in an aggregate principal amount of \$985,000 and (iii) any other one (1) or more Series further designated and issued for one of the purposes set forth in Section 2.04(1) hereof, as shall be set forth in any such Certificate of an Authorized Officer, but only to the extent the Outstanding aggregate principal amount of Series 2011A Bonds, Series 2011B Note and any such other Outstanding Series of Series 2011 Bonds shall not exceed \$50,000,000.

(b) The Series 2011 Bonds shall be sold in accordance with the provisions of Section 6.04 hereof and all applicable law.

2. The Series 2011 Bonds shall be dated, and shall bear interest from, their date of issuance, on the basis of a 360-day year consisting of twelve 30-day months, and shall otherwise be payable as provided in Section 3.01 hereof.

(a) The Series 2011 Bonds (consisting of (i) the Series 2011A Bonds in the aggregate principal amount of \$27,700,000 maturing on June 15 in the years, and bearing interest payable on June 15, 2012 and on each June 15 and December 15 thereafter until maturity, all as set forth in subsection (b) below, and (ii) the \$26,715,000 par amount of the Series 2011B Note maturing and bearing interest payable on January 15, 2013 as set forth in subsection (c) below) in the aggregate par amount of \$985,000 shall mature on the dates and in the principal amounts, and shall bear interest payable semiannually on June 15 and December 15 in each year until maturity, at the respective rates per annum, shown below:

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June 15*	Amount Maturing	Interest Rate and Yield	June 15	Amount Maturing	Interest Rate and Yield
2013	\$1,850,000	1.138%	2018	\$1,845,000	3.210%
2014	1,850,000	1.562	2019	1,845,000	3.388
2015	1,850,000	2.136	2020	1,845,000	3.588
2016	1,850,000	2.486	2021	1,845,000	3.688
2017	1,850,000	2.910	2027	11,070,000	4.938
<b>Total</b>					

\*The principal payment due on the Series 2011 Bonds in 2012 is due on January 15, 2013, not June 15, 2013, and is comprised entirely of the Series 2011B Note.

(b) The Series 2011A Bonds shall mature on the dates and in the principal amounts, and shall bear interest payable semiannually on June 15 and December 15 in each year, commencing June 15, 2013, at the respective rates per annum, shown below:

June 15*	Amount Maturing	Interest Rate and Yield	June 15	Amount Maturing	Interest Rate and Yield
2013	\$ 865,000	1.138%	2018	\$1,845,000	3.210%
2014	1,850,000	1.562	2019	1,845,000	3.388
2015	1,850,000	2.136	2020	1,845,000	3.588
2016	1,850,000	2.486	2021	1,845,000	3.688
2017	1,850,000	2.910	2027	11,070,000	4.938
<b>Total</b>					

(c) The \$985,000 par amount of Series 2011B Note shall mature on January 15, 2013, bearing interest at 4.938% per annum, which interest shall also be payable on January 15, 2013.

3. The Series 2011 Bonds shall be issued in denominations of \$5,000 or any integral multiple thereof. Unless the Authority shall otherwise direct, the Series 2011 Bonds shall be lettered and numbered from one upward in order of their maturity preceded by the letter "R" and such other letter as determined by the Trustee prefixed to the number. Subject to the provisions of this Bond Resolution, the form of the Series 2011 Bonds and the Trustee's certificate of authentication shall be substantially in the form set forth in Section 14.01 hereof.

(a) To the extent contemplated by the Certificate of an Authorized Officer of the Authority executed pursuant to Section 2.02(1)(e) hereof, the Series 2011A Bonds shall be

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6. (a) The Series 2011A Bonds maturing June 15, 2027 are subject to mandatory redemption prior to their stated maturities, through selection by the Trustee and upon the giving of notice as provided by the Bond Resolution, by payment of the following "Sinking Fund Installments" on June 15 of each year set forth in the table below, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

\$11,070,000 4.938% Term Bond Due June 15, 2027, Yield 4.938%

Year	Sinking Fund Installment
2022	\$1,845,000
2023	1,845,000
2024	1,845,000
2025	1,845,000
2026	1,845,000
2027	1,845,000

\* Final Maturity

(b) The Series 2011B Note shall not be subject to mandatory sinking fund redemption prior to its stated maturity.

7. Proceeds to be derived from the sale of the Series 2011 Bonds, upon delivery of same to the Underwriter on the date hereof of (i) \$26,593,392.74 (the "Series 2011A Bond Proceeds") consisting of (par amount of \$26,715,000, less an Underwriter's discount in the amount of \$121,607.26) (the "Series 2011A Proceeds") and (ii) \$980,516.26 (the "Series 2011B Bond Proceeds") consisting of (par amount of 985,000, less an Underwriter's discount in the amount of \$4,483.74) (the "Series 2011B Proceeds") and together with the Series 2011A Proceeds, the "Proceeds" shall be applied as set forth below. In addition, the balance of the Project costs shall be payable from the In-Kind Equity Contribution in the amount of \$7,818,860 in accordance with Section 510(c) of the Lease Agreement. The Trustee shall apply the Proceeds in the amount of \$27,573,909 as follows:

(a) There shall be deposited in the Administrative Fund the amount of \$1,090,490.25, \$1,088,909.00 of which shall be sourced from the Series 2011A Bonds and \$1,581.25 of which shall be sourced from the Series 2011B Bonds, (i) \$359,499.25 of which shall be deposited in the Costs of Issuance Account in the Administrative Fund for application to the payment of certain Costs of Issuance incurred in connection with the issuance of the Series 2011 Bonds, including, without limitation, the Authority's initial Administrative Fee of \$100,000.00 and fees for the Trustee and Trustee's counsel, and (ii) \$730,991.00 of which shall

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lettered and numbered from one upward in order of their maturity preceded by the letters "R-A" and such other letter as determined by the Trustee prefixed to the number.

(b) To the extent contemplated by the Certificate of an Authorized Officer of the Authority executed pursuant to Section 2.02(1)(e) hereof, the Series 2011B Note shall be lettered and numbered "R-B-1".

4. The principal and Redemption Price, if any, of the Series 2011 Bonds shall be payable at the Principal Office of U.S. Bank National Association, as Paying Agent. The principal and Redemption Price, if any, of all Series 2011 Bonds shall also be payable at any other place that may be provided for such payment by the appointment of any other Paying Agent or Paying Agents as permitted by this Bond Resolution. Interest on the Series 2011 Bonds shall be payable by check or draft of the Paying Agent mailed or transmitted to the Holders thereof as the same appear as of the Record Date on the books of the Authority maintained by the Trustee. However, so long as the Series 2011 Bonds are held in book-entry form pursuant to Section 2.06 hereof, the provisions of said Section 2.06 shall govern payment of the principal and Redemption Price, if any, of and the interest on the Series 2011 Bonds.

5. (a) The Series 2011A Bonds maturing on or before June 15, 2021 shall not be subject to redemption prior to their respective maturity dates. The Series 2011A Bonds maturing on and after June 15, 2022 shall be subject to optional redemption by the Authority prior to their respective maturity dates, on or after June 15, 2021, upon notice as herein described, either in whole or in part at any time in any order of maturity as the Authority shall determine and within a single maturity by lot, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

(b) Pursuant to the terms of the County Guaranty Agreement, under certain circumstances, the County may direct the Authority to utilize this otherwise discretionary optional redemption feature set forth above. To the extent the County causes an Event of Default, as defined under the County Lease Agreement, to occur and such Event of Default requires the County to make a payment of the principal of and interest on the Series 2011A Bonds under the County Guaranty, so long as the County is not in default under the County Guaranty Agreement, the County has the right to cause the Authority to refund all or a portion of the Series 2011A Bonds. To the extent the County were to exercise this right prior to the first optional call date of June 15, 2021, the County would be required to cause the Authority to defease the Series 2011A Bonds in accordance with Article XII of the Bond Resolution, in which case the Series 2011A Bonds would not be called for redemption until such first optional call date of June 15, 2021. Any such redemption shall be made on the earliest practicable date at a Redemption Price of 100% of the principal amount to be redeemed, plus accrued interest to the date of redemption.

(c) The Series 2011A Bonds shall not be subject to extraordinary optional redemption prior to its stated maturities.

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be deposited in the Administrative Expense Account in the Administrative Fund, (A) \$20,000.00 of which shall be applied to the payment of the Authority's initial annual Administrative Fee, and (B) the balance of which in the amount of \$710,991.00 shall be applied to the payment of, or reimbursement for, the balance of the Preliminary Program Costs and Administrative Expenses, including without limitation fees for a Construction Manager, if any, upon the Trustee's receipt of a proper invoice or evidence of payment therefore; provided that a Certificate of an Authorized Officer of the Authority delivered to the Trustee may adjust and/or add to the payment categories within the Administrative Fund set forth above.

(b) Upon the issuance of the Series 2011B Note, \$983,418.75 (all from the Series 2011B Note) shall be deposited in the Capitalized Interest Account of the Debt Service Fund, which amount, together with interest earned thereon, if any, shall be sufficient to pay the interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

(c) Upon the earlier of (i) ninety (90) days after completion of the Series 2011 Local Unit Projects or (ii) March 15, 2013, \$1,500,000, the Cash Equity Contribution, shall be deposited in the County Security Fund as the County Security Fund Requirement which shall be funded by the Company for the County Reserve as an Additional Lease Payment as required by clause (vii) of the definition thereof on January 15, 2013.

(d) There shall be no Series 2011 Bond proceeds deposited in the General Fund.

(e) The remaining balance of the proceeds of the Series 2011 Bonds in the amount of \$25,500.00 (consisting of \$25,500.00 of the Series 2011A Bonds), shall be deposited in the Project Fund, (i) \$24,700.00 of which shall be deposited in the Project Account and applied to the payment of the Renewable Energy Projects for the balance of Renewable Energy Projects for the Series 2011 Local Units, (ii) none of which shall be applied to the payment of the Capital Improvement Projects for the Series 2011 Local Units and (iii) \$800.00 of which shall be applied to the payment of the Company Development Fees and Expenses, all in accordance with Section 5.02(2) hereof; provided that a Certificate of an Authorized Officer of the Company, as consented to by an Authorized Officer of the Authority, delivered to the Trustee may adjust the payment categories within the Project Fund set forth above.

8. Upon the authentication and delivery of the Series 2011 Bonds, the Authority shall furnish to the Trustee:

(a) An opinion of Bond Counsel to the effect that, under existing law, interest on the Series 2011 Bonds and any gain on the sale thereof are excluded from gross income for purposes of the New Jersey Gross Income Tax Act.

(b) Opinions of Counsel to the effect that each of the Authority and the Company has the right and power under the Act, as amended to the date of such opinion, and any other applicable law to enter into the Company Lease Agreement; the Company Lease

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Agreement has been duly and lawfully authorized and executed by the Authority and the Company, is in full force and effect, and is valid and binding upon the Authority and the Company, enforceable against the Authority and the Company in accordance with its terms; and no other authorization for the Company Lease Agreement is required. Opinions of Counsel to the effect that each of the Authority and the County has the right and power under the Act, as amended to the date of such opinion, and any other applicable law to enter into the County Guaranty Agreement; the County Guaranty Agreement has been duly and lawfully authorized and executed by the Authority and the County, is in full force and effect, and is valid and binding upon the Authority and the County, enforceable against the Authority and the County in accordance with its terms; and no other authorization for the County Guaranty Agreement is required. Such opinions may take exception as to the effect of, or for restrictions or limitations imposed by or resulting from, bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws affecting creditors' rights generally and judicial discretion, and may state that no opinion is being rendered as to the availability of any particular remedy, but that such limitations do not make the rights and remedies of the Bondholders, taken as a whole, inadequate for the practical realization of the benefits of the Company Lease Agreement and the County Guaranty Agreement.

(c) The fully executed and delivered Company Documents and County Documents, along with all of the Local Unit License Agreements.

#### SECTION 2.04. Purposes, Authorization and Description of Additional Bonds.

1. After the execution, authentication and delivery of the Series 2011 Bonds, Additional Bonds of the Authority may be authorized to be issued pursuant to and in accordance with the terms of the Act either (a) reserved, (b) to refund any Bonds (including Additional Bonds) of the Authority, (c) to raise funds to pay the cost of the acquisition, construction, renovation or installation of part or parts of a Completion Project, including any deposit or increase into any Fund or Account that has been established by the terms of this Bond Resolution and that is incidental thereto or is deemed by the Authority to be necessary in connection therewith.

2. Any Series of Additional Bonds of the Authority shall be issued only after the authorization thereof by a Supplemental Resolution of the Authority duly adopted prior to the authentication and delivery of such Series of Additional Bonds. Such Supplemental Resolution shall state the purpose or purposes for which such Additional Bonds are being issued and shall direct the application of the proceeds that are to be derived from the sale of such Additional Bonds to such purpose or purposes and the execution and authentication thereof. Such Supplemental Resolution shall fix and determine the date, principal amounts, denominations, designation and numbers thereof, the rate or rates of interest or maximum rate of interest to be borne thereby, the place or places of payment therefor, the redemption privileges of the Authority, if any, with respect thereto, the amount and date of each Sinking Fund Installment, if any, for the retirement of any Bonds and any other provisions thereof, all in accordance with the terms of this Bond Resolution. Upon such authorization, such Additional Bonds may, upon

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therewith there shall have been delivered or paid to the Trustee, among other things, the following:

(a) Copies of this Bond Resolution and the Supplemental Resolution of the Authority, certified by an Authorized Officer of the Authority and only to the extent adversely affecting the rights, duties and obligations of the Company, then additionally consented to in writing by an Authorized Officer of the Company, authorizing the issuance of such Additional Bonds, stating the purpose or purposes for the issuance of such Additional Bonds and otherwise conforming with the provisions of Section 2.04 hereof; and if such Additional Bonds are authorized for any purpose other than the refunding of Bonds, such Supplemental Resolution shall describe in brief and general terms the Completion Project to be financed by the issuance of such Additional Bonds.

(b) A copy of any Supplemental Resolution that has been duly adopted by the Authority, if required, certified by an Authorized Officer of the Authority, fixing the rate or rates of interest on such Additional Bonds and all other terms and provisions thereof that are not fixed by the terms of the Supplemental Resolution referred to in subparagraph (a) above or in this Bond Resolution.

(c) Reserved.

(d) If such Additional Bonds are authorized for the purpose described in clause (b) or (c) of paragraph (1) of Section 2.04 hereof, (i) a certificate of an Authorized Officer of each of the Authority and the Company to the effect that the Company Lease Agreement has been amended to cover the issuance of the Additional Bonds, but only to the extent Basic Lease Payments, and with respect to the Purchase Option Price or Mandatory Purchase Price, Additional Lease Payments, shall be adjusted to provide a source of payment of the principal of, redemption premium, if any, and interest on Outstanding Bonds, (ii) a copy of such amended Company Lease Agreement, and (iii) a Certificate of an Authorized Officer of the Company, dated the date of issuance of such Additional Bonds, to the effect that all of the representations, warranties and covenants of the Company contained in the Company Lease Agreement are, as of such date, true, accurate and complete. If no such amendment to the Company Lease Agreement is required, a Counsel's opinion stating same shall be delivered to the Trustee.

(e) The written order of the Authority as to the delivery of such Additional Bonds signed by an Authorized Officer and stating the amount of the proceeds derived from the sale of such Additional Bonds.

(f) The amount, if any, stated in said written order as the amount of such proceeds that will be paid by the Authority to the Trustee for deposit in the Debt Service Fund, which amount shall be held by the Trustee in the Debt Service Fund.

(g) The amounts, if any, stated in said written order as the amounts of such proceeds that will be paid by the Authority to the Trustee for deposit in the Project Fund or in the

initial issuance, at one time or from time to time, be executed by or on behalf of the Authority and delivered to the Trustee for authentication by the Trustee as provided in this Bond Resolution, and thereafter such Additional Bonds shall be authenticated by the Trustee upon original issuance and, upon fulfillment of the applicable conditions set forth in Section 2.05 hereof, shall be delivered by the Trustee to the Authority or upon its order.

3. All Additional Bonds shall be substantially in the form and tenor of Bonds as provided in Section 14.01 hereof, except that, notwithstanding any other provision contained in this Bond Resolution to the contrary, such Bonds shall be issued in such principal amounts, shall be of such denominations, shall bear such dated date and such maturity dates, shall bear such designation as to Series, numbers or symbols prefixed to their numbers distinguishing them from each other Bond, shall be subject to redemption prior to their maturity on such terms and conditions that are consistent with the provisions of this Bond Resolution, shall bear interest at such rate or such different or varying rates of interest per annum, and shall be payable at such time or times as may be fixed by the Supplemental Resolution of the Authority authorizing the issuance of such Additional Bonds or by a Supplemental Resolution of the Authority duly adopted prior to the authentication and delivery of such Additional Bonds, as the case may be.

4. All Additional Bonds that are authorized by any Supplemental Resolution of the Authority shall constitute Bonds of a single Series. No bonds, notes or other obligations of the Authority shall constitute Additional Bonds unless they are authenticated by the Trustee as provided in this Bond Resolution, nor shall such Additional Bonds be entitled to any right or benefit under the terms of this Bond Resolution unless they are so authenticated, and no Additional Bond shall be valid and obligatory for any purpose of this Bond Resolution unless said Additional Bond shall have been so authenticated.

5. After their authentication and delivery by the Trustee upon original issuance, all Additional Bonds shall for all purposes hereof be deemed to constitute Bonds, shall be entitled to the pledge of the Trust Estate provided by this Bond Resolution, and shall have equal rank with the Outstanding Series 2011 Bonds and any Outstanding Additional Bonds previously authenticated and delivered, and such Additional Bonds shall be entitled to the security and benefit of such pledge and of the provisions of this Bond Resolution.

6. If Additional Bonds are issued that pay interest on dates different from the Interest Payment Dates of Bonds then Outstanding, there shall be no requirement that, on an Interest Payment Date of any Bond, the Trustee establish reserves for the benefit of the Holder of any other Bond on which interest is not then being paid unless provided herein or under the terms of any Supplemental Resolution.

#### SECTION 2.05. Conditions Precedent to Issuance of Additional Bonds.

1. The Trustee shall not authenticate or deliver upon original issuance any Additional Bonds to the Authority or upon its order, unless theretofore or simultaneously

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Costs of Issuance Account or Administrative Expense Account in the Administrative Fund, as the case may be, which amounts shall be held by the Trustee in the Project Fund or in the Costs of Issuance Account or Administrative Expense Account in the Administrative Fund, as the case may be.

(h) Reserved.

(i) If such Additional Bonds are authorized for the purpose described in clause (b) of paragraph (1) of Section 2.04 hereof, the amount of such proceeds that will remain after deducting the amounts, if any, to be paid to the Trustee in accordance with the terms of subparagraphs (f) and (g) above.

(j) If such Additional Bonds are authorized for the purpose described in clause (c) of paragraph (1) of Section 2.04 hereof, a Certificate of the Architect or a Certificate of an Authorized Officer of each of the Authority and the Local Unit stating (i) the opinion that the improvement described in such Supplemental Resolution constitutes a Completion Project, (ii) that the improvement for which Additional Bonds are to be issued is part of a Project for which Bonds had theretofore been issued, (iii) the amount of proceeds to be deposited in the Project Fund, if any, and (iv) that such proceeds, together with any other funds of the Authority or otherwise that are then available or are expected to be available therefor, will be sufficient, in his opinion, to pay the Costs of the completion of the acquisition, construction, renovation or installation of said improvement.

(k) An opinion of Bond Counsel approving the form of the Supplemental Resolution authorizing the issuance of the Additional Bonds and stating that (i) its terms and provisions conform to the requirements of the Act and this Bond Resolution, (ii) the order, certificates and amounts of money to be delivered or paid to the Trustee in accordance with the provisions of this Section 2.05 constitute compliance with the conditions hereinabove stated for the authentication and delivery of such Additional Bonds, (iii) all of the conditions precedent to the authentication and delivery of the Additional Bonds have been satisfied, and (iv) the Trustee may lawfully authenticate the Additional Bonds upon their original issuance.

(l) If the Additional Bonds are insured, a copy of any municipal bond insurance policy issued with respect to such Additional Bonds.

(m) Any additional documents that are required to be executed and delivered pursuant to the terms of any contract executed by or on behalf of the Authority in connection with the sale of Additional Bonds, unless the execution and delivery of such additional documents have been waived by the purchaser of such Additional Bonds.

(n) Such other documents as may be required by a Supplemental Resolution of the Authority duly adopted prior to the authentication and delivery of the Additional Bonds, or as may be required by a Certificate of an Authorized Officer of the Authority executed in connection with the sale of such Additional Bonds.

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2. If such Additional Bonds are authorized for the purpose described in clause (c) of paragraph (1) of Section 2.04 hereof, the Trustee shall deposit in the Project Fund the proceeds derived from the sale of such Additional Bonds issued for the Completion Project. The moneys so deposited shall be applied by the Authority and the Trustee to pay the Costs of the improvements described in the Supplemental Resolution of the Authority authorizing the issuance of such Additional Bonds.

3. If such Additional Bonds are authorized for the purpose described in clause (b) of paragraph (1) of Section 2.04 hereof, the Trustee shall deposit, at the direction of the Authority, (i) in the Costs of Issuance Account in the Administrative Fund an amount sufficient to pay the Costs of Issuance of such Additional Bonds, (ii) such other amounts not to be used for the refunding of such Bonds, if any, in such Funds and Accounts in accordance with the terms of the Supplemental Resolution, and (iii) the remaining proceeds derived from the sale of such Additional Bonds to the refunding of such Bonds in accordance with the terms of the Supplemental Resolution of the Authority authorizing the issuance of such Additional Bonds.

#### SECTION 2.06. Book-Entry System.

1. Except as provided in subparagraph (3) of this Section 2.06, the Registered Owner of all of the Series 2011 Bonds shall be, and the Series 2011 Bonds shall be registered in the name of, Cede & Co., as nominee for DTC. Payment of interest on any Series 2011 Bond shall be made by wire transfer to the account of Cede & Co. on the Interest Payment Dates for the Series 2011 Bonds at the address indicated for Cede & Co. in the registry books of the Authority kept by the Trustee.

2. The Series 2011 Bonds shall be issued initially in the form of a separate, single, fully-registered Bond in the amount of each stated maturity of the Series 2011 Bonds. Upon initial issuance, the ownership of each such Series 2011 Bond shall be registered in the registry books of the Authority kept by the Trustee in the name of Cede & Co., as nominee for DTC. With respect to Series 2011 Bonds registered in the registry books of the Authority kept by the Trustee in the name of Cede & Co., as nominee for DTC, the Authority and any Fiduciary shall have no responsibility or obligation to any participant or to any beneficial owner of such Series 2011 Bonds. Without limiting the immediately preceding sentence, the Authority and any Fiduciary shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any participant with respect to any beneficial ownership interest in the Series 2011 Bonds, (ii) the delivery to any participant, any beneficial owner or any other person, other than DTC, of any notice with respect to the Series 2011 Bonds, including any notice of redemption, or (iii) the payment to any participant, any beneficial owner or any other person, other than DTC, of any amount with respect to the principal or Redemption Price, if any, of or the interest on the Series 2011 Bonds. The Authority and any Fiduciary may treat DTC as, and deem DTC to be, the absolute Owner of each Series 2011 Bond for the purpose of payment of the principal or Redemption Price, if any, of and the interest on each such Series 2011 Bond, for the purpose of giving notices of redemption and other matters with respect to such Series 2011 Bonds, for the purpose of registering transfers with respect to such Series 2011 Bonds and for all other purposes whatsoever. The Paying Agent shall pay all principal or Redemption Price, if any, of and all interest on the Series 2011 Bonds only to or upon the order of DTC, and all such payments shall be valid and effective to satisfy and discharge fully the Authority's obligations with respect to the principal or Redemption Price, if any, of and the interest on the Series 2011 Bonds to the extent of the sum or sums so paid. No person other than DTC shall receive a Series 2011 Bond evidencing the obligation of the Authority to make payments of principal or Redemption Price, if any, of and interest on the Series 2011 Bonds pursuant to this Bond Resolution. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the transfer provisions hereof, the term "Cede & Co." in this Bond Resolution shall refer to such new nominee of DTC.

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3. (a) DTC may determine to discontinue providing its services with respect to the Series 2011 Bonds at any time by giving written notice to the Authority and the Fiduciaries and discharging its responsibilities with respect thereto under applicable law.

(b) The Authority, in its sole discretion and without the consent of any other person, may terminate the services of DTC with respect to the Series 2011 Bonds if the Authority so determines, and shall terminate the services of DTC with respect to the Series 2011 Bonds upon receipt by the Authority and the Fiduciaries of written notice from DTC to the effect that DTC has received written notice from participants having interests, as shown in the records of DTC, in an aggregate principal amount of not less than fifty percent (50%) of the aggregate principal amount of the then Outstanding Series 2011 Bonds and further to the effect that: (i) DTC is unable to discharge its responsibilities with respect to the Series 2011 Bonds; or (ii) a continuation of the requirement that all of the Outstanding Series 2011 Bonds be registered in the registration books of the Authority kept by the Trustee in the name of Cede & Co., as nominee for DTC, is not in the best interests of the beneficial owners of the Series 2011 Bonds.

(c) Upon the termination of the services of DTC with respect to the Series 2011 Bonds pursuant to subsection 2.06(3)(b)(ii) hereof, or upon the discontinuance or termination of the services of DTC with respect to the Series 2011 Bonds pursuant to subsection 2.06(3)(a) or subsection 2.06(3)(b)(i) hereof, after which no substitute securities depository willing to undertake the functions of DTC hereunder can be found that, in the opinion of the Authority, is willing and able to undertake such functions upon reasonable and customary terms, the Series 2011 Bonds shall no longer be restricted to being registered in the registration books of the Authority kept by the Trustee in the name of Cede & Co., as nominee for DTC, but may be registered in whatever name or names Bondholders transferring or exchanging Series 2011 Bonds shall so designate, all in accordance with the provisions of Article II hereof.

4. Notwithstanding any other provision of this Bond Resolution to the contrary, so long as any Series 2011 Bond is registered in the name of Cede & Co., as nominee for DTC, all payments with respect to the principal or Redemption Price, if any, of and the interest on such Series 2011 Bond and all notices with respect thereto shall be made and given, respectively, to DTC as provided in the representation letter of the Authority addressed to DTC with respect to the Series 2011 Bonds.

5. In connection with any notice or other communication to be provided to Bondholders by the Authority or the Trustee pursuant to this Bond Resolution with respect to any consent or other action to be taken by Bondholders, the Authority or the Trustee, as the case may be, shall establish a record date for such consent or other action and shall give DTC notice of such record date not less than fifteen (15) calendar days in advance of such record date, to the extent possible.

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### ARTICLE III

#### GENERAL TERMS AND PROVISIONS OF BONDS

##### SECTION 3.01. Medium of Payment; Form and Date; Letters and Numbers.

1. The Bonds shall be payable, with respect to principal, Redemption Price, if any, and interest, in any coin or currency of the United States of America that at the time of payment is legal tender for the payment of public and private debts.

2. The Bonds of each Series shall be issued only in the form of fully registered Bonds without coupons in denominations of \$5,000 or any integral multiple thereof. The Bonds of each Series shall be in substantially the form set forth in Section 14.01 hereof or substantially in the form set forth in a Supplemental Resolution authorizing such Series.

3. Each Bond shall be lettered and numbered as provided in this Bond Resolution or in a Supplemental Resolution providing for the issuance of the Series of which such Bond is a part and so as to be distinguished from every other Bond.

Bonds of each Series issued on the date of original issuance shall be dated and bear interest from the date set forth in this Bond Resolution or in a Supplemental Resolution authorizing such Series of Bonds. Bonds of each Series issued after the date of original issuance shall be dated as of the date of authentication thereof by the Trustee. Interest on each Bond shall be payable from the most recent Interest Payment Date next preceding the date of such Bond to which interest has been paid, unless the date of such Bond is an Interest Payment Date to which interest has been paid, in which case interest shall be payable from such date, or unless the date of such Bond is prior to the first Interest Payment Date on the Bonds, in which case interest shall be payable from the earliest date on which interest shall have accrued on such Series of Bonds, or unless the date of such Bond is between the Record Date and the next succeeding Interest Payment Date, in which case interest shall be payable from such Interest Payment Date.

4. The principal and Redemption Price, if any, of and the interest on each Series of Bonds shall be payable as provided in this Bond Resolution or in a Supplemental Resolution relating to such Series of Bonds.

##### SECTION 3.02. Legends.

The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Bond Resolution as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission or brokerage board, the Act or otherwise, as may be determined by the Authority prior to the authentication and delivery thereof.

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### SECTION 3.03. Execution and Authentication.

1. The Bonds shall be executed in the name of the Authority by the manual or facsimile signature of the Chairman or other Authorized Officer of the Authority, and its corporate seal (or a facsimile thereof) shall be impressed, imprinted, engraved or otherwise reproduced thereon and attested by the manual or facsimile signature of the Secretary, Assistant Secretary or other Authorized Officer of the Authority, or in such other manner as may be required or permitted by law. In case any one or more of the Authorized Officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall have been authenticated and delivered by the Trustee, such Bonds may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond of a Series may be signed and sealed on behalf of the Authority by such persons who, at the time of the execution of such Bonds, shall be duly authorized or shall hold the proper office in the Authority, although at the date borne by the Bonds of such Series such persons may not have been so authorized or have held such office.

2. The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in this Bond Resolution or in a Supplemental Resolution authorizing such Series of Bonds, executed manually by the Trustee. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under this Bond Resolution, and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. Such certificate of the Trustee upon any Bond executed on behalf of the Authority shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under this Bond Resolution and that the Holder thereof is entitled to the benefits of this Bond Resolution.

### SECTION 3.04. Transfer and Registry.

1. Each Bond shall be transferable only upon the books of the Authority, which shall be kept for that purpose at the Principal Office of the Trustee, by the Holder thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Trustee duly executed by the Holder or his duly authorized attorney. Upon the transfer of any such Bond, the Authority shall issue in the name of the transferee a new Bond or Bonds of the same aggregate principal amount, Series and maturity as the surrendered Bond.

2. The Authority and each Fiduciary may deem and treat the person in whose name any Bond shall be registered upon the books of the Authority as the absolute Owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price, if any, of and the interest on such Bond and for all other purposes, and all such payments so made to any such Holder or upon his order shall be

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valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Authority nor any Fiduciary shall be affected by any notice to the contrary.

### SECTION 3.05. Regulations With Respect to Exchanges and Transfers.

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the Authority shall execute, and the Trustee shall authenticate and deliver, Bonds in accordance with the provisions of this Bond Resolution. All Bonds surrendered in any such exchange or transfer shall forthwith be canceled by the Trustee. For every such exchange or transfer of Bonds, whether temporary or definitive, the Authority or the Trustee may make a charge sufficient to reimburse it for any administrative costs associated with any exchange or transfer and for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. Neither the Authority nor the Trustee shall be required (a) to transfer or exchange Bonds for a period beginning on the Record Date next preceding an Interest Payment Date for the Bonds and ending on such Interest Payment Date, or for a period of fifteen (15) days (or such lesser period as may be specified in a Supplemental Resolution for a particular Series of Bonds) next preceding the date of any selection of Bonds to be redeemed or thereafter until after the mailing of any notice of redemption, or (b) to transfer or exchange any Bonds called or tendered for redemption.

### SECTION 3.06. Bonds Mutilated, Destroyed, Stolen or Lost.

In case any Bond shall become mutilated or be destroyed, stolen or lost, the Authority shall execute, and thereupon the Trustee shall authenticate and deliver, a new Bond of like Series, maturity and principal amount as the Bond so mutilated, destroyed, stolen or lost (i) in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond or (ii) in lieu of and in substitution for the Bond so destroyed, stolen or lost upon filing with the Trustee evidence satisfactory to the Authority that such Bond has been destroyed, stolen or lost and proof of ownership thereof, and upon furnishing the Authority and the Trustee with indemnity satisfactory to them and complying with such other reasonable regulations as the Authority may prescribe and paying such expenses as the Authority and the Trustee may incur. All mutilated Bonds so surrendered to the Trustee shall be canceled by it. Any such new Bonds issued pursuant to this Section 3.06 in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Authority, whether or not the Bonds so alleged to be destroyed, stolen or lost be at any time enforceable by anyone, and such Bonds shall be equally secured by, and entitled to equal and proportionate benefits with all other Bonds issued under this Bond Resolution in, any moneys or securities held by the Authority or any Fiduciary for the benefit of the Bondholders.

### SECTION 3.07. Temporary Bonds.

1. Until the definitive Bonds of any Series are prepared in the form required by the Authority, the Authority may execute, in the same manner as is provided in Section 3.03 hereof,

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and the Trustee shall authenticate and deliver, in lieu of definitive Bonds but subject to the same provisions, limitations and conditions as the definitive Bonds, one or more temporary Bonds substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, and with such omissions, inscriptions and variations as may be appropriate to temporary Bonds. The Authority, at its own expense, shall prepare and execute, and upon the surrender of such temporary Bonds for exchange and the cancellation of such surrendered temporary Bonds, the Trustee shall authenticate and, without charge to the Holder thereof (but at the expense of the Authority), deliver in exchange therefor, definitive Bonds of the same aggregate principal amount, Series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds authenticated and issued pursuant to this Bond Resolution.

2. All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith canceled by the Trustee.

### SECTION 3.08. Cancellation and Destruction of Bonds.

All Bonds paid or redeemed, either at or before maturity, shall be delivered to the Trustee when such payment or redemption is made, and such Bonds, together with all Bonds purchased by the Trustee, shall thereupon be promptly canceled. Bonds so canceled may at any time be destroyed by the Trustee, which shall execute a certificate of destruction in duplicate by the signature of one of its Authorized Officers describing the Bonds so destroyed, and one executed certificate shall be filed with the Authority and the other executed certificate shall be retained by the Trustee.

### SECTION 3.09. Parties Interested Herein.

Nothing in this Bond Resolution expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Authority, the Trustee, the Paying Agent and the Registered Owners of the Bonds, any right, remedy or claim under or by reason of this Bond Resolution or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Bond Resolution contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Trustee, the Paying Agent and the Registered Owners of the Bonds. Accordingly, nothing in this Bond Resolution expressed or implied is intended or shall be construed to confer upon, or to give to any other Renewable Energy Program Interested Party any right, remedy or claim under or by reason of this Bond Resolution or any covenant, condition or stipulation hereof.

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## ARTICLE IV

### REDEMPTION OF BONDS PRIOR TO MATURITY

#### SECTION 4.01. Privilege of Redemption and Redemption Price.

Bonds subject to redemption prior to maturity pursuant to this Bond Resolution shall be redeemable, upon notice as provided in this Article IV, at such times, at such Redemption Prices and upon such terms in addition to the terms contained in this Article IV as may be specified in this Bond Resolution, the Certificate of an Authorized Officer of the Authority referred to in Section 2.02(1)(c) hereof or any Supplemental Resolution authorizing such Series of Bonds.

#### SECTION 4.02. Optional Redemption.

1. The Series 2011 Bonds shall be subject to optional redemption in accordance with the provisions of this Bond Resolution, including, without limitation, Section 2.03(5) hereof, and any other Series of Bonds may be subject to optional redemption in accordance with the terms of a Supplemental Resolution and this Article IV.

2. In the case of any redemption of Bonds at the election of the Authority, the Authority shall give written notice to the Trustee of its election or direction to so redeem, of the redemption date and of the principal amounts of the Bonds of each maturity to be redeemed (which maturities and principal amounts thereof to be redeemed shall be determined by the Authority in its sole discretion, subject to any limitations with respect thereto contained in this Bond Resolution).

3. (a) In the case of any redemption of Bonds at the election of the Authority at the direction of the Company pursuant to the terms of the Company Lease Agreement (including without limitation the payment by the Company of the Purchase Option Price as an Additional Lease Payment thereunder), the Company shall give written notice to the Authority of its direction to so redeem, of the redemption date and of the principal amounts of the Bonds of each maturity to be redeemed (which maturities and principal amounts thereof to be redeemed shall be determined by the Company in its sole discretion, subject to any limitations with respect thereto contained in this Bond Resolution).

(b) In the case of any redemption of Series 2011B Note or any Additional Bonds at the election of the Authority at the direction of the County pursuant to the terms of the County Guaranty, the County shall give written notice to the Authority, with a copy to the Trustee, of the County's direction to so redeem, of the redemption date and of the principal amounts of such Bonds of each maturity to be redeemed (which maturities and principal amounts thereof to be redeemed shall be determined by the County in its sole discretion, subject to any limitations with respect thereto contained in this Bond Resolution and the County Guaranty Agreement).

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4. Such notice required under subsection (2) or (3)(a) of this Section 4.02 shall be given at least forty-five (45) days prior to the redemption date or such shorter period as shall be agreed to in writing by the Trustee or the Authority, as the case may be. In the event notice of redemption shall have been given as provided in Section 4.05 hereof, the Authority shall pay or require the Company to pay (in accordance with the terms of the Company Lease Agreement) to the Trustee on or prior to the redemption date an amount in cash that, in addition to other moneys, if any, available therefor held by the Trustee, will be sufficient to redeem on the redemption date at the Redemption Price thereof, plus interest accrued and unpaid to the redemption date, all of the Bonds to be redeemed.

#### SECTION 4.03. Redemption by Trustee.

Whenever, by the terms of this Bond Resolution, the Trustee is required to redeem Bonds otherwise than at the election or direction of the Authority or the Company or the County, the Trustee shall select the Bonds to be redeemed, give the notice of redemption as provided in Section 4.05 hereof and pay the Redemption Price thereof out of moneys available therefor, plus interest accrued and unpaid to the redemption date, to the Paying Agent in accordance with the terms of this Article IV and, to the extent applicable, Article V hereof.

#### SECTION 4.04. Selection of Bonds to be Redeemed.

1. If less than all of the Bonds of like maturity shall be called for redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected at random by the Trustee in such manner as the Trustee in its discretion may deem fair and appropriate; provided, however, that the portion of any Bond of a denomination of more than \$5,000 to be redeemed shall be in the principal amount of \$5,000 or any integral multiple thereof, and that, in selecting Bonds for redemption, the Trustee shall treat each Bond as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by the minimum denomination in which Bonds of such Series are authorized to be Outstanding after the redemption date.

2. If less than all of the Outstanding Bonds that are stated to mature on different dates are called for redemption at one time on any given redemption date occasioned by the payment of the Purchase Option Price by the Company in accordance with the terms of the Company Lease Agreement, an Authorized Officer of the Company shall designate, by maturity, those Bonds that are to be redeemed on any such redemption date by delivering to the Trustee not earlier than sixty (60) days and not later than forty-five (45) days prior to any such redemption date a Certificate detailing such maturities and the amounts to be redeemed within each such maturity. If the Trustee has not received the Company's Certificate by such forty-fifth (45th) day, or if the redemption is occurring other than by payment of the Purchase Option Price by the Company in accordance with the terms of the Company Lease Agreement, the Trustee shall select the Bonds to be redeemed in the same manner as those Bonds selected in accordance with Section 4.04(1) hereof.

2. With respect to any Bonds to be redeemed that have not been presented for redemption within sixty (60) days after the redemption date, the Trustee, at the expense of the Company for any redemption occasioned by the payment of the Purchase Option Price by the Company in accordance with the terms of the Company Lease Agreement, and at the expense of the Authority, if otherwise, shall give a second notice of redemption by registered mail to the Registered Owners of any such Bonds not presented for redemption.

#### SECTION 4.07. Redemption of Portions of Bonds.

In case part but not all of an Outstanding Bond shall be selected for redemption, upon presentation and surrender of such Bond to the Paying Agent on or after the redemption date for payment of the principal amount thereof so called for redemption and accrued interest thereon, the Authority shall execute and the Trustee shall authenticate and deliver to or upon the order of the Registered Owner thereof or his attorney or legal representative, without charge therefor, a new Bond or Bonds of the same Series, bearing interest at the same rate and in any denomination or denominations authorized by this Bond Resolution in the aggregate principal amount equal to the unredeemed portion of such Bond.

#### SECTION 4.05. Notice of Redemption.

When Bonds of a Series (other than the redemption of the Series 2011B Note pursuant to the provisions of Section 4.02(3)(b) hereof, the redemption terms and notice for which shall be as set forth in the County Guaranty Agreement) have been selected for redemption pursuant to any provision of this Bond Resolution, the Trustee shall give written notice of the redemption of such Bonds in the name of the Authority at the times specified in the second paragraph of this Section 4.05, which notice shall set forth: (i) the Series of Bonds to be redeemed, (ii) the date fixed for redemption, (iii) the Redemption Price to be paid, (iv) that such Bonds will be redeemed at the Principal Office of the Paying Agent, (v) if less than all of such Bonds shall be called for redemption, the distinctive numbers and letters, if any, of such Bonds to be redeemed, and (vi) in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed. Such notice shall further state that on the redemption date there shall become due and payable the Redemption Price of all Bonds to be redeemed, together with interest accrued to the redemption date, and that, from and after such date, interest thereon shall cease to accrue and be payable. In case any Bond is to be redeemed in part only, the notice of redemption that relates to such Bond shall also state that on or after the redemption date, upon surrender of such Bond, the Holder thereof shall be entitled to a new Bond or Bonds of the same Series bearing interest at the same rate and in the aggregate principal amount equal to the unredeemed portion of such Bond.

The notice required to be given by the Trustee pursuant to this Section 4.05 shall be sent by first-class mail to the Registered Owners of the Bonds to be redeemed, at their addresses as they appear on the registration books of the Authority, not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date. The failure to give notice of the redemption of any Bond or portion thereof to the Registered Owner of such Bond as herein provided or as provided in Section 4.06(2) hereof shall not affect the validity of the proceedings for the redemption of any Bonds for which notice of redemption has been given in accordance with the provisions of this Section 4.05.

#### SECTION 4.06. Payment of Redeemed Bonds.

1. On the date designated for redemption, notice having been given in the manner and under the conditions hereinabove provided, the Bonds or the portions thereof called for redemption shall become and be due and payable at the Redemption Price provided for redemption of such Bonds or such portions thereof on such date. If moneys for the payment of the Redemption Price and the accrued interest to the redemption date are held in a separate account by the Trustee in trust for the Holders of such Bonds, interest on such Bonds or such portions thereof so called for redemption shall cease to accrue and be payable, such Bonds or such portions thereof shall cease to be entitled to any benefit or security under this Bond Resolution, and the Holders of such Bonds or such portions thereof shall have no rights in respect thereof, except to receive payment of the Redemption Price thereof and the accrued interest thereon and, to the extent provided in Section 4.07 hereof, to receive Bonds for any unredeemed portions of Bonds.

### ARTICLE V

#### REVENUES AND FUNDS

##### SECTION 5.01. Creation of Funds and Accounts.

1. Project Fund, to be held by the Trustee, which shall consist of a Project Account.
2. Administrative Fund, to be held by the Trustee, which shall consist of a Costs of Issuance Account and an Administrative Expense Account, and which Fund and Accounts are not subject to the pledge of the Trust Estate to the Trustee for the benefit of the Bondholders.
3. Revenue Fund, to be held by the Trustee, which shall consist of a Revenue Account, and an Aged Account.
4. Debt Service Fund, to be held by the Trustee, which shall consist of a Capitalized Interest Account, an Interest Account and a Principal Account. A Supplemental Resolution may establish an Account or subaccount for capitalized interest for any Series of Bonds other than the Series 2011 Bonds, if applicable.
5. (a) County Security Fund, to be held by the Trustee, which Fund shall not be subject to the pledge of the Trust Estate, by the Authority to the Trustee, for the benefit of the Bondholders.  
(b) Restoration Security Fund, to be held by the Trustee, which Fund shall not be subject to the pledge of the Trust Estate, by the Authority to the Trustee, for the benefit of the Bondholders.
6. General Fund, to be held by the Trustee, which shall consist of a General Account.
7. There shall be no other Fund or Account established under the Bond Resolution, including without limitation a rebate fund or account, unless created by Supplemental Resolution.

Each of the Funds and Accounts created by this Bond Resolution, other than the Administrative Fund and the County Security Fund, if any, is hereby pledged to, and charged with, the payment of the principal or Redemption Price, if any, of and the interest on the Bonds as the same shall become due.

##### SECTION 5.02. Project Fund.

1. (a) There shall be deposited in the Project Account of the Project Fund, (i) from the proceeds of the Series 2011A Bonds, the amounts set forth in Section 2.03(7)(c)(i) and

Section 2.03(7)(e)(iii) hereof, and (ii) from the proceeds of each Series of Additional Bonds for a Completion Project, the amounts set forth for deposit therein pursuant to the Supplemental Resolutions authorizing the issuance of each such Series of Additional Bonds.

(b) The Company shall pay for the balance of all Project Costs not otherwise provided for in the Project Fund through the In-Kind Equity Contribution or in accordance with Section 5.09(c) of the Company Lease Agreement. All draws on the Project Account of the Project Fund shall be paid subject to, and in accordance with, the Draw Paper Ratio.

2. (a) Subject to the Draw Paper Ratio, and Section 510(c) of the Company Lease Agreement, the Trustee shall make payments, if any, from the Project Account of the Project Fund for Costs of the Renewable Energy Projects and the Capital Improvement Projects for the Series 2011 Local Units in the amounts, at the times on each Draw Date, in the manner and on the other terms and conditions set forth in this Section 5.02(2)(a) and Section 510 and 511 of the Company Lease Agreement. Before any such payment shall be made, the Company shall file with the Trustee the Draw Papers therefor (executed by the Company, acknowledged by the Applicable Series 2011 Local Unit that the Renewable Energy Project Cost or Capital Improvement Project Cost has been incurred in accordance with the Plans and Specifications therefor, and acknowledged as to form only by the Authority), which Draw Papers shall be in substantially the form set forth as Exhibit C to the Company Lease Agreement, including the Draw Paper Ratio. The Trustee shall issue a copy of such Draw Papers to the Authority and the Applicable Series 2011 Local Unit at the address set forth in the Applicable Local Unit License Agreement, and thereupon promptly issue the Trustee's check for each payment required by such Draw Papers to or on behalf of the Company, or the Trustee shall, by interbank transfer or other method, arrange to make and promptly make the payment required by such Draw Papers to or on behalf of the Company.

(b) The Trustee shall also make payments, if any, from the Project Fund for Company Development Fees and Expenses in an aggregate amount not to exceed \$800,000, unless a higher ceiling is specifically authorized by a Certificate of an Authorized Officer of the Authority (which may be provided in the Company Lease Agreement, Exhibit D, Authority Acknowledgment as to form only), upon the Trustee's receipt of a duly authorized and executed Certificate of an Authorized Officer of the Company in substantially the form set forth in Exhibit D to the Company Lease Agreement, in the manner and on the other terms and conditions set forth in this Section 5.02(2)(b) and Section 509(d) of the Company Lease Agreement. Such Certificate of an Authorized Officer of the Company may be executed and delivered to the Trustee upon issuance of the Series 2011 Bonds, or thereafter, as the Company shall determine, so long as it is acknowledged by an Authorized Officer of the Authority as to form only in the form set forth on Exhibit D to the Company Lease Agreement, and further, so long as it, together with all prior such Certificates, does not exceed the ceiling noted above (absent specific authorization from the Authority). The Trustee shall promptly issue the Trustee's check for each payment required by such Certificate to or on behalf of the Company, or the Trustee shall, by interbank transfer or other method, arrange to make and promptly make the payment required by such Certificate to or on behalf of the Company.

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Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by such Series 2011 Local Unit, and (D) when there are funds remaining on deposit in the Project Fund earmarked for any such Capital Improvement Projects, if any, all in accordance with subsection (b) below. Each such CIP Acceptance Certificate shall not be filed by the Company with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, and until each such Certificate shall be further acknowledged by an Authorized Officer of the Authority as to form only; and

(b) Prior to the filing of the last Acceptance Certificate for the last Series 2011 Local Unit that is funding a Project, any remaining moneys, including interest, earmarked for a Project for which an Acceptance Certificate shall have been filed, shall remain in the Project Fund. Upon the filing by the Company, as duly acknowledged by the Series 2011 Local Unit and the Authority, all in accordance with the terms hereof, of the Company Lease Agreement, and of the Local Unit License Agreements for the Series 2011 Local Units, of the final Acceptance Certificate for all of the Series 2011 Local Units on or prior to December 14, 2012, unless extended in accordance with the terms of the Company Lease Agreement, regardless of which Project, any such Acceptance Certificate shall additionally provide that the Trustee shall transfer any funds remaining on deposit in the Project Fund as follows, and upon the Trustee's receipt of same, without any further authorization, the Trustee shall so apply any such remaining funds: (i) the Trustee shall transfer any such remaining funds to the Debt Service Fund and apply such funds as a credit to the next due Interest Portion of Basic Lease Payments due from the Company, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Company, and if still not fully applied, then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments due from the Company, until fully applied, but only so long as the Company shall not have caused an Event of Default under the Company Lease Agreement or any other Company Document, in which latter case (ii) the Trustee shall transfer any such remaining funds as set forth in a Certificate of an Authorized Officer of the Authority accompanying any such Acceptance Certificate, as applicable, or subsequently delivered to the Trustee, as applicable. To the extent the final Acceptance Certificate for all of the Series 2011 Local Units shall not have been filed by the Company, as duly acknowledged by the Series 2011 Local Units and the Authority, all in accordance with the terms hereof, of the Company Lease Agreement, and of the Local Unit License Agreements for the Series 2011 Local Units, on or prior to December 14, 2012 (thereby causing an Event of Default under, and as defined in, the Company Lease Agreement, but not under this Bond Resolution), the Trustee shall transfer any funds remaining on deposit in the Project Fund as set forth in a Certificate of an Authorized Officer of the Authority.

4. To the extent a Series of Additional Bonds are issued as Tax-exempt Bonds, the Authority shall cause the Company to issue any Draw Papers and Acceptance Certificates on such terms additional to the requirements of this Section 5.02 as shall be required by Bond Counsel as set forth in the provisions of the Tax Certificate for such Series of Additional Bonds.

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3. (a) From time to time, in accordance with the terms of the Company Lease Agreement, the Local Unit License Agreements with respect to the Series 2011 Local Units, and this Bond Resolution, the Company shall file with the Trustee, Acceptance Certificates at the following times and with respect to the following matters, and upon receipt thereof, the Trustee shall take the following actions:

(i) The Company shall file with the Trustee the REP Acceptance Certificates in the form set forth as Exhibit B-1 to the Company Lease Agreement, one for each Series 2011 Local Unit, signed by an Authorized Officer of the Company with respect to the Renewable Energy Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, when (A) the Company has submitted all Draw Papers respecting Costs of such Renewable Energy Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (B) all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed and installed in accordance with the Plans and Specifications therefor, (C) all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by the Company and such Series 2011 Local Unit, and (D) there are remaining funds on deposit in the Project Fund earmarked for any such Renewable Energy Projects, if any, all in accordance with subsection (b) below. Each such REP Acceptance Certificate shall not be filed by the Company with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, until each such Certificate shall be further acknowledged by an Authorized Officer of the Authority as to form only, and until accompanied by one or more Interconnection Agreements with respect to all such Renewable Energy Projects or Completion Projects related thereto;

(ii) The Company shall file with the Trustee the CIP Acceptance Certificates in the form set forth as Exhibit B-2 to the Company Lease Agreement, one for each Series 2011 Local Unit that is financing Capital Improvement Projects with a portion of the proceeds of the Bonds, signed by an Authorized Officer of the Company with respect to such Capital Improvement Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, when (A) the Company has submitted all Draw Papers respecting Costs of such Capital Improvement Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (B) all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed, renovated and installed in accordance with the Plans and Specifications therefor, (C) all such Capital Improvement Projects or Completion

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#### SECTION 5.03. Administrative Fund.

1. There shall be established within the Administrative Fund a Costs of Issuance Account and an Administrative Expense Account.

2. In addition to the amounts deposited in the Costs of Issuance Account from the proceeds of the Series 2011 Bonds pursuant to Section 2.03(7)(a)(i) hereof and in the Administrative Expense Account from the proceeds of the Series 2011 Bonds pursuant to Section 2.03(7)(a)(ii) hereof, there shall be deposited in the Administrative Fund from the proceeds of each Series of Additional Bonds the amounts set forth for deposit therein pursuant to the Supplemental Resolutions authorizing the issuance of each such Series of Additional Bonds.

3. (a) The Authority shall direct the Trustee, in writing, to make payments from the Costs of Issuance Account in the manner and on the terms and conditions as the Authority shall determine to be fair and reasonable in the payment of the particular items of the Costs of Issuance relating to a particular Series of Bonds and, with respect to any Series of Additional Bonds that constitute Tax-exempt Bonds, in accordance with the provisions of the Tax Certificate. With respect to Costs of Issuance incurred on behalf of a Series 2011 Local Unit for which either direct payment or reimbursement is being sought, such terms and conditions shall include, at a minimum, a Certificate of an Authorized Officer of such Series 2011 Local Unit in the form of Exhibit F to the Local Unit License Agreement, as applicable, to the effect that any such Cost of Issuance for which payment is sought (i) constitutes a Cost of Issuance hereunder, (ii) has been properly incurred in accordance with all applicable law, and (iii) is evidenced by a proper invoice attached to said Certificate. Costs of Issuance to be paid by or on behalf of the Company shall not be deemed a Costs of Issuance for purposes of any Program Document, and may be paid or reimbursed as a Company Development Fee and Expense, payable from the Project Fund, in accordance with the terms of Section 5.02(2)(b) hereof and Section 509(d) of the Company Lease Agreement.

(b) Upon the payment of all Costs of Issuance as evidenced by a Certificate of an Authorized Officer of the Authority to such effect, the amounts remaining in the Costs of Issuance Account, if any, shall be transferred according to the direction of any such Certificate of an Authorized Officer of the Authority, to any of the following: (i) to the Administrative Expense Account for payment of Administrative Expenses, (ii) to the Debt Service Fund and applied to pay the interest on and, to the extent available therefor, the principal of the Bonds due and owing on the immediately succeeding Interest Payment Date, (iii) to the Project Fund and applied to the Costs of Projects in accordance with Section 5.02 hereof, (iv) to the General Account of the General Fund and applied as set forth in Section 5.08 hereof or (v) as otherwise set forth in such Certificate of an Authorized Officer of the Authority.

4. (a) The Trustee shall invoice the Company (i) for the annual Administrative Fee not provided for from a portion of the proceeds of a Series of Bonds, if any, at least sixty (60) days prior to the dates such amounts become due, and (ii) for any other Administrative Expense not provided for from a portion of the proceeds of a Series of Bonds, if any, and that is

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approved by the Authority, promptly after the receipt by the Trustee of a Certificate of an Authorized Officer of the Authority delivered to the Trustee to such effect.

(b) The Company shall pay to the Trustee as Additional Lease Payments under the Company Lease Agreement for deposit in the Administrative Expense Account (i) the Administrative Fee when due in accordance with the definition thereof, if any, not otherwise provided for from a portion of the proceeds of a Series of Bonds, and (ii) any other amounts due as Administrative Expenses, including without limitation interest payable at the Overdue Rate at the times set forth herein or in the Company Lease Agreement, as the case may be.

(c) Upon receipt of such Bond proceeds or Additional Lease Payments, as the case may be, the Trustee shall promptly forward the Administrative Fee including, subject to the following sentence, any amounts payable at the Overdue Rate to the Authority and the other amounts due as Administrative Expenses to the party on whose behalf such payments were made. To the extent the Trustee has made an advance of a payment due and owing by the Company under this Bond Resolution, the Company Lease Agreement or any other Program Document and the Company has paid to the Authority moneys at the Overdue Rate, the Authority shall first reimburse the Trustee from any such Overdue Rate receipts to the extent of any such advances made by the Trustee.

(d) The Administrative Fee may be retained or applied by the Authority in its sole discretion for any corporate purpose allowable under the Act as such funds are not subject to the pledge of the Trust Estate unless and until deposited in any Fund or Account under the Bond Resolution, which purposes may include, without limitation, the application to any Fund or Account under the Bond Resolution at the written direction of a Certificate of an Authorized Officer of the Authority filed with the Trustee, which Certificate for all Series of Tax-exempt Bonds, must also comply with the Tax Certificate or otherwise be subject to an opinion of Bond Counsel filed with the Trustee that such application won't adversely affect exclusion from gross income of the holders of any such Series of Tax-exempt Bonds for Federal income tax purposes.

(e) Upon the payment of all Administrative Expenses funded from the Series 2011 Bonds, as evidenced by a Certificate of an Authorized Officer of the Authority to such effect, the amounts remaining in the Administrative Expense Account and allocable to such Series 2011 Bond proceeds, together with interest earned thereon and retained therein, if any, shall be transferred according to the direction of any such Certificate of an Authorized Officer of the Authority, to any of the following: (i) to the Debt Service Fund and applied to pay the interest on and, to the extent available therefor, the principal of the Bonds due and owing on the immediately succeeding Interest Payment Date, (ii) to the Project Fund and applied to the Costs of Projects in accordance with Section 5.02 hereof, (iii) to the General Account of the General Fund and applied as set forth in Section 5.08 hereof or (iv) as otherwise set forth in such Certificate of an Authorized Officer of the Authority.

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3. On or prior to each Principal Payment Date, the Trustee shall transfer from moneys on deposit in the Aged Account within the Revenue Fund to the Principal Account in the Debt Service Fund the amount that, together with the amounts, if any, already on deposit in the Principal Account, is equal in the aggregate to the principal, Sinking Fund Installment or Redemption Price due and payable on the Outstanding Bonds on such Principal Payment Date.

4. (a) To the extent the County has made payment of a portion of the principal of and interest on the Bonds under the County Guaranty, on the Business Day following each Interest Payment Date or Principal Payment Date, the Trustee shall immediately pay over to the County any monies on deposit in the Aged Account within the Revenue Fund in satisfaction of and up to the amount of any such County Guaranty payments in the aggregate.

(b) To the extent any funds remain in the Aged Account within the Revenue Fund as of such Business Day following each Interest Payment Date or Principal Payment Date and after accounting for any transfer required by clause (a) above, including in the situation where the County Guaranty has not been drawn, the Trustee shall transfer any such amounts remaining on deposit in the Aged Account within the Revenue Fund (i) first to the Interest Account of the Debt Service Fund up to the amount of the next scheduled interest payment due on the Bonds on the next scheduled Interest Payment Date and (ii) second to the Principal Account of the Debt Service Fund, for which the Company shall receive a credit in the amount of any such monies so transferred first against the Interest Portion and second the Principal Portion of its Basic Lease Payments due on the next scheduled Basic Lease Payment Date, and to the extent any amounts so transferred remain on deposit in the Debt Service Fund, against the next occurring Interest Portion and then Principal Portion of Basic Lease Payments due until fully expended. The Trustee shall promptly notify in writing the Company, the Authority and the County of any transfers made pursuant to this subsection (4).

5. The Trustee shall keep records and accounts with respect to the Revenue Fund so that all amounts received by the Trustee from the Company under the Company Lease Agreement can be properly designated as (i) the Interest Portion of Basic Lease Payments or the Principal Portion of Basic Lease Payments and (ii) other amounts payable under the Company Lease Agreement as Additional Lease Payments (including those attributable to the Purchase Option Price or Mandatory Purchase Price) or investment earnings attributable to such amounts, provided that Basic Lease Payments shall be applied to the Interest Portion prior to the Principal Portion.

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#### SECTION 5.04. Revenues.

All Revenues shall be promptly deposited to the credit of Revenue Account within the Revenue Fund, and all transfers from such Fund shall be made only in accordance with this Article V.

#### SECTION 5.05. Revenue Fund.

1. (a) On each Basic Lease Payment Date or any other date on which the Trustee receives Basic Lease Payments from the Company or Power Purchase Price Payments made by the Series 2011 Local Units on behalf of the Company, the Trustee shall deposit each Basic Lease Payment made by the Company pursuant to the terms of the Company Lease Agreement, and any Power Purchase Price Payments made by the Series 2011 Local Units on behalf of the Company, for immediate credit in the Revenue Account within Revenue Fund. The Trustee shall notify the Company, with a copy to the Authority, of the circumstances and amounts providing credits to Basic Lease Payments due from the Company, all at the times and as otherwise required by Sections 302(a)(iii), 305(b), 306(b), and 310(b) of the Company Lease Agreement.

(b) On each date on which the Trustee receives Additional Lease Payments from the Company allocable to the Purchase Option Price or the Mandatory Purchase Price, the Trustee shall deposit each such Additional Lease Payment made by the Company pursuant to the terms of the Company Lease Agreement for immediate credit in the Revenue Account within Revenue Fund.

(c) After any such funds deposited in the Revenue Account within the Revenue Fund in accordance with subsections (a) or (b) above have been on deposit for one hundred twenty-three (123) consecutive days in the Revenue Account within the Revenue Fund, and have not been recaptured by or on behalf of the Company or its other creditors, the Trustee shall transfer such funds to the Aged Account within the Revenue Fund on the first day of the following month (unless the first day of the following month is an Interest Payment Date, in which case the money should be transferred to the Aged Account on the fifteenth (15<sup>th</sup>) day of such present month, or if the transfer date is after such fifteenth (15<sup>th</sup>) day of such present month preceding an Interest Payment Date, transferred immediately).

2. On or prior to each Interest Payment Date, the Trustee shall transfer from moneys on deposit in the Aged Account within the Revenue Fund to the Interest Account in the Debt Service Fund the amount that, together with the amounts, if any, already on deposit in the Interest Account and the amounts, if any, on deposit in the Capitalized Interest Account and designated for use on such Interest Payment Date pursuant to this Bond Resolution or a Supplemental Resolution, is equal in the aggregate to the interest due and payable on the Outstanding Bonds on such Interest Payment Date.

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#### SECTION 5.06. Debt Service Fund.

1. (a) On each Interest Payment Date of the Outstanding Bonds of any Series, the Trustee shall withdraw from the Capitalized Interest Account, if so designated, and the Interest Account in the Debt Service Fund amounts equal in the aggregate to the interest due on such Bonds on such Interest Payment Date. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment of such interest to the Holders as of the Record Date, all in accordance with the terms of this Bond Resolution.

(b) If, by 9:00 a.m. Eastern Standard Time or Eastern Daylight Time, as applicable ("EST") thirty (30) days prior to any Interest Payment Date, the Trustee has determined that there are insufficient funds in the Interest Account in the Debt Service Fund (after taking into account any moneys earmarked for transfer therein from the Revenue Fund and all other amounts available hereunder for transfer into the Interest Account in the Debt Service Fund, including but not limited to all amounts in the County Security Fund) to pay the full amount of interest due and owing on such Bonds on such Interest Payment Date, the Trustee shall immediately notify the Authority, the Company, the County and the Paying Agent of such deficiency. The Trustee shall continue to notify such entities of any continuing deficiency on a weekly basis, with the final notification being 9:00 a.m. EST on any such Interest Payment Date.

(c) The County shall timely satisfy any such deficiency remaining as of 10 a.m. on any such Interest Payment Date, by immediately making a payment under the County Guaranty (in accordance with the terms of the County Guaranty Agreement) in the amount of any continuing deficiency in immediately available funds to the Trustee for deposit in the Interest Account in the Debt Service Fund. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment to Holders as of the Record Date of such interest due on such Bonds on such Interest Payment Date in accordance with this Bond Resolution. The Authority and the Trustee shall enforce the provisions of the County Guaranty to the extent the County fails, for whatever reason, to promptly act in accordance with the terms thereof.

2. (a) On each Principal Payment Date of the Outstanding Bonds of any Series, the Trustee shall withdraw from the Principal Account in the Debt Service Fund amounts equal in the aggregate to the principal (including any Sinking Fund Installment) or Redemption Price, as applicable, due on such Bonds on such Principal Payment Date. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment of such principal (including any Sinking Fund Installment) or Redemption Price, as applicable, to the Holders as of the Record Date, all in accordance with the terms of this Bond Resolution.

(b) If, by 9:00 a.m. EST one (1) month prior to any Principal Payment Date, the Trustee has determined that there are insufficient funds in the Principal Account in the Debt Service Fund (after taking into account any moneys earmarked for transfer therein from the Revenue Fund and all other amounts available hereunder for transfer into the Principal Account

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in the Debt Service Fund) to pay the full amount of principal (including any Sinking Fund Installment) or Redemption Price, as applicable, due and owing on such Bonds on such Principal Payment Date, the Trustee shall immediately notify the Authority, the Company, the County and the Paying Agent of such deficiency. The Trustee shall continue to notify such entities of any continuing deficiency on a weekly basis, with the final notification being 9:00 a.m. EST on any such Principal Payment Date.

(c) The County shall timely satisfy any such deficiency remaining as of 10 a.m. on any such Principal Payment Date, by immediately making a payment under the County Guaranty (in accordance with the terms of the County Guaranty Agreement) in the amount of any continuing deficiency in immediately available funds to the Trustee for deposit in the Principal Account in the Debt Service Fund. Such moneys shall be transferred from the Trustee to the Paying Agent and applied by the Paying Agent to the payment to Holders as of the Record Date of such principal (including any Sinking Fund Installment) or Redemption Price, as applicable, due on such Bonds on such Principal Payment Date in accordance with this Bond Resolution. The Authority and the Trustee shall enforce the provisions of the County Guaranty to the extent the County fails, for whatever reason, to promptly act in accordance with the terms thereof.

3. To the extent moneys on deposit and earned in the Capitalized Interest Account are insufficient to pay interest on any Series of Bonds on any Interest Payment Date through and including the date set forth in the Bond Resolution, including any Supplemental Resolution for that Series of Bonds, the Trustee shall, upon receipt of a Certificate of an Authorized Officer of the Authority to such effect, transfer to the Capitalized Interest Account from moneys on deposit in the Project Fund an amount not exceeding such deficiency at the times set forth in any such Certificate.

#### SECTION 5.07. County Security Fund/Restoration Security Fund.

1. The County Security Fund shall be funded as follows:

(a) On or before the Initial Basic Lease Payment Date, the County Security Fund Requirement shall be initially funded with the County Reserve being deposited in the County Security Fund pursuant to the provisions of Section 2.03(7)(c) hereof and Exhibit B to the Bond Resolution. Upon the issuance of any Series of Additional Bonds (other than the Series 2011B Note), the designated portion of the proceeds of any such Additional Bonds, or such other funds, as applicable, if deemed necessary, convenient or desirable by the Authority (after consultation with the County), shall be deposited in the County Security Fund at the times, in the amounts, and otherwise in conformity with the terms of any Supplemental Resolution authorizing any such Additional Bonds. To the extent the balance in the County Reserve shall drop below the County Security Fund Requirement from time to time and there is available cash flow to do so after payment of all other Company's expenses, the Company shall be obligated to replenish the County Reserve to an amount equal to the then applicable County Security Fund Requirement to the extent the funds on deposit in the County Security Fund shall have been

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(b) When there are no Series 2011 Bonds Outstanding (and if so designated by a Supplemental Resolution, plus any Series of Outstanding Additional Bonds), whether at final stated maturity, upon redemption of all of such Bonds, or upon acceleration and payment of all of such Bonds, and to the extent the County has been fully reimbursed for all payments it has made under the County Guaranty, the Trustee shall promptly pay over to the Company the entire amount remaining on deposit in the County Security Fund, with notice of such occurrence and amount to be provided by the Trustee to the Authority and the County. To the extent there are funds on deposit in the County Reserve in excess of the County Security Fund Requirement from time to time, such excess shall be promptly released from the County Reserve and be remitted to the Company.

4. Except to the extent expressly permitted in Section 5.06 or this Section 5.07 or in accordance with Section 701 of the Company Lease Agreement, which direction the Trustee shall promptly follow upon receipt of the Company notice detailed therein, and notwithstanding anything to the contrary in this Bond Resolution, unless accompanied by a notice of direction issued to the Trustee, signed by an Authorized Officer of each of the County and the Authority, amounts in the County Security Fund shall not be applied (a) directly, or transferred by the Trustee to any Fund or Account herein, in either case whereby such funds shall be used to pay any portion of the principal of, redemption premium, or interest on the Series 2011 Bonds or any other Series of Additional Bonds or (b) except as expressly set forth in this Bond Resolution. To the extent the Trustee receives any such properly executed notice of direction, the Trustee shall promptly follow such instructions, and simultaneously or promptly thereafter, notify the County, the Authority, and the Company of any such occurrence. Notwithstanding anything to the contrary in this Bond Resolution, as the County Security Fund is excepted from the pledge of the Trust Estate, this Section 5.07 may be amended by the Authority subsequent to the issuance of the Series 2011 Bonds without the consent of the Trustee or the Holders of any Outstanding Bonds.

5. (a) The Trustee shall accept the pledge and assignment of all right, title and interest in and to the Pledged Collateral under the terms of, and as defined in, the Company Pledge Agreement, which shall not be part of the Trust Estate, and therefore shall not be available to Holders of any Series of Outstanding Bonds, including the Series 2011 Bonds. The Trustee shall not exercise any rights and remedies, or take any other action pursuant to the Company Pledge Agreement, without the express written consent of the Authority. Pursuant to Section 4.08 of the Company Pledge Agreement, the Trustee shall be under no obligation to exercise any such rights or take any such action. Any moneys realized by the Trustee from such pledge (or realized by the Authority shall be promptly paid over to the Trustee, and then) shall be promptly deposited by the Trustee in the County Security Fund. In the case of the occurrence of an Event of Default as defined in the Company Pledge Agreement, the Authority may direct the Trustee, through a duly authorized and executed Certificate of an Authorized Officer of the Authority delivered to the Trustee, to further assign all or a portion of the Trustee's right, title and interest in and to the Collateral under the Company Pledge Agreement to the person or entity specified in such Certificate, including without limitation such person or entity undertaking all or

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drawn upon for any reason under the Program Documents, except as set forth in subsection 3(b) below regarding final payment of all Outstanding Bonds. As security for the Company's obligation, among other things, to replenish the County Security Fund as described above, the Company has assigned to the Trustee a portion of, and caused the Pledgor (as defined in the Company Pledge Agreement) to assign to the Trustee the balance of, the Pledged Collateral under the Company Pledge Agreement.

(b) To the extent the Company has caused an Event of Default under the Company Lease Agreement or any other Program Document and the County has made payments under its County Guaranty, the Authority may, and upon the direction of the County, the Authority shall, direct the Trustee, to the maximum extent practicable, to deposit all or a portion of (i) the Leased Property (including without limitation any product therefrom, including the SRECs, but excluding the Renewable Energy Projects, but only to the extent the Series 2011 Local Units are making their Net Substitute Power Purchase Price payments) or the proceeds therefrom and/or (ii) the Net Substitute Power Purchase Price payments received from time to time, in the County Security Fund, until the County has been reimbursed in full for any such payments. Upon the reimbursement in full of the County for any of its payments under its County Guaranty in accordance with subsection 2 below, in accordance with any County Security Agreement delivered in accordance with subsection 6 below, or otherwise, amounts remaining on deposit in the County Security Fund, shall be distributed in accordance with the County Security Agreement, if any, as Reimbursement Collateral.

2. Upon the Trustee's issuance of a continuing deficiency notice with respect to either or both of the Interest Payment Account or the Principal Payment Account of the Debt Service Fund as of 9:00 a.m. EST on any Interest Payment Date or Principal Payment Date, as the case may be, pursuant to Sections 5.06(1)(b) or 5.06(2)(b), hereof, and upon the Trustee's drawing on the County Guaranty to satisfy any such deficiency in accordance with Sections 5.06(1)(c) or 5.06(2)(c) hereof, as the case may be, the Trustee shall immediately (a) pay over to the County, in immediately available funds, the lesser of (i) the amount of the draw on the County Guaranty or (ii) the entire amount on deposit in the County Security Fund, if any (including after any transfer of amounts pursuant to Section 5.06 hereof) and (b) promptly notify the Authority, and to the extent the Company Lease Agreement has not been terminated, the Company, of the occurrence and amount of such event.

3. (a) Whenever the amount on deposit in the County Security Fund equals or exceeds the principal amount, plus interest due and owing on the next occurring Interest Payment Date and Principal Payment Date, of all Outstanding Series 2011 Bonds plus any Series of Outstanding Additional Bonds so designated by a Supplemental Resolution, the Trustee shall (i) notify the County, the Authority, and the Company of such occurrence, amount, and supporting computations, and (ii) ten (10) Business Days' after such notification, to the extent such computations have been verified by the Authority, promptly transfer any such excess to the Aged Account of the Revenue Fund.

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a portion of the Company's responsibilities with respect to the Projects as set forth in the Program Documents, and/or to take such further action as set forth in such Certificate.

(b) Should no such Event of Default under the Company Pledge Agreement occur prior to or as of the end of the recapture period relating to the investment tax credit (or the Section 1603 Grant, as defined in the Company Pledge Agreement, in lieu of such credit) available to the Company under Sections 38, 46 and 48 of the Code in connection with the Renewable Energy Projects, as certified to the Trustee by an Authorized Officer of the Company in a Certificate to such effect delivered by or on behalf of the Company to the Trustee and the Authority, the Trustee shall promptly take all actions to release and/or terminate the pledge under the Company Pledge Agreement, including without limitation returning any Certificated Securities, received pursuant to and as defined under the Company Pledge Agreement, to the Company.

6. Notwithstanding any provision to the contrary herein or in any other Program Document, to the extent the Company has not caused an Event of Default under any Program Document (or any shall have been cured by such time), and the Company delivers to the County, County Security and a fully executed County Security Agreement providing such County Security in an amount greater than or equal to the County Security Fund Requirement applicable at such time, all in a form and substance acceptable, in the County's sole discretion, to the County, then upon the Company's delivery to the Trustee and the Authority of a Certificate of an Authorized Officer of the Company to such effect, such Certificate to be acknowledged in writing by the County, the Trustee shall promptly release all funds (principal, interest and/or any securities or other investments) on deposit in the County Security Fund to the Company.

7. Funds on deposit in the County Security Fund in excess of the County Security Fund Requirement shall remain therein, including any interest earned in accordance with Section 5.11(3) hereof, unless such monies are specifically required to be transferred pursuant to the provisions of Section 5.06 or this Section 5.07 or elsewhere in this Bond Resolution.

8. Upon the Trustee's receipt of a Certificate of an Authorized Officer of the County and the Authority directing the Trustee to transfer funds on deposit in the County Security Fund to any other Fund or Account under this Bond Resolution, including the Revenue Fund or the Debt Service Fund, the Trustee shall make such transfer at the times and in the amounts as set forth in such Certificate. To the extent there would otherwise be insufficient funds in the Interest Account in the Debt Service Fund as provided in Section 5.06(1)(b) hereof, the Trustee shall transfer funds from the County Security Fund in order to eliminate such shortfall. To the extent the Company is not in default under any Company Document, the Company must acknowledge any such Certificate in writing before the Trustee shall transfer any such funds.

9. The Restoration Security Fund shall be funded in accordance with the terms of the Restoration Security Fund Requirement. Funds may be withdrawn from the Restoration Security Fund by the Company upon their submission to the Trustee of a Certificate of an Authorized Officer of the Company to the effect that such funds shall be utilized for the purposes

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contemplated by Section 3.7 of the Power Purchase Agreement toward restoration of Local Unit Facilities. Pending such withdrawal, funds on deposit in the Restoration Security Fund shall be invested in accordance with the provisions of Section 5.11 of the Bond Resolution, and any investment earnings shall be credited to such Fund until disbursed pursuant to the Certificate noted above.

(a) Alternatively, the funds in the Restoration Security Fund may be transferred by the Trustee in accordance with a Certificate of an Authorized Officer of the Company, so long as such Certificate is acknowledged in writing by the Authority and the affected Series 2011 Local Units, and such transfer shall occur without Bondholder consent.

#### SECTION 5.08. General Fund.

1. On the first day of each Bond Year beginning December 15, 2016, provided, however, that all transfers from the Revenue Fund required pursuant to subsections (2) and (3) of Section 5.05 hereof shall have been made, any remaining amounts in the General Account of the General Fund may be retained therein or applied by the Authority in its sole discretion for any corporate purpose allowable under the Act.

2. Any such funds, upon withdrawal from the General Account of the General Fund, are not subject to the pledge of the Trust Estate unless and until deposited in any Fund or Account under the Bond Resolution, which purposes may include, without limitation, the application to any Fund or Account under the Bond Resolution at the written direction of a Certificate of an Authorized Officer of the Authority filed with the Trustee, which Certificate for all Series of Tax-exempt Bonds, must also comply with the Tax Certificate or otherwise be subject to an opinion of Bond Counsel filed with the Trustee that such application won't adversely affect exclusion from gross income of the holders of any such Series of Tax-exempt Bonds for Federal income tax purposes.

3. Pending withdrawal, funds on deposit in the General Funds shall be invested in accordance with the provisions of Section 5.11 of the Bond Resolution, and any investment earnings shall be credited to such Fund until disbursed pursuant to the provisions noted above in this Section 5.08.

#### SECTION 5.09. Additional Bonds as a Series of Tax-exempt Bonds.

The Supplemental Resolution for any Series of Additional Bonds constituting Tax-exempt Bonds shall contain such provisions regarding a rebate fund, rebuttable arbitrage, notice, records and other matters as may be required by a Tax Certificate or otherwise required to allow Bond Counsel to issue an opinion that the interest on the gross income of any such Series of Tax-exempt Bonds shall be excludable from the gross income of the Holders thereof for Federal income tax purposes.

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interest) or fair market value, and any deficiency resulting therefrom shall be payable by the Company as an Additional Lease Payment under the Company Lease Agreement ratably every month over a period not to exceed five (5) months from such valuation date; provided, however, that any deficiency with respect to the County Security Fund shall only be payable to the extent of available cash flow after payment of all Company expenses.

4. All interest, profits and other income earned and received by the Trustee and the Authority, as appropriate, net of any losses suffered (herein called the "net earnings"), from the investment of moneys in any Fund or Account shall be retained in and treated as part of such Fund or Account and applied in accordance with the applicable Sections of this Bond Resolution governing such Fund or Account, except that any interest earned on monies in the Revenue Account of the Revenue Fund shall be transferred by the Trustee, no less frequently than once a month, to the Aged Account of the Revenue Fund, and applied in accordance with the applicable Sections of this Bond Resolution governing such Fund or Account.

5. The Trustee may act as principal or agent in the acquisition or disposition of any Investment Securities. The Trustee shall exercise its best efforts to sell at market price obtainable, or present for redemption, any Investment Securities to the credit of any Fund or Account created under this Bond Resolution and the Accounts established therein whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from such Fund or Account, and the Trustee shall not be liable for any loss resulting from such necessary sale so made of such investments.

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#### SECTION 5.10. Moneys to Be Held in Trust.

All moneys required to be deposited with or paid to the Trustee or the Paying Agent for the account of any Fund or Account established under any provision of this Bond Resolution for the Bonds in accordance with this Bond Resolution, other than the Administrative Fund, shall be held by the Trustee or the Paying Agent, as the case may be, in trust for the Holders of the Bonds and shall constitute part of the Trust Estate while held by the Trustee or the Paying Agent; provided, however, that moneys deposited with or held by the Trustee or the Paying Agent for the redemption of Bonds on or after the redemption date of such Bonds, or for the payment of the principal of, Redemption Price, if any, or the interest on Bonds on or after the date on which such amounts shall have become due, shall be held and applied solely for the redemption or payment of such Bonds or the payment of such interest.

#### SECTION 5.11. Investments.

1. All moneys in any of the Funds and Accounts created under this Bond Resolution shall be invested by the Trustee (a) with respect to the Project Fund and the Restoration Security Fund, as and if directed by the Company in accordance with Section 310(a) of the Company Lease Agreement, (b) with respect to the County Security Fund, as and if directed by the County, in any Investment Securities, or (c) if clause (a) or (b) are not applicable, either because such provisions do not apply to the other Funds or Accounts contemplated by this Bond Resolution, or the Company and/or the County does not exercise their rights to direct such investments, then as directed by the Authority in writing, subject to the further provisions of this Section 5.11. The Trustee may conclusively rely upon such written direction of the Authority as to any and all investments.

2. Moneys in all Funds and Accounts created under this Bond Resolution, other than the Debt Service Fund and the Accounts established therein, shall be invested in Investment Securities, the principal of and the interest on which are payable not later than the dates on which it is estimated, by the Authority, that such moneys will be required hereunder. Moneys in the Debt Service Fund shall only be invested in such securities as are defined in clause (i) of the definition of "Investment Securities" in Section 1.01 hereof, the principal of and the interest on which are payable not later than the dates on which it is estimated, by the Authority, that such moneys will be required hereunder. Moneys on deposit in the Revenue Fund and the Debt Service Fund shall be invested in such Investment Securities as to mature or otherwise become available for payment no later than any Interest Payment Date or Principal Payment Date.

3. Investment Securities as an investment of moneys in any Fund or Account created under this Bond Resolution shall be credited to such Fund or Account, except that any interest earned on monies in the Revenue Account of the Revenue Fund shall be transferred by the Trustee, no less frequently than once a month, to the Aged Account of the Revenue Fund. For the purpose of determining the amount in any Fund or Account at any time in accordance with this Bond Resolution, all Investment Securities credited to such Fund or Account shall be valued annually on the first day of any Bond Year at the lesser of amortized cost (exclusive of accrued

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### ARTICLE VI

#### PROGRAM DOCUMENTS, BOND PURCHASE AGREEMENT AND OFFICIAL STATEMENTS

##### SECTION 6.01. Terms and Conditions of Program Documents.

The Authority hereby authorizes the Trustee to disburse funds from the Project Fund in accordance with the terms set forth herein and in the Program Documents for the purpose of acquiring, constructing, renovating and installing the Projects. Consequently, the Authority shall enter into or adopt, as the case may be, the Program Documents in the manner, on the terms and conditions and upon submission of the documents required by this Article VI, and not otherwise.

##### SECTION 6.02. Form of Program Documents.

The Authority hereby severally authorizes its Authorized Officers to enter into the Program Documents to be executed or acknowledged by the Authority (a) other than with respect to the Power Purchase Agreement, in the forms thereof attached hereto as Exhibit A upon original adoption of this Bond Resolution on September 28, 2011, with such immaterial changes thereto as shall be within the parameters set forth herein and the terms of the Local Finance Board Application, (b) with respect to the Power Purchase Agreement, in the form thereof attached hereto as Exhibit A upon original adoption of this Bond Resolution on September 28, 2011, with such immaterial changes thereto as shall be within the parameters set forth herein, in the Local Finance Board Application, and the Company RFP, and (c) to the extent not attached hereto, in such forms as shall be consistent with this Bond Resolution and the terms of the Local Finance Board Application, in both cases, as shall be determined exclusively by any such Authorized Officer, after consultation with Counsel, which determination shall be conclusively evidenced by any such Authorized Officer's execution and delivery thereof. To the extent the final forms of the Program Documents attached hereto shall be materially changed from that attached hereto as Exhibit A prior to the issuance of the Series 2011 Bonds, such Program Documents may be authorized by a subsequent authorizing resolution of the Authority without compliance with the provisions of Article XI hereof. The Chairman and any other Authorized Officer shall also take all other actions and execute any other documents, agreements, certificates or other instruments deemed necessary, convenient or desirable by the Chairman or any such other Authorized Officer to consummate the transactions contemplated hereby and by such Program Documents, including without limitation the issuance of the Company RFP; provided, however, that such Program Documents shall in any event conform in all material respects to the provisions of this Article VI.

##### SECTION 6.03. Lease Payments.

The Authority shall establish Basic Lease Payments under the Company Lease Agreement in such amounts that, together with any amounts available and required to be treated as credits thereunder or under this Bond Resolution, shall be sufficient to pay the principal and

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prepayment premium, if any, of and the interest on all Series of Bonds as the same become due and payable.

#### SECTION 6.04. Bond Purchase Agreement or Notice of Sale.

The Authority hereby severally authorizes its Authorized Officers to either (a) negotiate with an Underwriter selected in accordance with the terms of applicable Authority resolutions for the sale of all of the Series 2011 Bonds and any Series of Additional Bonds upon terms and conditions to be set forth in a bond purchase agreement, which may include the Bond Purchase Agreement, or (b) sell the Series 2011 Bonds to an Underwriter pursuant to the terms of a Notice of Sale or other competitive process, and if applicable, a bond purchase agreement, including the Bond Purchase Agreement, in either case which terms and conditions shall be within the constraints set forth herein, in the Local Finance Board Application, and in such other Authority resolutions pertaining thereto and shall be determined exclusively by any Authorized Officer, after consultation with Counsel, which determination shall be conclusively evidenced by the Authorized Officer's execution and delivery thereof. The Chairman and any other Authorized Officer shall also take all other actions and execute any other documents, agreements, certificates or other instruments deemed necessary or desirable by the Chair or any such other Authorized Officer to consummate the transactions contemplated hereby and by such bond purchase agreement, including the Bond Purchase Agreement.

#### SECTION 6.05. Preliminary Official Statement.

1. The Authorized Officers of the Authority are hereby severally authorized and directed, upon satisfaction of all of the legal conditions precedent to the delivery of the preliminary official statement relating to the Series 2011 Bonds and any Series of Additional Bonds by the Authority, as determined by an Authorized Officer of the Authority in consultation with the Chair of and Counsel to the Authority, to deliver the Preliminary Official Statement "deemed final" within the meaning and for the purposes of Rule 15c2-12, and otherwise in the form and with such provisions as such Authorized Officer, after consultation with the Chair of and Counsel to the Authority, deems in their sole discretion to be necessary or desirable for the delivery thereof, which delivery thereof by such Authorized Officer shall conclusively evidence his consent to the provisions thereof.

2. The Authorized Officers of the Authority are hereby severally authorized and directed to execute any certificate or document relating to any statutes, rules or other procedures of the Securities and Exchange Commission, the Municipal Securities Rulemaking Board or any state securities entity that such Authorized Officer, after consultation with the Chair of and Counsel to the Authority, deems necessary or desirable to effect the issuance of the Series 2011 Bonds and any Series of Additional Bonds and the transactions contemplated by the Preliminary Official Statement.

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### ARTICLE VII

#### SERVICING OF LEASE PAYMENTS

##### SECTION 7.01. Defaults.

The Trustee shall notify the Authority of its failure to receive any Lease Payment of the Company, if any, due under the Company Lease Agreement, or of any other Event of Default under the Company Lease Agreement known to the Trustee.

Upon the occurrence of an Event of Default under the Company Lease Agreement, the Trustee shall diligently enforce, and take all reasonable steps, actions and proceedings necessary for the enforcement of, all of the terms and conditions of the Company Lease Agreement, including (without limitation) the prompt payment of all Lease Payments and all other amounts due the Authority and the observance and performance of all duties, covenants, obligations and agreements thereunder; provided, however, that the Trustee shall not accelerate the payment of amounts due under the Company Lease Agreement following any Event of Default thereunder (other than any Event of Default that shall automatically accelerate such payment under the Company Lease Agreement).

Except as otherwise provided in the Company Lease Agreement or in this Bond Resolution, the Trustee shall not release the duties, covenants, obligations or agreements of the Company under the Company Lease Agreement, and shall at all times, to the extent permitted by law, defend, enforce, preserve and protect the rights and privileges of the Authority and the Holders under or with respect to the Company Lease Agreement; provided, however, that this provision shall not be construed to prevent the Trustee (with the consent of the Authority) from settling a default under the Company Lease Agreement on such terms as the Trustee shall determine to be in the best interests of the Authority and the Holders. The Authority hereby appoints the Trustee as its agent and attorney-in-fact for the purpose of enforcing all rights, title and interests of the Authority on behalf of the Holders under the Company Lease Agreement, except for the Authority's Reserved Rights.

##### SECTION 7.02. Termination of Company Lease Agreement.

Upon the payment in full of all amounts due under the Company Lease Agreement, the Authority shall cancel the obligation of the Company evidenced by the Company Lease Agreement and shall terminate and release all security interests and liens created under the Company Lease Agreement, and the Authority and the Trustee shall take any and all other action required of the Authority or the Trustee thereunder in connection with such cancellation and termination, including (without limitation) the execution of all relevant documents in connection with such actions.

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#### SECTION 6.06. Official Statement.

The Authorized Officers of the Authority are hereby severally authorized and directed to execute and deliver a final Official Statement in substantially similar form to the Preliminary Official Statement, with such changes to reflect the final pricing as set forth in the bond purchase agreement, including the Bond Purchase Agreement as such Authorized Officers, after consultation with the Chair of and Counsel to the Authority, deems necessary or desirable to effect the issuance of the Series 2011 Bonds and any Series of Additional Bonds and the transactions contemplated by the final Official Statement.

#### SECTION 6.07. Continuing Disclosure.

1. Prior to issuance of the Series 2011 Bonds and any Series of Additional Bonds, the Authority, pursuant to the sole discretion of the Chairman or any other Authorized Officer of the Authority, in consultation with Bond Counsel, general counsel and any other applicable advisors to the Authority, all as may be set forth in the Certificate of an Authorized Officer pursuant to Section 2.02(1)(c) hereof, shall determine if the Company is a materially "obligated person" within the meaning and for the purposes of Rule 15c2-12. If the Company is determined to be a materially "obligated person", it shall be required to enter into the Company Continuing Disclosure Agreement, in such form as set forth in Exhibit A hereto as a Program Document authorized thereby.

2. (a) The Authority hereby determines (i) that the County is a "materially obligated person" and (ii) that the Authority is not an "obligated person" within the meaning and for the purposes of Rule 15c2-12.

(b) Accordingly, (i) the Authority and the County shall be required to enter into the County Continuing Disclosure Agreement, in such form as set forth in Exhibit A hereto as a Program Document authorized thereby, and together with the Company Continuing Disclosure Agreement, (ii) the Authority hereby covenants to provide notice of Bond Disclosure Events (as defined in each of the respective Continuing Disclosure Agreements), if material, with respect to the Series 2011 Bonds and any Series of Additional Bonds to EMMA (as defined within the definition of MSRB in the Continuing Disclosure Agreements), which is recognized by the SEC and any other governmental authorities with jurisdiction, all as shall be set forth in any such Continuing Disclosure Agreements.

3. Notwithstanding any provision to the contrary in Article XI hereof, the Authority may amend or supplement this Section 6.07 and the corresponding provisions of the Continuing Disclosure Agreements to comply with any amendment, supplement, modification, termination or other change to Rule 15c2-12 without the consent of any other Renewable Energy Program Interested Party or any Bondholder.

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#### SECTION 7.03. Files.

The Trustee shall keep a file for all records and other documents pertaining to disbursements of the Project Fund in accordance with this Bond Resolution, the Company Lease Agreement and the Local Unit License Agreements for the Series 2011 Local Units, and pertaining to all Lease Payments and other amounts received by the Trustee under the Company Lease Agreement, and all communications from or received by the Trustee with respect to the Projects. Such file shall be kept at the Principal Office of the Trustee and shall be available for inspection by the Authority, the Series 2011 Local Units, the County, and the Company and their respective agents at reasonable times and under reasonable circumstances.

#### SECTION 7.04. Trustee's Obligations.

The Trustee shall observe and perform all duties, covenants, obligations and agreements of the Authority under the Company Lease Agreement to the extent specified herein and therein. If an inconsistency arises between the Company Lease Agreement and this Bond Resolution, the Trustee shall rely on this Bond Resolution. Notwithstanding the preceding sentence, the Trustee shall have no duty to acquire, construct, renovate or install the Projects.

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**ARTICLE VIII**  
**GENERAL COVENANTS**

**SECTION 8.01. Payment of Bonds; Special and Limited Obligations of Authority.**

The Authority shall pay or cause to be paid the principal or Redemption Price, if any, of and the interest on every Bond of each Series on the date, at the place and in the manner provided herein, in the Applicable Supplemental Resolution and in such Bonds according to the true intent and meaning thereof; provided, however, that the Bonds of each Series are special and limited obligations of the Authority, the principal or Redemption Price, if any, of and the interest on which are payable solely from the Trust Estate.

The Bonds of each Series shall not be payable from the general funds of the Authority, and shall not constitute a legal or equitable pledge of, or lien or encumbrance upon, any of the assets or property of the Authority (other than the Trust Estate) or upon any of its income, receipts or revenues, except as provided in this Bond Resolution. The full faith and credit of the Authority are not pledged, either expressly or by implication, to the payment of the Bonds. The Authority has no taxing power, and has no claim on any revenues or receipts of the State or any agency or political subdivision thereof or of the Series 2011 Local Units or the County (except as expressly provided in the County Guaranty).

**SECTION 8.02. Observance and Performance of Duties, Covenants, Obligations and Agreements; Representations as to Authorization and Validity of Bonds.**

The Authority shall faithfully observe and perform at all times all of its duties, covenants, obligations and agreements contained in the Company Lease Agreement, this Bond Resolution, any Supplemental Resolution or any Bond executed, authenticated and delivered under this Bond Resolution or under any Supplemental Resolution or in any proceedings of the Authority pertaining thereto.

The Authority represents and covenants that: (i) it is duly authorized under the Constitution and laws of the State, particularly the Act, to issue the Bonds of each Series, to enter into the Company Lease Agreement, and to pledge the Trust Estate in the manner and to the extent set forth in this Bond Resolution and as shall be set forth in any Supplemental Resolution; (ii) all action on its part for the issuance of the Bonds of each Series will be duly and effectively taken; and (iii) the Bonds of each Series in the hands of the Holders thereof will be valid and binding special and limited obligations of the Authority, enforceable against the Authority in accordance with their terms.

**SECTION 8.03. Liens, Encumbrances and Charges.**

The Authority shall not create or cause to be created and shall not suffer to exist any lien, encumbrance or charge upon the Trust Estate, except the pledge, lien and charge created for the

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security of the Holders of the Bonds. To the extent Revenues are received, the Authority will pay or cause to be discharged, or will make adequate provision to satisfy and discharge, within sixty (60) days after the same shall accrue, all lawful claims and demands that if unpaid might by law become a lien upon the Trust Estate; provided, however, that nothing contained in this Section 8.03 shall require the Authority to pay or cause to be discharged, or to make provision for, any such lien, encumbrance or charge so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

So long as Bonds of any Series shall be Outstanding, the Authority shall not issue any bonds, notes or other evidences of indebtedness, other than such Bonds, secured by any pledge of or other lien or charge on the Trust Estate. Nothing in this Bond Resolution is intended to or shall affect the right of the Authority to issue bonds, notes and other obligations under other resolutions or indentures for any of its other purposes.

**SECTION 8.04. Accounts and Audits.**

The Authority shall keep, or cause to be kept, proper books of records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Projects, this Bond Resolution and any Supplemental Resolution, which books and accounts (at reasonable hours and subject to the reasonable rules and regulations of the Authority) shall be subject to the inspection of the Trustee, the Series 2011 Local Units, the County, the Company, any Holder of any Bonds or their agents or representatives duly authorized in writing. The Authority shall have the right to cause such books and accounts to be audited annually within ninety (90) days after the end of its fiscal year by an Independent Public Accountant selected by the Authority. Annually, within thirty (30) days after the receipt by the Authority of the report of such audit, a signed copy of such report shall be furnished to the Trustee. Such report shall include at least: (i) a statement of all Funds and Accounts (including investments thereof) held by the Trustee pursuant to the provisions of this Bond Resolution; (ii) a statement of the Revenues collected in connection with this Bond Resolution; and (iii) a statement that, in making such audit, no knowledge of any payment default in the fulfillment of any of the terms, covenants or provisions of this Bond Resolution was obtained or, if knowledge of any such default was obtained, a statement thereof.

**SECTION 8.05. Further Assurances.**

The Authority will pass, make, do, execute, acknowledge and deliver any and all such further resolutions, indentures, actions, instruments and assurances as may be reasonably necessary or proper to carry out the intention, or to facilitate the performance, of this Bond Resolution and for the better assuring and confirming unto the Holders of Bonds the rights and benefits provided in this Bond Resolution.

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**SECTION 8.06. Tax Covenants.**

In connection with the issuance of any Series of Additional Bonds issued as Tax-exempt Bonds, an Authorized Officer of the Authority is hereby authorized to execute on behalf of the Authority (i) the Tax Certificate and (ii) any similar documents relating to the characterization of such Series of Bonds as not being "arbitrage bonds" within the meaning of Sections 103(a)(2) and 148 of the Code. Any further provisions relating thereto shall be as set forth in the Supplemental Resolution authorizing any such Series of Additional Bonds.

**SECTION 8.07. Prepayment of Basic Lease Payments Through the Application of Additional Lease Payments for Purchase Option Price.**

Upon the repayment, in whole or in part, of Basic Lease Payments due and owing under the Company Lease Agreement through the payment of Additional Lease Payments at the then applicable Purchase Option Price, the Authority shall elect to apply such prepayment proceeds (i) to the purchase of Bonds in the secondary market, (ii) to the redemption of Bonds in accordance with Article IV hereof, or (iii) to the payment of Bonds in accordance with Section 12.01 hereof. The Authority may only consent to such partial prepayment pursuant to the Company Lease Agreement if it simultaneously delivers to the Trustee (i) a certificate of an Independent Public Accountant demonstrating that the aggregate Basic Lease Payments due pursuant to the Company Lease Agreement after such prepayment shall be sufficient to pay, when due, the principal of and the interest on all Bonds Outstanding after giving effect to the Authority's election required in the immediately preceding sentence, and (ii) irrevocable instructions to effectuate such election regarding the application of prepayment proceeds, including, without limitation, delivering any documents required under the Company Lease Agreement.

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**ARTICLE IX**

**DEFAULT PROVISIONS; REMEDIES OF TRUSTEE AND BONDHOLDERS**

**SECTION 9.01. Defaults; Events of Default.**

If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "Event of Default" for the Bonds of all Series then Outstanding:

- (a) default in the due and punctual payment of any interest on any Bond; or
- (b) default in the due and punctual payment of the principal, Sinking Fund Installment or Redemption Price of any Bond whether at the stated maturity thereof or on any date fixed for the redemption of such Bond; or
- (c) if (i) the Authority shall be adjudicated a bankrupt or become subject to an order for relief under federal bankruptcy law, (ii) the Authority shall institute a proceeding seeking an order for relief under federal bankruptcy law or seeking to be adjudicated a bankrupt or insolvent or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or all of its debts under New Jersey bankruptcy or insolvency law, (iii) with the consent of the Authority, there shall be appointed a receiver, liquidator or similar official for the Authority under federal bankruptcy law or under New Jersey bankruptcy or insolvency law, or (iv) without the application, approval or consent of the Authority, a receiver, trustee, liquidator or similar official shall be appointed for the Authority under federal bankruptcy law or under New Jersey bankruptcy or insolvency law or a proceeding described in clause (ii) above shall be instituted against the Authority, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of sixty (60) consecutive days; or
- (d) if (i) the Authority shall make an assignment for the benefit of creditors, (ii) the Authority shall apply for or seek the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its property, (iii) the Authority shall fail to file an answer or other pleading denying the material allegations of any proceeding filed against it described under clause (iv) of paragraph (c) of this Section 9.01, (iv) the Authority shall take any action to authorize or effect any of the actions set forth in paragraph (c) or (d) of this Section 9.01, (v) the Authority shall fail to contest in good faith any appointment or proceeding described in paragraph (c) or (d) of this Section 9.01, or (vi) without the application, approval or consent of the Authority, a receiver, trustee, examiner, liquidator or similar official shall be appointed for any substantial part of the Authority's property, and such appointment shall continue undischarged or such proceeding shall continue undismissed or unstayed for a period of thirty (30) consecutive days; or
- (e) the Authority shall default in the performance or observance of any other of the duties, covenants, obligations, agreements or conditions on the part of the Authority to be

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performed or observed under this Bond Resolution or under the Bonds of each Series, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Trustee or the Bondholders in accordance with Section 9.09 hereof.

#### SECTION 9.02. Acceleration of Bonds; Remedies.

If an Event of Default described in Section 9.01 hereof shall occur for any Series of Bonds, the Trustee shall give written notice thereof to Holders, and at the written request of the Holders of not less than 25% in aggregate principal amount of the Bonds then Outstanding shall, by telephonic notice to the Authority (promptly confirmed in writing), declare the principal of all Bonds then Outstanding to be due and payable; provided, however, that before making such declaration, the Trustee shall give thirty (30) days' notice to the Authority and the Company during which time the Authority shall be able to cure such default. Upon any such declaration, the Trustee shall forthwith give notice thereof to the Company, each Local Unit and the Paying Agent.

At any time after the principal of the Bonds shall have been so declared to be due and payable and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such Event of Default, or before the completion of the enforcement of any other remedy under this Bond Resolution, the Trustee, by written notice to the Authority, may annul such declaration and its consequences if: (i) moneys shall have accumulated in the Interest Account and the Principal Account in the Debt Service Fund sufficient to pay all arrears of interest, if any, upon all of the Outstanding Bonds (except the interest accrued on such Bonds since the last Interest Payment Date) and the principal then due on all Bonds (except the principal on any such Bonds due solely as a result of any such declaration of acceleration); (ii) moneys shall have accumulated and be available sufficient to pay the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee; and (iii) every other default known to the Trustee in the observance or performance of any duty, covenant, obligation, condition or agreement contained in the Bonds or in this Bond Resolution shall have been remedied to the satisfaction of the Trustee; provided, however, that such declaration may be annulled only with the written consent of the Holders of not less than 25% in aggregate principal amount of the Bonds Outstanding and not then due by their terms. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

Upon the occurrence of an Event of Default, the Trustee shall also have the following rights and remedies:

(a) The Trustee may pursue any available remedy at law or in equity or by statute to enforce the payment of the principal of and the interest on the Bonds then Outstanding, including (without limitation) enforcement of any rights of the Authority or the Trustee under the Company Lease Agreement;

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hereunder; provided, however, that such direction shall not be otherwise than in accordance with the provisions of law and of this Bond Resolution.

#### SECTION 9.04. Application of Moneys.

All moneys received by the Trustee pursuant to any right or remedy given or action taken under the provisions of this Article IX upon any acceleration of the due date for the payment of the principal of and the interest on the Bonds in default (including, without limitation, moneys received by virtue of action taken under provisions of the Company Lease Agreement, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee and any other moneys owed to the Trustee in connection with such Bonds hereunder) shall be applied, first, to the payment of the principal and the interest then due and unpaid upon the Bonds in default, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto, without any discrimination or privilege.

Whenever moneys are to be applied pursuant to the provisions of this Section 9.04, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard for the amount of such moneys available for application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date, unless the Trustee shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Holder of any Bond in default until such obligation shall be presented to the Trustee for appropriate endorsement or for cancellation, as the case may be.

#### SECTION 9.05. Remedies Vested in Trustee.

All rights of action (including, without limitation, the right to file proofs of claims) under this Bond Resolution or under any of the Bonds in default may be enforced by the Trustee without possession of any of the Bonds or the production thereof in any trial or other proceeding related thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee for the equal and ratable benefit of the Holders of all the Outstanding Bonds without the necessity of joining as plaintiffs or defendants any Holders of such Bonds.

#### SECTION 9.06. Rights and Remedies of Holders of Bonds.

No Holder of Bonds then Outstanding in default shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of this Bond Resolution or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless (a) an Event of Default shall have occurred, (b) the Holders of not less than 25% in

(b) The Trustee by action or suit in equity may require the Authority to account as if it were the trustee of an express trust for the Holders of Bonds, and may take such action with respect to the Company Lease Agreement as the Trustee deems necessary or appropriate and in the best interests of the Holders of Bonds, subject to the terms of the Company Lease Agreement; and

(c) Upon the filing of a suit or other commencement of judicial proceedings to enforce any rights of the Trustee and of the Holders of Bonds under this Bond Resolution, the Trustee will be entitled as a matter of right to the appointment of a receiver or receivers of the Trust Estate and the issues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

If an Event of Default shall have occurred with respect to any Bonds, and if requested so to do by the Holders of a majority in aggregate principal amount of the Bonds then Outstanding, and upon being indemnified to its reasonable satisfaction therefor, the Trustee shall be obligated to exercise such one or more of the rights, remedies and powers conferred by this Section 9.02 as directed by such Holders of Bonds.

No right or remedy by the terms of this Bond Resolution conferred upon or reserved to the Trustee (or to the Holders of Bonds) is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to the Trustee or to such Holders hereunder or now or hereafter existing at law or in equity or by statute other than pursuant to the Act. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

No waiver of any Event of Default hereunder, whether by the Trustee or by the Holders of any Bonds in default, shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

#### SECTION 9.03. Right of Holders of Bonds to Direct Proceedings.

Anything in this Bond Resolution to the contrary notwithstanding, the Holders of a majority in aggregate principal amount of Bonds in default then Outstanding shall have the right at any time during the continuance of an Event of Default of such Bonds, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Bond Resolution or for the appointment of a receiver or any other proceedings

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aggregate principal amount of the Bonds then Outstanding shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the remedies hereinbefore granted or to institute such action, suit or proceeding in its own name, (c) the Holders shall have offered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request, and (d) the Trustee shall have refused, or for sixty (60) days after receipt of such request and offer of indemnification shall have failed, to exercise the remedies hereinbefore granted or to institute such action, suit or proceeding in its own name, and such request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Bond Resolution and to any action or cause of action for the enforcement of this Bond Resolution or for the appointment of a receiver or for any other remedy hereunder. It is understood and intended that no one or more Holders of Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Bond Resolution by his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal and ratable benefit of the Holders of all Bonds then Outstanding; provided, however, that nothing contained in this Bond Resolution shall affect or impair the right of the Holder of any Bond to enforce the payment of the principal or Redemption Price of and the interest on such Bond at and after the maturity thereof, or the obligation of the Authority to pay the principal or Redemption Price of and the interest on each of the Bonds issued hereunder to the respective Holders thereof, at the time and place, from the source and in the manner expressed in the Bonds and in this Bond Resolution and the Applicable Supplemental Resolution.

#### SECTION 9.07. Termination of Proceedings.

In case the Trustee or a Holder of a Bond in default shall have proceeded to enforce any right under this Bond Resolution by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or such Holder, then and in every such case the Authority, the Trustee and the Holders of Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee and the Holders shall continue as if no such proceedings had been taken.

#### SECTION 9.08. Waivers of Events of Default.

The Trustee may, and upon the written request of the Holders of 50% in aggregate principal amount of all Bonds in default then Outstanding shall, waive any Event of Default that shall have been remedied before the completion of the enforcement of any remedy under this Bond Resolution; but no such waiver shall extend to any subsequent or other Event of Default or impair any rights consequent thereon.

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ARTICLE X

THE FIDUCIARIES

**SECTION 9.09. Notice of Certain Defaults; Opportunity of Authority to Cure Defaults.**

Anything herein to the contrary notwithstanding, no Default under Section 9.01(c) hereof shall constitute an Event of Default until actual notice of such Default shall be given to the Authority, by registered or certified mail, by the Trustee or the Holders of not less than 25% in aggregate principal amount of all Bonds then Outstanding, and the Authority shall not have corrected the Default or caused the Default to be corrected within thirty (30) days following the giving of such notice; provided, however, that if the Default be such that it is correctable but cannot be so corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the Authority within the applicable period and diligently pursued until the Default is corrected.

The Authority hereby grants to the Trustee full authority for the account of the Authority (but the Trustee shall have no obligation) to observe or perform any duty, covenant, obligation or agreement in any alleged Default concerning which notice is given to the Authority under the provisions of this Section 9.09 in the name and stead of the Authority, with full power to do any and all things and acts to the same extent that the Authority could do and to perform any such things and acts and with full power of substitution.

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Fiduciary shall incur any liability in respect thereof. The Trustee shall, however, be responsible for its representation contained in its certificate on the Bonds. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid to the Authority or to any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act that would involve it in expense or liability or to institute or defend any suit in respect thereof or to advance any of its own moneys, unless properly indemnified by the Authority or the Local Unit. Subject to the provisions of subsection (2) of this Section 10.03, no Fiduciary shall be liable in connection with the observance and performance of its duties and obligations hereunder except for its own negligence or willful misconduct.

2. The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default that may have occurred, undertakes to perform such duties and obligations and only such duties and obligations as are specifically set forth in this Bond Resolution. In case an Event of Default has occurred (which has not been cured), the Trustee shall exercise such of the rights and powers invested in it by this Bond Resolution, and use the same degree of care and skill in its exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs. Any provision of this Bond Resolution relating to action taken or to be taken by the Trustee or to evidence upon which the Trustee may conclusively rely shall be subject to the provisions of this Section 10.03.

**SECTION 10.04. Evidence Upon Which Fiduciaries May Act.**

1. Each Fiduciary, upon receipt of any written notice, Supplemental Resolution, written request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it pursuant to any provision of this Bond Resolution, shall examine such instrument to determine whether it conforms to the requirements of this Bond Resolution and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with Counsel, who may or may not be counsel to the Authority, and the opinion of such Counsel shall be full and complete authorization and protection in respect of any action taken or suffered by any Fiduciary under this Bond Resolution in good faith and in accordance therewith.

2. Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Bond Resolution, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate of an Authorized Officer of the Authority, and such Certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Bond Resolution upon the faith thereof.

3. Except as otherwise expressly provided in this Bond Resolution, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof by the Authority to any Fiduciary shall be sufficiently executed in the name of the Authority by an Authorized Officer of the Authority.

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**SECTION 10.01. Appointments, Duties, Immunities and Liabilities of Trustee.**

U.S. Bank National Association, a national banking institution authorized and acting under the laws of the United States of America and further authorized to conduct business in the State, where such bank acts as trustee (the "Trustee"), has been appointed as Trustee hereunder by the Authority. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Bond Resolution, the Company Lease Agreement, the County Guaranty Agreement, and all other Program Documents by executing and delivering to the Authority a written acceptance thereof, and, by executing such acceptance, the Trustee shall be deemed to have accepted such duties and obligations with respect to all the Bonds hereafter to be validly issued, but only, however, upon the terms and conditions set forth in this Bond Resolution and in such other Program Documents.

**SECTION 10.02. Paying Agents; Appointments.**

1. The Trustee is hereby appointed Paying Agent for the Series 2011 Bonds. The Authority shall appoint one or more Paying Agents for the Bonds of each additional Series, and may at any time or from time to time appoint one or more other Paying Agents having the qualifications set forth in Section 10.13 hereof for a successor Paying Agent.

2. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Bond Resolution by executing and delivering to the Authority and to the Trustee a written acceptance thereof.

3. Unless otherwise provided, the principal corporate trust offices of the Paying Agents are designated as the respective offices or agencies of the Authority for the payment of the principal or Redemption Price, if any, of and the interest on the Bonds.

4. The Authority may enter into agreements with any Paying Agent providing for the payment to the Authority of amounts in respect of interest earned on moneys held by such Paying Agent for the payment of principal or Redemption Price, if any, of and the interest on the Bonds. Any such payments to the Authority shall be deposited in the Revenue Fund and applied as Revenues.

**SECTION 10.03. Responsibilities of Fiduciaries.**

1. The recitals of fact contained herein and in the Bonds shall be taken as the statements of the Authority, and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representation as to the validity or sufficiency of this Bond Resolution or of any Bonds issued hereunder or as to the security afforded hereby, and no

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4. Whenever any Fiduciary shall receive any written notice, Supplemental Resolution, written request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it via telecopy pursuant to any provision of this Bond Resolution, the Fiduciary shall accept same; provided, however, that the original of any notice, Supplemental Resolution, request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it pursuant to any provision of this Bond Resolution shall be forwarded to the Fiduciary immediately thereafter.

**SECTION 10.05. Compensation.**

The Authority shall pay each Fiduciary from time to time reasonable compensation for all services rendered under this Bond Resolution, including, without limitation, the services rendered pursuant to Section 12.01 hereof, and also all reasonable expenses incurred in and about the performance of their powers and duties under this Bond Resolution, and each Fiduciary shall have a lien therefor on any and all Funds and Accounts at any time held by it under this Bond Resolution. Subject to the provisions of Section 10.03 hereof, each of the Authority and the Company further agrees to indemnify and save each Fiduciary harmless against any losses, liabilities or expenses (including legal fees) that it may incur in the exercise and performance of its powers, duties and obligations hereunder that are not due to its negligence or willful misconduct, and such indemnity shall survive the payment of the Bonds and the discharge of this Bond Resolution and the resignation or removal of the Trustee.

**SECTION 10.06. Certain Permitted Acts.**

Any Fiduciary may become the Holder of any Bonds with the same rights that it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Bond Resolution, whether or not any such committee shall represent the Holders of a majority in aggregate principal amount of the Bonds then Outstanding.

**SECTION 10.07. Resignation of Trustee.**

The Trustee may at any time resign and be discharged of the duties and obligations created by this Bond Resolution by giving not less than sixty (60) days' written notice to the Authority, and mailing notice thereof to the Holders of the Bonds then Outstanding, specifying the date when such resignation shall take effect, and such resignation shall take effect upon the day specified in such notice unless previously a successor shall have been appointed by the Authority or the Bondholders as provided in Section 10.09 hereof. In which event such resignation shall take effect immediately upon the appointment of such successor, or unless a successor shall not have been appointed by the Authority or the Bondholders as provided in Section 10.09 hereof on that date, in which event such resignation shall not take effect until a successor is appointed.

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#### SECTION 10.08. Removal of Trustee.

The Trustee may be removed at any time by an instrument or concurrent instruments in writing, filed with the Trustee and signed by the Holders of a majority in aggregate principal amount of the Bonds then Outstanding or their attorneys-in-fact duly authorized, excluding any Bonds held by or for the account of the Authority. So long as no Event of Default or any event that, with notice or passage of time or both, would become an Event of Default shall have occurred and be continuing, the Trustee may be removed at any time for just cause (as determined in the sole judgment of the Authority) by a resolution of the Authority filed with the Trustee.

#### SECTION 10.09. Appointment of Successor Trustee.

1. In case at any time the Trustee shall resign, be removed or become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, a successor Trustee may be appointed by the Authority by a duly executed written instrument signed by an Authorized Officer of the Authority. However, if the Authority does not appoint a successor Trustee within forty-five (45) days, the Holders of a majority in aggregate principal amount of the Bonds then Outstanding, excluding any Bonds held by or for the account of the Authority, may appoint a successor Trustee by an instrument or concurrent instruments in writing signed and acknowledged by such Bondholders or their attorneys-in-fact duly authorized and delivered to such successor Trustee, notification thereof being given to the Authority and the predecessor Trustee. After such appointment of a successor Trustee, the Authority shall mail notice of any such appointment made by it or the Bondholders to the Holders of all Bonds then Outstanding.

2. If in a proper case no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section 10.09 within forty-five (45) days after the Trustee shall have given to the Authority written notice as provided in Section 10.07 hereof or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, the Trustee or the Holder of any Bond may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

3. Any Trustee appointed pursuant to the provisions of this Section 10.09 in succession to the Trustee shall be a bank or trust company or national banking association doing business and having its principal office in the City and State of New York or the State and having capital stock and surplus aggregating at least \$50,000,000, if there be such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all of the duties imposed upon it by this Bond Resolution.

#### SECTION 10.10. Transfer of Rights and Property to Successor Trustee.

Any successor Trustee appointed under this Bond Resolution shall execute, acknowledge and deliver to its predecessor Trustee and to the Authority an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all of the moneys, estates, properties, rights, powers, duties and obligations of such predecessor Trustee, with like effect as if originally named as Trustee hereunder, but the Trustee ceasing to act shall nevertheless, on the written request of the Authority or the successor Trustee, execute, acknowledge and deliver such instrument of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all of the right, title and interest of the predecessor Trustee in and to any property held by it under this Bond Resolution, and such predecessor Trustee shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the Authority be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such estates, rights, powers and duties, any and all such deeds, conveyances and instruments in writing shall, on request and so far as may be authorized by law, be executed, acknowledged and delivered by the Authority. Any such successor Trustee shall promptly notify the Paying Agent of its appointment as Trustee.

#### SECTION 10.11. Merger or Consolidation.

Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or substantially all of its corporate trust business, provided such company (i) shall be a bank or trust company organized under the laws of any state of the United States of America or a national banking association and (ii) shall be authorized by law to perform all of the duties imposed upon it by this Bond Resolution, shall be the successor to such Fiduciary without the execution or filing of any paper or the performance of any further act.

#### SECTION 10.12. Adoption of Authentication.

In case any of the Bonds contemplated to be issued under this Bond Resolution shall have been authenticated but not delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee so authenticating such Bonds and deliver such Bonds so authenticated; and in case any of the said Bonds shall not have been authenticated, any successor Trustee may authenticate such Bonds in the name of the predecessor Trustee or in the name of the successor Trustee, and in all such cases such certificate of authentication shall have the same force and effect that it is anywhere in said Bonds or in this Bond Resolution.

#### SECTION 10.13. Resignation or Removal of Paying Agent; Appointment of Successor.

1. Any Paying Agent may at any time resign and be discharged of the duties and obligations created by this Bond Resolution by giving at least sixty (60) days' written notice to the Authority, the Trustee and the other Paying Agents. Any Paying Agent may be removed at any time by an instrument filed with such Paying Agent and the Trustee and signed by an Authorized Officer of the Authority. Any successor Paying Agent shall be appointed by the Authority with the approval of the Trustee, and shall be a bank or trust company organized under the laws of any state of the United States of America or a national banking association and having capital stock and surplus aggregating at least \$20,000,000, and be willing and able to accept the office on reasonable and customary terms and authorized by law to perform all of the duties imposed upon it by this Bond Resolution.

2. In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent to its successor or, if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Paying Agent, the Trustee shall act as such Paying Agent.

### ARTICLE XI AMENDMENTS

#### SECTION 11.01. Supplemental Resolutions Effective Upon Filing With Trustee.

For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution of the Authority may be adopted, which, upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority, shall be fully effective in accordance with its terms:

1. To close this Bond Resolution against, or provide limitations and restrictions contained in this Bond Resolution on, the authentication and delivery of Bonds;
2. To add to the duties, covenants, obligations and agreements of the Authority in this Bond Resolution, other duties, covenants, obligations and agreements to be observed and performed by the Authority that are not contrary to or inconsistent with this Bond Resolution as theretofore in effect;
3. To add to the limitations and restrictions in this Bond Resolution, other limitations and restrictions to be observed by the Authority that are not contrary to or inconsistent with this Bond Resolution as theretofore in effect;
4. To authorize Bonds of a Series and, in connection therewith, to specify and determine the matters and things referred to in Article II hereof and any other matters and things relative to such Bonds, including whether to issue Bonds in book-entry form, that are not contrary to or inconsistent with this Bond Resolution as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination contained in Article II hereof at any time prior to the first authentication and delivery of such Series of Bonds;
5. To confirm, as further assurance, any security interest, pledge or assignment under this Bond Resolution and the subjection of the Revenues or of any other moneys, securities or funds to any security interest, pledge or assignment created or to be created by this Bond Resolution;
6. To modify any of the provisions of this Bond Resolution in any other respect whatsoever; provided, however, that (i) such modification shall be, and be expressed to be, effective only after all Bonds of each Series Outstanding at the date of adoption of such Supplemental Resolution shall cease to be Outstanding, and (ii) such Supplemental Resolution shall be specifically referred to in the text of all Bonds of any Series authenticated and delivered after the date of the adoption of such Supplemental Resolution and of Bonds issued in exchange therefor or in place thereof;

7. To modify any of the provisions of this Bond Resolution in any respect provided that the modifications affect only Bonds issued subsequent to the date of such modifications;

8. To comply with the provisions of any federal or state securities law, including, without limitation, the Trust Indenture Act of 1939, as amended, or to comply with Section 103 of the Code, as amended, replaced or substituted, with respect to any Series of Additional Bonds constituting Tax-exempt Bonds;

9. To modify any provision of this Bond Resolution relating to the County Security Fund and the County Security Fund Requirement, including without limitation Section 5.07 hereof and Exhibit B hereto; provided, however, the County Security Fund Requirement shall not be increased without having received the consent of the Company with respect thereto;

10. To implement one or more replacement Local Unit Facilities and Projects for the Series 2011 Local Units, all in accordance with the provisions of Section 4.6 of the Power Purchase Agreement; or

Any Rating Agency rating the Series 2011 Bonds must receive notice of each Supplemental Resolution and a copy thereof at least fifteen (15) days in advance of its execution or adoption.

#### SECTION 11.02. Supplemental Resolutions Effective Upon Consent of Trustee.

For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution may be adopted, which, upon (i) the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority, and (ii) the filing with the Authority of an instrument in writing made by the Trustee consenting thereto, shall be fully effective in accordance with its terms:

1. To cure any ambiguity, supply any omission or cure or correct any defect or inconsistent provision in this Bond Resolution;

2. To insert such provisions clarifying matters or questions arising under this Bond Resolution as are necessary or desirable and are not contrary to or inconsistent with this Bond Resolution as theretofore in effect; or

3. To make any other modification or amendment of this Bond Resolution that will not have a material adverse effect on the interests of Bondholders.

In making any determination under this Section 11.02, the Trustee may conclusively rely upon an opinion of Counsel.

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#### SECTION 11.03. Supplemental Resolutions Effective With Consent of Bondholders.

At any time or from time to time, a Supplemental Resolution may be adopted subject to consent by the Bondholders in accordance with and subject to the provisions of Sections 11.06 and 11.07 hereof, which Supplemental Resolution, upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority and upon compliance with the provisions of Sections 11.06 and 11.07 hereof, shall become fully effective in accordance with its terms as provided in Section 11.07 hereof; provided, however, any Supplemental Resolution that, by its terms, only affects one or more Series of Bonds may be adopted subject solely to the consent of the Holders of such Series of Bonds so affected.

#### SECTION 11.04. General Provisions.

1. This Bond Resolution shall not be modified or amended in any respect except by a Supplemental Resolution as provided in, in accordance with and subject to the provisions of this Article XI. Nothing contained in this Article XI shall affect or limit the right or obligation of the Authority to adopt, make, do, execute, acknowledge or deliver any resolution, act or other instrument pursuant to the provisions of this Bond Resolution or the right or obligation of the Authority to execute and deliver to any Trustee any instrument that it is elsewhere provided in this Bond Resolution shall be delivered to said Trustee.

2. Any Supplemental Resolution referred to in and permitted or authorized by Section 11.01 or 11.02 hereof may be adopted by the Authority without the consent of any Bondholder, but shall become effective only on the conditions, to the extent and at the times provided in Section 11.01 or 11.02, respectively. Every Supplemental Resolution filed with the Trustee shall be accompanied by an opinion of Counsel stating that such Supplemental Resolution has been duly and lawfully adopted by the Authority in accordance with the terms and provisions of this Bond Resolution, is authorized or permitted by this Bond Resolution, and is valid and binding upon the Authority in accordance with its terms.

3. The Trustee is hereby authorized to accept the delivery of a certified copy of any Supplemental Resolution referred to in and permitted or authorized by Section 11.01, 11.02 or 11.03 hereof and to make all further agreements and stipulations that may be therein contained, and the Trustee, in taking such action, shall be fully protected in relying upon an opinion of Counsel that such Supplemental Resolution is authorized or permitted by the terms and provisions of this Bond Resolution.

4. No Supplemental Resolution shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto.

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#### SECTION 11.05. Mailing.

Any provision in this Article XI for the mailing of a notice or other paper to Holders of Bonds shall be fully complied with if it is mailed, postage prepaid only, to each Registered Owner of Bonds then Outstanding at his address, if any, appearing upon the registry books of the Authority.

#### SECTION 11.06. Powers of Amendment by Supplemental Resolution.

Unless otherwise permitted under Section 11.01 or 11.02 hereof, any modification or amendment of this Bond Resolution and of the rights and obligations of the Authority and the Holders of Bonds hereunder, in any particular, may be made only by a Supplemental Resolution with the written consent (i) of the Holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds Outstanding at the time such consent is given, (ii) in case less than all of the several Series of Bonds then Outstanding are affected by the modification or amendment, of the Holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds of each Series so affected and Outstanding at the time such consent is given, and (iii) in case the modification or amendment changes the terms of any Sinking Fund Installment, of the Holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds of the particular Series and maturity entitled to such Sinking Fund Installment and Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding, the consent of the Holders of such Bonds shall not be required, and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section 11.06. No such modification or amendment shall (i) permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such obligation, (ii) reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or (iii) change or modify any of the rights or obligations of any Trustee without its written assent thereto. For the purposes of this Section 11.06, a Series shall be deemed to be affected by a modification or amendment of this Bond Resolution if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series. The Trustee may, in its discretion, determine whether or not, in accordance with the foregoing powers of amendment, Bonds of any particular Series or maturity would be affected by any modification or amendment of this Bond Resolution, and any such determination shall be binding and conclusive upon the Authority and all Holders of Bonds. For purposes of this Section 11.06, the Holders of any Bonds may include the initial Holders thereof, regardless of whether or not such Bonds are being held for resale.

#### SECTION 11.07. Consent of Bondholders.

The Authority may at any time adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of Section 11.06 hereof to take effect when and as

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provided in this Section 11.07. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto in form approved by the Trustee), together with a request to Holders of Bonds for their consent thereto in form satisfactory to the Trustee, shall be mailed by the Authority to Holders of Bonds (but failure to mail such copy and request shall not affect the validity of the Supplemental Resolution when consented to as in this Section 11.07 provided). Such Supplemental Resolution shall not be effective unless and until there shall have been filed with the Trustee (a) the written consent of the Holders of the percentages of Outstanding Bonds specified in Section 11.06 hereof and (b) an opinion of Counsel stating that such Supplemental Resolution has been duly and lawfully adopted and filed by the Authority in accordance with the terms and provisions of this Bond Resolution, is authorized or permitted by this Bond Resolution, and is valid and binding upon the Authority in accordance with its terms. It shall not be necessary that the consents of the Holders of Bonds approve the particular form of wording of the proposed modification or amendment or of the proposed Supplemental Resolution effecting such modification or amendment, but it shall be sufficient if such consents approve the substance of the proposed amendment or modification. Each such consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 12.02 hereof. A certificate or certificates executed by the Trustee and filed with the Authority stating that the Trustee has examined such proof and that such proof is sufficient in accordance with Section 12.02 hereof shall be conclusive evidence that the consents have been given by the Holders of the Bonds described in such certificate or certificates. Any such consent shall be binding upon the Holder of the Bonds giving such consent and, anything in Section 12.02 hereof to the contrary notwithstanding, upon any subsequent Holder of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Holder has notice thereof), unless such consent is revoked in writing by the Holder of such Bonds giving such consent or by a subsequent Holder thereof by filing with the Trustee, prior to the time when the written statement of the Trustee is filed (as hereinafter provided for in this Section 11.07), such revocation and proof that such Bonds are held by the signer of such revocation in the manner permitted by Section 12.02 hereof. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Authority to the effect that no revocation thereof is on file with the Trustee.

At any time after the Holders of the required percentages of Bonds shall have filed their consents to the Supplemental Resolution as hereinabove provided, the Trustee shall make and file with the Authority a written statement that the Holders of such required percentages of such Bonds have filed such consents. Such written statements shall be conclusive that such consents have been so filed. At any time thereafter, notice stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Authority on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of Bonds and will become effective as provided in this Section 11.07 may be given to Bondholders by the Authority by mailing such notice to Bondholders (but failure to mail such notice shall not prevent such Supplemental Resolution from becoming effective and binding as in this Section 11.07 provided). The Authority shall file with the Trustee proof of the mailing thereof. A record, consisting of the certificates or statements

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required or permitted by this Section 11.07 to be made by the Trustee, shall be proof of the matters therein stated. Such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the Authority, the Fiduciaries and the Holders of all Bonds at the expiration of forty (40) days after the filing with the Trustee of proof of the mailings of such last-mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Resolution in a legal action or equitable proceeding for such purpose commenced within such forty (40) day period; provided, however, that the Authority and any Fiduciary during such forty (40) day period and any such further period during which any such action or proceeding may be pending shall be entitled in its absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Resolution as it may deem expedient.

#### SECTION 11.08. Modifications or Amendments by Unanimous Consent.

The terms and provisions of this Bond Resolution and the rights and obligations of the Authority and of the Holders of Bonds hereunder may be modified or amended in any respect upon the adoption and filing by the Authority of a Supplemental Resolution and the consent of the Holders of all Bonds then Outstanding, such consent to be given as provided in Section 11.07 hereof, except that no notice to Holders of Bonds either by mail or publication shall be required; provided, however, that no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary without the filing with the Trustee of the written assent thereto of such Fiduciary in addition to the consent of the Holders of Bonds.

#### SECTION 11.09. Exclusion of Bonds.

Bonds owned or held by or for the account of the Authority shall not be deemed Outstanding for the purpose of consent or other action or for any calculation of Outstanding Bonds provided for in this Article XI, and the Authority shall not be entitled with respect to such Bonds to give any consent or to take any other action provided for in this Article XI. At the time of any consent or other action taken under this Article XI, the Authority shall furnish the Trustee a Certificate of an Authorized Officer of the Authority, upon which the Trustee may conclusively rely, describing all Bonds to be so excluded.

#### SECTION 11.10. Notation on Bonds.

Bonds authenticated and delivered after the effective date of any Supplemental Resolution adopted pursuant to this Article XI may, and, if the Authority so determines, shall, bear a notation by endorsement or otherwise in form approved by the Authority as to any modification or amendment provided for in such Supplemental Resolution, and, in that case, upon demand of the Holder of any Bond then Outstanding and upon presentation of any Bond for such purpose at the Principal Office of the Trustee, a suitable notation shall be made on such Bond. If the Authority shall so determine, new Bonds so modified as to conform, in the opinion of the Authority, to any modification or amendment contained in such Supplemental Resolution shall be prepared, authenticated and delivered and, upon demand of the Holder of any Bond then

Outstanding, shall be exchanged upon surrender of such Bonds, without cost to such Holder, for Bonds of the same Series, principal amount, maturity and interest rate then Outstanding. Any action taken as provided in Article X hereof or in this Article XI shall be effective and binding upon all Holders of Bonds notwithstanding that the notation is not endorsed on all Bonds.

#### SECTION 11.11. Effect of Supplemental Resolutions.

Upon the effective date of any Supplemental Resolution, this Bond Resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, covenants, obligations and agreements under this Bond Resolution of the Authority, the Trustee and all Holders of Bonds then Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all of the terms and conditions of any such Supplemental Resolution shall be deemed to be part of the terms and conditions of this Bond Resolution for any and all purposes.

#### SECTION 11.12. Notice of Amendments.

Promptly after the adoption by the Authority of any Supplemental Resolution, the Trustee shall mail a notice, setting forth in general terms the substance of such amendment or modification, to the Holders of any Series of Bonds so affected thereby, and to the other Renewable Energy Program Interested Parties. However, any failure to give such notice, or any defect therein, shall not in any way impair or affect the validity of any such Supplemental Resolution.

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## ARTICLE XII

### DEFEASANCE

#### SECTION 12.01. Defeasance of Bonds.

1. If the Authority shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Bonds of any Series the principal or Redemption Price, if applicable, thereof and the interest due or to become due thereon at the times and in the manner stipulated therein and in this Bond Resolution, then the pledge of the Trust Estate and all duties, covenants, agreements and other obligations of the Authority to the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall cause an accounting for such period or periods as shall be requested by the Authority to be prepared and filed with the Authority, and, upon the request of the Authority, shall execute and deliver to the Authority all such instruments as may be desirable to evidence such discharge and satisfaction, and the Trustee shall pay over or deliver to the Authority, or, to the extent provided for in Section 5.07 the County Security Fund to the Company, all moneys or securities held by it pursuant to this Bond Resolution that are not required for the payment of the principal or Redemption Price, if applicable, of and the interest due or to become due on the Bonds of any Series not theretofore surrendered for such payment or redemption. If the Authority shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of any Outstanding Bonds of any Series the principal or Redemption Price, if applicable, thereof and the interest due or to become due thereon at the times and in the manner stipulated therein and in this Bond Resolution, such Bonds shall cease to be entitled to any lien, benefit or security under this Bond Resolution, and all duties, covenants, agreements and other obligations of the Authority to the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. Notwithstanding any other provision in this Article XII, all duties, covenants, agreements and other obligations of the Authority to the Holders of Bonds relating to the exclusion of interest from gross income of the Holders thereof for federal income tax purposes shall survive the defeasance of the Bonds.

2. Bonds or interest installments for the payment or redemption of which moneys shall have been set aside and held in trust by the Paying Agent (through deposit by the Authority of funds for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in subsection (1) of this Section 12.01. Subject to the provisions of subsections (3), (4) and (5) of this Section 12.01, Outstanding Bonds of any Series or Outstanding Bonds of any maturity within any Series shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect expressed in subsection (1) of this Section 12.01 if (a) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Authority shall have given to the Trustee instructions in writing accepted by the Trustee to mail notice of redemption of such Bonds (other than Bonds of a Series that have been purchased by the Trustee at the written direction of the Authority or purchased or otherwise acquired by the Authority and delivered to the Trustee as hereinafter provided prior to the mailing of such notice

of redemption) on said date, (b) there shall have been deposited with the Trustee either moneys in an amount that shall be sufficient or Investment Securities (including any Investment Securities issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) the principal of and the interest on which, when due, will provide moneys that, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest due and to become due on such Series of Bonds on or prior to the redemption date or maturity date thereof, as the case may be, and (c) in the event such Series of Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Authority shall have given the Trustee, in form satisfactory to it, instructions to mail, as soon as practicable, a notice to the Holders of such Bonds at their last addresses appearing upon the registry books at the close of business on the last Business Day of the month preceding the month for which notice is mailed that the deposit required by clause (b) above has been made with the Trustee and that such Series of Bonds are deemed to have been paid in accordance with this Section 12.01 and stating such maturity or redemption date upon which moneys are expected, subject to the provisions of subsection (5) of this Section 12.01, to be available for the payment of the principal or Redemption Price, if applicable, of and the interest due and to become due on such Series of Bonds (other than Bonds that have been purchased by the Trustee at the written direction of the Authority or purchased or otherwise acquired by the Authority and delivered to the Trustee as hereinafter provided prior to the mailing of the notice of redemption referred to in clause (a) hereof). Any notice of redemption mailed pursuant to the preceding sentence with respect to any Series of Bonds, which notice relates to a redemption contemplating less than all of the Outstanding Bonds of any maturity within a Series being redeemed, shall specify the letter and number or other distinguishing mark of each such Bond to be so redeemed. The Trustee shall, as and to the extent necessary, apply moneys held by it pursuant to this Section 12.01 to the retirement of said Bonds in amounts equal to the unsatisfied balances of any Sinking Fund Installments with respect to such Bonds, all in the manner provided in this Bond Resolution.

The Trustee shall, if so directed in writing by the Authority (i) prior to the maturity date of Bonds deemed to have been paid in accordance with this Section 12.01 that are not to be redeemed prior to their maturity or (ii) prior to the mailing of the notice of redemption referred to in clause (a) above with respect to any Bonds deemed to have been paid in accordance with this Section 12.01 that are to be redeemed on any date prior to their maturity, apply moneys deposited with the Trustee with respect to such Bonds and redeem or sell Investment Securities so deposited with the Trustee and apply the proceeds thereof to the purchase of such Bonds, and the Trustee shall immediately thereafter cancel all such Bonds so purchased; provided, however, that the moneys and Investment Securities remaining on deposit with the Trustee after the purchase and cancellation of such Bonds shall be sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest due or to become due on all Bonds with respect to which such moneys and Investment Securities are being held by the Trustee on or prior to the redemption date or maturity date thereof, as the case may be. If, at any time (i) prior to the maturity date of Bonds deemed to have been paid in accordance with this Section 12.01 that are not to be redeemed prior to their maturity or (ii) prior to the mailing of the notice of redemption referred to in clause (a) above with respect to any Bonds deemed to have been paid

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in accordance with this Section 12.01 that are to be redeemed on any date prior to their maturity, the Authority shall purchase or otherwise acquire any such Bonds and deliver such Bonds to the Trustee prior to their maturity date or redemption date, as the case may be, the Trustee shall immediately cancel all such Bonds so delivered; such delivery of Bonds to the Trustee shall be accompanied by directions from the Authority to the Trustee as to the manner in which such Bonds are to be applied against the obligation of the Trustee to pay or redeem Bonds deemed paid in accordance with this Section 12.01. The directions given by the Authority to the Trustee referred to in the preceding sentence shall also specify (i) the portion, if any, of such Bonds so purchased or delivered and canceled to be applied against the obligation of the Trustee to pay Bonds deemed paid in accordance with this Section 12.01 upon their maturity date or dates and (ii) the portion, if any, of such Bonds so purchased or delivered and canceled to be applied against the obligation of the Trustee to redeem Bonds deemed paid in accordance with this Section 12.01 on any date or dates prior to their maturity. In the event that on any date, as a result of any purchases, acquisitions and cancellations of Bonds as provided in this Section 12.01, the total amount of moneys and Investment Securities remaining on deposit with the Trustee under this Section 12.01 is in excess of the total amount that would have been required to be deposited with the Trustee on such date with respect to the remaining Bonds of such Series in order to satisfy clause (b) of this subsection (2) of Section 12.01, the Trustee shall, if requested by the Authority, pay the amount of such excess to the Authority free and clear of any trust, lien, security interest, pledge or assignment securing said Bonds or otherwise existing under this Bond Resolution. Except as otherwise provided in this subsection (2) and in subsections (3), (4) and (5) of this Section 12.01, neither moneys nor Investment Securities deposited with the Trustee pursuant to this Section 12.01 nor principal or interest payments on any such Investment Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal or Redemption Price, if applicable, of and the interest on said Bonds; provided, however, that any cash received from such principal or interest payments on such Investment Securities deposited with the Trustee, (A) to the extent such cash will not be required at any time for such purpose, shall be paid over to the Authority, as received by the Trustee, free and clear of any trust, lien or pledge securing said Bonds or otherwise existing under this Bond Resolution, and (B) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in Investment Securities maturing at times and in amounts sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest to become due on said Bonds on or prior to the redemption date or maturity date thereof, as the case may be, and any interest earned from such reinvestments shall be paid over to the Authority, as received by the Trustee, free and clear of any trust, lien, security interest, pledge or assignment securing said Bonds or otherwise existing under this Bond Resolution.

For the purposes of this Section 12.01, Investment Securities shall mean and include only (y) such securities as are described in clause (i) of the definition of "Investment Securities" in Section 1.01 hereof and that are not subject to redemption prior to their maturity other than at the option of the issuer thereof, or (z) upon compliance with the provisions of subsection (3) of this Section 12.01, such securities as are described in clause (j) of the definition of "Investment Securities" and that are subject to redemption prior to their maturity at the option of the issuer

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newly established redemption dates, the moneys and Investment Securities on deposit with the Trustee (including any Investment Securities deposited with the Trustee in connection with any reinvestment of redemption proceeds in accordance with subsection (4) of this Section 12.01) pursuant to clause (b) of subsection (2) of this Section 12.01 would be sufficient to pay, when due, the principal and Redemption Price, if applicable, of and the interest on all Bonds deemed to have been paid in accordance with subsection (2) of this Section 12.01.

6. Anything in this Bond Resolution to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the payment and discharge of any Bonds that remain unclaimed after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the fiduciaries at such date, or after the date of deposit of such moneys if deposited with the fiduciaries after the said date when such Bonds became due and payable, shall, be applied, when and as provided in the Uniform Unclaimed Property Act, *N.J.S.A. 46:30B-1 et seq.*, and the fiduciary shall thereupon be released and discharged with respect thereto and the Bondholders shall have such rights as are provided in said Uniform Unclaimed Property Act.

#### SECTION 12.02. Evidence of Signatures and Ownership of Bonds.

1. Any request, consent, revocation of consent or other instrument that this Bond Resolution or any Supplemental Resolution may require or permit to be signed and executed by the Holders of Bonds of any Series may be in one or more instruments of similar tenor, and shall be signed or executed by such Holders of Bonds in person or by their attorneys duly appointed in writing. Proof of the execution of any such instrument, or of any instrument appointing any such attorney, shall be sufficient for any purpose of this Bond Resolution or any Supplemental Resolution (except as otherwise expressly provided therein) if made in the following manner, or in any other manner satisfactory to the Trustee, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable. The fact and date of the execution of such instruments by any Holder of any Bond or his attorney may be proved by a guarantee of the signature thereon by a bank or trust company or at the discretion of the Trustee, by a certificate of any notary public or other officer authorized to take acknowledgments of deeds that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or by a member of a partnership on behalf of such corporation, association or partnership, such signature guarantee, certificate or affidavit shall also constitute sufficient proof of his authority.

2. The ownership of Bonds and the amount, numbers, other identification and date of holding the same shall be proved by the registry books maintained by the Authority and kept by the Trustee.

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thereof on a specified date or dates. In the event of an advance refunding, the Authority shall cause to be delivered a verification report of an Independent Public Accountant.

3. Investment Securities described in clause (z) of subsection (2) of this Section 12.01 may be included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01 if and only if, in making the determination as to whether the moneys and Investment Securities to be deposited with the Trustee would be sufficient to pay, when due, the principal or Redemption Price, if applicable, of and the interest due and to become due on the Bonds that will be deemed to have been paid as provided in subsection (2) of this Section 12.01, such determination is made both (i) on the assumption that the Investment Securities described in said clause (z) were not redeemed at the option of the issuer thereof prior to their maturity date and (ii) on the assumption that such Investment Securities were redeemed by the issuer thereof at its option on each date on which such option could be exercised, that as of such date or dates interest ceased to accrue on such Investment Securities, and that the proceeds of such redemption were not reinvested by the Trustee.

4. In the event that, after compliance with the provisions of subsection (3) of this Section 12.01, the Investment Securities described in clause (z) of subsection (2) of this Section 12.01 are included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01 and any such Investment Securities are actually redeemed by the issuer thereof prior to their maturity date, then the Trustee, at the written direction of the Authority, shall reinvest the proceeds of such redemption in Investment Securities; provided, however, that the aggregate of the moneys and Investment Securities to be held by the Trustee, taking into account any changes in redemption dates or instructions to give notice of redemption given to the Trustee by the Authority in accordance with subsection (5) of this Section 12.01, shall at all times be sufficient to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01.

5. In the event that, after compliance with the provisions of subsection (3) of this Section 12.01, the Investment Securities described in clause (z) of subsection (2) of this Section 12.01 are included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection (2) of this Section 12.01, then any notice of redemption to be mailed by the Trustee and any set of instructions relating to a notice of redemption given to the Trustee may provide, at the option of the Authority, that (i) any redemption date or dates with respect to all or any portion of the Bonds to be redeemed on such date or dates may, at the option of the Authority, be changed to any other permissible redemption date or dates, and (ii) redemption dates may be established for any Bonds deemed to have been paid in accordance with this Section 12.01 upon their maturity date or dates at any time prior to the actual mailing of any applicable notice of redemption in the event that all or any portion of any Investment Securities described in clause (z) of subsection (2) of this Section 12.01 have been called for redemption pursuant to an irrevocable notice of redemption or have been redeemed by the issuer thereof prior to their maturity date. No such change of redemption dates or establishment of redemption dates may be made unless, taking into account such changed redemption dates or

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3. Any request or consent by the Holder of any Bond shall be binding on all future Owners of such Bond with respect to anything done or suffered to be done by the Authority or any Trustee in accordance therewith.

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**SECTION 12.03. Moneys Held for Particular Bonds.**

The amounts held by any Fiduciary for the payment of the interest, principal or Redemption Price due on any date with respect to particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Holders of the Bonds entitled thereto.

**ARTICLE XIII**

**MISCELLANEOUS**

**SECTION 13.01. Liability of Authority Limited to Trust Estate.**

Notwithstanding anything to the contrary contained in this Bond Resolution or in the Bonds, the Authority shall not be required to advance any moneys derived from any source other than the Trust Estate for any of the purposes in this Bond Resolution, whether for the payment of the principal or Redemption Price, if any, of or the interest on the Bonds or for any other purpose hereof. Nevertheless, the Authority may, but shall not be required to, advance for any of the purposes hereof any funds of the Authority that may be made available to it for such purposes.

**SECTION 13.02. Successor Is Deemed Included in All References to Predecessor.**

Whenever in this Bond Resolution either the Authority or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all of the duties, covenants, obligations and agreements contained in this Bond Resolution by or on behalf of the Authority or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof, whether so expressed or not.

**SECTION 13.03. Limitation of Rights to Parties.**

Nothing expressed or implied in this Bond Resolution or in the Bonds is intended or shall be construed to give to any person, other than the Authority, the Trustee, the Paying Agent and the Holders of Bonds, any legal or equitable right, remedy or claim under or with respect to this Bond Resolution or any duty, covenant, obligation, agreement, condition or provision herein or therein contained; and all of such duties, covenants, obligations, agreements, conditions and provisions are and shall be for the sole and exclusive benefit of the Authority, the Trustee, the Paying Agent and the Holders of Bonds.

**SECTION 13.04. Waiver of Notice.**

Whenever in this Bond Resolution the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice, and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

**SECTION 13.05. Destruction of Bonds.**

Whenever in this Bond Resolution provision is made for the cancellation of any Bonds by the Trustee and the delivery thereof to the Authority, unless otherwise requested in writing by the Authority, in lieu of such cancellation and delivery, the Trustee shall destroy such Bonds (in

the presence of an officer of the Authority, if the Authority shall so require) and deliver a certificate of such destruction to the Authority.

**SECTION 13.06. Severability of Invalid Provisions.**

If any one or more of the provisions contained in this Bond Resolution shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained herein, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Bond Resolution shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. The Authority hereby declares that it would have entered into this Bond Resolution and each and every section, paragraph, sentence, clause or phrase hereof, and authorized the issuance of the Bonds pursuant hereto, irrespective of the fact that any one or more of the sections, paragraphs, sentences, clauses or phrases of this Bond Resolution may be held illegal, invalid or unenforceable.

**SECTION 13.07. Notices.**

1. Any notices, certificates or other communications required or permitted to be given herein shall be in writing (unless otherwise specifically required or permitted herein) and shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Authority, the County, the County of Morris, the Company, the Series 2011 Local Units, the Trustee, the Paying Agent and the Rating Agency at the addresses set forth below:

- (a) Authority: Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: Chairman
- With a copy to: Stephen B. Peariman, Esq.  
Inglesino, Peariman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, NJ 07054
- (b) County: County of Sussex, New Jersey  
One Spring Street  
Newton, NJ 07860  
Attention: County Administrator
- (b) Morris County: County of Morris, New Jersey  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: County Administrator

- (c) Company: Sunlight General Sussex Solar, LLC  
Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email: principals@sunlightgeneral.com
- With a copy to: James F. Duffy, Esq.  
Nixon Peabody, LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com
- (d) Series 2011 Local Units: See Exhibit A-4 to the Company Lease Agreement
- (e) County Security Provider: None
- (f) Trustee and Paying Agent: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960
- With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: nconcilio@mdmc-law.com
- (g) Rating Agency: Moody's Investor Service  
99 Church Street  
New York, New York 10007-2796

The Authority, the County, the Company, the Series 2011 Local Units, the County Security Provider, the Trustee, the Paying Agent and the Rating Agency may designate any further or different address to which subsequent notices and communications shall be sent by giving notice thereof to the other parties hereto.

2. Whenever any provision hereof requires that notice be sent to the Authority or the Series 2011 Local Unit or the Company, a copy of such notice shall also be sent to the County at the address set forth in Section 13.07(1)(b) hereof.

**SECTION 13.08. Disqualified Bonds.**

In determining whether the Holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Bond Resolution, Bonds that are owned or held by or for the account of the Authority, the Company, or any other primary or secondary obligor on the Company Lease Agreement, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority, the Company or any other primary or secondary obligor on the Company Lease Agreement, shall be disregarded and deemed not to be Outstanding for the purpose of any such determination. Bonds so owned that have been pledged in good faith may be regarded as Outstanding for the purpose of this Section 13.08 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority, the Company or any other primary or secondary obligor on the Company Lease Agreement. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of Counsel shall be full protection to the Trustee.

**SECTION 13.09. Funds and Accounts.**

Any Fund, Account or subaccount required by this Bond Resolution to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee either as a fund, an account or a subaccount, and, for the purposes of such records, any audits thereof and any reports or statements with respect thereto may be treated either as a fund, an account or a subaccount; but all such records with respect to all such Funds, Accounts or subaccounts shall at all times be maintained in accordance with generally accepted accounting principles to the extent practicable.

**SECTION 13.10. Waiver of Personal Liability.**

No member, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the principal or Redemption Price, if any, of or the interest on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof, all such liability, if any, being expressly waived and released by each Holder of Bonds by the acceptance of such Bonds, but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by this Bond Resolution or by law.

**SECTION 13.11. Authority Protected in Acting in Good Faith.**

In the exercise of the powers of the Authority and its members, officers, agents and employees under this Bond Resolution, the Company Lease Agreement or any other document executed in connection with the Bonds, the Authority shall not be accountable to the Company, the Trustee, the Paying Agent, any Bondholder or any other Renewable Energy Program

Interested Party for any action taken or omitted in good faith by it or its members, officers, agents and employees and believed by it or them to be authorized or within the discretion or rights or powers conferred thereon.

**SECTION 13.12. Business Days.**

Except as otherwise specifically provided in this Bond Resolution, if any date specified herein for the payment of any Bond or the performance of any act shall not be a Business Day at the place of payment or performance, such payment or performance shall be made on the next succeeding Business Day with the same effect as if made on such date, and in case any payment of the principal or Redemption Price, if any, of or the interest on any Bond shall be due on a date that is not a Business Day, interest on such principal amount shall cease to accrue on the date on which such payment was due if such payment is made on the immediately succeeding Business Day.

**ARTICLE XIV**

**BOND FORM AND EFFECTIVE DATE**

**SECTION 14.01. Form of Bonds, Trustee's Certificate of Authentication and County Guaranty Certificate.**

Subject to the provisions of this Bond Resolution, the form of the Series 2011 Bonds and any other Series of Bonds designated by Supplemental Resolution, with any appropriate changes as set forth in any such Supplemental Resolution, the Trustee's certificate of authentication and the County Guaranty Certificate, shall be in substantially the following form:

[FORM OF BOND]

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF MORRIS

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED

RENEWABLE ENERGY PROGRAM LEASE REVENUE [BONDS, SERIES 2011A]  
[NOTE, SERIES 2011B]

No. R[A/B]: \_\_\_ CUSIP: [ \_\_\_ ]

Interest Rate	Maturity Date	Dated Date	Authentication Date
%	June 15, 20__	December 14, 2011	December 14, 2011

Registered Owner: CEDE & CO.

Principal Sum: [ \_\_\_ ] DOLLARS (\$[ \_\_\_ ])

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Act"), acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner stated hereon or its registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged therefor, upon presentation and surrender of this bond at the principal corporate trust office of U.S. Bank National Association (such bank and any successors thereto being herein called the "Trustee" and "Paying Agent"), the Principal Sum stated hereon in any coin or currency of the United States of America that at the time of such payment is legal tender for the payment of public and private debts, and to pay from such pledged funds on [June 15 and December 15 in each year, commencing June 15, 2013] [January 15, 2013], until the Authority's obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date stated hereon on such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However, so long as the Series [2011A Bonds] [2011B Note] as hereinafter defined) are held in book-entry form pursuant to the Bond Resolution (as hereinafter defined),

the provisions of the Bond Resolution governing such book-entry form shall govern the repayment of the principal or Redemption Price of and the interest on the Series [2011A Bonds] [2011B Note].

This bond is one of a duly authorized Series of Bonds of the Authority designated "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Bonds, Series 2011A] [Note, Series 2011B]" (herein called the "Series [2011A Bonds] [2011B Note]"), in the aggregate principal amount of [\$26,715,000/\$985,000 (not exceeding \$50,000,000 in the aggregate)] issued under and in full compliance with the Constitution and statutes of the State of New Jersey, including the Act, and under and pursuant to a resolution of the Authority authorizing the Series 2011 Bonds (as hereinafter defined) adopted on September 28, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of the Morris County Improvement Authority", as amended by a Certificate of an Authorized Officer of the Authority dated December 14, 2011, executed in connection with Section 2.02(1)(c) of said resolution (together with any further amendments thereof or supplements thereto, the "Bond Resolution"). [Simultaneously herewith, on December 14, 2011, the Authority issued its "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A" in the aggregate principal amount of [\$ \_\_\_\_\_] (the "Series 2011A Bonds") and together with the Series 2011B Note, the "Series 2011 Bonds"]. Simultaneously herewith, on December 14, 2011, the Authority issued its "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B" in the aggregate principal amount of [\$ \_\_\_\_\_] (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Series 2011 Bonds").]

All capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Bond Resolution.

As provided in the Bond Resolution, the Series 2011 Bonds, and all other bonds issued on a parity with the Series 2011 Bonds under the Bond Resolution (herein collectively called the "Bonds"), are special and limited obligations of the Authority payable solely from, and secured as to the payment of the principal or Redemption Price thereof and the interest thereon in accordance with their terms and the provisions of the Bond Resolution solely by, the Trust Estate, subject only to the provisions of the Bond Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Bond Resolution.

The Trust Estate under the Bond Resolution includes (i) certain of the Authority's right, title and interest in and to that certain Company Lease Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of December 15, 2011 (the "Company Lease Agreement") by and between the Authority and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), including, without limitation, the Basic Lease Payments and certain Additional Lease Payments earmarked for the Purchase Option Price or the Mandatory Purchase Price (collectively the "Lease Payments") by the Company as defined in and contemplated by the Company Lease Agreement, (ii) with respect to the payment of the

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the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of the calculation of Outstanding Bonds. No such modification or amendment shall permit a change in the terms of redemption (including Sinking Fund Installments) or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of the Trustee or of the Paying Agent without its written assent thereto.

This bond is transferable, as provided in the Bond Resolution, only upon the books of the Authority kept for that purpose at the above-mentioned office of the Trustee, as bond registrar, by the Registered Owner hereof in person or such Registered Owner's duly authorized attorney in writing, upon surrender of this bond together with a written instrument of transfer satisfactory to the Trustee, as bond registrar, duly executed by the Registered Owner or such Registered Owner's duly authorized attorney, and thereupon a new fully registered bond or bonds in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Bond Resolution and upon payment of the charges therein prescribed. The Authority, the Trustee and the Paying Agent may deem and treat the Registered Owner as the absolute Owner hereof for the purpose of receiving payment of, or on account of, the principal or Redemption Price hereof and the interest due hereon and for all other purposes.

[The Series 2011A Bonds maturing on or before June 15, 2021 shall not be subject to redemption prior to their respective maturity dates. The Series 2011A Bonds maturing on and after June 15, 2022 shall be subject to optional redemption by the Authority prior to their respective maturity dates, on or after June 15, 2021, upon notice as herein described, either in whole or in part at any time in any order of maturity as the Authority shall determine and within a single maturity by lot, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.] [The Series 2011B Note shall not be subject to optional redemption prior to its stated maturity.]

[The Series 2011A Bonds maturing on June 15, 2027 are subject to mandatory redemption prior to their stated maturities, through selection by the Trustee and upon the giving of notice as provided by the Bond Resolution, by payment of the following "Sinking Fund Installments" on June 15 of each year set forth in the table below, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

Date	Principal Amount
June 15, 2022	\$1,845,000
June 15, 2023	1,845,000

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principal of and the interest on the Series 2011 Bonds only, payments made by the County under its guaranty ordinance finally adopted on August 17, 2011, as amended and supplemented, all in accordance with Section 37 of the Act (N.J.S.A. 40:37A-80) and other applicable law, the guaranty certificate executed by an Authorized Officer of the County on the face of each Series 2011 Bond, and that certain County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of December 1, 2011 (the "County Guaranty Agreement") between the Authority and the County (collectively, the "County Guaranty"), and (iii) all other Funds and Accounts established under the Bond Resolution (other than the Administrative Fund, and the County Security Fund), including Investment Securities held in any such Fund thereunder, together with all of the proceeds and revenues of the foregoing, and (iv) all other moneys, securities or funds pledged for the payment of the principal or Redemption Price of and the interest on the Series 2011 Bonds in accordance with the terms and provisions of the Bond Resolution.

Copies of the Bond Resolution are on file at the office of the Authority and at the above-mentioned office of the Trustee, and reference is hereby made to the Act and to the Bond Resolution (including any and all supplements thereto and modifications and amendments thereof) for a description of the pledge, assignment and covenants securing the Bonds, the nature, extent and manner of enforcement of such pledge, the rights and remedies of the Bondholders with respect thereto, the terms and conditions upon which the Bonds are issued and may be issued thereunder, the terms and provisions upon which this bond shall cease to be entitled to any lien, benefit or security thereunder and for the other terms and provisions thereof. All duties, covenants, agreements and obligations of the Authority under the Bond Resolution may be discharged and satisfied at or prior to the maturity or redemption of this bond if moneys or certain specified securities shall have been deposited with the Trustee.

As provided in the Bond Resolution, Bonds may be issued from time to time pursuant to Supplemental Resolutions in one or more Series in various principal amounts, may mature at different times, may bear interest at different rates and may otherwise vary as in the Bond Resolution provided. The aggregate principal amount of Bonds that may be issued under the Bond Resolution is not limited, and all Bonds issued and to be issued under the Bond Resolution are and will be equally secured by the pledge and covenants made therein, except as otherwise expressly provided or permitted in the Bond Resolution.

To the extent and in the manner permitted by the terms of the Bond Resolution, the provisions of the Bond Resolution (including any resolution amendatory thereof or supplemental thereto) may be modified or amended by the Authority, (i) without the consent of the Bondholders as provided in the Bond Resolution or (ii) with the written consent of the Holders of at least two-thirds (2/3) in aggregate principal amount of the Bonds Outstanding under the Bond Resolution at the time such consent is given, and, in case less than all of the several Series of Bonds then Outstanding are affected thereby, with such consent of at least two-thirds (2/3) in aggregate principal amount of the Bonds of each Series so affected and Outstanding; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding under the Bond Resolution,

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June 15, 2024	1,845,000
June 15, 2025	1,845,000
June 15, 2026	1,845,000
June 15, 2027 <sup>†</sup>	1,845,000

† Final Maturity.

The Bond Resolution contains additional provisions regarding certain other rights to redemption of one or more Series of the Series 2011 Bonds prior to their stated maturities thereof.

The Series 2011 Bonds are payable upon redemption at the above-mentioned office of the Paying Agent. Notice of redemption, setting forth the place of payment, shall be mailed by the Trustee, postage prepaid, not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date, to the Registered Owners of any Series 2011 Bonds or portions thereof to be redeemed at their last addresses, if any, appearing upon the registry books, all in the manner and upon the terms and conditions set forth in the Bond Resolution. If notice of redemption shall have been mailed as aforesaid, the Series 2011 Bonds or portions thereof specified in said notice shall become due and payable on the redemption date therein fixed, and if, on the redemption date, moneys for the redemption of all of the Series 2011 Bonds or portions thereof to be redeemed, together with interest to the redemption date, shall be available for such payment on said date, then from and after the redemption date interest on such Series 2011 Bonds or portions thereof so called for redemption shall cease to accrue and be payable. Failure of the Registered Owner of any Series 2011 Bonds to be redeemed to receive any such notice shall not affect the validity of the proceedings for the redemption of Series 2011 Bonds.

The principal or Redemption Price of and the interest on the Series 2011 Bonds are payable by the Authority solely from the Trust Estate, and neither the State of New Jersey, the County (except to the extent of payments under the County Guaranty, which shall not secure the payment of any redemption premium), the Series 2011 Local Units, nor any political subdivision thereof, other than the Authority (but solely to the extent of the Trust Estate), is obligated to pay the principal or Redemption Price of or the interest on this bond and the issue of which it is one, and neither the full faith and credit nor the taxing power of the State of New Jersey, the Series 2011 Local Units, the County (except to the extent of the payments under the County Guaranty, which guaranty shall not secure the payment of any redemption premium) or any political subdivision thereof, including the Authority (which has no taxing power), is pledged to the payment of the principal or Redemption Price of or the interest on this bond and the issue of which it is one.

It is hereby certified and recited that all conditions, acts and things required by law and the Bond Resolution to exist, to have happened and to have been performed precedent to and in the issuance of this bond, exist, have happened and have been performed, and that the Series of

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Bonds of which this is one, together with all other indebtedness of the Authority, complies in all respects with the applicable laws of the State of New Jersey, including, particularly, the Act.

This bond shall not be entitled to any benefit under the Bond Resolution or be valid or become obligatory for any purpose until this bond shall have been authenticated by the execution by the Trustee of the Trustee's Certificate of Authentication hereon.

IN WITNESS WHEREOF, THE MORRIS COUNTY IMPROVEMENT AUTHORITY has caused this bond to be executed in its name and on its behalf by the manual or facsimile signature of its Chairman or Vice Chairman, and its seal to be impressed, imprinted, engraved or otherwise reproduced hereon and attested by the manual or facsimile signature of its Secretary or Assistant Secretary, all as of the Dated Date hereof.

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

By: \_\_\_\_\_  
Chairman or Vice Chairman

[SEAL]

Attest:

\_\_\_\_\_  
Secretary or Assistant Secretary

[FORM OF CERTIFICATE OF AUTHENTICATION ON BONDS]

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the Series [2011A Bonds] [2011B Note] delivered pursuant to the within-mentioned Bond Resolution.

U.S. Bank National Association,  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

[FORM OF COUNTY GUARANTY CERTIFICATE]

GUARANTY OF THE COUNTY OF SUSSEX, NEW JERSEY

The payment of the principal of and the interest on this Series [2011A Bond] [2011B Note] shall be fully, irrevocably and unconditionally guaranteed by the County of Sussex, New Jersey (the "County"), in accordance with the provisions of N.J.S.A. 40:37A-80, the guaranty ordinance of the County finally adopted pursuant thereto, and that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 15, 2011, between the County and The Morris County Improvement Authority, and accordingly, the County is fully, irrevocably and unconditionally liable for the payment, when due (whether at stated maturity or earlier on any date of redemption or acceleration), of the principal of and the interest on this Series [2011A Bond] [2011B Note], and, if necessary, the County shall levy *ad valorem* taxes upon all the taxable property within the County, without limitation as to rate or amount, in order to make such payments.

IN WITNESS WHEREOF, the County has caused this Guaranty Certificate to be executed by the manual or facsimile signature of its Freeholder-Director.

COUNTY OF SUSSEX,  
NEW JERSEY

By: \_\_\_\_\_  
Freeholder - Director

The following abbreviations, when used in the inscription on this bond, shall be construed as though they were written out in full according to applicable laws or regulations (additional abbreviations may also be used though not in the following list):

TEN COM - as tenants in common	UNIF GIFT MIN ACT
TEN ENT - as tenants by the entireties	____ Custodian _____
JT TEN - as joint tenants with right of survivorship and not as tenants in common	(Cust) (Minor) under Uniform Gifts to Minors Act (State)

**ASSIGNMENT**

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE (FOR COMPUTER RECORD ONLY): \_\_\_\_\_

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto  
(Please Print or Typewrite Name and Address of Transferee)

\_\_\_\_\_ the within bond, and all rights thereunder and hereby irrevocably constitutes and appoints

\_\_\_\_\_, Attorney, to transfer the within bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated:

Signature Guaranty:

Signature:

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank, trust company, national bank association or other banking institution incorporated under the laws of the United States or a state of the United States.

NOTICE: The signature of this Assignment must correspond with the name that appears upon the first page of the within bond in every particular, without alteration or enlargement or any change whatever.

**MOVED/SECONDED:**

Resolution moved by Commissioner \_\_\_\_\_

Resolution seconded by Commissioner \_\_\_\_\_

**VOTE:**

Commissioner	Yes	No	Abstain	Absent
Pinto				
Ramirez				
Roe				
Sandman				
Boragni				

**ATTESTATION:**

This Resolution was acted upon at the Regular Meeting of the Authority held on September 28, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

Attested to this 28<sup>th</sup> day of September, 2011

By: \_\_\_\_\_

Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of September 28, 2011

By: \_\_\_\_\_  
Stephen B. Pearlman, Esq., Partner  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Counsel to the Authority

**SECTION 14.02. Effective Date.**

This Bond Resolution shall take effect immediately. Notwithstanding the prior sentence, in accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Board of Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Board of Freeholders a certification from the Clerk stating that the minutes of this meeting have not been vetoed by the Director of the Board of Freeholders.

**EXHIBIT A**

**FORM OF PROGRAM DOCUMENTS**

**EXHIBIT B**

**County Security Fund Requirement**

\$1,500,000 which shall remain on deposit in the County Security Fund until the earlier of (i) the final maturity of all Outstanding Bonds, (ii) until such funds shall be applied to the payment of all Outstanding Bonds in accordance with Section 5.06 or Section 5.07 of the Bond Resolution, or (iii) the date such funds are drawn or otherwise transferred or applied in accordance with the provisions of Section 5.06 or Section 5.07 of the Bond Resolution.

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**POWER PURCHASE AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)**

By and Between

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

and

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

Dated as of December 1, 2011

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

**EXHIBIT C**

**RESTORATION SECURITY FUND REQUIREMENT**

Date Funded	Amount to be funded	Restoration Security Fund Amount on Deposit, after Funding, Less Interest Earned
Eleventh (11 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$75,000
Twelfth (12 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$150,000
Thirteenth (13 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$225,000
Fourteenth (14 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$300,000
Fifteenth (15 <sup>th</sup> ) anniversary of the first Commencement Date under the Power Purchase Agreement	\$75,000	\$375,000

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**POWER PURCHASE AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)**

THIS "POWER PURCHASE AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "Power Purchase Agreement"), dated as of December 1, 2011, is made by and among the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of the County of Morris (the "County of Morris", State of New Jersey ("State") as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act") and other applicable law, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a limited liability company organized and existing under the laws of the State (including any successors and assigns, the "Company" or "Service Provider").

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of

another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "Shared Services Act"), and other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birdall Services Group and Gabel Associates, its energy consulting, and consulting firms, Birdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants", if any, and together with the Authority Consultants, the "Consultants"); to the extent Sussex County determines not to hire any Sussex County Consultants, the references to the term Consultants herein shall be deemed to mean the Authority Consultants to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the

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WHEREAS, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred in connection with design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the Series 2011 Project);

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with

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Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of roofing systems, if any (the "Capital Improvement Projects" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offset at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "Series 2011A Bonds") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note", and together with the Series 2011A Bonds, "Series 2011 Bonds"), by the same sale method as the Series 2011A Bonds;

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(i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, Contracting for Renewable Energy Services, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (Public Utility Energy Efficiency and Renewable Energy Cost Savings Guidelines), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, Contracting for Renewable Energy Services: Update on Power Purchase Agreements, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "Company RFP") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "Company Proposal") submitted with respect to Sunlight General Sussex Solar, LLC (the "Company"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (i) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (ii) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for such Series 2011 Local Units, and (iii) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts

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promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter

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Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

WHEREAS, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in-kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "EPC Contractor"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated [December \_\_, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "EPC Contract") between the Company and the EPC Contractor with respect to such Renewable Energy Projects] and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "In-Kind Equity Contribution") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "Equity Contribution"), (ii) a cash reserve in the amount of \$1,500,000 (the "County Reserve") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty;

WHEREAS, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above (i) reduce the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

WHEREAS, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County

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defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

WHEREAS, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company

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Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Security repayments, (i) the County Guaranty Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

WHEREAS, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c2-12") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement") and together with the Company Continuing Disclosure Agreement, along with the "Continuing Disclosure Agreements", the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents" with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing

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Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i) the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement"); and (ii) the execution and delivery of a bond purchase agreement (the "Bond Purchase Agreement"); with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions referenced and exchanged herein, the sufficiency and receipt of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

## ARTICLE I

### DEFINITIONS

#### Section 1.1 Definitions.

(a) The terms set forth in this Section shall have the meanings ascribed to them for all purposes of this Power Purchase Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires.

(b) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

Act  
Authority  
Board of Education Series 2011 Local Units  
Board of Freeholders  
Bond Purchase Agreement  
Bond Resolution  
Bonds  
BPU  
Capital Improvement Projects\*  
Cash Equity Contribution  
Company  
Company Continuing Disclosure Agreement  
Company Documents  
Company Lease Agreement  
Company Pledge Agreement  
Company Proposal  
Company RFP  
County  
County Continuing Disclosure Agreement  
County Guaranty  
County Guaranty Agreement  
County Reserve  
County Security  
County Security Agreement  
County Security Provider  
County Service Agreement  
County Series 2011 Local Units  
Dissemination Agent  
Equity Contribution  
EPC Contract  
EPC Contractor

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Initial Tranche  
In-Kind Equity Contribution  
Local Units  
Local Unit Facilities\*  
Local Unit License  
Local Unit License Agreement  
Local Unit License Agreements  
Municipal Series 2011 Local Units  
Official Statement  
Power Purchase Agreement  
Preliminary Official Statement  
Preliminary Program Costs  
Program Documents  
Projects\*  
Renewable Energy Program  
Renewable Energy Projects\*  
Rule 15c2-12  
Sale Documents  
Second Tranche  
Section 1603 Grant  
Series 2011 Bonds  
Series 2011A Bonds  
Series 2011B Note  
Series 2011 Local Unit\*  
Series 2011 Local Units  
Shared Services Act  
SRECs  
State  
Underwriter

(c) The following defined terms shall, for all purposes of this Power Purchase Agreement, have the meanings as set forth in the Company Lease Agreement:

Acceptance Certificates  
Administrative Fee  
Applicable  
CIP Acceptance Certificates  
Construction Manager  
County Security  
County Security Agreement  
County Security Provider  
Development Contract  
Interconnection Agreement  
Paying Agent  
Plans and Specifications

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Principal Office  
Renewable Energy Program Interested Party  
REP Acceptance Certificates  
Restoration Security Fund  
Restoration Security Fund Requirement  
Trustee

(d) The following defined terms shall, for all purposes of this Power Purchase Agreement, have the following meanings:

"Applicable Law" means all applicable provisions of any constitution, statute, law ordinance, code, rule, regulation, decision, order, decree, judgment, release, license, permit, stipulation or other official pronouncement enacted, promulgated or issued by any Governmental Authority.

"Business Day" shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or the Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

"Commencement Date" shall have the meaning set forth in Section 3.5 of this Power Purchase Agreement.

"Completion Conditions" shall have the meaning set forth in Section 3.6(a) of this Power Purchase Agreement.

"Construction and Interconnection Phase" shall have the meaning set forth in Section 3.2 of this Power Purchase Agreement.

"Construction Performance Bond" shall mean that construction performance bond provided by or on behalf of the Company securing, in part, the Company's obligations under this Power Purchase Agreement to complete the Projects, in the form set forth in Exhibit G to this Power Purchase Agreement.

"Customer" shall mean individually or collectively, as the case may be, the Series 2011 Local Units that are receiving or have contracted to receive Electricity under the combination of this Power Purchase Agreement and the Local Unit License Agreements, including Section 5.1(c)(i) thereof, which Series 2011 Local Units shall be entitled to the rights and obligated to perform the duties and obligations of Customer hereunder, both as a third-party beneficiary and third-party obligor of this Power Purchase Agreement.

"Designated Representative" shall have the meaning set forth in Section 3.3 of this Power Purchase Agreement.

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"Effective Date" shall have the meaning set forth in Section 3.1(a) of this Power Purchase Agreement.

"Electricity" shall mean that alternating current electricity which is produced by the Renewable Energy Projects at the respective Local Unit Facilities as the result of the conversion of solar energy into electricity pursuant to the terms of this Power Purchase Agreement and pursuant to the Plans and Specifications;

"Event of Default" shall have the various meanings, as applicable, set forth in Article IX of this Power Purchase Agreement.

"Fair Market Value" shall mean the price at which an asset would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell, and both having reasonable knowledge of relevant facts, and which price shall be established by one or more third party appraisals from firms experienced in the valuation of assets similar to those comprising the Renewable Energy Projects, as contemplated by Section 3.7(b) of this Power Purchase Agreement.

"Force Majeure" shall mean any event which is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party or its affiliates, including, but not limited to and without limitation, (a) strikes or other labor disputes (other than strikes or labor disputes solely by employees or contractors of the Parties to this Power Purchase Agreement as a result of such Party's failure to comply with a collective bargaining agreement), (b) adverse weather conditions, breakdown or failure of the utility transmission or distribution system not caused by the Service Provider and (c) other acts of nature, riot or civil unrest. The term Force Majeure does not include (i) any acts or omissions of any third party, including, without limitation, any vendor, customer, or supplier of the Service Provider, unless such acts or omissions are themselves excused by reason of Force Majeure; (ii) any full or partial curtailment in the electric output of the Renewable Energy Projects that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear, unless such mishap is caused by Force Majeure; (iii) changes in market conditions that affect the cost of the Service Provider's supplies, or that affect demand or price for any of the Service Provider's products, including, but not limited to the price of electricity, SRECs or other environmental attributes; or (iv) any action that constitutes negligence or gross negligence by the Party claiming a Force Majeure event.

"Governmental Authority" means any federal, state or local legislative, executive, judicial, quasi-judicial or other public authority, agency, department, bureau, division, unit, court, tribunal, or other public body, person or entity having jurisdiction over a Party, the Renewable Energy Projects or this Company Lease Agreement.

"Initial Basic Lease Payment Date" shall mean the first Basic Lease Payment Date.

"Initial Term" shall have the meaning set forth in Section 3.1(a) of this Power Purchase Agreement.

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## ARTICLE II CONDITIONS

### Section 2.1 Conditions Precedent for Service Provider.

The obligations of Service Provider under this Power Purchase Agreement are expressly conditioned on and subject to the satisfaction, or waiver by Service Provider, of the following conditions precedent:

(a) The execution and delivery by the Customer of any license, easement, or other real property interests in or contract rights to use the Customer's real property that Customer is obligated to deliver hereunder prior to the scheduled commencement of construction of the Projects. The Parties acknowledge that such condition precedent shall be satisfied by the authorization, execution and delivery of the Local Unit License Agreements by each Customer and the Authority contemporaneously herewith, which Local Unit License Agreements, among other things, by their respective terms (including Section 3.1(a) thereof) provide authority for the Company (and their subcontractors, consultants, agents or other designees) to access the Local Unit Facilities of Customer for the purpose of (i) designing, permitting, acquiring, constructing, installing, operating and maintaining the Renewable Energy Projects and (ii) designing, permitting, acquiring, constructing, renovating and installing the Capital Improvement Projects, if any.

### Section 2.2 Conditions Precedent for Authority.

The obligations of the Authority hereunder, assumed by the respective Customers under the Local Unit License Agreements (including Section 5.11 thereof) to accept deliveries of Electricity derived from the Renewable Energy Projects and make service payments hereunder to the Service Provider, are expressly conditioned on and subject to the satisfaction or waiver of the following conditions precedent:

(a) The receipt by or on behalf of the Authority of the County Security, County Security Agreement, if any, the Company Lease Agreement and the other Program Documents.

### Section 2.3 Conditions Precedent for all Parties.

The respective obligations of Service Provider, the Authority and the Customer with respect to the Projects related to any Customer are each expressly conditioned on and subject to the receipt, prior to the commencement of construction of such Projects, of (a) any policies of insurance that the Service Provider is required to maintain hereunder and under the Company Lease Agreement and (b) the receipt by Service Provider of all required State and local regulatory permits, consents and approvals, including without limitation the New Jersey Department of Education to (i) design, permit, acquire, construct and install the Renewable Energy Projects in accordance with the Plans and Specifications and the technical specifications of Appendix C to the Company RFP attached as a portion of Exhibit A-1 to the Company Lease Agreement, such that the RFP Acceptance Certificates required under the Company Lease Agreement can be obtained prior to the Required Completion Date, and (ii) design, permit, acquire, construct, renovate and install the Capital Improvement

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"Meter" shall mean that metering system or systems owned or controlled by Service Provider that accurately measures the amount of solar energy that is converted into Electricity by the Renewable Energy Projects and delivered to each Customer pursuant to this Power Purchase Agreement.

"Parties" or "Party" shall mean, individually or collectively, as the case may be, the Authority, the Service Provider, and the Series 2011 Local Units, as third-party beneficiaries and obligors under this Power Purchase Agreement.

"Point of Delivery" shall mean that physical point, which is identified in the Plans and Specifications, at which Service Provider shall deliver Electricity to each Customer's Applicable Local Unit Facility pursuant to this Power Purchase Agreement, it being understood that Service Provider shall be responsible for all operating, maintenance and repair costs associated with the delivery of Electricity from the Renewable Energy Projects to and including the Point of Delivery, and that Customer shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery to Customer's operating site at or in its Local Unit Facility.

"PPA Price" shall have the meaning set forth in Section 6.2 of this Power Purchase Agreement.

"Required Completion Date" shall have the meaning set forth in Section 3.6(a) of this Power Purchase Agreement, as such date may be extended in accordance with the terms of this Power Purchase Agreement.

"SREC" shall mean a New Jersey Solar Renewable Energy Certificate available as a result of the operation of the Renewable Energy Projects.

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Projects, if any, in accordance with the Plans and Specifications and the attached technical specifications of the Company RFP such that the CIP Acceptance Certificates required under the Company Lease Agreement can be obtained prior to the Required Completion Date.

### Section 2.4 Non-Satisfaction of Conditions.

(a) Notwithstanding the Service Provider's commercially reasonable efforts to satisfy the conditions precedent in Section 2.3, in the event that the conditions precedent in Section 2.3 are not satisfied by December 14, 2012 (or earlier or later with the written consent of the Parties, which waiver in time shall be granted if Service Provider can demonstrate continued progress in satisfying any such conditions), the Parties agree to act in good faith to secure a replacement Project in accordance with the relevant provisions of Section 4.6 hereof.

(b) In the event that the conditions precedent set forth in this Article II are not satisfied, after the provisions of Section 4.6 hereof have been pursued and both Parties agree in writing that such provisions do not provide a solution to the issues preventing the satisfaction of such conditions, unless Service Provider, or the Authority, on behalf of the Customers, shall elect to waive such conditions precedent, then Service Provider or the Authority may terminate this Power Purchase Agreement with respect to such Projects without further liability effective upon five (5) days advance written notice to the other Party, in which event neither Party shall have any further rights or obligations hereunder.

### Section 2.5 Inapplicable Terms.

Notwithstanding anything to the contrary contained in this Power Purchase Agreement, the Parties hereto acknowledge and agree that (a) the Service Provider is not responsible for the construction of any Capital Improvement Projects under the Program Documents and any references herein to Capital Improvement Projects, CIP Acceptance Certificates or any other term defined by reference to Capital Improvement Projects (without limiting the application of any such term to the extent not related to Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the County Reserve no later than the Initial Basic Lease Payment Date, shall be the Company for purposes of the Program Documents.

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ARTICLE III

COMMENCEMENT DATES, REQUIRED COMPLETION DATE, AND INITIAL TERM

Section 3.1 Commencement and Length of Initial Term.

(a) This Power Purchase Agreement shall become effective and legally binding upon the Parties (including their permitted successors and assigns) and be enforceable in accordance with its terms, upon the execution and delivery hereof by the Authority, the Company and each Customer (the "Effective Date"), and shall remain in full force and effect, (i) with respect to the Authority and the Service Provider, until the end of the fifteenth (15<sup>th</sup>) annual anniversary of the final Commencement Date of all Customers, as set forth in subsection (b) below, and (ii) with respect to each respective Customer, until the end of the applicable period for such Customer set forth in subsection (b) below (as applicable, the "Initial Term").

(b) Unless otherwise terminated as provided herein, this Power Purchase Agreement shall remain in full force and effect, for each Customer, for a period of time (i) beginning on the respective Commencement Dates for each such Customer as established in accordance with Section 3.5 below and (ii) ending on the fifteenth (15<sup>th</sup>) annual anniversary of each such Commencement Date.

Section 3.2 The Construction and Interconnection Phase.

The period commencing on the Effective Date and continuing until the earlier occurrence of either (a) the respective Commencement Dates for each Customer or (b) a termination of this Power Purchase Agreement as to the Project(s) relative to each such Customer in accordance with Section 2.4 herein shall be hereinafter referred to as the "Construction and Interconnection Phase" for each such Customer. During this phase, the Service Provider shall use commercially reasonable efforts to complete (but in any event shall complete by December 14, 2012, unless extended, per Project, by Force Majeure or Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement), for each such Customer, the construction, start-up and testing of their respective Renewable Energy Projects and the interconnection of their Renewable Energy Projects to their applicable Local Unit Facility, all to permit the transfer of Electricity on or before the applicable Required Completion Date. Note that pursuant to the Company Lease Agreement, the applicable Interconnection Agreement must be in place prior to the issuance of the Acceptance Certificates, which are a prerequisite to the Commencement Dates for each Customer. The Service Provider further agrees to commence construction of the first Renewable Energy Projects by June 15, 2012 and all of the Renewable Energy Projects for each Customer no later than December 14, 2012, unless extended, per Project, by Force Majeure or Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement or cure period which absent a cure would lead to a Series 2011 Local Unit Event of Default. Service Provider agrees to the maximum extent practicable that it shall not interfere with the Customer's use of the Local Unit Facility during the Construction and Interconnection Phase.

employees, agents, and workers of the contractors and subcontractors who will be present at the site for purposes of checking all identities against the Megans law registry.

Section 3.5. Commencement Dates and PPA Price.

(a) Each Customer shall have its own Commencement Date (which may or may not be the same date as that for one or more other Customers) determined as set forth in subsection (b) below. As there are \_\_\_\_\_ ( ) Municipal Series 2011 Local Units, \_\_\_\_\_ ( ) Board of Education Series 2011 Local Units, and \_\_\_\_\_ ( ) County Series 2011 Local Units, except as set forth in subsection (c) below, there shall be \_\_\_\_\_ ( ) Commencement Dates for purposes of this Power Purchase Agreement and the Local Unit License Agreements.

(b) Except as the Authority, in its sole discretion, may determine in accordance with subsection (c) below, the "Commencement Date" for each Customer shall be the date on which the Company shall have filed with the Trustee both the REP Acceptance Certificate and the CIP Acceptance Certificate, if any, with respect to all of the Local Unit Facilities for such Customer (see Exhibit A hereto for a list of Customers and their Local Unit Facilities), certifying that all of the Renewable Energy Projects and Capital Improvement Projects, if any, for such Customer have been completed and accepted.

(c) Notwithstanding subsection (b) above, the Authority may, in its sole discretion, determine to establish an earlier Commencement Date for one or more Customers, by written notification of same to the Company, the Trustee, and the affected Customer, but only with respect to the completed Renewable Energy Projects and Capital Improvement Projects for the Local Unit Facilities of such Customer (otherwise eligible for the issuance of Acceptance Certificates, were it not for the following), and only in the event the Authority determines that the Acceptance Certificates (which require completion of all such Projects for a Customer under subsection (b) above) are being unduly delayed for some reason not within the control of the Company.

(i) Nothing in this subsection (c) shall waive the requirement to ultimately receive such Acceptance Certificates for other purposes of the Renewable Energy Program.

(ii) Should the Authority act to establish an earlier Commencement Date for one or more Renewable Energy Projects for a Customer (as opposed to when all Renewable Energy Projects for such Customer shall have received Acceptance Certificates under subsection (b) above) in accordance with this subsection (c), there shall be more than one Commencement Date for such Customer, and the terms and provisions in this Power Purchase Agreement relating to Commencement Dates shall be applied separately, as applicable, for such one or more Renewable Energy Projects of such Customer.

(d) Upon the earlier to occur of (i) the completion of the construction and start-up of each Renewable Energy Project for any Customer and the interconnection thereof to the

Section 3.3 Designated Representatives.

(a) To insure a smooth and orderly coordination of activities during the Construction and Interconnection Phase, the Authority, the Service Provider and each Customer shall appoint a designated representative of such Party (each a "Designated Representative") who or which shall be authorized and directed by its principal to meet with the Designated Representative of the other Parties and shall have full power and authority, to the greatest extent practicable in light of Applicable Law governing the actions of the Authority and Customer, to bind its principal with respect to all construction matters relating to the Projects, and all operational matters relating to the Renewable Energy Projects.

(b) As soon as practicable following the Effective Date, the Designated Representatives shall hold, at a mutually acceptable time and location, an initial Project meeting, at which time the Designated Representatives shall prepare jointly, based on the best information available to Customer and Service Provider (and if applicable, the Authority) at such time, a preliminary schedule for completing the construction of the Projects, and the interconnection, testing and start-up of the Renewable Energy Projects. After the initial Project meeting, the Designated Representatives shall meet periodically, but no less frequently than once every two (2) weeks, at such times and locations as they may mutually agree or as may be requested by one of the Parties for the purposes of coordinating all relevant construction matters with respect to the Projects, and all relevant operational matters with respect to the Renewable Energy Projects, and achieving a timely completion of all Project work and all testing of the Renewable Energy Projects.

(c) The Authority hereby appoints the Construction Manager designated by it under the Company Lease Agreement as its Designated Representative. The Service Provider shall submit its proposed Designated Representative to each Customer. Each Customer shall have five (5) Business Days to either approve or reject Service Provider's proposed Designated Representative; provided however, that its approval shall not be unreasonably withheld, and any failure to respond within the five (5) Business Days specified shall be deemed to be a conclusive approval of Service Provider's proposed Designated Representative.

Section 3.4 Cooperation.

The Authority and each Customer agree to reasonably cooperate and assist Service Provider to the fullest extent practicable, at Service Provider's cost, to perform any and all actions within their respective control that Service Provider may reasonably request in connection with (a) the design, permitting, acquisition, construction, installation, interconnection, start-up, and testing of the Renewable Energy Projects, and (b) the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, if any, including, without limitation, the granting of any required rights of access to Service Provider and its contractors in accordance with the terms of the Local Unit License Agreements, the timely execution and return of any required consent of the Authority and/or such Customers, the execution and delivery of any Interconnection Agreement, and the participation as and when required of the Authority's and/or Customers' employees and representatives, including the Construction Manager, in the performance of any test in respect of the Renewable Energy Projects. The Service Provider must provide the names of all

applicable Local Unit Facility for such Customer, or (ii) the applicable Commencement Date for such Customer, then:

- (A) The full Electricity production capability of such completed Renewable Energy Project for such Customer shall be exclusively dedicated to such Customer for the applicable Initial Term and any extensions thereto;
- (B) Service Provider shall operate and maintain the Renewable Energy Projects for such Customer through the Initial Term and any extensions thereof;
- (C) Service Provider shall commence the delivery of all Electricity produced from such Renewable Energy Projects to such Customer; and
- (D) Upon receipt of such Electricity, such Customer shall pay the PPA Price in the amount and manner as set forth in subsection (e) below, in Section 6.4 hereof, and Exhibit B attached hereto.

(e) (i) When Service Provider commences deliveries of Electricity to such Customer in accordance with subsection (d) above, either prior to or on the applicable Commencement Date for such Customer, such Customer shall pay for such deliveries, at the initial PPA Price specified in Exhibit B, Section 1 attached hereto, without escalation. Therefore, the escalation to the first year PPA Price specified in Exhibit B, Section 1 attached hereto shall not be made until the first annual anniversary of the Commencement Date for such Customer. The escalation (as specified in Exhibit B, Section 2 attached hereto) for amounts payable in any following year shall be made on each succeeding anniversary after such Commencement Date, for such succeeding year. Escalation adjustments (as specified in Exhibit B, Section 2 attached hereto) shall be made on each such anniversary date through the end of the Initial Term and any extension thereto for such Customer. As so adjusted for each subsequent year beyond the first annual anniversary of the Commencement Date, each such escalated amount (as specified in Exhibit B attached hereto) shall be the PPA Price payable for such year.

(ii) Notwithstanding anything to the contrary herein or in any other Program Document, the PPA Price set forth in Exhibit B, Section 1 attached hereto, shall be promptly adjusted (without any further authorization or other action required by any Renewable Energy Program Interested Party, but with notice of such change to be promptly provided by the Authority to the Company (and any other County Security Provider, if any), the County, the Series 2011 Local Units, and the Trustee) to reflect any change in the County Security Fund Requirement in accordance with the terms of the definition thereof as set forth in the Bond Resolution.

(f) The obligations of Customers under this Power Purchase Agreement, including those to take and pay for Electricity with respect to their applicable Local Unit Facilities, shall be several, and not joint. The Authority shall have no obligation with respect to such take and pay obligations other than to obligate the Series 2011 Local Units, as Customers, to take and pay for such Electricity in accordance with the terms hereof, including this Section 3.5, and other than to enforce such obligations, all as set forth in the Local Unit License Agreements, including Section 5.11 thereof.

**Section 3.6. Required Completion Date; Liquidated Completion Damages.**

(a) Unless excused by reason of Force Majeure, fault of Customer due to its default under the Local Unit License Agreement, or otherwise as may be expressly provided herein, Service Provider hereby covenants to satisfy the following conditions (the "Completion Conditions") no later than December 15, 2012 (the "Required Completion Date"):

(i) Service Provider shall, in such order and timeframe as Service Provider shall determine, as shall be communicated by Service Provider to the Authority and Customer in accordance with Section 3.3 hereof, complete, in accordance with the Plans and Specifications for Projects prepared by or on behalf of Service Provider and approved by the applicable Customer (all in accordance with Section 501 of the Company Lease Agreement), which Customer approval shall be promptly provided to Service Provider and not withheld unreasonably, which Plans and Specifications shall incorporate, as necessary, desirable or convenient, the technical specifications of the Company RFP, and any further applicable requirements of (A) Exhibits C and D to this Power Purchase Agreement, (B) Exhibit A-2 to the Company Lease Agreement and (C) Exhibit C to the Local Unit License Agreements:

(Y) The design, permitting, acquisition, construction, installation, interconnection, start-up, and testing of all of the Renewable Energy Projects for all Customers on their Local Unit Facilities (see Exhibit A attached hereto); and

(Z) The design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, if any, for all applicable Customers on their Local Unit Facilities (see Exhibit A attached hereto);

(ii) Service Provider shall obtain all of the Acceptance Certificates relating to all Customers on all of the Local Unit Facilities; and

(iii) Service Provider shall commence the production, delivery and sale of Electricity to all Customers through the operation and maintenance of the Renewable Energy Projects, to continue through the Initial Term of this Power Purchase Agreement, and any extensions hereof.

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(b) Unless excused by reason of Force Majeure, fault of Customer due to its default under the Local Unit License Agreement, or otherwise as may be expressly provided herein, if Service Provider fails to satisfy the conditions set forth in subsection (a) prior to the Required Completion Date, then Service Provider shall pay liquidated damages to each such Customer equal to the difference between the variable line item per kWh costs for delivered electricity payable by each such Customer to the local electric utility distribution provider, minus the initial PPA Price (as specified in Exhibit B, Section 1 attached hereto per kWh), multiplied by the guaranteed kWh production of Electricity referenced in Section 6.1(b) of this Power Purchase Agreement for each day after the Required Completion Date, until the Renewable Energy Projects for such respective Customers are able to produce, and Service Provider shall deliver, Electricity for and to such Customers as contemplated by this Power Purchase Agreement.

(c) At the Authority's option, whereby the Authority may look to be directed by the respective Customers, or determine on its own, as the Authority shall in its sole discretion decide, the Authority may recover any amounts due and owing by the Service Provider in accordance with subsection (b) above either through realization of such liquidated damage amount under the Construction Performance Bond provided by Service Provider, or alternatively, accrue and offset such liquidated damage amount against next due PPA Price payments made by Customers, or some combination thereof, in any event as such determination shall be communicated in writing by the Authority to Service Provider and Customer.

(d) In the event Service Provider has an allowable excuse as outlined in subsection (a) above, which shall be the sole cause for failing to meet the timeframes and conditions set forth in subsection (a) above, and after Service Provider has used all commercially reasonable efforts to meet such timeframes and conditions (e.g., overtime), then Service Provider shall not be liable to Customer for such liquidated damages contemplated by subsection (b) above. In the event of any such performance excusing event, Service Provider shall promptly give written notice to Customer and the Authority (but in no event later than twenty-four (24) hours following such occurrence), specifying the Force Majeure event or Customer's alleged failure to act, cooperate or assist Service Provider or other performance excusing event, as applicable. Should the Service Provider performance excusing event be caused by Customer's action or inaction, Customer shall promptly respond (but in no event later than forty-eight (48) hours) to Service Provider and the Authority regarding such notice by outlining all such remedial actions to be undertaken by or on behalf of Customer, and further, Customer shall promptly implement such action outlined in such response as shall be necessary, desirable or convenient in order to remedy such event, and allow Service Provider to meet such conditions as set forth in subsection (a), as soon as practicable, after the Required Completion Date.

**Section 3.7 Extension of Initial Term and other options; Obligations at Termination.**

(a) At least one-hundred and twenty (120) days prior to the expiration of the Initial Term, to the extent then permitted by Applicable Law, the Authority, on behalf of one or more Customers, may submit a written request to Service Provider expressing a desire by such Customer to pursue a possible extension of this Power Purchase Agreement. Upon receipt of the

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Authority's request, Service Provider, the Authority and Customer agree to promptly meet with the intent of negotiating an amendment on mutually agreeable terms and conditions, reflecting, among other things, the cost of any necessary equipment replacements or upgrades, the costs of contract maintenance and operating services, and Service Provider's profit and overhead. Neither Service Provider nor Customer shall be legally obligated to enter into or perform any extension or replacement of this Power Purchase Agreement until and unless reduced to a writing duly executed and delivered by both parties, and the provisions of Sections 5.1 and 7.1 of the applicable Local Unit License Agreement are either complied with or waived by the Authority and/or the applicable Customer.

(b) If the parties shall fail to enter into an agreement extending the Initial Term, then Customer shall elect, at its sole option, to either require that the Service Provider promptly remove the Renewable Energy Projects and return and restore the Local Unit Facilities to the state and condition existing prior to construction and installation of the Renewable Energy Projects (i.e., after the construction, renovation and installation of the Capital Improvement Projects on the applicable Local Unit Facility, if applicable), reasonable wear and tear excluded, at Service Provider's sole cost, although Service Provider is permitted to use any and all funds on deposit in the Restoration Security Fund for such purpose, or purchase the physical Renewable Energy Projects at Fair Market Value, in any event in compliance with Sections 5.1 and 7.1 of the applicable Local Unit License Agreement. Such Fair Market Value shall be established by an appraisal firm agreed to by the Parties. The cost of the appraisal shall be shared equally by Service Provider and the applicable Customer. In the event the Parties cannot agree to a single appraisal firm, then the Company, the Authority and the Customer shall each contract with a qualified appraisal firm for an appraisal at its own cost, and Fair Market Value shall be the average of the three (3) appraisals.

(i) In the event the end of term option selected by the Local Unit is removal of the Renewable Energy Projects, Service Provider shall remove all of its tangible property comprising such Renewable Energy Projects from the Local Unit Facility by a mutually convenient date but in no case later than one hundred eighty (180) days after the end of the Initial Term. Service Provider shall provide Customer, the applicable roof warrantors for the applicable Local Unit Facility, and the Authority, with a removal plan, at Service Provider's sole cost and expense, with respect to such removal, although Service Provider is permitted to use any and all funds on deposit in the Restoration Security Fund for such purpose. Such removal plan is subject to the review and approval by Customer, such warrantors, and the Authority, which approval (with respect to Customer and the Authority) shall not be unreasonably withheld or delayed.

(ii) In implementing such removal plan, Service Provider (A) shall cause the portion of the Local Unit Facility on which the Renewable Energy Projects were installed to be returned to the state and condition set forth in subsection (b) above, including removal of above grade electrical wires and conduits, inverters, photovoltaic panels, steel superstructure, combiner boxes, and Renewable Energy Projects disconnect switches, and (B) shall not adversely affect the remaining warranties then in existence with respect to such roofs on such Local Unit Facilities. Not included in the removal schedule are below-grade electric/wiring components

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(unless otherwise specified in the approved removal plan), material that cannot be removed due to safety concerns, and ordinary wear and tear. Service Provider shall leave the portion of the Local Unit Facilities on which the Renewable Energy Projects were installed in neat and clean order, having sealed any penetrations into such portion of the roofs of such Local Unit Facilities, all subject to the applicable Customer's inspection and approval, not to be unreasonably withheld or delayed.

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## ARTICLE IV

### DEVELOPMENT OF PROJECTS AND RELATED AGREEMENTS AND UNDERTAKINGS

#### Section 4.1 Development of Projects.

(a) Service Provider has covenanted to undertake the obligations set forth in Section 3.6(a) hereof with respect to the development of the Projects prior to the Required Completion Date. Thereupon, Service Provider shall deliver Electricity to each Customer, each Customer shall pay for such Electricity, and Service Provider shall operate and maintain the Renewable Energy Projects, all through the Initial Term and any extensions thereof, and all as set forth in Section 3.5(d) hereof.

(b) Service Provider shall be solely responsible for taking, and shall take or cause to be taken, with the cooperation of the Authority and Customer, including as applicable and as required pursuant to Section 3.4 hereof, all action deemed necessary, desirable or convenient by Service Provider in order to discharge its obligations set forth in subsection (a) above. Toward that end, Service Provider shall coordinate all Project construction activities with the Authority and the applicable Customer, and shall provide the Authority and such Customer with all Plans and Specifications and other information that the Authority or such Customer may reasonably request from time to time. The Authority and such Customer shall be provided with submittals during design and construction of such Projects. Such Customer shall provide comments, if any, within five (5) Business Days of receipt of such submittals. Review and comments by Customer, if any, shall not relieve Service Provider of its obligations under this Power Purchase Agreement. The Authority shall have no obligation, but may on its own volition undertake, to review and comment on such submittals. Service Provider reserves the right to substitute products provided such substitutions are equal or better in quality and performance than the products submitted in the Company Proposal, based on which the Authority selected Service Provider, as the successful respondent to the Company RFP, as such substitution shall be agreed to and approved in writing (consent not to be unreasonably withheld) by such Customer and the Authority. Service Provider shall timely apply for all required permits and approvals from all applicable authorities having jurisdiction relating to the construction of the Projects, and the operation and maintenance of the Renewable Energy Projects, and any other activities contemplated by this Power Purchase Agreement. If despite commercially reasonable efforts, Service Provider is unable to obtain a required permit; such occurrence shall be deemed an event of Force Majeure hereunder.

(c) For its undertaking of the obligations set forth in subsection (a), Service Provider shall be entitled to receive the PPA Price from Customer in accordance with Section 6.2 hereof, as full and complete consideration for such services and the undertaking and discharging such obligations by Service Provider.

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property loss, or circumstances under which Service Provider's failure to remove its system from service would, in Service Provider's reasonable judgment, constitute an illegality or violation of any statute, regulation or order of any Governmental Authority in the exercise of its regulatory jurisdiction, or any similar events or circumstances.

#### Section 4.5 Removal and Re-Installation of Panels; Roof Maintenance & Repairs.

(a) If at any time during the term of this Power Purchase Agreement, Customer is required to remove or interrupt, or cause the removal or interruption, as applicable, of the operation of one or more of Service Provider's solar panels that comprise a portion of the Renewable Energy Projects, to repair or replace the roof of such Customer's Local Unit Facility, or perform required maintenance on any other of the Local Unit's equipment located on such roof, or for any other governmental reason for which no other commercially reasonable solution exists other than to interrupt some portion of service provided by the Renewable Energy Projects, Customer shall promptly notify Service Provider and the Authority of the specific panels and/or other portion of the affected Renewable Energy Project that must be removed or shut down, and when removal or shut-down is required, taking into account to the greatest extent practicable any efforts within Customer's control to minimize the loss of Electricity generated by such removed or shut down (in whole or in part) of the Renewable Energy Project. In such instance, Service Provider agrees to remove and re-install or shut down and re-initiate the operation of such minimum number of panels for the minimum amount of time necessary in order to allow Customer access to its Local Unit Facility to undertake the required task causing the need for such removal.

(b) To the extent Customer is required to take the action set forth in subsection (a) above in whole or in part due to some action or inaction of Service Provider or any of its designees, consultants, subcontractors or agents, or another licensee (other than the Authority or the Authority's designees, consultants, subcontractors or agents) under Customer's Local Unit License Agreement, then Service Provider shall (i) bear and pay for the cost of such removal, and (ii) reimburse Customer for the difference between (A) Customer's actual cost for electricity, as evidenced by that amount delivered and billed by the local electric utility distribution provider to Customer in lieu of the Electricity to have been provided by Service Provider during such applicable period for which Customer is not receiving Electricity from Service Provider, in whole or in part, and (B) the PPA Price that would have been applicable to such amount of electricity so delivered to Customer under clause (i) above, had Service Provider delivered such deficient amount of Electricity during such period.

(c) Conversely, to the extent Service Provider is required, with the Authority's consent, to remove and re-install or shut down and re-initiate the operation of a portion, or all of a Renewable Energy Project due to some action or inaction by Customer or any of its designees, consultants, subcontractors, or agents, Service Provider shall be reimbursed by Customer at Service Provider's actual out-of-pocket cost, plus ten percent (10%) overhead. Further, Customer shall reimburse the Service Provider for the cost of lost production during the period of removal or shut-down in excess of ten (10) days in any twelve (12) month period, starting on the Commencement Date (for such Customer or as applicable, such Local Unit Facility) and each anniversary thereafter. The cost of lost production shall include an allowance for both lost Electricity at the applicable PPA Price, and lost SRECs, at the market value of such SREC's as determined in comparable

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#### Section 4.2 Operation and Maintenance of the Renewable Energy Projects.

Throughout the Initial Term and any extensions thereof, Service Provider shall operate and maintain the Renewable Energy Projects in a manner that meets or exceeds good industry practice, and in good working order and repair, and shall coordinate all planned maintenance activities with Customer in order to minimize any adverse impact on Customer and/or its Local Unit Facility. The Renewable Energy Projects shall remain in Service Provider's sole custody and control during the term of this Power Purchase Agreement and Customer shall not attempt to use, repair or otherwise interfere with Service Provider's custody, except in accordance with Service Provider's express consent. Service Provider shall have the right, but not the obligation, to replace or exchange, in its discretion, any component of the Renewable Energy Projects during the Initial Term or any extensions thereof provided that the Renewable Energy Projects continue to operate in accordance with the Plans and Specifications. Service Provider shall be responsible, at its sole cost and expense, for performing all required Renewable Energy Projects operation and maintenance to insure that the Renewable Energy Projects shall operate in an efficient manner in accordance with the Plans and Specifications. It is understood and agreed that Service Provider may delegate its operation and maintenance responsibilities to a technically qualified and financially responsible third party, upon notification to the Authority and the applicable Customer, and upon their review and approval of any such contract, which Authority and Customer approval shall be promptly provided to Service Provider and not withheld unreasonably. Any delegation by Service Provider to such third party shall not relieve Service Provider from its obligations under this Power Purchase Agreement.

#### Section 4.3 Reserved

#### Section 4.4 Outages.

Service Provider, the Authority and Customer understand and agree that from time to time it shall be necessary for Service Provider to remove all or part of the production, distribution, and interconnection portions of the Renewable Energy Projects from service to make any necessary repairs or replacements. Accordingly, Service Provider shall have the right to interrupt, reduce or discontinue the delivery of Electricity for the purposes of inspection, maintenance, repair, replacement, construction, installation, removal or alteration of the equipment used for the production or delivery of the same; provided however, that unless the exigencies of the situation require otherwise, Service Provider shall use commercially reasonable efforts to only interrupt or restrict delivery of Electricity at such times as Service Provider and Customer shall mutually agree. Customer and Service Provider agree to act in good faith to accommodate the reasonable requests of the other in fulfilling their respective obligations under this Power Purchase Agreement. If the circumstances require Service Provider to remove the Renewable Energy Projects from service for more than several hours, Service Provider shall take such actions as are reasonable under the circumstances to minimize the effect on Customer's Local Unit Facility and its operations. Unless the exigencies of the situation require otherwise, Service Provider shall provide Customer with at least ten (10) days prior notice of any proposed service outage, which notice shall explain in detail the reason for the proposed interruption, the proposed maintenance or other corrective action to be undertaken, and the expected length of the interruption. For the purposes of this Section 4.4, exigent circumstances shall include, but shall not be limited to, conditions which, in Service Provider's reasonable judgment, pose an imminent and unreasonable risk of personal injury or

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transactions. Customer may at its option, elect to pay Service Provider any amounts in this subsection (c) in either a lump sum payment, or in uniform monthly payments, including interest on the unpaid balance, at the rate set out in Section 6.4 (relating to payment terms) over not greater than a twelve (12) month period. For purposes of this subsection, an action of inaction of a Customer's designees, consultants, subcontractors or agents shall not include students unless such students are under the direct control of the Customer at the time such action or inaction occurred.

#### Section 4.6 Certain Local Unit Facility Issues.

(a) Prior to commencement of construction of each of the Renewable Energy Projects, preferably prior to the Effective Date, and no later than the completion of the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects, if applicable, for each Local Unit Facility, Service Provider shall investigate and secure an opinion from a structural engineer licensed in the State that the Local Unit Facility roof is structurally sound and requires no structural reinforcement to support the Renewable Energy Projects to be provided in accordance with the terms hereof. To the extent required by the applicable local building code for a Local Unit Facility, a wind analysis shall also be conducted by or on behalf of Service Provider to insure the proposed mounting structures for the Renewable Energy Projects shall be sufficient to meet wind conditions at each Local Unit Facility. A copy of such opinion and analysis, if so required, for each Local Unit Facility shall be delivered to the Authority and applicable Customer.

(b) If the Service Provider delivers to the Authority a Certificate of an Authorized Officer of the Service Provider to the effect that such opinion and/or analysis and/or other credible evidence demonstrates any of the following: (i) that structural reinforcement of a Local Unit Facility would be required in order to support the contemplated Renewable Energy Projects, (ii) that any roof of a Local Unit Facility is structurally unsound or that the Local Unit Facility is not otherwise available for the contemplated Project, including issues of title, damage, or condemnation affecting the Local Unit Facility, (iii) that there are other latent subsurface or structural conditions present at any Local Unit Facility that is not a roof, which latent subsurface or structural conditions were not contemplated in its Company Proposal and would have a material adverse financial impact on the Service Provider or (iv) that the existing warranties can only be maintained through an unreasonable scope of work, or at an unreasonable cost, in either case as determined solely by the Authority, and if in any such case (clauses (i) - (iv) inclusive) the Authority, in exercising its reasonable discretion (with input from the Customer), agrees with such determination as evidenced by their acknowledgment of such Service Provider Certificate by an Authorized Officer of the Authority, then neither the Authority nor Customer shall have any responsibility to provide any additional funding for such Renewable Energy Projects, and Service Provider is not entitled to any additional compensation for such Renewable Energy Projects, it being understood by the Parties that any such circumstance has been preliminarily reviewed and subject to a diligence review by Service Provider, as any contemplated cost relating thereto shall have been included in the Company Proposal as part of the submitted cost of the Projects.

(c) To the extent the Authority executes and delivers to the Service Provider the acknowledgment contemplated by subsection (b) above, notwithstanding the other provisions of subsection (b) above the Parties shall work together in good faith to select an alternative location

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(hereinafter, such alternative location shall be known as the revised Local Unit Facility for such Series 2011 Local Unit for all purposes hereof and of the other Program Documents) within the jurisdiction of the following, and in the following order: (i) first of the affected Series 2011 Local Unit for which the Renewable Energy Project shall no longer be developed, in which case the revised Local Unit Facility shall act as the location for the replacement renewable energy project (hereinafter: a Renewable Energy Project for all purposes hereof and of the other Program Documents), and as necessary, required or desirable, the revised capital improvement project (hereinafter a Capital Improvement Project for all purposes hereof and of the other Program Documents), (ii) second, within the jurisdiction of any other Series 2011 Local Unit, in which case the revised Local Unit Facility and Project shall be located in such agreed upon jurisdiction, and (iii) if a suitable replacement location within such jurisdiction is still not available on a mutually agreeable basis, then from any location within (and including) the County upon which the Parties can agree, in which case the revised Local Unit Facility and Project shall be located in such agreed upon jurisdiction. Any alternative Projects shall, to the maximum extent practicable, be of a similar (or more advantageous to the Parties) size, scope and economic impact as the Projects being replaced

(d) Should an alternative Local Unit Facility be selected by the Parties in accordance with subsection (c) above, (i) a new Commencement Date and a new Completion Date shall be developed for the replacement Renewable Energy Project, and as applicable, Capital Improvement Project, (ii) such revised Commencement Date and Completion Date for such replacement Renewable Energy Project shall be incorporated into this Power Purchase Agreement via a written amendment executed by the Parties, which amendment shall also incorporate a revised Exhibit A hereto and any other changes the Parties deem necessary, desirable, or convenient to implement the change in Project and Local Unit Facility, and (iii) the other Program Documents shall be amended to reflect any required changes caused by such amendment hereof, including without limitation the revised Project, the replaced Local Unit Facility, and if necessary, a new Series 2011 Local Unit (in which case instead of an amended Local Unit License Agreement with such new Series 2011 Local Unit, there shall be a new Local Unit License Agreement with such new Series 2011 Local Unit), provided that the economic rights and responsibilities of the Parties shall not be amended (including without limitation, the PPA Price), unless agreed to at the complete discretion of the Parties.

(e) If after good faith negotiations the Parties are unable to secure a replacement Local Unit Facility and Project within six (6) months of the date of the Authority's acknowledgment of the Certificate of an Authorized Officer of the Service Provider contemplated in subsection (b) above, then the Service Provider shall have the option, exercisable at any time within nine (9) months of the date of such Authority Certificate, to abandon the Project associated with the Local Unit Facility that was to be replaced. Such option shall be exercised by the Service Provider delivering a Certificate of an Authorized Officer of the Service Provider to the Trustee, the County, the Authority, and the affected Series 2011 Local Unit, (i) setting forth the authorization for, and the reasons why the Project and Local Unit Facility are being abandoned, and (ii) further, that attached thereto is a partial prepayment of Basic Lease Payments (or evidence thereof, in the case of a wire transfer or other similar conveyance) in immediately available funds that shall be applied in the manner set forth in Section 701(a) of the Company Lease Agreement. Upon the abandonment of any Project, the Service Provider, the Authority and the Customer will enter into such amendments of the

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## ARTICLE V

### LOCAL UNIT LICENSE AGREEMENT - LOCAL UNIT FACILITY ACCESS

#### Section 5.1. Local Unit License Agreement.

(a) For consideration of the transactions contemplated by this Power Purchase Agreement and the Local Unit License Agreement, Service Provider, the Authority and Customer hereby agree that Service Provider and their subcontractors, including the EPC Contractor pursuant to their Development Contract with Service Provider, and other agents and designees shall each be deemed a permitted licensee under Customer's Local Unit License Agreement, and accordingly, Service Provider and their subcontractors and other agents and designees shall have access to the Local Unit Facility of Customer to (i) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, (ii) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, and (iii) perform the other related Project activities set forth in Section 3.1, including subsection (c) thereof, of the Local Unit License Agreement for Customer.

(b) The license provided to Service Provider in accordance with subsection (a) and Customer's Local Unit License Agreement, subject to Section 3.7 of such Customer's Local Unit License Agreement, shall be irrevocable for the Initial Term of this Power Purchase Agreement and any extension, for so long as Service Provider is not in default of its delivery obligations hereunder, thereby causing an Event of Default hereunder, and except as otherwise expressly provided in this Power Purchase Agreement.

(c) Service Provider shall insure that any equipment used or installed by the Service Provider shall not adversely affect the structural integrity or existing roofing warranties of the Local Unit Facility roof and shall be completed in strict accordance with manufacturer's requirements by a certified manufacturer roofing contractor.

(d) In the event a Customer exercises revocation rights pursuant to Section 3.7 of such Customer's Local Unit License Agreement, upon the satisfaction of all requirements under such Section 3.7, this Power Purchase Agreement shall be terminated in respect of, and solely with respect to, such applicable Project.

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Program Documents as shall be necessary to evidence the partial termination of the Program Documents solely with respect to such Project.

#### Section 4.7 Incorporation of Certain Company RFP Terms and Conditions.

To the extent not otherwise inconsistent with the provisions of this Power Purchase Agreement and the other Program Documents, the terms and conditions of Article VII and Appendix C to the Company RFP, as attached to the Company Lease Agreement as part of Exhibit A-1 thereto, are hereby incorporated by reference into this Power Purchase Agreement.

#### Section 4.8 Service Provider's Ability to Choose Subcontractors.

Service Provider shall enter into the applicable contract(s) for construction, renovation and installation of the Projects, subject to the terms of any Renewable Energy Program agreement executed by any Party. Prior to implementing any such contract(s), Service Provider and Customer shall have agreed upon a list of acceptable subcontractors, with all other subcontractors subject to notification to the Authority and Customer's consent, such consent not to be unreasonably withheld or delayed; provided, however, that Customer's agreement as to the list of acceptable subcontractors shall not make the Authority or Customer in any way responsible for, or a guarantor of, such subcontractors, nor relieve Service Provider of any of its duties and obligations with respect to subcontractors or otherwise hereunder. Service Provider shall insure all subcontractors are qualified, reputable and adhere to all applicable regulations and laws of the State. The Service Provider must provide the names of all employees, agents, and workers of the contractors and subcontractors who will be present at the site for purposes of checking all identities against the Megans law registry. The Service Provider identified and the Authority and Customer have approved the initial list of subcontractors, as set forth in Exhibit H, by the time of execution and delivery hereof (such list is not intended to be exclusive, should Service Provider subsequently determine to proffer one or more other subcontractors).

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## ARTICLE VI

### ENERGY SERVICES PROVIDED BY SERVICE PROVIDER PRIOR TO OR UPON COMMENCEMENT DATE

#### Section 6.1 Sale and Purchase of Electricity Converted from Solar Energy.

(a) On the date set forth in Section 3.5(d) of this Power Purchase Agreement, which date shall be on or prior to the Commencement Date, Customer shall purchase and take, and Service Provider shall sell and deliver, all Electricity produced from the Renewable Energy Projects.

(b) The Plans and Specifications for the Renewable Energy Projects shall provide for the output guaranteed by Service Provider in Section 6(b) of its Form A-1 of the Company Proposal attached hereto as Exhibit C (which, in accordance with Form A-1 of the Company Proposal, needs to be adjusted to reflect the actual solar insolation measured at the site for the time period under review), unless Customer agrees in writing to a different output to be set forth in such Plans and Specifications. For the avoidance of doubt, the Parties hereto expressly agree that the proposed output for the Renewable Energy Projects for the Series 2011 Local Units so set forth in Form A-1 of the Company Proposal and as detailed in Company Proposal Table 6(b) that is made a part of Exhibit C hereto shall be the standard against which the output guaranty contemplated by this Power Purchase Agreement shall be measured, notwithstanding the fact that the anticipated output for such Renewable Energy Projects shall be as set forth in Company Proposal Table 6(a) and also incorporated in Exhibit C hereto. The Parties hereto agree that Exhibit C hereto shall be amended upon the completion and sizing of the Projects.

(c) Service Provider shall guarantee the output of the Renewable Energy Projects cumulatively through the 5<sup>th</sup>, 10<sup>th</sup>, and 15<sup>th</sup> years of the Initial Term to be within ten percent (10%) of the output (calculated using the PV Watts version 1.0 with initial system sizes rated at STC methodology employed by the Company in the Company Proposal, using a de-rate assumption of .80 and a default location of Newark, based on tilt and azimuth assumptions provided in the Company Proposal) as set forth in the final Plans and Specifications for the Renewable Energy Projects; provided, that to the extent that such output shall fall below such limit, the remedy therefor shall be solely as set forth in subsection (d) below.

(d) To the extent that the Renewable Energy Projects' output shall fall below the limits set out in the preceding subsection (c) and such shortfall is not due to an action of the Customer, Service Provider shall reimburse Customer for the difference between Customer's variable line item cost for electricity, per kWh, as evidenced by that amount delivered and billed by the local electric utility distribution provider to Customer in lieu of the Electricity to have been provided by Service Provider, and the PPA Price, per kWh, set forth in this Power Purchase Agreement, such difference in price per kWh to be applied to the amount of such Renewable Energy Projects' output deficiency. Such reimbursement shall occur no later than sixty (60) days after the next occurring anniversary of the Commencement Date that arises after the date in which the shortfall occurred. In the event such reimbursement payment is not made by Service Provider, Customer shall be entitled to deduct such amount in three (3) equal amounts from its PPA Price

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invoice payments in the following three (3) months after such sixty (60) days, or if invoice amounts are not large enough to allow for the entirety of such credit during such time, the balance shall be credited as quickly as possible thereafter.

(e) To the extent that the Renewable Energy Projects' output shall fall below the limits set out in the preceding subsection (c) at the end of one of the 5-year periods of the Initial Term, and Service Provider reimburses Customer as set out in the preceding subsection (d), the amount of the shortfall in kWh upon which the reimbursement payment is based shall be deducted from the cumulative guaranteed output amounts at the end of subsequent 5-year periods.

(f) To the extent that a reduction in the amount of Electricity produced by the Renewable Energy Projects is caused due to action of the Customer, such as that contemplated in Section 4.5(c) or due to the circumstances described in Sections 3.6(d), 4.6(b) or 6.6 hereof, 100% of the amount of Electricity that would otherwise have been produced will be deducted from both (i) the cumulative guaranteed output at the end of the 5-year period in which the reduction due to Customer action occurs, and (ii) the cumulative guaranteed output amounts at the end of all subsequent 5-year periods.

#### Section 6.2 Rates and Charges.

Customer shall pay to Service Provider the monthly fees and charges for Electricity as set forth in Exhibit B and Sections 3.5(c) and 6.4 hereof (the "PPA Price").

#### Section 6.3 Service Provider Reservation of Rights; Benefits Shared.

(a) Service Provider retains all ownership and rights to use, sell, or transfer (i) except as set forth in subsection (c) below, SRECs and (ii) rights with respect to Federal tax benefits (Investment Tax Credit and MACRS Depreciation) associated with the Renewable Energy Projects. Nothing in this Section 6.3 shall relieve Service Provider from its obligation to sell Electricity generated by the Renewable Energy Projects to the Customers.

(b) The Authority shall have the option, in accordance with Section 6.3(e), to direct an Authorized Officer of the Authority directing the Service Provider to sell to the Authority, from the period on and after the date of the election, sixty percent (60%) of any financial / environmental benefits, with the exception of SRECs or as described in Section 6.3(d) hereof (allocated in accordance with subsections (a) and (c)), determined in the future (but unknown at this time) to be attributable to the Renewable Energy Projects for the Series 2011 Local Units. If the Authority exercises this option, to the extent any such Authority Certificate so directs, Service Provider further agrees to act as agent for the Authority, and sell or otherwise monetize such financial / environmental benefits on behalf of the Authority, paying the proceeds realized from any such sale to the Authority as an additional Administrative Fee. The balance of any such financial / environmental benefits are the property of the Service Provider. If the Authority exercises this option, to the extent any such Authority Certificate so directs, Service Provider further agrees to act as agent for the Authority, and sell such SRECs on behalf of the Authority, paying the proceeds realized from any such sale to the Authority as an additional Administrative Fee.

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#### Section 6.5 Taxes; Other Governmental Charges.

To the extent that Service Provider, Customer, and/or the Authority shall become responsible for the payment of any tax as a result of the placement, operation or maintenance of the Renewable Energy Projects on the Local Unit Facility (other than taxes imposed by Customer after the date of this Power Purchase Agreement), Service Provider shall be responsible for the payment of all such taxes and or assessments. Such obligation shall be limited to the Renewable Energy Project improvements constructed by the Service Provider on the Local Unit Facility. The Service Provider shall have the right to challenge the lawfulness of any tax or assessment associated with the construction, operation, or maintenance of the Renewable Energy Projects on the Local Unit Facility that shall be imposed on Service Provider, or that shall be attributable to Customer and/or the Authority for which Service Provider shall be required to pay. The Authority and Customer shall be notified of any such challenge by Service Provider, and further, shall be periodically kept informed of all developments, including copies of any pleadings or other documents comprising the docket of any such challenge.

#### Section 6.6 Alterations to Customer's Facilities.

The Authority and Customer agree not to undertake any structural alterations or repairs to the Local Unit Facilities that may adversely impact the operation and maintenance of the Renewable Energy Projects by Service Provider, without giving prior written notice to Service Provider, and without obtaining the input from Service Provider regarding the best manner in which such alterations or repairs might be conducted without affecting, or minimizing the effect on, as applicable, the operations and maintenance of the Renewable Energy Projects. If the Authority or Customer shall perform any alterations or repairs that permanently reduce the production of the Renewable Energy Projects resulting from such alteration or repairs, then the Parties shall negotiate a per kWh PPA Price adjustment to make the Service Provider whole for any loss in production capability. The per kWh PPA Price adjustment shall be established by negotiation by the Parties or, failing agreement within a reasonable time, by arbitration pursuant to the provisions of Section 14.5.

#### Section 6.7 Point of Delivery.

Service Provider agrees that it shall provide Electricity services to Customer at the Point of Delivery as specified in the Plans and Specifications.

#### Section 6.8 Energy Metering.

The output of the Renewable Energy Projects will be measured by revenue grade production meters in addition to load metering, inverter monitoring, and sub-combiner monitoring meters installed by the Service Provider in accordance with industry standards. Service Provider shall conduct tests of the Meters at such times as it deems appropriate in accordance with industry standards, but not less than once in any two year period. Service Provider shall promptly repair all Meter failures or defects. Should a Meter ever be deemed to reflect inaccuracies in measurement, the Service Provider shall make corresponding adjustments to the records of the amount of Electricity being provided by the Renewable Energy Project delivered based on the period in

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(c) The Authority shall have the option, exercisable by the Authority in its sole discretion at any time from July 15, 2017 until and including December 15, 2017, through the execution by the Authority and delivery to the Service Provider of a Certificate of an Authorized Officer of the Authority directing the Service Provider to sell to the Authority fifty percent (50%) of the remaining SRECs to be realized from the expected generation of electricity from all of the Renewable Energy Projects from December 15, 2017 through and including December 15, 2027. The purchase price for any such sale of SRECs, to the extent the Authority exercises this option, shall be four hundred dollars (\$300). If the Authority exercises this option, to the extent any such Authority Certificate so directs, Service Provider further agrees to act as agent for the Authority, and sell such SRECs on behalf of the Authority, paying the proceeds realized from any such sale to the Authority as an additional Administrative Fee.

(d) The Authority shall have the option, in accordance with Section 6.3(e) to direct the Service Provider to sell to the Authority, from the period on and after the date of election, sixty percent (60%) of any additional benefits resulting from the Service Provider's participation in the Authority's Renewable Energy Program, including without limitation any savings resulting from one or more refundings of the Series 2011 Bonds, with such specific terms of allocation to be set forth in a Certificate of an Authorized Officer of the Authority, as acknowledged in writing by Service Provider. The purchase price for any such sale, to the extent the Authority exercises this option, shall be set forth in any such Certificate. If the Authority exercises this option, to the extent any such Authority Certificate so directs, Service Provider further agrees to act as agent for the Authority, and monetize such benefit on behalf of the Authority, paying the proceeds realized from any such sale to the Authority as an additional Administrative Fee.

(e) The option provided in Sections 6.3(b) and (d) shall be exercisable simultaneously by the Authority in its sole discretion during the period July 15, 2017 through December 15, 2017 by a Certificate of an Authorized Officer of the Authority to the Service Provider and accompanied by (x) the payment of \$250,000, and (y) such other amount as the parties may agree constitutes fair market value therefor, and accompanied by a professional opinion that such alternative amount is consistent with the fair market value of the rights described in Sections 6.3(b) and (d).

#### Section 6.4 Payment Terms.

Service Provider shall measure and read all Meters on or about the first Business Day of each calendar month during the term of this Power Purchase Agreement, commencing the first month immediately following the date set forth in Section 3.5(d) of this Power Purchase Agreement, which date shall be on or prior to the Commencement Date. Promptly thereafter, Service Provider shall provide in writing to Customer, with a copy to the Trustee, an invoice setting forth the Electricity charges as set forth in Exhibit B and quantity of Electricity delivered during the previous period. Should an error in invoicing be determined, then Service Provider agrees to promptly provide for an adjustment of the next-due invoice to remedy said error. Customer shall have thirty (30) Business Days after the date of the invoice in which to pay the invoice in full. Any sums owing and remaining unpaid after the expiration of said period of time shall bear interest at a rate equal to the lesser of one and one-half percent (1 and 1/2%) per month until paid in full, or highest rate allowed by law.

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between the date of the discovery of the inaccuracy and the last testing date of the Meter. Should the Meter ever become non-operational, but Electricity is still being provided by Service Provider to Customer hereunder, then the Parties hereto shall endeavor in good faith to address the Meter failure based upon, among other things, historical and cyclical consumption. To the extent that the Parties hereto are unable to adjust the inaccuracy, then they shall appoint their respective engineers or an independent meter consultant who, along with a third party independent engineer chosen by the Parties' engineers, shall review, examine, mediate and arbitrate the Meter adjustment. The decision of the engineers shall be final, and shall be reduced to the form of an invoice adjustment to be delivered by Service Provider to Customer. Notwithstanding the existence of any inaccuracy, or the allegation or belief of the existence of an erroneous Meter reading, Customer shall at all times pay all invoices in accordance with those time periods set forth herein, with the understanding that adjustments shall be reflected on subsequent invoices. Customer shall have no right to withhold invoice payment due to the actual or alleged existence of Meter inaccuracy except in the case when the current invoice varies by thirty percent (30%) or greater compared with historic like month data.

#### Section 6.9 Information Technology Support.

Customer shall provide Service Provider with access to the Customer's data management network for the Service Provider to monitor system performance and metering from remote locations, as required by Section 3.1(c)(iv) of the Local Unit License Agreement.

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## ARTICLE VII

### REPRESENTATIONS AND WARRANTIES

#### Section 7.1 Warranties and Representations of the Authority.

The Authority does hereby warrant, represent, covenant and agree with the other Parties as follows:

(a) The Authority is a duly constituted governmental entity that possesses the full power and authority to enter into this Power Purchase Agreement, and perform its obligations hereunder;

(b) The Authority has obtained all authorizations, consents and approvals that are required in order for the Authority to execute and deliver this Power Purchase Agreement, and to perform its obligations hereunder;

(c) The performance by the Authority of its obligations hereunder do not conflict with the Authority's constituent documents, bylaws and/or resolutions, or otherwise conflict with or be in violation of any other indenture, loan agreement, covenant, condition, order, agreement or other obligation to which the Authority is a party or is otherwise bound; and

(d) The Authority shall cause Customer to purchase and acquire the Electricity from Service Provider during the Initial Term and any extensions hereto, and further, cause Customer to not otherwise look to or utilize any other entity as the source of Electricity until after Customer has acquired all of the Electricity that the Renewable Energy Projects is capable of producing. The Authority shall be deemed to have satisfied this subsection through its entering into and enforcement of the Local Unit License Agreement with Customer.

#### Section 7.2 Warranties and Representations of Customer.

Each Customer does hereby warrant, represent, covenant and agree with the other Parties as follows:

(a) Customer is a duly constituted governmental entity that possesses the full power and authority to acknowledge and be bound by the terms of this Power Purchase Agreement, and to perform its financial and other obligations hereunder;

(b) Customer has obtained all authorizations, consents and approvals that are required in order for Customer to acknowledge, be bound by the terms of, and deliver this Power Purchase Agreement, and perform its financial and other obligations hereunder;

(c) The performance by the Customer of its obligations hereunder does not conflict with the Customer constituent documents, bylaws and/or resolutions, or otherwise conflict with or be in violation of any other indenture, loan agreement, covenant, condition, order, agreement or other obligation to which the Customer is a party or is otherwise bound; and

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## ARTICLE VIII

### INDEMNIFICATION AND INSURANCE

#### Section 8.1 Indemnification.

Customer and Service Provider shall each indemnify, defend and hold harmless the other, the Authority, and their respective officers, agents, servants, and employees from and against any and all claims, demands, actions, suits, recoveries, judgments, and any associated costs and expenses, including any reasonable attorney fees, expert expenses and costs of litigation, relating to the loss of life, property, or injury to the person or property of any person(s) and which results from, in the case of Service Provider, Service Provider's performance of its obligations under the Power Purchase Agreement, and, in the case of Customer, Customer's operation, maintenance, repair, construction, or alteration of the Local Unit Facility due to the sole negligence of each Party. Notwithstanding the foregoing, the Service Provider shall have no indemnity obligation nor any remediation or other obligation with respect to on-site contamination that exists prior to commencement of the installation work at a Local Unit Facility except to the extent a release of hazardous materials from the contaminated areas occurs due to the negligent acts of the Service Provider or its contractors or subcontractors (or their employees or agents).

#### Section 8.2 Service Provider's Insurance.

(a) Prior to accessing the Local Unit Facilities and at all times thereafter for as long as this Power Purchase Agreement remains in effect, Service Provider shall procure and maintain or cause to be procured and maintained by the EPC Contractor (other than general liability and excess liability which shall be provided by the Service Provider at all times), the following insurance:

(i) Comprehensive General Liability Coverage in the amount of \$1,000,000.00. This coverage must be in writing on an occurrence form, claims made policies will be unacceptable. This Comprehensive General Liability insurance shall cover Service Provider, the Authority, Customer and their employees, agents and officers from and against any claim arising out of personal injury of Service Provider or Service Provider's failure to comply with the terms of this Power Purchase Agreement. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by Service Provider. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in this Power Purchase Agreement. The policy shall also be endorsed to include coverage for products, completed operations, and independent contractors.

(ii) Property and Casualty Damage Coverage in the amount of the aggregate replacement value of all of the Renewable Energy Projects which the Parties acknowledge will be maintained as builders risk insurance by the EPC

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(d) Customer shall purchase and acquire the Electricity from Service Provider under this Power Purchase Agreement and Local Unit License Agreement during the Initial Term and any extensions hereto, and shall not otherwise look to or utilize any other entity as the source of Electricity until after Customer has acquired all of the Electricity that the Renewable Energy Projects is capable of producing.

#### Section 7.3 Warranties and Representations of Service Provider.

Service Provider does hereby warrant, represent, covenant and agree with the other Parties as follows:

(a) Service Provider is a duly constituted business entity that possesses the full power and authority to enter into this Power Purchase Agreement and perform its financial and other obligations hereunder;

(b) Service Provider has obtained all authorizations, consents and approvals that are required in order for Service Provider to execute and deliver this Power Purchase Agreement and perform its financial and other obligations hereunder, except for permits and approvals to be obtained after the date hereof as contemplated by Section 2.3(b) hereof;

(c) The performance by Service Provider of its financial and other obligations hereunder do not conflict with Service Provider's constituent documents, bylaws and/or resolutions, or otherwise conflict with or be in violation of any other indenture, loan agreement, covenant, condition, order, agreement or other obligation to which Service Provider is a party or is otherwise bound;

(d) Service Provider warrants that no later than March 15, 2013 it will cause to be removed (or post security pending resolution as provided by law) any mechanics', suppliers' or similar liens or encumbrance which will exist or attach to the Local Unit Facility as a result of any Project, and by March 15, 2013, all contractors, vendors, suppliers and workers relating to any Project will have been paid in full; provided, however, that notwithstanding the foregoing, the March 15, 2013 date will be extended to the extent applicable by any number of days the Required Completion Date is extended pursuant to Section 3.6(a) hereof;

(e) All Project equipment shall be new, and all work performed by or on behalf of Service Provider pursuant to this Power Purchase Agreement shall be free of any liens other than such liens and security interests permitted under Section 7.3(d) in connection with the authorization, sale, issuance and security of the Series 2011 Bonds; and

(f) The Renewable Energy Projects shall interconnect with Local Unit Facility's existing electrical system, and the Electricity delivered to the Local Unit Facility's existing system shall conform to utility and BPU requirements, and the Projects and the Electricity generated from the Renewable Energy Projects shall conform to the Plans and Specifications.

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Contractor prior to the Completion of the Projects.

(iii) Workers' Compensation Coverage as statutorily required by the State for all employees of Service Provider. Employers' Liability coverage on the Workers Compensation policy shall be written in the minimal amount of \$1,000,000.00.

(iv) Comprehensive Automobile Liability Coverage, in an amount not less than \$1,000,000.00, shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles, which may be used by the EPC Contractor or the Service Provider in connection with the services, required under the Power Purchase Agreement.

(v) Excess Liability Coverage, in the amount of \$5,000,000.00 shall be in the form of an umbrella or following form excess policy. This policy or policies shall be specifically endorsed to be excess of the required coverages in clauses (i), (iii) and (iv) above.

(b) All such insurance coverages, with the exception of Workers' Compensation, shall name the Authority, Customer, and their employees, agents, officers and directors as additional insured hereunder.

(c) Evidence of such coverages being in place shall be promptly delivered to the Authority prior to or simultaneously with accessing a Local Unit Facility. All such coverages shall be endorsed to indicate that such coverages shall not be materially changed or canceled without at least thirty (30) days prior notice to the Authority and Customer, such prior notice being mandatory and not the best efforts of the carrier to notify. Prior to the expiration of the required coverages, Service Provider shall provide the Authority and Customer with evidence of the renewal of all such coverages required on at least the same terms and conditions as originally required for this Power Purchase Agreement. All agents, contractors and other licensees under the Local Unit License Agreement (other than the Authority) working for the Service Provider shall also be required to maintain all insurance coverages set forth in this Section 8.2; however, that any such party covered by the EPC Contractor or the Service Provider's insurance coverage is not required to have duplicate insurance coverage, except (i) property damage coverage will be provided exclusively by the EPC Contractor (in case of builder's risk coverage) and by the Service Provider (in the case of the property insurance covering the Local Unit Facility after it enters into commercial operation), and (ii) to the extent any subcontractor is unable to provide the excess liability coverage in the amount required under Section 8.02(a)(v), the excess liability coverage requirement can be satisfied if such subcontractor is included under the excess liability policy of the EPC Contractor.

(d) Reserved.

#### Section 8.3 Customer's Insurance.

On or before Service Provider shall commence any construction activities at the Local Unit Facilities and at all times thereafter for as long as this Power Purchase Agreement remains in effect,

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Customer shall maintain at its sole expense Comprehensive General Liability (including contractual) and coverage for loss or damage, in an amount not less than \$1,000,000, with respect to any liability, losses, damages, expenses, claims, actions, judgments and settlements for any personal injury, death or property or economic loss occurring in Local Unit Facilities or surrounding premises and arising out of or incident to the operation, maintenance, repair, construction, replacement or modification of the Local Unit Facilities, excluding the Renewable Energy Projects.

**Section 8.4 Additional Insured.**

Service Provider and Customer shall each name the other, for all eligible types of insurance, the Authority, and the local government, if different from Customer that owns the Local Unit Facility as an additional insured on each eligible policy of insurance procured by it in satisfaction of this Article VIII.

**Section 8.5 Evidence of Insurance.**

Prior to accessing a Local Unit Facility, Service Provider and Customer shall each furnish to the other one or more certificates of insurance evidencing the existence of the coverage set forth in Sections 8.2 and 8.3, respectively. Each certificate shall state that the insurance carrier will give Service Provider and Customer at least thirty (30) days written notice of any cancellation or material change in the terms and conditions of such policy during the periods of coverage. Notwithstanding anything else contained herein or in the License Agreement, to the extent the insurance is in accordance with Accord 25 (2010/05) should any of the above policies described herein be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**Section 8.6 Use of Insurance Proceeds.**

Unless the Authority, the Customer, and the Service Provider agree otherwise, in the event of any loss or liability related to the Projects, Service Provider agrees to promptly restore the Projects to the condition prior to such loss, and Service Provider will use the proceeds received by or on behalf of the Authority (the Authority agreeing to make such proceeds available) or the Service Provider, in either case from any policy of insurance providing coverage for such loss to make all necessary repairs or replacements to the Projects and to promptly restore deliveries of Electricity to Customer.

**Section 8.7 Casualty and Condemnation with Respect to Underlying Local Unit Facilities.**

(a) **Casualty.** In the instance where a Local Unit Facility has suffered a casualty which renders the applicable Project inoperable and such Customer fails to rebuild such Local Unit Facility within a commercially reasonable time, then Customer shall comply with the terms of Section 3.7(i)-(iv), inclusive, of such Customer's Local Unit License Agreement with respect to such Local Unit Facility as if such failure to rebuild is deemed a revocation pursuant to Section 3.7 of the applicable Local Unit License Agreement.

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**ARTICLE IX  
EVENT OF DEFAULT**

**Section 9.1 Service Provider Event of Default.**

Any of the following events shall constitute a Service Provider Event of Default:

(a) Service Provider shall fail or cease to deliver Electricity to a Customer for a continuous period of thirty (30) days unless (i) Service Provider's performance is excused by a Force Majeure event, or by action or inaction of such Customer, or otherwise as provided in this Power Purchase Agreement, and Service Provider is diligently pursuing a cure, or (ii) Service Provider is willing to pay Customer during the term of such non-performance liquidated damages equal to the positive difference, if any, of the cost of replacement power less the per kWh PPA Price provided in this Power Purchase Agreement;

(b) Service Provider fails to make timely lease payments or otherwise causes an Event of Default as defined under the Company Lease Agreement or as defined in any other Company Document, notwithstanding a Force Majeure event; or,

(c) Service Provider shall fail to comply with any other provision of this Power Purchase Agreement, other than as described in subsection (a) and (b) above, and such failure continues for ninety (90) days of a written demand to cure; provided, however, that if such failure cannot be cured within said ninety (90) day period, Service Provider shall not be in default if it has commenced to cure within such ninety (90) day period if such action to cure the default is acceptable to the Authority and the Authority indicates the same in writing; and provided, further, that Service Provider diligently seeks to cure such failure.

**Section 9.2 Customer Event of Default.**

The following events shall constitute a Customer Event of Default:

(a) Customer shall fail or refuse to pay any bill for service rendered under this Power Purchase Agreement for Electricity on which payment is due in accordance with the terms of this Power Purchase Agreement, within forty-five (45) days of Service Provider's written demand therefor.

(b) Customer shall fail to comply with any other provision of the Agreement or their Local Unit License Agreement (including any failure to comply that constitutes a Licensor Event of Default as defined in the Local Unit License Agreement) and such failure shall continue for a period of sixty (60) days after receipt of written notice of such failure provided, that if such failure cannot be cured within sixty (60) days, then within a reasonable time so long as Customer diligently seeks to cure such failure.

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(b) **Condemnation.** In the instance where a Local Unit Facility has suffered a taking which renders the construction or operation of the applicable Project unfeasible and such Customer fails to remediate such taking, then Customer shall comply with the terms of Section 3.7(i)-(iv), inclusive, of such Customer's Local Unit License Agreement with respect to such Local Unit Facility as if such taking is deemed a revocation pursuant to Section 3.7 of the applicable Local Unit License Agreement.

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**Section 9.3 Authority Event of Default.**

The following events shall constitute an Authority Event of Default:

(a) Authority shall fail to comply with any other provision of this Power Purchase Agreement or the Local Unit License Agreements and such failure shall continue for a period of thirty (30) days after receipt of written notice of such failure provided, that if such failure cannot be cured within thirty (30) days, then within a reasonable time so long as the Authority diligently seeks to cure such failure.

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## ARTICLE X

### REMEDIES

#### Section 10.1 Remedies upon a Service Provider Event of Default.

(a) Upon a Service Provider Event of Default as described in Section 9.1(a) hereof, the affected Customer may terminate the Power Purchase Agreement as to such Customer by written notice to Service Provider, which notice shall be effective upon delivery, which may give rights to certain Parties or other interested parties involved in the Renewable Energy Program to the County Security and/or the Construction Performance Bond. Such rights shall be in addition to any and all other rights and remedies that Customer may have at law or in equity including, without limitation, the right to recover monetary damages and thereafter pursue such damages or other relief to which Customer may be entitled with respect to any monetary damages owed by Service Provider which do not result in a termination of this Power Purchase Agreement.

(b) Upon a Service Provider Event of Default as described in Section 9.1(b), the Authority may exercise its rights under any other Company Document.

(c) Upon a Service Provider Event of Default as described in Section 9.1(c), the sole remedy of any other Party shall be specific performance or if applicable monetary damages.

#### Section 10.2 Remedies upon a Customer Event of Default.

(a) Upon a Customer Event of Default as described in Section 9.2(a) hereof (i.e., following expiration of the 45-day period following Service Provider's written demand for payment), (i) Service Provider may suspend performance hereunder until such time as Customer cures the Event of Default, and (ii) if such Event of Default continues for another 30 days, Service Provider may terminate the Power Purchase Agreement with respect to such Customer by written notice to the Authority and such Customer, which notice shall be effective upon delivery, it being expressly understood however that any such termination shall not relieve Service Provider from its obligations under the Company Lease Agreement with respect to the lease payments due thereunder, or under any other Company Lease Agreement, with respect to any other Customer. Such rights shall be in addition to any and all other rights and remedies that Service Provider may have at law or in equity including, without limitation, the right to recover monetary damages and thereafter pursue such damages or other relief to which Service Provider may be entitled.

(b) Upon a Customer Event of Default as described in Section 9.2(b), the sole remedy available to any other Party shall be specific performance or, if applicable, monetary damages.

(c) To the extent a Customer Event of Default would constitute a Licensor Event of Default under the applicable Customer's Local Unit License Agreement, the remedies set forth in Section 6.2 of such Customer's Local Unit License Agreement shall apply to the same extent as set forth herein.

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## ARTICLE XIII

### TERMINATION

#### Section 13.1 Termination.

No Party may terminate the Agreement, except upon the other's Event of Default as provided herein, or as otherwise expressly provided in this Power Purchase Agreement.

## ARTICLE XIV

### MISCELLANEOUS

#### Section 14.1 Assignment.

None of Service Provider, the Authority or any Customer shall assign this Power Purchase Agreement without first having obtained the written consent of the other Parties, provided, however, Service Provider may assign its rights and delegate its duties and obligations under this Power Purchase Agreement to any special purpose entity which it may organize for the purpose of owning and operating the Renewable Energy Projects (a "Permitted Provider Assignee"), so long as contemporaneously herewith such Service Provider, or its Permitted Provider Assignee, delivers the County Security and the Construction Performance Bond; and provided, further, that with the consent of Service Provider and Customer, certain payments hereunder may be assigned to the Trustee for the Series 2011 Bonds as further security therefor.

#### Section 14.2 Governing Law, Waiver of Right to Jury Trial, and Jurisdiction.

(a) This Power Purchase Agreement and the rights and obligations of the Parties shall be governed by, construed, and enforced in accordance with, the laws of the State. In order to expedite resolution of any actions, suits, or proceedings that arise under this Power Purchase Agreement, and in light of the complexity of the transactions contemplated hereby, each of the Parties (i) irrevocably waives the right to trial by jury in any such actions, suit, or proceeding of any kind or nature in any court to which it may be a Party and (ii) other than with respect to arbitration in accordance with the provisions of Section 14.5 hereof, agrees that venue shall be laid in the Superior Courts of Morris County, New Jersey.

(b) With respect to any such action, suit, or proceedings relating to this Power Purchase Agreement or arising in connection with the transactions contemplated hereby, the Parties irrevocably (i) submit to the exclusive jurisdiction of the federal and State courts of the State; (ii) waive any objection which it or they may have at any time to the laying of venue of any action, suit or proceeding in any such court; (iii) waive any claim that any such action, suit, or proceeding has

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#### Section 10.3 Remedies upon an Authority Event of Default.

(a) Upon an Authority Event of Default as described in Section 9.3, the sole remedy available to any other Party shall be specific performance, or if applicable, monetary damages.

## ARTICLE XI

### FORCE MAJEURE

#### Section 11.1 Suspension of Performance.

No Party shall be in default in respect of any obligation under this Power Purchase Agreement with respect to one or more Projects if the Party is unable to perform such obligation by reason of a Force Majeure event affecting any such Project; provided that the suspension of performance with respect to such Project shall be commensurate with the nature and duration of the Force Majeure event and the nonperforming Party is using its commercially reasonable efforts to restore its ability to perform.

#### Section 11.2 Termination by Reason of Force Majeure.

If a Party's performance with respect to any Project is excused by reason of Force Majeure for more than twelve (12) consecutive months, any of the Parties (otherwise not in breach of this Power Purchase Agreement) may terminate this Power Purchase Agreement in so far as it relates to such Project upon thirty (30) days written notice to the other Parties, notwithstanding the existence of Force Majeure.

## ARTICLE XII

### LIMITATION ON LIABILITY

#### Section 12.1 Limitation on Liability.

Notwithstanding anything in this Power Purchase Agreement to the contrary, none of the Authority, Customer or Service Provider shall be responsible to any other in contract or in tort for any special, incidental or consequential loss or damage, including opportunity costs, arising out of this Power Purchase Agreement. The Parties hereto agree that Customer is fully responsible for the upkeep and maintenance of all of the Customer's equipment and property after the Point of Delivery to Customer's operating site that is utilized in connection with the operation of the Renewable Energy Projects including, without limitation, electric panels, sub-panels and sub-metering. Except as provided in Section 3.6 hereof, which shall be Customer's sole and exclusive remedy, Service Provider shall not be responsible for any damages that Customer may incur as a result of delays associated with the construction of the Projects.

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been brought in an inconvenient forum and (iv) waive the right to object that such court does not have jurisdiction over the Parties.

#### Section 14.3. Successors and Assigns.

This Power Purchase Agreement shall inure to the benefit of, and be binding upon the Parties hereto and to their successors and assigns.

#### Section 14.4 Waiver.

No provision of this Power Purchase Agreement may be waived absent the express written consent of the Authority, the Service Provider and each affected Customer, if any. The failure of any Party hereto to assert any of its rights under this Power Purchase Agreement shall not be construed to constitute a waiver of such provision, nor in any way be deemed to affect the validity of this Power Purchase Agreement or any part hereof or the right of any Party hereto to thereafter subsequently enforce its rights and remedies as otherwise provided herein. No express and written waiver of any breach of this Power Purchase Agreement shall be held to constitute a waiver of any other provision hereof or any subsequent breach hereof.

#### Section 14.5 Arbitration.

Should any dispute, controversy or claim arise hereunder, then the Parties covenant and agree, to the extent permitted by law, that all such disputes, controversies or claims shall be submitted to non-binding arbitration, and in all other cases legal actions concerning such disputes, controversies and claims shall be brought in the Superior Court of Morris County, New Jersey. Arbitration shall be conducted before an arbitrator chosen by the American Arbitration Association, should the Parties hereto not be able to otherwise agree upon an arbitrator to adjudicate said matter. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The cost of arbitration, along with the prevailing Party's legal fees and costs of arbitration, shall be borne by that Party which the arbitrator deems to be the non-prevailing Party to the arbitration. It is the intent of the Parties that there shall be liberal discovery permitted including depositions and document production.

#### Section 14.6 Entire Agreement, Amendment.

This Power Purchase Agreement, together with the other Program Documents, constitutes the entire agreement by and between the Parties hereto and supersedes and replaces all previous understandings and agreements, whether written or oral, which may have existed between the Parties hereto. This Power Purchase Agreement may only be modified by a subsequent written instrument which shall be executed by the Authority and the Service Provider, and to the extent any such amendment involves any terms that could adversely affect any Customer, by such Customer.

#### Section 14.7 Partial Invalidity.

If any non-material part of this Power Purchase Agreement is held to be unenforceable, the

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rest of this Power Purchase Agreement will continue in effect. If a material provision is determined to be unenforceable and the Party which would have been benefited by the provision does not waive its unenforceability, then the Parties shall negotiate in good faith and if they are unable to reach agreement on an appropriate amendment within a reasonable time, their disagreement shall constitute a dispute and be resolved pursuant to the provisions of Section 14.5 (relating to arbitration). The arbitrator may grant any remedy or relief, including reformation of this Power Purchase Agreement, that the arbitrator deems just and equitable.

**Section 14.8 Non-Substitution.**

Customer covenants and agrees that throughout the Initial Term of this Power Purchase Agreement, and all extensions hereof, that with respect to the Local Unit Facility (a) it shall not purchase, lease or rent property to perform the same function or provide the same services as, or functions or services taking the place of, those functions and services being provided by Service Provider under this Power Purchase Agreement, (b) it shall not permit such functions of services to be performed or supplied by Customer's own employees or by Customer or any agency, affiliate or third party of Customer, (c) it shall not otherwise enter into any agreement with any third party or otherwise affiliated party to perform such functions or services, and/or (d) otherwise take steps to circumvent or defeat the intentions of this paragraph or this Power Purchase Agreement. During the Initial Term of this Power Purchase Agreement and throughout all extensions hereof, Customer covenants and agrees to look to and consider Service Provider as the Local Unit's sole and exclusive supplier of Electricity up to the total amount generated by the Renewable Energy Projects.

**Section 14.9 Further Assurances.**

The Parties hereto agree to execute all documents and take all further actions which might be reasonably requested by any other Party in order to better fulfill or evidence the intentions of the Parties hereto.

**Section 14.10 Counterpart Execution; Facsimile Signatures.**

This Power Purchase Agreement may be executed and acknowledged in counterparts, and when signed by all of the Parties hereto shall constitute one binding agreement. Facsimile Signatures shall be deemed the same as originals.

**Section 14.11 Waiver of Sovereign Immunity.**

For the purposes of this Power Purchase Agreement, the Authority and each Customer acknowledge and agree that (a) its execution and delivery of this Power Purchase Agreement and (b) its performance of the actions contemplated by this Power Purchase Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or such Customer in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this Power Purchase Agreement, (i) expressly and irrevocably agrees

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**Section 14.13. Approvals.**

In order to ensure that construction of the Renewable Energy Projects is not unduly delayed, in the event that any party to this Power Purchase Agreement, including without limitation any Series 2011 Local Unit, seeks the approval or consent of another Party to this Power Purchase Agreement, the Party considering such request shall not unreasonably condition, withhold or delay such consent or approval.

not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**Section 14.12 Notice.**

Unless otherwise provided in writing, any notices to be given or to be served upon any Party hereto, or any other documents to be delivered to Party, all in connection with this Power Purchase Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the Party to whom it is addressed. Such notice or document shall be given to the Party at their following respective addresses or at such other address as any Party may hereafter designate to the other Parties hereto in writing:

(a) If to the Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearman@jandplaw.com

(b) If to Service Provider: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, New York 10017  
Email: principals@sunlightgeneral.com

With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com

If to Customer: See Exhibit F attached hereto.

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IN WITNESS WHEREOF, the undersigned have caused this Power Purchase Agreement to be duly executed and delivered as of the date and day first above written.

SUNLIGHT GENERAL SUSSEX  
SOLAR, LLC

By: Sunlight General Capital  
Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY

[SEAL]

By: \_\_\_\_\_  
John Bonanni  
Chairman

ATTEST:

By: \_\_\_\_\_  
Ellen M. Sandman  
Secretary

**ACKNOWLEDGMENT**

Pursuant to Section 5.1(c) of their respective Local Unit License Agreements, the terms and conditions of this Power Purchase Agreement are hereby acknowledged and accepted by each of the Series 2011 Local Units, as acknowledgment parties to this Power Purchase Agreement, intending to be severally entitled to, and bound by, the rights, duties and obligations of Customer hereunder, this \_\_\_ day of December, 2011.

**FREDON TOWNSHIP**

BY: \_\_\_\_\_  
Name:  
Title:

**TOWN OF NEWTON**

BY: \_\_\_\_\_  
Name:  
Title:

**BYRAM TOWNSHIP SCHOOL DISTRICT**

BY: \_\_\_\_\_  
Name:  
Title:

**FRANKFORD TOWNSHIP CONSOLIDATED SCHOOLS**

BY: \_\_\_\_\_  
Name:  
Title:

**FRANKLIN BOROUGH BOARD OF EDUCATION**

BY: \_\_\_\_\_  
Name:  
Title:

**GREEN TOWNSHIP BOARD OF EDUCATION**

BY: \_\_\_\_\_  
Name:  
Title:

**HARDYSTON BOARD OF EDUCATION**

BY: \_\_\_\_\_  
Name:  
Title:

**HIGH POINT REGIONAL SCHOOL DISTRICT**

BY: \_\_\_\_\_  
Name:  
Title:

**KITTATINNY REGIONAL SCHOOL DISTRICT**

BY: \_\_\_\_\_  
Name:  
Title:

**LENAPE VALLEY REGIONAL BOARD OF EDUCATION**

BY: \_\_\_\_\_  
Name:  
Title:

**NEWTON BOARD OF EDUCATION**

BY: \_\_\_\_\_  
Name:  
Title:

**SUSSEX COUNTY TECHNICAL SCHOOL**

BY: \_\_\_\_\_  
Name:  
Title:

**COUNTY OF SUSSEX**

BY: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**

**Morris County Improvement Authority**  
\$ \_\_\_\_\_ aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$ \_\_\_\_\_ Series 2011A Bonds, and  
\$ \_\_\_\_\_ Series 2011B Note

**Series 2011 Local Unit List of Local Unit Facilities**

- a. Series 2011 Municipal Local Units
  - (i) Fredon Township (<http://www.town.fredon.nj.us/>)
    - (A) Civic Center (Roof 61 kW)  
436 Route 94  
Fredon, NJ
  - (ii) Town of Newton (<http://www.townofnewtonhall.com/>)
    - (A) DPW Complex (Roof 73 kW)  
117 Moran Street  
Newton, NJ
    - (B) Wastewater Treatment Plant (Roof 169 kW)  
55 Townsend Street  
Newton, NJ
- b. Series 2011 Board of Education Local Units
  - (i) Byram Township School District (<http://www.byramschools.org/>)
    - (A) Byram Lakes Elementary School (Roof 38 kW)  
11 Mansfield Drive  
Stanhope, NJ
    - (B) Byram Intermediate School (Parking Canopy 455 kW)  
12 Mansfield Drive  
Stanhope, NJ
  - (ii) Frankford Township Consolidated Schools (<http://www.frankfordtheschool.org/>)
    - (A) Frankford Township School (Roof 362 kW)  
2 Pines Road  
Branchville, NJ
  - (iii) Franklin Borough Board of Education (<http://www.fboe.org/fboe.htm>)
    - (A) Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)  
50 Washington Avenue  
Franklin, NJ

- (iv) Green Township Board of Education (<http://greenhills.org>)
  - (A) Green Hills School (Roof 157 kW)  
69 Mackerley Road  
Greendell, NJ
- (v) Hardyston Board of Education (<http://www.hbs.org/BOE/BOEIndex.htm>)
  - (A) Hardyston Middle School (Rack 612 kW)  
143 Wheatsworth Road  
Hamburg, NJ
- (vi) High Point Regional School District (<http://www.hprsd.org/>)
  - (A) High Point Regional High School (Roof 453 kW)  
259 Pigeon Hill Road  
Sussex, NJ
- (vii) Kittatinny Regional School District (<http://www.krhs.net/>)
  - (A) Kittatinny Regional High School (Roof 187 kW and Parking Canopy 173 kW)  
77 Halsey Road  
Newton, NJ
- (viii) Lenape Valley Regional Board of Education (<http://www.lvbs.org/>)
  - (A) Lenape Valley Regional High School (Parking Canopy 393 kW and Rack 774 kW)  
24 Sparta Road  
Sparta, NJ
- (ix) Newton Board of Education (<http://www.newtonnjb.org/>)
  - (A) Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)  
81 Merriam Avenue  
Newton, NJ; and
  - (B) Newton High School (Roof 222 kW and Parking Canopy 124 kW)  
44 Ryerson Avenue  
Newton, NJ
- c. Series 2011 County Local Units
  - (i) Sussex County Technical School (<http://www.sussex.tcnj.edu/>)
    - (A) Sussex County Technical School (Roof 112 kW, Rack 793 kW and Parking Canopy 296 kW)  
105 North Church Road  
Sparta, NJ
  - (ii) County of Sussex (<http://www.sussex.nj.us/>)
    - (A) Sussex County Judicial Center (Parking Canopy 468 kW)

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- 39 High Street  
Newton, NJ
- (B) Wheatsworth Facility (Rack 149 kW)  
149 Wheatsworth Road  
Hardyston, NJ
- (C) Main Library (Rack 100 kW)  
125 Morris Turnpike  
Newton, NJ

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## Exhibit B

### PPA Price - Electricity Rates and Escalation Adjustments

For any year of this Power Purchase Agreement and with respect to each respective Customer, the PPA Price payable by any one such Customer is the sum of Sections a and b below (after the escalation percentage factor in Section 2 below is converted into a dollar amount for the applicable year of computation).

(a) Cost of Electricity, per kWh, pursuant to the Power Purchase Agreement, for the period (a) from the date of the first delivery by the Service Provider to such Customer of Electricity from the Renewable Energy Project on the Local Unit Facility of such Customer (b) to, but excluding, the first anniversary of the applicable Commencement Date for such Customer: \$0.0935/ kWh.

(b) Annual escalation (expressed as a fixed percentage increase from the prior year's PPA Price) applicable as of each anniversary date of the Commencement Date for such Customer in effect for the following year to, but not including, the immediately succeeding anniversary of such Commencement Date for such Customer: three percent (3.00%).

(i) This escalation factor commences on the first anniversary of the Commencement Date for such Customer, and ends at the end of the Initial Term, unless further adjusted in accordance with the terms of any extension of the Initial Term pursuant to the terms of the Power Purchase Agreement.

(c) The Parties further agree to the following:

(i) Although the percentage of escalation is fixed in Section 2, since it is based on the prior year's PPA Price, which is itself increasing on an annual basis, the actual dollar amount of each year's escalation increases.

(ii) With the possibility that each Customer shall have different Commencement Dates, and although each Customer shall be subject to the same base cost of Electricity governed by Section 1 above and the same escalation factor governed by Section 2 above, the actual PPA Price payable by one or more Customers may vary on the same date of computation for different Customers.

(iii) In light of the provisions of Section 6.5 of the Power Purchase Agreement, the PPA Price for any Applicable Customer shall be further escalated for any increase in taxes assessed or levied against the Renewable Energy Projects, which taxes shall be imposed by or on behalf of any such Customer, if any; provided, however, that any such increase shall be solely available to the entity that must pay any such tax, the intent being that there shall be no after tax effect on the PPA Price, should any such tax ever be imposed.

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## EXHIBIT C

### PLANS AND SPECIFICATIONS FOR RENEWABLE ENERGY PROJECTS

[NOTE- PHOTOVOLTAIC RENEWABLE ENERGY PROJECTS DESCRIBED BELOW IS SUBJECT TO CHANGE BASED UPON CUSTOMER INPUT, SOLAR MODULE AVAILABILITY AND FINAL DESIGN DETAILS. ALL "AS BUILT" DESIGN DOCUMENTS AND PLANS AND SPECIFICATIONS SHALL BECOME PART OF THIS EXHIBIT C WHEN COMPLETE.]

1. Service Provider shall install the Renewable Energy Projects for each Local Unit Facility as described in Exhibit A to this Power Purchase Agreement and, as applicable, with a roof support system that minimizes roof penetrations and assures the safety and integrity of the system and continued validity of the respective roof warranties for each Local Unit Facility.

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[Attach Company Proposal Table 6(b)-  
Guaranteed Output]

[Attach Company Proposal Table 6(a)-  
Expected Output]

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**EXHIBIT D**

**PLANS, SPECIFICATIONS AND LOCAL UNIT EXISTING ROOF WARRANTY  
DURATION CHART FOR CAPITAL IMPROVEMENT PROJECTS**

**EXHIBIT E**

**[ATTACH FORM OF LOCAL UNIT LICENSE AGREEMENT]**

**[SEE CLOSING ITEM NO. \_]**

D-1

E-1

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

Dated as of December 1, 2011

MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee

And

[Local Unit], as Licensor

By and Between

LICENSE AND ACCESS AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

1. EPC Contractor

[Attach Initial List of Subcontractors]

EXHIBIT H

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Attach local unit distribution list.

Morris County Improvement Authority  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

EXHIBIT F

[Attach Construction Performance Bond]

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**LICENSE AND ACCESS AGREEMENT**  
(Sussex County Renewable Energy Program, Series 2011)

THIS "LICENSE AND ACCESS AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "[A] Local Unit License Agreement"), dated as of December 1, 2011, is made by and among [insert name of Local Unit] (the "Licensor"), a public body corporate and politic organized and existing under the laws of the State of New Jersey, in the County of Sussex (the "County"), State of New Jersey ("State") and the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority" or the "Licensee"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of Morris County as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act") and other applicable law.

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants"), if any, and together with the Authority Consultants, the "Consultants"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority (and Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance

of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatiny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "Series 2011A Bonds") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally

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N.J.S.A. 18A:18A-42(e) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "Company RFP") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "Company Proposal") submitted with respect to Sunlight General Sussex Solar, LLC (the "Company"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(e) of the Public Schools

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Taxable") (the "Series 2011B Note, and together with the Series 2011A Bonds, "Series 2011 Bonds"), by the same sale method as the Series 2011A Bonds;

WHEREAS, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under

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Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

- (I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,
  - (II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and
  - (III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and
- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "Company Documents");

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among

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other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance to be executed by an authorized officer of the County on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month

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the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

WHEREAS, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic lease Payments;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

WHEREAS, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c-12") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be

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of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

WHEREAS, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

WHEREAS, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "EPC Contractor"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "EPC Contract") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "In-Kind Equity Contribution") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "Equity Contribution"), (ii) a cash reserve in the amount of \$1,500,000 (the "County Reserve") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty;

WHEREAS, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in

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amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement" and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents" with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i) the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement"); and (ii) the execution and delivery of a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

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NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions.

(a) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

[A] Local Unit License Agreement  
Act  
Authority  
Board of Education Series 2011 Local Units  
Board of Freeholders  
Bond Purchase Agreement  
Bond Resolution  
Bonds  
BPU  
Capital Improvement Projects\*  
Cash Equity Contribution  
Company  
Company Continuing Disclosure Agreement  
Company Documents  
Company Lease Agreement  
Company Pledge Agreement  
Company Proposal  
Company RFP  
County  
County Continuing Disclosure Agreement  
County Guaranty  
County Guaranty Agreement  
County Reserve  
County Security  
County Security Agreement  
County Security Provider  
County Service Agreement  
County Series 2011 Local Units  
Dissemination Agent  
Equity Contribution  
EPC Contract  
EPC Contractor  
Initial Tranche  
In-Kind Equity Contribution  
Local Units  
Local Unit Facilities\*  
Local Unit License

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Local Unit License Agreement  
Local Unit License Agreements  
Municipal Series 2011 Local Units  
Official Statement  
Power Purchase Agreement  
Preliminary Official Statement  
Preliminary Program Costs  
Program Documents  
Projects\*  
Renewable Energy Program  
Renewable Energy Projects\*  
Rule 15c-12  
Sale Documents  
Second Tranche  
Section 1603 Grant  
Series 2011 Bonds  
Series 2011A Bonds  
Series 2011B Note  
Series 2011 Local Unit\*  
Series 2011 Local Units  
Shared Services Act  
SRECs  
State  
Underwriter

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(b) The following defined terms shall, for all purposes of this [A] Local Unit License Agreement, have the meanings ascribed to such terms in the Bond Resolution

Account  
Additional Bonds  
Administrative Expense Account  
Administrative Fund  
Aged Account  
Bond  
Capitalized Interest Account  
Code  
Company Development Fees and Expenses  
Completion Conditions  
Completion Project  
Consulting Energy Engineer  
Consulting Energy Engineering Services  
Cost  
Costs of Issuance Account

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County Security Fund  
County Security Fund Requirement  
Debt Service Fund  
Funds  
General Fund  
Gross Substitute Power Purchase Price  
Interest Account  
Investment Securities  
Net Substitute Power Purchase Price  
Outstanding  
Paying Agent  
Principal Account  
Principal Office  
Project Fund  
Rating Agency  
Renewable Energy Program Interested Party  
Restoration Security Fund  
Restoration Security Fund Requirement  
Revenue Account  
Revenue Fund  
Revenues  
Series  
Series 2011B Bonds  
Sinking Fund Installments  
Supplemental Resolution  
Tax Certificate  
Tax-exempt Bonds  
Trustee  
Trust Estate

(c) The following defined terms shall, for all purposes of this [A] Local Unit License Agreement, have the meanings ascribed to such terms in the following Sections hereof.

(i) Section 3.1(a):

[A] Capital Improvement Projects  
[A] Licensee  
[A] Licensees  
[A] Local Unit Facilities  
[A] Local Unit License  
[A] Project Activities  
[A] Projects  
[A] Renewable Energy Projects

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- (ii) Section 3.8:  
Revised [A] Renewable Energy Projects
- (iii) Section 5.2(a)(i)  
Gross Substitute Power Purchase Price  
Net Substitute Power Purchase Price
- (iv) Section 6.1(a)  
Authority Event of Default
- (v) Section 6.1(b)  
Licensor Event of Default
- (vi) Section 7.1(c)  
Term

(d) The following defined terms shall, for all purposes of this [A] Local Unit License Agreement, have the following meanings:

"[A] Acceptance Certificates" shall mean individually or collectively, as the case may be, the [A] CIP Acceptance Certificate and the [A] REP Acceptance Certificate, each in the form attached as Exhibit E to the [A] Local Unit License Agreement and Exhibit B to the Company Lease Agreement.

"[A] CIP Acceptance Certificate" shall mean the certificate applicable to the [A] Capital Improvement Projects in the form attached as Exhibit E-2 to the [A] Local Unit License Agreement and Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, Licensor's acceptance of all of the [A] Capital Improvement Projects, all as set forth in Section 4.3 of the [A] Local Unit License Agreement and Section 510(d)(ii) of the Company Lease Agreement. As there are no [A] Capital Improvement Projects for the Licensor, this definition shall have no effect in this [A] Local Unit License Agreement. The Parties acknowledge and agree that no [A] Capital Improvement Projects will be undertaken by the Company hereunder and that, accordingly, all provisions in this Agreement regarding the Capital Improvement Projects are not applicable and of no force and effect.

"[A] Construction Manager" shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Authority or the Licensor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable,

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the operation and maintenance of the Renewable Energy Projects by the Company for the Licensor, or the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects by the Company for the Licensor.

"[A] Draw Papers" shall mean the requisitions, and attachments thereto, applicable to either the (i) [A] Renewable Energy Projects or (ii) [A] Capital Improvement Projects, in either case in the form attached as Exhibit D to the [A] Local Unit License Agreement and Exhibit C to the Company Lease Agreement, each executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the requisitioning of funds from the Project Fund for either or both of the [A] Renewable Energy Projects or the [A] Capital Improvement Projects, all as set forth in Section 4.1 of the [A] Local Unit License Agreement and Section 510(a), (b) and (c) of the Company Lease Agreement.

"[A] Interconnection Agreement" shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Company, the Licensor and/or the Authority, with respect to the interconnection of the completed [A] Renewable Energy Projects for the Licensor to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

"[A] REP Acceptance Certificate" shall mean the certificate applicable to the [A] Renewable Energy Projects in the form attached as Exhibit E-1 to the [A] Local Unit License Agreement and Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, and acknowledged by an Authorized Officer of the Licensor, and acknowledged as to form only by an Authorized Officer of the Authority, setting forth, among other things, the Company's acceptance of all of the [A] Renewable Energy Projects, all as set forth in Section 4.2 of the [A] Local Unit License Agreement and Section 510(d)(i) of the Company Lease Agreement.

"Authorized Officer" or "Authorized Representative" shall mean, (i) with respect to the Authority: the Chairperson, the Vice Chairperson, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairperson or by the Vice Chairperson of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to the Licensor: the Superintendent, Administrator, Board Secretary or such other person designated as an Authorized Officer in the [A] Local Unit License Agreement or any other person or persons who shall be authorized to act on behalf of such Licensor by virtue of a resolution of the governing body of the Licensor, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or any authorized signatory of the Company authorized by the

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Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider, if any: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

"Event of Default" shall mean, individually or collectively, as the case may be, an Authority Event of Default or a Licensor Event of Default.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

#### Section 2.1. Representations and Warranties of the Licensor.

(a) The Licensor has the full right, power and authority under all applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensor. The Licensor has received any and all approvals and has taken all official action necessary to authorize an Authorized Officer of the Licensor to execute and deliver this [A] Local Unit License Agreement (and any documents contemplated hereby, including without limitation the [A] Draw Papers, the [A] Acceptance Certificates, and any [A] Interconnection Agreement) to the Licensee, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensor is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensor or its property, including the [A] Local Unit Facilities. Licensor holds good, record and marketable title to each of the [A] Local Unit Facilities and the land underlying the [A] Local Unit Facilities. There are no mortgages or other liens against the [A] Local Unit Facilities or the land except as set forth on Exhibit G.

#### Section 2.2. Representations and Warranties of the Licensee.

(a) The Licensee has the full right, power and authority under the Act and all other applicable law to discharge its duties and obligations hereunder, and enjoy its rights and benefits hereunder, all in accordance with the terms hereof, each of which, together with all other terms hereof, shall be and are valid and binding terms enforceable against the Licensee. The Licensee has taken all official action necessary to authorize an Authorized Officer of the Licensee to execute and deliver this [A] Local Unit License Agreement to the Licensor, and none of the provisions hereof, in any material way, conflict with the provisions of any other agreement to which the Licensee is a party or an acknowledgement party, including without limitation any other Program Document or any other agreement regarding liens or encumbrances applicable to the Licensee or its property.

#### Section 2.3. Mutual Representations, Warranties and Acknowledgments of the Licensor and the Licensee.

(a) The Licensor shall constitute a Series 2011 Local Unit for all purposes of the Renewable Energy Program pursuant to the provisions of all of the Program Documents, entitled to the rights, duties and obligations of a Series 2011 Local Unit.

(b) To the extent the circumstances set forth in Section 5.2 hereof arise, whereby an Event of Default under the Company Lease Agreement has occurred due to the late or insufficient payment of Basic Lease Payments by the Company thereunder, this [A] Local Unit License Agreement shall be deemed to be a power purchase agreement for purposes of (i)

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N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, to the extent the Licensor is a Series 2011 Municipal Local Unit or a Series 2011 County Local Unit, or (ii) N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, to the extent the Licensor is a Series 2011 Board of Education Local Unit, as applicable.

#### Section 2.4. Covenants of the Licensor.

(a) Upon the delivery of the [A] CIP Acceptance Certificate with respect to the [A] Capital Improvement Projects, if any, the Licensor shall own such [A] Capital Improvement Projects, and further, the Licensor shall be obligated to maintain, and as necessary, operate the [A] Capital Improvement Projects, it being expressly understood and acknowledged by the parties hereto that neither the Authority nor any other Renewable Energy Program Interested Party shall, after such time, have any obligations in connection therewith.

(b) To the extent the Licensor determines to exercise the fair market value purchase option with respect to the [A] Renewable Energy Projects set forth in Section 5.1(d) hereof, the Licensor shall pay for and conclude such purchase in an expeditious manner from the Company (which Company shall have taken fee ownership of the [A] Renewable Energy Projects pursuant to Section 609(b) of the Company Lease Agreement) or from or through the Authority, as applicable, which purchase price may be funded by the Licensee if so agreed to by the parties in writing.

(c) Although the Company shall be responsible for the payment of Administrative Expenses caused by the action or inaction of the Company, to the extent Licensor's action or inaction pursuant to the terms of this [A] Local Unit License Agreement results in the Authority incurring Administrative Expenses, Licensor shall be responsible for the prompt payment of same.

#### Section 2.5. Covenants of the Licensee.

(a) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Project Account of the Project Fund, together with the Equity Contribution, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Renewable Energy Projects of all the other Series 2011 Local Units, to fund the Cost of the [A] Renewable Energy Projects on, or as applicable, in the [A] Local Unit Facilities.

(b) The Authority shall issue the Bonds pursuant to the Bond Resolution, the Act, and all other applicable law, such that the amounts on deposit with the Trustee in the Capital Improvement Project Account of the Project Fund, shall be sufficient, after taking into account all such other amounts on deposit therein earmarked for the funding of the Capital Improvement Projects of all the other Series 2011 Local Units, to fund the Cost of the [A] Capital Improvement Projects on or as applicable, in the [A] Local Unit Facilities.

(c) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized,

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### ARTICLE III

#### LICENSE

##### Section 3.1. License.

(a) For the Term of this [A] Local Unit License Agreement, the Licensor does hereby grant to the Authority and its designees set forth in writing and delivered to the Licensor, which the Licensor hereby acknowledges shall include the Company pursuant to the Company Documents, and any of the Authority's or the Company's subcontractors, consultants, agents, and any other person or entity the Authority or the Company deems necessary, desirable or convenient in order to discharge their respective obligations or exercise their respective rights under this [A] Local Unit License Agreement (each, an "[A] Licensee", and collectively, the "[A] Licensees"), the non-exclusive right and obligation to access the Local Unit Facilities of the Licensor as described on Exhibit A hereto (the "[A] Local Unit Facilities"), including without limitation the roofs and electrical systems thereof, and all lands and properties of the Licensor that are reasonably necessary, desirable or convenient in order to give the Authority, the Company, or any other [A] Licensee access to the [A] Local Unit Facilities, and the Authority hereby accepts, subject to all of the terms and provisions of this [A] Local Unit License Agreement, a license (the "[A] Local Unit License") allowing each [A] Licensee to enter the [A] Local Unit Facilities for the purpose of (i) designing, permitting, acquiring, constructing, installing, financing, operating and maintaining the Renewable Energy Projects for the Licensor described on Exhibit B hereto (the "[A] Renewable Energy Projects"), and (ii) designing, permitting, acquiring, constructing, renovating, installing, and financing the Capital Improvement Projects for the Licensor described on Exhibit C hereto (the "[A] Capital Improvement Projects", and together with the [A] Renewable Energy Projects, the "[A] Projects") and to take all such other reasonable actions in connection therewith (collectively, and as additionally described in subsection (c) below, the "[A] Project Activities"), all at the sole cost and expense of the Authority or any other [A] Licensee, but not the Licensor, unless expressly set forth elsewhere herein. As there are no [A] Capital Improvement Projects for the Licensor, this definition shall have no effect in this [A] Local Unit License Agreement. Notwithstanding the foregoing, the Licensor shall be responsible for all operating, maintenance and repair costs incurred from the Point of Delivery (as defined in the Power Purchase Agreement) to Licensor's operating site (solely the site and not including the solar improvements) at or in each of its [A] Local Unit Facilities

(b) For all purposes of this [A] Local Unit License Agreement, the [A] Local Unit License shall be deemed to include a preliminary license granted by the Licensor to the Authority and shall include, as [A] Licensees, any entities involved in the procurement process directed by the Authority to select the Company, so long as the Authority submits a list of such entities to the Licensor, for the sole purpose of allowing any such entities to accumulate sufficient information to submit a response to the Authority pursuant to such procurement process, thereby allowing such information gathering to constitute permissive [A] Activities, which preliminary [A] Local Unit License shall automatically cease upon the establishment of the Company pursuant to such procurement process (to be automatically replaced, for the Authority and, among such entities, for the Company only, by subsection (a) above).

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delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, install, operate and maintain the [A] Renewable Energy Projects on or as applicable, in or about the [A] Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such [A] Renewable Energy Projects, and any products derived therefrom including the electricity generated as renewable energy thereby, shall be owned in fee by the Licensee, subject to the terms of the Company Documents, including without limitation the conveyance of the ownership thereof, for Federal income tax purposes, to the Company pursuant to the terms thereof.

(d) No later than the issuance of the Bonds, the Authority shall have authorized, delivered and executed, and shall have caused the Company to have authorized, delivered and executed, or otherwise be bound by the terms and provisions of, the Company Documents, which by their terms shall require the Company to design, permit, acquire, construct, renovate, and install the [A] Capital Improvement Projects on or as applicable, in or about the [A] Local Unit Facilities, it also being expressly understood and acknowledged by the parties hereto that such [A] Capital Improvement Projects shall be owned in fee by the Licensor.

(e) The Authority shall exercise the Fair Market Value purchase option under the Company Documents, and take, any action consistent therewith, to the extent the Authority is so directed by the Licensor, all in accordance with Section 5.1(d) hereof.

#### Section 2.6. Inapplicable Terms.

Notwithstanding anything to the contrary contained in this Local Unit License Agreement, the parties hereto acknowledge and agree that (a) the Company is not responsible for the construction of any [A] Capital Improvement Projects under the Program Documents and any references herein to [A] Capital Improvement Projects, [A] Capital Improvement Project Fund, [A] CIP Acceptance Certificates or any other term defined by reference to [A] Capital Improvement Projects (without limiting the application of any such term to the extent not related to [A] Capital Improvement Projects) shall be of no further force and effect, and (b) as recited in the preambles hereof, there shall be no need for a County Security Agreement or a third-party County Security Provider, which due to the funding of the County Reserve upon issuance of the Series 2011A Bonds, shall be the Company for purposes of the Program Documents.

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(c) The [A] Licensees shall have access to the [A] Local Unit Facilities to conduct [A] Project Activities, a portion of which are expressly set forth in subsection (a) above, and shall include the following:

(i) The investigation of the [A] Local Unit Facilities necessary to issue or cause the issuance of the opinion (structural condition of roof) and analysis (wind analysis) contemplated by Section 4.6(a) of the Power Purchase Agreement;

(ii) The construction, installation and operation and maintenance of any equipment for the [A] Renewable Energy Projects, including but not limited to photovoltaic solar modules, photovoltaic solar mounting systems, roofing modifications as approved by the Authority and Licensor, electrical power, and control wiring, controls, protective relays, connections, fixtures, machinery, equipment, and other personal property that are required, desirable or convenient to construct, operate, and maintain the [A] Renewable Energy Projects, subject to the Authority and Licensor's rights to notice, and Licensor's right to approve the Plans and Specifications therefore in accordance with Section 501 of the Company Lease Agreement;

(iii) All activities in connection with the removal of the [A] Renewable Energy Projects as contemplated by Section 3.7(b)(g) of the Power Purchase Agreement; and

(iv) The monitoring of the [A] Renewable Energy Projects' system performance and metering from remote locations through access to the Licensor's data management network at the [A] Local Unit Facilities.

(d) No other activities beyond the scope of the [A] Project Activities shall be undertaken on the [A] Local Unit Facilities by the Authority or any other [A] Licensee, unless expressly agreed to in writing by all the other parties hereto.

(e) Licensor shall use commercially reasonable efforts to obtain, or cause to be obtained (in form and substance reasonably satisfactory to the Company) non-disturbance agreements or, if applicable, waivers and/or consents from any of its mortgagees, landlords, or similar parties in interest with respect to all access and other rights which Licensor is obligated to provide or cause to be provided to the Company pursuant to this Section 3.1 and the Power Purchase Agreement. Licensor shall use commercially reasonable efforts to avoid interfering with the Company's performance of its obligations under this [A] Local Unit License Agreement, the Company Lease Agreement or the Power Purchase Agreement.

**Section 3.2. [A] Licensees.** The parties hereto expressly acknowledge and agree that in addition to the Authority, for the duration of the Term of this [A] Local Unit License Agreement, the [A] License shall permit the [A] Licensees to enter upon the [A] Local Unit Facilities to conduct the [A] Project Activities, at which time any such [A] Licensees shall

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automatically, without any further action, be bound by the provisions of this [A] Local Unit License Agreement during the Term hereof. The Licensee must provide the names of all employees, agents, and workers of the contractors and subcontractors who will be present at the site for purposes of checking all identities against the Megans law registry.

**Section 3.3. Observation.** In connection with all [A] Project Activities, the Authority and/or any other [A] Licensee shall afford the Licensor and/or its representatives, the opportunity to observe all [A] Project Activities; provided, however, that such observation activities shall not interfere with any [A] Project Activities or delay construction of the Projects; and provided, further, that the Licensor hereby releases and agrees to indemnify, defend and hold harmless the Authority and each other [A] Licensee from and against any and all loss, cost, damage, injury or expense arising out of the Licensor's, or its representatives' or consultant's entry or activities on the [A] Local Unit Facilities for purposes of observing Project Activities not in compliance with this Section.

**Section 3.4. Reports; Inspection.** The Authority shall, and shall cause all [A] Licensees, to promptly provide the Licensor with copies of any final written reports prepared, compiled or generated as part of the [A] Project Activities, if any [list of reports can be added here]. Further, the Licensor shall have the right, upon the provision of reasonable advance written notice to the Authority and so long as the following action shall not, to the greatest extent practicable, interfere with the [A] Local Unit License, to inspect the [A] Local Unit Facilities and/or the [A] Renewable Energy Projects during the Term of this [A] Local Unit License Agreement to ensure the Authority is complying with the terms hereof.

**Section 3.5. Restoration.** In the event the [A] Local Unit License under this [A] Local Unit License Agreement is revoked for any reason against the Authority, the Authority shall itself, or cause any other [A] Licensee or other entity to promptly restore the Local Unit Facilities to exactly (or better, as newer) the condition of such Local Unit Facilities immediately prior to the granting of the [A] Local Unit License hereunder, or to such other condition as shall be mutually agreeable to the Licensor and the Authority, provided that the costs of restoration where the revocation shall have been caused by the Licensor shall be paid for by the Licensor.

**Section 3.6. Insurance.** Prior to accessing the Local Unit Facilities, the Authority shall deliver, or cause the Company performing [A] Project Activities on the [A] Local Unit Facilities to deliver, evidence of insurance of the Company in the coverage and amounts required under Article VII, Section 7.3 of the Company RFF, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement, as may be modified by the Program Documents, and as required by Sections 601 through 607 inclusive of the Company Lease Agreement, all such policies to be satisfactory to the Authority and the Licensor. All certificates of insurance required hereunder shall name as additional insureds the Authority and the Licensor. All such policies shall contain a provision whereby the same cannot be canceled or modified unless the Authority and the Licensor is given at least thirty (30) days prior written notice of such cancellation or modification. Notwithstanding anything else contained herein or in the Power Purchase Agreement, to the extent the insurance is in accordance with Accord 25 (2010/05) should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

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expenses of all Renewable Energy Program Interested Parties involved with any such relocation, and as applicable, their consultants, and (B) prospectively, after such relocation, the Licensor shall continue to pay all amounts due under this [A] Local Unit License Agreement for the remainder of the Term hereof (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) and the parties shall be entitled to and obligated to perform, as applicable, the rights, duties, and obligations hereunder, as if such relocation never occurred, in which case clause (iv) of this Section 3.7(a) shall have no effect.

(iv) To the extent the Authority and the Company do not agree to such relocation within such period (or alternatively, the Licensor has been unable to secure an acceptable alternative site within such period), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then Licensor shall pay (A) the Trustee an amount sufficient to pay the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the [A] Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds) or provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution, together with the fees and expenses of all Renewable Energy Program Interested Parties involved in effecting such prepayment, redemption, and/or defeasance, and as applicable, their consultants, and (B) the Company an amount that reimburses the Company, on a net present value basis, for (I) the value of all SRECs that would have been obtained and accrued to the benefit of the Company during the remainder of the then existing Term hereof, such value to be based on an objective standard of valuation acceptable to the Company and available at such time, as approved by the Authority, (II) any other revenues the Company would have received under the Program Documents through the remainder of the then existing Term had the [A] Renewable Energy Projects been operating at the [A] Local Unit Facilities for the remainder of such then existing Term, if any (other than the credit against its Basic Lease Payments for payments that would have been made by the Licensor under Section 5.1(c)(i) hereof, as the Company is already receiving that benefit through the payment to the Trustee contemplated by sub-clause (A) above, which payments shall be credited against the Company's Basic Lease Payment obligations under the terms of the Program Documents) and (III) any penalties, recapture amounts or other payments required to be made by or on behalf of the Company or its investors under the Code or the American Recovery and Reinvestment Act of 2009 caused by an early revocation within any recapture period for any grants or tax benefits claimed by the Company relating to the [A] Renewable Energy Projects.

(b) The Licensor shall not, except in respect of a deemed revocation pursuant to Section 3.7(c), revoke the [A] Local Unit License prior to the expiration of the Term hereof, in accordance with Section 7.1 hereof, unless any such revocation notice in writing shall be delivered to the Authority and the other Renewable Energy Program Interested Parties to the

### Section 3.7. Revocation.

(a) The parties expressly acknowledge that the [A] Local Unit License cannot be revoked (including deemed revocation situations where the [A] Local Unit Facilities are unavailable to allow the Company to perform [A] Project Activities due to damage, condemnation or otherwise, which are governed by clauses (ii), (iii) and to the extent the circumstances giving rise to the deemed revocation are within the Licensor's control, (iv) below, inclusive, and where time periods shall commence from the onset of the unavailability of the [A] Local Unit Facilities) once Bonds have been issued and are Outstanding, unless the Licensor satisfies clause (iv) below after complying with clause (i), and seeking to relocate pursuant to clauses (ii) and (iii) below:

(i) The Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company that the Licensor intends to revoke its [A] Local Unit License for the [A] Local Unit Facilities, at least one (1) year prior to any such revocation; and

(ii) The Licensor, working cooperatively with the Authority, shall seek to provide the Licensee, within such one (1) year period, with a substitute location for the [A] Renewable Energy Projects, with as similar physical conditions to the existing [A] Local Unit Facilities as is practicable, it being expressly understood that (A) the substitution shall not occur until the substitute [A] Renewable Energy Project on the [A] Local Unit Facilities is up and running so that none of the Authority, the Licensor, or the Company shall lose any electricity or SREC production during any transition period, and (B) the Licensor shall continue to pay all amounts due under this [A] Local Unit License Agreement during such period (including without limitation the amounts set forth in Section 5.1(c)(i) hereof) as if such attempted revocation were not occurring, regardless of whether Licensor continues to receive and utilize the electricity from the [A] Renewable Energy Projects located on, or as applicable in, the [A] Local Unit Facilities, all as contemplated hereby, during such period; and

(iii) To the extent the Authority and the Company agree to such relocation within such period, as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, then (A) the Licensor shall pay for all costs of relocating the [A] Renewable Energy Projects on, or as applicable in, such new location (thereupon such new agreed upon location shall be deemed the new [A] Local Unit Facilities for all purposes of this [A] Local Unit License Agreement and the other Program Documents, and similarly, the new [A] Local Unit Facilities shall be deemed the new [A] Renewable Energy Projects on, or as applicable in, such new [A] Local Unit License Agreement and the other Program Documents), including without limitation any relocation costs, re-installation costs, costs improving the condition of the new location to accept the [A] Renewable Energy Projects, and the fees and

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effect that (i) the provisions of Section 3.7(a) hereof have been complied with, (ii) that no suitable site for relocating the [A] Renewable Energy Projects was found and/or approved in accordance with the terms of Section 3.7(a) hereof, and (iii) such notice is accompanied by immediately available funds in the amounts set forth in Section 3.7(a)(iv) hereof.

(c) Any damage, taking, condemnation or otherwise of any [A] Local Unit Facility as a result of which such [A] Local Unit Facility is unavailable to allow the Company to perform its [A] Project Activities shall be deemed to be a revocation of the [A] Local Unit License by Licensor pursuant to Section 3.7(a) hereof.

### Section 3.8. Material Change to [A] Renewable Energy Projects Prior to Issuance of the Acceptance Certificates.

To the extent the Licensor requests a material change to the [A] Renewable Energy Projects prior to the issuance of the Acceptance Certificates, the Licensor shall notify, in writing, the Licensee, the County, the Trustee and the Company of any requests for such material changes. To the extent the Authority and the Company agree to such material changes to the [A] Renewable Energy Projects (the "Revised [A] Renewable Energy Projects"), as evidenced by a Certificate of an Authorized Officer of each of the Authority and the Company delivered to the Licensor, the Trustee, and the County, the Licensor shall, prior to the Company undertaking the Revised [A] Renewable Energy Project, advance funds to or, if already incurred, reimburse the Company for all costs incurred by the Company upon reliance of the [A] Renewable Energy Projects set forth on Exhibit B hereto, and to the extent deemed appropriate by the Company, the relevant documentation relating thereto will be amended, as applicable.

### Section 3.9. Abandonment.

If any [A] Renewable Energy Project is abandoned by the Company pursuant to Section 4.6(e) of the Power Purchase Agreement, the obligations under this [A] Local Unit License Agreement assumed by the Company shall, as between the Company on the one hand and the Licensor and the Authority on the other hand, with respect to such [A] Renewable Energy Project, be deemed terminated and discharged.

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## ARTICLE IV

### [A] DRAW PAPERS; [A] ACCEPTANCE CERTIFICATES; COSTS OF ISSUANCE

#### Section 4.1. [A] Draw Papers.

(a) The Authority shall cause the Company to (i) design, permit, acquire, construct, install, operate and maintain the [A] Renewable Energy Projects and (ii) design, permit, acquire, construct, renovate, and install the [A] Capital Improvement Projects, all (x) in accordance with the Plans and Specifications therefor that shall be approved by the Licensor in accordance with Section 501 of the Company Lease Agreement, (y) pursuant to Development Contracts entered into by the Company after review by the Licensor in accordance with Section 502 of the Company Lease Agreement, and (z) otherwise as set forth in the Company Documents.

(b) The Authority shall issue the Series 2011 Bonds to finance, among other things, a portion of the [A] Renewable Energy Projects and the [A] Capital Improvement Projects. The Authority may, in its sole discretion, but only upon the prior written consent of the Company provided in its sole discretion, issue any other Series of Bonds to finance any Completion Project relating to the [A] Renewable Energy Projects or the [A] Capital Improvement Projects, if necessary, desirable or convenient, as determined by the Authority in its sole discretion.

(c) The Authority shall cause the Company to submit, from time to time, to the Licensor, with a copy to the Authority, the [A] Draw Papers, in substantially the form attached as Exhibit C to the Company Lease Agreement and Exhibit D hereto, executed by the Company, for a portion of the Cost of (i) the design, permitting, acquisition, construction, installation, operation, and maintenance of the [A] Renewable Energy Projects and (ii) the design, permitting, acquisition, construction, renovation, and, installation of the [A] Capital Improvement Projects. The Licensor shall promptly review the [A] Draw Papers to determine that the statements set forth therein are true, accurate and complete. Upon completion of such review, and no later than three (3) Business Days after receipt of the [A] Draw Papers from the Company, the Licensor shall execute the acknowledgment form to such [A] Draw Papers where indicated, and promptly forward the original of such [A] Draw Papers to the Trustee, with copies sent to the Company and the Authority.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the [A] Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver any [A] Draw Papers, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this [A] Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body (so long as same does not violate state statutes and regulations), in

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copies to the Authority, the Company, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. The [A] Construction Manager shall use all reasonable efforts to ensure that copies of all Draw Papers and the REP Acceptance Certificate are forwarded to the Licensor in a reasonably timely manner. By the Licensor's authorization, execution and delivery of this [A] Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the [A] REP Acceptance Certificate or (ii) delegate any such action to the [A] Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the [A] Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the [A] REP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this [A] Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the [A] REP Acceptance Certificate or (ii) delegate any such action to the [A] Construction Manager.

#### Section 4.3. [A] CIP Acceptance Certificate Relating to the [A] Capital Improvement Projects.

(a) When the Company has determined that all of the [A] Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed in accordance with the Plans and Specification, the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the [A] CIP Acceptance Certificate applicable to such [A] Capital Improvement Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-2 to the Company Lease Agreement and Exhibit E-2 hereto.

(b) The Licensor shall promptly review the form [A] CIP Acceptance Certificate applicable to the [A] Capital Improvement Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the [A] CIP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the [A] CIP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such [A] CIP Acceptance Certificate where indicated, and promptly forward the original of such [A] CIP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

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order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver any [A] Draw Papers or (ii) delegate any such action to the [A] Construction Manager.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the [A] Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver any [A] Draw Papers to the [A] Construction Manager, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this [A] Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver any [A] Draw Papers or (ii) delegate any such action to the [A] Construction Manager.

#### Section 4.2. [A] REP Acceptance Certificate Relating to the [A] Renewable Energy Projects.

(a) When the Company has determined that all of the [A] Renewable Energy Projects have been designed, acquired, constructed, and installed in accordance with the Plans and Specification and the [A] Interconnection Agreement has been duly authorized, executed and delivered (by or among such parties that may include the Licensor), the Authority shall cause the Company to submit to the Licensor, with a copy to the Authority, the [A] REP Acceptance Certificate applicable to such [A] Renewable Energy Projects duly executed by an Authorized Officer of the Company, in substantially the form of Exhibit B-1 to the Company Lease Agreement and Exhibit E-1 hereto.

(b) The Licensor shall promptly review the form [A] REP Acceptance Certificate applicable to the [A] Renewable Energy Projects received from the Company to determine that the statements set forth therein are true, accurate and complete. The Licensor shall promptly contact the Company to clarify or otherwise change the [A] REP Acceptance Certificate to a form acceptable to Licensor. Upon completion of such review and if applicable, clarification process or discussion with the Company, and no later than five (5) Business Days after receipt of the [A] REP Acceptance Certificate from the Company in a form acceptable to the Licensor, the Licensor shall execute the acknowledgment form to such [A] REP Acceptance Certificate where indicated, and promptly forward the original of such [A] REP Acceptance Certificate to the Trustee, with copies sent to the Company and the Authority.

(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the [A] Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the [A] REP Acceptance Certificate to the [A] Construction Manager, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with

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(c) Notwithstanding anything to the contrary herein or in any Program Document, the Licensor may delegate to the [A] Construction Manager the Licensor's rights to review, acknowledge, accept, execute and deliver the [A] CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Licensor's filing of a Certificate of an Authorized Officer of the Licensor to such effect with the Trustee, with copies to the Authority, the Company, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Licensor from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Licensor's authorization, execution and delivery of this [A] Local Unit License Agreement, the Licensor shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Licensor either to (i) review, acknowledge, accept, execute and deliver the [A] CIP Acceptance Certificate or (ii) delegate any such action to the [A] Construction Manager.

(d) Notwithstanding anything to the contrary herein or in any Program Document, the Authority may delegate to the [A] Construction Manager the Authority's rights to acknowledge, as to form only, and on such basis, execute and deliver the [A] CIP Acceptance Certificate, which delegation shall be conclusively evidenced by the Authority's filing of a Certificate of an Authorized Officer of the Authority to such effect with the Trustee, with copies to the Company, the Licensor, and the [A] Construction Manager; provided, however, that any such delegation shall not absolve the Authority from any obligations with respect thereto, including the timeliness requirements set forth herein. By the Authority's authorization, execution and delivery of this [A] Local Unit License Agreement, the Authority shall not require any further government approvals, including that of its governing body, in order to cause an Authorized Officer of the Authority either to (i) acknowledge, as to form only, and on such basis, execute and deliver the [A] CIP Acceptance Certificate or (ii) delegate any such action to the [A] Construction Manager.

#### Section 4.4. Costs of Issuance.

The Authority shall make available to the Licensor the moneys on deposit in the Costs of Issuance Account of the Administrative Fund held by the Trustee for payment of all Costs of Issuance incurred on behalf of the Licensor, as relayed by the Licensor to the Authority in writing prior to the issuance of the Series 2011 Bonds, in the manner provided herein and in the Bond Resolution. In order to requisition funds for payment or reimbursement of such Costs of Issuance, the Licensor shall submit to the Authority and the Trustee a duly authorized, executed and delivered Certificate of an Authorized Officer of the Licensor, acknowledged as to form only by the Authority, substantially in the form of Exhibit F hereto.

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## ARTICLE V

### POWER PURCHASE AGREEMENT

#### Section 5.1. Power Purchase Agreement.

(a) The Authority shall enter into the Power Purchase Agreement, if not contemporaneously herewith, on such terms and conditions as shall be approved by the Licensor, which approval shall not be unreasonably withheld or delayed, and which approval shall be dispositively evidenced by the Licensor's acknowledgement of the terms thereof as part of the Power Purchase Agreement, including all amendments or supplements thereto that would have a material effect on the Licensor, it being expressly understood that any such amendment having no material effect other than (x) on the Authority, (y) one or more of the other Series 2011 Local Units, or (z) some other third party shall not require the acknowledgment of the Licensor.

(i) Unless the Licensor specifically acknowledges terms and conditions other than the following, the Power Purchase Agreement shall provide, at a minimum, (A) for the sale of electricity conforming to the parameters set forth in subsection (e)(i) below, and (B) for a minimum fifteen (15) year term, unless extended in accordance with subsection (b) below; and

(ii) Although the following related matters need not be set forth in the Power Purchase Agreement, the Authority shall cause such terms to be provided for in the Company Lease Agreement or other Company Documents, which may, to the extent desirable, include the Power Purchase Agreement: (A) the Licensor's Fair Market Value purchase option set forth in subsection (d) below, and (B) the removal of the [A] Renewable Energy Projects and restoration of the [A] Local Unit Facilities matters set forth in subsection (e) below.

(b) The Power Purchase Agreement shall not be extended beyond its original fifteen (15) year term, regardless of whether permitted by the original terms of the Power Purchase Agreement, or by an amendment thereof or supplement thereto, without the express written consent of the Licensor, which consent shall not be unreasonably withheld, but which consent shall not be forthcoming unless any such extension is allowable under applicable law. To the extent an amendment or supplement of the Power Purchase Agreement is required to effect such an extension, such Licensor consent shall be dispositively evidenced if set forth in the Licensor's acknowledgement of the terms of any such amendment thereto or supplement thereof as part of the Power Purchase Agreement.

(c) The Authority hereby assigns to the Licensor and the Licensor hereby assumes (and to the extent any such Power Purchase Agreement shall be entered into subsequent to the date of authorization, execution and delivery of this [A] Local Unit License Agreement, such assignment shall take effect immediately upon the authorization, execution and delivery of the Power Purchase Agreement) all of its rights, duties and obligations under the Power Purchase Agreement, insofar as it relates to the Licensor or the applicable Series 2011 Local Unit, subject to the provisos below, including without limitation the rights and obligations to purchase power

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the Licensor, the removal and restoration obligations set forth in subsection (e) below shall be of no further effect, unless the Company or their agents have damaged the Licensor's Local Unit Facility from the Company's operation and maintenance of such Renewable Energy Projects, in which case the restoration obligations shall remain in effect. The purchase price for any such Fair Market Value purchase is not contemplated in the sizing of the Bonds, and the Licensor shall be solely obligated to finance and pay (or pay out of available funds) such purchase price to or on behalf of the Company; *provided, however*, that to the extent practicable, the Authority shall determine whether it can assist the Licensor with the funding of any such Fair Market Value purchase through the issuance of bonds, notes or other obligations of the Authority, if so requested by the Licensor at such time, and if practicable, the Authority shall provide such Fair Market Value purchase funds to the Licensor at terms that are consistent with then existing current market conditions.

(e) The Authority shall cause the Power Purchase Agreement to include Force Majeure provisions, and shall further cause the Company Documents to include provisions to the effect that, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law), and to the extent the Licensor foregoes its right to exercise its Fair Market Value option set forth in subsection (d) above or, as applicable, its purchase option set forth in Section 5.2 below, the Company, or any other [A] Licensees, as applicable, shall be obligated to (i) remove, within a reasonable period of time (as determined by the Authority), the [A] Renewable Energy Projects from the [A] Local Unit Facilities at the sole cost and expense and effort of the Company or any such other [A] Licensees, and (ii) restore, within a reasonable period of time, the [A] Local Unit Facilities, as improved by the [A] Capital Improvement Projects, to the condition prior to the installation of the [A] Renewable Energy Projects, reasonable wear and tear excepted, it being expressly understood by the Parties that the Local Unit shall expend no cost in any such removal or restoration, but shall, to the extent practical, provide such assistance as shall be necessary, desirable or convenient to effect such removal and restoration, and the [A] Local Unit License shall not expire until such removal and restoration shall have been completed, and the Licensor issues a written certificate of an Authorized Officer of the Licensor to such effect to the Authority.

#### Section 5.2. Substitute Power Purchase Price.

(a) To the extent the Company causes an Event of Default to occur as defined under the Company Lease Agreement prior to the expiration of its original fifteen (15) year term, or any subsequent period of extension, and the nature of such Event of Default (including, without limitation, the failure of the Company to make all Basic Lease Payments thereunder on time and in full) causes the termination of the Company Lease Agreement and the Power Purchase Agreement, this [A] Local Unit License Agreement shall continue in full force and effect, with the following changes, which shall not require amendment or supplement hereof or hereto, but which changes shall be in place automatically upon the termination of the Company Lease Agreement and the Power Purchase Agreement:

(i) As Section 5.1(c)(i) hereof controls the purchase and payment by the Licensor for electricity generated from its [A] Renewable Energy

from the Company thereunder from the [A] Local Unit Facilities, all in accordance with the terms and conditions set forth in the Power Purchase Agreement; provided however that such assignment shall and hereby does specifically exclude (I) any rights specifically reserved under the Power Purchase Agreement to the Authority, if any, and (II) the Local Unit License and the other rights being assigned by the Authority to the other Series 2011 Local Units with respect to their Local Unit Facilities under their respective Local Unit License Agreements.

(i) Specifically, without limitation, upon the Licensor's acknowledgment of the Power Purchase Agreement, as assignee of such Authority interests contemplated by this subsection (e), the Licensor shall and hereby does agree, during the Term for so long as the Power Purchase Agreement shall be in effect, to purchase the electricity generated by the [A] Renewable Energy Projects located on, or as applicable, in the [A] Local Unit Facilities from the Company for the price established under the Power Purchase Agreement (including any escalators set forth therein), and the Licensor shall pay the Trustee directly, on behalf of the Company (unless the Licensor receives a written notice from the Authority to the effect that the Company has prepaid all of the Series 2011 Bonds and that the Lessee has delivered the required Certificate of an Authorized Officer of the Lessee pursuant to Sections 402(a)(iii) and 703(b)(iii) of the Company Lease Agreement, in which case the Licensor shall pay either (i) the Company, or (ii) a third-party at the direction of the Company), for any such electricity, upon the terms set forth in the Power Purchase Agreement. Such terms include, without limitation, the payment by the Licensor of the PPA Price on or before the Commencement Date, (as such terms are defined in the Power Purchase Agreement), all as set forth in Section 3.5 (including any adjustments referenced therein) and Exhibit B of the Power Purchase Agreement. Subject to Force Majeure (as defined in the Power Purchase Agreement), the Licensor shall make such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the Company or the Trustee for any reason, which rights against the Authority, the Company and the Trustee are hereby waived by the Licensor.

(d) Subject to Section 5.2 hereof, the Authority shall cause the Company Documents to include provisions providing for the following, upon the expiration of the Power Purchase Agreement (without or after one or more extensions to the extent permissible under applicable law): (i) providing the Licensor or the Authority, at the direction of the Licensor, as applicable, an option to purchase the [A] Renewable Energy Projects installed on or, as applicable, in the [A] Local Unit Facilities, which option shall remain outstanding for a period of no fewer than thirty (30) days, (ii) providing for a purchase price equal to the then existing Fair Market Value (as defined in the Power Purchase Agreement) of the [A] Renewable Energy Projects, such Fair Market Value to be determined in accordance with Section 3.7(b) of the Power Purchase Agreement which determination of Fair Market Value shall take into account all the facts and circumstances of the marketplace for such [A] Renewable Energy Projects at such time, including without limitation, its continued operation and maintenance costs, its technological feasibility, as compared to then existing alternatives, and its continued utility to the Licensor, and (iii) to the effect that upon the exercise of any such Fair Market Value option by

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Projects so long as the Power Purchase Agreement is in effect, upon the early termination of the Power Purchase Agreement for the reasons set forth above in subsection (a), the Licensor shall and hereby does agree, during the remainder of the Term, to purchase the electricity generated by the [A] Renewable Energy Projects located on, or as applicable, in the [A] Local Unit Facilities from the Authority, as owner of the [A] Renewable Energy Projects, for the same price previously established under the prior Power Purchase Agreement (including any escalators set forth therein, the "Gross Substitute Power Purchase Price"), and the Licensor shall pay the Authority directly for any such electricity, or alternatively, the Authority may direct the Licensor to pay all or a portion of such Gross Substitute Power Purchase Price, less the amounts set forth in clauses (ii) and (iii) below (after taking into account such payments in clauses (ii) and (iii) below, the "Net Substitute Power Purchase Price") (A) to or on behalf of the County Security Provider, as part of the Reimbursement Collateral to the extent a County Security Agreement is then in place and the County Security has fully reimbursed the County for payments under its County Guaranty, or (B) if such conditions are not fulfilled, to the Trustee, on behalf of the County for deposit in the County Security Fund, as the case may be, or (C) as otherwise set forth in a Certificate of an Authorized Officer of the Authority. The Licensor shall make all such payments in full and on time, without regard to set-off or any other rights it might assert against the Authority, the County, the Trustee or any other person or entity for any reason, which rights against such persons or entities, if any, are hereby waived by the Licensor;

(ii) The Licensor acknowledges that a portion of the Gross Substitute Power Purchase Price may be retained by the Authority as payment of its annual Administrative Fee previously payable by the Company as an Additional Lease Payment under the Company Lease Agreement;

(iii) The Licensor acknowledges that upon the termination of the Company Lease Agreement, pursuant to this Section 5.2, the Authority may determine, under the Act, in accordance with all other applicable law, and in its sole discretion, to select an entity to operate and maintain the [A] Renewable Energy Projects for the balance of the Term to the same extent as previously required in the Company Lease Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement, as the case may be, and the Licensor further acknowledges, that upon the written direction of the Authority and at the Authority's sole discretion, a portion of the Gross Substitute Power Purchase Price shall be paid over or directed to the payment of such firm(s) rendering such services, if so required by the terms of any agreement between the Authority and such entity so rendering such services, the terms of which such agreement shall be automatically acceptable to the Licensor, without any further act, if the terms of any such agreement are in fact so within the parameters of the applicable Company Lease Agreement, the Company Service Agreement, or any performance bond required under the Company RFP and/or the Power Purchase Agreement; and

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(iv) Notwithstanding Section 5.1(d) hereof, due to the termination of the Company Lease Agreement, pursuant to this Section 5.2, and the Company's extinguishment of any interest in and to the [A] Renewable Energy Projects, unless a replacement person or entity and agreements are in place immediately prior to the expiration of the Term hereof, at such time the Licensor shall be entitled to acquire all of the Authority's right, title and interest in and to the [A] Renewable Energy Projects for the purchase price of \$1, which shall be full and complete consideration for the acquisition thereof.

## ARTICLE VI

### EVENT OF DEFAULT

#### Section 6.1. Default; Event of Default.

(a) If any of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an "Authority Event of Default" under this [A] Local Unit License Agreement:

(i) the Authority or any other [A] Licensee shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Authority or any other [A] Licensee to be performed or observed under this [A] Local Unit License Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the Authority by the Licensor; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute an Authority Event of Default if (A) corrective action is instituted by or on behalf of the Authority or any other [A] Licensee within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Licensor is kept informed of the progress of such corrective action by the Authority no less frequently than once a week.

(b) If any of the following events occurs, it is hereby defined as and declared to be and to constitute a "Licensor Event of Default" under this [A] Local Unit License Agreement:

(i) The Licensor shall either fail to make payments pursuant to Section 5.1 or 5.2 hereof, which default shall continue for forty-five (45) days after the date payments are due under an invoice referred to in Section 6.4 of the Power Purchase Agreement, or the Licensor shall revoke (including the deemed revocation situations as described in Section 3.7(c) that are within the Licensor's control) the [A] Local Unit License pursuant to Section 3.7(b) hereof, but shall have failed to provide funds to pay or otherwise caused (or been the beneficiary of some source having caused) the payment of (A) the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds or caused (or been the beneficiary of some source having caused) provision for payment thereof and thereon shall have been made in accordance with Article XII of the Bond Resolution and (B) the other amounts contemplated by Section 3.7(a)(iv) hereof;

(ii) the Licensor shall default in the performance or observance of any of the duties, covenants, obligations, agreements or conditions on the part of the Licensor to be performed or observed under this [A] Local Unit License Agreement or the Power Purchase Agreement, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same

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to be remedied shall be given to the Licensor by the Authority or a Licensee; *provided, however*, that if any above default be such that it is correctable, but cannot be so corrected within such thirty (30) day period, it shall not constitute a Licensor Event of Default if (A) corrective action is instituted by or on behalf of the Licensor within such thirty (30) day period, (B) such corrective action is diligently pursued until such default is corrected, and (C) the Authority is kept informed of the progress of such corrective action by the Licensor no less frequently than once a week.

#### Section 6.2. Remedies.

(a) In the case of an Authority Event of Default, unless liquidated damages are specifically set forth herein, the Licensor may pursue any available remedy at law or in equity or by statute to enforce the rights of the Licensor under this [A] Local Unit License Agreement.

(b) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as liquidated damages for such Licensor Event of Default hereunder, payment from or on behalf of the Licensor in the amount necessary to pay, through the first available redemption date, all of the principal of, redemption premium, if any, and interest on all of the Outstanding Bonds allocable to the [A] Renewable Energy Projects (as determined by the Authority, in its sole discretion, based on the Projects funded by the proceeds of Bonds and the pro-rata share of all other Bond proceeds), or otherwise cause provision thereof and thereon to be made in accordance with Article XII of the Bond Resolution. Such liquidated damages amount shall be payable by the Licensor to the Authority or at its direction the Trustee, at the times required by the Authority or as applicable the Trustee, and shall be a non-exclusive remedy (see subsection (c) below). It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

Further in the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) hereof, the Authority shall be entitled, as further liquidated damages for such Licensor Event of Default hereunder, to payment from or on behalf of the Licensor in the amount necessary to pay the other (non-Bond) amounts contemplated by Section 3.7(a)(iv) hereof. Such additional amounts shall be promptly paid by the Authority to the Company, but only to the extent the Company has not caused either an Event of Default, or a default, which event after the occurrence of time will become an Event of Default, as defined in and contemplated by any of the Company Documents. It is expressly understood that any such amount owing shall not be subject to set-off or any other defense to non-payment, any of which defenses the Licensor hereby waives.

(c) In the case of a Licensor Event of Default of the type set forth in Section 6.1(b)(i) or (ii) hereof, the Authority may pursue any available remedy at law or in equity or by statute to enforce the specific performance rights of the Authority under this [A] Local Unit License Agreement.

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#### Section 6.3. Remedies Generally.

(a) Upon the cure of an Event of Default by or on behalf of the defaulting party, and the acceptance thereof in writing by the non-defaulting party delivered to the defaulting party, this [A] Local Unit License Agreement shall continue for the duration of the Term hereof, as if such Event of Default shall never have occurred.

(b) No right or remedy by the terms of this [A] Local Unit License Agreement conferred upon or reserved to the non-defaulting party is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to such non-defaulting party hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(c) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(e) Any delay in completion of the [A] Projects due to a Licensor Event of Default or a Licensor default which after the occurrence of time would become an Event of Default shall extend the time periods relating to such [A] Projects until cured, including without limitation the requirement that the Company complete all Projects, including the [A] Projects, by December 31, 2012, all in accordance with the terms of the Program Documents.

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ARTICLE VII  
MISCELLANEOUS

Section 7.1 Term.

(a) This [A] Local Unit License Agreement shall commence on the day of authorization, execution and delivery hereof by both parties.

(b) This [A] Local Unit License Agreement and the [A] Local Unit License granted herein shall terminate against the Authority, after which date all [A] Project Activities shall cease, upon the first to occur of any of the following, none of which shall be considered an Event of Default hereunder:

(i) (A) The revocation of the [A] Local Unit License pursuant to Section 3.7(b) or (c) hereof, (B) as applicable, (I) to the extent Bonds are Outstanding, all of the Bonds shall have been paid in full by or on behalf of the Licensor, or provision for the payment thereof shall have been made by or on behalf of the Licensor in accordance with Article XII of the Bond Resolution, or (II) to the extent Bonds are no longer Outstanding, all of the amounts paid by the County Security Provider under the County Security shall have been reimbursed by or on behalf of the Licensor, and all of the amounts paid by the County under the County Guaranty shall have been reimbursed, if not from a draw on the County Security, from amounts paid by or on behalf of the Licensor and (C) the other amounts contemplated by Section 3.7(a)(iv) hereof shall have been paid;

(ii) The Power Purchase Agreement shall have expired at the end of its stated fifteen (15) year term or any term of renewal under applicable law, as contemplated by Section 5.1(a)(i)(B) hereof, and the [A] Renewable Energy Projects shall have been removed from the [A] Local Unit Facilities by or on behalf of the Company, the Authority or any of their agents, at the sole cost of the Company or otherwise, but not at the cost of the Licensor;

(iii) The Fair Market Value purchase by the Licensor of the [A] Renewable Energy Projects from the Company in accordance with Section 5.1(a)(ii)(A) hereof;

(iv) The nominal consideration purchase by the Licensor of the [A] Renewable Energy Projects from the Authority in accordance with Section 5.2(a)(iv) hereof; or

(v) The Power Purchase Agreement terminates in accordance with Section 11.2 thereof, and [either the Licensor or the Licensee desires to terminate this [A] Local Unit License Agreement, which termination shall occur upon thirty (30) days written notice to the other party] [the Licensor and the Licensee agree in writing to terminate this [A] Local Unit License Agreement].

(c) The "Term" of this [A] Local Unit License Agreement shall be from the date of commencement hereof in accordance with subsection (a) above, until the date of termination hereof in accordance with subsection (b) above.

(d) Upon expiration of the Term of this [A] Local Unit License Agreement, none of the Licensor, the Authority, nor any other [A] Licensees shall have any further rights, duties or obligations with respect to the [A] Local Unit License contemplated hereby, which shall thereupon cease and be rendered null and void from such point forward.

**Section 7.2. Assignment.** The Authority shall not assign this [A] Local Unit License Agreement without the express written consent of the other parties hereto and, to the extent not in default under the Company Documents, the Company; provided, however, the other parties expressly acknowledge that the Authority intends to permit the [A] Licensees to gain access under the [A] Local Unit License created hereunder to the Local Unit Facilities in accordance with the terms hereof, through whatever reasonable means acceptable to the Authority, including without limitation an assignment of the Authority's rights hereunder through the Company Documents, any other Program Document, or any other agreement to which the Authority shall be a party, as applicable.

**Section 7.3. Notices.** Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this [A] Local Unit License Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) Licensor:	[A]
With a copy to:	[Licensor's Counsel]
(b) Authority:	The Morris County Improvement Authority P.O. Box 900 Morristown, NJ 07963-0900 Attention: John Bonanni, Chairman

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jbonanni@co.Morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@jandplaw.com

(c) Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to: Nicholas A. Conellio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: [nconellio@mdmc-law.com](mailto:nconellio@mdmc-law.com)

(c) Company: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email: [principals@sunlightgeneral.com](mailto:principals@sunlightgeneral.com)

With a copy to: James F. Duffy, Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: [jduffy@nixonpeabody.com](mailto:jduffy@nixonpeabody.com)

(e) Construction Manager: Jessica Vogel, CBCP  
Birdsall Services Group  
1101 Laurel Oak Road, Suite 160  
Voorhes, NJ 08943  
Email: [jvogel@birdsall.com](mailto:jvogel@birdsall.com)

With a copy to: Joseph Santaiti  
Gabel Associates  
417 Denison St.  
Highland Park, NJ 08904  
Email: [joseph.santaiti@gabelassociates.com](mailto:joseph.santaiti@gabelassociates.com)

**Section 7.4. Successors and Assigns.** This [A] Local Unit License Agreement shall inure to the benefit of and be binding upon the parties and acknowledgment parties hereto, and their respective successors and/or assigns.

**Section 7.5. Entire Agreement; Third Party Beneficiaries and Obligors.** This [A] Local Unit License Agreement contains the entire agreement among the parties and may not be modified, amended, altered or cancelled except upon the prior express written consent of the parties hereto. This [A] Local Unit License Agreement and the duties and obligations contained herein shall be solely for the benefit of the parties hereto and, where specifically provided herein, the Company and the other [A] Licensees, which upon commencing any action contemplated hereunder, shall automatically also constitute third-party obligors hereunder.

**Section 7.6. Governing Law.** This [A] Local Unit License Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflicts of laws thereunder.

**Section 7.7. Severability.** If any provision of this [A] Local Unit License Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatsoever. To the extent any provision of this [A] Local Unit License Agreement conflicts with the provisions of any other Program Document, the parties and acknowledgment parties hereto expressly acknowledge that the provisions of this [A] Local Unit License Agreement shall control.

**Section 7.8. Counterparts.** This [A] Local Unit License Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 7.9. Effective Date.** This [A] Local Unit License Agreement shall be effective as of the date hereof and shall terminate in accordance with the provisions hereof, including Section 7.1 hereof.

**Section 7.10. Waiver of Sovereign Immunity.** For the purposes of this [A] Local Unit License Agreement, each of the Authority and the Licensor acknowledge and agree that (a) its execution and delivery of this [A] Local Unit License Agreement and (b) its performance of the actions contemplated by this [A] Local Unit License Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Authority or the Licensor in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this License Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Company and (ii) consents generally to the giving of any relief or the issue of any process in

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connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

[ The Remainder of this Page is Intentionally Left Blank - Signature Page to Follow ]

IN WITNESS WHEREOF, the parties hereto have each caused this [A] Local Unit License Agreement to be fully authorized, executed and delivered in its name and on its behalf by its Authorized Officers, and have caused its seal to be hereunto duly affixed and attested, on or as of the day first above written.

[SEAL]

THE MORRIS COUNTY IMPROVEMENT AUTHORITY, as Licensee

By: \_\_\_\_\_  
John Bonanni, Chairman

ATTEST:

By: \_\_\_\_\_  
Ellen M. Sandman, Secretary

[SEAL]

\_\_\_\_\_, as Licensor

By: \_\_\_\_\_  
Authorized Representative

ATTEST:

By: \_\_\_\_\_  
Authorized Representative

Acknowledgment and Acceptance Page to Follow

The terms and conditions of this [A] Local Unit License Agreement are hereby ACKNOWLEDGED and ACCEPTED by the following acknowledgment party, this \_\_\_ day of December, 2011.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC  
Its Manager

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

STATE OF NEW JERSEY )  
                                  ) ss.:  
COUNTY OF SUSSEX)

On this \_\_\_ day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared John Bonanni, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

\_\_\_\_\_  
Notary Public

STATE OF NEW JERSEY )  
COUNTY OF SUSSEX ) ss.:

On this \_\_\_ day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ known to me (or proved to me on the basis of satisfactory evidence) to be the \_\_\_\_\_ of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

[Attach Description of [A] Local Unit Facilities]

[See attached list – as applicable to your local Unit –  
To be refined in final License Agreement]

**Morris County Improvement Authority**  
not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

**EXHIBIT B**

[Attach Description of [A] Renewable Energy Projects]

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP, which is attached as a portion of Exhibit A-1 to the Company Lease Agreement.

None

**EXHIBIT C**

[Attach Description of [A] Capital Improvement Projects]

EXHIBIT D

[Attach [A] Draw Papers]

Requisition No. \_\_\_\_\_  
\_\_\_\_\_, 20\_\_

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (f) Section 510(e) of that certain "Lease Purchase Agreement (Morris County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects")] being developed for \_\_\_\_\_], as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, DOES HEREBY CERTIFY and REQUISITION moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "Trustee") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$ \_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition; provided, however, that the Trustee shall reduce such requisition by the amount, if any, required to maintain at least \$1,000,000 of retainage on deposit in the Project Fund until the Trustee receives the final REP Certificate from all of the Local Units pursuant to Section 5.10(d)(3) of the Company Lease Agreement, at which time the final \$1,000,000 may be released.

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Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC  
Its Manager

By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory

The terms of this Requisition are hereby  
ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this \_\_\_ day of \_\_\_,  
20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_ day of \_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

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(a) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]; and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
\_\_\_\_\_ for  
\_\_\_\_\_ services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

(Please Note, Include Name and Address of any Contractor and the specific Development Contract pursuant to which this Requisition is submitted)

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the [A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the [A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with Section 1(a) [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, and (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw

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EXHIBIT E

FORMS OF [A] ACCEPTANCE CERTIFICATES

See Attached:

Form E-1, Form of [A] REP Acceptance Certificate  
Form E-2, Form of [A] CIP Acceptance Certificate

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EXHIBIT E-1

[Attach [A] REP Acceptance Certificate]

I, the undersigned \_\_\_\_\_, a duly authorized officer of SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the [A] Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction and installation thereof.

3. The [A] Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the [A] Renewable Energy Projects for all purposes of Section 510(d)(3)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the [A] Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the [A] Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

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accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the [A] Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC Its Manager

By: \_\_\_\_\_ Name: Stacey Hughes Title: Authorized Signatory

ATTEST:

\_\_\_\_\_

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EXHIBIT E-2

[Attach [A] CIP Acceptance Certificate]

I, the undersigned \_\_\_\_\_, a duly authorized officer of [COMPANY], [a Delaware limited liability company] (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the [A] Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof, or if such funds were insufficient, the Company has provided available funding through the Equity Contribution to complete the design, permitting, acquisition, construction, renovation, and installation thereof.

3. By obtaining the Licensor's execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor's acceptance of (a) the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which [A] Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor's acceptance of the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. [Choose one, as applicable]

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for

E-1-3

E-2-1

The terms of this [A] REP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_ Name: Title:

The form (only) of this [A] REP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_ Name: Title:

the [A] Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, without further authorization, shall first be applied to reimburse the Company for its withheld retainage under the Company Lease Agreement, and the excess after such application shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC

By: Sunlight General Capital Management, LLC  
Its Manager

By: \_\_\_\_\_  
Name: Stacey Hughes  
Title: Authorized Signatory

ATTEST:

\_\_\_\_\_

E-2-2

E-2-3

EXHIBIT F

CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LICENSOR FOR COSTS OF ISSUANCE INCURRED ON BEHALF OF THE LICENSOR

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
jbonanni@co.morris.nj.us

[Trustee]

Re: The Morris County Improvement Authority  
County Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 4.4 of that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "[A] Local Unit License Agreement") by and between The Morris County Improvement Authority (the "Authority") and [ ] (the "Licensor"), and (ii) Section 5.03(3)(a) of the Authority's bond resolution duly adopted July 20, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the [A] Local Unit License Agreement), the Company, by its Authorized Officer stated below, **HEREBY REQUESTS** that the Authority direct the Trustee to pay the following Costs of Issuance incurred with reference to the issuance of the Series 2011 Bonds on behalf of the Licensor from moneys on deposit in the Costs of Issuance Account of the Administrative Fund in the amount of \$ \_\_\_\_\_, which amount shall be payable to

[ \_\_\_\_\_  
for \_\_\_\_\_ services]

[the Licensor for reimbursement of Costs of Issuance previously paid by the Licensor to  
for \_\_\_\_\_ services].

The terms of this [A] CIP Acceptance Certificate are hereby **ACKNOWLEDGED** and **ACCEPTED** by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this [A] CIP Acceptance Certificate is hereby **ACKNOWLEDGED** by **THE MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

Such payment obligation has been properly incurred in accordance with all applicable law, is a Cost of Issuance under the Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Costs of Issuance is due or has been paid by or on behalf of the Licensor.

Very truly yours,

[LICENSOR]

By: \_\_\_\_\_  
Authorized Officer

The form (only) of this Certificate is hereby **ACKNOWLEDGED** by the **MORRIS COUNTY IMPROVEMENT AUTHORITY** this \_\_\_\_ day of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name:  
Title:

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(Sussex County Renewable Energy Program, Series 2011)

By and Between

MORRIS COUNTY IMPROVEMENT AUTHORITY, as Lessor

and

SUNLIGHT GENERAL SUSSEX SOLAR, LLC, as Lessee

Dated as of December 1, 2011

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
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**LEASE PURCHASE AGREEMENT**  
**(Sussex County Renewable Energy Program, Series 2011)**

THIS "LEASE PURCHASE AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "Company Lease Agreement"), dated as of December 1, 2011, is made by and among the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority" or "Lessor"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of the County of Morris (the "County of Morris"), State of New Jersey ("State") as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act") and other applicable law, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a limited liability company organized and existing under the laws of the State of Delaware, duly authorized to conduct business in the State (including any successors and assigns, the "Company" or "Lessee").

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offset at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants", if any, and together with the Authority Consultants, the "Consultants"); to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy

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series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "Series 2011A Bonds") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note, and together with the Series 2011A Bonds, "Series 2011 Bonds"), by the same sale method as the Series 2011A Bonds;

WHEREAS, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement" and, collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct,

install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "Company RFP") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "Company Proposal") submitted with respect to Sunlight General Sussex Solar, LLC (the "Company"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable

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Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal

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Energy Projects for the Series 2011 Local Units;

- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Unit and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the

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amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

WHEREAS, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

WHEREAS, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "EPC Contractor"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated [December \_\_], 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "EPC Contract") between the Company and the EPC Contractor with respect to such Renewable Energy Projects by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "In-Kind Equity Contribution") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y)

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the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "Equity Contribution"), (ii) a cash reserve in the amount of \$1,500,000 (the "County Reserve") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty;

WHEREAS, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

WHEREAS, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic lease Payments;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

WHEREAS, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement

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(Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c-12") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement" and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement "deemed final"

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within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement"); and (ii) the execution and delivery of a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

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## ARTICLE I

### DEFINITIONS AND EXHIBITS

#### SECTION 101. Definitions.

(a) The terms set forth in this Section shall have the meanings ascribed to them for all purposes of this Company Lease Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires. Terms used in this Company Lease Agreement and not otherwise defined shall have the meaning assigned to them in the Bond Resolution.

(b) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereto:

Act  
Authority  
Board of Education Series 2011 Local Units  
Board of Freeholders  
Bond Purchase Agreement  
Bond Resolution  
Bonds  
BFU  
Capital Improvement Projects\*  
Cash Equity Contribution  
Company  
Company Continuing Disclosure Agreement  
Company Documents  
Company Lease Agreement  
Company Pledge Agreement  
Company Proposal  
Company RFP  
County  
County Continuing Disclosure Agreement  
County Guaranty  
County Guaranty Agreement  
County Reserve  
County Security  
County Security Agreement  
County Security Provider  
County Service Agreement  
County Series 2011 Local Units

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Dissemination Agent  
 Equity Contribution  
 EPC Contract  
 EPC Contractor  
 Initial Tranche  
 In-Kind Equity Contribution  
 Local Units  
 Local Unit Facilities\*  
 Local Unit License  
 Local Unit License Agreement  
 Local Unit License Agreements  
 Municipal Series 2011 Local Units  
 Official Statement  
 Power Purchase Agreement  
 Preliminary Official Statement  
 Preliminary Program Costs  
 Program Documents  
 Projects\*  
 Renewable Energy Program  
 Renewable Energy Projects\*  
 Rule 15c2-12  
 Sale Documents  
 Second Tranche  
 Section 1603 Grant  
 Series 2011 Bonds  
 Series 2011A Bonds  
 Series 2011B Note  
 Series 2011 Local Unit\*  
 Series 2011 Local Units  
 Shared Services Act  
 SRECs  
 State  
 Underwriter

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(c) The following defined terms shall, for all purposes of this Company Lease Agreement, have the meanings ascribed to such terms in the Bond Resolution

Account  
 Additional Bonds  
 Administrative Expense Account  
 Administrative Fund

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Aged Account  
 Bond  
 Capitalized Interest Account  
 Code  
 Company Development Fees and Expenses  
 Completion Conditions  
 Completion Project  
 Consulting Energy Engineer  
 Consulting Energy Engineering Services  
 Cost  
 Costs of Issuance Account  
 County Security Fund  
 County Security Fund Requirement  
 Debt Service Fund  
 Funds  
 General Fund  
 Gross Substitute Power Purchase Price  
 Interest Account  
 Investment Securities  
 Net Substitute Power Purchase Price  
 Outstanding  
 Paying Agent  
 Principal Account  
 Principal Office  
 Project Fund  
 Rating Agency  
 Renewable Energy Program Interested Party  
 Restoration Security Fund  
 Restoration Security Fund Requirement  
 Revenue Account  
 Revenue Fund  
 Revenues  
 Series  
 Series 2011B Bonds  
 Sinking Fund Installments  
 Supplemental Resolution  
 Tax Certificate  
 Tax-exempt Bonds  
 Trustee  
 Trust Estate

(d) The following defined terms shall, for all purposes of this Company Lease Agreement, have the following meanings:

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"Acceptance Certificates" shall mean, individually or collectively, as the case may be, the CIP Acceptance Certificates and the REP Acceptance Certificates.

"Additional Lease Payment" shall mean any amount payable by the Company at the times and under the other terms of the Company Lease Agreement, other than Basic Lease Payments, including without limitation, (i) Administrative Expenses not otherwise provided from a portion of the proceeds of the Bonds, including the second and succeeding Bond Year Administrative Fee, (ii) interest on any past due Lease Payments payable at the Overdue Rate (but not any such past due Basic Lease Payment), (iii) to the extent Company funds are available, after payment of all reasonable Company expenses and prior to any member distributions, replenishment of any deficiency in the County Security Fund Requirement, (iv) the Purchase Option Price in accordance with Section 701 of the Company Lease Agreement, (v) the Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement, (vi) the Restoration Security Fund deposits up to the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution, and (vii) a one-time payment of \$1,500,000 payable no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects of (ii) March 15, 2013 for deposit in the County Security Fund to satisfy the County Security Fund Requirement.

"Administrative Expenses" shall mean the fees and expenses which are incurred from time to time by or on behalf of the Authority, the County, the County Security Provider, or the Series 2011 Local Units, including the Administrative Fee, if any, in carrying out their respective rights and duties under the terms of the Program Documents, including, without limitation the Preliminary Program Costs, accounting, administrative, financial advisory, and legal expenses, the Consulting Energy Engineering Services, the fees and expenses of the Trustee, the Paying Agent, or any other fiduciaries or agents acting on behalf of the Authority, the County, or the Series 2011 Local Units, under or pursuant to the terms of the Program Documents, which amounts shall be due and payable by the Company as an Additional Lease Payment at the times set forth in the Program Documents, or, as applicable, upon presentation of an invoice for payment; provided, however, that to the extent an Administrative Expense is incurred solely due to the action or inaction of a Series 2011 Local Unit not caused by or otherwise resulting from any action, inaction or request of the Company, such Administrative Expense shall be paid by such Series 2011 Local Unit upon presentation of an invoice for payment. Other than the Series 2011 Bond proceeds deposited in the Administrative Fund in accordance with Section 2.03(7)(e) of the Bond Resolution and earmarked for certain costs and expenses, including certain Administrative Expenses, and other than the Authority's annual Administrative Fee and the Trustee's annual fee to be paid as an Additional Lease Payment by the Company, the Company and the Series 2011 Local Units shall only be responsible for the reasonable amount of Administrative Expenses caused by the action or inaction of the Company or the Series 2011 Local Unit, as applicable, to the extent any such Administrative Expenses arise in the course of the implementation of the Renewable Energy Projects and/or the performance by the Authority, County, and/or Series 2011 Local Unit of their rights, duties and obligations under the Program Documents.

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"Administrative Fee" shall mean the sum of the following, payable by the Company to the Authority at the times and the amounts as set forth below:

(i) With respect to the Series 2011 Bonds for the first Bond Year upon initial issuance thereof, the Authority's fee for the Renewable Energy Program in the amount of \$120,000, consisting of the sum of (a) \$100,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Costs of Issuance Account of the Administrative Fund pursuant to Section 2.03(7)(a)(i) of the Bond Resolution and (b) \$20,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Administrative Expense Account of the Administrative Fund pursuant to Section 2.03(7)(a)(ii)(A) of the Bond Resolution; plus

(ii) For all Bond Years with respect to the Series 2011 Bonds thereafter (commencing June 15, 2013), a sum of money payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund payable on the Basic Lease Payment Date immediately preceding the first day of any such Bond Year, equal to \$20,000, which amount may be referred to as the Authority's annual Administrative Fee; plus

(iii) For all Bond Years with respect to the Series 2011 Bonds commencing December 15, 2017 and thereafter, a sum or sums of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(c) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(iv) For all Bond Years with respect to the Series 2011 Bonds, a sum of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(b) and/or Section 6.3(d) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(v) With respect to any Series of Bonds, interest on any past due Basic Lease Payments payable at the Overdue Rate in accordance with the Company Lease Agreement (but not any such past due Basic Lease Payment); plus

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(vi) For all Bond Years with respect to any Series of Additional Bonds, such amounts as may be set forth in a Supplemental Resolution, including without limitation, for any Series of Additional Bonds that refund the Series 2011 Bonds or any other Series of Outstanding Bonds, (a) a financing fee payable upon the issuance of any such Series of Additional Bonds (from the proceeds thereof, from the Company, or otherwise) in the amount of two percent (2%) of the aggregate principal amount of any such Series of Additional Bonds, or such different amount as shall be agreed to by the Company and the Authority, plus (b) all reasonable Administrative Expenses of the Authority and any other Renewable Energy Program Interested Party involved in any such refunding payable upon the issuance of any such Series of Additional Bonds, plus (c) an annual financing fee of one percent (1%) of the aggregate principal amount of any such Series of Additional Bonds Outstanding and payable by the Company as of the first day of each Bond Year until final maturity (stated or otherwise) thereof, plus (d) the amounts, if any, payable to the Authority pursuant to Section 6.3(d) of the Power Purchase Agreement, except as any such amounts may be modified in any such Supplemental Resolution authorizing the issuance of any such Series of Additional Bonds.

"Applicable" shall mean (i) with reference to any Series 2011 Local Unit, the Series 2011 Local Unit intended to be benefited or obligated thereby, (ii) with reference to any Renewable Energy Project, the Renewable Energy Project for the intended Series 2011 Local Unit, (iii) with reference to any Local Unit Facilities, the Local Unit Facilities for the intended Series 2011 Local Unit, and (iv) with reference to any Local Unit License Agreement, the Local Unit License Agreement executed for the benefit of the intended Series 2011 Local Unit.

"Applicable Law" means all applicable provisions of any constitution, statute, law ordinance, code, rule, regulation, decision, order, decree, judgment, release, license, permit, stipulation or other official pronouncement enacted, promulgated or issued by any Governmental Authority.

"Architect" shall mean individually or collectively, as the case may be, the individual or entity appointed or caused to be appointed or employed by the Applicable Series 2011 Local Unit, the Lessor, or the Lessee, as applicable, with respect to the provision of architectural services relating to the Renewable Energy Projects or the Capital Improvement Projects on, in, affixed or adjacent to, or otherwise for the benefit of the Local Unit Facilities for such Applicable Series 2011 Local Unit, all in accordance with applicable law, which may include the Local Public Contracts Law or the Public Schools Contracts Law, including any rules and regulations relating thereto and to which such Applicable Series 2011 Local Unit, the Lessor, or the Lessee is subject, including without limitation any architect of record with respect to such Projects and/or Local Unit Facilities. The Architect may be a Contractor providing services pursuant to a Development Contract.

"Authorized Officer" or "Authorized Representative" shall mean, (i) with respect to the Authority: the Chairman, the Vice Chairman, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person

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investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701 of the Company Lease Agreement with respect to prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(e) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Basic Lease Payment Date" shall mean any date set forth in Exhibit A-3 to the Company Lease Agreement and designated as a Basic Lease Payment Date, which for the Interest Portion (January 15 and July 15, commencing January 15, 2013) and Principal Portion (January 15, commencing January 15, 2013) of any Basic Lease Payment, shall be a day five (5) months prior to any (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) regularly scheduled Interest Payment Date and any regularly scheduled Principal Payment Date, respectively, or if either of such days is not a Business Day, the first Business Day prior to such date.

"Bond Counsel" shall mean Inglesino, Pearlman, Wyciskala & Taylor, LLC, or any other attorney at law, or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exclusion of interest on bonds or other obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state.

"Bond Year" shall mean (i) with respect to any Series of Outstanding Bonds, including the Series 2011 Bonds, a period of twelve (12) consecutive months beginning on June 15 of any calendar year and ending on June 14 of the immediately succeeding calendar year except that (ii) the first Bond Year with respect to the Series 2011 Bonds shall be a period commencing on the date of issuance of the Series 2011 Bonds and ending on June 14, 2012 and (iii) the first Bond Year with respect to any other Series of Bonds shall be a period commencing on the date of issuance of such Series of Bonds and ending on the succeeding 14<sup>th</sup> day of June.

"Bondholder", "Bond Holder", "Holder" or "Holder of Bonds" shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds, which by its terms, upon original issuance of the Series 2011 Bonds, shall mean the respective registered owners of the Series 2011A Bonds and with respect to the Series 2011B Note, the County.

"Business Day" shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or

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who shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairman or by the Vice Chairman of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to any Series 2011 Local Unit: the person designated as an Authorized Officer in the Applicable Local Unit License Agreement of any such Series 2011 Local Unit or any other person or persons who shall be authorized to act on behalf of such Series 2011 Local Unit by virtue of a resolution of the governing body of such Series 2011 Local Unit, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

"Base Rate" shall mean the rate of interest established by the Trustee from time to time as its reference rate in making loans but does not reflect the rate of interest charged to any particular class of borrowers, and is not tied to any external rate of interest or index. The applicable rate will change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any party. If no other rate shall be so established by the Trustee, the Base Rate shall be the Trustee's prime rate as determined from time to time.

"Basic Lease Payment" shall mean, as of each Basic Lease Payment Date, the amount set forth in Exhibit A-3 to the Company Lease Agreement corresponding to such Basic Lease Payment Date and designated as a Basic Lease Payment. The Basic Lease Payment as of any Basic Lease Payment Date is equal to the payment of the Principal Portion and Interest Portion due on such Basic Lease Payment Date, and shall be established as the amount set forth in Exhibit A-3 to the Company Lease Agreement for such date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments), and interest on the Outstanding Bonds on the next occurring (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) Principal Payment Date and Interest Payment Date respectively, of the Outstanding Bonds, including without limitation the credits available under (i) Section 302(a)(i) and (ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to

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the Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

"Certificate" shall mean a written certificate signed in the name of the Authority, any Series 2011 Local Unit, the County, the Company or the Trustee. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the instruments so combined shall be read and construed as a single instrument.

"CIP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Capital Improvement Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Capital Improvement Projects for each such Series 2011 Local Unit has been completed in accordance with the Plans and Specifications therefore, and has been accepted by such Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution. The Authority and the Company acknowledge and agree that the Company shall not be responsible for the construction of any Capital Improvement Projects under the Program Documents and any references in such Program Documents to the Capital Improvement Projects shall be of no further force and effect.

"CIP Acceptance State" shall mean the good working order condition of the Capital Improvement Projects for the Series 2011 Local Units, at the time of the authorization, execution and delivery of, and as certified and acknowledged by such Applicable Series 2011 Local Units in, the respective CIP Acceptance Certificates.

"Company Appendices" shall mean that portion of the Preliminary Official Statement and the Official Statement relating to the Company, including the appendices thereof, which may include financial, demographic or other information supplied by or on behalf of the Company, or a link or other reference to such information, all as shall be designated in the Company Continuing Disclosure Agreement, and as to which the Company shall make certain certifications under federal securities law.

"Construction Manager" shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Lessor or any Series 2011 Local Unit with the consent of the Lessor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Lessee for any Series 2011 Local Unit, or the oversight of the design, permitting, acquisition, construction, renovation, and installation of the Capital

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Improvement Projects, if any, by the Lessee for any Series 2011 Local Unit. The Consulting Energy Engineer may act as Construction Manager.

"Construction Performance Bond" shall have the meaning ascribed to such term in the Power Purchase Agreement.

"Contractor" shall mean the Company and the EPC Contractor, in any such case as the entity obligated to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Developer" shall mean an Affiliate of the Company to be designated at the time of execution of the Development Agreement.

"Development Agreement" means the Development Agreement to be entered into by and between the Company and the Developer for development services related to the Projects.

"Development Contract" shall mean (i) in the case of the Company, the Company Lease Agreement, (ii) as to the EPC Contractor, the EPC Contract, and (iii) in the case of any other Contractor, that certain contract obligating any such other subcontractor or other third-party, as Contractor and on behalf of the Company, to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units. Nothing in any Development Contract shall relieve the Company from its obligations under the Company Lease Agreement and the other Company Documents, which obligations shall include the Company's continual obligation to design, permit, acquire, construct, install, operate and/or maintain all of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, and to design, permit, acquire, construct, renovate and/or install all of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Development Fee" means the fee payable to the Developer for services provided under the Development Agreement.

"Draw Date" shall have the meaning ascribed to such term in Section 510(b) of this Company Lease Agreement, and shall not be a regularly scheduled set of dates, but shall occur no more frequently than twice a month.

"Draw Paper Ratio" shall have the meaning ascribed to such term in Section 510(c) of this Company Lease Agreement.

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"Interconnection Agreement" shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Lessee, the Applicable Series 2011 Local Unit and/or the Lessor, with respect to the interconnection of the completed Renewable Energy Projects for such Series 2011 Local Unit to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

"Interest Payment Date" shall mean, the date on which interest on the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June and December until final maturity of the Bonds, including the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Interest Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Interest Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the interest due and owing on the Outstanding Bonds, including the Series 2011 Bonds, on the immediately succeeding Interest Payment Date, as set forth in Exhibit A-3 to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Interest Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the interest on the Bonds on the next occurring Interest Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(i) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(c)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(s)(v)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Lease Payments" shall mean all amounts due and payable by the Company pursuant to the terms of the Company Lease Agreement, and shall consist of Basic Lease Payments and the Additional Lease Payments.

"Lease Term" or "Term" shall mean the period during which this Company Lease Agreement is in effect, as specified in Section 402 hereof.

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"Draw Papers" shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

"Event of Default" shall have the meaning ascribed to such term in Section 1001 of this Company Lease Agreement.

"Excess Power Purchase Price Payments" shall have the meaning ascribed to such term in Section 311(a) of this Company Lease Agreement.

"Exhibit A-3" shall mean Exhibit A-3 to this Company Lease Agreement, which for all purposes of the Program Documents, shall mean Exhibit A-3- attached hereto and made a part of this Company Lease Agreement.

"Force Majeure" shall mean any event which is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party or its affiliates, including, but not limited to and without limitation, (a) strikes or other labor disputes (other than strikes or labor disputes solely by employees or contractors of the Parties to this Power Purchase Agreement as a result of such Party's failure to comply with a collective bargaining agreement), (b) adverse weather conditions, breakdown or failure of the utility transmission or distribution system not caused by the Service Provider, and (c) other acts of nature, riot or civil unrest. The term Force Majeure does not include (i) any acts or omissions of any third party, including, without limitation, any vendor, customer, or supplier of the Service Provider, unless such acts or omissions are themselves excused by reason of Force Majeure; (ii) any full or partial curtailment in the electric output of the Renewable Energy Projects that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear, unless such mishap is caused by Force Majeure; (iii) changes in market conditions that affect the cost of the Service Provider's supplies, or that affect demand or price for any of the Service Provider's products, including, but not limited to the price of electricity, SRBCs or other environmental attributes; or (iv) any action that constitutes negligence or gross negligence by the Party claiming a Force Majeure event.

"Governmental Authority" means any federal, state or local legislative, executive, judicial, quasi-judicial or other public authority, agency, department, bureau, division, unit, court, tribunal, or other public body, person or entity having jurisdiction over a Party, the Renewable Energy Projects or this Company Lease Agreement.

"Independent Insurance Consultant" shall mean a nationally recognized, independent actuary, insurance company or broker acceptable to the Lessor that has actuarial personnel experienced in the area of insurance for which the Lessee is to be self-insured.

"Initial Basic Lease Payment Date" shall mean January 15, 2013, the first Basic Lease Payment Date.

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"Leased Property" shall mean the Renewable Energy Projects, as set forth in Exhibit A-1 to the Company Lease Agreement and in Exhibit B to the respective Local Unit License Agreements for the Series 2011 Local Units, together with all properties, rights, duties and obligations related thereto, including without limitation the right to enter upon and locate the Renewable Energy Projects on the Local Unit Facilities, as all such property shall be leased by the Authority, as owner and lessor, to the Company, as lessee, pursuant to Section 401 of the Company Lease Agreement for the Lease Term, with the express intent that such lease shall convey ownership of such property for purposes of the Code to the Company. The Leased Property shall not include the Capital Improvement Projects, if any, of the Series 2011 Local Units, all of which shall be owned by the respective Series 2011 Local Units.

"Mandatory Purchase Price" shall have the meaning ascribed to such term in Section 702 of the Company Lease Agreement relating to the acceleration of the Bonds of any Series, including the Series 2011 Bonds.

"Maximum Gross Bond Funded Project Cost Amount" shall mean the sum of (i) the Maximum Net Bond Funded Project Cost Amount funded with a portion of the proceeds of the Series 2011 Bonds and deposited with the Trustee in the Project Fund upon initial issuance thereof, together with (ii) any interest earned thereon prior to disbursement from the Project Fund in accordance with the Company Lease Agreement and the Bond Resolution, which amount has been estimated by the Lessee to be sufficient, together with the Equity Contribution, to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

"Maximum Net Bond Funded Project Cost Amount" shall mean \$24,700,000, the amount deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(e)(i), (ii) and (iii) of the Bond Resolution to fund a portion of the Project Costs, which amount was established by the Lessee pursuant to the Company Proposal.

"Net Proceeds" shall mean any insurance, condemnation, Construction Performance Bond or other performance bond, or any other financial guaranty proceeds paid with respect to any portion of the Projects, remaining after payment therefrom of all expenses incurred in the collection thereof; and, with respect to insurance, if and at such time as the Lessee elects to provide self-insurance under Section 614 of this Company Lease Agreement, any moneys payable from any self-insurance fund of the Lessee which may lawfully be expended for the purposes for which such self-insurance is provided.

"Overdue Rate" shall mean two percent (2%) per annum over the Base Rate, which rate shall change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any Renewable Energy Program Interested Parties; provided, however, that notwithstanding the foregoing, to the extent the County Security, if any, shall have

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been drawn upon to reimburse the County in full for any County payments under the County Guaranty, the Overdue Rate with respect to interest to be paid on past due Basic Lease Payments (such payment of interest constituting an Additional Lease Payment hereunder) shall have such different meaning, if any, as may be set forth in the County Security Agreement, if any.

"Permitted Encumbrances" shall mean as of any particular time: (i) liens for taxes and assessments not then delinquent with respect to the Leased Property, (ii) the Company Lease Agreement and the other Program Documents, (iii) the pledge and assignment by the Lessor of the Reimbursement Collateral to the County Security Provider, if any, under the County Security Agreement, if any, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security, (iv) the pledge of the Trust Estate by the Lessor to the Trustee under the Bond Resolution, and (v) any mechanic's, laborer's, materialmen's, supplier's or vendor's lien or right arising during construction of any Renewable Energy Project prior to December 17, 2012 and not filed or perfected in the manner prescribed by law.

"Plans and Specifications" shall mean the architectural and engineering drawings and specifications prepared by the Architect or other Contractor (through a Development Contract or otherwise) describing the Renewable Energy Projects or the Capital Improvement Projects (if any), including any Completion Project, as the case may be, as agreed to among the Company and the Applicable Series 2011 Local Unit pursuant to Section 501 of the Company Lease Agreement.

"PPA Price" shall have the meaning set forth in Section 6.2 of the Power Purchase Agreement.

"Power Purchase Price Payments" shall mean the payments made by the respective Series 2011 Local Units for the purchase of electricity to the Trustee at the direction of and on behalf of the Lessee and Lessor, all in accordance with Section 5.1(c)(i) of the Local Unit License Agreements.

"Principal Payment Date" shall mean, the date on which principal (including Sinking Fund Installments, if any) of the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June until final maturity of the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Principal Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Principal Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the principal

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(including Sinking Fund Installments) of the Outstanding Bonds, including the Series 2011 Bonds, due and owing on the immediately succeeding Principal Payment Date, as set forth in Exhibit A-3 attached to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Principal Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments) the Bonds on the next occurring Principal Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(3)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Purchase Option Price" shall have the meaning ascribed to such term in Section 701 of the Company Lease Agreement relating to the optional redemption of the Bonds of any Series, including the Series 2011 Bonds.

"Reimbursement Collateral" shall mean, to the extent a County Security Agreement shall be delivered to the Lessor and the Trustee in accordance with the provisions of Section 5.07(6) of the Bond Resolution, (i) the SRECs, (ii) the Net Substitute Power Purchase Price, and (iii) any past due Basic Lease Payments, together with any Additional Lease Payments constituting interest payable on such past due Basic Lease Payments at the Overdue Rate, all of which shall have been pledged and assigned by the Lessor to the County Security Provider under the County Security Agreement, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security. If no County Security Agreement shall be so delivered, which shall be the case upon original issuance of the Series 2011A Bonds, this term shall mean the County Reserve and any other monies and securities on deposit in the County Security Fund at any time, if any, that shall be available to the Lessee, in such case as County Security Provider, after and to the extent the County has been fully paid under its County Guaranty provided that no such monies shall be made available to the Lessee until the County has completed all of its payment obligations under the County Guaranty and been fully reimbursed therefor, from the County Security Fund or otherwise.

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"REP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Renewable Energy Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Renewable Energy Projects for each such Series 2011 Local Unit have been completed in accordance with the Plans and Specifications therefor, and have been accepted by the Company and the Applicable Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution.

"Reserved Rights" shall mean the Authority's right to retain the following under the Company Lease Agreement, which shall not be part of the Trust Estate pledged to the Trustee under Section 1.04 of the Bond Resolution:

(i) Receive the Additional Lease Payments earmarked for purposes other than the Purchase Option Price or the Mandatory Purchase Price (which Purchase Option Price or the Mandatory Purchase Price Additional Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), including without limitation (a) the Administrative Fee, if any, and any other Administrative Expenses, which the Authority shall be obligated to pay or cause to be paid to the Renewable Energy Program Interested Parties due such Administrative Expenses, and (b) interest payable on past due Lease Payments at the Overdue Rate (but not the Basic Lease Payments that may be paid together with any payment at the Overdue Rate, which Basic Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), provided, further, that the portion of which interest that is attributable to past due Basic Lease Payments may be assigned by the Authority to the County and/or the County Security Provider, if any, as part of the Reimbursement Collateral;

(ii) The payments set forth in Section 5.2(a)(ii) and (iii) of the Local Unit License Agreements for the Series 2011 Local Units that reflect the difference between the Gross Substitute Power Purchase Price and the Net Substitute Power Purchase Price, which includes the Administrative Fee;

(iii) Receive notices provided for in the Company Lease Agreement or any other Program Document;

(iv) Appoint, replace or remove such parties as shall be appointed, replaced or removed under the Company Lease Agreement or any other Program Document at the direction of the Authority; and

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(v) The right to give or withhold consents, including consents to amendments, permitted or required of the Authority under the Company Lease Agreement or any other Program Documents, to the extent that any such consent or amendment would diminish the rights or enlarge the responsibilities or adversely affect the ability of the Authority to realize or perform same, respectively, or which would increase the Authority's potential liability or exposure to any party to any Program Document or to any third party as a result thereof. All such notices, appointments or consents under any other Program Document (i.e., other than the Company Lease Agreement) shall be unaffected by these rights, as the Authority's rights under the other Program Documents are not subject to the pledge of the Trust Estate under Section 1.04 of the Bond Resolution, and are either retained by the Authority, or assigned pursuant to the terms of the Program Documents, but in any event, shall not constitute Revenues or other part of the Trust Estate for purposes of the Bond Resolution.

"Tax Benefit Recapture Event" has the meaning set forth in Section 609(g).

#### SECTION 102. Exhibits.

The following Exhibits are attached to, and by reference are made a part of, this Company Lease Agreement pursuant to which the Renewable Energy Projects are to be leased by the Authority to the Lessee:

(a) Exhibit A: Various details regarding a description of the Projects, the schedule of regularly scheduled Basic Lease Payments and maximum Project Costs funded from the Series 2011 Bonds.

(i) Exhibit A-1: Description of Renewable Energy Projects for Series 2011 Local Units;

(ii) Exhibit A-2: Description of Capital Improvement Projects (if any) for Series 2011 Local Units;

(iii) Exhibit A-3: Basic Lease Payment Schedule, consisting of Exhibit A-3-Regular and Exhibit A-3-Alternate; and

(iv) Exhibit A-4: Notice Information for Series 2011 Local Units.

(b) Exhibit B: Form of Acceptance Certificates, consisting of:

(i) Exhibit B-1: Form of REP Acceptance Certificates; and

(ii) Exhibit B-2: Form of CIP Acceptance Certificates.

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(c) **Exhibit C:** Form of Draw Papers.

(i) **Exhibit C-1:** Initial Project Workforce Form AA201.

(d) **Exhibit D:** Certificate of an Authorized Officer of the Lessee for Company Development Fees and Expenses Incurred on behalf of the Lessee.

(e) **Exhibit E:** Attach Form of Power Purchase Agreement and Company Continuing Disclosure Agreement.

#### SECTION 103. Inapplicable Terms.

Notwithstanding anything to the contrary contained in this Company Lease Agreement, the parties hereto acknowledge and agree that (a) the Lessee is not responsible for the construction of any Capital Improvements Projects under the Program Documents and any references herein to Capital Improvement Projects, CIP Acceptance Certificates or any other term defined by reference to Capital Improvement Projects (without limiting the application of any such term to the extent not related to Capital Improvement Projects) shall be of no further force and effect, and (b) there shall be no need for a County Security Agreement, a County Security Provider or County Security and any references thereto shall be of no further force and effect.

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Payments on time and in full.

(c) The execution and delivery by the Lessee of the Company Documents, the performance by the Lessee of all of its respective agreements and obligations under each of such documents and to be bound by the other Company Documents, and the incurring by the Lessee of all of the obligations contemplated by the Company Documents, have been duly authorized by all necessary requisite actions on the part of the Lessee, and the provisions of the Company Documents do not and shall not (i) contravene any provision of the Lessee's certificate of incorporation, by-laws and any other organizational documentation (each from time to time in effect), (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessee under any material agreement, mortgage or other instrument to which the Lessee is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessee's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation to which the Lessee is or may be bound, or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable to such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessee, or (v) to the best of Lessee's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of execution and delivery hereof and prior to the date of issuance of the Series 2011 Bonds, or are not required as a matter of law until a future date including the Interconnection Agreement for each Project, under any provision of applicable law.

(d) The officers or other authorized signatories of the Lessee executing and delivering its Company Documents have been duly authorized to execute and deliver the same under the laws of the State and the state of its organization and any other organizational documentation, and upon the Lessee's execution and delivery of the Company Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Company Documents shall constitute valid and binding obligations of the Lessee, enforceable against the Lessee in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessee or, to the best of the Lessee's knowledge, threatened against the Lessee (or, to the best of the Lessee's knowledge, is there any basis therefore) (I) that contests or would contest the Lessee's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Company Document or that would preclude the Lessee from performing in accordance with the terms of any Company Document or (II) wherein an unfavorable decision, ruling or finding would adversely affect (A) the transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessee is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

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## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES; DISCLAIMERS

#### SECTION 201. Representations, Covenants and Warranties of Lessee.

The Lessee represents, covenants and warrants as follows:

(a) The Lessee (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and (ii) has or will have all requisite power and authority, and as applicable, all requisite governmental licenses, authorizations, consents and approvals, to (A) own or lease its assets and carry on and transact its business, including without limitation the conduct of business within the State in accordance with the terms of the Company Documents, (B) authorize, execute, deliver and perform its obligations under the Company Documents, and (C) accept and be bound by the terms of the other Program Documents, and (iii) is duly qualified and is licensed and, as applicable, is in good standing under the laws of each jurisdiction, including the State, where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license. The Lessee has all of the requisite power and authority and has full legal right to (x) enter into each of the Company Documents, (y) perform, observe and comply with all of its respective agreements and obligations under the Company Documents, and (z) otherwise be bound by the terms of all of the other Company Documents.

(b) The constitution and the laws of the State and the jurisdiction of the Lessee's organization authorize the Lessee to, and the Lessee has the right, power, authority and expertise to, and shall (i) design, permit, acquire, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of the Local Unit Facilities for all of the Series 2011 Local Units in accordance with the technical specifications set forth in Appendix C of the Company RFP attached hereto as part of Exhibit A-1, and otherwise in accordance with the terms of the Company Documents, (ii) design, permit, acquire, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities in accordance with the plans and specifications and construction documents included or referred to herein and otherwise in accordance with the terms of the Program Documents, (iii) enter into the Company Documents, to acknowledge and consent and otherwise be bound by the terms of the other Program Documents, and to consummate the transactions and perform the obligations contemplated thereby. Notwithstanding the foregoing, the Lessee shall in all circumstances commence construction of the first Renewable Energy Project on or before May 15, 2012 and all Renewable Energy Projects on or before September 15, 2012, and complete construction and file all Acceptance Certificates for all Projects in accordance with the provisions of Section 510(e) hereof no later than December 14, 2012, unless extended, per Project, by Force Majeure, Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement or cure period which absent a cure would lead to a Series 2011 Local Unit Event of Default. Any such extension shall have no effect on the obligation to make Basic Lease

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(f) The Lessee has obtained all authorizations, consents and approvals that are required in order for Lessee to execute and deliver this Company Lease Agreement and to perform its financial and other obligations hereunder, except for permits and approvals to be obtained after the date hereof pursuant to Section 510(f).

(g) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessee shall not transfer, lease, assign, mortgage or encumber the Projects or any property of the Lessee constituting the Trust Estate.

(h) The Lessee currently intends to continue this Company Lease Agreement for its entire Term and to pay all Basic Lease Payments required hereunder, unless the Lessee shall pay and otherwise comply with the terms related to the Purchase Option Price or Mandatory Purchase Price in accordance with Article VII hereof, or any other termination provisions contained in this Company Lease Agreement.

(i) Information supplied and statements made by the Lessee in any financial statement or current budget delivered prior to or contemporaneously with this Company Lease Agreement, including the Company Appendices, present such information fairly, accurately and completely, in all material respects and in accordance with generally accepted accounting principles. The Lessee agrees to take all reasonable actions in connection with the Authority's marketing and sale of the Bonds, including without limitation executing Certificates of an Authorized Officer of the Lessee (i) regarding the deemed final nature of the Company Appendices for purposes of Rule 15c2-12, and (ii) to the effect that the Company Appendices, and any other information concerning the Company or its rights, duties and obligations under the Company Documents set forth in the Preliminary Official Statement and the Official Statement (A) contain no material misstatement of fact and (B) do not omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, materially misleading.

(j) Information provided by Lessee, in writing or at the interview date with the Authority pursuant to the Company RFP process on September 8, 2011, upon which Lessor relied in selecting Lessee under the Company RFP process, remains materially accurate.

#### SECTION 202. Representations, Covenants and Warranties of Lessor.

The Lessor represents, covenants and warrants as follows:

(a) The Lessor (i) is a public body corporate and politic duly organized, validly existing and in good standing under the Act and other applicable laws of the State, (ii) has full and complete power to enter into or adopt, as the case may be, the Program Documents and to carry out the transactions contemplated thereby, (iii) is possessed with full power to own and hold real and personal property, including the Renewable Energy Projects, and to lease the Lessor Property subject to the terms of the Act and any other applicable law, and (iv) has duly authorized the execution and delivery of or has duly adopted, as the case may be, the Program

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Documents.

(b) Neither the execution and delivery or adoption, as the case may be, of the Program Documents, the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby conflicts with or results in a breach of the terms, conditions or provisions of any restriction, any agreement or any instrument to which the Lessor is now a party or by which the Lessor or its property are bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Lessor or upon the Projects, except Permitted Encumbrances.

(c) The execution and delivery by the Lessor of the Program Documents, the performance by the Lessor of all of its respective agreements and obligations under each of the Program Documents, and the incurring by the Lessor of all of the obligations contemplated by the Program Documents, have been duly authorized by all necessary requisite actions on the part of the Lessor, and the Lessor's authorization, execution, delivery and performance pursuant to the terms of the Program Documents do not and shall not (i) contravene any provision of the Act, (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessor under any material agreement, mortgage or other instrument to which the Lessor is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessor's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation thereunder or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable to such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessor, or (v) to the best of Lessor's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of issuance of the Series 2011 Bonds, under any provision of any applicable law.

(d) The officers of the Lessor executing and delivering its Program Documents have been duly authorized to execute and deliver the same under the Act, and upon the Lessor's execution and delivery of the Program Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Program Documents shall constitute valid and binding obligations of the Lessor, enforceable against the Lessor in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessor or, to the best of the Lessor's knowledge, threatened against the Lessor (or, to the best of the Lessor's knowledge, is there any basis therefore) (i) that contests or would contest the Lessor's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Program Document or that would preclude the Lessor from performing in accordance with the terms of any Program Document or

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ARTICLE III

LEASE PAYMENTS

SECTION 301. Lease Payments.

(a) The Lessee agrees to pay to the Trustee the following Lease Payments, as rent for the Leased Property for the Term hereof, in immediately available funds, no later than when due, delivered to the principal corporate trust office of, or some other location designated by, the Trustee:

(i) For deposit in the Revenue Account of the Revenue Fund, Basic Lease Payments, as set forth in Sections 305 and 306 hereof and Exhibit A-3 hereof, on each Basic Lease Payment Date; and

(ii) For deposit in the Administrative Expense Account of the Administrative Fund, from time to time as provided herein, as Additional Lease Payments, all as set forth in Section 308 hereof:

(A) Administrative Expenses (including the Authority's annual Administrative Fee, but excluding those properly payable by the Applicable Series 2011 Local Unit(s)) at the times set forth in invoices to be received by the Lessee from the Trustee in accordance with the Bond Resolution, provided that no further invoice shall be required for payment of the annual Administrative Fee and the Trustee's annual fee in an annual amount not to exceed \$5,000, which shall be due and payable in advance on the first day of any Bond Year (except that the initial Administrative Fee shall be funded from a portion of the proceeds of the Series 2011 Bonds);

(B) Interest on any overdue Lease Payments at the Overdue Rate, which amounts shall be immediately due and payable to the extent any Lease Payments are overdue;

(C) The Purchase Option Price in accordance with Section 701 of the Company Lease Agreement;

(D) The Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement; and

(E) All other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder or under the terms of any other Company Document, which shall be deposited in the Administrative Fund if no other direction is set

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(ii) wherein an unfavorable decision, ruling or finding would adversely affect (A) the transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessor is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

(f) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessor shall not transfer, lease, assign, mortgage or encumber the Projects or the Trust Estate.

(g) Upon the exercise by the Lessee of its option to purchase the entire Renewable Energy Projects pursuant to Article VII hereof, the Lessor (i) shall deliver to the Lessee all of the documents that are or may be necessary to vest all of the Lessor's right, title and interest in and to the Renewable Energy Projects in the Lessee, and (ii) shall release all liens and encumbrances created under this Company Lease Agreement, or the other Program Documents with respect to the Renewable Energy Projects, all as provided in Article VII hereof.

(h) Simultaneously with the execution and delivery hereof, Lessor shall issue the Series 2011A Bonds and the Series 2011B Note to provide capitalized interest payments on the Series 2011A Bonds due June 15, 2012 and December 15, 2012. To the extent the Company proposes a Completion Project on one (1) or more existing Local Unit Facility or Facilities whereby additional electricity can be generated at such Local Unit Facility or Facilities beyond that contemplated in the Company Proposal, Lessor may consider issuing Additional Bonds in an amount, together with all Outstanding Series 2011 Bonds, shall not exceed \$50,000,000. To the extent Lessor, in its sole discretion, determines the issuance of any such Additional Bonds is in the best interests of the Authority, the County and the Applicable Local Unit, the Authority shall issue such Additional Bonds in an amount sufficient to pay for any such Completion Project, any reserves or capitalized interest, as required, and the costs of issuance thereof, but only to the extent the Company Lease Agreement is amended and supplemented to increase the Basic Lease Payment schedule to reflect the issuance of such Series of Additional Bonds.

SECTION 203. Disclaimer of Lessor and Trustee.

THE TRUSTEE, BY ACCEPTANCE OF THE TRUSTS SET FORTH IN THE BOND RESOLUTION, AND THE LESSOR, BY ADOPTION OF THE BOND RESOLUTION, BY ISSUANCE OF THE BONDS AND BY EXECUTION AND DELIVERY OF ALL OTHER PROGRAM DOCUMENTS, MAKE NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF ANY PROJECT.

SECTION 204. Tax Covenants of Lessee.

There shall be no covenants herein arising from or otherwise relating to the issuance of the Series 2011 Bonds, as such Bonds shall not be issued as a Series of Tax-exempt Bonds.

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forth in the Company Documents or to the particular Fund or Account set forth in any such Company Document.

(iii) For deposit in the Restoration Security Fund, the amounts necessary to fund the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution as Additional Lease Payments, all as set forth in Section 308 hereof;

(iv) For deposit in the County Security Fund, \$1,500,000, the initial amount of the County Security Fund Requirement for the County Reserve, to be funded by the Lessee no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and thereafter, any deficiency in the County Security Fund Requirement shall be funded by the Company to the extent of any available funds after payment of all reasonable Company expenses and prior to any member distributions; and

(b) The Lessee shall be entitled to a credit against Basic Lease Payments for unused moneys held in the Project Fund in accordance with Section 510(e)(1)(B) hereof, and for earnings on other funds held by the Trustee and certain other Revenue Fund transfers in accordance with Section 310(b) hereof, all at the times and in the amounts and determined in accordance with the provisions of the Bond Resolution and this Company Lease Agreement; provided, however, that such credits, if applicable, shall be applied first to the Interest Portion and then the Principal Portion of Basic Lease Payments and second to Additional Lease Payments due, if any.

(c) Notwithstanding anything to the contrary herein, the Lessee may make any and all Lease Payments in immediately available funds through wire transfer or otherwise, to the extent the Trustee or other payee consents in writing to such method of delivery.

SECTION 302. Lease Payments to be Unconditional, Except for Power Purchase Price Payments; No Abatement or Set-Off.

(a) Except as set forth in clauses (i) and (ii) below, the obligation of the Lessee to make Lease Payments in full and when due shall be absolute and unconditional in all events, including without limitation any circumstance regarding the Projects, regardless of whether any such event shall be foreseen or otherwise, and regardless of whether any such event shall occur by accident or otherwise. The Lessee hereby acknowledges and irrevocably covenants that the terms of this Company Lease Agreement create a valid and binding obligation of the Lessee to make Lease Payments from any available source under all circumstances.

(i) Lessee shall receive a credit against the Interest Portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of all Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment

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Date.

(ii) Lessee shall receive a credit against the Principal Portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of any remaining Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment Date, after accounting for the application of the credit set forth in clause (i) above.

(iii) For purposes of applying this credit, Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee within ten (10) Business Days of any Basic Lease Payment Date shall be deemed to have been received by the Trustee the Business Day after such Basic Lease Payment Date (and therefore the Lessee shall not be entitled to a credit for such amounts paid by the Series 2011 Local Units until the following Basic Lease Payment Date). The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the aggregate amount of all Power Purchase Price Payments made by the Series 2011 Local Units since the prior Basic Lease Payment Date that are available for such credit, (A) as of the date that is thirty (30) days' prior to each Basic Lease Payment Date, and (B) on the Business Day immediately following the ten (10) Business Day credit cutoff date noted above.

(b) Notwithstanding any dispute between the Lessor and the Lessee, or between or among any party hereto and any one or more of any Renewable Energy Program Interested Party or any other person, in any case concerning any provision of any Program Document, the Lessee shall make all Lease Payments in full and when due, and the Lessee shall not withhold any Lease Payment pending final resolution of such dispute, nor shall the Lessee assert against the Lessor, the Trustee, any Renewable Energy Program Interested Party or any other person any right of set-off, recoupment or counterclaim against its obligation to make such Lease Payments, regardless of whether or not the Projects are completed, available for use, or used by the Lessee or any other Renewable Energy Program Interested Party, as applicable.

(c) However, nothing herein shall be construed to release the Lessor from the performance of its obligations hereunder; and if the Lessor should fail to perform any such obligation, the Lessee may institute such legal action against the Lessor as the Lessee may deem necessary to compel the performance of such obligation, but if and only if the Lessee is not in default under the terms of this Company Lease Agreement and if the Lessee shall have paid all amounts that are required to be paid pursuant to the terms of this Company Lease Agreement; and if the Lessee shall have performed all of its obligations under the terms of this Company Lease Agreement and continues to pay and perform as provided herein, the Lessee shall not be precluded from bringing any action it may otherwise have against the Lessor.

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#### SECTION 304. Return of Renewable Energy Projects upon Termination of Company Lease Agreement; CIP Acceptance State.

(a) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value (as defined in the Power Purchase Agreement) in accordance with Section 609(d) hereof, Lessee shall (i) take no action regarding the removal of any such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, or if none, the Local Unit Facilities to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or thereto from that would ordinarily degrade the state of any such Capital Improvement Projects, if any, or Capital Improvement Project from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from the Lessee's operation and maintenance of such Renewable Energy Projects.

(b) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are eligible for sale by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value in accordance with Section 609(d) hereof, but no accommodation on sale price or other terms shall be reached in accordance with Section 3.7(b) of the Power Purchase Agreement, and the Lessee shall accordingly be prospectively entitled to the full use and enjoyment of any such Renewable Energy Projects, the Lessee shall (i) promptly remove such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, for any such Applicable Series 2011 Local Units to the CIP Acceptance State, or if no Capital Improvement Projects, to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or thereto from that would ordinarily degrade the state of any such Capital Improvement Projects or Local Unit Facility from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from either (A) the Lessee's operation and maintenance of such Renewable Energy Projects or (B) the Lessee's removal of such Renewable Energy Projects.

(c) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessor to the Applicable Series 2011 Local Units for nominal consideration in accordance with Section 609(f) hereof (after a Lessee Event of Default), Lessee shall (i) take no action regarding the removal of any such Renewable Energy

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#### SECTION 303. Termination of Lease Term; Lease Payment Obligation.

The Lessee shall not terminate this Company Lease Agreement (other than such termination as is provided for under the terms of this Company Lease Agreement) or be excused from its obligations hereunder, including without limitation Lessee's obligations to make Lease Payments, for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute an eviction or constructive eviction, failure of consideration, failure of title or frustration of purpose, any damage to or destruction of any Project, the taking by eminent domain of title or the right of temporary use of all or any part of any Project, or the failure of the Lessor or any other Renewable Energy Program Interested Party to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation that arises out of or that is related to this Company Lease Agreement or any other Program Document.

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Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, for any such Applicable Series 2011 Local Units to the CIP Acceptance State, after giving effect to the normal wear and tear thereon or thereto from that would ordinarily degrade the state of any such Capital Improvement Projects from the date of any such CIP Acceptance Certificate to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, from the Lessee's operation and maintenance of such Renewable Energy Projects.

#### SECTION 305. Basic Lease Payments; Principal Portion.

(a) The Principal Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of principal due and payable on the Bonds, including the Series 2011 Bonds, on the immediately succeeding Principal Payment Date, with respect to regularly scheduled Principal Payment Dates, all as set forth on Exhibit A-3 hereto; provided, however, that no Principal Portion of Basic Lease Payments shall be reduced, as applicable, (a) to the extent of the Principal Portion of Basic Lease Payments shall be reduced, as applicable, (a) to the extent of a balance available for payment of principal on the Bonds on deposit in the Principal Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Principal Portion of Basic Lease Payments in accordance with (A) Section 302(a)(ii) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(c)(1)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award or (ii) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(iii)(B) hereof.

#### SECTION 306. Basic Lease Payments; Interest Portion.

(a) The Interest Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of interest due and payable on the Bonds, including the Series

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2011 Bonds, on the immediately succeeding Interest Payment Date, with respect to regularly scheduled Interest Payment Dates, all as set forth on Exhibit A-3 hereto; provided, however, that no Interest Portion of Basic Lease Payments shall be payable by the Lessee, or the Interest Portion of Basic Lease Payments shall be reduced, as applicable, (a) for any period to the extent interest payable on the Bonds for such period shall have been previously provided to the Trustee as capitalized interest for deposit in the Capitalized Interest Account of the Debt Service Fund from proceeds derived from the sale of the Bonds and (b) to the extent of a balance available for payment of interest on the Bonds on deposit in the Interest Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Interest Portion of Basic Lease Payments in accordance with (A) Section 302(a)(i) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(e)(1)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award, or (ii) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(iii)(B) hereof.

**SECTION 307. Interest Calculation.**

The Interest Portion of Basic Lease Payments is equal to the interest accrued on the Bonds, including the Series 2011 Bonds. Interest on the Bonds is computed upon the basis of a 360-day year, consisting of twelve 30-day months.

**SECTION 308. Additional Lease Payments.**

(a) At the times required in the definition of "Administrative Fee", when not otherwise provided for from a portion of the proceeds of a Series of Bonds, including the Series 2011 Bonds, the Lessee shall pay the Administrative Fee to the Trustee as an Additional Lease Payment for deposit in the Administrative Expense Account of the Administrative Fund.

(b) The Lessee shall pay to the Trustee, for deposit in the Administrative Expense Account of the Administrative Fund as an Additional Lease Payment, from time to time

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upon the Lessee's receipt from the Trustee of an invoice therefore in accordance with the terms of the Bond Resolution, reasonable compensation for all services rendered by the Trustee pursuant to the Bond Resolution, all reasonable expenses, charges, counsel fees and other disbursements (including those of the Trustee's attorneys, agents and employees) incurred in the performance of its powers and duties under the Bond Resolution, and any other Administrative Expenses.

(c) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, interest on any past due Lease Payment at the Overdue Rate in accordance with Section 1007 hereof.

(d) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Purchase Option Price in accordance with Section 701 hereof, reflecting the optional redemption of a Series of Bonds, including the Series 2011 Bonds.

(e) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Mandatory Purchase Price in accordance with Section 702 hereof, reflecting the acceleration or any other mandatory payment of a Series of Bonds, including the Series 2011 Bonds.

(f) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the amounts required to fund the Restoration Security Fund at the Restoration Security Fund Requirement, in the amounts and at the times as set forth in Section 5.07(9) and Exhibit C to the Bond Resolution. Notwithstanding the foregoing, however, the Lessee shall be required to pay to the Restoration Security Fund an amount to bring the balance therein to the Restoration Security Fund Requirement from time to time if the Lessee has sufficient available cash flow to fund the same after making all other payments payable by the Company during such year; provided, however, in no event shall cash flow distributions be made to the members of the Company in any year in which the Restoration Security Fund is required to be funded to the extent the Restoration Security Fund is not funded in such year to the level required by the Restoration Security Fund Requirement.

(g) The Lessee shall make a one-time payment of \$1,500,000 payable no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects of (ii) March 15, 2013, for deposit by the Trustee in the County Security Fund to satisfy the County Security Fund Requirement.

(h) The Lessee shall pay to the Trustee as an Additional Lease Payment all other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder, under the Bond Resolution, under the Tax Certificate for any Series of Tax-exempt Bonds or under any other Program Document, including without limitation deficiencies in the payment of principal (including mandatory sinking fund installments) of and interest on Bonds when due as may be contemplated by Article V of the Bond Resolution, which Article shall not be amended by Lessor to add any such payment obligation without Lessee's

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consent, and any amounts that may be required to be paid into a rebate fund at the times required hereunder and under any such Tax Certificate.

**SECTION 309. General Obligation of Company to Make Lease Payments; Pledge of Reimbursement Collateral; Company Pledge Agreement.**

(a) The Lessee hereby covenants to make all Lease Payments due under this Company Lease Agreement, during the entire Lease Term, from any and all funds or other assets available to the Lessee, including without limitation, but not limited to, such economic benefits as may be conferred upon the Company pursuant to the Program Documents.

(b) Pledge of Section 1603 Grant to Trustee. Subject to American Recovery and Reinvestment Act of 2009, as security and further assurance for the Lessee's obligations to make certain initial Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Trustee a collateral security interest in the Section 1603 Grant, such grant of a collateral security interest to remain in effect only so long as set forth in the Company Pledge Agreement, including specifically Sections 2.01 and 7.11 thereof. At the Lessee's discretion for so long as the EPC Contractor is continuing to provide the In-Kind Equity Contribution and no Event of Default has occurred hereunder, the aforementioned security interest granted in favor of the Trustee may be subordinate to that of the EPC Contractor under the EPC Contract.

(c) Pledge of Certain Revenues to Authority. As security and further assurance for the Lessee's obligations to perform its obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Authority a collateral security interest in any funds it may receive with respect to the following:

(i) the sale of renewable energy produced by the Renewable Energy Projects under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements;

(ii) the sale of SRECs from the Renewable Energy Projects;

and

(iii) the Construction Performance Bond.

At the Lessee's discretion for so long as the EPC Contractor is continuing to provide the In-Kind Equity Contribution and no Event of Default has occurred hereunder, the aforementioned security interest granted in favor of the Authority may be subordinate to that of the EPC Contractor under the EPC Contract.

The Lessor hereby covenants that the security interest granted pursuant to this

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Section 309(c) shall not, provided no Event of Default has occurred and is continuing, adversely affect any of the Lessee's:

(A) use and enjoyment of the Renewable Energy Projects,

(B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements, or

(C) SRECs.

(d) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee shall and hereby does acknowledge

(i) that the Lessor has the right to deliver the County Security Agreement, if any, in accordance with the provisions of Section 5.07 of the Bond Resolution, whereupon the Reimbursement Collateral shall be assigned and pledged by the Lessor to the County and the County Security Provider, if any, in accordance with the terms of the County Guaranty Agreement and such County Security Agreement, respectively, as to which terms the Lessor hereby covenants that the rights of the County and the County Security Provider to the Reimbursement Collateral shall not adversely affect any of the Lessee's:

(A) use and enjoyment of the Renewable Energy Projects,

(B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements, or

(C) SRECs,

in all cases prior to the date of an Event of Default caused by the Lessee, it being the express intent of the parties that any such assignment and pledge of the Reimbursement Collateral is only to protect the County and/or the County Security Provider to the extent any such Renewable Energy Program Interested Party shall not have been reimbursed for funds expended under the Program Documents due to the Lessee's actions or inactions under the Program Documents, and it being the further express intent of the parties that any and all such remedies flowing from any such Event of Default caused by the Lessee are within the Lessee's control to prevent by complying with the terms of this and all

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other Program Documents, including without limitation the making of Lease Payments in full and on time,

(i) upon an Event of Default, including an occurrence as a result of the Lessee's failure to make its Lease Payments on time and in full, the Lessee's rights to the Leased Property may be terminated in accordance with the terms hereof, and the County and the County Security Provider, if any, may realize all or a portion of the Reimbursement Collateral in accordance with the terms of their respective County Guaranty Agreement and County Security Agreement, if any and as applicable, which economic benefits comprising the Reimbursement Collateral had been previously available to the Lessee, and would continue to be so available, should any such Event of Default never occur or be timely cured.

(e) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby covenants to deliver the Company Pledge Agreement from the Pledgor defined in the Company Pledge Agreement contemporaneously herewith, and in any event, no later than the issuance of the Series 2011 Bonds, the terms of which Company Pledge Agreement are hereby acknowledged and accepted by the Lessee.

(f) The Lessee, as debtor, authorizes the Trustee, on behalf of itself as creditor, and the Lessor, as creditor, to file UCC1 financing statements with respect to the foregoing pledge of collateral contemplated by this Section 309.

#### SECTION 310. Investment of Bond Resolution Funds; Credit for Certain Investment Earnings.

(a) The Lessor shall cause the monies in the Funds and Accounts established under the Bond Resolution to be invested in accordance with the provisions of Section 5.11 of the Bond Resolution, provided, however, that the Lessee may direct the Lessor in writing to cause the Trustee to invest the Project Fund, the County Security Fund and the Restoration Security Fund in any Investment Securities available under the Bond Resolution; absent any such direction from the Lessee, the Lessor may cause the investment of the Project Fund, the County Security Fund and the Restoration Security Fund in such Investment Securities as the Lessor shall determine.

(b) (i) To the extent interest earnings on any such Funds or Accounts are transferred to the Aged Account of the Revenue Fund in accordance with the provisions of Section 5.11(3) and (4) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such earnings, plus interest earned thereon as of any such Basic Lease Payment Date, against the next due Interest Portion of Basic Lease

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Payments due and owing from the Lessee, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied or if additional interest earnings are on deposit in the Aged Account, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), within ten (10) Business Days after each Basic Lease Payment Date, of the amount of such interest earnings credit available to the Company as of the next Basic Lease Payment Date.

(ii) To the extent the amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Interest Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(i) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Interest Portion of Basic Lease Payments due and owing from the Lessee, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

(iii) To the extent amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Principal Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(ii) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

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### ARTICLE IV

#### LEASE OF LEASED PROPERTY; TERM OF COMPANY LEASE AGREEMENT

##### SECTION 401. Lease of Leased Property.

(a) The Lessor hereby agrees to (i) finance its share of the Renewable Energy Projects and the Capital Improvement Projects, if any, for the Series 2011 Local Units, through the issuance of the Series 2011 Bonds, the balance of which shall be financed by or on behalf of the Lessee through the Equity Contribution, and (ii) enter into the Local Unit License Agreements with the Series 2011 Local Units, thereby giving the Lessor nominal ownership of the Renewable Energy Projects, and providing the Company with a license and access to the Local Unit Facilities for the Series 2011 Local Units.

(b) The Lessee hereby agrees to (i) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects as described on Exhibit A-1 hereof and (ii) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, as described on Exhibit A-2 hereof, all for the Series 2011 Local Units.

(c) Upon the acquisition of title to the Leased Property from the Contractor (the timing of which does not adversely affect the Lessee's obligations hereunder, including the obligations to make Lease Payments), the Lessor hereby agrees to lease to the Lessee, except for the Reserved Rights, all of its right, title and interest in and to the Leased Property for the duration of the Lease Term hereof, and to grant to the Lessee an option to purchase the Leased Property as set forth in Article VII hereof. The Lessee hereby agrees to take and lease from the Lessor, other than the Reserved Rights, all of the Lessor's right, title and interest in and to the Leased Property on the terms and conditions set forth in this Company Lease Agreement, including, without limitation, all of the Lessee's duties and obligations under the Program Documents. The lease of the Leased Property from the Lessor to the Lessee is also intended to convey to the Lessee any product of the Leased Property, including any right, title and interest of the Lessor in and to the SRECs and the right to electricity generated from the Renewable Energy Projects for the Series 2011 Local Units at their respective Local Unit Facilities, subject to the terms and conditions of the Program Documents. The Lessor hereby acknowledges the Lessee's intent to exercise such option to purchase the Leased Property during or upon the termination of the Lease Term.

(d) It is an express purpose of this Company Lease Agreement that the benefits and burdens of owning the Leased Property being conveyed by the Lessor to the Lessee pursuant to this Company Lease Agreement be such that the Lessee shall be deemed to be the owner of the Leased Property for purposes of the Code. Accordingly, Lessor and Lessee agree and acknowledge that, for federal income tax purposes: (i) Lessee will treat the use of Series 2011 Bond proceeds to purchase, construct and install the Renewable Energy Projects as construction loan advances of Series 2011 Bond proceeds to Lessee by Authority; (ii) Lessee will treat all payments (or credits against such payments) made under this Company Lease

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Agreement as payments of interest and principal to the Authority with respect to such construction loan, with an allocation of principal and interest based upon the Authority's related principal and interest payments on the Series 2011 Bonds; and (iii) Lessee will report all payments made by the Series 2011 Local Units under the Power Purchase Agreements as revenues earned by Lessee. Notwithstanding the foregoing, for State law purposes, Lessor and Lessee agree that under the Program Document structure, any benefit to the Company shall be deemed incidental, the primary purpose of the Renewable Energy Program being to provide the Series 2011 Local Units with electricity at multi-year locked in rates to the greatest extent practicable below tariff, which goal has been effectively realized through the financing structure contemplated by the Program Documents.

##### SECTION 402. Lease Term.

(a) This Company Lease Agreement shall be and remain in effect with respect to the Leased Property (the "Lease Term") commencing on the date of authorization, execution, authentication and delivery of the Series 2011 Bonds that shall finance, among other things, the Renewable Energy Project component of the Leased Property, and continuing until terminated as provided for in this Section 402. The Term of this Company Lease Agreement shall terminate upon the occurrence of the first of the following of events:

(i) The exercise by the Lessee of its option or its requirement to purchase the Lessor's entire interest in the Leased Property pursuant to Article VII hereof;

(ii) The occurrence and continuation of an Event of Default hereunder by the Lessee and the Lessor's election to exercise remedies under this Company Lease Agreement pursuant to Section 1002 hereof;

(iii) Subject to an extension of this Company Lease Agreement in accordance with clause (iv) below, which provisions shall control even if the other requirements of this clause (iii) have been satisfied, the occurrence of all of the following: (A) the payment by the Lessee of all Lease Payments, which requirement as to Basic Lease Payments (unless sooner terminated or extended in accordance with the provisions hereof) shall be fully satisfied on December 15, 2025 (unless extended by an amendment hereto resulting from the issuance of Additional Bonds), (B) the Bonds, including the Series 2011 Bonds, shall no longer be Outstanding under the Bond Resolution, and if the provisions of Section 703(b) are applicable, and (C) on the date specified in the Certificate of Authorized Officer of the Lessee required by Section 703(b)(iii); or

(iv) The expiration date of any extension to the initial term of this Company Lease Agreement, which initial term would be determined by clauses (i), (ii), and (iii) above, as such extension date shall be set forth in any amendment of this Company Lease Agreement (in accordance with the

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amendment provisions of Section 1103 hereof, to the extent permitted under then applicable law.

(b) Notwithstanding the foregoing, this Company Lease Agreement shall be in effect until all the obligations created hereunder have been fulfilled.

(c) Notwithstanding the foregoing, any termination by reason of clause (a)(ii) above shall not alter or terminate the Lessee's unconditional payment obligations hereunder, including Sections 302 and 309 hereof.

#### SECTION 403. Net Lease.

(a) The Lessee intends for the Lease Payments to be net to the Lessor. The obligation of the Lessee to pay Lease Payments shall be absolute and unconditional and shall in no way be released, discharged or otherwise affected for any reason, including, without limitation, (i) any defect in the condition, quality or fitness for use of, or title to, any Project or (ii) any damage to or abandonment, destruction, requisition or taking of any portion of any Project.

(b) The Lessee shall comply with and pay all (i) local, state and federal taxes incurred with respect to the design, permitting, acquisition, construction, renovation, installation, operation, maintenance, ownership, possession or use of any Renewable Energy Project or the design, permitting, acquisition, construction, renovation or installation of any Capital Improvement Projects, including, without limitation, income, franchise, gross receipts, sales, use, documentary stamp, excise and real and personal property taxes, (ii) payments in lieu of taxes, assessments, licenses, registration fees, freight and transportation charges and any other charges imposed or liabilities incurred with respect to the design, permitting, acquisition, construction, renovation, installation, operation, maintenance, ownership, possession or use of any Renewable Energy Project or the design, permitting, acquisition, construction, renovation or installation of any Capital Improvement Projects, (iii) Lease Payments, and (iv) penalties, fines or interest imposed on any of the foregoing during the Lease Term.

(c) The Lessee shall pay, from a portion of the proceeds of the Bonds or otherwise, all reasonable expenses incurred by the Lessor in connection with all filings or recordings of any documents relating to this Company Lease Agreement, the other Company Documents, or the Lessor's rights hereunder and thereunder. The Lessor shall have the right to make any of the payments required of the Lessee, but shall not be obligated to pay the same, and to charge such payment with interest at the Overdue Rate from the due date thereof through the date of payment as an Additional Lease Payment to be paid by the Lessee with the next Basic Lease Payment due under this Company Lease Agreement.

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#### SECTION 502. Construction of Project.

(a) The Lessee shall be responsible for entering into the Development Agreement with the Developer and for the letting of Development Contracts with Contractors for (a) the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for all of the Series 2011 Local Units, (b) the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for all of the Series 2011 Local Units, (c) the completion and acceptance of the Renewable Energy Projects in accordance with the Plans and Specifications therefor and the other terms hereof, including the filing of the REP Acceptance Certificates in accordance with Section 510(d)(f) hereof, (d) the completion of the Capital Improvement Projects in accordance with the Plans and Specifications therefor and the other terms hereof, including the filing of the CIP Acceptance Certificates in accordance with Section 510(d)(ii) hereof, and (e) all other matters that are incidental to the performance of the duties and powers that are expressly granted to the Lessee herein in connection with any of the foregoing. The Lessee may carry out its functions hereunder without obtaining any further approval of the Lessor; provided, however, that the Lessee shall issue monthly reports to the Lessor and the Applicable Series 2011 Local Unit detailing the progress of the foregoing and the anticipated completion dates thereof.

(b) After complying with the notification provisions of this subsection (b), the Lessee shall enter into one or more Development Contracts with the Contractor(s) providing for (i) the design, permitting, acquisition, construction, installation, operation and/or maintenance of the Renewable Energy Projects in accordance with the Plans and Specifications and/or (ii) the design, permitting, acquisition, construction, renovation, and/or installation of the Capital Improvement Projects in accordance with the Plans and Specifications. At least five (5) Business Days prior to the Lessee's entering into of each such Development Contract, the Lessee shall notify and provide each of the Lessor, the Applicable Series 2011 Local Unit and the Construction Manager with substantially final drafts thereof. Within a reasonable period of time thereafter, the Lessor, the Applicable Series 2011 Local Units and/or the Construction Manager shall notify the Lessee of any deviation therein from the Plans and Specifications for the Projects or from applicable law, if any. The Lessee shall, in its discretion, determine to incorporate or disregard any such advice into the final form of such Development Contracts; provided, however, that any such action or inaction shall not relieve the Lessee from completing the Projects in accordance with the agreed upon Plans and Specifications and in accordance with all applicable law. After such five (5) Business Day notice period, the Lessee may enter into such Development Contracts, providing only that final executed copies thereof be delivered to each of the Lessor, the Applicable Series 2011 Local Unit and the Construction Manager. After such execution, the Lessee shall cause each Contractor to perform its obligations under the Development Contracts, and shall deliver the completed Project available for occupancy and use by the Company with respect to the Renewable Energy Projects and the Applicable Series 2011 Local Unit with respect to the Capital Improvement Projects, on or before December 15, 2012, as such date may be extended in accordance with the Program Documents.

(c) None of the Lessor, the Series 2011 Local Unit or the Trustee makes any

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### ARTICLE V

#### CONSTRUCTION OF PROJECT; CARE AND USE; DRAW PROCEDURES

##### SECTION 501. Design of Project.

(a) Within ninety (90) days of the execution and delivery of this Company Lease Agreement, the Lessee shall cause preliminary Plans and Specifications to be prepared by one or more Architects or other Contractors with respect to all of the Projects for all of the Series 2011 Local Units and within the parameters set forth in the Company RFP. In preparing or causing the preparation of such preliminary Plans and Specifications, the Lessee expressly acknowledges that the Lessor shall only be providing financing, through the issuance of the Series 2011 Bonds, for the Maximum Net Bond Funded Project Cost Amount, and that any costs and expenses beyond such amount, except for any Completion Projects agreed in writing to be financed by the Lessor, are to be borne solely and wholly by the Lessee from any available funds.

(b) Copies of the Plans and Specifications, when in form satisfactory to the Lessee, shall be promptly delivered to the Lessor and the Applicable Series 2011 Local Units for the review, comment and approval of the Applicable Series 2011 Local Units. Within five (5) Business Days of receipt, each Applicable Series 2011 Local Unit shall have reviewed, and either commented on or approved the Plans and Specifications prepared by the Lessee for each respective Renewable Energy Project and each Capital Improvement Project, if any, for the respective Series 2011 Local Units. To the extent approval from any Series 2011 Local Unit shall not be received, the Lessee shall promptly modify the Plans and Specifications to address the Series 2011 Local Unit's reasonable concerns, whereupon the Lessee shall resubmit the Plans and Specifications to the Lessor and the Applicable Series 2011 Local Unit for further review, comment and approval. Such process shall continue until the Lessor and Lessee have received the approval of all of the Series 2011 Local Units; provided however, that both parties and the Applicable Series 2011 Local Units shall endeavor to complete the review, comment and approval process within one (1) month of the original submission to the Lessor and the Series 2011 Local Units. Notwithstanding any other provision of this Agreement or any other Company Document, to the extent an Applicable Series 2011 Local Unit does not adhere to the timetable set forth in this Section 501(b), then the required completion date for the respective Renewable Energy Project shall be extended by a time period equal to the delay by the Applicable Series 2011 Local Unit.

(c) Promptly after having received the respective Series 2011 Local Unit approvals of the Plans and Specifications related to their respective Projects, the Lessee shall submit or cause the submission of such Plans and Specifications to all other federal, state or local governmental or quasi-governmental agencies having jurisdiction over the Projects or any part thereof, and shall receive any required Project permits or approvals.

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warranties or representations or accepts any liabilities or responsibilities with respect to or for the adequacy, sufficiency or suitability of, or defects in or with respect to, the design, permitting, acquisition, construction, renovation or installation of the Project.

##### SECTION 503. Construction Performance Bond and Other Guaranty.

Any Development Contracts authorized to be entered into by the Lessor under the terms of this Company Lease Agreement in connection with the design, permitting, acquisition, construction, and installation of the Renewable Energy Projects and the design, permitting, acquisition, construction, renovation and installation of the Capital Improvement Projects shall be let in accordance with the requirements set forth in Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP attached as part of Exhibit A-1 hereto. The Lessor shall cause each Contractor to provide a Construction Performance Bond covering, with respect to the portion of the Projects to which the Development Contract applies, the (a) performance of the Development Contract, including coverage for correction of defects developing within one year after completion of construction and commencement of commercial operation of each Project, and (b) payment for labor and materials, in each case issued by a responsible surety company qualified to do business in the State. Such bond or bonds shall name the Lessor, the Lessee as co-obligees, or shall otherwise entitle the Lessor to draw upon such Construction Performance Bond, and shall be in amounts equal to the fixed contract price plus the Equity Contribution, if not so included in the fixed contract price; provided, however, that the one-year post completion and acceptance portion may be limited to ten percent of the Development Contract price allocated to such Project in the Development Contract.

##### SECTION 504. Default in Contractors' Performance.

(a) In the event of default of the Contractor, including any subcontractor, under any Development Contract made in connection with any Project, the Lessee shall promptly proceed, either separately or in conjunction with others, to exhaust the remedies of the Lessee against the Contractor or any subcontractor so in default and against each surety for the performance of such Contractor or subcontractor. All such actions shall be construed to be Costs of the Project for purposes of this Company Lease Agreement, inasmuch as the same shall be necessary to enable any such Project to be designed, permitted, constructed, acquired, renovated or installed in accordance with the terms hereof and of the Development Contracts. The Lessee agrees to advise the Lessor, in writing, of the steps it intends to take in connection with any such default. If the Lessee shall so notify the Lessor, the Lessor may, in good faith, in its own name or in the name of the Lessee, with notice to the Lessee, prosecute or defend any action or proceeding or take such other action involving the Contractor, including any subcontractor, or surety that the Lessor deems reasonably necessary, and in such event the Lessor hereby agrees to cooperate fully with the Lessee, but at the sole cost and expense of the Lessor. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing shall be paid into the Project Fund or the Revenue Fund, as shall be determined by the Lessee.

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(b) In the event that the Lessee is unable to comply with its requirements under this Company Lease Agreement prior to the execution of any Acceptance Certificate or if for any reason the design, permitting, acquisition, construction, renovation and installation of any Project is delayed, there shall be no resulting liability on the part of the Lessor and there shall be no diminution in or postponement of the amounts that are due and payable by the Lessee to the Lessor under the terms of this Company Lease Agreement.

#### SECTION 505. Additional Rights of Lessee.

The Lessor agrees that the Lessee shall, at its own expense, have the right to make immaterial changes to any Project or to make such additions, modifications and improvements thereto as in the Lessee's judgment are necessary to enable it to perform its obligations under this Company Lease Agreement without materially impairing the Project or materially changing the design of the Project from the Plans and Specifications; provided, however, that none of the foregoing shall in any way damage the Project or cause the Project to be used for purposes other than those authorized under the provisions of all applicable law. With respect to any such additions (only) to the Project in accordance with the provisions of this Section 505, such additions shall for all purposes of this Company Lease Agreement be deemed to be and remain the property of the Lessee and shall not become part of the Project, and any such item may be removed, altered or changed by the Lessee upon or before the termination of this Company Lease Agreement; provided, however, that such removal, alteration or change shall not damage the Project or, if any such damage shall occur, the Lessee shall repair the same at its sole cost and expense.

#### SECTION 506. Maintenance and Use of Project; Lessor Access; Repairs Not to Create Liens.

(a) With respect to the Renewable Energy Projects or a portion thereof financed under this Company Lease Agreement, the Lessee shall, at its own and sole expense, maintain, preserve and keep such Projects or any portion thereof, as the case may be, in good repair, working order and condition, and shall from time to time make all repairs, replacements and improvements necessary to keep such Projects or any portion thereof in such condition. The requirements to repair and keep the Capital Improvement Projects in good working order shall remain with the owners thereof, the Applicable Series 2011 Local Units.

(b) The Lessee agrees that the Lessor and the Applicable Series 2011 Local Unit shall have the right (but not the obligation) to enter upon the premises at reasonable times and upon reasonable notice in a reasonable manner where the Renewable Energy Projects or a portion thereof, as the case may be, is located in order to inspect the same for the purpose of assuring that such Renewable Energy Projects are being properly maintained, preserved and kept in good repair and condition. The Lessee further agrees that the Lessor or the Applicable Series 2011 Local Unit shall have such rights of access to such Renewable Energy Projects as may be reasonably necessary to cause the proper maintenance, preservation and keeping in good repair of such Renewable Energy Projects in the event of a failure by the Lessee to perform its

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#### SECTION 508. Lessee's Negligence.

Subject to Section 608 hereof, the Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Projects, or any portion thereof, and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of the Lessee or of Contractors or other third parties, and whether such property damage be to the Lessee's property or to the property of others, which injury, death or damage is proximately caused by the negligent conduct of the Lessee or its officers, employees and agents, including any Contractors. The Lessee hereby assumes responsibility for and agrees to reimburse the Lessor and the Applicable Series 2011 Local Unit for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorneys' fees), of whatsoever kind and nature, imposed on, incurred by or asserted against the Lessor or the Applicable Series 2011 Local Unit that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part upon the negligent conduct of the Lessee or its officers, employees and agents, to the maximum extent permitted by law.

#### SECTION 509. Project Costs; Payment.

(a) The Project Costs to be incurred by the Lessee, or on behalf of the Lessee by any Contractor, relating to the acquisition, construction, and installation of the Renewable Energy Projects and the acquisition, construction, renovation and installation of the Capital Improvement Projects for all Series 2011 Local Units have been estimated by the Lessee under the Company RFP to be an aggregate amount not to exceed the sum of the Maximum Gross Bond Funded Project Cost Amount plus the Equity Contribution. Accordingly, the Lessor shall cause the Series 2011 Bonds to be issued, and further, shall cause the Maximum Net Bond Funded Project Cost Amount to be deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(e)(i) and (ii) of the Bond Resolution. The Lessee represents that such initial deposit of the Maximum Net Bond Funded Project Cost Amount, together with interest to be earned thereon prior to disbursement in accordance with the terms hereof and of the Bond Resolution giving rise to the Maximum Gross Bond Funded Project Cost Amount, together with the Equity Contribution, shall be sufficient to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

(b) It is expressly acknowledged by the Lessee and the Lessor that the Lessor shall be under no obligation to issue any Bonds in an amount in excess of the Maximum Net Bond Funded Project Cost Amount to fund any Project Cost, including the Costs of any Completion Project related to either the Renewable Energy Projects or the Capital Improvement Projects of the Series 2011 Local Units on, in or about their Local Unit Facilities, unless the Authority agrees to issue a Series of Additional Bonds pursuant to the provisions of Section 202(b) hereof.

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obligations hereunder, which rights of access shall in no way imply any obligation on the part of the Lessor or the Applicable Series 2011 Local Unit.

(c) The Lessee shall not permit any mechanic's or materialmen's or other lien to be established or remain against any portion of the Projects for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the Lessee pursuant to Section 505 hereof and this Section 506, other than Permitted Encumbrances; provided, however, that if any such lien is established and the Lessee notifies the Lessor of its intention so to do, the Lessee may, in good faith, contest any lien filed or established against the Projects and, in such event, permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such item, the interest of the Lessor or the Applicable Series 2011 Local Unit in such Project shall be materially endangered or such Project or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide the Lessor and the Applicable Series 2011 Local Unit with full security against any such loss or forfeiture. The Lessor shall cooperate, and shall cause the Applicable Series 2011 Local Unit to cooperate fully with the Lessee in any such contest upon such request at the sole cost and expense of the Lessee.

#### SECTION 507. Possession and Enjoyment of Projects during Lease Term.

(a) From and after the execution and delivery of the REP Acceptance Certificate with respect to the applicable Renewable Energy Projects, the Lessor hereby agrees that during the Lease Term the Lessee, so long as the Lessee is not in default hereunder, shall have the quiet use and enjoyment of such Renewable Energy Projects, and the Lessee shall during such Lease Term peaceably and quietly have, hold and enjoy such Renewable Energy Projects, without suit, trouble or hindrance from the Lessor, any 2011 Local Unit, or any party claiming under or through the Lessor or such Local Unit, except as expressly set forth in the Program Documents. The Lessor and the Applicable Series 2011 Local Unit shall, at the request of the Lessee and at the Lessee's sole cost and expense, join in any legal action in which the Lessee asserts its right to such possession and enjoyment against any third-party to the extent the Lessor and the Applicable Series 2011 Local Unit lawfully may so do; in addition, the Lessee, while not in default hereunder, may in its discretion and at its sole cost and expense bring any such action in the name of the Lessor.

(b) From and after the execution and delivery of the CIP Acceptance Certificate with respect to the applicable Capital Improvement Projects, if any, the Lessor and the Lessee hereby agrees that during the Lease Term, the Applicable Series 2011 Local Unit, as fee owner thereof, shall have the quiet use and enjoyment of such Capital Improvement Projects, and the Applicable Series 2011 Local Unit shall during such Lease Term peaceably and quietly have, hold and enjoy such Capital Improvement Projects, without suit, trouble or hindrance from the Lessor or the Lessee, or any party claiming under or through the Lessor or the Lessee, except as may be expressly set forth in the Program Documents.

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(c) Any Project Costs in excess of such estimated Project Cost amount as set forth in subsection (a) above shall be solely borne by and solely paid from any funds available to the Lessee (which shall not include monies under the Bond Resolution, absent the Lessor's written consent). The Lessee hereby covenants to complete all of the Projects in accordance with the Plans and Specifications regardless of the actual Costs of such Projects and regardless of the amounts remaining on deposit in the Project Fund to pay such Project Costs. To the extent the Lessee shall complete all of the Projects in accordance with the Plans and Specifications in an aggregate amount less than any such deposit, plus estimated investment earnings, in the amount of such estimated Project Costs, any excess amounts remaining on deposit in the Project Fund, after the final Acceptance Certificate shall have been filed by the Lessee in accordance with the terms hereof, shall be applied as a credit to the next due Basic Lease Payments otherwise due and owing by the Lessee in accordance with Section 510(e)(1)(B) hereof and Section 5.02(3)(b) of the Bond Resolution.

(d) The Lessee shall cause moneys on hand from time to time in the Project Fund, held by the Trustee, to be made available for payment of all Project Costs, in the manner provided herein for submission of Draw Papers, including Sections 510 and 511 hereof; and in the Bond Resolution, including Sections 5.02(1) and 5.02(2)(a) thereof. The Lessee may cause moneys on hand from time to time in the Project Fund held by the Trustee to be made available for payment of all Company Development Fees and Expenses up to an aggregate amount of \$700,000 unless the Lessee receives the written acknowledgment of a higher ceiling from the Lessor, through the submission of a Certificate of an Authorized Officer of the Lessee substantially in the form of Exhibit D hereto, and otherwise following the terms set forth in Section 5.02(2)(b) of the Bond Resolution; provided, however, that notwithstanding the foregoing, the Lessee may not withdraw moneys from the Project Fund for payment of Company Development Fees and Expenses in excess of \$250,000, excluding those third-party and other Company Development Fees and Expenses approved by the Authority and paid upon issuance of the Series 2011A Bonds or thereafter, until the Company has satisfied, or caused the satisfaction of, all of the Completion Conditions. The Lessee, at its sole discretion, may apply less of the aggregate amount on deposit in the Project Fund and earmarked for payment of Company Development Fees and Expenses to such purpose, and instead apply all or a portion of such earmark (including any interest earned thereon) toward Costs of the Renewable Energy Projects or Capital Improvement Projects in the manner contemplated by Sections 510 and 511 hereof, and Section 5.02(2)(a) of the Bond Resolution. Any moneys remaining on deposit in the Project Fund, including interest earnings, upon the payment of all Project Costs (for which the Company shall submit Draw Papers) and all Company Development Fees and Expenses (for which the Company shall submit such Exhibit D form Certificate), shall be applied in the manner set forth in Section 510(e) hereof.

#### SECTION 510. Submission of Draws; Procedures; Acceptance Certificates.

(a) As payments are required for the Project under this Company Lease Agreement, the Lessee shall prepare and assemble the Draw Papers (as defined below) and

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submit them to the Trustee.

(b) On or before 10:00 a.m. EST on each date on which the Lessee intends to submit Draw Papers requisitioning funds held by the Trustee in the Project Fund for Costs of the Renewable Energy Projects or Capital Improvement Projects for an Applicable Series 2011 Local Unit (each a "Draw Date"), the Lessee shall advise the Trustee in writing of the aggregate amount of funds needed for disbursement to pay such Project Costs. An amount equal to the lesser of (i) such aggregate amount of funds needed and (ii) the amount of funds available in the Project Fund (and not otherwise earmarked to pay the Costs of the Projects for the other Series 2011 Local Units) shall be applied to the payment of such Project Costs upon submission of the Draw Papers in accordance with subsection (c) below.

(c) Except as otherwise provided in Section 511 hereof, the Lessee shall cause the Trustee to make payments from the Project Fund to the Contractors under the Development Contracts or other third-party vendors, in either case for Costs of the Projects, but only after the Lessee shall have supplied the Trustee with a duly authorized, completed and executed requisition from the Lessee substantially in the form of Exhibit C hereto (together with any attachments thereto, the "Draw Papers"), each executed by the Lessee, acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.1(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and acknowledged as to form only by the Lessor (in accordance with Section 4.1(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), stating with respect to each such payment to be made: (i) the requisition number, (ii) the name and address of the Contractor, other person, other corporation or other entity to which payment is due or, if for reimbursement to the Lessee, to which Contractor, other person, other corporation or other entity and when payment has previously been made by the Lessee, and as applicable in either case, the Development Contract under which such payment is or was due, (iii) the amount to be paid, (iv) the Renewable Energy Project or Capital Improvement Project to which such payment is to be applied, including the Applicable Series 2011 Local Unit and their Local Unit Facility, (v) that such payment obligation has been properly incurred in accordance with the Plans and Specifications, is an item of the Cost of such Project, is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal, (vi) that attached thereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Lessee. Lessee also agrees to file a monthly Initial Project Workforce Form AA201, and (vii) the amount being requisitioned shall not exceed seventy percent (70%) of any Renewable Energy Project Cost for which payment is being sought, it being expressly understood by the Lessee that for each requisition being submitted, the Lessee shall pay or cause to be paid at least thirty percent (30%) from the Equity Contribution (the ratio of not exceeding seventy percent (70%) payment from requisition and at least thirty percent (30%) payment from Equity Contribution for each Project Cost for which a requisition is submitted shall be defined herein as the "Draw Paper Ratio"), substantially in the form of, and consistent with the instructions included in, Exhibit C-1 attached hereto, with the Lessor and the Division of Public Contracts Equal Opportunity Compliance, through and including the month after the final

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Improvement Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed, renovated and installed in accordance with the Plans and Specifications therefor, (z) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Capital Improvement Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only. Each such CIP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.3(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.3(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager); and

(e) If, upon the completion of the design, permitting, acquisition, construction, renovation and installation of all of the Projects for the Series 2011 Local Units on or prior to December 14, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), as evidenced by the filing of all Acceptance Certificates by the Company, as duly acknowledged by the Series 2011 Local Units and the Lessor, on or prior to December 14, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), all in accordance with the terms hereof, of the Bond Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, then upon the Trustee's receipt of the final Acceptance Certificate so designated, the Trustee shall, without any further authorization, (i) transfer any surplus funds remaining on deposit in the Project Fund to the Debt Service Fund for application as a credit to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and if still not fully applied, then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied, all unless the provisions of Section 5.02 of the Bond Resolution require application otherwise, in which case the Trustee shall (ii) apply any such surplus funds remaining on deposit in the Project Fund in accordance with the terms of Section 5.02 of the Bond Resolution. To the extent the final Acceptance Certificates for all of the Series 2011 Local Units shall not have been filed by the Lessee, as duly acknowledged by the Series 2011 Local Units and the Lessor, all in

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Acceptance Certificate has been filed.

(d) From time to time, in accordance with the terms of the Company Lease Agreement, the Local Unit License Agreements with respect to the Series 2011 Local Units, and this Bond Resolution, the Lessee shall file with the Trustee, duly authorized, completed, executed, acknowledged, and delivered Acceptance Certificates in the form of Exhibit B hereto at the following times and with respect to the following matters, and upon receipt thereof, the Trustee shall take the following actions:

(i) The Lessee shall file with the Trustee (A) the REP Acceptance Certificates in the form of Exhibit B-1 hereto, one for each Series 2011 Local Unit, signed by an Authorized Officer of the Lessee with respect to the Renewable Energy Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Units, (x) when the Lessee has submitted all Draw Papers respecting Costs of such Renewable Energy Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed and installed in accordance with the Plans and Specifications therefor, (z) when all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by the Lessee and such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Renewable Energy Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.2(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.2(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager) and until accompanied by one or more Interconnection Agreements with respect to all such Renewable Energy Projects or Completion Projects related thereto;

(ii) The Lessee shall file with the Trustee (A) the CIP Acceptance Certificates in the form of Exhibit B-2 hereto, one for each Series 2011 Local Unit that is financing Capital Improvement Projects with a portion of the proceeds of the Bonds, signed by an Authorized Officer of the Lessee with respect to such Capital Improvement Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Units, (x) when the Lessee has submitted all Draw Papers respecting Costs of such Capital

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Improvement Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed, renovated and installed in accordance with the Plans and Specifications therefor, (z) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Capital Improvement Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only. Each such CIP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.3(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.3(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager); and

#### SECTION 511. Reimbursement to Lessee from Moneys in the Project Fund.

Notwithstanding the provisions of Section 510 hereof to the contrary, the Lessee shall be entitled to submit Draw Papers to the Trustee and receive reimbursement for the amounts set forth in such Draw Papers for advances made with respect to the Projects, prior to a given Draw Date, so long as the Lessee submits the requisite requisition and supporting copies of invoices prior to being reimbursed directly by the Trustee.

#### SECTION 512. Construction Period Insurance.

Each Contractor shall be required to provide and maintain in force during the entire acquisition, construction, renovation or installation period of all Projects, and prior to the Contractor's performance of work under any Development Contract, builder's risk or property damage insurance (in an amount not less than the full value of all work done and materials and equipment provided or delivered by the Contractor and, in any event, not less than the applicable Purchase Option Price at such time), comprehensive liability insurance, worker's compensation insurance and any other insurance required by law or customarily maintained with respect to like projects. All such policies of insurance shall show the Lessor, the Lessee and the Applicable Series 2011 Local Unit as named insureds, in such amounts as their interests may appear. Evidence of such insurance shall be filed with the Lessor. Notwithstanding the foregoing, the EPC Contractor and the Company will not be required to maintain property insurance concurrently. The EPC Contractor shall supply builder's risk insurance until completion and the Company shall supply property insurance thereafter.

#### SECTION 513. Taxes and Other Governmental Charges and Utility Charges.

The Lessee shall pay when due all gas, water, steam, electricity, heat, power, telephone and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Renewable Energy Projects. The Lessee shall also pay all property and excise taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Renewable Energy Projects or any part thereof or the Lease Payments, which become due during the Term of this Company Lease Agreement with respect thereto, and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Renewable Energy Projects; provided, however, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only such installments as are required to be paid during the Term of this Company Lease Agreement

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as and when the same become due. The Lessee shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate or other similar tax payable by the Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any real estate or other tax upon property and arises out of or is levied upon the Lessor's interest in the Renewable Energy Projects hereunder.

The Lessee may, at its own expense and in its or the Lessor's name, contest in good faith any such taxes, assessments or utility or other charges (and the Lessor shall cooperate fully in any such contest) and, in the event of any such contest, permit such taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items, the interest of the Lessor in the Renewable Energy Projects shall be materially endangered, or the Renewable Energy Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss or forfeiture that may result from nonpayment.

#### SECTION 514. Site Visits.

The Lessor shall visit the site of the Project at least quarterly to monitor the acquisition, construction, renovation and installation of the Projects by the Lessee and/or the Contractors, as the case may be.

#### SECTION 515. Construction Manager.

At its sole discretion, the Lessor may employ one or more Construction Manager, payable from a portion of the proceeds of the Series 2011 Bonds in excess of the Maximum Net Bond Funded Project Cost Amount, to act on behalf of the Lessor in exercising any of its rights, or in discharging any of its duties and obligations under this Company Lease Agreement or other Program Document with respect to the (a) design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units and/or the (b) design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units.

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Such public liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

#### SECTION 603. Auto Liability Insurance.

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard comprehensive automobile liability insurance policy or policies in protection of the Lessee, the Lessor, and the Applicable Series 2011 Local Unit. Said policy or policies shall be written in a comprehensive form, shall comply with N.J.S.A. 39:6b-1 et seq. and all local regulations and case law regarding the scope and effect of the New Jersey Compulsory Motor Vehicle Insurance Statute, and shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage arising from the maintenance, use or operation of any owned or non-owned vehicle used in or in connection with the Projects. Said policy or policies shall provide coverage in an amount not less than \$1,000,000.00, shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles, which may be used by Lessee in connection with the services, required under the Power Purchase Agreement. Such auto liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

#### SECTION 604. [Reserved].

#### SECTION 605. Worker's Compensation Insurance.

If required by State law, the Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, worker's compensation insurance covering all of Lessee's and its Contractors' employees on, in, near or about the Projects, and, upon request, shall furnish to the Lessor certificates evidencing such coverage. To the extent the Lessee is procuring or maintaining such insurance, such coverage may, at the option of the Lessee, be provided through a self-insurance program that is established and operating in conformity with all applicable State law. To the extent that any other entity is procuring or maintaining such insurance, such insurance shall be provided under a policy written by an insurance company approved by the State in a minimum amount of \$1,000,000 for damage

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## ARTICLE VI

### INSURANCE; TITLE TO PROJECT AND OTHER MATTERS

#### SECTION 601. Insurance Coverage for the Projects.

The Lessee shall procure and maintain or cause to be procured and maintained, from and after the date it accesses a Local Unit Facility and through the balance of the Term of this Company Lease Agreement and in accordance with the further terms of this Article VI, (i) public liability insurance, including, without limitation, bodily injury and property damage coverage, (ii) auto liability insurance, including, without limitation, bodily injury and property damage coverage, (iii) worker's compensation insurance, and (iv) property insurance, including, without limitation, fire and comprehensive other risk coverage, all to be procured and maintained with an insurance company approved by the State and such insurance policy or policies naming the Lessee, the Lessor and the Applicable Series 2011 Local Units as insureds or, if the Lessee elects and receives the consent of the Lessor, the Lessee shall provide to the Lessor a Certificate of an Authorized Officer of the Lessee to the effect that adequate reserves are deposited and maintained in trust with an independent trustee in the amounts sufficient to cover the loss or damage to any Project. Any insurance proceeds in excess of the Purchase Option Price for all of the Bonds Outstanding at such time with respect to the Projects under this Company Lease Agreement shall be remitted to the Lessee. Notwithstanding the foregoing, the timing of delivery of insurance required by this Company Lease Agreement can be changed with a Certificate of an Authorized Officer of the Authority.

#### SECTION 602. Public Liability Insurance.

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard commercial general liability insurance policy or policies in protection of the Lessee, the Lessor and the Applicable Series 2011 Local Units. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by the operation or ownership of the Projects. Said policy or policies shall provide coverage in the amount of \$1,000,000.00. This coverage must be in writing on an occurrence form, claims made policies will be unacceptable. This Comprehensive General Liability insurance shall cover the Lessee, the Authority, each of the Series 2011 Local Units and their employees, agents and officers from and against any claim arising out of personal injury of Lessee or the Lessee's failure to comply with the terms of this Company Lease Agreement. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by a Lessee or by any other persons. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in this Company Lease Agreement. The policy shall also be endorsed to include coverage for products, completed operations, and independent contractors.

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resulting from a single accident or event.

#### SECTION 606. Excess Liability

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, an excess liability insurance policy or policies in protection of the Lessee, the Lessor, and the Applicable Local Unit Facility, each applicable Series 2011 Local Unit. Said policy or policies shall be in the amount of \$5,000,000.00 shall be in the form of an Umbrella policy rather than a following form excess policy. This policy or policies shall be specifically endorsed to be excess of the required Comprehensive General Liability Coverage, the Employers' Liability Coverage on the Workers' Compensation policy, and the Comprehensive Automobile Liability policy.

#### SECTION 607. Other Insurance and Requirements for All Insurance.

All insurance required by Article V hereof or this Article VI (a) may be carried under a separate policy or a rider or endorsement, (b) shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State, or may be maintained as part of any insurance pool permitted under the laws of the State, (c) shall contain a provision that the insurer shall not cancel or revise coverage hereunder without giving written notice to the Lessor at least thirty (30) days before the cancellation or revision becomes effective, and (d) shall name the Lessee, the Lessor and the Applicable Series 2011 Local Units as insured parties as their respective interests may appear. The Lessee shall deposit with the Lessor original policies evidencing any such insurance procured by it or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy, the party obligated under the terms of this Company Lease Agreement to maintain such insurance shall furnish to the other party evidence that the policy has been renewed or replaced by another policy conforming to the provisions of Article V hereof and this Article VI, unless such insurance is no longer obtainable in which event such party shall notify the other party of this fact and the Lessee shall thereafter self-insure pursuant to the terms of this Article VI. Neither the Trustee nor any Applicable Series 2011 Local Unit shall have responsibility with respect to any determinations as to the sufficiency of any insurance required under this Company Lease Agreement nor as to the compliance by the Lessee with the provisions of the Bond Resolution regarding insurance.

#### SECTION 608. Indemnification.

The Lessee shall (a) indemnify and save harmless the Lessor and the Series 2011 Local Units and their agents, employees, officers and directors from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of any breach or non-performance by the Lessee of its

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obligations under this Company Lease Agreement, or negligence or misconduct by the Lessee in connection with such performance or non-performance, or the ownership, rental, possession, operation, condition, sale or return of the Projects, and (b) reimburse the Lessor or the Series 2011 Local Units for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Lessor or the Series 2011 Local Units, as applicable, has acted with gross negligence or willful misconduct in connection with the liabilities for which the Lessor or the Series 2011 Local Units, as applicable, is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 608 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefore by the Lessor or the Series 2011 Local Units, as applicable (which demand cannot be made prior to the Lessee's receipt thereof), and shall survive the termination or expiration of this Company Lease Agreement.

**SECTION 609. Title to Projects Upon Termination of Company Lease Agreement.**

(a) Upon the financing of the Renewable Energy Projects with a portion of the proceeds of the Bonds and the filing of the REP Acceptance Certificates, the Lessor shall be the holder of title to such Renewable Energy Projects for all State law purposes, subject to the lease of the Leased Property contemplated hereby. Upon the filing of the CIP Acceptance Certificates, if any, the parties hereto acknowledge that the respective Series 2011 Local Units shall be the fee owners of the respective Capital Improvement Projects described in any such Certificates. The parties further acknowledge that the Lessor may assign the Reimbursement Collateral pursuant to the terms of the County Security Agreement, if any, and/or the County Guaranty Agreement. So long as no Event of Default shall have occurred and be continuing hereunder, the Lessor shall not sell, assign or alienate all or any part of the Renewable Energy Projects (but such provision shall not apply to the Capital Improvement Projects, the Lessor having no interest therein) or any interest therein to any other Renewable Energy Program Interested Party or other third-party (other than to the Lessee pursuant to Article VII hereof), it being the purpose and intent hereof that the Lessee shall have the option to purchase all of the Lessor's right, title and interest in and to the Renewable Energy Projects during or upon the termination of this Company Lease Agreement, with credit toward the Basic Lease Payments for any such purchase price paid, all in accordance with Article VII hereof.

(b) Upon the termination of this Company Lease Agreement in accordance with Section 402(a)(iii) or (iv) hereof, (i) all of the Lessor's right, title and interest in and to the Renewable Energy Projects (and not the Capital Improvement Projects, the Lessor having no interest therein) shall be deemed sold, for purposes of State law, by the Lessor to the Lessee for the consideration of all previous Basic Lease Payments, and to the extent the Lessor was deemed to have a fee interest therein or to have retained title thereto for purposes of State law, such

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Applicable Series 2011 Local Unit for such fair market value price, and any other terms and conditions, all in accordance with the provisions of Section 5.2(d) of the Local Unit License Agreement for any such Applicable Series 2011 Local Unit.

(c) Upon the termination of this Company Lease Agreement due to a Lessee Event of Default in accordance with Section 402(a)(i) hereof, (i) Lessor shall possess full right, title and interest in and to the Renewable Energy Projects for all of the Series 2011 Local Units (but not the Capital Improvement Projects, if any, which title shall remain with the respective Series 2011 Local Units), (ii) Lessee shall have no further leasehold or other right, title and interest in and to such Renewable Energy Projects (nor any such Capital Improvement Projects), (iii) except for the rights of the Series 2011 Local Units to effect a nominal value purchase of their respective Renewable Energy Projects in accordance with subsection (f) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessee and its officers shall take all actions necessary to authorize, execute and deliver to the Lessor any and all documents necessary to vest in the Lessor all of the Lessee's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessee or the Lessor to be prepared and filed with the Lessee and the Lessor, and, upon the request of the Lessee or the Lessor, shall execute and deliver to the Lessee and the Lessor all such instruments as may be desirable to evidence such discharge and satisfaction.

(f) Upon the termination of this Company Lease Agreement as contemplated in Section 609(c) above, the parties acknowledge that the right, title and interest in and to the Renewable Energy Project developed for any one or more Series 2011 Local Units may be sold by the Lessor to any such Applicable Series 2011 Local Unit for nominal consideration in accordance with the provisions of Section 5.2(a)(iv) of the Local Unit License Agreement for such Applicable Series 2011 Local Unit.

(g) Notwithstanding any other provision of this Section 609, in no event shall there be any transfer of any Renewable Energy Project or any interest therein to any person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event. The expression "Tax Benefit Recapture Event" means an event which would entitle the United States Department of the Treasury or the Internal Revenue Service to require that the Lessee return all or part of the Section 1603 Grant in lieu of tax credit received in connection with the Renewable Energy Projects, or to disallow the Lessee's tax deductions or recapture all or a portion of the investment tax credits previously claimed with respect to investments in energy property for depreciation.

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interest shall be deemed extinguished under State Law and such title thereto shall be deemed automatically and without further action conveyed by Lessor to Lessee, (i) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (ii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(c) Upon the termination of this Company Lease Agreement due to an optional or mandatory pre-purchase of the Renewable Energy Projects in accordance with Section 402(a)(i) and Sections 701 or 702, as applicable, hereof, (i) the rights of the Lessor and the Lessee in the title to the Renewable Energy Projects (but not the Capital Improvement Projects, which title shall remain with the respective Series 2011 Local Units) shall be as set forth in Section 703 hereof, (ii) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(d) Upon the termination of the Power Purchase Agreement, the parties acknowledge that (i) the Company and each Series 2011 Local Unit shall have thirty (30) days from any such termination to negotiate a fair market value purchase price for the Renewable Energy Project developed for any such Applicable Series 2011 Local Unit and (ii) to the extent the Company and any such Applicable Series 2011 Local Unit can agree to any such fair market value purchase price for such Renewable Energy Project, the parties acknowledge that the right, title and interest in and to such Renewable Energy Project may be sold by the Lessee to any such

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**SECTION 610. No Further Encumbrances; Exceptions.**

(a) The Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Projects, other than the respective rights of the Lessor and the Lessee as herein provided and the Permitted Encumbrances or in any other Program Document. Except as expressly provided in this Article VI, the Lessee shall promptly, at its own expense, take such action as may be necessary to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Lessee shall reimburse the Lessor and/or the Applicable Series 2011 Local Units, as applicable, for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

(b) The Lessee may, at its own expense and in its name, contest in good faith any taxes, assessments or utility and other charges and, in the event of any such contest, permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items the interest of the Lessor in the Projects shall be materially affected or the Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss that may result from nonpayment, in form satisfactory to the Lessor.

**SECTION 611. Trustee Indemnification.**

The Lessee shall (a) indemnify and save harmless the Trustee and its agents, employees, officers and directors from and against any and all liabilities, including, without limitation, all claims, demands, damages, losses, costs, penalties, charges and expenses (including, but not limited to, reasonable attorneys' fees) in any way relating to or arising from (i) the development, ownership, possession, operation, condition, sale, rental, sub-rental or return of the Projects, (ii) the Program Documents, and (iii) any resignation by the Trustee in accordance with Section 10.07(2) of the Bond Resolution; and (b) reimburse the Trustee for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Trustee may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Trustee has acted with negligence or willful misconduct in connection with the liabilities for which the Trustee is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 611 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefore by the Trustee, and shall survive the termination or expiration of this Company Lease Agreement.

**SECTION 612. Advances.**

If the Lessee shall fail to perform any of its obligations under this Company Lease

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Agreement, the Lessor or the Applicable Series 2011 Local Units may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and the Lessee shall be obligated to repay all such advances on demand to the Lessor or the Applicable Series 2011 Local Units, as the case may be, as Additional Lease Payments with interest at the Overdue Rate from the date of the advance to the date of repayment.

#### SECTION 613. Net Proceeds of Insurance; Form of Policies.

(a) Each policy of insurance obtained pursuant to or required by this Article VI shall provide that all Net Proceeds thereunder shall be payable (i) with respect to the Renewable Energy Projects, to the Lessor for deposit with the Trustee in the Project Fund, the Revenue Fund or such other Fund or Account under the Bond Resolution, in any event as directed by the Lessee, but only so long as the Lessee has not caused an Event of Default hereunder, in which latter case such Net Proceeds shall be payable to the Lessor, (ii) with respect to the Capital Improvement Projects, to the Applicable Series 2011 Local Unit, or at their direction, to the Trustee for deposit in the Project Fund, or other Fund or Account under the Bond Resolution, or (iii) if not discernable as to Project or otherwise, payable to the Lessor or at the Lessor's direction, to the Trustee for deposit in the Project Fund, the Revenue Fund, or other Fund or Account under the Bond Resolution.

(b) The Lessee shall pay or cause to be paid when due the premiums for all insurance policies required by this Company Lease Agreement, and shall promptly furnish or cause to be furnished to the Lessor and the Series 2011 Local Units evidence of such payments. All such policies shall provide that the Applicable Series 2011 Local Units and the Lessor shall be given not less than thirty (30) days' notice of each expiration, any intended cancellation and any intended reduction of the coverage provided thereby.

(c) Neither the Applicable Series 2011 Local Units nor the Authority shall be responsible for the sufficiency of any insurance herein required, and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Applicable Series 2011 Local Units or the Authority, as the case may be.

(d) The Lessee shall cause to be delivered to the Applicable Series 2011 Local Units and the Lessor on each anniversary of the date of issuance of the Series 2011 Bonds a Certificate of an Authorized Officer of the Lessee, satisfactory to the Applicable Series 2011 Local Units and the Lessor, that the insurance policies required by this Company Lease Agreement are in full force and effect.

#### SECTION 614. Self-Insurance.

Self-insurance, in lieu of policy coverage, maintained by the Lessee pursuant to this Article VI shall only be deemed to comply with this Article VI to the extent all of the following are satisfied:

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### ARTICLE VII

#### OPTION TO PURCHASE; PREPAYMENT OF LEASE PAYMENTS

##### SECTION 701. Lessee's Prepayment and Purchase Option; Purchase Option Price.

(a) The Lessee is hereby granted the option to prepay its Basic Lease Payments in part, in accordance with Section 8.07 of the Bond Resolution. Any partial prepayment shall not affect the Lessor's right, title and interest in and to the Renewable Energy Projects, nor the Series 2011 Local Units' right, title and interest in and to the Capital Improvement Projects. At the Lessee's option, as directed in a Certificate of an Authorized Officer of the Company delivered by the Company to the Trustee, the Lessor, and the County accompanying any such partial prepayment, any such partial prepayment shall be either (i) credited to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied or (ii) applied to defease Outstanding Bonds in the manner contemplated by Article XII of the Bond Resolution, and in the amounts and on the dates as set forth in any such partial prepayment Certificate of the Company, which in the case of such defeasance option selected by the Company, such Certificate of the Company shall be acknowledged by an Authorized Officer of the Authority to the effect that such dates and amounts conform to the requirements of the Bond Resolution. Upon any such partial prepayment, new schedules reflecting the revised Basic Lease Payments due from the Lessee, taking into account any such partial prepayment, shall be attached by the Lessor hereto.

The Lessee may not utilize funds in the County Security Fund or Restoration Security Fund, if any, toward any such partial prepayment; provided, however, that such limitation does not extend to monies previously released from the County Security Fund and transferred to the Aged Account in the Revenue Fund in accordance with Section 5.07(3)(a) of the Bond Resolution at the time of any such partial prepayment; provided, further however, that such limitation does not extend to such amounts that would be eligible for release pursuant to the calculations referred to in Section 5.07(3)(a) of the Bond Resolution immediately after any such partial prepayment (to the extent the Series 2011 Bonds will not be redeemed simultaneously with the prepayment, the Series 2011 Bonds that will be defeased upon the prepayment shall not be considered Outstanding for purposes of such calculations, and therefore can be released and applied to any such prepayment if the calculations so warrant release), to the extent the Lessor has verified such calculations in writing to the Lessee and the Trustee. In any such instance where this limitation does not so extend, the Lessee may direct the Trustee in writing, with a copy to the Lessor, to apply any such amounts in the County Security Fund, if any, to any such partial prepayment, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(b) The Lessee is further hereby granted the option to prepay and purchase all

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(a) The self-insurance program shall be acceptable to the Lessor, the Applicable Series 2011 Local Units and the Lessee, as evidenced by Certificates of Authorized Officers to such effect;

(b) The self-insurance program shall be approved by an Independent Insurance Consultant;

(c) The self-insurance program shall include an actuarially sound claims reserve fund out of which each self-insured claim shall be paid; the adequacy of each such fund shall be evaluated on an annual basis by an Independent Insurance Consultant; and any deficiencies in any self-insurance claims reserve fund shall be remedied in accordance with the recommendation of an Independent Insurance Consultant;

(d) The self-insurance claims fund shall be held in a separate trust fund by an independent trustee, which independent trustee may also be the Trustee serving as such under the Bond Resolution;

(e) The self-insurance program shall comply in every particular with all applicable law; and

(f) In the event the self-insurance program shall be discontinued, the actuarial soundness of its claims reserve fund, as determined by an Independent Insurance Consultant, shall be maintained.

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of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, if any) in whole, at the times set forth in Section 701(c) hereof, by paying to the Trustee the "Purchase Option Price", which for any date of calculation shall be the sum of (i) the aggregate amount of unpaid principal of the Bonds to their maturity date under the terms of the Bond Resolution and as set forth in the Lessee's notice to the Trustee of such prepayment, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the final maturity date set forth in clause (i) above, (iii) the redemption premium, if any, applicable to the payment of the Bonds on the maturity date set forth in clause (i) above, and (iv) any costs of redemption or defeasance or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

The Lessee may direct the Trustee in writing, with a copy to the Lessor, that all or a portion of the Purchase Option Price (where all of the Outstanding Bonds shall be paid) shall be funded from the County Security Fund, if any, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(c) The prepayment options set forth in subsections (a) and (b) above may be exercised by the Lessee at any time by (i) giving written notice to the Trustee and the Lessor of the exercise of such option at least fifty-two (52) days prior to the final maturity date set forth in such notice, and (ii) if the prepayment shall occur before January 15, 2021, complying with any other requirements of Article XII of the Bond Resolution that may be required by the Trustee or the Lessor to defease the Bonds in accordance with the terms of the Bond Resolution, including, without limitation, a verification report from a nationally recognized accounting firm approved by the Trustee and the Lessor to the effect that the amount so prepaid shall equal the Purchase Option Price (for a full prepayment) and shall therefore be sufficient to defease the Bonds (in whole or in part, as the case may be) by paying all of the principal thereof and redemption premium, if any, thereon through and including the final maturity thereof, plus all interest accruing thereon to such final maturity date. Such option shall be exercised by depositing with said notice cash and/or Investment Securities in such amount as shall be sufficient, together with interest to accrue thereon, to pay the Bonds to be defeased on said redemption date.

(d) Notwithstanding any provision herein or in any Program Document to the contrary, the Lessee may not advance refund, currently refund or otherwise refund any Series of Bonds with bonds, notes or other obligations of the Lessee, or such other moneys available to the Lessee, and use such moneys to make any prepayments hereunder unless (i) provision has been made by the Lessee for the payment of all (A) principal of, redemption premium if any, and interest on the Series of Bonds being refunded to any redemption date and (B) Administrative Expenses of the Lessor relating thereto, and (ii) if applicable, prior written notification of any such refunding has been given to the Lessor. Notwithstanding the foregoing, the Lessor may, in its sole discretion at the times and under the circumstances and for the purposes set forth in the Bond Resolution, advance refund, currently refund, or otherwise refund any Series of Bonds, the allocation of the benefit from which shall be determined between the Lessor and the Lessee at the time of any such defeasance and/or refunding.

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**SECTION 702. Mandatory Prepayment and Purchase of Project; Mandatory Purchase Price.**

(a) Upon the acceleration of the Bonds, the Lessee shall forthwith prepay and purchase all of the Renewable Energy Projects (but not the Capital Improvement Projects, if any) by paying to the Trustee, immediately upon receipt of notice of such acceleration, the "Mandatory Purchase Price", which for any date of calculation shall be the sum of (i) the aggregate amount of the unpaid principal of the Bonds, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the date that the amount in clause (i) above has been paid in full, and (iii) any costs of acceleration or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

(b) In the event the Mandatory Purchase Price remains unpaid when due, the Lessee shall make an Additional Lease Payment immediately due and payable equal to, for any date of such deficiency, the amount of such deficiency times the per diem Overdue Rate.

**SECTION 703. Effect of Prepayment.**

(a) In the event of a deposit sufficient to purchase the Renewable Energy Projects (but not the Capital Improvement Projects, if any) pursuant to Section 701 or 702 hereof and to pay any and all amounts due hereunder, (i) all of the Lessor's right, title and interest in and to such Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest) shall be deemed sold to the Lessee for the consideration set forth in such Sections, (ii) except for the rights of the Series 2011 Local Units to effect a Fair Market Value purchase of their respective Renewable Energy Projects in accordance with Section 609(d) hereof, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest), free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(b) Notwithstanding anything to the contrary herein or in any Program Document, including without limitation subsection (a) above, to the extent the Lessee has satisfied all of the conditions of subsection (a) above in order to terminate this Company Lease Agreement,

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**ARTICLE VIII**

**DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS**

**SECTION 801. Damage, Destruction and Condemnation.**

(a) If either (i) the Projects or any portion thereof are destroyed or damaged by fire or other casualty or (ii) title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by any governmental body, other than Sussex County, a division of Sussex County Government, any Series 2011 Local Unit, or by any person, firm or corporation acting under governmental authority, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to purchase the Project in whole by paying the then applicable Purchase Option Price in accordance with Section 701 hereof and causing the Lessor to deposit, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so deposit, such Net Proceeds with the Trustee in the Revenue Fund, the Debt Service Fund, or such other Fund or Account that would allow the application of the Net Proceeds toward the Purchase Option Price. Subsections (y) and (z) above are mutually exclusive.

(b) If title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by Sussex County, a division of Sussex County Government, or any Series 2011 Local Unit, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project

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including the payment of all amounts due and owing hereunder and under the other Company Documents, and at the date all of such conditions are satisfied, (i) the Lessee is not in any continuing default or Event of Default hereunder or under any Company Document, (ii) the term of one (1) or more Local Unit License Agreements with one (1) or more Series 2011 Local Units has not expired, (iii) the Lessee delivers to the Lessor and such Series 2011 Local Unit a Certificate of an Authorized Officer of the Lessee expressing the Lessee's interest in continuing the term of this Company Lease Agreement to a specified date which date shall be no later than the termination date of any such Local Unit License Agreements, then without any further action (a) the Company Lease Agreement shall not terminate, but rather shall continue for a term no longer than the termination date of the Applicable Local Unit License Agreement, all as set forth in any such Certificate, (b) the Lessee's only remaining payment obligations under the Company Lease Agreement are to pay rent for the Leased Property in an amount that shall be the sum of (I) the Authority's annual Administrative Fee, (II) any Administrative Expense that Lessee causes the Authority, the County or any such Series 2011 Local Unit to incur, both as Additional Lease Payments hereunder, there being no continuing obligation to make Basic Lease Payments as the Series 2011 Bonds and any Additional Bonds that are Outstanding are either defeased or redeemed under the Bond Resolution, and (III) ten (10) dollars per annum, payable annually in advance, (c) the Lessee can only cause an Event of Default hereunder should the Lessee fail to pay such amounts, fail to operate and maintain the Applicable Renewable Energy Project, or fail to allow the Applicable Series 2011 Local Unit to discharge its obligations under its Local Unit License Agreement, such as to take and pay for the Electricity generated under the Renewable Energy Program by the Lessee for the benefit of any such Series 2011 Local Unit, and (d) the Company retains all other rights, duties and obligations under the Program Documents, until the termination of the Applicable Local Unit License Agreement with respect to the particular Project, including without limitation the right to receive the PPA Price, as escalated, for the duration of any such term. The Lessee may continue this arrangement with the Authority and more than one (1) Series 2011 Local Unit, to the extent all such conditions are satisfied with respect to any other Series 2011 Local Unit and their respective Renewable Energy Projects, until the termination of this Company Lease Agreement, without interruption, in accordance with the terms of Section 402(a)(iii) hereof, in which case title to the Applicable Renewable Energy Project(s) shall transfer in accordance with the provisions of Section 609(b) hereof.

**SECTION 704. Substitution of Project.**

The Lessee is hereby granted the full power of substitution with respect to any Project so long as the Lessor and the Trustee receive the prior written consent of the Applicable Series 2011 Local Unit and the Authority, along with revised Exhibits to the Applicable Program Documents.

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Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to have no further obligation with respect to the affected Project(s). Subsections (y) and (z) above are mutually exclusive.

(c) In the event of any damage, destruction, condemnation, taking or other event that constitutes a revocation or deemed revocation under Section 3.7 of any Local Unit License Agreement with respect to a Project requiring payment of the amounts set forth in Section 3.7(a)(iv) of such Local Unit License Agreement, upon receipt of such amount, this Company Lease Agreement and the obligations of Lessee thereunder with respect of and solely with respect to such Project, shall terminate and title thereto shall vest in Lessee. Such event shall have no effect on the Lessee's obligations to continue to make all Lease Payments on time and in full.

**SECTION 802. Insufficiency of Net Proceeds.**

If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement relating to the Projects as so damaged or taken, the Lessee shall either:

(a) direct the application of the Net Proceeds in the manner as set forth in Sections 801(a)(y) or 801(b)(y) above, thereby requiring the Lessee to complete the work relating to the Projects as so set forth, except that the Lessee shall itself pay any Project Costs in excess of the amount of the Net Proceeds, and, if by reason of any such insufficiency of the Net Proceeds the Lessee shall make any payments pursuant to the provisions of this Section 802(a), the Lessee shall not be entitled to any reimbursement therefor from the Lessor, nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Projects;

(b) direct the application of the Net Proceeds in the manner as set forth in Section 801(a)(z) above, thereby requiring the Lessee to make an equity contribution to the extent the Net Proceeds are insufficient to cover the Purchase Option Price and thereupon exercise Lessee's option to purchase the Project in whole, in accordance with Article VII hereof, in which event the Net Proceeds shall be used toward this purpose; or

(c) direct the application of the Net Proceeds consistent with the determination contemplated in Section 801(b)(y) above, thereby causing the Net Proceeds to be applied to the payment of the Interest Portion and, to the extent available, the Principal Portion of the Basic Lease Payments due on the immediately succeeding Basic Lease Payment Dates until all of the Net Proceeds have been so applied, in which event the Lessee shall not be entitled to any reimbursement therefor from the Lessor nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Project. Subsections (a), (b) and (c) above are mutually exclusive.

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**SECTION 803. Cooperation of Lessor.**

The Lessor and the Applicable Series 2011 Local Unit shall cooperate fully with the Lessee, at the sole cost and expense of the Lessee, in filing any proof of loss with respect to any insurance policy covering the casualties described in Section 801 hereof and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Projects or any part thereof. In no event shall the Lessor or the Applicable Series 2011 Local Unit voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim or any prospective or pending condemnation proceeding with respect to the Projects or any part thereof, without the prior written consent of the Lessee.

**SECTION 804. Condemnation of Other Property Owned by Lessee.**

The Lessee shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for the destruction of, damage to or taking of its property not included in the Project.

**ARTICLE IX**

**ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING**

**SECTION 901. Assignment by Lessor.**

Except for this Company Lease Agreement and as otherwise provided below and in any other Program Document, including without limitation with respect to its payment obligations under the Power Purchase Agreement to the Series 2011 Local Units under the Local Unit License Agreements, or with respect to the assignment of the Reimbursement Collateral to the County and the County Security Provider, if any, under the County Guaranty Agreement and the County Security Agreement, if any and as applicable, the Lessor shall not assign its obligations under this Company Lease Agreement and no such purported assignment thereof shall be effective. All of the Lessor's right, title and interest in and to this Company Lease Agreement, the Lease Payments and the other amounts due to it hereunder and under the Project shall be assigned by the Lessor to the Trustee pursuant to the pledge of the Trust Estate under the Bond Resolution no later than the execution and delivery hereof.

**SECTION 902. Lease Payments to Trustee.**

The Lessor and the Lessee hereby agree that from and after the adoption of the Bond Resolution and the execution of this Company Lease Agreement, so long as the same shall remain in effect, payment by the Lessee to the Trustee or, if applicable, to the successor thereto of any moneys or sums due hereunder from the Lessee to the Lessor shall satisfy the obligation of the Lessee to pay such money or sums.

**SECTION 903. Assignment and Subleasing by Lessee.**

This Company Lease Agreement may not be assigned or subleased by the Lessee without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Lessee entered into this Company Lease Agreement as the successful respondent pursuant to the Company RFP and all applicable law, and the Lessor and the Series 2011 Local Units have selected the Lessee, and not any assignee, to receive the rights, and perform the duties and obligations hereunder. Any such purported assignment or sublease shall be deemed null and void without such prior written consent.

**SECTION 904. Restriction on Mortgage or Sale of Project by Lessee.**

The Lessee shall not mortgage, sell, assign, transfer or convey the Projects or any portion thereof during the Term of this Company Lease Agreement without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Program Documents contemplate such Projects being available, directly in the case of the Capital Improvement Projects, or indirectly in the case of the Renewable Energy Projects as a source of power, for the benefit of the Series 2011 Local Units.

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**SECTION 905. Reorganization.**

It is understood and agreed by the parties hereto that reorganization of the Lessee with the consent of the Lessor shall not constitute an assignment under this Article IX.

**ARTICLE X**

**EVENTS OF DEFAULT; REMEDIES**

**SECTION 1001. Events of Default.**

(a) An Event of Default hereunder means the occurrence of any one or more of the following events:

(i) The Lessee fails to (A) make any Basic Lease Payment as it becomes due or (B) make any Additional Lease Payment as it becomes due or maintain any insurance requirement set forth hereunder, and in the case of (B) only, such failure is not cured within thirty (30) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, if the Basic Lease Payment is paid with funds from the County Reserve, such payment will not constitute an Event of Default.

(ii) The Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder or under any Company Document, and such failure is not cured within ninety (90) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, that if such failure cannot be cured within said ninety (90) day period, the Lessee shall not be in default if it has commenced to cure within such ninety (90) day period, it continuously proceeds with the cure, and if such action to cure the default is acceptable to the Lessor and the Lessor indicates the same in writing.

(iii) The discovery by the Lessor or the Trustee that any material statement, representation or warranty made by the Lessee in this Company Lease Agreement, or in any writing delivered by the Lessee pursuant hereto or in connection herewith, is false, misleading or erroneous in any material respect.

(iv) The Lessee becomes insolvent or admits in writing its inability to pay its debts as they mature or applies for, consents to or acquiesces in the appointment of a trustee, receiver or custodian for the Lessee or a substantial part of its property, or in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed for the Lessee or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, moratorium or other proceeding under bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or, if permitted by law, against the Lessee and, if instituted against the Lessee, is consented to or acquiesced in by the Lessee or is not dismissed within sixty (60) days.

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(v) The entering of an order or decree appointing a receiver for the Leased Property or for any part thereof or for the revenues thereof with or without the consent or acquiescence of the Lessee, and such order or decree shall not be vacated, discharged or stayed within ninety (90) days after the date of such entry.

(b) Upon the occurrence of an Event of Default under this Section 1001, the Trustee shall transmit a written notice, including electronic mail, of such Event of Default to the Lessor, the Lessee and the Series 2011 Local Units within thirty (30) days of the Trustee's knowledge thereof.

(c) Upon the occurrence of an Event of Default under this Section 1001, all obligations of the Lessee under this Company Lease Agreement shall remain in full force and effect.

#### SECTION 1002. Remedies.

(a) Upon the occurrence and continuation of any Event of Default as described in Section 1001 hereof, at the option of the Lessor, the Mandatory Purchase Price with respect to the Project shall become immediately due and payable by the Lessee upon the Lessor's declaration. So long as the Lessor is not in default hereunder, the Lessor shall have the right to direct all remedial proceedings under this Company Lease Agreement, including the consent to remedies taken upon an Event of Default. Subject to the preceding sentence, the Lessor shall have the right, without any further demand or notice, to take one or any combination of the remedial steps below:

(i) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and exclude the Lessee from using it; provided, however, that if this Company Lease Agreement has not been terminated, the Lessor shall return possession of same to the Lessee when the Event of Default has been cured; and provided, further, that the Lessee shall continue to be responsible for the Lease Payments due hereunder during the remainder of the Lease Term.

(ii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and sell, lease or sublease its interest therein or any part thereof.

(iii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and apply any portion of same, or of the

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#### SECTION 1004. Election of Remedies; No Waiver of Elected Remedies.

No failure on the part of either party to exercise, and no delay in exercising any right or remedy so provided for herein, shall operate as a waiver thereof, nor shall any single or partial exercise by either party of any right or remedy so provided hereunder preclude any other or further exercise of any other right or remedy provided hereunder.

#### SECTION 1005. No Additional Waiver Implied by One Waiver.

In the event any agreement contained in this Company Lease Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder, and shall not be construed to be an implied term hereof or a course of dealing between the parties hereto.

#### SECTION 1006. Agreement to Pay Attorneys' Fees and Expenses.

In the event either party to this Company Lease Agreement should default under any of the provisions hereof and the non-defaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement, performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall, on demand therefor, pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

#### SECTION 1007. Late Charges.

Whenever any payment of Lease Payments is not made when due, the Lessee promises to pay to the Lessor, in addition to the amount due, interest thereon at the Overdue Rate; provided, however, that this Section 1007 shall not be applicable if or to the extent the application thereof would affect the validity of this Company Lease Agreement.

#### SECTION 1008. Delay; Notice.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof. Any such right or power may be exercised from time to time and as often as may be deemed expedient, and any one exercise thereof shall not be deemed an exclusive exercise. To entitle any party to exercise any remedy reserved to it in this Company Lease Agreement, it shall not be necessary to give any notice other than as may be specifically required in this Company Lease Agreement.

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proceeds of same (in accordance with clause (ii) above) in accordance with the provisions of Section 5.07(1)(b) of the Bond Resolution

(iv) With or without terminating this Company Lease Agreement, declare all Lease Payments due or to become due hereunder to be immediately due and payable by the Lessee, whereupon such Lease Payments shall be immediately due and payable.

(v) Take whatever action at law or in equity may appear necessary or desirable to collect the Lease Payments then due and thereafter to become due hereunder with respect to the Project or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Company Lease Agreement.

(b) Notwithstanding any other provisions of this Section 1002, in no event shall there be any transfer of any Renewable Energy Project or any interest therein to any person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event as described in Section 609.

#### SECTION 1003. Reinstatement.

Notwithstanding any termination of this Company Lease Agreement that shall be made in accordance with the provisions of Section 1002 hereof, unless the Lessor shall have entered into a firm bilateral agreement providing for the letting of the Project for a period of at least one year, if, after the maturity of the Outstanding Bonds shall have been accelerated by the Trustee (upon the occurrence of an Event of Default) under the terms of the Bond Resolution, (a) all arrears of interest on such Outstanding Bonds and interest on overdue installments of principal, redemption premium, if any, and (to the extent permitted by law) interest on such Bonds at a rate per annum equal to the highest rate per annum borne by any of the Bonds shall have been paid, (b) the principal and redemption premium, if any, on all Outstanding Bonds that have become due and payable (other than by an acceleration) shall have been paid, (c) all other sums payable under the terms of the Bond Resolution, except the principal of and the interest on such Bonds that by such acceleration shall have become due and payable, and under the terms of the other Program Documents shall have been paid, (d) all other things shall have been performed in respect of which there was an Event of Default, (e) the reasonable fees and expenses of the Lessor, the Trustee, the Series 2011 Local Units, the County, the County Security Provider, and the Bondholders, including Administrative Expenses thereof (including reasonable attorneys' fees paid or incurred) shall have been paid, and (f) such acceleration under the terms of the Bond Resolution is rescinded, then the Lessee's Event of Default hereunder shall be waived without further action by the Trustee or the Lessor or any other Renewable Energy Program Interested Party. Upon such payment and waiver, this Company Lease Agreement shall be fully reinstated as if it had never been terminated, and the Lessee shall be restored to the use, occupancy and possession of the Renewable Energy Projects and the other Leased Property.

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## ARTICLE XI

### ADMINISTRATIVE PROVISIONS

#### SECTION 1101. Notices.

Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Company Lease Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) If to Lessor: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
Email: jbonanni@co.morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.  
Ingesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: speatman@iandplaw.com

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- (b) If to the Lessee: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email: principals@sunlightgeneral.com
- With a copy to: James F. Duffy, Esq.  
Nixon Peabody, LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com
- (c) If to the Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960
- With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deitch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: nconcilio@mdmc-law.com
- (d) If to the Series 2011 Local Units: See Exhibit A-4 attached hereto.
- (e) If to the Construction Manager: Jessica Vogel, CBSB  
Birdsall Services Group, Inc.  
1101 Laurel Oak Road, Suite 160  
Voorhees, NJ 08043  
Email: jvogel@birdsall.com
- With a copy to: Joseph Santaiti  
Gabel Associates  
417 Denison Street  
Highland Park, NJ 08904  
Email: Joseph.santaiti@gabelassociates.com

**SECTION 1102. Severability.**

In the event any provision of this Company Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

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**SECTION 1103. Amendments, Changes and Modifications.**

(a) This Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to the recomputation of Basic Lease Payments or Additional Lease Payments related to the Purchase Option Price or Mandatory Purchase Price, or with respect to any other term of this Company Lease Agreement affecting the security of the Bond Resolution, by (i) written amendment authorized executed and delivered by each of the Lessor and the Lessee and (ii) by compliance with Article XI of the Bond Resolution regarding conditions required for amendment of the Bond Resolution, which may include the consent of the Trustee.

(b) Other than as provided in subsection (a) above, this Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to its Term or any of its other provisions by written amendment authorized and executed by the Lessor, the Lessee, and to the extent any of the rights, duties or obligations of any Series 2011 Local Units or other Renewable Energy Program Interested Parties under a Program Document are affected, with the written acknowledgment and consent of any one or more such Series 2011 Local Units and/or Renewable Energy Program Interested Parties, as applicable.

(c) To the extent Bonds are Outstanding at the time of any amendment, supplement or modification of this Company Lease Agreement, any such proposed amendment, supplement or modification, in substantially final form, shall be delivered by the Lessor at least fifteen (15) days in advance of its execution to the Trustee and each Rating Agency that at such time is rating any such Bonds, unless this provision is waived by any such Rating Agency and the Trustee; moreover, no such amendment, supplement or modification shall be entered into by the parties unless there shall be no adverse effect on the rating of such Bonds. Where there shall be no such adverse effect on the rating of such Bonds, a final copy of any such authorized, executed and delivered amendment, supplement or modification of this Company Lease Agreement shall be promptly delivered to each such Rating Agency and the Trustee.

**SECTION 1104. Further Assurances and Corrective Instruments.**

The Lessor and the Lessee agree that they shall, if necessary, execute, acknowledge and deliver such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Projects or the Leased Property, or any inadequate or incorrect description intended so to be, or for carrying out the expressed intention of this Company Lease Agreement.

**SECTION 1105. Applicable Law.**

This Company Lease Agreement shall be governed by and construed in accordance with the laws of the State.

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**SECTION 1106. Lessor and Lessee Officers.**

Whenever under the provisions of this Company Lease Agreement the approval of the Lessor or the Lessee is required or the Lessor or the Lessee is required to take some action at the request of the other, such approval of such request shall be given for each party by its respective Authorized Officer, and any party hereto shall be authorized to rely upon any such approval or request.

**SECTION 1107. Captions.**

The captions or headings in this Company Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Company Lease Agreement.

**SECTION 1108. Company Lease Agreement is Original.**

For all purposes of filing, perfection or any other matter requiring identification or possession of the "original" copy of a lease, the executed original hereof identified as the "original" shall be the "original" to evidence this Company Lease Agreement.

**SECTION 1109. Binding; Counterparts.**

This Company Lease Agreement shall be binding upon the parties hereto only when duly executed on behalf of both the Lessor and the Lessee together; provided, however, that each set of counterparts taken together shall constitute an original.

**SECTION 1110. Inspections Permitted.**

The Lessee shall, whenever requested, advise the Lessor and the Applicable Series 2011 Local Units of the exact location and condition of the Projects. The Lessor and the Applicable Series 2011 Local Units may enter upon the premises of the Projects for the purpose of inspection at all reasonable times, and, upon reasonable notice, may enter upon the job, building or place where the Projects and the books and records of the Lessee with respect thereto are located.

**SECTION 1111. Time is of the Essence.**

Time is of the essence with respect to this Company Lease Agreement, and no covenant or obligation hereunder to be performed by the Lessee may be waived except by the written consent of the Lessor and the Lessee. Waiver of any such covenant or obligation or a forbearance to invoke any remedy on any occasion shall not constitute or be treated as a waiver of such covenant or obligation or any other covenant or obligation as to any other occasion and shall not preclude the Lessor from invoking such remedy at any later time prior to the Lessee's cure of the condition giving rise to such remedy. Each of the Lessor's rights hereunder is

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cumulative to its other rights hereunder and not alternative thereto.

**SECTION 1112. No Personal Liability or Accountability.**

No covenant or agreement contained in this Company Lease Agreement shall be deemed to be the covenant or agreement of any present, past or future officer, agent or employee of the Lessor or the Lessee, in his or her individual capacity, and neither the officers, agents or employees of the Lessor or the Lessee nor any official executing this Company Lease Agreement shall be liable personally on this Company Lease Agreement or be subject to any personal liability or accountability by reason of any transaction or activity relating to this Company Lease Agreement.

**SECTION 1113. Gender.**

Use of the masculine, feminine or neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the other genders whenever and wherever appropriate.

**SECTION 1114. Receipt of Company Lease Agreement.**

The parties hereto each acknowledge receipt of a signed, true and exact copy of this Company Lease Agreement.

**SECTION 1115. Waiver of Sovereign Immunity.**

For the purposes of this Company Lease Agreement, the Lessor acknowledges and agree that (a) its execution and delivery of this Company Lease Agreement and (b) its performance of the actions contemplated by this Company Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Lessor in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this Company Lease Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Lessor and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**SECTION 1116. Approvals.**

In order to ensure that construction of the Renewable Energy Projects is not unduly delayed, in the event that any party to this Company Lease Agreement seeks the approval or consent of another party to this Company Lease Agreement, the party considering such request

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shall not unreasonably condition, withhold or delay such consent or approval.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Lessor and the Lessee have each caused this Company Lease Agreement to be executed in its name by its respective duly authorized officers, all as of the date first above written.

THE MORRIS COUNTY IMPROVEMENT AUTHORITY, as Lessor

[SEAL]

By: \_\_\_\_\_  
John Bonanni, Chairman

ATTEST:

By: \_\_\_\_\_  
Ellen M. Sandman, Secretary

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

STATE OF NEW JERSEY )  
                                  ) ss.:  
COUNTY OF SUSSEX)

On this \_\_ day of \_\_\_\_\_, 2011, before me, a Notary Public in and for said County and State, personally appeared John Bonanni, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

\_\_\_\_\_  
Notary Public

STATE OF NEW JERSEY )  
                                  ) ss.:  
COUNTY OF SUSSEX)

On this \_\_ day of \_\_\_\_\_, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes, known to me (or proved to me on the basis of satisfactory evidence) to be an Authorized Signatory the Manager of the Company, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

**1. DESCRIPTION OF PROJECTS**

**EXHIBIT A-1:** See attached Description of Renewable Energy Project for each Series 2011 Local Unit, to be constructed in accordance with Exhibit C to the Company RFP, also attached. See also attachment of Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP

**EXHIBIT A-2:** See attached Description of Capital Improvement Project for each Series 2011 Local Unit

**2. BASIC LEASE PAYMENT SCHEDULE**

**EXHIBIT A-3:** See attached Basic Lease Payment Schedule

Exhibit A-3-Regular  
Exhibit A-3-Alternate

**3. NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS**

**EXHIBIT A-4:** Notice Information for Series 2011 Local Units

**4. MAXIMUM PROJECT COSTS FINANCED BY THE SERIES 2011 BONDS**

The maximum Project Costs financed by the Series 2011 Bonds is the Maximum Net Bond Funded Project Cost Amount of \$\_\_\_\_\_.

A-1

**EXHIBIT A-1 (cont.)**

[Attach Appendix C to the Company RFP]

A-1-2

**EXHIBIT A-1**

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP.

**Morris County Improvement Authority**

\$\_\_\_\_\_ aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$\_\_\_\_\_ Series 2011A Bonds, and  
\$\_\_\_\_\_ Series 2011B Note

**Series 2011 Local Unit List of Local Unit Facilities**

A-1-1

**EXHIBIT A-1 (cont.)**

[Attach Article VII to the Company RFP]

A-1-3

**EXHIBIT A-2**

Please see the Local Unit Facility Roof Warranty Chart at the end of this Exhibit A-2 for information concerning roof warrantors and duration of existing roof warranties for each Local Unit Facility. The Capital Improvement Projects set forth below related to maintaining and extending existing roof warranties must be compatible with the information contained in the Chart.

Local Unit Facility Roof Warranty Chart

*See Attached*

A-2-1

**EXHIBIT A-3-Regular  
BASIC LEASE PAYMENT SCHEDULE  
(paying 5 months prior to Series 2011 Bonds)**

Note: There are no Basic Lease Payment Dates on January 15, 2012 and July 15, 2012, each five (5) months prior to the corresponding interest payment dates for the Series 2011A Bonds of June 15, 2012 and December 15, 2012, because the Series 2011A Bond interest due on such Series 2011A Bond interest payment dates has been provided for through the deposit of the Series 2011B Note proceeds in the Capitalized Interest Account of the Debt Service Fund. There is no Series 2011B Note interest due on such dates.

A-3-1

**EXHIBIT A-4**

**NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS**

**Morris County Improvement Authority**  
\$ \_\_\_\_\_ aggregate principal amount of  
*County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011*  
(Federally Taxable), consisting of:  
\$ \_\_\_\_\_ Series 2011A Bonds, and  
\$ \_\_\_\_\_ Series 2011 B Note

**Series 2011 Local Unit Distribution List**

A-4-1

**EXHIBIT B**

**FORMS OF ACCEPTANCE CERTIFICATES**

*See Attached:*

Form B-1, Form of REP Acceptance Certificate  
Form B-2, Form of CIP Acceptance Certificate

B-1

EXHIBIT B-1

FORM OF REP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the [A] Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof, or if such funds were insufficient, the Company has provided available funding as the Equity Contribution, to complete the design, permitting, acquisition, construction and installation thereof.

3. The [A] Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the [A] Renewable Energy Projects for all purposes of Section 510(d)(1)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the [A] Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the [A] Renewable Energy Projects.

5. [Choose one, as applicable]

B-1-1

B-1-2

6. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

The terms of this REP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

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[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the [A] Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, release any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(c) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

The form (only) of this REP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: BIRDSALL SERVICES GROUP, INC., AS CONSTRUCTION MANAGER

By: \_\_\_\_\_  
Name:  
Title:

B-1-4

EXHIBIT B-2

FORM OF CIP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the [A] Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof, or if such funds were insufficient, the Company has provided available funding as the Equity Contribution, to complete the design, permitting, acquisition, construction, renovation, and installation thereof.

3. By obtaining the Licensor's execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor's acceptance of (a) the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which [A] Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor's acceptance of the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. [Choose one, as applicable]

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and

B-2-1

Name:  
Title:

The terms of this CIP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this CIP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

B-2-3

accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the [A] Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, release any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, Its Manager

By: \_\_\_\_\_  
Name: Stacy L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_

B-2-2

EXHIBIT C

FORM OF DRAW PAPERS

Requisition No. \_\_\_\_  
\_\_\_\_\_, 20\_\_\_\_

U.S. Bank National Association, as Trustee

Re: The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted \_\_\_\_\_, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects")] being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, DOES HEREBY CERTIFY and REQUISITION moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "Trustee") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for \_\_\_\_\_ services] [incurred in connection with the following Development Contract: \_\_\_\_\_];

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[the Company for reimbursement of Costs of the Project previously paid by the Company to  
for  
services] [incurred in connection with the following Development Contract:  
]; and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
for  
services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

*(Please Note, Include Name and Address of any Contractor and the specific Development Contract pursuant to which this Requisition is submitted)*

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the [A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the [A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_.

3. Such payment obligation, for which funds have been requested in accordance with Section 1(a) [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company, and (vi) the amount being requisitioned shall not exceed the Draw Paper Ratio. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

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By: BIRDSALL SERVICES GROUP, INC., AS  
CONSTRUCTION MANAGER

By: \_\_\_\_\_  
Name:  
Title:

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4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC

By: Sunlight General Capital  
Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

The terms of this Requisition are hereby  
ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this \_\_\_\_ day of \_\_\_\_,  
20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_\_ day of \_\_\_\_, 20\_\_.

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EXHIBIT C-1

[Attach Initial Project Workforce Form AA201]

[Insert Form found at [http://www.state.nj.us/treasury/contract\\_compliance/nd/aa201.pdf](http://www.state.nj.us/treasury/contract_compliance/nd/aa201.pdf)]

C-1-1

EXHIBIT D

CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LESSEE FOR COMPANY DEVELOPMENT FEES AND EXPENSES INCURRED ON BEHALF OF THE LESSEE

The Morris County Improvement Authority
P.O. Box 900
Morristown, NJ 07963-0900
Attention: John Bonanni, Chairman
jbonanni@co.morris.nj.us

U.S. Bank National Association, as Trustee
Corporate Trust Services
21 South Street, 3rd Floor
Morristown, NJ 07960
Attention: Paul O'Brien
paul.obrien@usbank.com

Re: The Morris County Improvement Authority
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 509(d) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2)(b) of the Authority's bond resolution duly adopted \_\_\_\_\_, 2011 and entitled "Resolution Authorizing the Issuance of County Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, HEREBY REQUESTS that the Authority direct the Trustee (which direction has occurred through Section 5.02(2)(b) of the Bond Resolution) to pay the following Company Development Fees and Expenses incurred by or on behalf of the Company from moneys on deposit in the Project Fund in the aggregate amount of \$ \_\_\_\_\_, which amount shall be payable to

\_\_\_\_\_
for \_\_\_\_\_ services]

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The form (only) of this Certificate is hereby
ACKNOWLEDGED by THE MORRIS
COUNTY IMPROVEMENT AUTHORITY this
\_\_\_ day of \_\_\_, 20\_\_.

By: \_\_\_\_\_
Name:
Title:

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[the Company for reimbursement of Company Development Fees and Expenses previously paid
by the Company to
for \_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable
law, is a Company Development Fees and Expense as such term is defined in the Bond
Resolution, including without limitation within the aggregate ceiling of \$ \_\_\_\_\_ for such
defined term (unless the Authority agrees, below or otherwise in writing, to an increase above
such ceiling), is a proper charge against the Project Fund, and has not been the basis of any
previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of
said Company Development Fees and Expenses is due or has been paid by or on behalf of the
Company.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR,
LLC

By: Sunlight General Capital
Management, LLC, its Manager

By: \_\_\_\_\_
Name: Stacey L. Hughes
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_
Name:
Title:

D-2

EXHIBIT E

[Attach form of Power Purchase Agreement and
Company Continuing Disclosure Agreement]

E- 1 -

COUNTY GUARANTY AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

By and Between

MORRIS COUNTY IMPROVEMENT AUTHORITY

And

COUNTY OF SUSSEX

Dated: as of December 1, 2011

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note.

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants"), if any, and together with the Authority Consultants, the "Consultants"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

THIS "COUNTY GUARANTY AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "County Guaranty Agreement") by and between the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of the hereinafter defined County as a public body corporate and politic of the State of New Jersey ("State") pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act") and other applicable law, and the COUNTY OF SUSSEX, a political subdivision of the State (the "County").

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "Series 2011A Bonds") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount

of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note, and together with the Series 2011A Bonds, "Series 2011 Bonds"), by the same sale method as the Series 2011A Bonds;

WHEREAS, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and

- 4 -

N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the County College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i)

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County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the County Series 2011 Local Unit;

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, Contracting for Renewable Energy Services, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, Contracting for Renewable Energy Services: Update on Power Purchase Agreements, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "Company RFP") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "Company Proposal") submitted with respect to Sunlight General Sussex Solar, LLC (the "Company"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

(a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

(b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement),

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Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of

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Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

WHEREAS, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

WHEREAS, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (j) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "EPC Contractor"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turkey Design, Engineering, Procurement and Construction Contract dated [December \_\_], 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "EPC Contract") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "In-Kind Equity Contribution") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "Equity Contribution"), (ii) a cash reserve in the amount of \$1,500,000 (the "County Reserve") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty;

WHEREAS, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above (i) reduce the amount of the Series 2011 Bonds required to be

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"Continuing Disclosure Agreements"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the County Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i) the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary Official Statement"); and (ii) the execution and delivery of a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement," and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

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issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

WHEREAS, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

WHEREAS, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge Agreement"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c-12") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement") and together with the County Continuing Disclosure Agreement, the

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NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth herein, the Authority and the County and its successors and assigns, do mutually covenant, promise and agree as follows:

Section 1. Pursuant to the provisions of the Act and the County Guaranty ordinance, the County shall, and hereby agrees to fully, irrevocably, and unconditionally guarantee the punctual payment of the principal of (including sinking fund installments) and the interest on the Series 2011 Bonds. The full faith and credit of the County are hereby pledged for the full and punctual performance of the County Guaranty. Accordingly, the Freeholder-Director of the County shall, and hereby is, authorized and directed to execute and deliver the County Guaranty Certificate in the form set forth in Section 14.01 of the Bond Resolution upon initial issuance of the Series 2011 Bonds, as part of each such Series 2011 Bond. This County Guaranty Agreement shall not guaranty the payment of any redemption premium with respect to the Series 2011 Bonds. Capitalized terms not defined herein shall have the meaning ascribed to such terms in the Bond Resolution.

Section 2. The Authority agrees to apply the proceeds derived from the sale of the Series 2011 Bonds to Costs associated with the Projects for the Series 2011 Local Units, including payment of Costs of Issuance, Administrative Expenses and required reserves, if any, and such other matters as set forth in the Bond Resolution.

Section 3. The Authority will keep, or cause to be kept by the Trustee or otherwise, proper books of record and account in which complete and correct entries shall be made of its transactions relating to the Projects and which, together with all other books and papers of the Authority, shall at all reasonable times be subject to inspection by the County.

Section 4. Attached hereto as Exhibit A is the following information required by the County in order to discharge its obligations under this County Guaranty Agreement:

(a) The date of issuance, the maturity dates, the principal amortization, the interest rate or rates, and the Trustee and Paying Agent for the Series 2011 Bonds.

(b) The Basic Lease Payments and the Basic Lease Payment Dates.

Section 5. If, thirty (30) days prior to any Interest Payment Date or Principal Payment Date, the amounts that are on deposit in the Aged Account of the Revenue Fund established under the Bond Resolution are insufficient to provide for the payment of the principal of (including sinking fund payments, if any) and/or interest on the Series 2011 Bonds that are due and payable on such payment dates, the Trustee shall notify the County's Chief Financial Officer on such day of the amounts that are necessary to provide for the payment of the principal of and/or interest on the Series 2011 Bonds (the "Deficiency"). The County shall be obligated to make payment of the Deficiency to the Trustee no later than one (1) Business Day prior to the Interest Payment Date or the Principal Payment Date, as applicable, of the Series 2011 Bonds. Notwithstanding any other provision of this Guaranty Agreement, failure by the Trustee to give the County notice as provided herein shall not relieve the County of its obligations to make payment under the terms of the County Guaranty.

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(a) Notwithstanding the foregoing provisions of this Section 5, upon the occurrence and continuance of the Deficiency one (1) Business Day prior to the Interest Payment Date or the Principal Payment Date,

(i) with respect to the Series 2011A Bonds only, the County may, in its sole discretion determine to exercise its right to cause the optional redemption or if applicable, defeasance and subsequent optional redemption, of all or a portion of the Series 2011A Bonds, which optional redemption is contemplated by Section 2.03(5)(a) and (b) of the Bond Resolution, and which defeasance is contemplated by Article XII of the Bond Resolution. In any such instance, the County may establish the defeasance date, as applicable, at any time, and the redemption date at any time on or after June 15, 2021, all with written notice to the Authority and the Trustee and otherwise in accordance with the terms of the Bond Resolution. Nothing in this Section 5(a)(i) is intended to diminish the County's rights to reimbursement, including those rights set forth in Section 7 hereof.

(ii) with respect to the Series 2011B Note only, [B Note subject to redemption?].

**Section 6.** Subject to Section 5(a) hereof, when notice has been provided, as described above, the County shall take all necessary actions to make payment of the Deficiency to the Trustee as provided above. Such actions shall include the adoption of an emergency appropriation or an emergency temporary appropriation and the funding of such appropriation in accordance with the requirements of the Local Budget Law (N.J.S.A. 40A:4A-1 *et seq.*), the levy of *ad valorem* taxes on all taxable property in the County, without limitation as to rate or amount, or any other actions that are legally permitted to be taken to meet the requirements of such County Guaranty (including the adoption of a bond ordinance pursuant to the provisions of the Local Bond Law).

**Section 7.** (a) The Authority hereby covenants to the County that in the event the County Guaranty is called upon, the Authority shall be obligated and shall take all actions within its power (in accordance with the terms of the Act), including causing the Trustee to pay over to the County all funds on deposit in the County Security Fund, if any, held by the Trustee under the Bond Resolution as monies therein shall not be part of the Trust Estate pledged to the payment of debt service on the Series 2011 Bonds, so as to enable the County to be reimbursed, to the maximum extent practicable, up to the amount that shall have been paid by the County pursuant to the terms of this County Guaranty Agreement (i.e., the Deficiency), at the earliest practicable date. The Authority shall not be obligated to pay the Deficiency from funds within its general control that are not contemplated by the Program Documents; the Authority, shall, however, pay or cause the Deficiency to be paid from amounts the Authority controls on deposit in the County Security Fund, or from any past due Basic Lease Payments it receives from the Company. The County and the Authority acknowledge and agree that as of the date of this Guaranty Agreement, it has been determined that the amount of the County Security Fund Requirement will be \$1,500,000, and there is no County Security Agreement, County Security Provider or other form of County Security, and any provisions herein with respect to such terms are hereby of no further force or effect.

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(d) The extension of the time for payment of the principal of or interest on the Series 2011 Bonds or of the time for performance of any obligations, covenants or agreements under or arising out of the Program Documents;

(e) The modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Program Documents;

(f) The taking, suffering or the omission of any of the actions referred to in the Series 2011 Bond Resolution or of any actions under this County Guaranty Agreement;

(g) Any failure, omission, delay or lack on the part of the Authority to enforce, assert or exercise any right, power or remedy conferred on the Authority in this County Guaranty Agreement, the Series 2011 Bond Resolution or any other act or acts on the part of the Authority or any of the holders from time to time of the Series 2011 Bonds;

(h) The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment or other similar proceedings affecting the Authority, the Company or any other Renewable Energy Program Interested Party or any assets of any of them, or any allegation or contest of the validity of the County Guaranty, or the Series 2011 Bond Resolution;

(i) To the extent permitted by law, any event or action that would, in the absence of this clause, result in the release or discharge by operation of law of the County from the performance or observance of any obligation, covenant or agreement contained in this County Guaranty Agreement; or

(j) The default or failure of the County fully to perform any of its obligations set forth in this County Guaranty Agreement.

**Section 9.** No set-off, counterclaim, reduction, recoupment, or diminution of any obligation, or any defense of any kind or nature (other than full and timely performance by the County of its obligations hereunder) which the County or the Authority has or may have against the Authority, the County, the Trustee, any other Renewable Energy Program Interested Party, or against any holder of the Series 2011 Bonds, shall be available to the County or the Authority hereunder against the Authority, the County, the Trustee, any other Renewable Energy Program Interested Party, or against any holder of the Series 2011 Bonds or anyone succeeding to the respective interests thereof.

**Section 10.** The County further guarantees that all payments made with respect to the Series 2011 Bonds, when made, will be final and agrees that if such payment is recovered from or repaid by or on behalf of the Authority or the holders of the Series 2011 Bonds in whole or in part in any bankruptcy, insolvency or similar proceeding instituted by or against the Authority or the Company, the County Guaranty shall continue to be fully applicable to such liabilities to the same

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(b) Nothing herein provided shall in any way diminish the County's rights to receive payment from the County Security Fund for reimbursement of any County payment of the Deficiency. The Authority shall take all actions necessary, desirable or convenient to assist the County in any such reimbursement action, and simultaneously with the authorization, execution and delivery hereof, the Authority shall (i) deliver or cause to be delivered for the benefit of the County the County Reserve to be deposited with the Trustee in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, and further, the Authority shall (ii) incorporate into the Program Documents repayment provisions to the County relating to the County Security, including without limitation Section 5.07 of the Bond Resolution.

(c) As further security and further assurance for the Company's obligations to (i) make Basic Lease Payments, (ii) make those Additional Lease Payments constituting part of the Trust Estate, and (iii) pay interest at the Overdue Rate on such amounts in clauses (i) and (ii), all at the times, in the amounts, and otherwise in accordance with the terms and provisions of the Company Lease Agreement, the failure to make timely and full payment of which could cause any such Deficiency, the Authority hereby further assigns and pledges all of its right, title and interest in and to the Reimbursement Collateral to the County, to be held as collateral to secure such Deficiency payment; provided, however, that to the extent the County is never required to make payment under its County Guaranty or the County is reimbursed in full for its Deficiency payment(s) by or on behalf of the County Security Provider from the County Security, the County expressly acknowledges it shall have no further rights to the Reimbursement Collateral, and further, that the County Security Provider (upon issuance of the Series 2011 Bonds, with no County Security Agreement, being the Company) shall, in such instance, be exclusively entitled to any balance of the Reimbursement Collateral. This County Guaranty Agreement shall be deemed to be a security agreement for purposes of the Uniform Commercial Code and all other applicable law.

**Section 8.** The obligations of the County under this County Guaranty Agreement shall be full, absolute, irrevocable, and unconditional, and shall remain in full force and effect until the entire principal of (including Sinking Fund Installments, if any) and interest on the Series 2011 Bonds shall have been paid or duly provided for in accordance with the provisions of the Bond Resolution. The County Guaranty is a guaranty of payment and not of collectability. The obligations of the County hereunder shall not be affected, modified or impaired upon the occurrence from time to time of any event, including without limitation any of the following, whether or not with notice to, or the consent of, the County:

(a) The waiver, compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of the Authority which are contained in the Bond Resolution and any other Program Document, or of the payment, performance or observance thereof;

(b) The failure to give notice to the County of the occurrence of an event of default under the provisions of this County Guaranty Agreement;

(c) The transfer, assignment or mortgaging or the purported transfer, assignment or mortgaging of all or any part of the interest or security interest of the Authority in the Projects;

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extent as though the payment so recovered or repaid had never been originally made on such liabilities.

**Section 11.** In the event of a default in payment of the principal of or interest on the Series 2011 Bonds when and as the same shall become due, whether at the stated maturity thereof or otherwise, the Authority, the Trustee or any party to whom the Authority's or the Trustee's rights have been assigned may proceed to enforce their rights hereunder and may proceed first and directly against the County under the terms of this County Guaranty Agreement without proceeding against or exhausting any other remedies which it may have and without resorting to any other security held by the Authority or the Trustee. In any such event, the County shall be subrogated to the rights of such party with respect to such security. All moneys recovered pursuant to this County Guaranty Agreement shall be applied in accordance with the provisions of the Bond Resolution.

**Section 12.** The County hereby acknowledges that it is an "obligated person" as such term is defined in Rule 15c2-12, and the preparation, negotiation, execution and delivery of the County Continuing Disclosure Agreement in accordance with Rule 15c2-12 is hereby approved in the form attached as Exhibit B hereto, and the Freeholder Director of the County is hereby authorized to execute the County Continuing Disclosure Agreement and to deliver the same to the Trustee and the Authority. The Freeholder Director is hereby authorized and directed to execute and deliver such other documents, certificates and agreements required to be delivered by the County under the County Continuing Disclosure Agreement, and the Clerk of the Board of Chosen Freeholders is hereby authorized and directed to attest and affix the seal of the County to any such document, certificate or agreement, if necessary.

**Section 13.** This County Guaranty Agreement shall terminate after (a) payment in full of the principal of and interest on the Series 2011 Bonds have been made, or provision for the payment of same has been made in accordance with the terms of the Bond Resolution, including without limitation Article XII thereof, provided, however, this Guaranty Agreement shall survive if payment of principal and interest is made pursuant to Section 10 hereof and (b) the County shall have been fully reimbursed for any payments made by it, if any, under the County Guaranty.

**Section 14.** This County Guaranty Agreement may be executed in any number of counterparts, each of which shall be executed by the Authority and by the County and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same. This County Guaranty Agreement shall be governed by the laws of the State.

**Section 15.** The County hereby acknowledges and consents to the irrevocable assignment of the right of the Authority to receive payments from the County under the provisions of the County Guaranty by the Authority to the Trustee for the benefit of the holders of the Series 2011 Bonds, as and to the extent provided in the Bond Resolution.

**Section 16.** Notwithstanding anything contained herein to the contrary, in the event that the form of government is changed so that there is no longer a Chief Financial Officer of the County, any notices contemplated hereunder shall be provided to and any actions contemplated to be taken hereunder shall be taken by the chief executive officer of the County.

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**Section 17.** Notwithstanding anything contained herein to the contrary, the following defined terms may be amended or supplemented in accordance with the provisions of Section 4.6 of the Power Purchase Agreement, and to the extent the Power Purchase Agreement is amended for such purpose, such following defined terms shall automatically (without any further action) be amended and supplemented for all purposes hereof: Capital Improvement Projects, Local Unit Facilities, Projects, Renewable Energy Projects, and Series 2011 Local Units.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their respective officers thereunto duly authorized and this agreement to be dated as of the date and the year first above written.

ATTEST:

THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY

By: \_\_\_\_\_  
Ellen M. Sandman  
Secretary

By: \_\_\_\_\_  
John Bonanni  
Chairman

ATTEST:

COUNTY OF SUSSEX,  
NEW JERSEY

By: \_\_\_\_\_  
Elaine A. Morgan  
Clerk,  
Board of Chosen Freeholders

By: \_\_\_\_\_  
Richard A. Zeoli  
Freeholder Director

[ Signature Page to the County Guaranty Agreement ]

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**EXHIBIT A**

**Pricing Information with respect to the Series 2011 Bonds**

1. Dated Date, Issuance Date and Date of Authentication of Series 2011 Bonds:  
Dated Date, Issuance Date and Date of Authentication of Series 2011A Bonds:  
December 14, 2011  
Dated Date, Issuance Date and Date of Authentication of Series 2011B Note:  
December 14, 2011
2. Paying Agent and Trustee for Series 2011 Bonds: U.S. Bank National Association
3. Amortization, including Sinking Fund Installments, and Interest Rates of Series 2011 Bonds:  
See 4 below.

[Remainder of page intentionally left blank]

4. Scheduled debt service payments for Series 2011 Bonds, including Sinking Fund Installments:

[insert schedule]

- \* Series 2011A Bond interest due on such dates provided for through deposit of the Series 2011B Note proceeds in the Capitalized Interest Account of the Debt Service Fund.
- \*\* Series 2011B Note principal repayment, plus interest.

5. Basic Lease Payments and Basic Lease Payment Dates relating to the Series 2011 Bonds:

[Attach supporting schedules from Authority financial advisor allocating debt service payments among the Series 2011A Bonds and the Series 2011B Note, and allocating Basic Lease Payments to each such Series of Series 2011 Bonds]

[insert schedule]

Note: There are no Basic Lease Payment Dates on January 15, 2012 and July 15, 2012, each five (5) months prior to the corresponding interest payment dates for the Series 2011A Bonds of June 15, 2012 and December 15, 2012, because the Series 2011A Bond interest due on such Series 2011A Bond interest payment dates has been provided for through the deposit of the Series 2011B Note proceeds in the Capitalized Interest Account of the Debt Service Fund. There is no Series 2011B Note interest due on such dates.

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**EXHIBIT B**

[Attach Form of County Continuing Disclosure Agreement]

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## Appendix E

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INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

ATTORNEYS AT LAW

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[Date of Closing]

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, New Jersey 07963

**Re: The Morris County Improvement Authority  
\$26,715,000 County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011A (Federally Taxable) and  
\$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue  
Note, Series 2011B (Federally Taxable)**

Dear Authority Commissioners:

We have acted as bond counsel to The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*"), organized and existing under the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State and the acts amendatory thereof and supplemental thereto (the "*Act*"), in connection with the authorization, sale and issuance this day of its \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" (the "*Series 2011A Bonds*") and \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*").

The Series 2011 Bonds are issued pursuant to a bond resolution of the Authority adopted on September 28, 2011 and entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY", as amended and supplemented by a Certificate of the Chairman of the Authority dated the date hereof executed and delivered in accordance with Section 2.02(1)(e) thereof, and as may be further amended or supplemented from time to time in accordance with the terms thereof (the "*Bond Resolution*"), the Act and all other applicable law. All capitalized terms which are used herein and are not defined herein shall have the meanings ascribed to such terms in the Bond Resolution.

The Series 2011A Bonds are being issued for the purpose of (i) funding the Projects for the Series 2011 Local Units as part of the Authority's Renewable Energy Program, (ii) reimbursing or paying, as applicable, the Authority and the County for certain development costs of the Renewable Energy Program, (iii) paying certain fees and costs incurred by or for the Company (as hereinafter defined) in connection with the Renewable Energy Program and (iv) paying the various costs of issuing the Series 2011 Bonds. The Series 2011B Note is being issued for the purpose of paying capitalized interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

The Series 2011 Bonds are special and limited obligations of the Authority, payable as to principal, redemption premium, if any, and interest solely from and secured by the Authority's pledge of the Trust Estate to the hereinafter defined Trustee in accordance with the terms of the Bond Resolution. The Trust Estate includes, without limitation, (i) the Revenues, (ii) payments made by the County of Sussex, New Jersey (the "*County*") under the County Guaranty (as hereinafter defined), and (iii) the Funds and Accounts (except the Administrative Expense Account and the Costs of Issuance Account of the Administrative Fund and the County Security Fund) established under the Bond Resolution and held by the Trustee.

The Revenues include, without limitation, the Basic Lease Payments to be made by SunLight General Sussex Solar, LLC (the "*Company*" or the "*Lessee*"), a limited liability company created and in good standing under the laws of the State, and registered and authorized to transact business in the State, under that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Lease Agreement*"), by and between the Authority, as lessor, and the Company, as lessee. In conjunction with the Company Lease Agreement, the Authority has entered into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" with the Company, dated as of December 1, 2011, (the "*Power Purchase Agreement*") for the right and obligation to purchase from the Company electricity generated by the Renewable Energy Projects. The Authority has assigned certain of these rights and obligations to each of the Series 2011 Local Units pursuant to the terms of the respective "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)", each dated as of December 1, 2011 (the "*Local Unit License Agreements*"), by and between each of the respective Series 2011 Local Units, as licensor, and the Authority, as licensee.

Simultaneously with the execution and delivery of the Company Lease Agreement, the Power Purchase Agreement, and the Local Unit License Agreements, (i) the Authority, the Trustee, and the Company have entered into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Continuing Disclosure Agreement*") and (ii) the Authority, the County and the Trustee have entered into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*").

The Company Lease Agreement, the Power Purchase Agreement, the Local Unit License Agreements, the County Guaranty Agreement (as defined herein) and the Continuing Disclosure Agreements shall be collectively referred to herein as the "*Authority Financing Documents*".

The Series 2011A Bonds are dated the date hereof, mature in the principal amounts and bear interest at the rates of interest as stated therein and in the Bond Resolution, and are issued in fully registered form in denominations of \$5,000 or any integral multiple thereof. The Series 2011B Note is dated the date hereof and matures on January 15, 2013.

Interest on the Series 2011A Bonds is payable semiannually on June 15 and December 15 in each year until final maturity thereof (each an "*Interest Payment Date*"), commencing June 15, 2012. The Series 2011A Bonds are subject to optional [and mandatory sinking fund] redemption prior to their stated maturities in the manner and upon the terms and conditions set forth therein and in the Bond Resolution. Principal and redemption premium, if any, of the Series 2011 Bonds are payable by presentation and surrender thereof at the principal corporate trust office of U.S. Bank, National Association, Morristown, New Jersey (the "*Trustee*", "*Registrar*" and "*Paying Agent*"). Except as set forth below regarding payments made to Cede & Co., interest on the Series 2011 Bonds is payable by check of the Paying Agent mailed to each registered owner of the Series 2011 Bonds at the address of such registered owner shown on the registration books maintained by the Trustee, in its capacity as registrar, as of the first day of the month next preceding the Interest Payment Date.

The Series 2011 Bonds are issued in fully registered form without coupons, initially registered in the name of and held by Cede & Co., as nominee for The Depository Trust Company, New York, New York ("*DTC*"), an automated depository for securities and clearinghouse for securities transactions. Purchases of the Series 2011 Bonds will be made in book-entry-only form (without certificates) in denominations of \$5,000 or any integral multiple thereof. So long as DTC or its nominee is the registered owner of the Series 2011 Bonds, payment of the principal and redemption premium, if any, of and interest on the Series 2011 Bonds will be made by the Trustee or the Paying Agent, as the case may be, directly to Cede & Co., as nominee for DTC, in immediately available funds when due. Disbursal of such payments to the DTC participants is the responsibility of DTC, and disbursal of such payments to the beneficial owners of the Series 2011 Bonds is the responsibility of the DTC participants and not the responsibility of the Authority, the Trustee or the Paying Agent.

Payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with the terms of (i) a guaranty ordinance of the County finally adopted by the Board of Chosen Freeholders of the County on August 17, 2011, (ii) a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond, and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") between the County and the Authority, as acknowledged by the Company, all pursuant to Section 37 of the Act (N.J.S.A. 40:37A-80) (collectively, the "*County*

*Guaranty*”).

In our capacity as bond counsel, we have examined (i) the Constitution and statutes of the State, including the Act, (ii) the Bond Resolution, (iii) the Authority Financing Documents, (iv) the County Guaranty, (v) a specimen of the Series 2011A Bonds and (vi) a specimen of the Series 2011 B Note, and such other documents, records of the Authority and instruments as we have deemed necessary to enable us to express the opinions hereinafter set forth. As to matters of fact, we have relied upon the representations of the Authority and, where we have deemed appropriate, representations or other certifications of public officials and, to the extent that we have deemed such reliance proper, on certain representations, certifications of facts, and statements of reasonable expectations made by the Authority in connection with the Series 2011 Bonds.

Further, in expressing such opinions, we have relied upon the genuineness, truthfulness and completeness of the resolutions, documents, records and instruments referred to above.

Based upon and subject to the foregoing, we are of the opinion that:

(1) The Authority has been duly created and is validly existing as a public body corporate and politic under the provisions of the Constitution and statutes of the State, including the Act, with the right and power to adopt the Bond Resolution, to enter into the Authority Financing Documents and to issue the Series 2011 Bonds.

(2) The Bond Resolution has been duly adopted by the Authority, is in full force and effect, is valid and binding upon the Authority, is enforceable in accordance with its terms and no other authorization for the Bond Resolution is required. The Bond Resolution creates the valid pledge which it purports to create of the Trust Estate.

(3) The Series 2011 Bonds have been duly authorized and issued by the Authority in accordance with law, including the Act, and in accordance with the Bond Resolution and are *valid and binding special obligations of the Authority, enforceable in accordance with their terms and the terms of the Bond Resolution*, and are entitled to the benefits of the Bond Resolution and the Act. Neither the State, nor the County (except to the extent of the County Guaranty, which does not guaranty the payment of redemption premium, if any), nor any municipality therein nor any other political subdivision thereof, other than the Authority (but solely to the extent of the Trust Estate in accordance with the terms of the Bond Resolution), is obligated to pay the principal of, redemption premium, if any, or interest on the Series 2011 Bonds, and neither the faith and credit nor the taxing power of the State, the County (except to the extent of the County Guaranty, which does not guaranty the payment of redemption premium, if any), any municipality therein or any other political subdivision thereof, is pledged to the payment of the principal of, redemption premium, if any, or interest on the Series 2011 Bonds.

(4) The Authority Financing Documents have each been duly authorized, executed and delivered by the Authority, and assuming their due authorization, execution and delivery by the other parties thereto, constitute valid and binding agreements of the Authority and such other parties, and are enforceable in accordance with their respective terms.

(5) The County has the full legal right and power to adopt and execute, as the case may be, the County Guaranty and the County Guaranty creates the valid and binding obligation of the County, enforceable in accordance with its terms. Under the County Guaranty, the County is obligated to make any required payments under the terms of the County Guaranty to the Authority or the Trustee out of the first funds becoming legally available to the County for this purpose and to provide the funds for such payments, if not otherwise available, from the levy of *ad valorem* taxes upon all the taxable property in the County without limitation as to rate or amount. The obligations of the County under the County Guaranty to make full payment of the principal of and interest on the Series 2011 Bonds (which does not include redemption premium, if any) shall be full, unconditional and irrevocable.

(6) Under current law, interest on the Series 2011 Bonds and any gain on the sale thereof are not includable as gross income under the New Jersey Gross Income Tax Act.

The above opinions are limited to and based upon the laws and judicial decisions of the State and the federal laws and judicial decisions of the United States of America as of the date hereof, and are subject to any amendment, repeal or other modification of the applicable laws or judicial decisions that served as the basis for their opinions or to any laws or judicial decisions hereafter enacted or rendered. No opinion is expressed regarding federal tax consequences arising with respect to the Series 2011 Bonds.

We note, in connection with the opinions expressed herein, that the enforceability of rights or remedies with respect to the Bond Resolution, the Series 2011 Bonds, the Authority Financing Documents and the County Guaranty may be limited, however, by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or remedies heretofore or hereafter enacted and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases. We express no opinion as to the availability of any particular remedy.

In rendering the opinions contained in paragraphs 4 and 5 above, we have relied upon the respective opinions, dated the date hereof, of independent counsel to the Company and the County, as the case may be, (i) with respect to the due authorization, execution and delivery of the Authority Financing Documents by the other parties thereto, (ii) with respect to the due authorization, adoption, execution and delivery of the County Guaranty by the County, including, without limitation, proper compliance with all publication, hearing and other procedural requirements of Section 37 of the Act (N.J.S.A. 40:37A-80) and of the Local Bond Law, constituting Chapter 169 of the Pamphlet Laws of 1960 of the State, (iii) to the effect that the County Guaranty has not been amended, modified or repealed since the date of final adoption and that the County Guaranty is still in full force and effect, and (iv) to the effect that the County Guaranty is a valid and binding obligation of the County, enforceable against the County in

accordance with its terms.

This opinion is being delivered to you at your request. Our engagement by you with respect to the opinions expressed herein does not require, and shall not be construed to constitute, a continuing obligation on our part to notify or otherwise inform you or the reliance parties hereof of the amendment, repeal or other modification of the applicable laws, judicial decisions, actions, facts, or circumstances that served as the basis for this opinion letter or of laws or judicial decisions hereafter enacted or rendered which impact on this opinion letter.

We have examined one of the Series 2011A Bonds as executed by the Authority and as authenticated by the Trustee, and, in our opinion, the form, execution and authentication of said Series 2011A Bonds are regular and proper. We have examined the Series 2011B Note as executed by the Authority and as authenticated by the Trustee, and, in our opinion, the form, execution and authentication of said Series 2011B Note is regular and proper.

Very truly yours,

Inglesino, Pearlman, Wyciskala & Taylor, LLC

**Appendix F**



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**COUNTY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)**

**among**

**COUNTY OF SUSSEX**

**and**

**U.S. BANK NATIONAL ASSOCIATION, as Trustee**

**and**

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

**Dated as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**COUNTY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)**

THIS COUNTY CONTINUING DISCLOSURE AGREEMENT (SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011) (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "*County Continuing Disclosure Agreement*") is made and entered into as of December 1, 2011 by and among the COUNTY OF SUSSEX, NEW JERSEY , a political subdivision of the hereinafter defined State (the "*County*"), U.S. BANK NATIONAL ASSOCIATION (the "*Bank*"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State of New Jersey (the "*State*"), where the Bank acts as trustee under and pursuant to the hereinafter defined Bond Resolution (including any successors and assigns, the "*Trustee*"), and the MORRIS COUNTY IMPROVEMENT AUTHORITY, a public body corporate and politic duly created and validly existing under the laws of the State (including any successors and assigns, the "*Authority*").

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy

Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following

series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "*Series 2011A Bonds*") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "*Series 2011A Bonds*"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*", and together with the Series 2011A Bonds, "*Series 2011 Bonds*"), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct,

install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable

Energy Projects for the Series 2011 Local Units;

- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("*SRECs*") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the

Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal

amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "*EPC Contractor*"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated [December \_\_], 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*EPC Contract*") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "*In-Kind Equity Contribution*") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y)

the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "*Equity Contribution*"), (ii) a cash reserve in the amount of \$1,500,000 (the "*County Reserve*") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above (i) reduce the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement

(Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Pledge Agreement*”), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12 (“*Rule 15c-12*”) promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain “Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the “*Company Continuing Disclosure Agreement*”) with the Authority and the Trustee, as dissemination agent (the “*Dissemination Agent*”) in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain “County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the “*County Continuing Disclosure Agreement*” and together with the Company Continuing Disclosure Agreement, the “*Continuing Disclosure Agreements*”; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the “County Documents”) with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement “deemed final”

within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*"); and (ii) the execution and delivery of a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "*Sale Documents*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("*Section 13*") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "*Sussex County Board of Freeholders*") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program Documents*"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE**, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

#### SECTION 1.1. Definitions.

The following additional terms shall have the meanings specified below:

“Annual Report” means Financial Statements and Operating Data provided at least annually with respect to the County.

“Bondholder” or “Holder” or any similar term, when used with reference to the Series 2011 Bonds, means any person who shall be the registered owner of any outstanding the Series 2011 Bonds, including holders of beneficial interests in the Series 2011 Bonds.

“Bond Disclosure Event” means any event described in subsection 2.6(a) of this County Continuing Disclosure Agreement.

“Bond Disclosure Event Notice” means the notice to the MSRB as provided in subsection 2.6(b) of this County Continuing Disclosure Agreement.

“Dissemination Agent” means an entity acting in its capacity as Dissemination Agent under this County Continuing Disclosure Agreement, or any successor Dissemination Agent designated in writing by the County and which has filed a written acceptance of such designation.

“Final Official Statement” means the Official Statement relating to the Series 2011A Bonds dated December 7, 2011.

“Financial Statements” means the audited financial statements of the County for each Fiscal Year and includes balance sheets, statements of changes in fund balances and statements of current funds, revenues, expenditures and other charges or statements which convey similar information.

“Fiscal Year” means the fiscal year of the County as determined by the County from time to time pursuant to State law. As of the date of this County Continuing Disclosure Agreement, the Fiscal Year of the County begins on January 1 of each calendar year and closes on the following December 31.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States of America, consistently applied, as modified by governmental accounting

standards and mandated State statutory principles applicable to the County as may be in effect from time to time.

“GAAS” means generally accepted auditing standards as in effect from time to time in the United States of America, consistently applied, as modified by governmental auditing standards and mandated State statutory principles applicable to the County as may be in effect from time to time.

“MSRB” means the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to Rule 15c2-12. Effective August 1, 2009 and until otherwise designated by the MSRB or the SEC, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) website of the MSRB, currently located at <http://emma.msrb.org>.

“Operating Data” means certain financial and statistical information of the County, which for purposes of this County Continuing Disclosure Agreement shall include the financial and statistical information in Appendix A and B to the Final Official Statement, a copy of which is attached hereto as Exhibit A.

“SEC” means the Securities and Exchange Commission.

Notwithstanding anything contained herein to the contrary, the following defined terms may be amended or supplemented in accordance with the provisions of Section 4.6 and 4.7 of the Power Purchase Agreement, and to the extent the Power Purchase Agreement is amended for such purpose, such following defined terms shall automatically (without any further action) be amended and supplemented for all purposes hereof: Capital Improvement Projects, Local Unit Facilities, Projects, Renewable Energy Projects, and Series 2011 Local Units.

Section 1.3. Interpretation. Words of masculine gender include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular include the plural and vice versa, and words importing Persons include corporations, associations, partnerships (including limited partnerships), trusts, firms and other legal entities, including public bodies, as well as natural persons. Articles and Sections referred to by number mean the corresponding Articles and Sections of this County Continuing Disclosure Agreement. The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms as used in this County Continuing Disclosure Agreement, refer to this County Continuing Disclosure Agreement as a whole unless otherwise expressly stated.

The headings of this County Continuing Disclosure Agreement are for convenience only and shall not define or limit the provisions hereof.

## ARTICLE 2

### CONTINUING DISCLOSURE COVENANTS AND REPRESENTATIONS

Section 2.1. Continuing Disclosure Covenants of the County. The County agrees that it will provide, or, if the County has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to provide:

(a) Not later than two hundred twenty-five (225) days after the end of each Fiscal Year, commencing with the Fiscal Year of the County ending after December 31, 2011, an Annual Report to the MSRB via electronic format (accompanied by such identifying information as is prescribed by the MSRB) and to the Authority; provided that the Financial Statements of the County may be submitted separately from the balance of the Annual Report and later than the date required herein for the filing of the Annual Report if the Financial Statements of the County are not available by that date, but only if the unaudited financial statements of the County are included in the Annual Report; and

(b) Not later than fifteen (15) days prior to the date of each year specified in subsection 2.1(a), a copy of the Annual Report, complete to the extent required in Section 2.1(a), to the Trustee and the Dissemination Agent, if the County has appointed or engaged a Dissemination Agent.

Section 2.2. Continuing Disclosure Representations of the County. The County represents and warrants that:

(a) Financial Statements shall be prepared according to the audit requirements prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey and Government Auditing standards issued by the Comptroller General of the United States.

(b) Financial Statements shall be audited by an independent certified public accountant or a registered municipal accountant or such other accountant as shall be permitted or required under State law in accordance with GAAS.

Section 2.3. Form of Annual Report. (a) The Annual Report may be submitted by the County, or on behalf thereof, as a single document or as separate documents comprising a package.

(b) Any or all of the items which must be included in the Annual Report may be incorporated by reference from other documents, including official statements delivered in connection with other financings issued on behalf of the County or related public entities thereof which have been made available to the public on the MSRB's website or filed with the SEC. If the document incorporated by reference is a final official statement, it must be available from the

MSRB. The County shall clearly identify each such other document so incorporated by reference.

(c) The Annual Report for any Fiscal Year containing any modified operating data or financial information (as contemplated by Sections 4.9 and 4.10 hereof) for such Fiscal Year shall explain, in narrative form, the reasons for such modification and the effect of such modification on the Annual Report being provided for such Fiscal Year.

Section 2.4. Responsibilities and Duties of the Authority, the County, the Dissemination Agent and the Trustee.

(a) If fifteen (15) days prior to the date specified in subsection 2.1(a), the Trustee has not received a copy of the Annual Report, complete to the extent required in Section 2.1(a), the Trustee shall notify the County in writing to provide notice of the County's obligations pursuant to Sections 2.1(a), 2.1(b) and 2.4(c) hereof.

(b) If the Trustee, by the date specified in subsection 2.1(a) herein, has not received a written report from the County, as required by Section 2.4(c) hereof, indicating that an Annual Report, complete to the extent required in Section 2.1(a), been provided to the MSRB and to the Authority by the date specified in subsection 2.1(a), the Trustee shall send a notice to the MSRB, in electronic format, substantially in the form attached hereto as Exhibit B, together with identifying information as prescribed by the MSRB, with a copy thereof to the Authority and the County.

(c) The County shall, or, if the County has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to, by the date specified in subsection 2.1(a) herein, provide a written report to the Authority and the Trustee (and, if a Dissemination Agent has been appointed, to the County), upon which said parties may rely, certifying that the Annual Report, complete to the extent required in Section 2.1(a), has been provided pursuant to this Continuing Disclosure Agreement, and stating the date that it was provided to the MSRB.

(d) If the Fiscal Year of the County changes, the County shall promptly notify, in writing, the Authority and the Trustee, and shall disclose such change in its next Annual Report.

Section 2.5. Appointment, Removal and Resignation of the Dissemination Agent.

(a) The County may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this County Continuing Disclosure Agreement and shall provide notice of such appointment to the Trustee and the Authority. Thereafter, the County may discharge any such Dissemination Agent and satisfy its obligations under this County Continuing Disclosure Agreement without the assistance of a Dissemination Agent, or the County may discharge a Dissemination Agent and appoint a successor Dissemination Agent, such discharge to be effective on the date of the appointment of a successor Dissemination Agent. The County shall provide notice of the discharge of a Dissemination Agent to the Trustee

and the Authority and shall further indicate either the decision of the County to satisfy its obligations under this County Continuing Disclosure Agreement without the assistance of a Dissemination Agent or the identity of the new Dissemination Agent. In the absence of a separate Dissemination Agent, the Trustee shall assume and discharge all of the obligations as Dissemination Agent under this County Continuing Disclosure Agreement.

(b) The Dissemination Agent shall have only such duties as are specifically set forth in this County Continuing Disclosure Agreement.

(c) The Dissemination Agent, or any successor thereto, may at any time resign and be discharged of its duties and obligations hereunder by giving not less than thirty (30) days written notice to the County. Such resignation shall take effect on the date specified in such notice.

Section 2.6. Responsibilities and Duties of the Authority.

(a) Authority agrees that it will provide in a timely manner to the MSRB not in excess of ten (10) business days, notice of any of the following events with respect to the Series 2011 Bonds (each, a "Bond Disclosure Event"), and will provide a copy of such notice to the Trustee and the County, for informational purposes only:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves, reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements, reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Series 2011 Bonds, or other material events affecting the tax status of the Series 2011 Bonds;
- (vii) Modifications to rights of the holder of the Series 2011 Bonds, if material;
- (viii) Bond calls, if material and tender offers;
- (ix) Defeasances;

(x) Release, substitution, or sale of property securing repayment of the Series 2011 Bonds, if material; and

(xi) Rating changes;

(xii) Bankruptcy, insolvency, receivership or similar events of the County;

(xii) The consummation of a merger, consolidation or acquisition involving the County of the sale of all or substantially all of the assets of the County, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action of the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

(xiv) Appointment of a successor or additional trustee or the change of name of trustee, if material.

(b) If the Authority has determined that the occurrence of a Bond Disclosure Event has occurred, the Authority shall promptly provide a notice of such occurrence to the MSRB (the "Bond Disclosure Event Notice") in electronic format together with identifying information as prescribed by the MSRB, in the form determined by the Authority; provided, that the Bond Disclosure Event Notice pertaining to the occurrence of a Bond Disclosure Event described in clauses 2.6(a)(viii) (Bond calls) or 2.6(a)(ix) (defeasances) need not be given under this subsection any earlier than the time when the notice (if any) of such Bond Disclosure Event shall be given to Series 2011 Bondholders of affected Bonds as provided in the Bond Resolution. The obligations of the Authority to provide the notices required under this Continuing Disclosure Agreement are in addition to, and not in substitution of, any of the obligations (if any) of the Trustee to provide notices of events of default to Series 2011 Bondholders under said Bond Resolution. The Authority shall file a copy of each Bond Disclosure Event Notice with the Trustee and the County, for informational purposes only.

#### Section 2.7. Immunities and Liabilities of the Trustee.

Article X of the Bond Resolution, relating to compensation, reimbursement, immunities and liabilities of the Trustee, is hereby made applicable to its and the Dissemination Agent's responsibilities under this County Continuing Disclosure Agreement. The immunities and liabilities of the Trustee and Dissemination Agent shall survive the termination of the Bond Resolution, as amended and supplemented and the removal or resignation of the Trustee or the Dissemination Agent. The Trustee shall have no obligation hereunder to provide, or to monitor the Authority's obligation to provide, Bond Disclosure Event Notices.

## ARTICLE 3

### REMEDIES [Subject to Bond Resolution]

#### Section 3.1 Remedies.

(a) The Trustee may (and at the request of the Holders of at least twenty-five percent (25%) in aggregate principal amount of outstanding the Series 2011 Bonds, and after provision of indemnity in accordance with Section 10.03 of the Bond Resolution, shall), or any Bondholder, for the equal benefit and protection of all Bondholders similarly situated, may take whatever action at law or in equity against the County and the Authority and any of their respective officers, agents and employees which is necessary or desirable to enforce the specific performance and observance of any obligation, agreement or covenant of the County and the Authority under this County Continuing Disclosure Agreement and may compel the County or the Authority or any of their respective officers, agents or employees (except for the Dissemination Agent with respect to the obligations, agreements and covenants of the County), to perform and carry out their duties under this County Continuing Disclosure Agreement; provided, that no person or entity shall be entitled to recover monetary damages hereunder under any circumstances; and provided further that any Bondholder, acting for the equal benefit and protection of all Bondholders similarly situated, may pursue specific performance only with respect to the failure to file the Annual Reports and Bond Disclosure Event Notices required by this County Continuing Disclosure Agreement, and may not pursue specific performance in challenging the adequacy of Annual Reports which have been filed pursuant to the provisions hereof.

(b) In case the Trustee or any Bondholder shall have proceeded to enforce its rights under this County Continuing Disclosure Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or any Bondholder, as the case may be, then and in every such case the County, the Authority, the Trustee and any Bondholder, as the case may be, shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the County, the Authority, the Trustee and any Bondholder shall continue as though no such proceeding had been taken.

(c) A failure by the Authority or the County to perform their respective obligations under this County Continuing Disclosure Agreement shall not be deemed an event of default under any other agreement entered into in connection with the issuance of the Series 2011 Bonds or the Bond Resolution, and the sole remedy under this County Continuing Disclosure Agreement in the event of any failure by the Authority or the County to comply with this County Continuing Disclosure Agreement shall be as set forth in subsection 3.1(a) of this County Continuing Disclosure Agreement.

## ARTICLE 4

### MISCELLANEOUS

Section 4.1. Purposes of this County Continuing Disclosure Agreement. This County Continuing Disclosure Agreement is being executed and delivered by the County, the Trustee and the Authority for the benefit of the Bondholders and in order to assist the Participating Underwriter in complying with clause (b)(5) of Rule 15c2-12.

Section 4.2. The Authority and the Bondholders.

(a) The Authority may enforce any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee or the Holders of the Series 2011 Bonds.

(b) Each Bondholder is hereby recognized as being a third-party beneficiary hereunder and each may enforce, for the equal benefit and protection of all Bondholders similarly situated, any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee, to the extent permitted in Section 3.1(a) hereof.

Section 4.3. Obligations of the Authority Hereunder; Indemnified Parties. Neither the Authority nor any member, official, employee, counsel, consultant or agent of the Authority or any person executing the Series 2011 Bonds shall bear any obligation for the performance of any duty, agreement or covenant of the County or the Trustee under this County Continuing Disclosure Agreement. The obligations of the Authority under this County Continuing Disclosure Agreement are expressly limited to the duties set forth in Sections 2.6, 4.9(c) and 4.12 herein.

The County agrees to indemnify and hold harmless the Authority, any member, officer, official, employee, counsel (including, without limitation, Bond Counsel to the Authority), consultant and agent of the Authority, including the Trustee and the Dissemination Agent and any of their members, officers or employees or agents or any purchaser of the Series 2011 Bonds (collectively, the "Indemnified Parties"), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by the County's failure to perform or observe any of the County's obligations, agreements or covenants under the terms of this County Continuing Disclosure Agreement, but only if and insofar as such losses, claims, damages, liabilities or expenses are caused directly or indirectly by any such failure of the County to perform. In case any action shall be brought against the Indemnified Parties based upon this County Continuing Disclosure Agreement and in respect of which indemnity may be sought against the County, the Indemnified Parties shall promptly notify the County in writing. Upon receipt of such notification, the County shall promptly assume the defense of such action, including the retention of counsel, the payment of all expenses in connection with such action and the right to negotiate and settle any such action on behalf of such party to the extent allowed by law. Any Indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such

Indemnified Party unless the employment of such counsel has been specifically authorized by the County, or unless by reason of conflict of interest determined by the written opinion of counsel to any such party, it is advisable for such party to be represented by separate counsel, to be retained by the County, in which case the fees and expenses of such separate counsel shall be borne by the County. The County shall not be liable for any settlement of any such action effected without its written consent, but if settled with the written consent of the County or if there be a final judgment for the plaintiff in any such action with or without written consent, the County agrees to indemnify and hold harmless the Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Nothing in this paragraph shall require or obligate the County to indemnify or hold harmless the Indemnified Parties from or against any loss, claim, damage, liability or expense caused by any negligence, recklessness or intentional misconduct of the Indemnified Parties in connection with the County's performance of its obligations, agreements and covenants under this County Continuing Disclosure Agreement. The provisions of this section shall survive the termination of this County Continuing Disclosure Agreement and the removal or resignation of the Trustee.

Section 4.4. Additional Information. Nothing in this County Continuing Disclosure Agreement shall be deemed to prevent the County or the Authority (a) from disseminating any other information, using the means of dissemination set forth in this County Continuing Disclosure Agreement or any other means of communication, or (b) including, in addition to that which is required by this County Continuing Disclosure Agreement, in the case of the County, any other information in any Annual Report and in the case of the Authority, any other information in any Bond Disclosure Event Notice. If the County chooses to include any information in any Annual Report or if the Authority chooses to include any information in any Bond Disclosure Event Notice, in addition to that which is specifically required by this County Continuing Disclosure Agreement, neither the County nor the Authority shall have any obligation under this County Continuing Disclosure Agreement to update such information or include it in any future Annual Report or Bond Disclosure Event Notice, as the case may be.

Section 4.5. Notices. All notices required to be given or authorized to be given by each party pursuant to this County Continuing Disclosure Agreement shall be in writing and shall be sent by registered or certified mail (as well as by facsimile), addressed to: in the case of the County, One Spring Street, Newton, New Jersey (attention: County Treasurer); in the case of the Trustee, U.S. Bank National Association, 21 South Street, 3rd Floor, Morristown, New Jersey 07960, Attention Paul O'Brien, with a copy to Nicholas A. Concilio, Esq., McElroy, Deutsch, Mulvaney & Carpenter, LLP, 1300 Mt. Kemble Avenue, P.O. Box 2075, Morristown, NJ 07962-2075, Email: nconcilio@mdmc-law.com; and in the case of the Authority, the Morris County Improvement Authority, P.O. Box 900, Morristown, NJ 07963-0900 (attention: Chairman), with a copy to Stephen B. Pearlman, Esq., of Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, NJ 07054. In addition, all notices sent to the County shall also be sent to the County's auditor and bond counsel.

Section 4.6. Assignments. This County Continuing Disclosure Agreement may not be assigned by any party without the consent of the others and, as a condition to any such

assignment, only upon the assumption in writing of all of the obligations imposed upon such party by this County Continuing Disclosure Agreement.

Section 4.7. Severability. If any provision of this County Continuing Disclosure Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 4.8. Execution of Counterparts. This County Continuing Disclosure Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Each party hereto may sign the same counterpart or each party hereto may sign a separate counterpart.

Section 4.9. Amendments, Changes and Modifications.

(a) Except as otherwise provided in this County Continuing Disclosure Agreement, subsequent to the initial issuance of the Series 2011 Bonds and prior to their payment in full (or provision for payment thereof having been made in accordance with the provisions of the Bond Resolution), this County Continuing Disclosure Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto.

(b) Without the consent of any Bondholders, the County, the Trustee and the Authority at any time and from time to time may enter into any amendments or modifications to this County Continuing Disclosure Agreement for any of the following purposes:

(i) to add to covenants and agreements of the County or the Authority hereunder for the benefit of the Bondholders, or to surrender any right or power conferred upon the County or the Authority by this County Continuing Disclosure Agreement;

(ii) to modify the contents, presentation and format of the Annual Report from time to time to conform to changes in accounting or disclosure principles or practices and legal requirements followed by or applicable to the County or to reflect changes in the identity, nature or status of the County or in the business, structure or operations of the County or any mergers, consolidations, acquisitions or dispositions made by or affecting the County; provided that any such modification shall not be in contravention of Rule 15c2-12 as then in effect at the time of such modification; or

(iii) to cure any ambiguity, to correct or supplement any provision hereof which may be inconsistent with any other provision hereof, or to include any other provisions with respect to matters or questions arising under this County Continuing Disclosure Agreement which, in each case, would have complied with the requirements of Rule 15c2-12 at the time of the primary offering, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances;

provided, that prior to approving any such amendment or modification an opinion of Bond Counsel to the Authority is delivered to the Trustee to the effect that such amendment or modification does not adversely affect the interests of the Holders of the Series 2011 Bonds in any material respect.

(c) Upon entering into any amendment or modification required or permitted by this County Continuing Disclosure Agreement which materially affects the interests of the Holders of the Series 2011 Bonds, the Authority shall deliver to the MSRB written notice of any such amendment or modification.

(d) The County, the Trustee and the Authority shall be entitled to rely conclusively upon a written opinion of Bond Counsel to the Authority to the effect that such amendments or modifications comply with the conditions and provisions of this Section 4.9.

Section 4.10. Amendments Required by Rule 15c2-12. The County, the Trustee and the Authority each recognize that the provisions of this County Continuing Disclosure Agreement are intended to enable the compliance with Rule 15c2-12. If, as a result of a change in Rule 15c2-12 or in the interpretation thereof or the promulgation of a successor rule, statute or regulation thereto, a change in this County Continuing Disclosure Agreement shall be permitted or necessary to assure continued compliance with Rule 15c2-12 and upon delivery of an opinion of Bond Counsel to the Authority to the effect that such amendments shall be permitted or necessary to assure continued compliance with Rule 15c2-12 as so amended or interpreted, then the County, the Trustee and the Authority shall amend this County Continuing Disclosure Agreement to comply with and be bound by any such amendment to this County Continuing Disclosure Agreement to the extent necessary or desirable to assure compliance with the provisions of Rule 15c2-12 and provide the written notice of such amendment as required by subsection 4.9(c) hereof.

Section 4.11. Governing Law. This County Continuing Disclosure Agreement shall be governed exclusively by and construed in accordance with the laws of the State and the laws of the United States, as applicable.

Section 4.12. Commencement and Termination of Continuing Disclosure Obligations. Except as otherwise provided herein, the obligations of the Authority, the County and the Trustee hereunder shall be in full force and effect from the date of issuance of the Series 2011 Bonds and shall continue in effect until the earlier of (i) the date the Series 2011 Bonds are no longer outstanding in accordance with the terms of the Bond Resolution or (ii) the County's obligations under the County Refunding Bond are no longer outstanding, and only after the Authority delivers written notice to such effect to the MSRB.

Section 4.13. Prior Undertakings. The County has not failed to comply in any material respect with any prior continuing disclosure undertaking made by the County, if any, in accordance with Rule 15c2-12.

Section 4.14. Binding Effect. This County Continuing Disclosure Agreement shall inure to the benefit of and shall be binding upon the County, the Trustee and the Authority and their respective successors and assigns.

IN WITNESS WHEREOF, the COUNTY OF SUSSEX, U.S. BANK NATIONAL ASSOCIATION and the MORRIS COUNTY IMPROVEMENT AUTHORITY have caused this County Continuing Disclosure Agreement to be executed in their respective names and their corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

[SEAL]

ATTEST:

COUNTY OF SUSEX, NEW JERSEY

\_\_\_\_\_  
Elaine A. Morgan  
Deputy Clerk of the Board of Freeholders

By: \_\_\_\_\_  
Richard Zeoli  
Freeholder Director

ATTEST:

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

\_\_\_\_\_

By: \_\_\_\_\_

[SEAL]

ATTEST:

THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY

\_\_\_\_\_  
Ellen M. Sandman  
Secretary

By: \_\_\_\_\_  
John bonanni  
Chairman

**EXHIBIT A**

**EXCERPT OF FINAL OFFICIAL STATEMENT**

1. **Appendix A to the Final Official Statement.**  
[See Closing Item No.   ]
  
2. **Appendix B to the Final Official Statement.**  
[See Closing Item No.   ]

**EXHIBIT B**

**FORM OF NOTICE TO MSRB OF  
FAILURE TO FILE ANNUAL REPORT**

Name of Obligated Person: The County of Sussex

Name of Bond Issue: The Morris County Improvement Authority's  
County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011 ("Bonds")

Date of Issuance: Series 2011A Bonds: December \_\_, 2011  
Series 2011B Note: December \_\_, 2012

CUSIP Numbers:

**NOTICE IS HEREBY GIVEN** that the County of Sussex (the "County") has not provided an Annual Report with respect to the above-named Bonds as required by the "Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 among the County, U.S. Bank National Association, as Trustee, and the Morris County Improvement Authority. [The County anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_

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**COMPANY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)**

**among**

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**and**

**U.S. BANK NATIONAL ASSOCIATION, as Trustee**

**and**

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

**Dated as of December 1, 2011**

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with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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**COMPANY CONTINUING DISCLOSURE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011)**

THIS COMPANY CONTINUING DISCLOSURE AGREEMENT (SUSSEX COUNTY RENEWABLE ENERGY PROGRAM, SERIES 2011) (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "*Company Continuing Disclosure Agreement*") is made and entered into as of December 1, 2011 by and among SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a limited liability company organized and existing under the laws of the State of New Jersey (the "State") (including any successors and assigns, the "*Company*"), U.S. BANK NATIONAL ASSOCIATION (the "*Bank*"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State, where the Bank acts as trustee under and pursuant to the hereinafter defined Bond Resolution (including any successors and assigns, the "*Trustee*"); and the MORRIS COUNTY IMPROVEMENT AUTHORITY, a public body corporate and politic duly created and validly existing under the laws of the State (including any successors and assigns, the "*Authority*").

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**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the

Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated their date of delivery (the "*Series*

2011A Bonds”) the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the “Series 2011A Bonds”), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)” (the “Series 2011B Note, and together with the Series 2011A Bonds, “Series 2011 Bonds”), by the same sale method as the Series 2011A Bonds;

**WHEREAS**, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year’s worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*”);

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the “Bonds”) shall be issued pursuant to the terms of that certain “RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY” adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the “Bond Resolution”), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a “Local Unit License Agreement”, and collectively, the “Local Unit License Agreements”) with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the “Local Unit License”), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the

Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the “*Company Proposal*”) submitted with respect to Sunlight General Sussex Solar, LLC (the “*Company*”), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Company Lease Agreement*”) between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units’ Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its

terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement and the

hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

**WHEREAS**, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "*County*

*Security*”) to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the “*County Security Provider*”), all to secure, in part, the County’s payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds); the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the “*County Security Agreement*”) among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

**WHEREAS**, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

**WHEREAS**, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the “*EPC Contractor*”), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated [December \_\_], 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the “*EPC Contract*”) between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the “*In-Kind Equity Contribution*”) until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease Payment Date (the “*Cash Equity Contribution*”) which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the *In-Kind Equity Contribution*, together with the Cash Equity Contribution shall be known as the “*Equity Contribution*”), (ii) a cash reserve in the amount of \$1,500,000 (the “*County Reserve*”) to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution),

which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty:

**WHEREAS**, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above (i) reduce the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

**WHEREAS**, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic lease Payments;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

**WHEREAS**, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure

Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "*County Documents*") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i): the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*"); and (ii) the execution and delivery of a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*", and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "*Sale Documents*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the “Sussex County Board of Freeholders”) and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the “*Program Documents*”), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE**, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

#### SECTION 1.1. Definitions.

The following additional terms shall have the meanings specified below:

“Annual Report” means Financial Statements and Operating Data provided at least annually with respect to the Company.

“Bondholder” or “Holder” or any similar term, when used with reference to the Series 2011 Bonds, means any person who shall be the registered owner of any outstanding the Series 2011 Bonds, including holders of beneficial interests in the Series 2011 Bonds.

“Bond Disclosure Event” means any event described in subsection 2.6(a) of this Company Continuing Disclosure Agreement.

“Bond Disclosure Event Notice” means the notice to the MSRB as provided in subsection 2.6(b) of this Company Continuing Disclosure Agreement.

“Dissemination Agent” means an entity acting in its capacity as Dissemination Agent under this Company Continuing Disclosure Agreement, or any successor Dissemination Agent designated in writing by the Company and which has filed a written acceptance of such designation.

“Final Official Statement” means the Official Statement relating to the Series 2011A Bonds dated December 14, 2011.

“Financial Statements” means the audited financial statements of the Company for each Fiscal Year and includes balance sheets, statements of changes in fund balances and statements of current funds, revenues, expenditures and other charges or statements which convey similar information.

“Fiscal Year” means the fiscal year of the Company as determined by the Company from time to time pursuant to State law. As of the date of this Company Continuing Disclosure Agreement, the Fiscal Year of the Company begins on January 1 of each calendar year and closes on the following December 31.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States of America, consistently applied.

“GAAS” means generally accepted auditing standards as in effect from time to time in the United States of America, consistently applied.

“MSRB” means the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to Rule 15c2-12. Effective August 1, 2009 and until otherwise designated by the MSRB or the SEC, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) website of the MSRB, currently located at <http://emma.msrb.org>.

“Operating Data” means certain financial and statistical information of the Company, which for purposes of this Company Continuing Disclosure Agreement shall include the financial and statistical information in Appendix C to the Final Official Statement, if any, a copy of which is attached hereto as Exhibit A.

“SEC” means the Securities and Exchange Commission.

Notwithstanding anything contained herein to the contrary, the following defined terms may be amended or supplemented in accordance with the provisions of Section 4.6 and 4.7 of the Power Purchase Agreement, and to the extent the Power Purchase Agreement is amended for such purpose, such following defined terms shall automatically (without any further action) be amended and supplemented for all purposes hereof: Capital Improvement Projects, Local Unit Facilities, Projects, Renewable Energy Projects, and Series 2011 Local Units.

Section 1.3. Interpretation. Words of masculine gender include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular include the plural and vice versa, and words importing Persons include corporations, associations, partnerships (including limited partnerships), trusts, firms and other legal entities, including public bodies, as well as natural persons. Articles and Sections referred to by number mean the corresponding Articles and Sections of this Company Continuing Disclosure Agreement. The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms as used in this Company Continuing Disclosure Agreement, refer to this Company Continuing Disclosure Agreement as a whole unless otherwise expressly stated.

The headings of this Company Continuing Disclosure Agreement are for convenience only and shall not define or limit the provisions hereof.

## ARTICLE 2

### CONTINUING DISCLOSURE COVENANTS AND REPRESENTATIONS

Section 2.1. Continuing Disclosure Covenants of the Company. The Company agrees that it will provide, or, if the Company has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to provide:

(a) Not later than two hundred twenty-five (225) days after the end of each Fiscal Year, commencing with the Fiscal Year of the Company ending after December 31, 2011, an Annual Report to the MSRB via electronic format (accompanied by such identifying information as is prescribed by the MSRB) and to the Authority; provided that the Financial Statements of the Company may be submitted separately from the balance of the Annual Report and later than the date required herein for the filing of the Annual Report if the Financial Statements of the Company are not available by that date, but only if the unaudited financial statements of the Company are included in the Annual Report; and

(b) Not later than fifteen (15) days prior to the date of each year specified in subsection 2.1(a), a copy of the Annual Report, complete to the extent required in Section 2.1(a), to the Trustee and the Dissemination Agent, if the Company has appointed or engaged a Dissemination Agent.

Section 2.2. Continuing Disclosure Representations of the Company. The Company represents and warrants that:

(a) Financial Statements shall be prepared according to GAAP.

(b) Financial Statements shall be audited by an independent certified public accountant or a registered municipal accountant or such other accountant as shall be permitted or required under State law in accordance with GAAS.

Section 2.3. Form of Annual Report. (a) The Annual Report may be submitted by the Company, or on behalf thereof, as a single document or as separate documents comprising a package.

(b) Any or all of the items which must be included in the Annual Report may be incorporated by reference from other documents, including official statements delivered in connection with other financings issued on behalf of the Company or related public entities thereof which have been made available to the public on the MSRB's website or filed with the SEC. If the document incorporated by reference is a final official statement, it must be available from the MSRB. The Company shall clearly identify each such other document so incorporated by reference.

(c) The Annual Report for any Fiscal Year containing any modified operating data or financial information (as contemplated by Sections 4.9 and 4.10 hereof) for such Fiscal Year

shall explain, in narrative form, the reasons for such modification and the effect of such modification on the Annual Report being provided for such Fiscal Year.

Section 2.4. Responsibilities and Duties of the Authority, the Company, the Dissemination Agent and the Trustee.

(a) If fifteen (15) days prior to the date specified in subsection 2.1(a), the Trustee has not received a copy of the Annual Report, complete to the extent required in Section 2.1(a), the Trustee shall notify the Company in writing to provide notice of the Company's obligations pursuant to Sections 2.1(a), 2.1(b) and 2.4(c) hereof.

(b) If the Trustee, by the date specified in subsection 2.1(a) herein, has not received a written report from the Company, as required by Section 2.4(c) hereof, indicating that an Annual Report, complete to the extent required in Section 2.1(a), been provided to the MSRB and to the Authority by the date specified in subsection 2.1(a), the Trustee shall send a notice to the MSRB, in electronic format, substantially in the form attached hereto as Exhibit B, together with identifying information as prescribed by the MSRB, with a copy thereof to the Authority and the Company.

(c) The Company shall, or, if the Company has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to, by the date specified in subsection 2.1(a) herein, provide a written report to the Authority and the Trustee (and, if a Dissemination Agent has been appointed, to the Company), upon which said parties may rely, certifying that the Annual Report, complete to the extent required in Section 2.1(a), has been provided pursuant to this Continuing Disclosure Agreement, and stating the date that it was provided to the MSRB.

(d) If the Fiscal Year of the Company changes, the Company shall promptly notify, in writing, the Authority and the Trustee, and shall disclose such change in its next Annual Report.

Section 2.5. Appointment, Removal and Resignation of the Dissemination Agent.

(a) The Company may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Company Continuing Disclosure Agreement and shall provide notice of such appointment to the Trustee and the Authority. Thereafter, the Company may discharge any such Dissemination Agent and satisfy its obligations under this Company Continuing Disclosure Agreement without the assistance of a Dissemination Agent, or the Company may discharge a Dissemination Agent and appoint a successor Dissemination Agent, such discharge to be effective on the date of the appointment of a successor Dissemination Agent. The Company shall provide notice of the discharge of a Dissemination Agent to the Trustee and the Authority and shall further indicate either the decision of the Company to satisfy its obligations under this Company Continuing Disclosure Agreement without the assistance of a Dissemination Agent or the identity of the new Dissemination Agent. In the absence of a separate Dissemination Agent, the Trustee shall assume and discharge all of the obligations as Dissemination Agent under this Company Continuing Disclosure Agreement.

(b) The Dissemination Agent shall have only such duties as are specifically set forth in this Company Continuing Disclosure Agreement.

(c) The Dissemination Agent, or any successor thereto, may at any time resign and be discharged of its duties and obligations hereunder by giving not less than thirty (30) days written notice to the Company. Such resignation shall take effect on the date specified in such notice.

Section 2.6. Responsibilities and Duties of the Authority.

(a) Authority agrees that it will provide in a timely manner to the MSRB not in excess of ten (10) business days, notice of any of the following events with respect to the Series 2011 Bonds (each, a "Bond Disclosure Event"), and will provide a copy of such notice to the Trustee and the Company, for informational purposes only:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves, reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements, reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Series 2011 Bonds, or other material events affecting the tax status of the Series 2011 Bonds;
- (vii) Modifications to rights of the holder of the Series 2011 Bonds, if material;
- (viii) Bond calls, if material and tender offers;
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Series 2011 Bonds, if material; and
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar events of the Company;

(xii) The consummation of a merger, consolidation or acquisition involving the Company of the sale of all or substantially all of the assets of the Company, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action of the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

(xiv) Appointment of a successor or additional trustee or the change of name of trustee, if material.

(b) If the Authority has determined that the occurrence of a Bond Disclosure Event has occurred, the Authority shall promptly provide a notice of such occurrence to the MSRB (the "Bond Disclosure Event Notice") in electronic format together with identifying information as prescribed by the MSRB, in the form determined by the Authority; provided, that the Bond Disclosure Event Notice pertaining to the occurrence of a Bond Disclosure Event described in clauses 2.6(a)(viii) (Bond calls) or 2.6(a)(ix) (defeasances) need not be given under this subsection any earlier than the time when the notice (if any) of such Bond Disclosure Event shall be given to Series 2011 Bondholders of affected Bonds as provided in Section 4.05, Article XII and other related sections of the Bond Resolution. The obligations of the Authority to provide the notices required under this Continuing Disclosure Agreement are in addition to, and not in substitution of, any of the obligations (if any) of the Trustee to provide notices of events of default to Series 2011 Bondholders under said Section 4.05, Article XII and other related sections of the Bond Resolution. The Authority shall file a copy of each Bond Disclosure Event Notice with the Trustee and the Company, for informational purposes only.

#### Section 2.7. Immunities and Liabilities of the Trustee.

Article X of the Bond Resolution, relating to compensation, reimbursement, immunities and liabilities of the Trustee, is hereby made applicable to its and the Dissemination Agent's responsibilities under this Company Continuing Disclosure Agreement. The immunities and liabilities of the Trustee and Dissemination Agent shall survive the termination of the Bond Resolution, as amended and supplemented and the removal or resignation of the Trustee or the Dissemination Agent. The Trustee shall have no obligation hereunder to provide, or to monitor the Authority's obligation to provide, Bond Disclosure Event Notices.

## ARTICLE 3

### REMEDIES

#### Section 3.1 Remedies.

(a) The Trustee may (and at the request of the Holders of at least twenty-five percent (25%) in aggregate principal amount of outstanding the Series 2011 Bonds, and after provision of indemnity in accordance with Section 10.03 of the Bond Resolution, shall), or any Bondholder, for the equal benefit and protection of all Bondholders similarly situated, may take whatever action at law or in equity against the Company and the Authority and any of their respective officers, agents and employees which is necessary or desirable to enforce the specific performance and observance of any obligation, agreement or covenant of the Company and the Authority under this Company Continuing Disclosure Agreement and may compel the Company or the Authority or any of their respective officers, agents or employees (except for the Dissemination Agent with respect to the obligations, agreements and covenants of the Company), to perform and carry out their duties under this Company Continuing Disclosure Agreement; provided, that no person or entity shall be entitled to recover monetary damages hereunder under any circumstances; and provided further that any Bondholder, acting for the equal benefit and protection of all Bondholders similarly situated, may pursue specific performance only with respect to the failure to file the Annual Reports and Bond Disclosure Event Notices required by this Company Continuing Disclosure Agreement, and may not pursue specific performance in challenging the adequacy of Annual Reports which have been filed pursuant to the provisions hereof.

(b) In case the Trustee or any Bondholder shall have proceeded to enforce its rights under this Company Continuing Disclosure Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or any Bondholder, as the case may be, then and in every such case the Company, the Authority, the Trustee and any Bondholder, as the case may be, shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Company, the Authority, the Trustee and any Bondholder shall continue as though no such proceeding had been taken.

(c) A failure by the Authority or the Company to perform their respective obligations under this Company Continuing Disclosure Agreement shall not be deemed an event of default under any other agreement entered into in connection with the issuance of the Series 2011 Bonds or the Bond Resolution, and the sole remedy under this Company Continuing Disclosure Agreement in the event of any failure by the Authority or the Company to comply with this Company Continuing Disclosure Agreement shall be as set forth in subsection 3.1(a) of this Company Continuing Disclosure Agreement.

## ARTICLE 4

### MISCELLANEOUS

Section 4.1. Purposes of this Company Continuing Disclosure Agreement. This Company Continuing Disclosure Agreement is being executed and delivered by the Company, the Trustee and the Authority for the benefit of the Bondholders and in order to assist the Underwriter in complying with clause (b)(5) of Rule 15c2-12.

Section 4.2. The Authority and the Bondholders.

(a) The Authority may enforce any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee or the Holders of the Series 2011 Bonds.

(b) Each Bondholder is hereby recognized as being a third-party beneficiary hereunder and each may enforce, for the equal benefit and protection of all Bondholders similarly situated, any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee, to the extent permitted in Section 3.1(a) hereof.

Section 4.3. Obligations of the Authority Hereunder; Indemnified Parties. Neither the Authority nor any member, official, employee, counsel, consultant or agent of the Authority or any person executing the Series 2011 Bonds shall bear any obligation for the performance of any duty, agreement or covenant of the Company or the Trustee under this Company Continuing Disclosure Agreement. The obligations of the Authority under this Company Continuing Disclosure Agreement are expressly limited to the duties set forth in Sections 2.6, 4.9(c) and 4.12 herein.

The Company agrees to indemnify and hold harmless the Authority, any member, officer, official, employee, counsel (including, without limitation, Bond Counsel to the Authority), consultant and agent of the Authority, including the Trustee and the Dissemination Agent and any of their members, officers or employees or agents or any purchaser of the Series 2011 Bonds (collectively, the "Indemnified Parties"), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by the Company's failure to perform or observe any of the Company's obligations, agreements or covenants under the terms of this Company Continuing Disclosure Agreement, but only if and insofar as such losses, claims, damages, liabilities or expenses are caused directly or indirectly by any such failure of the Company to perform. In case any action shall be brought against the Indemnified Parties based upon this Company Continuing Disclosure Agreement and in respect of which indemnity may be sought against the Company, the Indemnified Parties shall promptly notify the Company in writing. Upon receipt of such notification, the Company shall promptly assume the defense of such action, including the retention of counsel, the payment of all expenses in connection with such action and the right to negotiate and settle any such action on behalf of such party to the extent allowed by law. Any Indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless the employment of such counsel has been specifically

authorized by the Company, or unless by reason of conflict of interest determined by the written opinion of counsel to any such party, it is advisable for such party to be represented by separate counsel, to be retained by the Company, in which case the fees and expenses of such separate counsel shall be borne by the Company. The Company shall not be liable for any settlement of any such action effected without its written consent, but if settled with the written consent of the Company or if there be a final judgment for the plaintiff in any such action with or without written consent, the Company agrees to indemnify and hold harmless the Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Nothing in this paragraph shall require or obligate the Company to indemnify or hold harmless the Indemnified Parties from or against any loss, claim, damage, liability or expense caused by any negligence, recklessness or intentional misconduct of the Indemnified Parties in connection with the Company's performance of its obligations, agreements and covenants under this Company Continuing Disclosure Agreement. The provisions of this section shall survive the termination of this Company Continuing Disclosure Agreement and the removal or resignation of the Trustee.

Section 4.4. Additional Information. Nothing in this Company Continuing Disclosure Agreement shall be deemed to prevent the Company or the Authority (a) from disseminating any other information, using the means of dissemination set forth in this Company Continuing Disclosure Agreement or any other means of communication, or (b) including, in addition to that which is required by this Company Continuing Disclosure Agreement, in the case of the Company, any other information in any Annual Report and in the case of the Authority, any other information in any Bond Disclosure Event Notice. If the Company chooses to include any information in any Annual Report or if the Authority chooses to include any information in any Bond Disclosure Event Notice, in addition to that which is specifically required by this Company Continuing Disclosure Agreement, neither the Company nor the Authority shall have any obligation under this Company Continuing Disclosure Agreement to update such information or include it in any future Annual Report or Bond Disclosure Event Notice, as the case may be.

Section 4.5. Notices. All notices required to be given or authorized to be given by each party pursuant to this Company Continuing Disclosure Agreement shall be in writing and shall be sent by registered or certified mail (as well as by facsimile), addressed to: in the case of the Company, c/o Sunlight General Sussex Solar, LLC, 501 Fifth Avenue, Suite 602, New York, NY 10017, Attention : Stacey L. Hughes, with a copy to: James F. Duffy, Esq., Nixon Peabody, LLP, 100 Summer Street, Boston, MA 02110-2131; in the case of the Trustee, U.S. Bank National Association, 21 South Street, 3rd Floor, Morristown, New Jersey 07960, Attention Paul O'Brien; Nicholas A. Concilio, Esq., McElroy, Deutsch, Mulvaney & Carpenter, LLP, 1300 Mt. Kemble Avenue, P.O. Box 2075, Morristown, NJ 07962-2075, Email: nconcilio@mdmc-law.com and in the case of the Authority, the Morris County Improvement Authority, P.O. Box 900, Morristown, NJ 07963-0900 (attention: Chairman), with a copy to Stephen B. Pearlman, Esq., of Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, NJ 07054. In addition, all notices sent to the Company shall also be sent to the Company's auditor and bond counsel.

Section 4.6. Assignments. This Company Continuing Disclosure Agreement may not be assigned by any party without the consent of the others and, as a condition to any such assignment, only upon the assumption in writing of all of the obligations imposed upon such party by this Company Continuing Disclosure Agreement.

Section 4.7. Severability. If any provision of this Company Continuing Disclosure Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 4.8. Execution of Counterparts. This Company Continuing Disclosure Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Each party hereto may sign the same counterpart or each party hereto may sign a separate counterpart.

Section 4.9. Amendments, Changes and Modifications.

(a) Except as otherwise provided in this Company Continuing Disclosure Agreement, subsequent to the initial issuance of the Series 2011 Bonds and prior to their payment in full (or provision for payment thereof having been made in accordance with the provisions of the Bond Resolution), this Company Continuing Disclosure Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto.

(b) Without the consent of any Bondholders, the Company, the Trustee and the Authority at any time and from time to time may enter into any amendments or modifications to this Company Continuing Disclosure Agreement for any of the following purposes:

(i) to add to covenants and agreements of the Company or the Authority hereunder for the benefit of the Bondholders, or to surrender any right or power conferred upon the Company or the Authority by this Company Continuing Disclosure Agreement;

(ii) to modify the contents, presentation and format of the Annual Report from time to time to conform to changes in accounting or disclosure principles or practices and legal requirements followed by or applicable to the Company or to reflect changes in the identity, nature or status of the Company or in the business, structure or operations of the Company or any mergers, consolidations, acquisitions or dispositions made by or affecting the Company; provided that any such modification shall not be in contravention of Rule 15c2-12 as then in effect at the time of such modification; or

(iii) to cure any ambiguity, to correct or supplement any provision hereof which may be inconsistent with any other provision hereof, or to include any other provisions with respect to matters or questions arising under this Company Continuing Disclosure Agreement which, in each case, would have complied with the requirements of Rule 15c2-12 at the time of the primary offering, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances;

provided, that prior to approving any such amendment or modification an opinion of Bond Counsel to the Authority is delivered to the Trustee to the effect that such amendment or modification does not adversely affect the interests of the Holders of the Series 2011 Bonds in any material respect.

(c) Upon entering into any amendment or modification required or permitted by this Company Continuing Disclosure Agreement which materially affects the interests of the Holders of the Series 2011 Bonds, the Authority shall deliver to the MSRB written notice of any such amendment or modification.

(d) The Company, the Trustee and the Authority shall be entitled to rely conclusively upon a written opinion of Bond Counsel to the Authority to the effect that such amendments or modifications comply with the conditions and provisions of this Section 4.9.

Section 4.10. Amendments Required by Rule 15c2-12. The Company, the Trustee and the Authority each recognize that the provisions of this Company Continuing Disclosure Agreement are intended to enable the compliance with Rule 15c2-12. If, as a result of a change in Rule 15c2-12 or in the interpretation thereof or the promulgation of a successor rule, statute or regulation thereto, a change in this Company Continuing Disclosure Agreement shall be permitted or necessary to assure continued compliance with Rule 15c2-12 and upon delivery of an opinion of Bond Counsel to the Authority to the effect that such amendments shall be permitted or necessary to assure continued compliance with Rule 15c2-12 as so amended or interpreted, then the Company, the Trustee and the Authority shall amend this Company Continuing Disclosure Agreement to comply with and be bound by any such amendment to this Company Continuing Disclosure Agreement to the extent necessary or desirable to assure compliance with the provisions of Rule 15c2-12 and provide the written notice of such amendment as required by subsection 4.9(c) hereof.

Section 4.11. Governing Law. This Company Continuing Disclosure Agreement shall be governed exclusively by and construed in accordance with the laws of the State and the laws of the United States, as applicable.

Section 4.12. Commencement and Termination of Continuing Disclosure Obligations. Except as otherwise provided herein, the obligations of the Authority, the Company and the Trustee hereunder shall be in full force and effect from the date of issuance of the Series 2011 Bonds and shall continue in effect until the earlier of (i) the date the Series 2011 Bonds are no longer outstanding in accordance with the terms of the Bond Resolution or (ii) the Company's obligations under the Series 2011 Bonds are no longer outstanding, and only after the Authority delivers written notice to such effect to the MSRB.

Section 4.13. Prior Undertakings. The Company has not failed to comply in any material respect with any prior continuing disclosure undertaking made by the Company, if any, in accordance with Rule 15c2-12.

Section 4.14. Binding Effect. This Company Continuing Disclosure Agreement shall inure to the benefit of and shall be binding upon the Company, the Trustee and the Authority and their respective successors and assigns.

IN WITNESS WHEREOF, SUNLIGHT GENERAL SUSSEX SOLAR, LLC, U.S. BANK NATIONAL ASSOCIATION and the MORRIS COUNTY IMPROVEMENT AUTHORITY have caused this Company Continuing Disclosure Agreement to be executed in their respective names and their corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

[ATTEST]

BY: \_\_\_\_\_  
Name:  
Title:

ATTEST:

\_\_\_\_\_

[SEAL]

ATTEST:

\_\_\_\_\_  
Ellen M. Sandman  
Secretary

SUNLIGHT GENERAL SUSSEX  
SOLAR, LLC

By: Sunlight General Capital  
Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

U.S. BANK NATIONAL  
ASSOCIATION,  
as Trustee

By: \_\_\_\_\_

THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY

By: \_\_\_\_\_  
John Bonanni  
Chairperson

**EXHIBIT A**

**EXCERPT OF FINAL OFFICIAL STATEMENT**

1. **Section heading of the Final Official Statement entitled “THE COMPANY”.**  
[See Closing Item No. 21a]
  
2. **Appendix C to the Final Official Statement.**  
[See Closing Item No. 21a]

**EXHIBIT B**

**FORM OF NOTICE TO THE MSRB OF  
FAILURE TO FILE ANNUAL REPORT**

Name of Obligated Person: SUNLIGHT GENERAL SUSSEX SOLAR, LLC

Name of Bond Issue: The Morris County Improvement Authority's  
County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011 ("Bonds")

Date of Issuance: Series 2011A Bonds: December \_\_, 2011  
Series 2011B Note: December \_\_, 2011

CUSIP Numbers:

**NOTICE IS HEREBY GIVEN** that SUNLIGHT GENERAL SUSSEX SOLAR, LLC (the "Company") has not provided an Annual Report with respect to the above-named Bonds as required by the "Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 among the Company, U.S. Bank National Association, as Trustee, and the Morris County Improvement Authority. [The Company anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_

**Appendix G**



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# **Solar Proposal Evaluation Report**

**Morris County Improvement Authority  
Sussex County Renewable Energy Program,  
(County of Sussex Program) Series 2011  
Proposals of October 13, 2011**

**Prepared for  
Morris County Improvement Authority  
and Sussex County**

Prepared by:  
Sussex County Evaluation Team  
October 24, 2011

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## Attachments

Sussex Program Solar Savings Summary

ATT. 1

Evaluation Matrix	ATT. 2
Savings by Local Unit Facility	ATT. 3
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# **Morris County Improvement Authority Sussex County Renewable Energy Program (County of Sussex) Series 2011**

## **1. Executive Summary**

This Report is being provided pursuant to the requirements of the competitive contracting provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-4.1(k)), Public School Contracts Law, specifically, (N.J.S.A. 18A:18A-4.1(k)); Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services* (LFB Notice 2008-20); the Board of Public Utilities (BPU) protocol for measuring energy savings in PPA agreements (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines, Dated February 20, 2009*), and Local Finance Board Notice 2009-10, dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements* (LFB Notice 2009-10).

Attached is a Service Agreement ("Agreement"), regarding the Sussex County Renewable Energy Program, between the County of Sussex, New Jersey ("Sussex") and the Morris County Improvement Authority ("Authority"). The Agreement has been entered into pursuant to the interlocal services act and county improvement authority law. Pursuant to the Agreement, Sussex, which has not created its own county improvement authority, has determined to use the services of the Authority, which has developed and implemented a renewable energy program for Morris County, to develop and implement a renewable energy program for Sussex County. The Authority will act as the conduit for issuing bonds to finance the Sussex Renewable Energy Program and Sussex will provide the guaranty regarding the repayment of those bonds.

On September 8, 2011, the Authority issued a Request for Proposals (RFP), as amended, for a Power Purchase Agreement (PPA) for the design, acquisition, installation, tax ownership, commissioning, operation, and maintenance of solar systems (Solar Systems) to be located at certain county and local government facilities (Local Unit Facilities) across Sussex. Below is a complete list of all participating Local Units included in the RFP:

1. Byram Township School District
2. County of Sussex
3. Frankford Township Board of Education
4. Franklin Borough Board of Education
5. Fredon Township
6. Green Township Board of Education
7. Hardyston Board of Education
8. High Point Regional Board of Education

9. Kittatinny Regional School District
10. Lenape Valley Regional Board of Education
11. Newton Board of Education
12. Sussex County Technical School
13. Town of Newton

The goal of Sussex is to implement solar renewable energy projects that are environmentally responsible and economically beneficial to the County, its Local Units, and its citizens.

The Authority, on behalf of Sussex, intends to enter into a long-term (fifteen (15) year) PPA with the Successful Solar Respondent (Successful Respondent) to purchase solar electric power produced from installed renewable energy projects located at certain Local Unit Facilities for the Local Units identified above. Under a PPA, a developer designs and installs solar projects and the site energy user purchases the electricity produced at a fixed rate per kilowatt hour (kWh). A county or local government can only enter into a PPA if the PPA price is lower than the delivered cost of power from the local electric utility company. In a typical PPA, a Local Unit will, for a portion of its energy needs, save on its energy bills, and will be, to the greatest extent possible, insulated from energy market fluctuation, construction risks, operational risks, and financial risks.

Pursuant to the Agreement, Sussex has determined to use the professional services of the Consultants that administered the Morris County renewable energy program to provide those same services to Sussex in the development and implementation of its Renewable Energy program. The Sussex Evaluation Team (Evaluation Team) is comprised of: John Eskilson, Dennis McConnell and Bernard Re of Sussex; Steve Pearlman, Esq. and Deborah Verderame, Esq. of Inglesino, Pearlman, Wyciskala & Taylor, LLC; Tom Brys and Gerry Genna, of Birdsell Services Group; Douglas Bacher and Heather Litzebauer of NW Financial Group, LLC; and Steven Gabel, Richard Preiss and Cadence Bowden of Gabel Associates. The Evaluation Team assisted in developing and implementing the RFP, and administered the procurement process as well as a comprehensive evaluation of qualified proposals on the basis of price and non-price criteria.

This process was undertaken in accordance with competitive contracting provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-4.1(k)) and on behalf of the board of education Local Units, the Public Schools Contracts Law (N.J.S.A. 18A:18A-4.1(k)) of the State of New Jersey (the "State"), all pursuant to (i) Local Finance Board Notice 2008-20, December 3, 2008, Contracting for Renewable Energy Services, (ii) the Board of Public Utilities protocol for measuring energy savings in PPA agreements (Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines, Dated February 20, 2009), (iii) Local Finance Board Notice 2009-10 dated June 12, 2009, Contracting for Renewable Energy Services: Update on Power Purchase Agreements and applicable law.

Sussex received a proposal from one (1) Solar Respondent (Respondent): SunLight General Capital and Power Partners MasTec (SunLight/MasTec). In addition, shortly after the time for submission of proposals (i.e. 1:00 PM, Eastern time, October 13, 2011), a second Respondent arrived to submit a proposal. When informed that the submission period had closed and Sussex could not accept the second proposal, the second Respondent inquired as to the publicly announced PPA price submitted by SunLight/MasTec. When informed of the subject PPA price, the second Respondent indicated that their proposal was not competitive with the proposal of SunLight/MasTec, declined to leave their proposal and left.

The one (1) Respondent submitted the required RFP documents and, based on Phase I requirements (compliance with the minimum terms of the RFP), was deemed compliant. The SunLight/MasTec proposal, therefore, qualified to be further evaluated under Phase II (technical and economic evaluation) requirements. The Evaluation Team has undertaken an economic and technical review of the proposals to evaluate them in accordance with established criteria under Phase II evaluation. The Evaluation Team considered and weighed the following:

- Financial benefits;
- Technical design;
- Project experience;
- Vendor qualifications; and,
- Financial strength.

The SunLight/MasTec team possesses high quality management, installation capabilities, and sound solar development experience. In addition, the SunLight/MasTec proposal provides Sussex benefits in the following key areas:

1. It provides substantial direct energy cost savings;
2. It provides the Local Units the potential for additional savings through the sharing of revenues from the sale of Solar Renewable Energy Certificates (SRECs) and other environmental benefits;
3. Due to SunLight/MasTec's proposed capital investment, which reduces the required size of the Authority bonds, it provides a strong level of protection for Sussex from financial risk;
4. It provided additional financial protection for Sussex in the form of a Debt Service Reserve Fund; and,
5. It includes a restoration security providing for additional Local Unit protection at the end of contract.

Over the fifteen (15) years of the PPA, the SunLight/MasTec proposal yields nominal benefits of \$5.6 million or net present value (NPV) benefits of \$4.0 million. These

benefits have been calculated under the conservative assumption that bond interest rates will be at 5.0%. The RFP also required Respondents to submit an adjustment factor to the PPA Price to account for a change in the bond rate from the assumed level of 5.0% to the actual bond issuance rate. Based upon SunLight's adjustment factor and the current expectation for the bond issuance rate (4.6%), the SunLight/MasTec proposal would yield nominal benefits of \$5.9 million or net present value (NPV) benefits of \$4.3 million.

The Respondent provided a financial structure limiting the financial risk to Sussex (as the guarantor of the bonds) and the mitigated risk to the Authority as the conduit bond issuer. By offering to self-finance a substantial portion of the overall cost of the renewable energy projects in the amount of \$7.6 million, the SunLight/MasTec proposal allows the Authority, on behalf of Sussex, to significantly reduce its bond size. The Authority's \$26 million in bonds will be combined with SunLight/MasTec's \$7.6 million self-financing to finance the total project cost (\$33.6 million). The SunLight/MasTec proposal also protects Sussex from the potential risk of reductions in the price of SRECs. Moreover, by self-financing a portion of the total cost of the project this protection has a very high degree of certainty. In addition, SunLight/MasTec proposed to post a \$1.5 million reserve, funded with an equity contribution from the company, to provide additional financial protection to Sussex.

The Evaluation Team recognizes the value of the financial provisions of the SunLight/MasTec proposal in terms of the protection of Sussex, its guaranty and its bond rating. The preservation of this bond rating provides future economic benefits to Sussex and its citizens and businesses by allowing Sussex, through the Authority, to borrow money at low interest rates due to its Aa2 rating. Accordingly, a high premium is placed on its protection. The financial protections of the SunLight/MasTec proposal, including a significant reduction in the size of the Authority bond amounts, on behalf of Sussex, provides a strong and distinguishing level of protection which, in combination with other factors considered, lead to the recommended selection.

The RFP reserves the right for Sussex to conduct interviews with qualified Respondents. After reviewing all aspects of the submitted proposals, in particular the savings in energy costs preferred by Sussex and as required under applicable law (see the details in Section 8(a) and as reflected in the Evaluation Matrix through Phase II), the Evaluation Team decided to conduct an interview with SunLight/MasTec to better understand their proposal. Based on the results of the Phase II and Phase III evaluation, the Evaluation Team recommends that the proposal of SunLight/MasTec be accepted (see **Attachment 2** for the Evaluation Matrix). The SunLight/MasTec proposal results in significant savings on energy costs for the participating Local Units, and strong financial protections for the Authority and Sussex.

Members of the Sussex Evaluation Team have significant experience in evaluating proposals from solar developers submitted in response to similarly structured solar renewable energy programs. That experience has been drawn upon in the evaluation of the SunLight/MasTec proposal. The scoring in the Evaluation Matrix (see

**Attachment 2)** identifies SunLight/MasTec as a well qualified Respondent providing great overall value to Sussex. SunLight/MasTec's proposal scored 94 out of 100 points.

Given that there was only one (1) proposal officially received (as mentioned above a second proposal (which was withdrawn) arrived after the closing time for submission of proposals and could not be accepted), the Evaluation Team considered the possibility of rejecting the SunLight proposal and rebidding the RFP. For the following reasons, the Evaluation Team recommended not to rebid the RFP:

1. A major element supporting the financing and pricing of solar projects is the ability of the solar developer to capture the Federal benefit of the 1603 Grant. Since the 1603 Grant expires at the end of calendar year 2011, the timing of the RFP process was such to allow the solar developer the opportunity to capture this benefit. The Evaluation Team judged that there was not sufficient time to rebid the RFP and provide this opportunity. Without the benefit of the 1603 Grant, the Evaluation Team believes there would be a negative impact on the proposal pricing.
2. The SREC market has experienced a significant downturn in pricing and an increase in volatility. Given the current SREC market, the Evaluation Team judged the pricing of the SunLight proposal to be consistent with that market.
3. SunLight/MasTec is known to be a quality solar team with a successful security structure as part of their proposals. They have been the successful solar team on several county renewable energy programs. As such, SunLight/MasTec is familiar with the documentation required to close and execute the transaction, which is critical to realizing the 1603 Grant.
4. The SunLight/MasTec proposal provides a significant level of energy cost savings for the Local Units, while providing Sussex with important financial protections through its equity contribution which reduces the amount of the bonds required to be issued and its debt service reserve fund, which taken together virtually eliminate the potential for a Sussex deficiency should SunLight/MasTec default.

**Accordingly, the Evaluation Team recommends that the Authority select SunLight/MasTec as the Successful Respondent, subject to clarification of the SREC sharing issue discussed in Section 12, page 28.**

The evaluation of "price and non-price" factors allowed by law permits and supports this recommendation.

SunLight/MasTec has proposed to install and operate solar systems at seventeen Local Unit Facilities. The basic terms and benefits of the SunLight/MasTec proposal are as follows:

1. A fifteen (15) year PPA, with a first year rate of \$0.099 per kWh and annual escalation of 3% which results in a final price of \$0.150 in Year 15.
2. A 6.678 MW solar system. This is expected to generate approximately 8.0 million kWh per year. The solar energy will serve approximately 46% of the combined load for all Local Unit Facilities (see **Attachment 4**) based, conservatively, on the guaranteed level of solar generation.
3. Based upon the PPA Price in the SunLight/MasTec proposal, participating Local Unit Facilities will realize, in aggregate, an annual energy cost savings of approximately \$280,000 in the first year and these savings are expected to grow to approximately \$488,000 in the last year of the PPA (see **Attachment 3**). When based upon a less conservative, current bond issuance rate, with an adjusted PPA Price, the participating Local Unit Facilities would realize, in aggregate, an annual energy cost savings of approximately \$301,000 in the first year and these savings are expected to grow to approximately \$516,000 in the last year of the PPA.
4. Based upon the PPA Price in the SunLight/MasTec proposal, over the fifteen year term of the PPA, the Local Units, in aggregate, will realize \$5.6 million in energy cost savings on a nominal basis (\$4.0 million on a NPV basis) (see **Attachment 5**). When based upon a less conservative, current bond issuance rate, with an adjusted PPA Price, over the fifteen year term of the PPA, the Local Units, in aggregate, would realize \$5.9 million in energy cost savings on a nominal basis (\$4.3 million on a NPV basis).
5. Participating Local Unit Facilities will realize an average rate reduction, for the portion of their electricity purchased through this program, of 28% relative to utility delivered power in the first year.
6. A significant reduction in the amount of Authority bonds required to fund the renewable energy projects, on behalf of Sussex, to an amount of approximately \$26.0 million; which creates significant financial security to Sussex and the Authority.
7. A \$1.5 million reserve fund, funded with an equity contribution from the company, provides additional financial protection to Sussex and the Authority.
8. A stable and known cost of electricity for fifteen years allows for budgetary certainty for the participating Local Units.
9. Potential use of the locally manufactured solar panels of MX Solar, a New Jersey based solar panel company.

10. Restoration Security of \$375,000 to provide additional protection to the Local Units that will be set aside to cover the cost of system removal at the end of the term if such option is selected.

11. Sharing of SREC revenue benefits.

12. An educational component including an educational program, with the ability to access operational data for the solar systems via a web enabled system.

The above benefits may be recalculated after the sale of the Authority bonds if materially different from the estimate in this report.

## 2. Overview of the Sussex County Renewable Energy Program

The following is a brief synopsis describing the Morris County Improvement Authority, Sussex County Renewable Energy Program, Series 2011 (Solar Initiative) as outlined in the RFP.

On September 8, 2011, the Authority issued a Request for Proposals (RFP), as amended, for a Power Purchase Agreement (PPA) for the design, acquisition, installation, tax ownership, commissioning, operation, and maintenance of solar systems (Solar Systems) to be located at certain county and local government facilities (Local Unit Facilities) across Sussex County (Sussex). See Section 4 for a list of the final participating Local Units and Local Unit Facilities.

The goal of Sussex is to implement Renewable Energy Projects including Solar Systems that are both environmentally responsible and economically beneficial.

The RFP's total size (kW dc) of the Solar Systems at Sussex's thirteen (13) local units and seventeen (17) Local Unit Facilities was estimated to be 6.7 MW, thus reducing the carbon footprints of the Local Unit Facilities for the term of the agreement and, potentially, beyond.

Sussex intends to enter into a long-term (fifteen (15) year) PPA with the Successful Respondent to purchase solar electric power produced from installations located on some, or all, of the Local Unit Facilities identified above. Sussex does not intend to enter into a PPA unless the cost of the PPA is lower than the delivered cost of power from the local electric utility company.

In evaluating proposals, the Evaluation Team used a Proposal Evaluation Matrix (Matrix) to rank Respondents (see **Attachment 2**). The Matrix includes a three step process:

1. Phase I is a checklist to determine if the Respondent has included all required documentation and information in their proposal. Once all requirements have been met, a Respondent is deemed compliant and qualifies to move to the Phase II of the evaluation. As the RFP makes clear, if a Respondent does not meet the Phase I requirements, it does not receive further consideration.
2. Phase II is a weighted rating of the value provided by the proposal across several categories (financial benefits, technical design, experience, qualifications and financial strength) and evaluation factors within those categories.
3. Phase III is an interview of the Respondents and final evaluation.

The Respondent with the top ranking in Phase II and III, after being determined to be in compliance with the requirements of Phase I, will be recommended for award as the

Successful Respondent. The purpose of this Evaluation Report is to provide the Authority and Sussex with a full evaluation of qualified proposals, and to recommend which proposal provides the greatest value to the Authority, Sussex County and the Local Units.

### **3. Financial Structure for the Sussex County Renewable Energy Program**

The following is a brief synopsis of the financial structure as provided in the RFP.

The Authority will issue taxable bonds, on behalf of and guaranteed by Sussex County, to finance the solar systems to be designed and installed by a private solar developer for the benefit of the Local Units. This structure offers the opportunity for the Successful Respondent to maintain the tax ownership of the investment and will allow them to access the low cost of capital available in the public markets, through Sussex County's "Aa2" credit rating.

The benefits of the federal tax benefits (which Sussex cannot take as a public entity) and low cost county debt have been combined in Sussex's Solar Initiative.

This structure provides the Successful Respondent with the opportunity to take advantage of federal tax benefits (such as the 1603 Treasury Grant or the 30% renewable energy investment tax credit and five year accelerated depreciation). The Successful Respondent will also own and monetize SRECs realized through New Jersey's Renewable Portfolio Standard (RPS) Program. The value realized from the sale of SRECs in the competitive market is a major component supporting the financing of a solar project. The Successful Respondent will take on the responsibility and risk of managing SREC sales.

The Authority will enter into a series of license agreements with the local governments that desire renewable energy, to gain access to their roof and/or ground space and parking lots for the installation of solar panels. After the Authority issues the Sussex County guaranteed bonds, on behalf of Sussex, to finance the solar projects, the Authority will lease the solar panels to the competitively procured Successful Respondent, structuring that lease in such a way as to provide the Successful Respondent with an opportunity to become the tax owner of the solar projects.

The Successful Respondent, in turn, makes lease payments to the Authority to fully pay the debt service on the Authority bonds. Through a PPA, the Successful Respondent sells the electricity generated by the solar projects through the Authority back to the local government entities at a rate below the local utility tariff. The Successful Respondent must either provide some form of security to Sussex, or eliminate the need for it. As part of the RFP process, the Respondents had to include either a County Security Amount (CSA), or an alternate structure that would minimize or eliminate the CSA, to provide security that the lease payments will be made and that the Authority and Sussex have adequate financial protection.<sup>1</sup> The CSA calculates the difference between the lease payments and the revenue the Successful Respondent earns through SREC sales and PPA payments. This is to ensure that if the Successful Respondent

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<sup>1</sup> See page 9 of the RFP Section 1.3.

defaults in any year during the fifteen year contract, Sussex will have sufficient reserve in the form of the CSA, together with remaining SREC and PPA revenues, to pay the remaining debt service (assuming the continuation of PPA payments and conservatively estimated SREC revenue streams).

The RFP also permitted Respondents to propose alternate structures using their own sources of financing.

This financing structure, in effect, allows the Successful Respondent to design, construct, own and operate the solar systems, assume the burdens of the project (pay the debt service and provide security), and embed its costs and revenue streams into a fixed, indexed sales price for the solar energy generated.

The program allows Local Units to demonstrate environmental responsibility while realizing economic benefits. The PPA offers a reduction in current energy costs for a portion of the Local Units energy needs and long term stability of energy prices.

#### 4. RFP Preliminary Solar System Size

The original RFP, as released on September 8, 2011, contained the results of a preliminary feasibility assessment, as performed by Sussex's Energy Consultants. This assessment estimated the technical potential for Solar Systems at fourteen (14) Local Units and eighteen (18) Local Unit Facilities. Released on September 20, 2011 Addendum 1, provided changes to the original Local Unit Facility list and system sizes.

The tranche list as included in the original RFP was as follows:

LU #	Local Unit	Facility	Local Unit Facility Solar KW Size			TOTAL
			Roof Mounted	Parking Canopy	Ground Mounted	
1	Byram Township School District	Byram Lakes Elem./ Int. School	38	455	0	493
2	County of Sussex	SC Judicial Center - Parking Deck	0	468	0	468
		Wheatworth Facility	0	0	149	149
		Main Library	0	0	100	100
3	Frankford BOE	Frankford Township School	0	0	309	309
4	Franklin Borough BOE	Franklin Elementary School	123	104	0	227
5	Fredon Township	Civic Center	61	0	0	61
6	Green Township	Green Hills School	157	0	0	157
7	Hardyston Township	Hardyston Middle School	0	0	612	612
8	High Point Regional BOE	High Point Regional High School	453	0	0	453
9	Kittatinny Regional SD	Kittatinny Regional High School	187	173	0	360
10	Lafayette Township BOE	Lafayette Township School	49	0	206	255
11	Lenape Valley BOE	Lenape Valley High School	0	393	774	1,167
12	Newton BOE	Merriam Avenue School	105	242	0	347
		Newton High School	222	124	0	346
13	Sussex County Technical School	Main Building and Parking Lots	112	290	792	1,194
14	Town of Newton	DPW Complex	73	0	0	73
		Wastewater Treatment - Moran Street	0	0	109	109
<b>TOTAL</b>			<b>1,580</b>	<b>2,249</b>	<b>3,051</b>	<b>6,880</b>

The total system size across the above fourteen (14) local units was 6.880 MW. However, Addendum 1 released on September 20, 2011 decreased the system size from 6.880 MW to 6.681 MW. The following Local Unit Facilities were removed or amended as part of Addendum 1:

- Lafayette Township School (49 kW roof mounted system and 206 kW ground mounted system)
- Frankford Township School (309 kW ground mounted system)

The following represents the tranche list as updated through Addendum 1 to the RFP:

LU #	Local Unit	Facility	Local Unit Facility Solar KW Size			TOTAL
			Roof Mounted	Parking Canopy	Ground Mounted	
1	Byram Township School District	Byram Lakes Elem./ Int. School	38	456	0	494
2	County of Sussex	SC Judicial Center -	0	468	0	468
		Parking Deck	0	0	149	149
		Wheatworth Facility	0	0	100	100
3	Frankford BOE	Frankford Township School	0	0	362	362
4	Franklin Borough BOE	Franklin Elementary School	123	104	0	227
5	Fredon Township	Civic Center	61	0	0	61
6	Green Township	Green Hills School	157	0	0	157
7	Hardyston Township	Hardyston Middle School	0	0	612	612
8	High Point Regional BOE	High Point Regional High School	453	0	0	453
9	Kittatinny Regional SD	Kittatinny Regional High School	187	173	0	360
11	Lenape Valley BOE	Lenape Valley High School	0	393	775	1,168
12	Newton BOE	Merriam Avenue School	105	242	0	347
		Newton High School	223	124	0	347
13	Sussex County Technical School	Main Building and Parking Lots	112	290	792	1,194
14	Town of Newton	DPW Complex	73	0	0	73
		Wastewater Treatment - Moran Street	0	0	109	109
<b>TOTAL</b>			<b>1,532</b>	<b>2,250</b>	<b>2,899</b>	<b>6,681</b>
<b>Percentage</b>			<b>22.9%</b>	<b>33.7%</b>	<b>43.4%</b>	<b>100.0%</b>

Therefore, after the Addendum 1 changes, the total system size of the Sussex County program includes thirteen (13) Local Units and seventeen (17) Local Unit Facilities, with a solar system size of 6.681 MW.

## **5. PPA Pricing Design**

Sussex requested one PPA Price and index from the Respondents for the entire project. Respondents are required to insure that every Local Unit Facility is included in the response. Respondents were provided the option of submitting a proposal based upon public (County) financing, private financing or a combination in accordance with the RFP. Respondents were also required to provide two price adjustment factors to be used to adjust PPA rates upward or downward based on the final project development costs and the final interest rate on the debt service determined at the closing of project financing.

## 6. Respondent Response to RFP

The Authority received a proposal in response to the RFP from the following one (1) Respondent:

1. SunLight General Capital and Power Partners MasTec (SunLight/MasTec)

The proposal was determined by counsel to Sussex to have met the Phase I requirements of the RFP and was further evaluated under the Phase II evaluation.

Key information from the conforming proposal submitted by SunLight/MasTec is summarized below.

Note: Shortly after the time for submission of proposals (i.e. 1:00 PM, Eastern time, October 13, 2011), a second Respondent arrived to submit a proposal. When informed that the submission period had closed and Sussex could not accept the second proposal, the second Respondent inquired as to the publicly announced PPA price submitted by SunLight/MasTec. When informed of the subject PPA price, the second Respondent indicated that their proposal was not competitive with the proposal of SunLight/MasTec, declined to leave their proposal and left.

SunLight/MasTec proposed a fifteen (15) year PPA term to install solar at all seventeen (17) Local Unit Facilities. The total size of the solar systems to be installed is 6.7 MW dc. The total project cost is \$33.6 million although SunLight/MasTec offered to reduce the bond size to \$26.0 million through a \$7.6 million capital investment in the project. The capital investment would be provided in conjunction with the issuance of the Authority bonds.

SunLight/MasTec's first year PPA price is \$0.099 per kWh. The annual escalation rate is 3%. SunLight/MasTec offered SREC sharing at 50% of the upside on SRECs above \$300 after Year 5 to maturity, a debt service reserve fund of \$1.5 million, and restoration security of \$375,000.

## 7. Proposal Evaluation Matrix

Once proposals are deemed compliant based on Phase I requirements, the proposals are subject to Phase II and III evaluation in accordance with the process defined in the RFP. The evaluation was conducted in accordance with an evaluation matrix, which is based on a total potential score of 100. The Matrix is broken into the following criteria and weighting factors:

Financial Benefits (50)	NPV of Benefits Option - Sharing of Benefits Non-Material Changes to Program Documents
Technical Design/Approach (10)	Output Guarantee (kWh) Design Strategy Project Team Approach O&M Plan and Approach
Respondent Experience (10)	Project Management Contractor Expertise Project Experience New Jersey Experience
Financial Strength (20)	Financial Capability/Strength of Provider Financial Risk
Oral Interview Evaluation (10)	Presentation Explanation Key Factors Understanding Financial Factors/SREC Market

## **8. Financial Benefits Evaluation**

The Sussex County Renewable Energy Program has been developed and implemented with no capital cost to the Local Units. In addition to this benefit, below is a summary of the financial benefits section of the Phase II evaluation. Proposals were evaluated and awarded points in the Matrix based on their responses to the following criteria: NPV of benefits; sharing of benefits; and, non-material changes to documents. Since there was only one compliant bid, Gabel Associates completed the Phase II evaluation based upon their experience with other County solar programs.

### **a. NPV of Benefits**

Local Units realize economic benefits from the installation of renewable energy projects through the savings in energy costs by purchasing electricity from the solar project rather than from the local electric utility.

In calculating energy cost savings, the Evaluation Team compares a forecast of the cost of the local utility tariff rate electricity delivered to the Local Unit Facility that is avoided by purchasing the solar generation from the renewable energy projects at the PPA rate proposed by the Respondent and multiplies the difference by the expected solar output. This yields the projected savings in energy costs realized through the installation of the renewable energy projects.

It is important to note that the energy cost savings are calculated at the guaranteed level of solar generation (90% of the expected level). Thus, the level of energy cost savings are stated on a conservative basis. Actual energy cost savings to the Local Unit Facilities are likely to exceed the levels indicated in this Evaluation Report.

The forecast of the avoided cost of the local utility tariff rate is the result of a detailed analysis of each utility tariff by each of its components over the fifteen year term of the PPA. This detailed analysis takes into account many factors, including the following:

1. Those components of the utility tariff rate that are not avoided as a result of the solar installation. For example, the customer charge and a portion of demand charges are not avoided through the purchase of solar energy generated by the solar systems. In addition, if the local unit facility is purchasing the commodity component of electric supply in the competitive market, it is assumed that the local utility will continue this practice in the development of their non-solar electricity costs.
2. The most recent energy market fundamentals (ex. New York Mercantile Exchange futures, Energy Information Administration long term escalation rates and environmental and RPS programs such as the SREC program) are incorporated to provide the best indication of future energy market costs.

3. The impact on future energy costs of national, state and regional environmental initiatives currently being considered (ex. carbon credits). The forecast includes the low Environmental Protection Agency estimate for carbon legislation originally slated to start in 2012 but pushed out to 2015.
4. The impact that general energy market escalation will have upon long-term energy prices.

To calculate the NPV benefits provided by each proposal, guaranteed production values were used. In addition, a 5.00% discount rate was assumed to calculate NPV of benefits; which was the assumed interest cost of the Authority bonds in the RFP. This also assumes an average retail electric escalation of 3.6%.

**Attachment 1** summarizes the PPA pricing (first year PPA price and annual escalation) proposed by the conforming Respondents.

Sussex's energy cost savings are also shown in **Attachment 1**. The savings calculations in **Attachment 1** are shown in both NPV and nominal dollars, however, the most appropriate way to compare the value of projects is on a NPV basis to recognize the time value of money and the opportunity cost of capital.

Over the fifteen (15) years of the PPA, the SunLight/MasTec proposal yields nominal benefits of \$5.6 million or net present value (NPV) benefits of \$4.0 million. These benefits have been calculated under the conservative assumption that bond interest rates will be at 5.0%. The RFP also required Respondents to submit an adjustment factor to the PPA Price to account for a change in the bond rate from the assumed level of 5.0% to the actual bond issuance rate. Based upon SunLight's adjustment factor and the current expectation for the bond issuance rate (4.6%), the SunLight/MasTec proposal would yields nominal benefits of \$5.9 million or net present value (NPV) benefits of \$4.3 million.

The Respondent with the highest NPV of benefits (SunLight/MasTec) earned the maximum number of points (40) in the Matrix for this criterion.

A sensitivity analysis of the NPV benefits was also conducted by evaluating changes in the average electric rate escalation and is provided in **Attachment 5**. The results show that the SunLight/MasTec proposal will provide significant levels of energy cost savings, even assuming no escalation in the average electric rate.

#### **a. Option – Sharing of Benefits**

The RFP asked the Respondents whether they would be willing to share additional benefits with Sussex. As an example of such benefits, the RFP listed (a) sharing of SREC market revenues, (b) sharing in any Federal or State tax benefits, (c) sharing in other financial / environmental market value, (d) end on contract provisions beyond

those identified in the RFP and (e) any other additional services that would provide value to Sussex.

As it relates to the sharing in SREC market revenues, the level of this potential benefit and the probability of it occurring are very difficult to determine since it depends on future SREC prices. SREC prices will depend on the level of SREC supply and the cost and efficiency of new solar projects at that time. Scoring was based on whether or not SREC sharing was proposed and how beneficial the sharing would be to Sussex.

### **SunLight/MasTec**

SunLight/MasTec offered the following additional benefits:

1. SREC sharing in the amount of 50% of the upside of SRECs above \$300 after Year 5.
2. Should other environmental attributes arise in the future from these projects, SunLight/MasTec proposed to share in the proceeds from the sale of such attributes.
3. Should a change in law result in significantly more favorable tax treatment, SunLight/MasTec would use best efforts to share with Sussex.
4. Finally, they would deliver an educational program about the science and benefits of solar systems, including solar energy science kits, teacher training about renewable energy, the ability to access operational data and personnel to promote the educational program.

SunLight/MasTec was awarded the maximum value of five (5) points for this sharing proposal.

### **b. Non-Material Changes to Program Documents**

SunLight/MasTec proposed no changes to the program documents and received the maximum number of points in this section of the Matrix.

## 9. Technical Design/Approach

The evaluation of the technical design/approach has several elements including output guarantees, construction schedules, project team approach, and operation and maintenance plans. Below is a technical review of the proposal. The Proposal was evaluated and awarded points in the Matrix based on the responses to the following criteria: output guarantee, design strategy, project team approach, and operations and maintenance (O&M) plan and strategy.

### a. Output Guarantee (MWH)

The Respondent provided the output guarantees required in the RFP and were therefore awarded maximum points for this requirement. Below is a description of the Respondent's design strategy including their total system size and output.

#### SunLight/MasTec

Total System Size	Total System Output
6.678 MW	7.998 MWh

SunLight/MasTec's proposed capacity was compared with the conceptual site plans provided in the RFP. SunLight/MasTec based their proposal 100% on the Birdsall conceptual layouts without exception. The total system size is within 3kw of the conceptual site plans due to round-off differences. The SunLight/MasTec proposal will provide a 4.5% increase in kWh, over Birdsall's calculated production numbers. All system sizes and productions are within 90% of consumption at the facilities with the exception of Lenape Valley that will generate 90.5%. This is acceptable.

### b. Design Strategy

Below is a description of the proposal design strategy. The Respondent was evaluated based on the major system components and design of the systems. The Respondent received the maximum points for this requirement.

#### SunLight/MasTec

SunLight/MasTec's PV design followed the Birdsall concept layout exactly. This includes roof mounted PV panels, ground mounted PV panels, and parking canopies. Below is a description of the Major system components proposed by Sunlight/MasTec. All information was not included in the proposal but was provided in the oral interview. They are using quality products in all areas. The evaluation team accepts SunLight/MasTec's design and system components.

System Component	Manufacturer
PV Modules	Trina/Canadian/ MX Solar
Inverters	SMA/PV Powered
Mounting Systems	Allied Building, Panel Claw, Grizzly Bear
Canopy System	Baja/Protek/ Solar Ventures
DAS	Noveda or Deck

### c. Project Team Approach

Below is a description of the proposer's project team approach. Based on their responses, they were awarded the maximum points for this requirement.

Sunlight/MasTec's project team approach seemed well organized and complete. They have an experienced team which has completed similar large solar projects. In addition, they have also been the successful proposer at Somerset County Improvement Authority Tranche 2, Mercer County Improvement Authority for Mercer County Community College and Morris County Improvement Authority Tranche 2. All of the design and engineering will be completed by MasTec. They are a national energy contractor with experience, and technical depth to complete this project successfully. They have a plan to schedule installations with minimal disruptions, will be staffing locally, and plan on bringing in experienced solar contractors. They plan on meeting with local units for communications sessions, to assess the best time to schedule installations, and will be open on canopy designs to meet the needs of local units.

### d. Operations and Maintenance Plan and Approach

Below is a description of the proposal's O&M plan and approach. Based on their response, the respondent was awarded the maximum points for this requirement.

The operations and maintenance will be monitored on a daily basis by an inverter level monitoring package. This will provide the latest data for system performance and availability. It will also provide any error messages from the inverters, regarding the system operation, mal-function, and inverter status or system fault. The data acquisition system (DAS) will be designed for remote web based operation and the data will be transferred to a third party server via the internet.

SunLight MasTec also provided a comprehensive Operation and Maintenance procedures document at the oral interview. They have an acceptable approach for O&M.

## **10. Respondent Experience**

The evaluation of respondent experience has several elements including: project management, contractor experience, project experience, and New Jersey experience. Below is a summary of the SunLight/MasTec proposal.

### **a. Project Management**

SunLight/MasTec demonstrated their ability to successfully manage the project through the involvement of well qualified/experienced management, supervisory, and key staff. The respondent was awarded the maximum points for this requirement.

### **b. Contractor Experience**

SunLight/MasTec has teamed with very experienced and technically qualified EPC's. The maximum number of points for this section in the evaluation matrix is awarded.

### **c. Project Experience**

SunLight/MasTec has demonstrated extensive project experience with respect to similar types of projects in New Jersey and other States. Maximum number of points awarded for this section.

### **d. New Jersey Experience**

The SunLight/MasTec team has won other County Renewable Energy Program awards to implement solar systems. They and their contractors are well experienced in New Jersey. SunLight/MasTec has established an office in NJ to implement solar systems and will establish a second office in Sussex County, to maintain and enhance their NJ experience. The maximum number of points have been awarded for evaluation in this section.

## **11. Financial Strength**

The evaluation of the financial strength of the proposals has two (2) elements including financial capability/strength of provider and financial risk to Sussex. Below is a summary of the Respondent's proposal.

### **a. Financial Capability/Strength of Respondent**

Below is a description of the financial capability and the financial strength of the Respondent. The Respondents received the maximum amount of points for this section.

#### **SunLight/MasTec**

SunLight has financed 3.7 MW of projects since 2009 and has an additional 12.1 MW scheduled over the next year. SunLight's current equity is over \$10 million and they recently launched the SunLight General Solar Fund Two in the amount of \$30 million. Power Partners MasTec, LLC is a wholly-owned subsidiary of MasTec, Inc. a minority business enterprise with over 9,000 employees and annual revenues of \$2.3 billion (2010). MasTec has over \$500 million in bonding capacity. MasTec will provide the construction bond for the project installation. SunLight/MasTec has provided sufficient financial information and an adequate finance package.

### **b. County Security/Deficiency Amount**

Financial risk to Sussex specifically concerns proposals where the Authority is committing funds to the solar project and Sussex is committing its guaranty on those funds. A second, but much less significant, financial risk involves whether the solar developer is willing to offer a restoration security.

SunLight/MasTec has proposed to use the public financing approach which imposes a financial risk upon Sussex, however, their proposal to self-finance a substantial portion of the overall cost of the renewable energy projects has significantly reduced that risk by effectively eliminating the need to fund a County Security Amount (CSA). The SunLight/MasTec proposal has been structured such that, using the conservative SREC assumptions provided by the Authority, a CSA of approximately \$1.0 million exists only during the first year. For the majority of the program (years 2 through 15) there is no CSA and, in fact, a cushion is provided in each of the subject years.

In addition, SunLight/MasTec has proposed a \$1.5 million reserve fund to provide additional financial protection to Sussex. This reserve fund exceeds the annual bond service requirements. Finally, the SunLight/MasTec proposal offered a performance security of \$375,000 which would be built up through setting aside \$75,000 a year for five years beginning in Year 11 (a positive for Sussex). The SunLight/MasTec proposal allows the bond size to be significantly reduced and limit its associated risk to Sussex with a very high degree of certainty. Since there is still some financing risk to the

Sussex, the SunLight/MasTec proposal has been awarded less than the maximum number of points in this rating category.

The SunLight/MasTec Proposal reduced the bond size from \$33.6 million to approximately \$26.0 million by proposing to self finance \$7.6 million. This approach reduces financial risk to Sussex by reducing the amount of the Authority bonds required to be issued to approximately \$26.0 million. The smaller size of the Authority bond reduces the Sussex exposure and provides strong SREC price risk protection as the balance of transaction revenues (i.e. SRECs and PPA payments) should this Respondent default, are estimated to be fully sufficient to make all debt service payments on the bonds in all but the first year. In addition, the SunLight/MasTec proposal includes a \$1.5 million reserve fund to provide additional financial protection to Sussex.

## **12. Phase III Evaluation**

The RFP reserves the right for Sussex to conduct interviews with qualified Respondents. After reviewing all aspects of the submitted proposals, in particular the savings in energy costs preferred by Sussex and as required under applicable law (see the details in Section 8(a) and as reflected in the Evaluation Matrix through Phase II), the Evaluation Team decided to conduct an interview with SunLight/MasTec to explore all aspects of their proposal.

Prior to the interview, the Evaluation Team provided a list of issues (see **Attachment 6**) that they wanted SunLight/MasTec to address at the interview. SunLight/MasTec did an excellent job during their presentation and was able to explain all key issues as well as demonstrating an understanding of financial matters. Additionally, during the interview, the potential for the monetized sharing of SREC value in the early years (year 1 through 5) was discussed. The possible tax implications of such sharing will be reviewed. Pending the result of that review, SunLight/MasTec indicated that they would be open to the monetized sharing of SREC value in the early years. SunLight/MasTec received the maximum number of points for this criterion of the Evaluation Matrix.

### **13. Recommendation – Successful Respondent**

In recommending a Successful Respondent, the Evaluation Team uses the Proposal Evaluation Matrix to rank the Respondents.

The SunLight/MasTec team possesses high quality management, installation capabilities, and sound solar development experience. In addition, the SunLight/MasTec proposal provides Sussex benefits in the following key areas:

1. It provides substantial direct energy cost savings;
2. It provides the Local Units the potential for additional savings through the sharing of revenues from the sale of Solar Renewable Energy Certificates (SRECs) and other environmental benefits;
3. Due to SunLight/MasTec's proposed capital and in kind equity investment, which reduces the required size of the Authority bond issuance, it provides a strong level of protection for Sussex from financial risk;
4. It provided additional financial protection for Sussex in the form of a Debt Service Reserve Fund; and,
5. It includes a restoration security providing for additional Local Unit protection at the end of contract.

Over the fifteen (15) years of the PPA, the SunLight/MasTec proposal yields nominal benefits of \$5.6 million or net present value (NPV) benefits of \$4.0 million. These benefits have been calculated under the conservative assumption that bond interest rates will be at 5.0%. The RFP also required Respondents to submit an adjustment factor to the PPA Price to account for a change in the bond rate from the assumed level of 5.0% to the actual bond issuance rate. Based upon SunLight's adjustment factor and the current expectation for the bond issuance rate (4.6%), the SunLight/MasTec proposal would yields nominal benefits of \$5.9 million or net present value (NPV) benefits of \$4.3 million.

The Respondent provided a financial structure limiting the financial risk to Sussex. By offering to self-finance a substantial portion of the overall cost of the renewable energy projects in the amount of \$7.6 million, the SunLight/MasTec proposal allows the Authority, on behalf of Sussex, to significantly reduce its bond size. The Authority's \$26.0 million in bonds will be combined with SunLight/MasTec's \$7.6 million self-financing to finance the total project cost (\$33.6 million). The SunLight/MasTec proposal also protects Sussex (which will be providing its guaranty on the Authority bonds) from the potential risk of reductions in the price of SRECs. Moreover, by self-financing a portion of the total cost of the project, this protection has a very high degree of certainty. In addition, SunLight/MasTec proposed to post a \$1.5 million

reserve, funded with an equity contribution from the company, to provide additional financial protection to Sussex.

The Evaluation Team recognizes the value of the financial provisions of the SunLight/MasTec proposal in terms of the protection of Sussex, its guaranty and its bond rating. The preservation of this bond rating provides future economic benefits to Sussex and its citizens and businesses by allowing the Authority to borrow money at low interest rates due to its "Aa2" rating. Accordingly, a high premium is placed on its protection. The financial protections of the SunLight/MasTec proposal, including a significant reduction in the size of the Authority bond amounts, on behalf of Sussex, provides a strong and distinguishing level of protection which, in combination with other factors considered, lead to the recommended selection.

The overall Matrix scoring identified SunLight/MasTec as the Respondent providing the greatest value. Based on the above discussions, the evaluation indicates that SunLight/MasTec's proposal scored 94 out of a total of 100 points. The proposal scoring is shown in **Attachment 4**.

**Accordingly, the Evaluation Team recommends that the Authority select SunLight/MasTec as the Successful Respondent, subject to clarification of the SREC sharing issue discussed in Section 12, page 28.** This will result in estimated aggregate annual benefits of approximately \$280,000 in the first year, total savings of \$4.0 million (NPV) over the life of the PPA, and average rate reductions for electricity purchased through this program of 35% relative to utility delivered power. These benefits will be recalculated after the sale of bonds and may likely increase due to the conservative assumptions used in this analysis.

The evaluation of "price and non-price" factors allowed by law permits and supports this recommendation.

**Attachment 1**  
**Sussex County Program Solar Savings Summary**

**Sussex County Renewable Energy Program**

**Proposal Evaluation**  
**October 20, 2011**

Respondent	KW	PPA Rate	Escalation	Solar Savings	
				Nominal (\$)	NPV (\$)
Sunlight General Capital/Power Partners MasTec	6.678	\$0.099	3.0%	\$5,565,316	\$3,979,057

## Attachment 2

### Evaluation Matrix

## Sussex County Renewable Energy Program Proposal Evaluation Matrix

**Phase I - RFP Requirements Checklist**  
**Phase II - Proposal Evaluation**  
**Phase III - Short List Evaluation**

**Attachment 2**  
**Page 1 of 2**

October 18, 2011

Requirement Checklist	SunLight/MasTec
<b>PPA Price Quotation Sheet (Form A-1):</b>	
- PPA Price & Escalation	Y
- Total Project Cost	Y
- Amortization Schedule	Y
- Structural/Interconnection Adjustment Factor	Y
- Additional Economic Benefits	Y
<b>Appendix D Forms:</b>	
- Respondent Information (Form A-2)	Y
- Proposal Security in lieu of Bond (Form A-4)	Y
- Proposal Bond (Form A- 5)	Y
- Ownership Disclosure Statement (Form A-6)	Y
- Non-Collusion Affidavit (Form A-7)	Y
- Consent to Investigation (Form A-8)	Y
- Relevant Experience	Y
- Respondent's Qualifications (Form A-9)	Y
- Receipt of Addenda (Form A-10)	Y
- Sealed Proposal Checklist (Form A-11)	Y
- County Deficiency Amount (Exhibit F)	Y
Form of PPA (Private Option Only)	Y
Business Registration Certificate	Y
<b>QUALIFY (Y/N)</b>	Y

**Sussex County Renewable Energy Program  
Proposal Evaluation Matrix**

**Attachment 2  
Page 2 of 2**

**Phase I - RFP Requirements Checklist  
Phase II - Proposal Evaluation  
Phase III - Short List Evaluation**

October 20, 2011

<b>Phase II Category</b>	<b>Evaluation Factor</b>	<b>WEIGHTING</b>	<b>SunLight/MasTec</b>
Financial Benefits (50)	NPV of Benefits	40	40
	Option - Sharing of Benefits	5	4
	Material Changes to Program Documents	5	5
Technical Design / Approach (10)	Output Guarantee (KWH)	3	3
	Design Strategy	3	3
	Project Team Approach	2	2
	O&M Plan and Approach	2	2
Proposer Experience (10)	Project Management	2	2
	Contractor Expertise	3	3
	Project Experience	3	3
	New Jersey Experience	2	2
Financial Strength (20)	Financial Capability / Strength of Provider	5	5
	Financial Risk to the County	15	10
<b>TOTAL PHASE II</b>		<b>90</b>	<b>84</b>

<b>Phase III Category</b>	<b>Evaluation Factor</b>	<b>WEIGHTING</b>	<b>SunLight/MasTec</b>
Short List Evaluation (10)	Presentation	2	2
	Explanation Key Factors	3	3
	Understanding Financial Factors / SREC Market	5	5
<b>TOTAL PHASE III</b>		<b>10</b>	<b>10</b>

<b>Overall Evaluation</b>		<b>WEIGHTING</b>	<b>SunLight/MasTec</b>
<b>TOTAL PHASE II and III</b>		<b>100</b>	<b>94</b>

**Attachment 3**  
**Savings by Local Unit Facility**

Bidder	Local Unit Facility	Life of Project Nominal Savings	Life of Project NPV Savings	Annual Savings		Nominal Savings on Solar Energy Purchased		Nominal Savings Total Electric Costs	
				Year 1	Year 15	Year 1	Year 15	Year 1	Year 15
	Byram Twp BOE- Byram Lakes Elementary School	\$443,936.15	\$326,109.32	\$22,496.69	\$38,227.21	28.20%	31.96%	15.92%	16.82%
	Frankford Twp BOE- Frankford Twp School	\$344,058.20	\$252,250.31	\$17,099.34	\$30,033.51	26.33%	31.14%	18.69%	20.60%
	Franklin Borough BOE- Franklin Elementary School	\$204,122.99	\$149,964.68	\$10,350.07	\$17,559.27	29.50%	33.14%	10.71%	11.22%
	Fredon Township Civic Center	\$63,597.32	\$46,787.94	\$3,205.27	\$5,418.41	28.79%	33.13%	21.66%	23.24%
	Green Twp SD BOE- Green Hills School	\$159,462.79	\$117,807.49	\$8,442.03	\$13,147.96	32.58%	34.10%	7.20%	7.02%
	Hardyston SD BOE- Hardyston Middle School	\$619,969.72	\$455,985.72	\$31,718.19	\$52,897.39	27.75%	31.36%	17.29%	18.22%
	High Point Reg SD BOE- High Point Regional HS	\$443,764.35	\$327,635.22	\$23,374.44	\$36,778.34	32.68%	34.41%	8.00%	7.86%
	Kittatinny Reg SD BOE- Kittatinny Regional HS	\$367,529.54	\$271,620.18	\$19,511.36	\$30,223.64	33.03%	34.30%	5.79%	5.61%
Sunlight/PPM	Lenape Valley Reg BOE- Lenape Valley Regional HS	\$308,179.72	\$215,439.62	\$14,571.57	\$35,783.88	7.50%	13.07%	6.16%	10.00%
	Newton Public Schools BOE- Merriam Ave School	\$288,872.85	\$211,563.43	\$14,264.24	\$25,420.50	25.82%	30.78%	20.44%	22.71%
	Newton Public Schools BOE- Newton HS	\$304,081.28	\$223,268.46	\$15,339.68	\$26,283.55	27.69%	31.81%	15.92%	17.05%
	Sussex County Judicial Center	\$498,706.59	\$367,063.50	\$25,611.06	\$42,477.65	34.16%	37.33%	11.91%	12.13%
	Sussex County Main Library	\$113,542.99	\$83,445.21	\$5,742.53	\$9,773.74	30.34%	34.54%	22.49%	23.87%
	Sussex County Technical School	\$1,062,236.16	\$777,386.72	\$51,834.31	\$93,898.12	25.89%	31.22%	20.76%	23.34%
	Sussex County Wheatworth Facility	\$176,674.89	\$129,795.72	\$8,941.10	\$15,258.83	31.96%	36.02%	16.38%	17.21%
	Town of Newton- Departement of Public Works 1	\$54,098.26	\$39,376.82	\$2,049.40	\$4,849.31	17.00%	27.00%	13.00%	20.00%
	Town of Newton- Wastewater Treatment Plant	\$112,482.70	\$82,851.12	\$5,819.52	\$9,489.32	32.56%	34.83%	5.39%	5.37%
	<b>Total</b>	<b>\$5,565,316.50</b>	<b>\$4,078,351.45</b>	<b>\$280,370.80</b>	<b>\$487,500.62</b>	<b>28.00%</b>	<b>31.00%</b>	<b>15.00%</b>	<b>16.00%</b>

## Attachment 4

### Load Served by Solar by Local Unit Facility

#### Sussex County Renewable Energy Program

#### Local Unit Facility - Solar Statistics October 20, 2011

Local Unit	Annual Electric	Sunlight General Capital/Power Partners MasTec		Electric Load Served by Solar Generation**	
	Metered Load* (KWH)	Expected	Guaranteed		
		kW	kWh	kWh	(%)
Byram Twp BOE- Byram Lakes Elementary School	906,080	493	568,442	511,598	56%
Fredon Township Civic Center	83,771	61	70,045	63,040	75%
Frankford Twp BOE- Frankford Twp School	579,200	362	456,677	411,009	71%
Franklin Borough BOE- Franklin Elementary School	669,667	227	261,757	235,581	35%
Green Twp SD BOE- Green Hills School	747,360	157	183,426	165,083	22%
Hardyston SD BOE- Hardyston Middle School	1,395,427	612	774,471	697,024	50%
High Point Reg SD BOE- High Point Regional HS	1,938,792	453	513,808	462,427	24%
Kittatinny Reg SD BOE- Kittatinny Regional HS	2,225,026	360	417,047	375,344	17%
Lenape Valley Reg BOE- Lenape Valley Regional HS	1,586,751	1167	1,436,317	1,292,686	81%
Newton Public Schools BOE- Merriam Ave School	447,360	347	393,380	354,043	79%
Newton Public Schools BOE- Newton HS	784,465	346	392,673	353,405	45%
Sussex County Technical School	1,626,600	1194	1,449,254	1,304,328	80%
Sussex County Judicial Center	1,381,120	468	534,829	481,346	35%
Sussex County Main Library	153,600	100	126,514	113,863	74%
Sussex County Wheatsworth Facility***	346,840	149	197,492	177,743	51%
Town of Newton- Departement of Public Works	183,778	73	84,024	75,621	41%
Town of Newton- Wastewater Treatment Plant	751,200	109	138,121	124,309	17%
<b>total</b>	<b>15,807,037</b>	<b>6,678.00</b>	<b>7,998,277</b>	<b>7,198,450</b>	<b>46%</b>

\* Metered load is based on total consumption at the site, including meters that solar energy will not be interconnected to.

\*\* Electric Load Served by Solar Generation is based on Guaranteed kwh production

\*\*\*Sussex County's Wheatsworth Facility's electric consumption is estimated

# Attachment 5

## Sensitivity Analysis

### Sussex County Renewable Energy Program

#### Estimated Savings Summary October 20, 2011

Discount Rate of 5%, Average Retail Electric Rate of 3.6%

Respondent	Solar Savings	
	Nominal (\$)	NPV (\$)
Sunlight General Capital & Power Partners MasTec	\$5,565,316	\$3,979,057

Discount Rate of 5%, Average Retail Electric Rate of 6%

Respondent	Solar Savings	
	Nominal (\$)	NPV (\$)
Sunlight General Capital & Power Partners MasTec	\$10,492,725	\$7,144,229

Discount Rate of 5%, Average Retail Electric Rate of 0%

Respondent	Solar Savings	
	Nominal (\$)	NPV (\$)
Sunlight General Capital & Power Partners MasTec	\$1,403,826	\$1,340,664

# **Attachment 6**

## **Interview Questions**

### **Sussex County Solar Program Interview Questions**

#### **SunLight General Capital / Power Partners MasTec October 19, 2011**

Sussex County would like to have a general discussion on the following items to better understand the basis for the Response to Request for Proposals:

1. Financial strength of Proposer.
2. Proposed solar project financing approach. Specific discussion regarding:
  - a. Equity contribution of \$7.6 million.
  - b. Debt Service Reserve Fund account of \$1.5 million.
  - c. CDA calculation:
    - i. O&M value.
3. Discuss plans to realize 1603 grant.
4. Proposer view of current and future SREC market.
5. Expected solar production - basis for expected output.
6. Guaranteed solar production.
  - a. How and when measured.
  - b. Financial implications of production shortfall.
7. Additional economic benefits:
  - a. SREC sharing:
    - i. 50% sharing above \$300 per SREC after year 5.
    - ii. How and when measured.
    - iii. Financial sharing mechanism
  - b. Refund bonds for savings
    - i. 50% sharing resulting from refunding
    - ii. Financial sharing mechanism
  - c. Other currently unidentified environmental benefits - Discuss potential
8. Fair market value purchase option tax implications and potential formula approach.
9. Proposer experience and qualifications.

10. "Technical Drawings and Specifications" section of the proposal, section 1.3.1 (Clarifications and Assumptions): Discuss items - 3 (module pricing timing), 7 (work schedule requirement) and 12 (Construction impediments and impact on PPA price).

The following are technical questions to be discussed that will help Sussex County better understand the basis for the Response to Request for Proposals:

1. I reviewed all of the proposed system productions estimates and compared them to the facilities consumption data. All system sizes and productions are within 90.5% of total consumption. Lenape Valley was the highest at 90.5%, all other were less than 90%.
2. Under Section 4 of the Sunlight Proposal (Technical Drawings and Specification) Power Partners MasTec Section 1.3.1 Item 13. Power Partners assumes the rooftop sites do not require any upgrades and are structurally sufficient to accept ballasted racking system.

Our Technical specification: Appendix C, Part 3 Section H. Roof installations: states contractor shall maintain roof integrity with installation.

3. Power Partners MasTec's List of contracts underway states "see attached". Is the attached the meant to be SunLight's list of projects underway or is there another list?
4. The proposal includes Business registrations forms for Pfister Energy Inc., Helios Solar Energy, LLC, and Lighton Elec, Inc. Please describe how these firms will be involved in this project?
5. Describe your installation strategy to minimize disruptions at schools and other facilities? What is the construction schedule you plan of follow for the project timeline?
6. **What specific manufacturer are you using for?**

System Component	Manufacturer
PV Modules	
Inverters	
Mounting Systems	
Canopy System	
DAS	

7. How will the operations be monitored after installation is completed? What is the response time for error messages? Problems with the system? Who do you plan on using? What is the maintenance plan you have for all site?

## BRING DOWN CERTIFICATE OF THE AUTHORITY AS TO OFFICIAL STATEMENT

I, JOHN BONANNI, Chairman of The Morris County Improvement Authority (the “*Authority*”), a public body corporate and politic of the State of New Jersey (the “*State*”) organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A. 40:37A-44 et seq.*, the “*Act*”) and other applicable law, and in connection with the issuance this day by the Authority of its \$26,715,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated the date hereof (the “*Series 2011A Bonds*”) and the \$985,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)” dated the date hereof (the “*Series 2011B Note*” and together with the Series 2011A Bonds, the “*Series 2011 Bonds*”), **DO HEREBY CERTIFY** on behalf of the Authority as follows:

As of the date hereof, the description and information contained in the Official Statement dated December 7, 2011 issued in connection with the Series 2011 Bonds (the “*Official Statement*”), relating to the Authority, its operations, and the transactions contemplated hereby and otherwise by any of the Renewable Energy Program Documents, the Authority Bond Resolution (as such terms are defined in the Official Statement) and the Official Statement and other information therein pertaining to the Authority is true and correct in all material respects and does not contain any untrue or incorrect statement or misleading statement of a material fact and does not and will not omit to state a material fact which is necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Authority this 14th day of December, 2011.

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By:  \_\_\_\_\_  
**John Bonanni**  
**Chairman**

**ORDER OF AUTHORITY AS TO AUTHENTICATION AND DELIVERY AND  
STATEMENT AS TO RECEIPT AND APPLICATION OF PROCEEDS**

TO: U.S. Bank National Association, as trustee (the "*Trustee*")  
Under the Authority Bond Resolution referred to below

The undersigned, an authorized officer of The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A.* 40:37A-44 *et seq.*, the "*Act*") and other applicable law, delivers to the Trustee this order in connection with the issuance this day by the Authority of its \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*"). The Series 2011 Bonds are duly executed on behalf of the Authority in accordance with the terms of the Authority's bond resolution number 11-39 entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority at a meeting duly called and held on September 28, 2011, and at which a quorum existed and acted throughout, as amended and supplemented in accordance with the terms of a Certificate of the Chairman of the Authority dated December 14, 2011 (collectively the "*Authority Bond Resolution*"). All capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Authority Bond Resolution.

In your capacity as Trustee, you are hereby requested, authorized, and directed, upon fulfillment of the conditions precedent to the issuance of the Series 2011 Bonds, to authenticate the Series 2011 Bonds and, when so authenticated, to deliver the Series 2011 Bonds to or on behalf of RBC Capital Markets LLC, as underwriter (the "*Underwriter*") pursuant to that certain "Bond Purchase Agreement" dated December 7, 2011 by and among the Authority, SunLight General Sussex Solar, LLC and the Underwriter, as the purchaser of the Series 2011 Bonds, against a receipt therefor executed by the Underwriter.

It is hereby stated that the amount of the proceeds to be derived from the sale of the Series 2011A Bonds, upon delivery of same to the Underwriter on the date hereof is \$26,593,392.74 (consisting of par amount of \$26,715,000, less an Underwriter's discount in the amount of \$121,607.26) (the "*Series 2011A Proceeds*"). It is hereby stated that the amount of the proceeds to be derived from the sale of the Series 2011B Note, upon delivery of same to the Underwriter on the date hereof is \$980,516.26 (consisting of par amount of \$985,000, less an Underwriter's discount in the amount of \$4,483.74) (the "*Series 2011B Proceeds*" and together with the Series 2011A

Proceeds, the "*Proceeds*"). In addition, the balance of the Project costs shall be payable from the In-Kind Equity Contribution in the amount of \$7,818,860 in accordance with Section 510(c) of the Lease Agreement. In addition, the Trustee will receive upon the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, a cash equity contribution of \$1,500,000 (the "*Cash Equity Contribution*"). The Trustee is hereby ordered to apply the Proceeds in the amount of \$27,573,909 simultaneously with the delivery of such Series 2011 Bonds and their receipt of the Proceeds together with the Cash Equity Contribution, as follows:

(a) There shall be deposited in the Administrative Fund the amount of \$1,090,490.25, \$1,088,909.00 of which shall be sourced from the Series 2011A Proceeds and \$1,581.25 of which shall be sourced from the Series 2011B Proceeds, (i) \$359,499.25 of which shall be deposited in the Costs of Issuance Account in the Administrative Fund for application to the payment of certain Costs of Issuance incurred in connection with the issuance of the Series 2011 Bonds, including, without limitation, the Authority's initial Administrative Fee of \$100,000.00 and fees for the Trustee and its counsel, and (ii) \$730,991.00 shall be deposited in the Administrative Expense Account in the Administrative Fund, (A) \$20,000.00 of which shall be applied to the payment of the Authority's initial annual Administrative Fee, and (B) the balance of which in the amount of \$710,991.00 shall be applied to the payment of, or reimbursement for, the balance of the Preliminary Program Costs and Administrative Expenses, including without limitation fees for a Construction Manager, if any, upon the Trustee's receipt of a proper invoice or evidence of payment therefor; provided that a Certificate of an Authorized Officer of the Authority delivered to the Trustee may adjust and/or add to the payment categories within the Administrative Fund set forth above.

(b) There shall be \$983,418.75 deposited in the Capitalized Interest Fund.

(c) Upon the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, the Cash Equity Contribution shall be deposited in the County Security Fund. Upon issuance of the Series 2011 Bonds, the County Security Fund Requirement is \$1,500,000, and accordingly, the Company shall pay, upon the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013; the County Security for deposit by the Trustee in the County Security Fund.

(d) There shall be no Proceeds deposited in the General Fund.

(e) The remaining balance of the Proceeds, being \$25,500,000, shall be deposited in the Project Fund, (i) \$24,700,000 of which shall be applied to the payment of the Renewable Energy Projects for the Series 2011 Local Units, (ii) \$0.00 of which shall be applied to the payment of the Capital Improvement Projects for the Series 2011 Local Units and (iii) \$800,000 of which shall be applied to the payment of the Company Development Fees and Expenses, all in accordance with Section 5.02(2) of the Authority Bond Resolution; provided that a Certificate of an Authorized Officer of the Company, as consented to by an Authorized

Officer of the Authority, delivered to the Trustee may adjust the payment categories within the Project Fund set forth above.

(f) The Trustee is hereby authorized to invest the Proceeds that are not withdrawn at closing in accordance with the terms of the Authority Bond Resolution and the other Program Documents, until and unless further direction is received, in accordance with the Authority Bond Resolution and the Program Documents, in the Trustee's Money Market Demand Deposit Account, rated A1/P1 and constituting an Investment Obligation under the Authority Bond Resolution.

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the Authority this 14th day of December, 2011.

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By:  \_\_\_\_\_  
**John Bonanni**  
**Chairman**

## CERTIFICATE OF AUTHORITY AS TO SPECIMEN BONDS

I, ELLEN M. SANDMAN, Secretary of The Morris County Improvement Authority (the “*Authority*”), a public body corporate and politic of the State of New Jersey (the “*State*”) organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A. 40:37A-44 et seq.*, the “*Act*”) and other applicable law, and in connection with the issuance this day by the Authority of its \$26,715,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated the date hereof (the “*Series 2011A Bonds*”) and the \$985,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)” dated the date hereof (the “*Series 2011B Note*” and together with the Series 2011A Bonds, the “*Series 2011 Bonds*”), **DO HEREBY CERTIFY** on behalf of the Authority as follows:

1. Attached hereto as **Exhibit A** is a true specimen of the Series 2011 Bonds, which specimen is identical in all respects to the Series 2011 Bonds delivered this day to U.S. Bank National Association, on behalf of The Depository Trust Company, New York, New York, as securities depository, for the account of RBC Capital Markets LLC, as underwriter (the “*Underwriter*”) to the “Bond Purchase Agreement” dated December 7, 2011 (the “*Purchase Agreement*”) among the Authority, the Company, and the Underwriter, which Underwriter shall act as underwriter of the Series 2011 Bonds, and which specimens attached here to are identical except for principal amount, number, maturity date, interest rate and CUSIP numbers.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Authority this 14th day of December, 2011.

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By:   
\_\_\_\_\_  
**Ellen M. Sandman**  
**Secretary**

**EXHIBIT A**  
**[Attach Specimen Bond]**

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF MORRIS

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED

RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011A

No. RA-1

CUSIP: 618027BM7

Interest Rate	Maturity Date	Dated Date	Authentication Date
1.138%	June 15, 2013	December 14, 2011	December 14, 2011

Registered Owner: CEDE & CO.

Principal Sum: EIGHT HUNDRED SIXTY-FIVE THOUSAND DOLLARS (\$865,000)

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement act law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Act"), acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner stated hereon or its registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged therefor, upon presentation and surrender of this bond at the principal corporate trust office of United Bank National Association (such bank and any successors thereto being herein called the "Trustee" and "Paying Agent"), the Principal Sum stated hereon in any coin or currency of the United States of America that at the time of such payment is legal tender for the payment of public and private debts and to pay from such pledged funds on June 15 and December 15 in each year, commencing June 15, 2012, until the Authority's obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date stated hereon on such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However,

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF MORRIS

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED  
RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011A

No. RA-2

CUSIP: 618027BN5

Interest Rate	Maturity Date	Dated Date	Authentication Date
1.562%	June 15, 2014	December 14, 2011	December 14, 2011

Registered Owner: CEDE & CO.

Principal Sum: ONE MILLION EIGHT HUNDRED FIFTY THOUSAND DOLLARS (\$1,850,000)

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and all acts amendatory thereof and supplemental thereto (the "Act"), acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner stated herein or its registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged therefor, upon presentation and surrender of this bond at the principal corporate trust office of U.S. Bank National Association (such bank and any successors thereto being herein called the "Trustee" and "Paying Agent"), the Principal Sum stated hereon in any coin or currency of the United States of America that at the time of such payment is legal tender for the payment of public and private debts, and to pay from such pledged funds on June 15 and December 15 in each year commencing June 15, 2012, until the Authority's obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date stated hereon on such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However,

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF MORRIS

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED

RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011A

No. RA-3

CUSIP: 618027BP0

Interest Rate	Maturity Date	Dated Date	Authentication Date
2.136%	June 15, 2015	December 14, 2011	December 14, 2011

Registered Owner: CEDE & CO.

Principal Sum: ONE MILLION EIGHT HUNDRED FIFTY THOUSAND DOLLARS (\$1,850,000)

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Act"), acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner stated hereon or its registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged hereon upon presentation and surrender of this bond at the principal corporate trust office of [redacted] Bank National Association (such bank and any successors thereto being herein called the "Trustee" and "Paying Agent"), the Principal Sum stated hereon in any coin or currency of the United States of America that at the time of such payment is legal tender for the payment of public and private debts, and to pay from such pledged funds on June 15 and December 15 in each year, commencing June 15, 2012, until the Authority's obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date stated hereon on such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However,

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF MORRIS

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED  
RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011A

No. RA-4

CUSIP: 618027BQ8

Interest Rate	Maturity Date	Dated Date	Authentication Date
2.486%	June 15, 2016	December 14, 2011	December 14, 2011

Registered Owner: CEDE & CO.

Principal Sum: ONE MILLION EIGHT HUNDRED FIFTY THOUSAND DOLLARS (\$1,850,000)

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Act"), acknowledge itself indebted to, and for value received hereby promises to pay to, the Registered Owner hereof, its registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged therefor upon presentation and surrender of this bond at the principal corporate trust office of U.S. Bank National Association (such bank and any successors thereto being herein called the "Trustee" and "Paying Agent"), the Principal Sum stated hereon in any coin or currency of the United States of America that at the time of such payment is legal tender for the payment of public and private debts, and to pay from such pledged funds on June 15 and December 15 in each year, commencing June 15, 2012, until the Authority's obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date stated hereon on such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However,

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF MORRIS

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED

RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011A

No. RA-5

CUSIP: 618027BR6

Interest Rate	Maturity Date	Dated Date	Authentication Date
2.910%	June 15, 2017	December 14, 2011	December 14, 2011

Registered Owner: CEDE & CO.

Principal Sum: ONE MILLION EIGHT HUNDRED FIFTY THOUSAND DOLLARS (\$1,850,000)

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Act"), acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner stated hereon and its assigns, on the Maturity Date stated hereon, but solely from the funds pledged therefor, upon presentation and surrender of this bond at the principal corporate trust office of U.S. Bank National Association (such bank and any successors thereto being herein called the "Trustee" and "Paying Agent"), the Principal Sum stated hereon in any coin or currency of the United States of America that at the time of such payment is legal tender for the payment of public and private debts and to pay from such pledged funds on June 15 and December 15 in each year, commencing June 15, 2012, until the Authority's obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date stated hereon on such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However,

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF MORRIS

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED

RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011A

No. RA-6

CUSIP: 618027BS4

Interest Rate	Maturity Date	Dated Date	Authentication Date
3.210%	June 15, 2018	December 14, 2011	December 14, 2011

Registered Owner: CEDE & CO.

Principal Sum: ONE MILLION EIGHT HUNDRED FORTY-FIVE THOUSAND DOLLARS (\$1,845,000)

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Act"), acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner hereof or its registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged hereon, upon presentation and surrender of this bond at the principal corporate trust office of U.S. Bank National Association (such bank and any successors thereto being herein called the "Trustee" and "Paying Agent") the Principal Sum stated hereon in any coin or currency of the United States of America, and at the time of such payment is legal tender for the payment of public and private debts, and to pay from such pledged funds on June 15 and December 15 in each year, commencing June 15, 2012, until the Authority's obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date stated hereon on such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However,

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF MORRIS

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED  
RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011A

No. RA-7

CUSIP: 618027BT2

Interest Rate	Maturity Date	Dated Date	Authentication Date
3.388%	June 15, 2019	December 14, 2011	December 14, 2011

Registered Owner: CEDE & CO.

Principal Sum: ONE MILLION EIGHT HUNDRED FORTY-FIVE THOUSAND DOLLARS (\$1,845,000)

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Act"), acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner state, hereon or its registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged hereon, upon presentation and surrender of this bond at the principal corporate trust office of U.S. Bank National Association (such bank and any successors thereto being hereinafter the "Trustee" and "Paying Agent"), the Principal Sum stated hereon in any coin or currency of the United States of America that at the time of such payment is legal tender for the payment of public and private debts and to pay from such pledged funds on June 15 and December 15 in each year commencing June 15, 2012, until the Authority's obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date stated hereon of such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However,

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF MORRIS

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED

RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011A

No. RA-8

CUSIP: 618027BU9

Interest Rate	Maturity Date	Dated Date	Authentication Date
3.588%	June 15, 2020	December 14, 2011	December 14, 2011

Registered Owner: CEDE & CO.

Principal Sum: ONE MILLION EIGHT HUNDRED FORTY-FIVE THOUSAND DOLLARS (\$1,845,000)

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Act"), acknowledged itself indebted to, and for value received hereby promises to pay to, the Registered Owner stated hereon or its registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged therefor, upon presentation and surrender of this bond at the principal corporate trust office of J.P. Morgan Chase Bank, National Association (such bank and any successors thereto being hereinafter called the "Trustee" and "Paying Agent"), the Principal Sum stated hereon in any coin or currency of the United States of America that at the time of such payment is legal tender for the payment of public and private debts, and to pay from such pledged funds on June 15 and December 15 in each year commencing June 15, 2012, until the Authority's obligation with respect to the payment of such principal sum shall be discharged to the Registered Owner hereof, interest from the Dated Date stated hereon on such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However,

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF MORRIS

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED  
RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011A

No. RA-9

CUSIP: 618027BV7

Interest Rate	Maturity Date	Dated Date	Authentication Date
3.688%	June 15, 2021	December 14, 2011	December 14, 2011

Registered Owner: CEDE & CO.

Principal Sum: ONE MILLION EIGHT HUNDRED FORTY-FIVE THOUSAND DOLLARS (\$1,845,000)

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Act"), acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner stated hereon and the Registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged herefor, upon presentation and surrender of this bond at the principal corporate trustee office of U.S. Bank National Association (such bank and any successors thereto being herein called the "Trustee" and "Paying Agent"), the Principal Sum stated hereon in any coin or currency of the United States of America that at the time of such payment is legal tender for the payment of public and private debts, and from such pledged funds on June 15 and December 15 in each year, commencing June 15, 2012, until the Authority's obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date stated hereon on such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However,

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF MORRIS

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED  
RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011A

No. RA-10

CUSIP: 618027BW5

Interest Rate	Maturity Date	Dated Date	Authentication Date
4.938%	June 15, 2027	December 14, 2011	December 14, 2011

Registered Owner: CEDE & CO.

Principal Sum: ELEVEN MILLION SEVENTY THOUSAND DOLLARS (\$11,070,000)

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Act"), acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner stated hereon or its registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged therefor, upon presentation and surrender of this bond at the principal corporate trust office of a U.S. Bank National Association (such bank and any successors thereto being hereinafter called the "Trustee" and "Paying Agent"), the Principal Sum stated hereon in any coin or currency of the United States of America, that at the time of such payment is legal tender for the payment of public and private debt, and to pay from such pledged funds on June 15 and December 15 in each year, commencing June 15, 2012, until the Authority's obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date stated hereon on such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However,

so long as the Series 2011A Bonds as hereinafter defined) are held in book-entry form pursuant to the Bond Resolution (as hereinafter defined), the provisions of the Bond Resolution governing such book-entry form shall govern the repayment of the principal or Redemption Price of and the interest on the Series 2011A Bonds.

This bond is one of a duly authorized Series of Bonds of the Authority designated "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A" (herein called the "*Series 2011A Bonds*"), in the aggregate principal amount of \$26,715,000 issued under and in full compliance with the Constitution and statutes of the State of New Jersey, including the Act, and under and pursuant to a resolution of the Authority authorizing the Series 2011 Bonds (as hereinafter defined) adopted on September 28, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended by a Certificate of an Authorized Officer of the Authority dated December 14, 2011, executed in connection with Section 2.02(1)(e) of said resolution (together with any further amendments thereof or supplements thereto, the "*Bond Resolution*"). Simultaneously herewith, on December 14, 2011, the Authority issued its "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B" in the aggregate principal amount of \$850,000 (the "*Series 2011B Note*") and together with the Series 2011A Bonds, the "*Series 2011 Bonds*".

All capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Bond Resolution.

As provided in the Bond Resolution, the Series 2011 Bonds, and all other bonds issued on a parity with the Series 2011 Bonds under the Bond Resolution (collectively called the "*Bonds*"), are special and limited obligations of the Authority payable solely from, and secured as to the payment of the principal or Redemption Price thereof and the interest thereon in accordance with their terms and the provisions of the Bond Resolution solely by, the Trust Estate, subject only to the provisions of the Bond Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Bond Resolution.

The Trust Estate under the Bond Resolution includes (i) certain of the Authority's right, title and interest in and to that certain Company Lease Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of December 1, 2011 (the "*Company Lease Agreement*") by and between the Authority and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "*Company*"), including, without limitation, the Basic Lease Payments and certain Additional Lease Payments earmarked for the Purchase Option Price or the Mandatory Purchase Price (collectively the "*Lease Payments*") by the Company as defined in and contemplated by the Company Lease Agreement, (ii) with respect to the payment of the principal of and the interest on the Series 2011 Bonds only, payments made by the County under its guaranty ordinance finally adopted on August 17, 2011, as amended and supplemented, all in accordance with Section 37 of the Act (N.J.S.A. 40:37A-80) and other applicable law, the

guaranty certificate executed by an Authorized Officer of the County on the face of each Series 2011 Bond, and that certain County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of December 1, 2011 (the "*County Guaranty Agreement*") between the Authority and the County (collectively, the "*County Guaranty*"), and (iii) all other Funds and Accounts established under the Bond Resolution (other than the Administrative Fund, and the County Security Fund), including Investment Securities held in any such Fund thereunder, together with all of the proceeds and revenues of the foregoing, and (iv) all other moneys, securities or funds pledged for the payment of the principal or Redemption Price of and the interest on the Series 2011 Bonds in accordance with the terms and provisions of the Bond Resolution.

Copies of the Bond Resolution are on file at the office of the Authority and at the above-mentioned office of the Trustee, and reference is hereby made to the Act and to the Bond Resolution (including any and all supplements thereto and modifications and amendments thereof) for a description of the pledge, assignment and covenants securing the Bonds, the nature, extent and manner of enforcement of such pledge, the rights and remedies of the Bondholders with respect thereto, the terms and conditions upon which the Bonds are issued and may be issued thereunder, the terms and provisions upon which this bond shall cease to be entitled to any lien, benefit or security thereunder and for the other terms and provisions thereof. All duties, covenants, agreements and obligations of the Authority under the Bond Resolution may be discharged and satisfied at or prior to the maturity or redemption of this bond if moneys or certain specified securities shall have been deposited with the Trustee.

As provided in the Bond Resolution, Bonds may be issued from time to time pursuant to Supplemental Resolutions in one or more Series in various principal amounts, may mature at different times, may bear interest at different rates and may otherwise vary as in the Bond Resolution provided. The aggregate principal amount of Bonds that may be issued under the Bond Resolution is not limited, and all Bonds issued and to be issued under the Bond Resolution are and will be equally secured by the pledge and covenants made therein, except as otherwise expressly provided or permitted in the Bond Resolution.

To the extent and in the manner permitted by the terms of the Bond Resolution, the provisions of the Bond Resolution (including any resolution amendatory thereof or supplemental thereto) may be modified or amended by the Authority, (i) without the consent of the Bondholders as provided in the Bond Resolution or (ii) with the written consent of the Holders of at least two-thirds (2/3) in aggregate principal amount of the Bonds Outstanding under the Bond Resolution at the time such consent is given, and, in case less than all of the several Series of Bonds then Outstanding are affected thereby, with such consent of at least two-thirds (2/3) in aggregate principal amount of the Bonds of each Series so affected and Outstanding; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding under the Bond Resolution, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of the calculation of Outstanding Bonds. No such

modification or amendment shall permit a change in the terms of redemption (including Sinking Fund Installments) or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of the Trustee or of the Paying Agent without its written assent thereto.

This bond is transferable, as provided in the Bond Resolution, only upon the books of the Authority kept for that purpose at the above-mentioned office of the Trustee, as bond registrar, by the Registered Owner hereof in person or such Registered Owner's duly authorized attorney in writing, upon surrender of this bond together with a written instrument of transfer satisfactory to the Trustee, as bond registrar, duly executed by the Registered Owner or such Registered Owner's duly authorized attorney in writing, and upon the surrender of a new fully registered bond or bonds in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Bond Resolution and upon payment of the charges therein prescribed. The Authority, the Trustee and the Paying Agent may deem and treat the Registered Owner as the absolute Owner hereof for the purpose of receiving payment of or on account of, the principal or Redemption Price hereof and the interest due hereon and for all other purposes.

The Series 2011A Bonds maturing on or before June 15, 2021 shall not be subject to redemption prior to their respective maturity dates. The Series 2011A Bonds maturing on and after June 15, 2022 shall be subject to optional redemption by the Authority prior to their respective maturity dates, on or after June 15, 2021, upon notice as herein described, either in whole or in part at any time in any order of maturity as the Authority shall determine and within a single maturity by lot, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

The Series 2011A Bonds maturing on June 15, 2027 are subject to mandatory redemption prior to their stated maturities, through selection by the Trustee and upon the giving of notice as provided by the Bond Resolution, by payment of the following "Sinking Fund Installments" on June 15 of each year set forth in the table below, at a Redemption Price equal to one hundred percent (100%) of the principal amount to be redeemed, plus interest accrued to the date of redemption.

<u>Date</u>	<u>Principal Amount</u>
June 15, 2022	\$1,845,000
June 15, 2023	1,845,000
June 15, 2024	1,845,000
June 15, 2025	1,845,000
June 15, 2026	1,845,000
June 15, 2027 <sup>†</sup>	1,845,000

† Final Maturity.

The Bond Resolution contains additional provisions regarding certain other rights to redemption of one or more Series of the Series 2011 Bonds prior to their stated maturities thereof.

The Series 2011 Bonds are payable upon redemption at the above-mentioned office of the Paying Agent. Notice of redemption, setting forth the place of payment, shall be mailed by the Trustee, postage prepaid, not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date, to the Registered Owners of any Series 2011 Bonds or portions thereof to be redeemed at their last addresses, if any, appearing upon the registry books, all in the manner and upon the terms and conditions set forth in the Bond Resolution. If notice of redemption shall have been mailed as aforesaid, the Series 2011 Bonds or portions thereof specified in said notice shall become due and payable on the redemption date therein fixed, and if, on the redemption date, moneys for the redemption of all of the Series 2011 Bonds or portions thereof to be redeemed, together with interest to the redemption date, shall be available for such payment on said date, then from and after the redemption date interest on such Series 2011 Bonds or portions thereof so called for redemption shall cease to accrue and be payable. Failure of the Registered Owner of any Series 2011 Bonds to be redeemed to receive any such notice shall not affect the validity of the proceedings for the redemption of Series 2011 Bonds.

The principal or Redemption Price of and the interest on the Series 2011 Bonds are payable by the Authority solely from the Trust Estate, and neither the State of New Jersey, the County (except to the extent of payments under the County Guaranty, which shall not secure the payment of any redemption premium), the Series 2011 Local Units, nor any political subdivision thereof, other than the Authority (but solely to the extent of the Trust Estate), is obligated to pay the principal or Redemption Price of or the interest on this bond and the issue of which it is one, and neither the full faith and credit nor the taxing power of the State of New Jersey, the Series 2011 Local Units, the County (except to the extent of the payments under the County Guaranty, which guaranty shall not secure the payment of any redemption premium) or any political subdivision thereof, including the Authority (which has no taxing power), is pledged to the payment of the principal or Redemption Price of or the interest on this bond and the issue of which it is one.

It is hereby certified and recited that all conditions, acts and things required by law and the Bond Resolution to exist, to have happened and to have been performed precedent to and in the issuance of this bond, exist, have happened and have been performed, and that the Series of Bonds of which this is one, together with all other indebtedness of the Authority, complies in all respects with the applicable laws of the State of New Jersey, including, particularly, the Act.

This bond shall not be entitled to any benefit under the Bond Resolution or be valid or become obligatory for any purpose until this bond shall have been authenticated by the execution by the Trustee of the Trustee's Certificate of Authentication hereon.

**SPECIMEN**

IN WITNESS WHEREOF, THE MORRIS COUNTY IMPROVEMENT AUTHORITY has caused this bond to be executed in its name and on its behalf by the manual or facsimile signature of its Chairman or Vice Chairman, and its seal to be impressed, imprinted, engraved or otherwise reproduced hereon and attested by the manual or facsimile signature of its Secretary or Assistant Secretary, all as of the Dated Date hereof.

THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY

*[Signature]*  
By: \_\_\_\_\_  
Chairman or Vice Chairman

**SPECIMEN**

[SEAL]

Attest:

*[Signature]*  
Secretary or Assistant Secretary

**SPECIMEN**

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the Series 2011A Bonds delivered pursuant to the within-mentioned Bond Resolution.

U.S. Bank National Association  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

**SPECIMEN**

**GUARANTY OF THE COUNTY OF SUSSEX, NEW JERSEY**

The payment of the principal of and the interest on this Series 2011A Bond shall be fully, irrevocably and unconditionally guaranteed by the County of Sussex, New Jersey (the "County"), in accordance with the provisions of N.J.S.A. 40:37A-80, the guaranty ordinance of the County finally adopted pursuant thereto, and that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011, between the County and The Morris County Improvement Authority, and accordingly, the County is fully, irrevocably and unconditionally liable for the payment, when due (whether at stated maturity or earlier on any date of redemption or acceleration), of the principal of and the interest on this Series 2011A Bond, and, if necessary, the County shall levy *ad valorem* taxes upon all the taxable property within the County, without limitation as to rate or amount, in order to make such payments.

**IN WITNESS WHEREOF**, the County has caused this Guaranty Certificate to be executed by the manual or facsimile signature of its Freeholder-Director.

COUNTY OF SUSSEX,  
NEW JERSEY  
**SPECIMEN**  
By: \_\_\_\_\_  
Freeholder - Director

The following abbreviations, when used in the inscription on this bond, shall be construed as though they were written out in full according to applicable laws or regulations (additional abbreviations may also be used though not in the following list):

TEN COM - as tenants in common  
TEN ENT - as tenants by the  
entireties  
JT TEN - as joint tenants with  
right of survivorship  
and not as tenants in  
common

UNIF GIFT MIN ACT  
\_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)  
under Uniform Gifts to  
Minors Act  
  
(State)

ASSIGNMENT

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER  
OF ASSIGNEE (FOR COMPUTER RECORD ONLY): \_\_\_\_\_

FOR VALUE RECEIVED, I, the undersigned hereby sells, assigns and transfers unto

(Please Print or Typewrite Name and Address of transferee)

\_\_\_\_\_ the within bond, and all rights thereunder and hereby irrevocably constitutes and appoints

\_\_\_\_\_ Attorney, to transfer the  
within bond on the books kept for the registration thereof, with full power of substitution in the  
premises.

Dated:

Signature Guaranty:

Signature:

NOTICE: Signature(s) must  
be guaranteed by a member  
firm of the New York Stock  
Exchange or a commercial  
bank, trust company,  
national bank association  
or other banking institution  
incorporated under the laws of  
the United States or a state  
of the United States.

NOTICE: The signature of this  
Assignment must correspond with the  
name that appears upon the first  
page of the within bond in every  
particular, without alteration or  
enlargement or any change whatever.

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

COUNTY OF MORRIS

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

COUNTY OF SUSSEX GUARANTEED  
RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTE, SERIES 2011B

No. RB-1

CUSIP: 618027BX3

Interest Rate	Maturity Date	Dated Date	Authentication Date
1.50%	January 15, 2013	December 14, 2011	December 14, 2011

Registered Owner: CEDE & CO.

Principal Sum: NINE HUNDRED EIGHTY-FIVE THOUSAND DOLLARS (\$985,000)

THE MORRIS COUNTY IMPROVEMENT AUTHORITY (the "Authority"), a public body corporate and politic created and existing under the laws of the State of New Jersey, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Act"), acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner standing hereon or its registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged hereon, upon presentation and surrender of this bond at the principal corporate trust office of U.S. Bank National Association (such bank and any successors thereto being herein called the "Trustee" and "Paying Agent"), the Principal Sum stated hereon in any coin or currency of the United States of America that at the time of such payment is legal tender for the payment of public and private debts, and to pay from such pledged funds on January 15, 2013, until the Authority's obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereon, interest from the Dated Date stated hereon on such Principal Sum by check or draft of the Paying Agent mailed to such Registered Owner who shall appear as of the first day (whether or not such day shall be a Business Day) of the month in which such interest payment date occurs on the books of the Authority maintained by the Trustee. However, so long as the Series 2011B Note as hereinafter defined) are held in book-entry form pursuant to the Bond Resolution (as hereinafter defined), the provisions of the Bond Resolution governing such book-entry form shall govern the repayment of the principal or Redemption Price of and the interest on the Series 2011B Note.

This note is one of a duly authorized Series of Bonds of the Authority designated "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B" (herein called the "*Series 2011B Note*"), in the aggregate principal amount of \$985,000 issued under and in full compliance with the Constitution and statutes of the State of New Jersey, including the Act, and under and pursuant to a resolution of the Authority authorizing the Series 2011 Bonds (as hereinafter defined) adopted on September 28, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended by a Certificate of an Authorized Officer of the Authority dated December 14, 2011, executed in connection with Section 2.02(1)(e) of said resolution (together with any further amendments thereof or supplements thereto, the "*Bond Resolution*"). Simultaneously herewith, on December 14, 2011, the Authority issued its "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A" in the aggregate principal amount of \$26,715,000 (the "*Series 2011A Bonds*" and together with the Series 2011B Note, the "*Series 2011 Bonds*").

All capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Bond Resolution.

As provided in the Bond Resolution, the Series 2011 Bonds, and all other bonds issued on a parity with the Series 2011 Bonds under the Bond Resolution (herein collectively called the "*Bonds*"), are special and limited obligations of the Authority payable solely from, and secured as to the payment of the principal or Redemption Price thereof and the interest thereon in accordance with their terms and the provisions of the Bond Resolution solely by, the Trust Estate, subject only to the provisions of the Bond Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Bond Resolution.

The Trust Estate under the Bond Resolution includes (i) certain of the Authority's right, title and interest in and to that certain Company Lease Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of December 15, 2011 (the "*Company Lease Agreement*") by and between the Authority and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "*Company*"), including, without limitation, the Basic Lease Payments and certain Additional Lease Payments earmarked for the Purchase Option Price or the Mandatory Purchase Price (collectively the "*Lease Payments*") by the Company as defined in and contemplated by the Company Lease Agreement, (ii) with respect to the payment of the principal of and the interest on the Series 2011 Bonds only, payments made by the County under its guaranty ordinance finally adopted on August 17, 2011, as amended and supplemented, all in accordance with Section 37 of the Act (N.J.S.A. 40:37A-80) and other applicable law, the guaranty certificate executed by an Authorized Officer of the County on the face of each Series 2011 Bond, and that certain County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of December 1, 2011 (the "*County Guaranty Agreement*") between the Authority and the County (collectively, the "*County Guaranty*"), and (iii) all other

Funds and Accounts established under the Bond Resolution (other than the Administrative Fund, and the County Security Fund), including Investment Securities held in any such Fund thereunder, together with all of the proceeds and revenues of the foregoing, and (iv) all other moneys, securities or funds pledged for the payment of the principal or Redemption Price of and the interest on the Series 2011 Bonds in accordance with the terms and provisions of the Bond Resolution.

Copies of the Bond Resolution are on file at the office of the Authority and at the above-mentioned office of the Trustee, and reference is hereby made to the Act and to the Bond Resolution (including any and all supplements thereto and modifications and amendments thereof) for a description of the pledge, assignment and covenants securing the Bonds, the nature, extent and manner of enforcement of such pledge, the rights and remedies of the Bondholders with respect thereto, the terms and conditions upon which the Bonds are issued and may be issued thereunder, the terms and provisions upon which this bond shall cease to be entitled to any lien, benefit or security thereunder and for the other terms and provisions thereof. All duties, covenants, agreements and obligations of the Authority under the Bond Resolution may be discharged and satisfied at or prior to the maturity or redemption of this bond if moneys or certain specified securities shall have been deposited with the Trustee.

As provided in the Bond Resolution, Bonds may be issued from time to time pursuant to Supplemental Resolutions in one or more Series in various principal amounts, may mature at different times, may bear interest at different rates and may otherwise vary as in the Bond Resolution provided. The aggregate principal amount of Bonds that may be issued under the Bond Resolution is not limited, and all Bonds issued and to be issued under the Bond Resolution are and will be equally secured by the pledge and covenants made therein, except as otherwise expressly provided or permitted in the Bond Resolution.

To the extent and in the manner permitted by the terms of the Bond Resolution, the provisions of the Bond Resolution (including any resolution amendatory thereof or supplemental thereto) may be modified or amended by the Authority (i) without the consent of the Bondholders as provided in the Bond Resolution or (ii) with the written consent of the Holders of at least two-thirds (2/3) in aggregate principal amount of the Bonds Outstanding under the Bond Resolution at the time such consent is given, and, in case less than all of the several Series of Bonds then Outstanding are affected thereby, with such consent of at least two-thirds (2/3) in aggregate principal amount of the Bonds of each Series so affected and Outstanding; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding under the Bond Resolution, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of the calculation of Outstanding Bonds. No such modification or amendment shall permit a change in the terms of redemption (including Sinking Fund Installments) or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the

percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of the Trustee or of the Paying Agent without its written assent thereto.

This bond is transferable, as provided in the Bond Resolution, only upon the books of the Authority kept for that purpose at the above-mentioned office of the Trustee, as bond registrar, by the Registered Owner hereof in person or such Registered Owner's duly authorized attorney in writing, upon surrender of this bond together with a written instrument of transfer satisfactory to the Trustee, as bond registrar, duly executed by the Registered Owner or such Registered Owner's duly authorized attorney, and thereupon a new fully registered bond or bonds in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Bond Resolution and upon payment of the charges therein prescribed. The Authority, the Trustee and the Paying Agent may deem and treat the Registered Owner as the absolute Owner hereof for the purpose of receiving payment of, or on account of, the principal or Redemption Price hereof and the interest due hereon and for all other purposes.

This Series 2011B Note shall not be subject to optional or mandatory sinking fund redemption prior to its stated maturity.

The Bond Resolution contains additional provisions regarding certain other rights to redemption of one or more Series of the Series 2011 Bonds prior to their stated maturities thereof.

The Series 2011 Bonds are payable upon redemption at the above-mentioned office of the Paying Agent. Notice of redemption, setting forth the place of payment, shall be mailed by the Trustee, postage prepaid, not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date, to the Registered Owners of any Series 2011 Bonds or portions thereof to be redeemed at their last addresses, if any, appearing upon the registry books, all in the manner and upon the terms and conditions set forth in the Bond Resolution. If notice of redemption shall have been mailed as aforesaid, the Series 2011 Bonds or portions thereof specified in said notice shall become due and payable on the redemption date therein fixed and if, on the redemption date, moneys for the redemption of all of the Series 2011 Bonds or portions thereof to be redeemed, together with interest to the redemption date, shall be available for such payment on said date, then from and after the redemption date interest on such Series 2011 Bonds or portions thereof so called for redemption shall cease to accrue and be payable. Failure of the Registered Owner of any Series 2011 Bonds to be redeemed to receive any such notice shall not affect the validity of the proceedings for the redemption of Series 2011 Bonds.

The principal or Redemption Price of and the interest on the Series 2011 Bonds are payable by the Authority solely from the Trust Estate, and neither the State of New Jersey, the County (except to the extent of payments under the County Guaranty, which shall not secure the payment of any redemption premium), the Series 2011 Local Units, nor any political subdivision thereof, other than the Authority (but solely to the extent of the Trust Estate), is obligated to pay the principal or Redemption Price of or the interest on this bond and the issue of which it is one,

and neither the full faith and credit nor the taxing power of the State of New Jersey, the Series 2011 Local Units, the County (except to the extent of the payments under the County Guaranty, which guaranty shall not secure the payment of any redemption premium) or any political subdivision thereof, including the Authority (which has no taxing power), is pledged to the payment of the principal or Redemption Price of the interest on this bond and the issue of which it is one.

It is hereby certified and recited that all conditions, acts and things required by law and the Bond Resolution to exist, to have happened and to have been performed precedent to and in the issuance of this bond, exist, have happened and have been performed, and that the Series of Bonds of which this is one, together with all other indebtedness of the Authority, complies in all respects with the applicable laws of the State of New Jersey, including particularly, the Act.

This bond shall not be entitled to any benefit under the Bond Resolution or be valid or become obligatory for any purpose until this bond shall have been authenticated by the execution by the Trustee of the Trustee's Certificate of Authentication hereon.

IN WITNESS WHEREOF, THE MORRIS COUNTY IMPROVEMENT AUTHORITY has caused this bond to be executed in its name and on its behalf by the manual or facsimile signature of its Chairman or Vice Chairman, and its seal to be impressed, imprinted, engraved or otherwise reproduced hereon and attested by the manual or facsimile signature of its Secretary or Assistant Secretary, all as of the Dated Date hereof.

THE MORRIS COUNTY IMPROVEMENT AUTHORITY

By: \_\_\_\_\_ Chairman

[SEAL]

Attest:

\_\_\_\_\_  
Secretary or Assistant Secretary

**SPECIMEN**

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the Series 2011B Note delivered pursuant to the within-mentioned Bond Resolution.

U.S. Bank National Association,  
as Trustee

**SPECIMEN**

**GUARANTY OF THE COUNTY OF SUSEX, NEW JERSEY**

The payment of the principal of and the interest on this Series 2011B Note shall be fully, irrevocably and unconditionally guaranteed by the County of Sussex, New Jersey (the "County"), in accordance with the provisions of N.J.S.A. 40:37A-80, the guaranty ordinance of the County finally adopted pursuant thereto, and that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011, between the County and The Morris County Improvement Authority, and accordingly, the County is fully, irrevocably and unconditionally liable for the payment, when due (whether at stated maturity or earlier on any date of redemption or acceleration), of the principal of and the interest on this Series 2011B Note, and, if necessary, the County shall levy *ad valorem* taxes upon all the taxable property within the County, without limitation as to rate or amount, in order to make such payments.

**IN WITNESS WHEREOF**, the County has caused this Guaranty Certificate to be executed by the manual or facsimile signature of its Freeholder-Director.

COUNTY OF SUSSEX,  
NEW JERSEY  
**SPECIMEN**  
By: \_\_\_\_\_  
Freeholder - Director

The following abbreviations, when used in the inscription on this bond, shall be construed as though they were written out in full according to applicable laws or regulations (additional abbreviations may also be used though not in the following list):

TEN COM - as tenants in common  
TEN ENT - as tenants by the  
entireties  
JT TEN - as joint tenants with  
right of survivorship  
and not as tenants in  
common

UNIF GIFT MIN ACT  
\_\_\_\_\_  
Custodian \_\_\_\_\_  
(Cust) (Minor)  
under Uniform Gifts to  
Minors Act  
  
(State)

ASSIGNMENT

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER  
OF ASSIGNEE (FOR COMPUTER RECORD ONLY): \_\_\_\_\_

FOR VALUE RECEIVED, I/we undersigned hereby sells, assigns and transfers unto

(Please Print or Typewrite Name and Address of Transferee)

\_\_\_\_\_  
the within bond, and all rights thereunder and hereby irrevocably constitutes and appoints

\_\_\_\_\_  
Attorney, to transfer the  
within bond on the books kept for the registration thereof with full power of substitution in the  
premises.

Dated:

Signature Guaranty:

Signature:

NOTICE: Signature(s) must  
be guaranteed by a member  
firm of the New York Stock  
Exchange or a commercial  
bank, trust company,  
national bank association  
or other banking institution  
incorporated under the laws of  
the United States or a state  
of the United States.

NOTICE: The signature of this  
Assignment must correspond with the  
name that appears upon the first  
page of the within bond in every  
particular, without alteration or  
enlargement or any change whatever.

## TAX CERTIFICATE

I, Glenn Roe, as Treasurer and a Commissioner of The Morris County Improvement Authority (the "Authority"), a public body corporate and politic of the State of New Jersey (the "State") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), **HEREBY CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF** as follows:

### 1. GENERAL

1.1. The Series 2011 Obligations. I, with others, am charged with the responsibility of issuing: \$26,715,000 aggregate principal amount of the Authority's County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) (the "Series 2011A Bonds") and \$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "Series 2011B Note" and collectively with the Series 2011A Bonds, the "Series 2011 Obligations"), sold on December 7, 2011, dated and issued December 14, 2011.

1.2. Amount Deemed Received. The Authority is deemed to have received \$27,700,000 from the sale of the Series 2011 Obligations, consisting of the par amount of the Series 2011 Obligations (amount of \$27,700,000). There is no original issue premium, original issue discount (other than with respect to the Series 2011B Note as described in Section 5.3 hereof for federal income tax purposes) or accrued interest on the Series 2011 Obligations.

1.3. Authorization for the Series 2011 Obligations. The Series 2011 Obligations are issued pursuant to the Act, other applicable law, and that certain bond resolution of the Authority, entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted on September 28, 2011, as amended and supplemented by Certificates of an Authorized Officer of the Authority to be executed in connection with the issuance of each of the Series 2011A Bonds and the Series 2011B Note (collectively, the "Bond Resolution"). The Series 2011A Bonds are being issued to: (i) finance a portion of the costs of the Renewable Energy Projects for each of the Series 2011 Local Units (as such terms are defined in the Bond Resolution; for a more complete description of the Renewable Energy Program, see "THE RENEWABLE ENERGY PROGRAM" in the Official Statement with respect to the Series 2011 Obligations, dated December 7, 2011 (the "Official Statement")), (ii) reimburse certain Renewable Energy Program development costs paid by the County of Sussex, New Jersey (the "County") and the Authority, (iii) pay certain fees and costs incurred by or for Sunlight General Sussex Solar, LLC (the "Company") in connection with the Renewable Energy Program (collectively, the purposes set forth in (i), (ii) and (iii) are referred to herein as the "Project"), and (iv) pay the various costs of issuing the Series 2011 Obligations. The Series 2011A Note is being issued to pay capitalized interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

2. PURPOSE OF ISSUE.

2.1. Purposes of the Series 2011 Obligations. (a) The Series 2011A Bonds are being issued for the following purposes:

(i) To finance the Project; and  
(ii) To provide funds for the payment of certain of the costs and expenses incurred in connection with the authorization, issuance and delivery of the Series 2011 Obligations.

(b) The Series 2011B Note is being issued to pay capitalized interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

2.2. No Yield Restriction Requirements. Interest on the Series 2011 Obligations is includable in gross income for federal income tax purposes. Accordingly, the yield restriction and rebate requirements of Code Section 148 do not apply to the proceeds of the Series 2011 Obligations.

2.3. No Reimbursement. Except for preliminary expenditures not exceeding 20% of the issue price of the Series 2011A Bonds (as defined in Section 1.150-2(f) of the Regulations, such as architectural, engineering, surveying, soil testing, reimbursement bond issuance, and similar costs that are incurred prior to commencement of acquisition, construction, or rehabilitation of a project, other than land acquisition, site preparation, and similar costs incident to commencement of construction), none of the proceeds of the Series 2011A Bonds will be used to reimburse the Authority for an expenditure paid prior to the date hereof.

2.4. No Refunding. No portion of the proceeds of the Series 2011 Obligations will be used to pay debt service on any other indebtedness of the Authority.

3. SOURCE AND DISTRIBUTION OF FUNDS.

3.1. Proceeds of the Series 2011 Obligations. The proceeds derived from the sale of the Series 2011 Obligations, in the amount of \$27,700,000 (which amount constitutes the par amount of the Series 2011 Obligations) constitute the "Proceeds" of the Series 2011 Obligations for purposes of this Certificate.

3.2. Application of Proceeds. The Proceeds of the Series 2011 Obligations, together with other amounts as described in this section, will be applied as shown on the following page:

(a) <u>Sources of Funds:</u>	
Principal Amount of Bonds	\$27,700,000.00
Cash Equity	1,500,000.00
Company Equity Contribution (In-Kind) <sup>(1)</sup>	<u>7,818,860.00</u>
 TOTAL SOURCES OF FUNDS	 <u>\$37,018,860.00</u>
 (b) <u>Uses of Funds:</u>	
Project Fund <sup>(3)</sup>	\$24,700,000.00
Capitalized Interest on the Series 2011A Bonds <sup>(1)</sup>	983,418.75
In-Kind Equity Contribution	7,818,860.00
Underwriter's Discount	126,091.00
Costs of Issuance	377,500.00
Fixed Project Development Cost	710,991.00
Company Development Costs	800,000.00
County Security Fund	1,500,000.00
Additional Proceeds	<u>1,999.25</u>
 TOTAL USES OF FUNDS	 <u>\$37,018,860.00</u>

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(1) The Company has agreed to make a deferred equity contribution upon the issuance of the Series 2011 Obligations. Such contribution is further described in the Company Lease Agreement. In particular, requisitions for Renewable Energy Project costs will be paid approximately 70% from Series 2011A Bond proceeds and 30% by or on behalf of the Company.

(2) Such costs include monies for the Cost of the Project, along with payment of certain Renewable Energy Program Costs to the Company.

(3) Proceeds of the Series 2011B Note in the amount of \$983,418.75) will be used to pay capitalized interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

3.3. New Money Portion of Proceeds. A portion of the Proceeds of the Series 2011A Bonds will be deposited in the Project Fund and will be applied to pay the costs of the Project, as described in Sections 1.3 and 3.2, above. The Authority will use such funds only for capital expenditures in connection with the Project. Such proceeds will not be used to repay, at maturity or otherwise, any indebtedness of the Authority or any Local Unit. The proceeds will be used to pay all or a portion of the costs of the Project within three (3) years from the date hereof.

3.4. Investment of Proceeds. Proceeds of the Series 2011 Obligations may be invested without regard to yield restriction.

4. TERMS OF THE SERIES 2011 OBLIGATIONS AND CALCULATION OF YIELD.

4.1. Terms of the Series 2011 Obligations. The dated date, maturity date, and rate of interest of the Series 2011 Obligations are as shown in the Official Statement. When used in this certificate, the term “yield” refers to the yield computed by the present worth method using a 360-day year and semiannual compounding, and means that discount rate which, when used in computing the present worth of all payments of principal and interest to be paid on the Series 2011 Obligations, produces an amount equal to the purchase price thereof.

4.2. Purchase Price of the Series 2011 Obligations. The Purchase Price of the Series 2011 Obligations is an amount equal to the initial offering price of the Series 2011 Obligations to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers), at which price a substantial amount of the Series 2011 Obligations (at least ten percent (10%) of the principal amount of each maturity) was sold, including accrued interest, if any, as of the date of issuance, and without allowance for discount or any fees in connection with the issuance of the Series 2011 Obligations. In reliance on a certification made by RBC Capital Markets, LLC, as senior managing underwriter, on behalf of the underwriters (“Underwriters”), which certification is set forth as **Exhibit A** hereto, to the best of its knowledge a substantial portion of the aggregate principal amount of Series 2011 Obligations of each maturity has been sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers), at the offering price or yield set forth in the Official Statement.

4.3. Insurance. There is no bond insurance on the Series 2011 Obligations.

4.4. Purchase Price for Yield Purposes. The purchase price for the Series 2011A Bonds for purposes of computing yield is \$27,700,000, consisting of the par amount of the Series 2011 Obligations. There is no original issue premium, original issue discount (except with respect to the Series 2011B Note for federal tax purposes, as described in Section 5.3 hereof) or accrued interest on the Series 2011 Obligations.

4.5. Yield. The yield on the Series 2011 Obligations, as computed in accordance with the method described in Section 4.1 above, using as a purchase price the price which is specified in Section 4.4 above, is not less than 4.151867%.

## 5. MISCELLANEOUS.

5.1. Single Issue. There are no other issues of governmental bonds or notes of the Authority: (a) sold within 15 days of the date of the sale of the Series 2011 Obligations; (b) sold pursuant to a common plan of financing with the Series 2011 Obligations; and (c) to be paid out of substantially the same source of funds as the Series 2011 Obligations, determined without regard to guarantees from unrelated parties.

5.2. No Filing of IRS Form 8038-G. Interest on the Series 2011 Obligations is includable in gross income for federal income tax purposes. Accordingly, the Authority is not required to file,

and will not file, an information report on Form 8038-G with the Internal Revenue Service (the "IRS").

5.3. Filing of IRS Form 8281 and Form 1099-OID.

(a) Bond Counsel has advised the Authority as follows:

(i) The Internal Revenue Service requires that Form 8281, Information Return for Publicly Offered Original Issue Discount Instruments, be filed in connection with certain publicly offered debt instruments having original issue discount ("OID").

(ii) OID is the excess of the "stated redemption price at maturity" of a bond over the "issue price" of that bond. The "stated redemption price at maturity" is the sum of all payments provided by the debt instrument other than "qualified stated interest" payments. "Qualified stated interest" is stated interest that is unconditionally payable in cash or in property at least annually at a single fixed rate. Because the first interest payment on the Series 2011B Note is January 15, 2013, which is more than one year from the issue date, interest may not be regarded as paid at least annually and, consequently, interest may not be regarded as "qualified stated interest." The "issue price" of a debt instrument issued for money is the first price at which a substantial amount of the debt instruments is sold (other than to bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents, or wholesalers). The issue price for each maturity of the Series 2011B Note is expected to be the initial public offering price set forth on the inside cover page of the Official Statement.

(iii) Pursuant to Regulations Section 1.1273-1(d), if the amount of OID with respect to a debt instrument is less than the *de minimis* amount, the amount of OID is treated as zero, and all stated interest (including stated interest that would otherwise be characterized as OID) is treated as qualified stated interest. The *de minimis* amount is an amount equal to 0.0025 multiplied by the product of the stated redemption price at maturity and the weighted average maturity (in the case of installment obligations, as such term is defined in Regulations Section 1.1273-1(e)). With respect to the Series 2011B Note, treating none of the interest as qualified stated interest, the OID is not *de minimis*.

(b) The Authority shall cause Form 8281, in substantially the form attached hereto as Exhibit B, to be filed with the IRS.

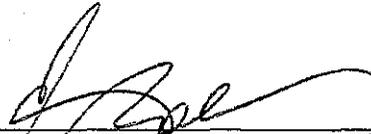
(c) The Authority shall comply with the information reporting requirements under the Code in connection with the Bonds, including the reporting of OID and, if required, Form 1099-OID.

[Remainder of page intentionally left blank. Signature page follows.]

5.4. No Expected Disposition of Facilities. No portion of the facilities or other property financed by the Series 2011 Obligations is expected to be sold or otherwise disposed of prior to the last maturity of the Series 2011 Obligations.

IN WITNESS WHEREOF, I have hereunto set my hand this 14<sup>th</sup> day of December, 2011.

THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY

  
\_\_\_\_\_  
By: Glenn Roe  
Treasurer and Commissioner

**Exhibit A****ISSUE PRICE CERTIFICATE**

December 14, 2011

The Morris County Improvement Authority  
Administration & Records Building  
P.O. Box 900  
Morristown, NJ 07963-0900

Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road  
Parsippany, New Jersey 07054

Re: The Morris County Improvement Authority \$26,715,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A and \$985,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B, both Issued December 14, 2011 (the "Series 2011 Obligations")

Ladies and Gentlemen:

The undersigned, on behalf of RBC Capital Markets, LLC, as senior managing underwriter on behalf of the underwriters (the "Underwriters"), pursuant to the Bond Purchase Agreement dated December 7, 2011 between the Underwriters and The Morris County Improvement Authority (the "Authority") with respect to the Authority's \$26,715,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) (the "Series 2011A Bonds") and \$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "Series 2011B Note" and collectively with the Series 2011A Bonds, the "Series 2011 Obligations"), both issued December 14, 2011, hereby represents and certifies with respect to the Series 2011 Obligations, as follows:

1. Each maturity of the Series 2011 Obligations has been the subject of a bona fide initial offering to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at the initial offering prices (the "Offering Statement Prices") shown on the Official Statement, dated December 7, 2011 (the "Official Statement"), with respect to the Series 2011 Obligations.

2. At the time the Underwriters agreed to purchase the Series 2011 Obligations, based upon then prevailing market conditions, the Underwriters had no reason to believe that any maturity of the Series 2011 Obligations would be sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at prices greater than or yields lower than the Offering Statement Price for such maturity or that the fair market value of any maturity of the Series 2011 Obligations would be in excess of the

Offering Statement Price for such maturity.

3. Based on the Offering Statement Prices, the aggregate of the initial offering prices of the Series 2011 Obligations to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) is \$27,700,000. There is no original issue premium, original issue discount (except with respect to the Series 2011B Note for federal tax purposes, as described in Section 5.3 of the Tax Certificate to which this Issue Price Certificate is attached as Exhibit A) or accrued interest on any of the Series 2011 Obligations.

4. The Underwriters have sold at least ten (10%) percent of each maturity of the Series 2011 Obligations to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at initial offering prices not greater than nor yields lower than those shown on the inside cover of the Official Statement.

5. Yield is the discount rate calculated on the basis of a 360-day year consisting of twelve months of thirty days each and assuming semiannual compounding that, when used in computing the present value as of the date hereof of all unconditionally payable payments of principal and interest on the Series 2011 Obligations, produces an amount equal to the present value, using the same discount rate, of the Issue Price of the Series 2011 Obligations. The yield on the Series 2011 Obligations is 4.151867%.

I understand that the representations contained herein will be relied on by Inglesino, Pearlman, Wyciskala & Taylor, LLC, as bond counsel, in connection with the issuance of the Series 2011 Obligations.

Very truly yours,

RBC CAPITAL MARKETS, LLC  
as Senior Managing Underwriter, on behalf of the  
Underwriters

By: Brian B. Burke  
Name: Brian B. Burke  
Title: Managing Director

**Information Return for Publicly Offered  
 Original Issue Discount Instruments**

**Part I Issuer Information**

1a Issuer's name <b>Morris County Improvement Authority</b>		2 Issuer's taxpayer identification number <b>22-6002462</b>	
1b Present address (number, street, apt. or suite no., or P.O. box) <b>Administration and Records Building PO Box 900</b>			
1c City <b>Morristown</b>	1d State <b>NJ</b>	1e ZIP code <b>07963-0900</b>	
3a Name of representative (see instructions) <b>Glenn Roe, Commissioner</b>		3b Telephone number <b>( 973 ) 285-6020</b>	
3c Present address (if different from issuer's) <b>N/A</b>			
3d City		3e State	3f ZIP code

**Part II Debt Instrument Information**

4 CUSIP number <b>618027BX3</b>		5 Issue date <b>12/14/2011</b>	6 Maturity date <b>1/15/2013</b>		
7 Type of instrument (see instructions) <input checked="" type="checkbox"/> Fixed rate <input type="checkbox"/> Inflation-indexed <input type="checkbox"/> Variable rate <input type="checkbox"/> Contingent payment		8 Issue price (percent of principal amount) <b>100%</b>	9a Stated interest rate (see instructions) <b>1.50%</b>	9b <input type="checkbox"/> Variable	9c <input type="checkbox"/> Contingent
10 Interest payment dates <b>1/15/2013</b>					
11 Amount of OID for entire issue <b>\$16,047.29</b>		12 Yield to maturity <b>1.49%</b>	13 Stated redemption price at maturity of the entire issue. If the redemption price of each debt instrument within the issue is other than \$1,000, indicate the stated redemption price of each debt instrument. <b>\$1,001,047.29</b>		

14 Description of debt instruments

The Note is the Morris County Improvement Authority's \$985,000 aggregate principal amount "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B" (the "Note"). The Note is dated and bears interest from the date of delivery (December 14, 2011), and pays interest at maturity on January 15, 2013. The Note was offered for money. The Note is not subject to redemption prior to maturity.

Because the first interest payment on the Note is January 15, 2013, which is more than one year from the issue date (December 14, 2011), interest may not be regarded as paid at least annually and, consequently, interest may not be regarded as "qualified stated interest".

15 Attach a schedule of OID per \$1,000 principal amount for the life of the instrument. If the principal amount is other than \$1,000, indicate the actual OID per principal amount per year. The schedule must be based on a 6-month accrual period. It must show the daily portion of OID for each accrual period and the total OID for each calendar year. For additional requirements, see the instructions.

Attached.

**Part III Signature. Within 30 days after the date of issuance of an OID debt instrument, send two copies of Form 8281 and any attachments to: IRS Form 8281 Project, SE:W:CAR:MP:T, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224-0002.**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

**Please Sign Here**

	Glenn Roe, Commissioner	12/14/2011
Signature	Title	Date

**Morris County Improvement Authority**  
**County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B**

*OID & YTM Calculation*

Date	Principal	Interest Rate	Interest Amount	Total Debt Service	YTM PV Target 1.49%	Accrued OID	Accrued OID per \$1,000 of Principal	Daily OID per \$1,000 of Principal	OID for Calendar Year
12/14/2011									
01/15/2012						1,272.29	1.29	0.04	
07/15/2012						7,387.50	7.50	0.04	8.79
01/15/2013	985,000	1.50%	16,047.29	1,001,047.29	985,000.00	7,387.50	7.50	0.04	7.50

Source - Bond Counsel

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Purpose of Form

If you are the issuer of publicly offered debt instruments having original issue discount (OID), file Form 8281 to provide the information required by section 1275(c). The reporting requirements of section 1275(c) were designed to facilitate the IRS's collection and publication of the OID information needed by brokers and middlemen in order for them to provide information returns to holders of OID debt instruments. Since 1984, the IRS has compiled the OID information reported by the issuer on Form 8281 and made that information available to the public in the OID tables to Publication 1212.

### Use and Availability of Information on This Form

For each year a debt instrument is outstanding, the following information reported on Form 8281 will be published in the OID tables to Publication 1212, which is available at [www.irs.gov](http://www.irs.gov).

1. The issuer's name.
2. The CUSIP number.
3. The issue date.
4. The maturity date.
5. The issue price.
6. The annual stated interest rate.
7. The yield to maturity.
8. The daily OID per \$1,000 of maturity value for each accrual period.
9. The OID per \$1,000 of maturity value for each calendar year.
10. The total OID as of the beginning of the calendar year.

### Who Must File

An issuer of a publicly offered debt instrument (obligation) having OID, such as a bond, debenture, or note, must file Form 8281. Publicly offered debt instruments also may include:

1. Serial obligations.
2. Debt instruments issued in exchange for other debt instruments or for stock.
3. A debt instrument sold together with options or warrants (an investment unit).
4. Sinking fund instruments.
5. Convertible instruments.

An obligation registered with the Securities and Exchange Commission (SEC) is a publicly offered debt instrument. An obligation exempt from SEC registration may be publicly offered. See Regulations section 1.1275-1(h).

**Exceptions.** Do not file this form for the following:

1. Regular interests of a real estate mortgage investment conduit (REMIC) or collateralized debt obligations (CDOs). REMICs and issuers of CDOs must file Form 8811, Information Return for Real Estate Mortgage Investment Conduits (REMICs) and Issuers of Collateralized Debt Obligations.

2. Instruments on which OID is de minimis, as defined in section 1273(a)(3) and Regulations section 1.1273-1(d).
3. Tax-exempt obligations (interest on them is not taxable).
4. Short-term obligations (those that mature in 1 year or less from their issue date).
5. Certificates of deposit (CDs) issued by banks or other financial institutions.
6. CDs that are sold by brokers or other middlemen.
7. A public offering of stripped bonds or stripped coupons, including instruments issued under the Department of the Treasury's STRIPS program and instruments that constitute ownership interests in U.S. Treasury securities.

### When To File

File two Forms 8281 and any attachments within 30 days after the date of issuance of an OID debt instrument. File a separate Form 8281 for each issue.

### Definitions

Original issue discount means the excess of the stated redemption price at maturity over the issue price.

Stated redemption price at maturity means the sum of all payments provided by the debt instrument other than qualified stated interest payments. Generally, qualified stated interest is stated interest unconditionally payable in cash at least annually at a single fixed rate.

Issue price, in the case of publicly offered instruments not issued for property, means the first price at which a substantial amount of such instruments was sold to the public (excluding bond houses and brokers).

For more information about OID instruments and the OID reporting requirements, see Pub. 1212, Guide to Original Issue Discount (OID) Instruments.

### Penalty

An issuer who fails to timely file Form 8281 will be subject to a penalty of 1% of the aggregate issue price of the debt instruments, unless such failure is due to reasonable cause and not to willful neglect. The maximum penalty with respect to any issue is \$50,000.

## Specific Instructions

### Part I. Issuer Information

For serial obligations, complete boxes 1 through 3 and attach a list showing the information for boxes 4 through 15 for each obligation within the series. For all other obligations, complete all boxes.

To revise a form, write "Revised" across the top of this form and staple a copy of the previously filed form to this form. Complete all boxes on this form.

**Boxes 3a-3f.** Enter the name, address, and telephone number of an official or representative of the issuing company who has personal knowledge of this offering and who can be contacted if additional information is needed.

### Part II. Debt Instrument Information

**Box 4.** Enter the Committee on Uniform Security Identification Procedures (CUSIP) number assigned to the instruments.

**Box 5.** Enter the date the issue was first sold to the public at the issue price.

**Box 7.** Check the appropriate box for type of instrument.

- A fixed rate debt instrument (including a zero coupon debt instrument),
- A variable rate debt instrument,
- A contingent payment debt instrument, or
- An inflation-indexed debt instrument.

**Box 8.** Enter the issue price as a percentage of the principal amount. For example, XYZ bonds were first offered to the public at \$900 with a principal amount of \$1,000. The issue price of \$900 expressed as a percentage of principal is 90. If the percentage is 100 or more, explain in box 14.

If the instrument is part of an investment unit or exchange offering, attach a description of the method used to determine the issue price.

**Box 9.** Enter the annual stated interest rate or coupon rate. If zero, enter "0." If the interest rate is variable or contingent, check the appropriate box and explain in box 15 how the rate will be determined.

**Box 10.** Enter the interest payment dates. Attach additional information as necessary.

**Box 11.** Enter the amount of OID for the entire issue. For example, if the issue price for the entire issue totals \$890,000, and the stated redemption price at maturity totals \$1 million, the OID for the entire issue is \$110,000.

**Box 12.** Enter the yield to maturity as a percentage rounded to two decimal points. For example, if the yield to maturity is 9.5784%, enter 9.58%. The yield to maturity should be based on semiannual compounding. If the debt instrument is a variable rate debt instrument, enter the yield to maturity of the equivalent fixed rate debt instrument. If the debt instrument is a contingent payment debt instrument, enter the comparable yield.

**Box 14.** Provide a complete description of the instrument, including any terms and conditions (for example, put or call options) that could affect the stated payment schedule of the instrument. For a contingent payment debt instrument, provide the projected payment schedule. In addition, indicate whether the instrument is:

- Part of an investment unit,
- Issued in an exchange offering described in section 368(a), or
- Part of a serial issue.

You may provide two copies of the prospectus or offering circular instead of the required description.

**Box 15.** You must attach two copies of the schedule of OID per \$1,000 principal amount for the life of the instrument. However, if the principal amount is other than \$1,000, indicate the actual OID per principal amount per year and specify the actual principal amount. The schedule must be based on a 6-month accrual period. It must show the daily portion of OID for each accrual period and the total OID for each calendar year. Also, if you checked box 9b (Variable) or box 9c (Contingent), explain how the interest rate will be determined.

To compute the OID allocable to a short accrual period for a debt instrument, you may use any reasonable method. Indicate what method you used.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

- Recordkeeping** . . . . . 5 hr., 1 min.
- Learning about the law or the form** . . . . . 30 min.
- Preparing, copying, assembling, and sending the form to the IRS.** . . . . . 37 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Avenue, NW, IR-6526, Washington, DC 20224. Do not send this form to this address. Instead, send Form 8281 to the address shown on the form.

**CERTIFICATE OF AUTHORITY AS TO  
CERTIFIED COPY OF CLOSING TRANSCRIPT**

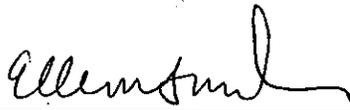
I, ELLEN M. SANDMAN, Secretary of The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A. 40:37A-44 et seq.*, the "*Act*") and other applicable law, and in connection with the issuance this day by the Authority of its \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*"), **DO HEREBY CERTIFY** on behalf of the Authority as follows:

The documents listed on the Closing Index, including without limitation all attachments, constitute the entire record of proceedings of the Authority in connection with the issuance this day of the Series 2011 Bonds.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Authority this 14th day of December, 2011.

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By:   
**Ellen M. Sandman**  
**Secretary**

**CERTIFICATE OF THE COUNTY OF SUSSEX, NEW JERSEY WITH RESPECT TO  
CERTAIN RESOLUTIONS CONCERNING THE  
MORRIS COUNTY IMPROVEMENT AUTHORITY**

I, ELAINE A. MORGAN, the duly appointed and acting Clerk of the Board of Chosen Freeholders of the County of Sussex, New Jersey (the "*County*"), a political subdivision of the State of New Jersey, **HEREBY CERTIFY** as follows:

1. Attached hereto as **Exhibit A** is a true and complete copy of the resolution adopted by the County entitled "RESOLUTION OF THE COUNTY OF SUSSEX, NEW JERSEY AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY AND CERTAIN OTHER MATTERS ALL IN CONNECTION WITH ESTABLISHING THE SUSSEX COUNTY RENEWABLE ENERGY PROGRAM," (the "*Shared Services Resolution*") which was adopted by the Sussex County Board of Chosen Freeholders at a meeting duly called and held on February 23, 2011, and at which a quorum existed and acted throughout.

2. On October 26, 2011, the County of Sussex adopted a resolution entitled, "RESOLUTION PROVIDING CONSENT OF SUSSEX COUNTY TO SOLAR DEVELOPER AND UNDERWRITER AWARDS OF MORRIS COUNTY IMPROVEMENT AUTHORITY IN CONNECTION WITH SUCH AUTHORITY'S 2011 RENEWABLE ENERGY PROGRAM UNDERTAKEN ON BEHALF OF SUSSEX COUNTY" (the "*County Consent Resolution*"), a copy of which is attached here to as **Exhibit B**, consenting to the Authority's award to the Underwriter and ratifying and approving all actions taken to date by the Authority.

3. As of the date hereof, the Shared Services Resolution and the County Consent Resolution has not been altered, amended, supplemented or repealed, and, as such, remains in full force and effect.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of the County  
this 14th day of December, 2011.

[SEAL]

**THE COUNTY OF SUSSEX, NEW JERSEY**

By: *Elaine A. Morgan*  
**Elaine A. Morgan**  
**Clerk of the Board of Chosen Freeholders**

**EXHIBIT A**

**RESOLUTION RE: RESOLUTION OF THE COUNTY OF SUSSEX, NEW JERSEY AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY AND CERTAIN OTHER MATTERS ALL IN CONNECTION WITH ESTABLISHING THE SUSSEX COUNTY RENEWABLE ENERGY PROGRAM**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State ("*Sussex County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of Sussex County and its affiliates, and the local governmental units within Sussex County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including Sussex County, the "*Local Units*"); and

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law; and

**WHEREAS**, as of the date hereof, Sussex County has not created its own county improvement authority, and therefore pursuant to the Act, Sussex County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both Sussex County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program; and

**WHEREAS**, Sussex County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement shall be set forth in that certain "Service Agreement (Sussex County

Renewable Energy Program”) to be entered into by Sussex County and the Authority, and consented to by Morris County (as amended and supplemented from time to time in accordance with its terms, the “*Service Agreement*”), partially due to the fact that Sussex County does not have a county improvement authority and further, because Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority’s energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (the “*Authority Consultants*”) with respect to the myriad of issues involved in these programs; and

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the “*Sussex County Consultants*”, if any, and together with the Authority Consultants, the “*Consultants*”; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program; and

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the “*Local Unit Facilities*”); and

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning; and

**WHEREAS**, the Authority, together with the Consultants, shall solicit interest, through community outreach meetings with Local Units for participation in the Renewable Energy Program (“*Phase I*”) and deliver to Sussex County a report detailing the results of their outreach meetings including without limitation, the size and scope of the proposed Renewable Energy Program (the “*Phase I Report*”); and

**WHEREAS**, Sussex County shall review the Phase I Report and if Sussex County determines to proceed with implementing the Renewable Energy Program ("Phase II"), evidence Sussex County's interest in proceeding with Phase II by executing and delivering to the Authority a certificate of an Authorized Officer (as defined herein) authorizing the Authority, its Authority Consultants, and if applicable the Sussex County Consultants to implement Phase II on behalf of the County and the Local Units; and

**WHEREAS**, Sussex County shall be responsible for all Consultant's fees in connection with Phase I in an amount not to exceed the amount set forth in Section 2 of the Service Agreement, upon an appropriation of Sussex County Funds in accordance with the terms of the Service Agreement, and, upon receipt of the certificate of a an Authorized Officer directing the Authority and its consultants to proceed with Phase II, Sussex County shall be responsible for all fees in connection with Phase II in accordance with the Authority Consultants' professional services agreements on file with the Authority, copies of which shall be provided to Sussex County upon request; and

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no scheduled net cost to the Local Units.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Chosen Freeholders of Sussex County as follows:

**Section 1.** Phase I of the Renewable Energy Program is hereby approved, and the Sussex County Administrator, Sussex County Treasurer and/or Freeholder Director of the Sussex County Board of Freeholders (each an "Authorized Officer") are hereby authorized to implement Phase I of the Renewable Energy Program, and to pay the Consultants' fees in connection with Phase I in an amount not to exceed the amount set forth in Section 2 of the Service Agreement, upon an appropriation of Sussex County Funds in accordance with the terms of the Service Agreement, and with respect to the Authority Consultants, all in accordance with their respective professional services agreements on file with the Authority.

**Section 2.** Phase II of the Renewable Energy Program, as outlined in the Service Agreement, is hereby initially approved, subject to the further approvals to be obtained by the Board of Chosen Freeholders of Sussex County (the "Sussex County Board of Freeholders") in accordance with the terms thereof, including without limitation the resolution pursuant to Section 13 regarding the Program Documents and the Sussex County Guaranty. All capitalized terms shall have the meaning ascribed to such terms as set forth in the Service Agreement. Further, the Sussex County Board of Freeholders hereby authorize and direct the implementation of the Renewable Energy Program in accordance with the terms of the Service Agreement. Sussex County hereby authorizes payment to the Consultants in connection with Phase II, and with respect to the Authority Consultants, in accordance with their respective professional services agreements on file with the Authority.

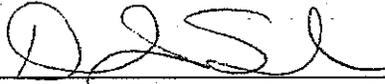
**Section 3.** The Authorized Officers are each hereby severally authorized and directed to execute and deliver the Service Agreement with the Authority in connection with the Renewable Energy Program, in the form attached hereto as **Exhibit A** with such changes thereto as the Authorized Officer, after consultation with the Consultants, determine to be in the best interests of Sussex County, and take all such further actions in accordance with all applicable law, including without limitation the execution of such other certificates, instruments or documents, as any such Authorized Officer, in consultation with the Consultants, shall deem necessary, convenient or desirable by any such Authorized Officer to implement the Service Agreement.

**Section 4.** The Clerk of the Sussex County Board of Freeholders is hereby authorized and directed, where required, to affix the corporate seal of Sussex County and to attest to the signature of the Authorized Officer on the Service Agreement, including such other certificates, instruments or documents contemplated herein. Thereafter the Authorized Officer is hereby authorized and directed to (i) deliver any such fully authorized, executed, delivered, and if applicable, attested and sealed certificates, instruments and documents to any interested party and (ii) file, for informational purposes, the Service Agreement with the Division of Local Government Services in the Department of Community Affairs, pursuant to the rules and regulations promulgated by the Director.

**Section 5.** Certified copies of this Resolution shall be sent to the Authority, care of its Chair and Morris County Administrator, John Bonanni, and counsel to the Authority, Stephen B. Pearlman, Esq. of Inglesino, Pearlman, Wyciskala & Taylor, LLC.

**Section 6.** This Resolution shall take effect upon receipt of a consent Resolution by the Morris County Board of Freeholders.

Certified as a true copy of the  
Resolution adopted by the  
Board on the 23<sup>rd</sup> day of February, 2011.

  
\_\_\_\_\_  
Diane S. Eakman, Deputy Clerk  
Board of Chosen Freeholders  
County of Sussex

**EXHIBIT A**

**[Attach Form of Service Agreement]**

**SERVICE AGREEMENT  
(SUSSEX COUNTY RENEWABLE ENERGY PROGRAM)**

**By and Between**

**COUNTY OF SUSSEX, NEW JERSEY**

**and**

**MORRIS COUNTY IMPROVEMENT AUTHORITY**

**Dated as of February 1, 2011**

This **SERVICE AGREEMENT (SUSSEX COUNTY RENEWABLE ENERGY PROGRAM)** (as the same may be amended and supplemented from time to time in accordance with its terms, and as further described in the preambles below, the "*Service Agreement*") is made and entered into as of February 1, 2011, by and between the **COUNTY OF SUSSEX, NEW JERSEY** ("*Sussex County*"), a political subdivision of the State of New Jersey (the "*State*"), with its principal corporate offices located at Sussex County Administrative Center, One Spring Street, Newton, New Jersey 07860, and **MORRIS COUNTY IMPROVEMENT AUTHORITY** (including any successors and assigns, the "*Authority*"), a public body corporate and politic of the State with its principal corporate offices located at Administration and Records Building, Morristown, New Jersey 07960, wherein it is agreed between the parties as follows:

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**WHEREAS**, the Authority has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, Sussex County desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of Sussex County and its affiliates, and the local governmental units within Sussex County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including Sussex County, the "*Local Units*");

**WHEREAS**, as of the date hereof, Sussex County has not created its own county improvement authority, and therefore pursuant to the Act, Sussex County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both Sussex County, a beneficiary county under the Act, and Morris County, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, Sussex County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement shall be set forth in this Service Agreement, partially due to the fact that Sussex County does not have a county improvement authority and further, because Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (the "*Authority Consultants*") with respect to the myriad of issues involved in these programs;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no scheduled net cost to the Local Units;

**WHEREAS**, Sussex County shall provide its financial assistance to the Authority in order to pay for the Consultants, which team shall be charged with developing and implementing the Renewable Energy Program for Sussex County in accordance with the terms set forth in the Service Agreement;

**WHEREAS**, financial assistance to be so provided by Sussex County is intended to be repaid with funds raised by the Authority through the issuance of permanent bonds of the Authority under the Renewable Energy Program, including without limitation the hereinafter defined Series 2011 Bonds, and toward that end, prior to the issuance of the Series 2011 Bonds, Sussex County shall either (i) adopt a bond ordinance (the "*Sussex County Bond Ordinance*") authorizing the issuance by Sussex County of a note or notes of Sussex County (the "*Sussex County Notes*") in an amount sufficient to assist the Authority with funding all of the preliminary Consultant costs of the Renewable Energy Program necessary, desirable or convenient for the development and implementation of the Renewable Energy Program prior to the issuance of the Series 2011 Bonds (the "*Preliminary Program Costs*") or (ii) notify the Authority that Sussex County has sufficient funds on hand to reimburse the Authority for all Preliminary Program Costs prior to the issuance of the Series 2011 Bonds;

**WHEREAS**, the Authority, together with the Consultants, shall solicit interest, through community outreach meetings with Local Units for participation in the Renewable Energy Program ("*Phase I*") and deliver to Sussex County a report detailing the results of their outreach meetings including, the size and scope of the proposed Renewable Energy Program (the "*Phase I Report*");

**WHEREAS**, Sussex County shall review the Phase I Report and if Sussex County determines to proceed with implementing the Renewable Energy Program ("*Phase II*"), evidence Sussex County's interest in proceeding with Phase II by executing and delivering to the Authority a certificate of an Authorized Officer (as defined herein) authorizing the Authority, its Authority Consultants, and if applicable the Sussex County Consultants to implement Phase II on behalf of the County and the Local Units;

**WHEREAS**, the terms and conditions of (i) Sussex County's initial funding of the Renewable Energy Program with a portion of the proceeds of the Sussex County Notes or from funds on hand, (ii) the disbursement of such funds for Renewable Energy Preliminary Program costs, (iii) the return of the funds to Sussex County upon the issuance of the Series 2011 Bonds, (iv) the financial protection to be afforded Sussex County from any potential draw under its hereinafter defined Sussex County Guaranty of the Series 2011 Bonds necessary for the financial success of the Renewable Energy Program, (v) the financial protection to be afforded Morris County from any potential draw under its hereinafter defined Morris County Guaranty (if issued) of the Series 2011 Bonds necessary for the financial success of the Renewable Energy Program, and (v) certain other related Renewable Energy Program issues shall be set forth in this Service Agreement by and between the Authority and Sussex County and acknowledge by Morris County, all pursuant to Section 36 of the Act (N.J.S.A. 40:37A-79), Section 4 of the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-4) and other applicable law;

**WHEREAS**, in order to implement and develop the Renewable Energy Program, the Consultants shall among other things: (i) determine the suitability of the Local Unit Facilities for the installation and operation of the Renewable Energy Projects, thereby also determining which Local Units shall participate in the one or more tranches of the Renewable Energy Program, the first group of which shall be referred to herein as the "Series 2011 Local Units", (ii) verify, modify and/or develop the economic assumptions underlying the Renewable Energy Program, and (iii) draft, negotiate and finalize the various Program Documents (as hereinafter defined) required to implement the Renewable Energy Program, all under the direction of Sussex County and the Authority as set forth in the Service Agreement;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority shall finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all to be set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the Series 2011 Local Units to be selected by Sussex County, the Authority, and the Consultants, through the issuance by the Authority of one or more series of bonds entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable)" to be dated their date of delivery, Outstanding (as defined in the hereinafter defined Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) to be determined by Sussex County, the Authority and to the extent Morris County provides its hereinafter defined Morris County Guaranty, Morris County (the "Not to Exceed Amount") prior to adoption of the Bond Resolution (the "Series 2011 Bonds");

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell one or more series of Series 2011 Bonds, in an amount up to the Not to Exceed Amount (the "Series 2011 Bonds") by negotiated sale after a competitive selection process, the terms of which sale shall be as set forth in that certain Bond Purchase Agreement to be dated the date of the pricing (the "Bond Purchase Agreement") between the underwriter(s) named therein and the Authority;

**WHEREAS**, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that Sussex County and the Authority determine to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms will be defined in the Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, and installation of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the “*Bonds*”) shall be issued pursuant to the terms of that certain “RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX [AND MORRIS] GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY” to be adopted by the governing body of the Authority prior to the issuance of the Series 2011 Bonds, as may be amended and supplemented from time to time in accordance with its terms, including a Certificate of an Authorized Officer of the Authority, dated the date of issuance of the Series 2011 Bonds (the “*Bond Resolution*”), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a “*Local Unit License Agreement*”, and collectively, the “*Local Unit License Agreements*”) with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, grounds and electrical systems (the “*Local Unit License*”), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“*BPU*”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include that certain “REQUEST FOR PROPOSALS FOR A DEVELOPER OF PHOTOVOLTAIC SYSTEMS WITH RESPECT TO CERTAIN LOCAL GOVERNMENT FACILITIES IN SUSSEX COUNTY OF SUSSEX, NEW JERSEY” to be issued by the

Authority seeking proposals from prospective solar developers (as the same may be amended or supplemented, the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that proposal (the "*Company Proposal*") of the to be determined successful respondent to the Company Proposal (the "*Company*"), Sussex County and the Authority shall select the Company by the adoption of a conditional award resolution to be adopted upon selection to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Lease Agreement*") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") between the Authority and the Company, and approved by each Series 2011 Local Unit, authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal and County Series 2011 Local Units under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the BPU, whereby, among other things,

(I) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, if any, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price at such terms having been established pursuant to the Company Proposal, the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase has been assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, the hereinafter defined Company Pledge Agreement, and the Company's obligations under any other Program Document assumed through one or more of the foregoing agreements, may be collectively defined as the "*Company Documents*";

**WHEREAS**, payment of the principal of (including mandatory Sinking Fund Installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the

Company Lease Agreement upon any acceleration of the Series 2011 Bonds, (iii) payments by Sussex County under the hereinafter defined Sussex County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution and (iv) payments by Morris County under Morris County Guaranty, if issued, to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

**WHEREAS**, the payment of the principal (including mandatory Sinking Fund Installments, if any) up to the Not to Exceed Amount, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of Sussex County finally to be adopted by the Board of Chosen Freeholders of Sussex County (the "*Sussex County Board of Freeholders*"), (ii) by a guaranty certificate to be executed by an authorized officer of Sussex County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Sussex County Guaranty Agreement*") by and between Sussex County and the Authority, as acknowledged by the Company setting forth, among other things, Sussex County's obligation to make any such principal (or sinking fund) guaranty payments in an aggregate principal amount equal to the Not to Exceed Amount and the interest thereon, all in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*Sussex County Guaranty*"), and all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80) and other applicable law;

**WHEREAS**, should it be deemed necessary, desirable or convenient by Sussex County and the Authority, after consultation with the Consultants that an additional guaranty on the Series 2011 Bonds be obtained from Morris County, to the extent it so agrees, Morris County shall undertake the proceedings similar to those set forth above for the Sussex County Guaranty to effect such guaranty which guaranty by Morris County shall be subordinate with respect to draws thereunder (but not with respect to repayments) to the Sussex County Guaranty (the "*Morris County Guaranty*" and together with the Sussex County Guaranty, the "*County Guaranties*"); to the extent the Morris County Guaranty is never issued, references herein to the County Guaranties shall be deemed to refer to the Sussex County Guaranty);

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the County Guaranties shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed the Not to Exceed Amount, or (ii) Sussex County and/or Morris County adopts and executes similar official action and documents constituting the County Guaranties;

**WHEREAS**, under the Sussex County Guaranty Agreement and if the Morris County Guaranty is issued, under a Morris County guaranty agreement, the Company RFP, and as applicable, the Company Proposal, the Authority may be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of Sussex County and, if the Morris County Guaranty is issued, Morris County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, Sussex County and Morris County for their payment obligations under their respective Guaranties (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among the Company, County Security Provider, and the Authority, and acknowledged by Sussex County and, if the Morris County Guaranty is issued, by Morris County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranties, and the Company Lease Agreement;

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing either or both of Sussex County or Morris County to make payments to the Series 2011 Bondholders under the applicable County Guaranties, which in turn causes the County Security to be drawn upon to reimburse either Sussex County or Morris County for all or a portion of any such Sussex County Guaranty or Morris County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent Sussex County and Morris County have been fully reimbursed for payments made by Sussex County or Morris County under the Guaranties;

**WHEREAS**, the Authority, with the consent of Sussex County and Morris County, if the Morris County Guaranty is issued, may, depending on the Company Proposal, determine to initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, Sussex County's and Morris County's payment obligations under the Guaranties should such Guaranties ever be drawn upon, and which County Security Fund

Requirement monies would then be deposited by the Trustee in the County Security Fund created under (and as such terms are defined in) the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

**WHEREAS**, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011 to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*")", and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

**WHEREAS**, the Company, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, Sussex County shall be required to enter into that certain "Sussex County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Sussex County Continuing Disclosure Agreement*") with the Authority and the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, to the extent the Morris County Guaranty is issued, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, Morris County shall be required to enter into that certain "Morris County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Morris County Continuing Disclosure Agreement*" and together with the Sussex County Continuing Disclosure Agreement, the "County Continuing Disclosure Agreements"; the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreements may be collectively referred to as the "*Continuing Disclosure Agreements*") with the Authority

and the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a “materially obligated person” within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and Sussex County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall submit an application (the “*Local Finance Board Application*”) to, and seek, obtain, and officially recognized the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs, which Local Finance Board shall hear the Local Finance Board Application, and adopt a resolution providing positive findings;

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall publicly offer the Series 2011 Bonds, in which public offering case the Authority:

- (a) shall authorize the distribution of that certain Preliminary Official Statement and which Preliminary Official Statement shall be “deemed final” within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the “*Preliminary Official Statement*”); and
- (b) shall execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds, in accordance with the Bond Purchase Agreement, and certain other information into the Preliminary Official Statement (the “*Official Statement*”, and together with the Preliminary Official Statement, the Bond Purchase Agreement and any of the same or other offering or sale documents that may be required to effect the sale of the Series 2011 Bonds, the “*Sale Documents*”); and

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 (“*Section 13*”) of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to the Board of Freeholders of Sussex County and the Board of Freeholders of Morris County, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranties, the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the “*Program Documents*”), and which

report shall be accepted by the Board of Freeholders of Sussex County and by the Board of Freeholders of Morris County, each by resolution to be adopted pursuant to Section 13.

**NOW, THEREFORE**, in consideration of the foregoing, and certain other consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, Sussex County and the Authority do hereby covenant and agree with the other as follows:

**Section 1. Representations, Warranties, and Covenants.**

(a) Sussex County represents, warrants and covenants, for the benefit of the Authority and its agents, as follows:

(i) Sussex County is a political subdivision of the State.

(ii) The acting officials of Sussex County who are contemporaneously herewith performing or have previously performed any action contemplated in this Service Agreement either are or, at the time any such action was performed, were the duly appointed or elected officials of such County empowered by applicable State law and, if applicable, authorized by Sussex County to perform such actions. To the extent any such action was performed by an official no longer the duly acting official of such Sussex County, all such actions previously taken by such official are still in full force and effect.

(iii) Sussex County has full legal right, power and authority to execute, attest and deliver this Service Agreement and to carry out and consummate all transactions contemplated by this Service Agreement.

(iv) Sussex County hereby covenants that should it determine to hire Sussex County Consultants, such Sussex County Consultants shall act in an advisory capacity to Sussex County, the Authority and the Authority Consultants, but shall not interfere with the development and implementation of the Renewable Energy Program, unless the Authority and the Authority Consultants are developing and implementing the Renewable Energy Program in a manner not in agreement with the parameters of this Service Agreement, or otherwise deemed by Sussex County to be in the best interests of Sussex County or the Local Units. Sussex County shall be responsible for the payment of all costs and expenses of any Sussex County Consultants.

(b) The Authority represents, warrants, and covenants for the benefit of Morris County and the Local Units as follows:

(i) The Authority is a public body corporate and politic created by Morris County in accordance with the Act.

(ii) The acting officials of the Authority who are contemporaneously herewith performing or have previously performed any action

contemplated in this Service Agreement either are or, at the time any such action was performed, were the duly appointed or elected officials of such Authority empowered by applicable State law and, if applicable, authorized by the Authority to perform such actions. To the extent any such action was performed by an official no longer the duly acting official of such Authority, all such actions previously taken by such official are still in full force and effect.

(iii) The Authority has full legal right, power and authority to execute, attest and deliver this Service Agreement and to carry out and consummate all transactions contemplated by this Service Agreement.

(iv) The Authority shall make copies of this Service Agreement available to the Authority Consultants to ensure that the Authority Consultants adhere to the terms and provisions hereof.

(v) The Authority shall utilize its commercially reasonable efforts to cause Morris County to take any and all actions necessary, desirable or convenient in order to implement and develop the Renewable Energy Program for Sussex County, including all approvals under Section 13 of the Act and further, if and when so requested by Sussex County, to obtain the Morris County Guaranty.

(c) Sussex County and the Authority agree to develop and implement the Renewable Energy Program for the benefit of Local Units (which may include Sussex County, as Local Unit) in accordance with the terms of this Service Agreement, including the preambles hereof.

(d) Sussex County and the Authority covenant to file, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs, pursuant to the rules and regulation promulgated by the Director, a copy of this Service Agreement and make a copy of this Service Agreement available to the public at the offices of Sussex County, Morris County and the Authority.

**Section 2. County Funds.** The Authority shall estimate and notify Sussex County of the amount of Preliminary Program Costs for which the Authority is seeking payment or reimbursement. Sussex County shall provide the Authority with such funds, either through the adoption of the Sussex County Bond Ordinance and issuance of the Sussex County Notes, or from some other available source, such monies (including any interest earned thereon prior to disbursement, the "*Sussex County Funds*") to be held by Sussex County in a segregated account, and invested prior to disbursement and disbursed by the Sussex County solely in accordance with Section 3 below. Sussex County shall be responsible for all Authority Consultant fees in connection with Phase I in an amount not to exceed \$25,000 in the aggregate for bond counsel and financial advisor services to Inglesino, Pearlman, Wyciskala & Taylor, LLC and NW Financial Group, LLC, respectively, and \$5,000 per site for energy engineering and energy service consulting services to Birdsall Services Group and Gabel Associates, and, upon receipt of the certificate of a Sussex County Authorized Officer directing the Authority and its consultants to proceed with Phase II in accordance with Section 4(a) hereof, Sussex County shall be

responsible for the Authority's fee, if any as agreed to by the Authority and Sussex County, Morris County fee for the Morris County Guaranty, if any as agreed to by Morris County and Sussex County, and all Consultants' fees and expenses in connection with Phase II, and with respect to the Authority Consultants, in accordance with the Authority Consultants' professional services agreements on file with the Authority.

### **Section 3. Disbursement of Sussex County Funds.**

(a) Prior to the disbursement of any Sussex County Funds held by Sussex County, Sussex County may invest such funds in any securities permitted for investment in accordance with N.J.S.A. 40A:5-15.1 of the Local Fiscal Affairs Law. So long as Sussex County's account wherein Sussex County Funds shall be held is segregated from all other Sussex County accounts, the investment of such funds may be made in a commingled investment permitted by such provision of the Local Fiscal Affairs Law, such as the State's Cash Management Fund.

(b) Sussex County shall not disburse any Sussex County Funds for Preliminary Program Costs until and unless the Authority shall have filed with Sussex County Treasurer a requisition substantially in the form attached hereto as **Exhibit A**, executed by either the Chairperson or the Treasurer of the Authority, or any of their respective designees in writing (each an "*Authority Authorized Officer*"), certifying to such matters as set forth in such requisition. Upon receipt of any such properly executed requisition and attachments, the Sussex County Treasurer shall promptly forward the required Sussex County Funds to or on behalf of the Authority or its Authority Consultants for disbursement or reimbursement to the Authority, as applicable. Sussex County shall make an accounting of all Sussex County Funds so disbursed to or on behalf of the Authority and shall provide a written report of same to the Sussex County Treasurer, the Sussex County Board of Freeholders and the Authority Treasurer on a periodic basis until all such Sussex County Funds have been fully disbursed.

(c) The Authority shall take all actions necessary, desirable or convenient to provide that a portion of the proceeds of the Bonds, and if practicable, the Series 2011 Bonds, shall be allocated to repay Sussex County the entirety of Sussex County Funds supplied by Sussex County promptly upon the issuance of such series of Bonds, and the Authority shall pay or cause the payment of such amounts at such time. Any interest earned on Sussex County Funds and applied to the payment of Preliminary Project Costs shall not be repaid to Sussex County, provided however that any remaining interest not so applied shall be retained by Sussex County at the same time the principal of Sussex County Funds shall be repaid. Upon the repayment of all such Sussex County Funds to Sussex County, a final accounting of the receipt, investment and disbursement of all County Funds shall be made by Sussex County and delivered to the Authority Treasurer within a reasonable period of time after such final disbursement, which shall not exceed one (1) month.

#### Section 4. Scope.

(a) Sussex County hereby authorizes the implementation of Phase I of the Renewable Energy Program, including the development of the Phase I Report by the Authority Consultants. Sussex County shall review the Phase I Report and if Sussex County determines to proceed with implementing Phase II of the Renewable Energy Program, it shall cause the Sussex County Administrator, Sussex County Treasurer and/or Freeholder Director of the Sussex County Board of Freeholders (each a "*Sussex County Authorized Officer*") to execute and deliver to the Authority a certificate authorizing the Authority, its Authority Consultants, and if applicable the Sussex County Consultants to implement Phase II on behalf of the County and the Local Units.

(b) Subject to subsection (a) above, Sussex County hereby authorizes and directs the Authority and the Authority Consultants to take all actions in connection with the Renewable Energy Program, including the issuance of the Series 2011 Bonds in an amount not to exceed the Not to Exceed Amount, including any other series of Bonds for any future tranches of the Renewable Energy Program, also including obtaining all approvals or consents needed to implement the Renewable Energy Program, and also including executing and delivering all Program Documents, as if the Authority Consultants were hired directly by Sussex County or a county improvement authority created by Sussex County, and such Authority Consultants shall be paid, in accordance with the terms of the professional services agreements on file with the Authority, by Sussex County in accordance with the terms hereof, provided that the following shall be complied with:

(i) Sussex County shall promptly approve the grouping of the Local Units, including the Series 2011 Local Units, and the number of tranches of the Renewable Energy Program, once a recommendation for same has been provided by the Authority and/or its Authority Consultants to Sussex County.

(ii) Sussex County shall promptly approve the form and filing of the Local Finance Board Application, once a recommendation for same has been provided by the Authority and/or its Authority Consultants to Sussex County.

(iii) Sussex County shall promptly approve the form and issuance of the Company RFP, once a recommendation for same has been provided by the Authority and/or its Authority Consultants to Sussex County.

(iv) Sussex County shall provide at least one Sussex County Authorized Officer to be on the team that evaluates the proposals received pursuant to the Company RFP, and the Authority shall not award the Company RFP to the Company as the successful respondent until approved by Sussex County.

(v) Each of the Program Documents shall be approved by the Sussex County Board of Freeholders pursuant to Section 13 of the Act, after receipt of the Authority report related thereto required by Section 13 of the Act, prior to the execution and delivery thereof.

(vi) From time to time, the Authority Consultants shall report to one (1) or more of the Sussex County Authorized Officers regarding the status of the Renewable Energy Program, which report shall be no less frequent than monthly at the Authority's monthly meetings, promptly thereafter (if not before such meeting) to be delivered to such Sussex County Authorized Officer.

(vii) The Authority and the Authority Consultants shall respond to the Sussex County Authorized Officers, in a reasonable period of time and in a reasonable manner, whenever such Authority Consultants receive an inquiry from Sussex County regarding any issue concerning the Renewable Energy Program. To the extent the Authority and the Authority Consultants receive direction regarding the development and implementation of the Renewable Energy Program at variance from the direction undertaken to that point, the parties shall discuss any such issues, in an attempt to build a consensus direction. To the extent a consensus shall not be achieved, Sussex County's direction shall control on all matters other than the Morris County Guaranty and applicable law. At all times, the Authority and its Authority Consultants shall act in conformity with the parameters established by this Service Agreement.

(viii) Any of the actions of Sussex County in clauses (i) – (iv), inclusive, of this Section 4(b) may be discharged, at the sole discretion of Sussex County, by an Authorized Officer of Sussex County or the Sussex County Board of Freeholders.

**Section 5. Sussex County Guaranty.** Based on the interest of the Local Units, including the Series 2011 Local Units, for participation in the one or more tranches of the Renewable Energy Program, the Authority Consultants and the Authority shall advise the Sussex County Authorized Officers and if applicable, the Sussex County Consultants of the amount of Sussex County Guaranty prior to the issuance of the Series 2011 Bonds or any other applicable series of Bonds, and in sufficient time for the Authority to receive all approvals for the issuance of the Series 2011 Bonds or such other series of Bonds, including without limitation the findings of the Local Finance Board. The Authority shall also provide, to Sussex County's reasonable satisfaction, the intended form of security to be provided under the Renewable Energy Program to the extent Sussex County Guaranty shall ever be drawn upon. Such form of security shall be determined by the Company Proposal, after the issuance of the Company RFQ, and shall be set forth in the Bond Resolution with respect to the County Security Fund provisions, which shall among other things detail the specific Reimbursement Collateral, if any. Upon Sussex County's receipt of such estimated amount and agreement between the Authority and Sussex County concerning such intended satisfactory security, Sussex County shall thereupon promptly take all actions necessary, desirable or convenient for the authorization, adoption, execution and delivery of Sussex County Guaranty, which Sussex County Guaranty shall remain in full force and effect

(regardless of the termination of this Service Agreement, which obligation shall survive the termination hereof) for so long as any series of Bonds for which it shall provide security shall remain outstanding in accordance with the terms of any applicable Bond Resolution.

**Section 6. Morris County Guaranty.**

To the extent that the Authority Consultants and the Authority advise the Sussex County Authorized Officers and if applicable, the Sussex County Consultants, that it is necessary, desirable, or convenient for Morris County to supply its Morris County Guaranty for the Renewable Energy Program, then the County of Sussex shall notify Morris County and request same. In the event that Morris County agrees to the issuance of its Morris County Guaranty, the Authority shall cause Morris County to take all actions necessary to authorize and issue the Morris County Guaranty, which Morris County Guaranty shall remain in full force and effect (regardless of the termination of this Service Agreement, which obligation shall survive the termination hereof) for so long as any series of Bonds for which it shall provide security shall remain outstanding in accordance with the terms of any applicable Bond Resolution, provided the following is complied with:

(a) Under all circumstances, the Morris County Guaranty shall not be drawn upon to satisfy the payment of any Series of Bonds until after the Sussex County Guaranty shall first have been fully drawn upon and depleted.

(b) Morris County shall not be required to provide a Morris County Guaranty in an amount in excess of the Sussex County Guaranty.

(c) Morris County shall be entitled to the County Security Fund and any Reimbursement Collateral to the extent of any draws on the Morris County Guaranty.

**Section 7. Administrative Fees; Conditions Precedent to County Guaranty.**

(a) The Authority and/or Sussex County, at their respective discretion, may impose or waive reasonable administrative fees for their respective participation in the Renewable Energy Program, which may include, but need not be limited by, the costs of all out of pocket expenses, including payment of Consultants or any other professionals for services rendered in connection with the Renewable Energy Program, and a reasonable administrative fee to be charged by the Authority, approved by Sussex County, and initially sized into the Series 2011 Bonds and thereafter payable on an annual basis by the Company.

(b) Both the Authority and Sussex County acknowledge that the intent of the Renewable Energy Program is to pay for all costs and expenses thereof, including debt service on the Bonds, including the Series 2011 Bonds, prior to any economic benefit accruing to Local Units. Accordingly, to the extent estimated pro-formas of the Renewable Energy Program provided by the Authority, with the assistance of the Consultants, fail to demonstrate, to Sussex County's reasonable satisfaction, that all such costs can be so recovered prior to any economic benefit accruing to the Local Units, then Sussex County shall be relieved from its obligations hereunder to continue with the implementation of the Renewable Energy Program (but shall pay

for all Consultant costs properly incurred to that point), including without limitation the provision of the Sussex County Guaranty, and Sussex County's inaction shall not give rise to an Event of Default (as hereinafter defined) under this Service Agreement; provided however that notwithstanding the foregoing in any such event, Sussex County acknowledges that any such Sussex County Funds previously provided to the Authority and disbursed by the Authority in accordance with the terms hereof for Preliminary Program Costs shall not be recoverable by Sussex County from the Authority, in which case such lack of recovery shall not give rise to an Event of Default under this Service Agreement.

**Section 8. One or More Programs.** To the extent Local Unit demand for participation in the Renewable Energy Program continues after the issuance of the first series of Bonds, nothing herein shall be deemed to limit the Renewable Energy Program to a single tranche, program or series of Bonds, to the extent the Authority and Sussex County desire to continue the Renewable Energy Program in accordance with the terms hereof, or, as applicable, such amended, modified or supplemented terms that shall be set forth in any written amendment hereof duly authorized by both the Authority and Sussex County, and acknowledged by Morris County. To the extent the parties desire to continue the Renewable Energy Program, regardless of whether prior to Sussex County's receipt of a full accounting and repayment of all of Sussex County Funds or otherwise, the Authority and/or Sussex County may fund any Preliminary Program Costs of any such additional Renewable Energy Program from any available funds, and if from an additional series of County Notes or other Sussex County Funds, such applicable provisions hereunder shall be controlling on the parties. The Authority and the County may also agree to extend the Renewable Energy Program to include the Authority's energy efficiency program, to the extent both parties agree to the terms of such additional program, and may incorporate the terms into this Service Agreement.

**Section 9. Events of Default.**

(a) Events of Default Defined. The following one or more events shall constitute "Events of Default" under this Service Agreement:

(i) Failure by the Authority or Sussex County to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, for a period of thirty (30) days, or such reasonably longer period not to exceed one hundred twenty (120) days if compliance is not possible within such shorter time period, after written notice specifying such failure and requesting that it be remedied is given to Sussex County or the Authority, as the defaulting party, unless the non-defaulting party shall agree in writing to an extension of such time prior to its expiration; or

(ii) Any representation, warranty or covenant made by or on behalf of Sussex County or the Authority contained herein, or in any instrument furnished in compliance with or with reference to this Service Agreement, is false or misleading in any material respect.

(b) Remedies. In the case of an Event of Default, the non-defaulting party may take whatever action at law or in equity may appear necessary, desirable or convenient to consummate the transaction contemplated by this Service Agreement, including without limitation enforcing the specific performance and observance of any obligation, agreement or covenant of Sussex County or the Authority, as the defaulting party, under this Service Agreement.

**Section 10. Miscellaneous.**

(a) Severability. In the event any provision of this Service Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(b) Amendments, Changes and Modifications. This Service Agreement may not be amended, supplemented or modified without the prior written consent of the Authority and Sussex County and acknowledged by Morris County.

(c) Further Assurances and Corrective Instruments. The Authority and Sussex County agree that they will, if necessary, execute, acknowledge and deliver, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Renewable Energy Program or for carrying out the expressed intention of this Service Agreement.

(d) Applicable Law. This Service Agreement shall be governed by and construed in accordance with the laws of the State.

(e) Authority and Sussex County Officers. Except as expressly provided herein, whenever under the provisions of this Service Agreement, either the approval of the Authority or Sussex County is required, or the Authority or Sussex County is required to take some action pursuant to the terms hereof or at the request of the other, such approval of such request shall be given, or such action shall be taken, as applicable, (i) for the Authority by the Chairman or the Treasurer of the Authority, or their written designee, each an authorized officer of the Authority hereunder, and (ii) for Sussex County by any member of the Sussex County Board of Freeholders, the County Administrator, the County Treasurer, each an authorized officer of Sussex County hereunder, and any other party hereto shall be authorized to rely upon any such approval or request.

(f) Captions. The captions or headings in this Service Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Service Agreement.

(g) Binding: Counterparts. This Service Agreement shall be binding upon the parties hereto only when duly executed by authorized officers on behalf of both Sussex County and the Authority together; provided, however, that each set of counterparts taken together shall constitute an original.

(h) No Personal Liability or Accountability. No covenant or agreement contained in this Service Agreement shall be deemed to be the covenant or agreement of any present, past or future officer, agent or employee of the Authority or Sussex County, in his or her individual capacity, and neither the officers, agents or employees of the Authority or Sussex County nor any official executing this Service Agreement shall be liable personally on this Service Agreement or be subject to any personal liability or accountability by reason of any transaction or activity relating to this Service Agreement.

(i) Gender. Use of the masculine, feminine or neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the other genders whenever and wherever appropriate.

(j) Receipt of Service Agreement. The parties hereto each acknowledge receipt of a signed, true and exact copy of this Service Agreement.

(k) Term. The term of this Service Agreement (i) shall commence upon the authorization, execution and delivery hereof by authorized officers of the parties hereto, and (ii) unless expressly set forth otherwise herein, shall terminate upon the full accounting and repayment of all Sussex County Funds in accordance with the terms hereof.

(l) Effective Date. This Service Agreement shall be effective (i) ten (10) days after adoption by the Authority of a resolution authorizing its execution, unless said authorizing resolution has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act, and (ii) upon adoption of a resolution by Morris County consenting to this Service Agreement.

**IN WITNESS WHEREOF**, each of Sussex County and the Authority has duly authorized the execution and delivery of this Service Agreement by the respective authorized officers thereof set forth below as of the date first above written.

**COUNTY OF SUSSEX**

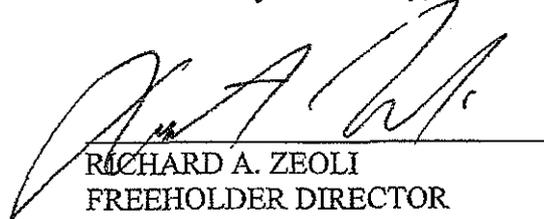
THE UNDERSIGNED, being Director of the Board of Chosen Freeholders of Sussex County, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED  
THIS 23rd day of February, 2011.

Attested by:



Diane S. Eakman, Deputy Clerk  
BOARD OF CHOSEN FREEHOLDERS



RICHARD A. ZEOLI  
FREEHOLDER DIRECTOR

**MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

THE UNDERSIGNED, being Chairman of the Improvement Authority of the County of Morris, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED  
THIS day of February, 2011.

Attested by:

\_\_\_\_\_  
ELLEN SANDMAN  
SECRETARY

\_\_\_\_\_  
JOHN BONANNI  
CHAIRMAN

**ACKNOWLEDGED AND CONSENTED TO  
THIS DAY OF  
OF February, 2011 BY:**

**COUNTY OF MORRIS, NEW JERSEY**

**By: \_\_\_\_\_**

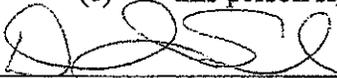
**William Chegwidden**

**Director, Board of Chosen Freeholders, Morris County**

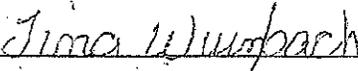
STATE OF NEW JERSEY )SS:  
COUNTY OF SUSSEX )

I CERTIFY that on February 23 2011 Diane S. Eakman personally appeared before me and acknowledged under oath, to my satisfaction that:

- (a) this person is the Deputy Clerk of the Board of Chosen Freeholders of Sussex County, the political subdivision named in this document;
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer who is the Director of the Board of Chosen Freeholders of Sussex County;
- (c) this document was signed and delivered as its voluntary act;
- (d) this person knows the proper seal of the corporation which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

  
\_\_\_\_\_  
**Diane S. Eakman, Deputy Clerk  
Board of Chosen Freeholders**

Sworn and subscribed before  
me this 23 day of February 2011

  
\_\_\_\_\_

**Tina Wurzbach  
Notary Public, New Jersey  
My Commission Expires 8-20-14**

STATE OF NEW JERSEY )SS:  
COUNTY OF MORRIS )

I CERTIFY that on February , 2011 ELLEN SANDMAN personally appeared before me and acknowledged under oath, to my satisfaction that:

- (a) this person is the Secretary of the Morris County Improvement Authority, the entity named in this document;
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer of the Authority, who is the Chairman of the Authority;
- (c) this document was signed and delivered as its voluntary act;
- (d) this person knows the proper seal of the corporation which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

---

**ELLEN SANDMAN**  
Secretary

Sworn and subscribed before  
me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

---

[Attach invoices for Preliminary Program Costs]

EXHIBIT A

FORM OF REQUISITION

Requisition No. \_\_\_\_

County of Sussex, New Jersey  
Sussex County Administrative Center  
One Spring Street  
Newton, New Jersey 07860

Attention: County Treasurer

Re: The Morris County Improvement Authority (the "Authority")  
Renewable Energy Program – Preliminary Program Costs

Dear Sirs:

1. Pursuant to Section 3 of that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of November 1, 2010 (the "Service Agreement"; capitalized terms not defined in this requisition shall have the meanings set forth in such Service Agreement) by and between Sussex County and the Authority, the undersigned authorized officers of the Authority, as acknowledged by an authorized officer of Sussex County, **HEREBY NOTIFIES SUSSEX COUNTY AND CERTIFIES** that the Authority requests payment to the Authority Consultants from Sussex County Funds in the aggregate amount of \$\_\_\_\_\_, payable to the entities set forth below in the following amounts for the following purposes:

Sussex County Funds shall be payable to:

(a) [\_\_\_\_\_]

for \_\_\_\_\_ services, expenses or other Preliminary Program Costs in the amount of \$\_\_\_\_\_]; or

[copy and repeat certification as necessary until requisition complete, or attach schedule]

(b) [the Authority for reimbursement of Preliminary Program Costs previously paid by the Authority to

\_\_\_\_\_]  
for \_\_\_\_\_ services, expenses or other Preliminary Program Costs in the amount of \$\_\_\_\_\_].

[copy and repeat certification as necessary until requisition complete, or attach schedule]

2. In connection with this requisition, the undersigned authorized officers of the Authority, as acknowledged by an authorized officer of Sussex County, **HEREBY CERTIFY** as follows:

(a) All such services, expenses or other costs certified in Section 1 above constitute Preliminary Program Costs and were incurred in connection with the implementation and development of the Renewable Energy Program.

(b) Such payment obligation has been properly incurred as a Preliminary Program Costs of the Renewable Energy Program, is a proper charge against the segregated account maintained by Sussex County containing the Authority's portion of Note Proceeds for the Renewable Energy Program, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of the Preliminary Program Costs of the Renewable Energy Program or portion thereof is due or has been paid by or on behalf of the Authority.

Very truly yours,

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By: \_\_\_\_\_  
[Chairman] [Authority Treasurer]

ACKNOWLEDGED this \_\_\_ day of  
\_\_\_\_\_, 2011:

**SUSSEX COUNTY**

By: \_\_\_\_\_  
Bernard A. Re  
County Treasurer

**EXHIBIT B**

**RESOLUTION RE: RESOLUTION PROVIDING CONSENT OF SUSSEX COUNTY TO SOLAR DEVELOPER AND UNDERWRITER AWARDS OF MORRIS COUNTY IMPROVEMENT AUTHORITY IN CONNECTION WITH SUCH AUTHORITY'S 2011 RENEWABLE ENERGY PROGRAM UNDERTAKEN ON BEHALF OF SUSSEX COUNTY**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*"); and

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by Resolution No. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "*Act*"), and other applicable law; and

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Chosen Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program; and

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "*Shared Services Act*"), and all other applicable law, the terms of which Agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County; and

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*"); and

**WHEREAS**, on April 19, 2011, the Authority adopted a Resolution pursuant to the Act, the Contracts Law and all other applicable law, seeking proposals from qualified solar developers for the implementation of the Renewable Energy Program entitled "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE ISSUANCE OF ONE OR MORE REQUEST FOR PROPOSALS PURSUANT TO THE LOCAL PUBLIC CONTRACTS LAW N.J.S.A. 40A:11-4.1(k) IN CONNECTION WITH THE AUTHORITY'S RENEWABLE ENERGY PROGRAM" (the "Authority RFP Authorizing Resolution"); and

**WHEREAS**, on July 27, 2011, the County adopted a Resolution pursuant to the Act, the competitive contracting provisions of the Local Public Contracts Law (codified at N.J.S.A. 40A:11-1 et seq., the "Contracts Law") and all other applicable law, seeking proposals from qualified solar developers for the implementation of the Renewable Energy Program entitled "RESOLUTION OF THE COUNTY OF SUSSEX AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS PURSUANT TO THE LOCAL PUBLIC CONTRACTS LAW N.J.S.A. 40A:11-4.1(k) IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX RENEWABLE ENERGY PROGRAM" (the "County RFP Authorizing Resolution" and together with the Authority RFP Authorizing Resolution, the "RFP Authorizing Resolutions"); and

**WHEREAS**, pursuant to the RFP Authorizing Resolutions, the Authority issued that certain "Request for Proposals for a Developer of Photovoltaic Systems with respect to certain Local Government Facilities in the County of Sussex, New Jersey" dated September 8, 2011 (as amended and supplemented, the "RFP"); and

**WHEREAS**, on October 13, 2011, the due date for proposals pursuant to the RFP, the Authority received two (2) proposals (each a "Proposal") in response to the RFP from: (1) SunEdison and Ray Angelini, Inc. ("SunEdison/RAI") and (2) SunLight General Capital and Power Partners MasTec ("SunLight General Capital"; and the Proposals from SunEdison/RAI and SunLight General Capital, the "Proposals from the Potential Solar Developer Respondents"); and

**WHEREAS**, the Proposal from SunEdison/RAI was delivered late and therefore withdrawn by SunEdison RAI; and

**WHEREAS**, upon review, the Proposal from SunLight General Capital as a Potential Solar Developer Respondent was deemed compliant with the requirements of the RFP; and

**WHEREAS**, the Authority's evaluation team has evaluated the Proposal from the Potential Solar Developer Respondent in that certain "Solar Proposal Evaluation Report Sussex County Renewable Energy Program Proposals of October 13, 2011 Prepared for Morris County Improvement Authority" dated October 24, 2011 (a copy of which is attached hereto as **Exhibit A**, the "Evaluation Report") and has recommended the award of the Successful Respondent (as defined in the RFP) to SunLight General Capital; and

**WHEREAS**, in order to purchase the Series 2011A Bonds and the Series 2011B Note (collectively, the "Series 2011 Bonds") from the Authority on a negotiated basis pursuant to a Bond purchase agreement (the "**Bond Purchase Agreement**"), market and resell the Bonds to the public as part of an initial public offering, all as permitted pursuant to N.J.S.A. 40:37A-62 of the Act, the Authority needs to contract for the services of an underwriter for its Series 2011 Bonds (the "**Underwriter RFP**"); and

**WHEREAS**, as of January 1, 2006, N.J.S.A. 19:44A-20.1 et seq., commonly known as the "**State Pay to Play Law**" became effective; and

**WHEREAS**, pursuant to the State Pay to Play Law, the Authority may not award contracts with a value in excess of \$17,500.00, including the Bond Purchase Agreement, to a business entity, including an underwriter, which has made reportable contributions in excess of \$300.00, in the aggregate, to certain political parties or candidate committees of persons serving in an elective public office when such contract was awarded, unless said business entity is awarded a contract under a "fair and open process" pursuant to the State Pay to Play Law; and

**WHEREAS**, a "fair and open process" constitutes the following: (i) public advertisement on the Authority's website or in the newspaper of a Request for Qualifications (hereinafter the "**Fair and Open RFQ**") with ten (10) calendar days notice prior to the receipt of responses to the RFQ; (ii) award of contract under a process that provides for public solicitation of qualifications; (iii) award of contract under publicly disclosed criteria established, in writing, by the Authority prior to the solicitation of qualifications; and (iv) the Authority shall publicly open and announce the qualifications when awarded; and

**WHEREAS**, by Resolution No. 02-10 adopted July 24, 2002 and entitled "Resolution Adopting a Policy for the Selection of Underwriters and other Ancillary Service Providers in connection with the Sale of Securities," the Authority has adopted a policy directing that a request for underwriting qualifications ("**RFQ Policy**") be issued by the Authority from time to time as the initial action required under the Policy for the selection of underwriters in connection with the issuance of Securities to finance Projects; and

**WHEREAS**, pursuant to the RFQ Policy and a Authority Resolution adopted April 19, 2011 and entitled "RESOLUTION APPROVING A QUALIFIED LIST OF UNDERWRITERS FOR AUTHORITY SECURITIES TRANSACTION IN ACCORDANCE WITH THE AUTHORITY'S UNDERWRITER SELECTION POLICY AND A FAIR AN OPEN PROCESS", the Authority established the 2011 qualified list of underwriters (the "**2011 Qualified List**"); and

**WHEREAS**, the Authority desires to appoint an underwriter for the purchase of the Bonds pursuant to the Bond Purchase Agreement through a "fair and open process" and in accordance with the RFQ Policy and the 2011 Qualified List the terms thereof, all to be governed by the State Pay to Play Law, the Policy and other applicable law; and

**WHREAS**, the Authority, on the County's behalf, solicited bids from the 2011 Qualified List for underwriter services in connection with the Bonds and received two bids from: (1) Wells Fargo Bank and (2) RBC Capital Markets LLC.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF SUSSEX, NEW JERSEY**, as follows:

**Section 1.** Pursuant to Section 4 of the County RFP Authorizing Resolution the County hereby consents to the Authority's award, in accordance with the competitive contracting provisions of the Local Public Law and the process contemplated in the preambles hereof, of the Successful Respondent for the RFP to SunLight General Capital in accordance with the SunLight General Capital Proposal. The County consents to the Authority's making of the award to Sunlight General Capital which award shall not be binding on the Authority or the County until the Program Documents (as defined in the RFP), including without limitation the incorporation of the terms of the SunLight General Capital Proposal, shall have been executed, adopted and delivered by the Authority and the other parties thereto. The County hereby consents to

the issuance of the Bonds by the Authority to finance the Renewable Energy Projects contemplated by and defined in the RFP and contemplated by the SunLight General Capital Proposal. The County Administrator, Freeholder Director and Clerk of the Board of Chosen Freeholders of the County or their designee (each an, "Authorized Officer"), are hereby severally authorized to execute and deliver to the other parties thereto the Program Documents, that relate to the County, incorporating the terms of the SunLight General Capital Proposal, and (b) take such other action in connection with the matters set forth in clauses (a) above, including without limitation the execution and delivery of such other certificates, instruments or other document in connection therewith or otherwise contemplated thereby, as the Authorized Officer, after consultation with counsel, energy consultant or financing consultant (the "RFP Consultants"), shall determine to be in the best interests of the Authority, the County, or the Series 2011 Local Units (as defined in the RFP) in implementing the Renewable Energy Program.

**Section 2.** Pursuant to the RFQ Policy and the State Pay to Play Law, the County hereby consents to the selection of RBC Capital Markets LLC as the Underwriter in connection with the Bonds.

**Section 3.** All actions taken to date by the Authority, the Authorized Officers and the RFP Consultants, with respect to the matters set forth in or contemplated by this Resolution, are hereby ratified and approved.

**Section 4.** This Resolution shall be effective immediately.

**Section 5.** This Resolution shall be forwarded to the County Administrator; County Treasurer; County Counsel; John Bonanni, Morris County Improvement Authority, Morris County Administration and Records Building, Court Street, Morristown, NJ 07960; and Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204 Parsippany, NJ 07054-3715.

Certified as a true copy  
Resolution adopted by the  
Board of Chosen Freeholders  
on the 26<sup>th</sup> day of October, 2011.

*Elaine A. Morgan*  
Elaine A. Morgan, Clerk  
Board of Chosen Freeholders  
Sussex County

RECORD OF VOTE						
FREEHOLDER	AYE	NAY	ABST	ABS	MOVE	SEC
Crabb	✓				✓	
Spacc	✓					
Vanden	✓					✓
Zelmer	✓					
Zeoli	✓					

ABST - Abstain  
MOVE - Resolution Moved

ABS - Absent  
SEC - Resolution Seconded

**EXHIBIT A**  
**EVALUATION REPORT**

SOLAR PROPOSAL EVALUATION REPORT

See Closing Item No. 19E

**CERTIFICATE OF THE CLERK OF THE BOARD OF CHOSEN FREEHOLDERS OF  
THE COUNTY OF SUSSEX, NEW JERSEY, WITH RESPECT TO CERTAIN  
RESOLUTIONS AND AN ORDINANCE CONCERNING  
THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

I, Elaine A. Morgan, the duly appointed and acting Clerk of the Board of Chosen Freeholders ("*Board of Freeholders*") of the County of Sussex, New Jersey (the "*County*"), a political subdivision of the State of New Jersey (the "*State*"), in connection with the issuance this day by The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A. 40:37A-44 et seq.*, the "*Act*"), of the Authority's \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*"), **DO HEREBY CERTIFY** on behalf of the County as follows:

1. On July 27, 2011, the Board of Freeholders adopted its resolution entitled "RESOLUTION PROVIDING SUSSEX COUNTY'S CONSENT TO THE ISSUANCE BY THE MORRIS COUNTY IMPROVEMENT AUTHORITY OF THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND RELATED DOCUMENTS" (the "*Consent Resolution*"), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Board of Freeholders at a meeting duly called and held on July 27, 2011, and at which a quorum existed and acted throughout.

2. On July 27, 2011, the Board of Freeholders introduced its guaranty ordinance number with respect to the Series 2011 Bonds entitled "GUARANTY ORDINANCE OF THE COUNTY OF SUSSEX, NEW JERSEY, SECURING THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000" (the "*Guaranty Ordinance*"). On August 17, 2011, the Board of Freeholders finally adopted the Guaranty Ordinance, a copy of which is attached hereto as **Exhibit B**, which Guaranty Ordinance was duly and finally adopted by the Board of Freeholders at a meeting duly called and held on August 17, 2011, and at which a quorum existed and acted throughout.

3. Attached as **Exhibit C** is a true and complete record of proceedings with respect to the Guaranty Ordinance, which pursuant to Section 37 of the Act (*N.J.S.A.* 40:37A-80) was adopted in the manner of a bond ordinance under Local Bond Law, constituting Chapter 169 of the Pamphlet Laws of 1960 of the State, as amended and supplemented from time to time, which record of proceedings evidences that the Guaranty Ordinance became effective August 17, 2011, the twenty-first (21<sup>st</sup>) day after final publication on July 27, 2011.

4. As of the date hereof, the Creation Resolution, the Consent Resolution, and the Guaranty Ordinance have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the County this 14th day of December, 2011.

**COUNTY OF SUSSEX, NEW JERSEY**

By: *Elaine A. Morgan*  
**Elaine A. Morgan**  
**Clerk of the Board of**  
**Chosen Freeholders**

**EXHIBIT A**

**[Attach Consent Resolution]**

**RESOLUTION RE: RESOLUTION PROVIDING SUSSEX COUNTY'S  
CONSENT TO THE ISSUANCE BY THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY OF THE  
AUTHORITY'S COUNTY OF SUSSEX GUARANTEED  
RENEWABLE ENERGY PROGRAM LEASE REVENUE  
BONDS (COUNTY OF SUSSEX PROGRAM), SERIES  
2011 (FEDERALLY TAXABLE) IN AN AGGREGATE  
PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000.00  
AND RELATED DOCUMENTS**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*"); and

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "*Act*"), and other applicable law; and

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program; and

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County; and

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program; and

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program; and

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*"); and

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the *Local Unit Facilities*, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning; and

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their *Local Unit Facilities*, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their *Local Unit Facilities*, all intended to be offered at no net cost to the Local Units; and

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective *Local Unit Facilities*, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the

Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "Series 2011 Bonds"); and

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "Series 2011B Notes, and together with the Series 2011A Bonds, the previously defined "Series 2011 Bonds"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000.00; and

**WHEREAS**, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000.00 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application; and

**WHEREAS**, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the *Series 2011 Project*"); and

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law; and

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units); and

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on*

*Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Lease Agreement*") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to

be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "BPU"), whereby, among other things,

(I) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

(c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "*Company Documents*"; and

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution; and

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000.00 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80); and

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000.00, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty; and

**WHEREAS**, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the *County Security* is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such *County Security* shall be deposited in the *County Security Fund* under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which *County Security* shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among the Company, the *County Security Provider*, and the Authority, and acknowledged by the County, the provisions of which *County Security Agreement*, to the extent the *County Security* is in the form of immediately available funds or the right to same deposited in the *County Security Fund* created under the Bond Resolution, shall (i) not be set forth in an independent *County Security Agreement*, and accordingly (ii) be set forth in the Bond Resolution, the *County Guaranty Agreement* and the *Company Lease Agreement*; and

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the *County Guaranty*, which in turn causes the *County Security* to be drawn upon to reimburse the County for all or a portion of any such *County Guaranty* repayments, (i) the *County Security Agreement*, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the *County Security Provider*, as reimbursement security for any such draw on the *County Security*, or (ii) to the extent the *County Security* is in the form of immediately available funds or the right to same deposited in the *County Security Fund* created under the Bond Resolution, in which case no *County Security Agreement* shall exist, then the Company, as *County Security Provider* in such instance, shall only be entitled to such excess *County Security*, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its *County Guaranty*; and

**WHEREAS**, the Authority, with the consent of the County, may, depending on the *Company Proposal*, determine to (i) waive *County Security* due to the strength of the *Company Proposal* or otherwise, in which case the terms *County Security*, *County Security Fund*, *County Security Fund Requirement*, *County Security Provider* and Reimbursement Collateral shall have no effect, or (ii) initially accept as *County Security*, in lieu of a *County Security Agreement*, immediately available funds in such amount (defined under the Bond Resolution as the *County Security Fund Requirement*) as set forth in the *Company Proposal*, to be funded by the Company in accordance with the

terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds; and

**WHEREAS**, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company; and

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12; and

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12; and

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12; and

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs; and

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent ("*Private Placement Agent*"), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*");
- (b) If the Series 2011 Bonds shall be sold by:
  - (i) Competitive sale, authorize the distribution of a notice of sale ("*Notice of Sale*"), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the "*Underwriter*"), or
  - (ii) Negotiated sale, enter into a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds; and

- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*," and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (i) above, the "*Sale Documents*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("*Section 13*") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program Documents*"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF SUSSEX, NEW JERSEY**, as follows:

**Section 1.** In accordance with Section 13 and all other applicable law, the County of Sussex Board of Freeholders hereby consent to (i) the Series 2011 Project and the financing of same on behalf of the Series 2011 Local Units through the Program Documents, (ii) the execution or acknowledgment and delivery by the Authority of the Company Lease Agreement, the Power Purchase Agreement, the Company Pledge Agreement, the County Guaranty Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements in substantially the forms attached hereto as **Exhibits A, B, C, D, E and F** respectively (iii) the adoption by the Authority of the Bond Resolution in substantially the form attached hereto as **Exhibit G**, (iv) the issuance, sale and delivery of the Series 2011 Bonds to effect such purpose and (v) the adoption and execution and delivery of the County Guaranty as further security for the Series 2011 Bonds. The County's consent hereto to the Program Documents contemplates the insertion of the final financing terms therein that will result from the sale of the Series 2011 Bonds, which financing terms shall be limited only by those financing term parameters set forth in the Local Finance Board Application of the Authority filed with the Local Finance Board (and on file with the County Administrator) relating to the Series 2011 Bonds and the findings related thereto and the parameters set forth herein, which terms shall be finally determined by one or more of the Freeholder Director,

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County Administrator and the County Chief Financial Officer (each an "Authorized Officer"), each severally authorized hereby to act as Authorized Officer for the purposes contemplated hereby.

**Section 2.** The County, as issuer of the County Guaranty, believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Projects through the Program Documents; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the County; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the County and will not create an undue financial burden to be placed upon the County.

**Section 3.** The Authorized Officers are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Projects through the Program Documents, including the issuance of the Series 2011 Bonds to be further secured by the County Guaranty, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the County at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

**Section 4.** The Authorized Officers are hereby each severally authorized and directed, upon satisfaction of all the legal conditions precedent to the execution and delivery by the County of the County Guaranty Agreement and the County Continuing Disclosure Agreement, to execute and deliver such documents in substantially the forms attached hereto as Exhibits D and E respectively, with such changes thereto as the Authorized Officer, in consultation with counsel to the County and other professional advisors deems in his sole discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of any changes to the forms thereof, including without limitation the insertion of the final financing terms which financing terms shall be limited only by those financing term parameters set forth in the application of the Authority filed with the Local Finance Board relating to the Series 2011 Bonds and the parameters set forth therein.

**Section 5.** The Clerk of the Board of Freeholders is hereby authorized and directed, upon the execution or acknowledgment of the documents set forth in Section 4 hereof in accordance with the terms of Section 4 hereof, to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed to thereupon affix the seal of the County to such documents.

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**Section 6.** Upon the execution or acknowledgment and attestation of and if required, the placing of the seal on the documents set forth in Section 4 hereof as contemplated by Sections 4 and 5 hereof, the Authorized Officer is hereby authorized and directed to (i) deliver such fully executed, attested and sealed documents to the other parties thereto and (ii) perform such other actions as the Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

**Section 7.** The Board of Freeholders of the County hereby authorizes the preparation and the distribution of financial statements and demographic and other information concerning the County, the Series 2011 Project, the Program Documents and the transactions contemplated thereby as are otherwise necessary, convenient or desirable to cause the Authority and other parties to enter into the various Program Documents.

**Section 8.** The Board of Freeholders of the County hereby authorizes the performance of any act, the execution or acknowledgment and delivery of any other document, instrument or closing certificates, which the Authorized Officer, after consultation with the Consultants, deems necessary, desirable or convenient in connection with this contemplated transaction, and the Board of Freeholders hereby directs the Authorized Officer to execute or acknowledge, attest and affix the seal to any such documents, instruments or closing certificates, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons.

**Section 9.** The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Projects, producing the contemplated energy savings for the Series 2011 Local Units, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Series 2011 Local Units.

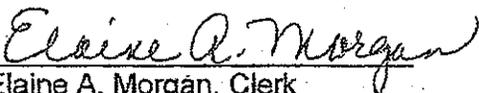
**Section 10.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Projects through the Program Documents, including the issuance of the Series 2011 Bonds to be further secured by the County Guaranty, and to record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

**Section 11.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 12.** This Resolution shall take effect immediately.

**Section 13.** Upon the adoption hereof, the Clerk of the Board of Freeholders shall forward certified copies of this Resolution to John H. Eskilson, County Administrator; John Bonanni, Morris County Administrator and Chairperson of the Authority; Dennis R. McConnell, Esq., County Counsel; and Stephen B. Pearlman, Esq., Counsel to the Authority.

Certified as a true copy of a  
Resolution adopted by the  
Board on the 27<sup>th</sup> day of July, 2011.

  
Elaine A. Morgan, Clerk  
Board of Chosen Freeholders  
County of Sussex

RECORD OF VOTE						
FREEHOLDER	AYE	NAY	ABST	ABS	MOVE	SEC
Crabb	✓				✓	
Space	✓					✓
Vohden	✓					
Zellman	✓					
Zocli	✓					

ABST - Abstain  
MOVE - Resolution Moved

ABS - Absent  
SEC - Resolution Seconded

**Exhibit A**

Company Lease Agreement

[See Closing Item No. 2]

**Exhibit B**

Power Purchase Agreement

[See Closing Item No. 3]

**Exhibit C**

Company Pledge Agreement

[See Closing Item No. 5]

**Exhibit D**

County Guaranty Agreement

[See Closing Item No. 4]

**Exhibit E**

Continuing Disclosure Agreements

[See Closing Item Nos. 6 & 7]

**Exhibit F**

Local Unit License Agreements

[See Closing Item No. 1]

**EXHIBIT B**

**[Attach Guaranty Ordinance]**

**ORDINANCE RE: GUARANTY ORDINANCE OF THE COUNTY OF SUSSEX,  
NEW JERSEY, SECURING THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX  
GUARANTEED RENEWABLE ENERGY PROGRAM  
LEASE REVENUE BONDS (COUNTY OF SUSSEX  
PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN  
AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED  
\$50,000,000.00**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*"); and

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law; and

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program; and

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County; and

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program; and

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program; and

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*"); and

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning; and

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units; and

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000.00 (the "*Series 2011 Bonds*"); and

**WHEREAS**, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "*Series 2011B Notes*", and together with the Series 2011A Bonds, the previously defined "*Series 2011 Bonds*"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000.00; and

**WHEREAS**, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000.00 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application; and

**WHEREAS**, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the "*Series 2011 Project*"); and

**WHEREAS**, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011

Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law; and

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units); and

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "Company RFP") and the receipt of proposals from prospective solar developers, including that (the "Company Proposal") of the successful respondent (the "Company"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth

in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Lease Agreement*") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;
- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "*BPU*"), whereby, among other things,

(I) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "*Company Documents*"; and

**WHEREAS**, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution; and

**WHEREAS**, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000.00 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80); and

**WHEREAS**, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000.00, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty; and

**WHEREAS**, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement; and

**WHEREAS**, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty; and

**WHEREAS**, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the

terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds; and

**WHEREAS**, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company; and

**WHEREAS**, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12; and

**WHEREAS**, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12; and

**WHEREAS**, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12; and

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs; and

**WHEREAS**, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent ("*Private Placement Agent*"), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*");
- (b) If the Series 2011 Bonds shall be sold by:
  - (i) Competitive sale, authorize the distribution of a notice of sale ("*Notice of Sale*"), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the "*Underwriter*"), or
  - (ii) Negotiated sale, enter into a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds; and

- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*," and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (i) above, the "*Sale Documents*"); and

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("*Section 13*") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "*Program Documents*"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF SUSSEX, NEW JERSEY**, as follows:

**Section 1.** This guaranty Ordinance shall be adopted by the governing body of the County in the manner provided for adoption of a Bond Ordinance as provided in the Local Bond Law, constituting Chapter 169 of the Pamphlet Laws of 1960 of the State, as amended (the "*Local Bond Law*").

**Section 2.** Pursuant to and in accordance with the terms of the Act, specifically Section 37, the County is hereby authorized to and hereby shall fully, unconditionally and irrevocably guarantee the punctual payment of the principal, when due, of (including sinking fund installments, if any) and interest on the Series 2011 Bonds in an aggregate principal amount not exceeding \$50,000,000.00, which Series 2011 Bonds are to be issued to finance the Series 2011 Project as described in the preambles hereof. Notwithstanding the provisions of any other Program Document, upon the endorsement of the Series 2011 Bonds referred to in Section 3 below by an authorized officer of the County, the County shall be fully, unconditionally and irrevocably obligated to pay, when due, the principal of (including sinking fund installments, if any) and interest on the Series 2011 Bonds to the extent the Trustee, for any reason, has insufficient monies on any such payment dates to pay the principal of and interest on the Series 2011 Bonds in full when due on any such payment dates, in the same

manner and to the same extent as in the case of bonds issued by the County, and accordingly, the County shall be fully, unconditionally and irrevocably obligated to levy *ad valorem* taxes upon all the taxable property within the County for the payment thereof without limitation as to rate or amount. This full, unconditional and irrevocable guaranty of the County effected hereby to pay the principal of (including sinking fund installments, if any) and interest on the Series 2011 Bonds when due in accordance with the terms hereof and of the Program Documents may not be waived, setoff or otherwise abrogated by action or inaction of the Authority, the County or for any other reason.

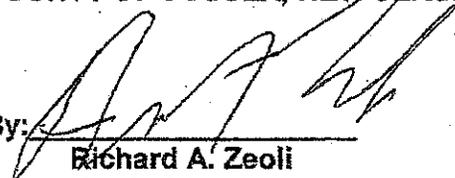
**Section 3.** The Director of the Board of Freeholders (the "*Freeholder Director*") shall, by manual or facsimile signature, and is hereby directed to execute an endorsement on each of the Series 2011 Bonds evidencing this guaranty by the County as to the punctual payment of the principal of (including sinking fund installments, if any), when due, and interest thereon. The endorsement on each Series 2011 Bond shall be in substantially the following form, and absent the fully executed endorsement in such following form on any such Series 2011 Bond, such Series 2011 Bond shall not be entitled to the benefits of this guaranty ordinance:

**"GUARANTY OF THE COUNTY OF SUSSEX, NEW JERSEY**

The payment of the principal of (including sinking fund installments, if any) and interest on the within Series 2011 Bond shall be fully, irrevocably and unconditionally guaranteed by the County of Sussex, New Jersey (the "County") in accordance with the provisions of N.J.S.A. 40:37A-80 and the guaranty ordinance of the County finally adopted pursuant thereto and the County Guaranty Agreement executed by the County in connection therewith, and the County is fully, irrevocably and unconditionally liable for the payment, when due, of the principal of (including sinking fund installments, if any) and interest on this Series 2011 Bond, and if necessary the County shall levy *ad valorem* taxes upon all the taxable property within the County without limitation as to rate or amount in order to make such payments on time and in full.

**IN WITNESS WHEREOF**, the County has caused this County Guaranty to be executed by the manual or facsimile signature of its Freeholder Director.

**COUNTY OF SUSSEX, NEW JERSEY**

By: 

**Richard A. Zeoli**  
**Freeholder Director**

The Freeholder Director is hereby further authorized to execute or acknowledge such other certificates or agreement relating to this full, irrevocable and unconditional guaranty that may be required by the Authority to comply with the terms of the Program Documents, including without limitation, the County Guaranty Agreement in substantially the form attached hereto as **Exhibit A**, with such changes thereto as the Freeholder Director, in consultation with counsel to the County and other professional advisors deems in his sole discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Freeholder Director's approval of any changes to the forms thereof. Such further agreement or certificate shall not in any manner relieve the County from its obligations hereunder, and shall contain only such terms as are consistent with or within the parameters herein set forth.

**Section 4.** It is hereby found, determined and declared by the governing body of the County that:

(a) This guaranty ordinance may be adopted notwithstanding any statutory debt or other limitations, including particularly any limitation or requirement under or pursuant to the Local Bond Law, but the aggregate principal amount of the Series 2011 Bonds which shall be entitled to the benefits of this guaranty ordinance, being an amount not to exceed \$50,000,000.00, shall, after their issuance, be included in the gross debt of the County for the purpose of determining the indebtedness of the County under or pursuant to the Local Bond Law.

(b) The principal amount of Series 2011 Bonds entitled to the benefits of this guaranty ordinance and included in the gross debt of the County shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of the Local Bond Law (i) from and after the time of issuance of the Series 2011 Bonds until the end of the fiscal year beginning next after the completion of acquisition, construction, installation or renovation of the Series 2011 Project, and (ii) in any annual debt statement filed pursuant to the Local Bond Law as of the end of said fiscal year or any subsequent fiscal year if the revenues or other receipts or moneys of the Authority in such year (including amounts payable pursuant to the Local Unit Bonds) are sufficient to pay its expenses of operation and maintenance in such year and all amounts payable in such year on account of the principal of and interest on all such guaranteed Series 2011 Bonds, all bonds of the County issued as provided in Section 36 of the Act (N.J.S.A. 40:37A-79) and all bonds of the Authority issued under the Act.

**Section 5.** The following matters are hereby determined, declared, recited and stated:

(a) The maximum principal amount of Series 2011 Bonds (including one or more series of bonds and one or more series of bond anticipation notes issued in anticipation thereof) of the Authority which are hereby and hereunder fully, unconditionally and irrevocably guaranteed as to the punctual payment of the principal thereof (including sinking fund installments, if any) and interest thereon is \$50,000,000.00; the maximum principal amount of Series 2011 Bonds (including one or more series of bonds and one or more series of bond anticipation notes issued in anticipation thereof) of the Authority that may be outstanding at any one time is \$50,000,000.00; and the maximum estimated cost of the Series 2011 Project to be financed in accordance with the transactions contemplated hereby is \$50,000,000.00.

(b) The purpose described in this guaranty ordinance is not a current expense of the County and no part of the cost thereof has been or shall be assessed on property specially benefited thereby.

(c) A supplemental debt statement of the County has been duly made and filed in the office of the Clerk of the Board, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State, and such debt statement shows that while the gross debt of the County, as defined in the Local Bond Law, is increased by this guaranty ordinance by \$50,000,000.00 in accordance with the provisions of the Act, the net debt of the County is not increased, and the obligation of the County authorized by or incurred pursuant to the terms of this guaranty ordinance is permitted by an exception to the debt limitations of the Local Bond Law which exception is contained in the Act, so long as the payment obligations of the County hereunder are not called upon.

(d) Other than the publication requirements set forth below, all other items to be contained in a bond ordinance adopted pursuant to the Local Bond Law are hereby determined to be inapplicable to the County's guaranty of the Series 2011 Bonds hereby.

**Section 6.** To the extent the Authority determines that it is in the best interest of the Authority and the Local Units, the Authority is hereby authorized to finance the Local Unit Projects as separate issues through one or more separate series of Series 2011 Bonds which in the aggregate shall not exceed \$50,000,000.00. Such series of Series 2011 Bonds shall be entitled to the benefits of this County Guaranty in an aggregate amount not to exceed \$50,000,000.00.

**Section 7.** To the extent the Series 2011 Bonds are not issued in 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds and all dates related to such year of issuance shall be automatically adjusted.

**Section 8.** If any part(s) of this ordinance shall be deemed invalid, such part(s) shall be severed and the invalidity thereby shall not affect the remaining parts of this ordinance.

**Section 9.** This guaranty ordinance shall take effect at the time and in the manner provided by law.

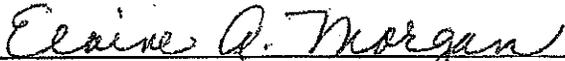
**Section 10.** A public hearing shall be held on this guaranty ordinance on August 17, 2011 at 5:00 PM. in the Freeholder Meeting Room, Sussex County Administrative Center, One Spring Street, Newton, New Jersey.

**Section 11.** The Clerk of the Sussex County Board of Freeholders is hereby directed to publish and post notice of this guaranty ordinance as required by applicable law, including the Act and Local Bond Law.

**Section 12.** Upon the adoption hereof, the Clerk of the Board of Freeholders shall forward certified copies of this Ordinance to John H. Eskilson, County Administrator; John Bonanni, Morris County Administrator and Chairperson of the Authority; Dennis R. McConnell, Esq., County Counsel; and Stephen B. Pearlman, Esq., Counsel to the Authority.

## NOTICE OF PENDING ORDINANCE

The Ordinance published herewith was introduced and passed upon first reading at a meeting of the Board of Chosen Freeholders of the County of Sussex held on July 27, 2011. It will be further considered for final passage, after public hearing thereon, at a meeting of the said Board of Chosen Freeholders to be held at the County Administrative Center, One Spring Street, New Jersey on August 17, 2011 at 5:00 p.m. During the week prior to and including the date of such meeting, copies of the said Bond Ordinance shall be made available at the Office of the Clerk of the Board of Chosen Freeholders in the Sussex County Administrative Center, One Spring Street, Newton, New Jersey to the members of the general public who shall request same.



Elaine A. Morgan, Clerk of the Sussex County  
Board of Chosen Freeholders

**Exhibit A**

County Guaranty Agreement

[See Closing Item No. 4]

**EXHIBIT C**

**[Attach County Proceedings relating to adoption of Guaranty Ordinance]**

## REGULAR MEETING HELD ON WEDNESDAY, AUGUST 17, 2011

5:00 PM

ORDER OF BUSINESSItem

1. CALL TO ORDER BY DIRECTOR at 5:00 pm.
2. ROLL CALL: Freeholder Crabb; Freeholder Space; Freeholder Vohden; Freeholder Zellman; Freeholder Director Zeoli; John Eskilson, County Administrator; Dennis McConnell, County Counsel; and Elaine Morgan, Clerk
3. MOMENT OF SILENT PRAYER AND SALUTE TO THE FLAG
4. PUBLIC STATEMENT

"Pursuant to the Open Public Meetings Act, Chapter 231, P.L. 1975 Adequate Notice as defined by Section 3D of Chapter 231, P.L. 1975, has been made by regular mail, such notice being submitted on February 15, 2011 from the Administrative Center of the County of Sussex, located at One Spring Street, Newton, New Jersey to the following:

New Jersey Herald	WSUS Radio
New Jersey Sunday Herald	WNNJ Radio
Star Ledger	

and is also posted on the bulletin board maintained in the Administrative Center for public announcements and has been submitted to the Sussex County Clerk in compliance with said Act."

5. PUBLIC HEARINGS

A.

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PUBLIC HEARING – 5:02 PMFINAL ADOPTION – ORDINANCE

Freeholder Director Zeoli: "At our regular meeting held on July 27, 2011, we introduced for first reading the following Ordinance which was advertised in the New Jersey Herald issue of August 5, 2011 together with a Notice of Public Hearing stating it would be held at this meeting at 5:00 PM:

ORDINANCE RE: GUARANTY ORDINANCE OF THE COUNTY OF SUSSEX, NEW JERSEY, SECURING THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000.00

MOTION made by Freeholder Crabb to open the Public Hearing, seconded by Freeholder Space and passed unanimously.

Is anyone present to be heard regarding this Ordinance?

There was no one.

MOTION that the Public Hearing be closed made by Freeholder Crabb, seconded by Freeholder Vohden and passed unanimously.

MOTION that this Ordinance be finally adopted made by Freeholder Crabb, seconded by Freeholder Space.

On Roll Call the vote was:

Freeholder Crabb	Yes
Freeholder Space	Yes
Freeholder Vohden	Yes
Freeholder Zellman	Yes
Freeholder Director Zeoli	Yes

**MOTION** to authorize the Clerk to advertise this Ordinance as finally adopted, and also post same on the bulletin board in the lobby of the County Administrative Center made by Freeholder Space, seconded by Freeholder Crabb and passed unanimously.

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## 6. PROCLAMATIONS/CERTIFICATES/PRESENTATIONS

### A. Proclamations/Certificates

1. Proclamation recognizing Patrick James McGuinness for attaining the rank of Eagle Scout.

462-2011

2. Certificate presented to Eric Legrand in recognition of his positive outlook and determination to overcome any obstacle.

463-2011

**MOTION** made by Freeholder Crabb to approve this Proclamation and this Certificate, seconded by Freeholder Vohden and passed unanimously.

## 7. PUBLIC SESSION FROM THE FLOOR

Public Session will be held tonight at the Sussex County Technical School Auditorium, 105 North Church Road, Sparta, NJ on August 17, 2011 at 6:00 pm. There will be no Public Session held tonight at the County Administrative Center, Freeholder Meeting Room.  
(Please note: Everyone is asked to keep their comments to 5 minutes or less)

This was held later in the meeting at the Sussex County Technical School at 6:00 pm.

## 8. FREEHOLDERS' COMMENTS

No Comments made at this time.

## 9. APPROVAL OF CONSENT AGENDA

- A. RESOLUTION RE: PAYMENT OF BILLS

464-2011

- B. RESOLUTION RE: AUTHORIZATION FOR THE FREEHOLDER DIRECTOR AND BOARD CLERK TO EXECUTE AN APPLICATION FOR DISCRETIONARY AID FROM NJDOT LOCAL AID INFRASTRUCTURE FUND IN THE AMOUNT OF \$1,000,000.00 FOR THE REPLACEMENT OF THE FRANKLIN VIADUCT BRIDGE E-07

465-2011

- C. RESOLUTION RE: AUTHORIZATION FOR THE FREEHOLDER DIRECTOR AND BOARD CLERK TO EXECUTE AN APPLICATION FOR DISCRETIONARY AID FROM NJDOT LOCAL AID INFRASTRUCTURE FUND IN THE AMOUNT OF \$580,000.00 FOR THE REPLACEMENT OF THE FRANKLIN VIADUCT BRIDGE E-07

466-2011

## SIGNATURE AND INCUMBENCY CERTIFICATE OF THE COUNTY

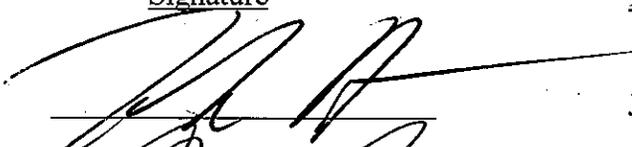
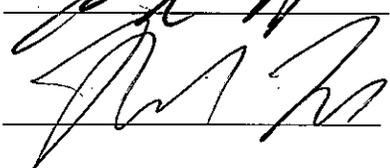
We, the undersigned officers of the County of Sussex, New Jersey (the "*County*"), a political subdivision of the State of New Jersey (the "*State*"), in connection with the issuance this day by The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A. 40:37A-44 et seq.*, the "*Act*"), of the Authority's \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*"), which Series 2011 Bonds were sold on December 7, 2011 by the Authority to the Underwriter pursuant to and as defined in that certain "Bond Purchase Agreement" dated December 7, 2011 (the "*Purchase Agreement*") by and between such parties (capitalized terms not defined herein shall have the meanings ascribed to such terms in the Purchase Agreement), **DO HEREBY CERTIFY** on behalf of the County as follows:

1. On or before the date hereof, certain or all of the undersigned authorized officers of the County officially signed and properly executed by manual or facsimile signature the County Documents and certain other certificates, instruments and documents related to the County Documents, the County Proceedings (as defined in the County Letter of Representation) and the sale and issuance of the Series 2011 Bonds.
2. At the time of such signing and execution and on the date hereof, we were and are the duly elected, appointed or acting and qualified officers of the County who are authorized to execute such documents and who hold the respective offices indicated by our official titles set forth below opposite our names.
3. The seal impressed upon this certificate has been affixed, imprinted or reproduced upon such documents where required, and such seal is the legally adopted, proper and only official corporate seal of the County.
4. All documents to be executed in connection with the issuance of the Series 2011 Bonds have been executed by the undersigned holding the offices set opposite such names, and the signatures appurtenant thereto are the true and genuine specimen signatures of the undersigned.

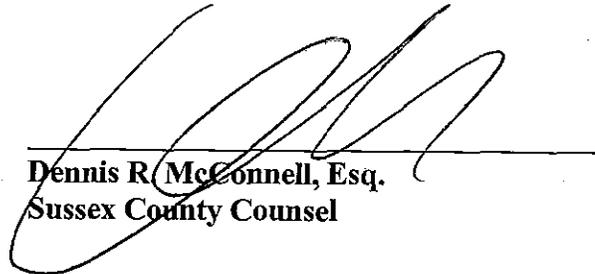
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[SEAL]

IN WITNESS WHEREOF, we have hereunto set our hands and the corporate seal of the County has hereunto been affixed this 14th day of December, 2011.

<u>Signature</u>	<u>Name</u>	<u>Official Title</u>
	John H. Eskilson	County Administrator
	Richard A. Zeoli	Freeholder Director
	Elaine A. Morgan	Clerk of the Board of Chosen Freeholders
	Bernard A. Re	County Treasurer

**I HEREBY CERTIFY** that the signatures of the officers of the County that appear above are true and genuine, and I know said officers and know them to hold the respective offices set opposite their several signatures.



**Dennis R. McConnell, Esq.**  
**Sussex County Counsel**

Dated: December 14, 2011

# *Hawkins Delafield & Wood LLP*

ONE CHASE MANHATTAN PLAZA  
NEW YORK, NY 10005  
WWW.HAWKINS.COM

February 28, 2013

U.S. Bank National Association  
New York, New York  
as Trustee with respect to the captioned bonds

Morgan Stanley & Co. LLC  
New York, New York  
on behalf of itself and as representative  
of the other Underwriters pursuant to the  
Purchase Contract dated February 13, 2013  
with respect to the captioned bonds with  
the State of New York Mortgage Agency

Re: State of New York Mortgage Agency Mortgage Revenue Bonds,  
Forty-Eighth Series (collectively, the "Bonds")

Our approving opinion with respect to the captioned Bonds, addressed and delivered this date to the State of New York Mortgage Agency, may be relied upon by you as though such opinion were addressed to you.

Very truly yours,

*Hawkins Delafield & Wood LLP*

**CERTIFICATE OF THE COUNTY OF SUSSEX  
AS TO PRELIMINARY OFFICIAL STATEMENT**

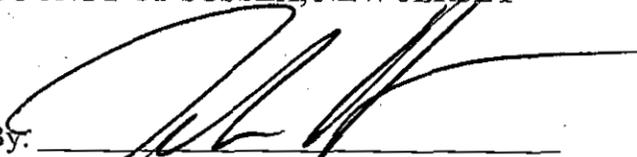
I, John H. Eskilson, as County Administrator of the County of Sussex, New Jersey (the "*County*"), a political subdivision of the State of New Jersey (the "*State*"), in connection with the issuance by The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A. 40:37A-44 et seq.*, the "*Act*"), of the Authority's \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds") **DO HEREBY CERTIFY** on behalf of the County as follows:

1. As of the date hereof, the description and information contained in the Preliminary Official Statement dated December 1, 2011, issued in connection with the Series 2011 Bonds (collectively, the "*Preliminary Official Statement*"), true copies of which are attached hereto as **Exhibit A**, relating to the County, the County Guaranty, the Continuing Disclosure Agreement entered into by the County, the official action of the County regarding any of the foregoing, and any other information contained in the Preliminary Official Statement pertaining to the County and its operations as set forth in the sections of the Preliminary Official Statement captioned "LITIGATION – The County" and APPENDICES A and B, is true and correct in all material respects and does not contain any untrue statement of a material fact or omit to state a material fact which is necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. Without having undertaken to determine independently the accuracy, completeness or adequacy of the statements contained in the Preliminary Official Statement (other than as to the information above), the Preliminary Official Statement (except as to financial, statistical and tabular information as to which no opinion is expressed) does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

2. The information in the Preliminary Official Statement regarding the County, its documents, its official action and its operations, all set forth in Section 1 above, has been "deemed final" as of its date within the meaning and for purposes of Rule 15c2-12 ("*Rule 15c2-12*") promulgated by the Securities and Exchange Commission of the United States under the Securities Exchange Act of 1934, as amended except for the omission of such information as is specified in Rule 15c2-12(b)(1) and except for changes permitted by other applicable law.

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the County this 1st day of December, 2011.

**COUNTY OF SUSSEX, NEW JERSEY**

By: 

**John H. Eskilson**  
**County Administrator**

**EXHIBIT A**

**[Attach copy of Preliminary Official Statement]**

[See Closing Item No. 20a ]

**CERTIFICATE OF THE COUNTY OF SUSSEX  
AS TO OFFICIAL STATEMENT**

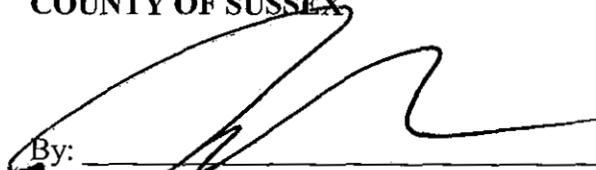
I, John H. Eskilson, as County Administrator of the County of Sussex, New Jersey (the “*County*”), a political subdivision of the State of New Jersey (the “*State*”), in connection with the issuance by The Morris County Improvement Authority (the “*Authority*”), a public body corporate and politic of the State of New Jersey (the “*State*”) organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A. 40:37A-44 et seq.*, the “*Act*”), of the Authority’s \$26,715,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated the date hereof (the “*Series 2011A Bonds*”) and the \$985,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)” dated the date hereof (the “*Series 2011B Note*” and together with the Series 2011A Bonds, the “*Series 2011 Bonds*”) **DO HEREBY CERTIFY** on behalf of the County as follows:

As of the date hereof, the description and information contained in the Official Statement dated December 7, 2011 issued in connection with the Series 2011 Bonds (the “*Official Statement*”), a true copy of which is attached hereto as **Exhibit A**, relating to the County, the County Guaranty, the Continuing Disclosure Agreement entered into by the County, the official action of the County regarding any of the foregoing, and any other information contained in the Official Statement pertaining to the County and its operations as set forth in the sections of the Official Statement captioned “LITIGATION – The County” and APPENDICES A and B, is true and correct in all material respects and does not contain any untrue statement of a material fact or omit to state a material fact which is necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. Without having undertaken to determine independently the accuracy, completeness or adequacy of the statements contained in the Official Statement (other than as to the information above), the Official Statement (except as to financial, statistical and tabular information as to which no opinion is expressed) does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the County this  
14th day of December, 2011.

**COUNTY OF SUSSEX**

By:   
\_\_\_\_\_  
**John Eskilson**  
**County Administrator**

**EXHIBIT A**

**[Attach copy of Official Statement]**

[See Closing Item No. 21a]

**BRING DOWN CERTIFICATE OF THE COUNTY OF SUSSEX  
AS TO OFFICIAL STATEMENT**

I, John H. Eskilson, as County Administrator of the County of Sussex, New Jersey (the "*County*"), a political subdivision of the State of New Jersey (the "*State*"), in connection with the issuance this day by The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A. 40:37A-44 et seq.*, the "*Act*"), of the Authority's \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds") **DO HEREBY CERTIFY** on behalf of the County as follows:

As of the date hereof, the description and information contained in the Official Statement dated December 7, 2011 issued in connection with the Series 2011 Bonds (the "*Official Statement*"), relating to the County, the County Guaranty, the Continuing Disclosure Agreement entered into by the County, the official action of the County regarding any of the foregoing, and any other information contained in the Official Statement pertaining to the County and its operations as set forth in the sections of the Official Statement captioned "LITIGATION – The County" and APPENDICES A and B, is true and correct in all material respects and does not contain any untrue statement of a material fact or omit to state a material fact which is necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. Without having undertaken to determine independently the accuracy, completeness or adequacy of the statements contained in the Official Statement (other than as to the information above), the Official Statement (except as to financial, statistical and tabular information as to which no opinion is expressed) does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

**[Remainder of this page intentionally left blank.]**

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the County this 14th day of December, 2011.

**COUNTY OF SUSSEX NEW JERSEY**

By: 

**John H. Eskilson**  
**County Administrator**

**COUNTY LETTER OF REPRESENTATION**

**[previously signed as Exhibit B to Purchase Agreement]**

## BRING DOWN CERTIFICATE OF COUNTY LETTER OF REPRESENTATION

I, BERNARD A. RE, as Treasurer of the County of Sussex, New Jersey (the "*County*"), a political subdivision of the State of New Jersey (the "*State*"), in connection with the issuance by The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A. 40:37A-44 et seq.*, the "*Act*"), of the Authority's \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*"), which Series 2011 Bonds were sold by the Authority to the hereinafter defined Underwriter pursuant to the terms of that certain "Bond Purchase Agreement" dated December 7, 2011 relating to the Series 2011 Bonds (the "*Purchase Agreement*"; capitalized terms not defined herein shall have the meaning ascribed to such terms in the Purchase Agreement) by and between the Authority and RBC Capital Markets LLC, as underwriter (the "*Underwriter*"), and SunLight General Sussex Solar, LLC (the "*Company*") **DO HEREBY CERTIFY** on behalf of the County as follows:

As of the date hereof, the representations, covenants and warranties contained in the County's Letter of Representation dated December 7, 2011 and executed in connection with the Purchase Agreement are correct and may be relied upon by the Authority, the Underwriter, the Trustee, and the Company as if given the date hereof and set forth herein.

**[Remainder of this page intentionally left blank.]**

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the County this  
14th day of December, 2011.

**COUNTY OF SUSSEX, NEW JERSEY**

By: Bernard A. Re  
**Bernard A. Re**  
**Treasurer**

**CERTIFICATE OF THE CLERK OF THE BOARD OF CHOSEN FREEHOLDERS OF  
THE COUNTY OF MORRIS, NEW JERSEY, WITH RESPECT TO CERTAIN  
RESOLUTIONS CONCERNING THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY**

I, Diane M. Ketchum, the duly appointed and acting Clerk of the Board of Chosen Freeholders (“*Board of Freeholders*”) of the County of Morris, New Jersey (“*Morris County*”), a political subdivision of the State of New Jersey (the “*State*”), in connection with the issuance this day by The Morris County Improvement Authority (the “*Authority*”), a public body corporate and politic of the State of New Jersey (the “*State*”) organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at *N.J.S.A. 40:37A-44 et seq.*, the “*Act*”), of the Authority’s \$26,715,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated the date hereof (the “*Series 2011A Bonds*”) and the \$985,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)” dated the date hereof (the “*Series 2011B Note*” and together with the Series 2011A Bonds, the “*Series 2011 Bonds*”), **DO HEREBY CERTIFY** on behalf of Morris County as follows:

1. On April 10, 2002, the Board of Freeholders adopted resolution number 42 entitled “RESOLUTION OF THE BOARD OF CHOSEN FREEHOLDERS OF MORRIS COUNTY, NEW JERSEY CREATING THE MORRIS COUNTY IMPROVEMENT AUTHORITY” (the “*Creation Resolution*”), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Board of Freeholders at a meeting duly called and held on April 10, 2002, and at which a quorum existed and acted throughout.

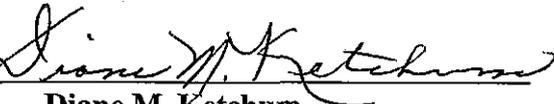
2. On July 13, 2011, the Board of Freeholders adopted its Resolution No. 37 entitled “RESOLUTION PROVIDING MORRIS COUNTY’S CONSENT TO THE ISSUANCE BY THE MORRIS COUNTY IMPROVEMENT AUTHORITY OF THE AUTHORITY’S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND RELATED DOCUMENTS” (the “*Consent Resolution*”), a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the Board of Freeholders at a meeting duly called and held on July 13, 2011, and at which a quorum existed and acted throughout.

3. As of the date hereof, the Creation Resolution and the Consent Resolution have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of Morris County this  
14th day of December, 2011.

**COUNTY OF MORRIS, NEW JERSEY**

By   
**Diane M. Ketchum**  
Clerk

**EXHIBIT A**

**BOARD OF CHOSEN FREEHOLDERS  
MORRIS COUNTY, NEW JERSEY**

RESOLUTION NO. 42

ADOPTED: April 10, 2002

**RESOLUTION OF THE BOARD OF CHOSEN FREEHOLDERS OF  
MORRIS COUNTY, NEW JERSEY CREATING  
THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

WHEREAS, the Board of Chosen Freeholders (the "Board of Chosen Freeholders") of Morris County, New Jersey (the "County"), after careful review and study, has determined that there exist numerous benefits to, among others, the citizens of the County in creating the "Morris County Improvement Authority" (the "Authority") in accordance with the terms of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey (the "State"), as amended and supplemented (as codified at N.J.S.A. 40:37A-44 et seq. and as may be amended or supplemented from time to time, the "Act"), the Local Authorities Fiscal Control Law, constituting Chapter 313 of the Pamphlet Laws of 1983 of the State (as codified at N.J.S.A. 40A:5A-1 et seq. and as may be amended or supplemented from time to time, the "Authorities Act") and other applicable law;

WHEREAS, the purposes of the Authority, as set forth in N.J.S.A. 40:37A-54 of the Act, are presently as follows:

- (a) provision within the county or any beneficiary county of public facilities for use by the State, the county or any beneficiary county, or any municipality in any such county, or any two or more or any subdivisions, departments, agencies or instrumentalities of any of the foregoing for any of their respective governmental purposes,
- (b) provision within the county or any beneficiary county of public facilities for use as convention halls, or the rehabilitation, improvement or enlargement of any convention hall, including appropriate and desirable appurtenances located within the convention hall or near, adjacent to or over it within boundaries determined at the discretion of the authority including but not limited to office facilities, commercial facilities, community service facilities, parking facilities, hotel facilities and other facilities for the accommodation and entertainment of tourists and visitors,
- (c) provision within the county or any beneficiary county of structures, franchises, equipment and facilities or operation of public transportation or for terminal

purposes, including development and improvement of port terminal structures, facilities and equipment for public use in counties in, along or through which a navigable river flows,

- (d) provision within the county or any beneficiary county of structures or other facilities used or operated by the authority or any governmental unit in connection with, or relative to development and improvement of, aviation for military or civilian purposes, including research in connection therewith, and including structures or other facilities for the accommodation of passengers,
- (e) provision within the county or any beneficiary county of a public facility for a combination of governmental and non-governmental uses; provided that not more than 50% of the usable space in any such facility shall be made available for non-governmental use under a lease or other agreement by or with the authority,
- (f) acquisition of any real property within the county or any beneficiary county, with or without the improvements thereof of thereon or personal property appurtenant or incidental thereto, from the United States of America or any department, agency or instrumentality heretofore or hereafter created, designated or established by or for it, and the clearance, development or redevelopment, improvement, use or disposition of the acquired lands and premises in accordance with the provisions and for the purposes stated in this act, including the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of improvements on or to said lands and premises, and structures and facilities incidental to the foregoing as may be necessary, convenient or desirable,
- (g) acquisition, construction, maintenance and operation of garbage and solid waste disposal systems for the purpose of collecting and disposing of garbage, solid waste or refuse matter, whether owned or operated by any person, the authority or any other governmental unit, within or without the county or any beneficiary county,
- (h) the improvement, furtherance and promotion of the tourist industries and recreational attractiveness of the county or any beneficiary county through the planning, acquisition, construction, improvement, maintenance and operation of facilities, for the recreation and entertainment of the public which facilities may include, without being limited to, a center for the performing and visual arts,
- (i) provision of loans and other financial assistance and technical assistance for the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of buildings or facilities designed to provide decent, safe and sanitary dwelling units for persons of low and moderate income in need of housing, including the acquisition of land, equipment and other real or personal properties which the authority determines to be necessary, convenient or desirable appurtenances, all in accordance with the provisions of this act, as amended and supplemented,
- (j) planning, initiating and carrying out redevelopment projects for the elimination and for the prevention of the development or spread of blighted, deteriorated or

deteriorating areas and the disposition, for uses in accordance with the objectives of the redevelopment project, or any property or part thereof acquired in the area of such project,

- (k) any combination or combinations of the foregoing or following, and
- (l) subject to the prior approval of the Local Finance Board, the planning, design, acquisition, construction, improvement, renovation, installation, maintenance and operation of facilities or any other type of real or personal property within the county for a corporation or other person organized for any one or more of the purposes described in subsection a. of N.J.S. 15A:2-1 except those facilities or any other type of real or personal property which can be financed pursuant to the provisions of P.L.1972, c. 29 (C. 26:21-1 et seq.) as amended."

**WHEREAS**, the County has determined that the Authority is a useful alternative local governmental entity to carry out these purposes, as the same may be amended or supplemented from time to time, without any further action by the County; and

**WHEREAS**, the County has, or with the passage of time and with the execution of certain administrative actions after the adoption hereof, will have satisfied all conditions precedent to the creation of the Authority under the Act, the Authorities Act and all other applicable law, including without limitation having received the approval of the Local Finance Board (the "Local Finance Board") within the Division of Local Government Services (the "Division") in the State Department of Community Affairs ("Department").

**NOW THEREFORE, BE IT RESOLVED** by the Board of Chosen Freeholders of the County as follows:

**Section 1.** That the Board of Chosen Freeholders, in accordance with the Act, the Authorities Act and all other applicable law, hereby creates a public body corporate and politic as an agency or instrumentality of the County hereby named "The Morris County Improvement Authority."

**Section 2.** That in accordance with the provisions of the Act and other applicable law, the Authority shall be governed by a board consisting of five (5) members who shall be residents of the County and shall be subsequently, and from time to time, appointed by the governing body of the County, which members shall establish by-laws, shall finance projects and shall take such other actions to govern the Authority in accordance with the Act and other applicable law.

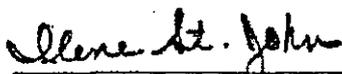
**Section 3.** That the Authority shall be entitled to all of the rights and privileges, and shall be subject to all of the duties and obligations, of an authority under the Act and all other applicable law from the time the Authority is hereby created until such time, if ever, that the County determines to dissolve the Authority in accordance with the provisions of the Act, the Authorities Act and all other applicable law.

**Section 4.** That a certified copy of this resolution shall be filed forthwith by the Clerk of the Board of Chosen Freeholders in the office of the Secretary of State of the State, in the office of the Division and in the corporate books of the Authority, and that the certified copy hereof on file with the Secretary of State shall be admissible in evidence in any action or proceeding and shall be conclusive evidence of due and proper adoption and filing hereof.

**Section 5.** That after such filing in the Office of the Secretary of State, a copy of this resolution shall be published at least once in a newspaper circulated in the County, together with a notice stating the fact of adoption, the date of adoption hereof and the date of first publication of such notice. If no action questioning the validity of the creation or establishment of the Authority shall be commenced within forty-five (45) days after the first publication of such notice, then the Authority shall be conclusively deemed to have been validly created and established and authorized to transact business and exercise powers as a public body created pursuant to the Act.

**Section 6.** This resolution shall take effect immediately.

I hereby certify the above to be a true copy of a resolution adopted by the Board of Chosen Freeholders of the County of Morris at a regular meeting held April 10, 2002.



Ilene St. John, Clerk of the  
Board of Chosen Freeholders of the  
County of Morris

**EXHIBIT B**

BOARD OF CHOSEN FREEHOLDERS

MORRIS COUNTY, NEW JERSEY

RESOLUTION NO.: 37

ADOPTED: July 13, 2011

**RESOLUTION PROVIDING MORRIS COUNTY'S CONSENT TO THE ISSUANCE BY THE MORRIS COUNTY IMPROVEMENT AUTHORITY OF THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND RELATED DOCUMENTS**

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the

Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

WHEREAS, it may be necessary, desirable or convenient, in connection with the

financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority may sell one or more series

of Series 2011 Bonds, (i) one series by either a competitive process or by negotiated sale after a competitive process an underwriter (the "Underwriter") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one or more series of notes (collectively, the "*Series 2011B Notes*", and together with the Series 2011A Bonds, the previously defined "*Series 2011 Bonds*"), either by the same sale method as the Series 2011A Bonds or by direct sale to the County; provided, however that the aggregate principal amount of the Series 2011A Bonds and the Series 2011B Bonds together with any other bonds issued under the Bond Resolution shall not exceed \$50,000,000;

WHEREAS, any notes issued as Series 2011 Bonds may be refunded through the issuance of one or more series of notes or bonds issued as Series 2011 Bonds, so long as (i) the principal amount of such notes or bonds, each issued as Series 2011 Bonds and Outstanding in the aggregate at any one time under and as defined in the hereinafter defined Bond Resolution, does not exceed \$50,000,000 and (ii) the interest rates thereon do not exceed the maximum interest rates set forth in the Local Finance Board Application;

WHEREAS, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units, if any, (v) capitalized interest and/or reserves, if any, and (vi) such other amounts as shall be set forth in the Bond Resolution (collectively, the "*Series 2011 Project*");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "*Bonds*") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" to be adopted by the governing body of the Authority, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "*Bond Resolution*"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011

Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) finance, design, permit, acquire, construct, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iv) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (v) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "Company RFP") and the receipt of proposals from prospective solar developers, including that (the "Company Proposal") of the successful respondent (the "Company"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority,

as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, and to design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the municipal/County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the board of education Series 2011 Local Units under the applicable Local Unit License Agreements) and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities (the "*BPU*"), whereby, among other things,

(I) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company shall establish a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("*SRECs*") generated by the Renewable Energy Projects for

the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement, the hereinafter defined Company Disclosure Agreement, and the hereinafter defined Company Pledge Agreement, may be collectively defined as the "*Company Documents*";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) in an aggregate principal amount not to exceed \$50,000,000 of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County to be finally adopted by the Board of Freeholders, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") by and between the County and the Authority, as acknowledged by the Company and the Credit Facility Provider, if any (as hereinafter defined) setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution

(collectively, the "*County Guaranty*"), all pursuant to Section 37 ("*Section 37*") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the County Guaranty Agreement, the Company RFP, and as applicable, the Company Proposal, the Authority shall be obligated to obtain a letter of credit, cash, a covenant to provide same, or other form of security acceptable to and issued for the benefit of the County (the "*County Security*") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided in the form of immediately available funds or the right to same, then the Company (in any such case, the "*County Security Provider*"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security shall be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Security Agreement*") among the Company, the County Security Provider, and the Authority, and acknowledged by the County, the provisions of which County Security Agreement, to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, shall (i) not be set forth in an independent County Security Agreement, and accordingly (ii) be set forth in the Bond Resolution, the County Guaranty Agreement and the Company Lease Agreement;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, shall provide that the Authority assign and pledge the Reimbursement Collateral (as defined in the Bond Resolution) to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent the County Security is in the form of immediately available funds or the right to same deposited in the County Security Fund created under the Bond Resolution, in which case no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty;

WHEREAS, the Authority, with the consent of the County, may, depending on the Company Proposal, determine to (i) waive County Security due to the strength of the Company Proposal or otherwise, in which case the terms County Security, County Security Fund, County Security Fund Requirement, County Security Provider and Reimbursement Collateral shall have no effect, or (ii) initially accept as County Security, in lieu of a County Security Agreement, immediately available funds in such amount (defined under the Bond Resolution as the County Security Fund Requirement) as set forth in the Company Proposal, to be funded by the Company in accordance with the terms of the Company Lease Agreement, all as contemplated by the Company Proposal, and all to secure, in part, the County's payment obligations under its County Guaranty should such County Guaranty ever be drawn upon, and which County Security Fund Requirement monies would then be deposited by the Trustee in the County Security Fund created and defined in the Bond Resolution, and which County Security Fund would be specifically excepted from the pledge of the Trust Estate and would not be available to secure the payment of debt service on the Series 2011 Bonds;

WHEREAS, in the event the Company provides the County Security Fund Requirement through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its managing member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Company Pledge Agreement*"), and issued by the managing member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("*Rule 15c-12*") promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, may be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*Company Continuing Disclosure Agreement*") with the Authority and the Trustee, as dissemination agent (the "*Dissemination Agent*") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of

Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall determine to either (i) privately place the Series 2011 Bonds with any of the County, the State or State affiliate, or other third party, either directly, or through a private placement agent ("*Private Placement Agent*"), or (ii) alternatively, by negotiated or competitive sale, publicly offer the Series 2011 Bonds, in which public offering case the Authority shall need to:

- (a) Authorize the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "*Preliminary Official Statement*");
- (b) If the Series 2011 Bonds shall be sold by:
  - (I) Competitive sale, authorize the distribution of a notice of sale ("*Notice of Sale*"), pursuant to which the Authority shall select an underwriter to purchase all of the Series 2011 Bonds (the "*Underwriter*"), or
  - (II) Negotiated sale, enter into a bond purchase agreement (the "*Bond Purchase Agreement*") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "*Underwriter*") to purchase all of the Series 2011 Bonds; and
- (c) Execute and deliver a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "*Official Statement*", and together with the Preliminary Official Statement, the Notice of Sale or the Bond Purchase Agreement, as applicable, and any of the same or other offering

or sale documents that may be required by any Private Placement Agent or direct purchaser under the private sale methodology in clause (i) above, the "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Lease Agreement, the County Guaranty (including the County Guaranty Agreement), the Power Purchase Agreement, the Company Pledge Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MORRIS, NEW JERSEY, as follows:

**Section 1.** In accordance with Section 13 and all other applicable law, the County of Morris Board of Freeholders hereby consent to (i) the Series 2011 Project and the financing of same on behalf of the Series 2011 Local Units through the Program Documents, (ii) the execution or acknowledgment and delivery by the Authority of the Company Lease Agreement, the Power Purchase Agreement, the Company Pledge Agreement, the County Guaranty Agreement, the Continuing Disclosure Agreements, the Local Unit License Agreements in substantially the forms attached hereto as Exhibits A, B, C, D, E and F respectively (iii) the adoption by the Authority of the Bond Resolution in substantially the form attached hereto as Exhibit G, (iv) the issuance, sale and delivery of the Series 2011 Bonds to effect such purpose and (v) the adoption and execution and delivery of the County Guaranty as further security for the Series 2011 Bonds. Morris County's consent hereto to the Program Documents contemplates the insertion of the final financing terms therein that will result from the sale of the Series 2011 Bonds, which financing terms shall be limited only by those financing term parameters set forth in the Local Finance Board Application of the Authority filed with the Local Finance Board (and on file with the Morris County Administrator) relating to the Series 2011 Bonds and the findings related thereto and the parameters set forth herein.

**Section 2.** Morris County believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Projects through the Program Documents; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the County; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the County and will not create an undue financial burden to be placed upon the County.

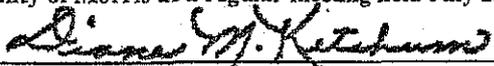
**Section 3.** The Series 2011 Bonds are direct and special obligations of the Authority. Neither the State nor any county or municipality therein (including Morris County) nor any political subdivision thereof, other than the County of Sussex (to the extent of the County Guaranty) and other than the Authority (but solely to the extent of the Trust Estate in accordance with the terms of the Bond Resolution), is obligated to pay the principal or redemption premium, if any, of or interest on the Series 2011 Bonds, and neither the faith and credit nor the taxing power of the State or any county or municipality therein (including Morris County) or any political subdivision thereof, is pledged to the payment of the principal or redemption premium, if any, of or interest on the Series 2011 Bonds other than the County of Sussex (to the extent of the County Guaranty) and other than the Authority (but solely to the extent of the Trust Estate in accordance with the terms of the Bond Resolution). The Authority has no power to levy or collect taxes. Morris County is not providing a guarantee pursuant to N.J.S.A. 40:37A-80 or any other law, regulation, clause or condition in any of the documents or regulations related directly or indirectly to this transaction as to any of the financial or non financial terms, obligations, conditions, requirements, undertakings, or provisions. The sole purpose of this resolution is to provide consent to the Authority from Morris County pursuant to N.J.S.A. 40:37A-56 to finance a portion of this project located in the County of Sussex.

**Section 4.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 5.** This resolution shall take effect immediately.

**Section 6.** Upon the adoption hereof, the Clerk of the Morris County Board of Freeholders shall forward certified copies of this resolution to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority.

I hereby certify the above to be a true copy of a resolution adopted by the Board of Chosen Freeholders of the County of Morris at a regular meeting held July 13, 2011.

  
Diane M. Ketchum, Clerk of the Board  
of Chosen Freeholders of the  
County of Morris

## CERTIFICATE OF AUTHORIZED SIGNATORY OF MANAGER OF THE COMPANY

I, Stacey L. Hughes or James B. Mann, an Authorized Signatory of Sunlight General Capital Management, LLC, a Delaware limited liability company, which is the manager (the "Manager") of SunLight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), in connection with the issuance of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*") and together with the Series 2011A Bonds, the "Series 2011 Bonds") by The Morris County Improvement Authority (the "*Authority*"), a portion of the proceeds of which will be made available to the Company for the purposes set forth in that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Lease Agreement*"; capitalized terms not defined herein shall have the respective meanings ascribed to such terms in the Company Lease Agreement) between the Authority, as owner and lessor, and the Company, as lessee, **DO HEREBY CERTIFY** on behalf of the Company as follows:

1. I am authorized to execute, on behalf of the Company, the Company's acknowledgment of the "Bond Purchase Agreement" (the "*Purchase Agreement*") dated December 7, 2011 among the Authority, the Underwriter, and the Company defined therein relating to the sale of the Series 2011 Bonds solely to acknowledge and accept the maturity schedule and pricing information set forth in Exhibit A to the Purchase Agreement.

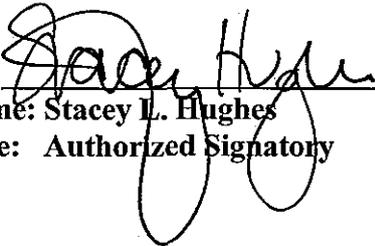
2. On behalf of the Company, the PPA Price (as such term is defined in the Power Purchase Agreement) as set forth in **Exhibit A** hereto is agreed to.

3. On behalf of the Company, it is acknowledged that the initial County Security Fund Requirement is \$1,500,000, and accordingly acknowledges said obligation on behalf of the Company to fund such amount.

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Company this 14th day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC,  
its Manager**

By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

## **Exhibit A**

PPA Price

**PPA Price**  
- Electricity Rates and Escalation Adjustments

For any year of this Power Purchase Agreement and with respect to each respective Customer, the PPA Price payable by any one such Customer is the sum of Sections a and b below (after the escalation percentage factor in Section 2 below is converted into a dollar amount for the applicable year of computation).

(a) Cost of Electricity, per kWh, pursuant to the Power Purchase Agreement, for the period (a) from the date of the first delivery by the Service Provider to such Customer of Electricity from the Renewable Energy Project on the Local Unit Facility of such Customer (b) to, but excluding, the first anniversary of the applicable Commencement Date for such Customer: \$0.0935/ kWh.

(b) Annual escalation (expressed as a fixed percentage increase from the prior year's PPA Price) applicable as of each anniversary date of the Commencement Date for such Customer in effect for the following year to, but not including, the immediately succeeding anniversary of such Commencement Date for such Customer: three percent (3.00%).

(i) This escalation factor commences on the first anniversary of the Commencement Date for such Customer, and ends at the end of the Initial Term, unless further adjusted in accordance with the terms of any extension of the Initial Term pursuant to the terms of the Power Purchase Agreement.

(c) The Parties further agree to the following:

(i) Although the percentage of escalation is fixed in Section 2, since it is based on the prior year's PPA Price, which is itself increasing on an annual basis, the actual dollar amount of each year's escalation increases.

(ii) With the possibility that each Customer shall have different Commencement Dates, and although each Customer shall be subject to the same base cost of Electricity governed by Section 1 above and the same escalation factor governed by Section 2 above, the actual PPA Price payable by one or more Customers may vary on the same date of computation for different Customers.

(iii) In light of the provisions of Section 6.5 of the Power Purchase Agreement, the PPA Price for any Applicable Customer shall be further escalated for any increase in taxes assessed or levied against the Renewable Energy Projects, which taxes shall be imposed by or on behalf of any such Customer, if any; provided, however, that any such increase shall be solely available to the entity that must pay any such tax, the intent being that there shall be no after tax effect on the PPA Price, should any such tax ever be imposed.

## GENERAL CERTIFICATE OF THE COMPANY

I, Stacey L. Hughes or James B. Mann, an Authorized Signatory of Sunlight General Capital Management, LLC, a Delaware limited liability company (the "Company"), which is the manager (the "Manager") of both SunLight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), and Sunlight General Sussex Holdings, LLC, a New Jersey limited liability company, the sole member (the "Sole Member") of the Company, in connection with the issuance of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*") by The Morris County Improvement Authority (the "*Authority*"), a portion of the proceeds of which will be made available to the Company for the purposes set forth in that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Lease Agreement*"; capitalized terms not defined herein shall have the respective meanings ascribed to such terms in the Company Lease Agreement) between the Authority, as owner and lessor, and the Company, as lessee, **DO HEREBY CERTIFY** on behalf of the Company as follows:

1. Attached hereto as **Exhibit A** is a true and complete copy of the Certificate of Unanimous Consent of the Sole Member of the Company dated December 14, 2011, which has not been modified, amended, superseded or rescinded from the document attached hereto, and, as such, remains in full force and effect as of the date hereof, and pursuant to which, among other things, the Company has authorized the due execution and delivery on the date hereof of (a) the Company Documents by one or more designated persons of the Company (collectively, the "*Designated Person*") and (b) all other necessary agreements, certificates, instruments or other documents deemed by such Designated Person to be necessary, desirable or convenient to carry out, give effect to and consummate the transactions contemplated by the Company Documents.

2. Attached hereto as **Exhibit B** is a true and complete copy of (a) the Good Standing Certificate from the Secretary of the State of Delaware evidencing, among other things, that the Manager is an active business in good standing in the State of Delaware, which has not been modified, amended, superseded or rescinded from the document attached hereto, and, as such, remains in full force and effect as of the date hereof.

3. Attached hereto as **Exhibit C** is a true and complete copy of (a) the Good Standing Certificate from the Department of Treasury of the State of New Jersey evidencing, among other things, that the Company is an active business in good standing in the State of New Jersey, which has not been modified, amended, superseded or rescinded from the document attached hereto, and, as such, remains in full force and effect as of the date hereof, and (b) the Company's Certificate of Formation dated November 15, 2011 and Limited Liability Company Agreement dated November 15, 2011, each of which have not been modified, amended, superseded or rescinded from the documents attached hereto, and, as such, remain in full force and

effect as of the date hereof in accordance with the terms hereof, and which permit the delegation to a Designated Person contemplated in Section 1 above.

4. Attached hereto as **Exhibit D** is a true and complete copy of the Company's Business Registration Certificate dated effective as of and issued on December 1, 2011 from the State of New Jersey, which has not been modified, amended, superseded or rescinded from the document attached hereto, and, as such, remains in full force and effect as of the date hereof.

5. Attached hereto as **Exhibit E** is a true and complete copy of the "Turnkey Design, Engineering, Procurement and Construction Contract" dated as of December 12, 2011 (the "EPC") between the Company and Power Partners MasTec LLC which has not been modified, amended, superseded or rescinded from the document attached hereto, and, as such, remains in full force and effect as of the date hereof.

6. Attached hereto as **Exhibit F** is a true and complete copy of the Company's projected construction schedule for the Projects as of the date hereof. This projection does not in anyway amend, or otherwise supersede the Company's obligation to, among other things, complete the construction of the Projects by December 14, 2012, unless extended by Force Majeure of a Local Unit Event of Default, all as contemplated by the Company Documents.

7. Attached hereto as **Exhibit G** is the construction performance security required by the Company RFP and the Company Documents, which has not been modified, amended, superseded or rescinded, and, as such, remains in full force and effect as of the date hereof.

8. Attached hereto as **Exhibit H** are the certificates of insurance required by the Company RFP and the Company Documents, each of which has not been modified, amended, superseded or rescinded, and, as such, remains in full force and effect as of the date hereof.

9. The Company Proposal was duly and timely filed with the Authority in accordance with the terms of the Company RFP, the Company Proposal complied, as of the date of its submission, and continues to comply, as of the date hereof, with the terms of the Company RFP, as there is no material change to the representations, warranties and covenants contained in the Company Proposal that served as the basis for the Authority's selection of the Company under the Company RFP, and the Company has taken no action to modify, amend, supersede or rescind the Company Proposal, other than to authorize, execute and deliver the Company Documents. The Company agrees to be bound by the terms of the Company Documents.

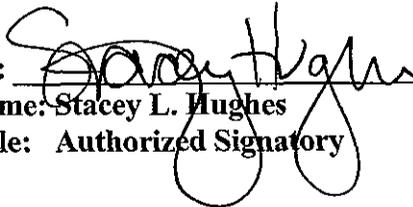
10. There is no governmental action or proceeding and no litigation, action, suit, inquiry, investigation or proceeding pending before any judicial or administrative court or agency against the Company, in which an unfavorable decision, ruling or finding would adversely affect the validity or performance of the Company Documents or other documents relating to this transaction.

**[Remainder of this page intentionally left blank]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Company this  
14th day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC,  
its Manager**

By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

**EXHIBIT A**

**[Attach Certificate of Unanimous Consent of the Sole Member of the Company dated  
December 14, 2011]**

CERTIFICATE OF UNANIMOUS CONSENT OF THE SOLE MEMBER OF THE COMPANY

The undersigned, Sunlight General Sussex Holdings, LLC, a New Jersey limited liability company, the sole member (the "Sole Member") of SunLight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company") of which Sunlight General Capital Management, LLC, a New Jersey limited liability company is the manager (the "Manager"), hereby certifies that, pursuant to the Limited Liability Company Agreement of the Company dated November 15, 2011 and Section 42:2B-27 of the New Jersey Limited Liability Company Act, the Sole Member has duly resolved in connection with the issuance of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*") and together with the Series 2011A Bonds, the "Series 2011 Bonds") by The Morris County Improvement Authority (the "*Authority*"), to enter into, acknowledge, or otherwise accept the terms of the following documents, as applicable, and the following agreements with the Authority (dated as of December 1, 2011 unless noted):

- Guaranty Agreement;
- Company Continuing Disclosure Agreement;
- Lease Purchase Agreement;
- Power Purchase Agreement;
- License and Access Agreements;
- Authority bond resolution adopted September 28, 2011, as amended
- Preliminary Official Statement dated December 1, 2011
- Official Statement dated December 7, 2011

to enter into the Turnkey Design, Engineering, Procurement, and Construction Contract dated as of December 12, 2011 with Power Partners MasTec LLC; and that the Manager is authorized and empowered to take any and all such further action to execute and deliver any and all such further agreements, instruments, documents and certificates and to pay such expenses in the name of and on behalf of the Company and the Sole Member as the Manager may deem necessary or advisable in connection with such matters, the execution and delivery of such agreements, instruments, documents and certificates by the Manager to be conclusive evidence of its authorization hereunder and approval thereof.

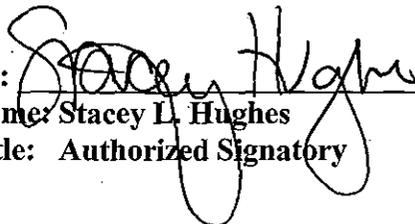
(Signature appears on following page)

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Company this 14th day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Sussex Holdings, LLC,  
its Sole Member**

**By: Sunlight General Capital Management, LLC,  
its Manager**

By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

**EXHIBIT B**

**[Attach Certificate of Good Standing from State of Delaware]**

# Delaware

PAGE 1

*The First State*

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "SUNLIGHT GENERAL CAPITAL MANAGEMENT, LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE FIRST DAY OF DECEMBER, A.D. 2011.

AND I DO HEREBY FURTHER CERTIFY THAT THE SAID "SUNLIGHT GENERAL CAPITAL MANAGEMENT, LLC" WAS FORMED ON THE SIXTH DAY OF MAY, A.D. 2011.

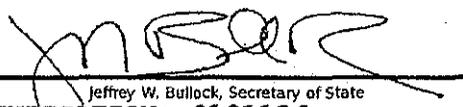
AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE NOT BEEN ASSESSED TO DATE.

4979354 8300

111244071

You may verify this certificate online  
at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)



  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 9191136

DATE: 12-01-11

**EXHIBIT C**

**[Attach Certificate of Good Standing from State of New Jersey, and  
Certificate of Formation and Operating Agreement of the Company]**

STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
SHORT FORM STANDING

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

0400452817

*I, the Treasurer of the State of New Jersey, do hereby certify that the above-named New Jersey Domestic Limited Liability Company was registered by this office on November 15, 2011.*

*As of the date of this certificate, said business continues as an active business in good standing in the State of New Jersey, and its Annual Reports are current.*

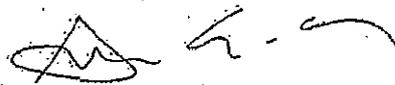
*I further certify that the registered agent and registered office are:*

*Sunlight General Sussex Solar, Llc  
15 Engle Street  
Suite 104  
Englewood, NJ 07631 2920*



Certification# 122290846

*IN TESTIMONY WHEREOF, I have  
hereunto set my hand and affixed my  
Official Seal at Trenton, this  
2nd day of December, 2011*



*Andrew P Sidamon-Eristoff  
State Treasurer*

Verify this certificate at  
[https://www1.state.nj.us/TYTR\\_StandingCert/JSP/Verify\\_Cert.jsp](https://www1.state.nj.us/TYTR_StandingCert/JSP/Verify_Cert.jsp)

NEW JERSEY DEPARTMENT OF THE TREASURY  
DIVISION OF REVENUE

**CERTIFICATE OF FORMATION**

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

0400452817

The above-named DOMESTIC LIMITED LIABILITY COMPANY was duly filed in accordance with New Jersey state law on 11/15/2011 and was assigned identification number 0400452817. Following are the articles that constitute its original certificate.

**1. Name:**

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

**2. Registered Agent:**

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

**3. Registered Office:**

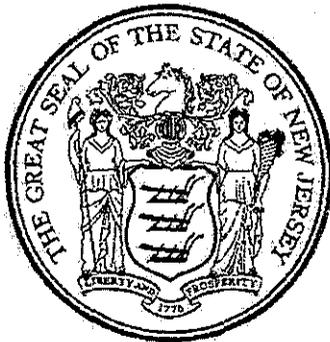
15 ENGLE STREET  
SUITE 104  
ENGLEWOOD, NJ 07631 2920

**4. Business Purpose:**

SOLAR ENERGY

**Signatures:**

LAWRENCE A. KIRSCH  
AUTHORIZED REPRESENTATIVE



Certification# 122139657

Verify this certificate at

[https://www1.state.nj.us/TYTR\\_StandingCert/JSP/Verify\\_Cert.jsp](https://www1.state.nj.us/TYTR_StandingCert/JSP/Verify_Cert.jsp)

*IN TESTIMONY WHEREOF, I have  
hereunto set my hand and affixed my  
Official Seal at Trenton, this  
15th day of November, 2011*

A handwritten signature in black ink, appearing to read "Andrew P. Sidamon-Eristoff".

*Andrew P. Sidamon-Eristoff  
State Treasurer*

**LIMITED LIABILITY COMPANY AGREEMENT**

**OF**

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

***A New Jersey Limited Liability Company***

**November 15<sup>th</sup>, 2011**

**LIMITED LIABILITY COMPANY AGREEMENT  
OF  
SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**A New Jersey Limited Liability Company**

This Limited Liability Company Agreement (this "**Agreement**") of Sunlight General Sussex Solar, LLC (the "**Company**"), dated November 15, 2011 (the "**Effective Date**"), is adopted, executed and agreed to, for good and valuable consideration, by and among SunLight General Capital Management, LLC (the "**Manager**") and any other party admitted pursuant to the terms hereof (each a "**Member**").

**RECITALS**

**A.** The Company was formed by filing a certificate of formation on November 15, 2011.

**B.** The purpose of the Company, as more fully set forth herein, is to own, finance, refinance and manage its interest in, and operate or cause to be operated, the Solar Generating Facilities.

**C.** The Members desire to set forth in this Agreement their respective rights and obligations as Members of the Company, and in connection with the purchase, installation, financing, operations and disposition of the Solar Generating Facilities by the Company.

**ARTICLE 1  
ORGANIZATION**

**1.01. Formation.** The Manager formed the Company as a New Jersey limited liability company by the filing of a Certificate of Formation (the "**New Jersey Certificate**"), dated as of November 15, 2011 (the "**Formation Date**"), with the Secretary of State of New Jersey pursuant to the Act. This Agreement shall be effective upon the execution and delivery of this Agreement by all the Members. The Company shall be managed by a Manager. The Manager is hereby designated as the manager of the Company under the New Jersey Limited Liability Company Act (the "**Act**").

**1.02. Name.** The name of the Company is "Sunlight General Sussex Solar, LLC," and all Company business must be conducted in that name or such other names that comply with Law as the Manager may select; provided that in the event of a change in name, the Manager shall notify the Members of such name change promptly thereafter.

**1.03. Registered Office; Registered Agent; Principal Office.** The address of the Company is 501 Fifth Avenue, Suite 602, New York, NY 10017 or such other office (which need not be a place of business of the Company) as the Manager may designate in the manner provided by Law. The principal office of the Company in the United States shall be at such place as the Manager may designate, which need not be in the State of New Jersey, and the Company shall maintain records there or in such other place as the Manager shall designate. The

Manager shall give prompt notice to each Member of any election or change in the principal office of the Company.

**1.04. Purposes**

(a) The purposes of the Company are limited to engaging in the acquisition, construction, lease, ownership and sale, and the operation, management, maintenance and financing of the Solar Generating Facilities and the purchase, ownership, use, transmission, marketing and sale of any input, output or right associated therewith, and all actions incidental, necessary or appropriate to the foregoing that may be engaged in by a limited liability company formed under the Act.

(b) The Company shall exist for the purposes and business specified in Section 1.04(a) and this Agreement shall not be deemed to create a partnership, company, joint venture or other arrangement among the Members with respect to any activities whatsoever other than the purposes and business specified in Section 1.04(a) and the activities related thereto.

**1.05. Foreign Qualification.** Prior to the Company's conducting business in any jurisdiction other than New Jersey, the Manager shall cause the Company to comply with all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction. At the request of the Manager, each Member shall execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with this Agreement that are necessary or appropriate to qualify, continue, and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business.

**1.06. Term.** The period of existence of the Company (the "**Term**") commenced on the Formation Date and shall end fifty (50) years from such date unless the Company is earlier dissolved in accordance with either the provisions of this Agreement or the Act.

**1.07. No State-Law Partnership.** The Members intend that the Company not be a partnership (including a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member, for any purposes other than tax purposes, and this Agreement may not be construed to suggest otherwise.

**ARTICLE 2  
DEFINITIONS AND CONSTRUCTION**

**2.01. Definitions.** As used in this Agreement, the following terms have the respective meanings set forth below or set forth in the Sections referred to below:

**Act** – the New Jersey Limited Liability Company Act, as amended from time to time.

**Adjusted Capital Account** – with respect to any Member for any period, such Member's Capital Account as of the end of such period, after giving effect to the following adjustments:

(a) Increase such *Capital Account* by any amounts that such Member is obligated to restore pursuant to the terms of this Agreement or is deemed obligated to restore as described in the penultimate sentences of Treasury Regulation Section 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) Decrease such *Capital Account* by the items described in Treasury Regulation Section 1.704-1(b)(2)(i)(d)(4),(5) and (6).

**advisors** – Section 3.08.

**Affiliate** – with respect to any Person, any Person directly or indirectly Controlling, Controlled by or under common Control with such Person.

**Agreement** – see introductory paragraph.

**Assignee** – any Person that acquires a Membership Interest or any portion thereof through a Disposition; provided that an Assignee shall have no right to be admitted to the Company as a Member except in accordance with Section 3.02.

**Bankruptcy or Bankrupt** – with respect to any Person, that (a) such Person (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary bankruptcy petition; (iii) becomes the subject of an order for relief or is declared insolvent in any federal or state bankruptcy or insolvency proceedings; (iv) files a petition or answer seeking for such Person a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Law; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against such Person in a proceeding of the type described in subclauses (i) through (iv) of this clause (a); or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of such Person or of all or any substantial part of such Person's properties; or (b) a proceeding seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Law has been commenced against such Person, and sixty (60) Days have expired without dismissal thereof or with respect to which, without such Person's consent or acquiescence, a trustee, receiver, or liquidator of such Person or of all or any substantial part of such Person's properties has been appointed and sixty (60) Days have expired without the appointment's having been vacated or stayed, or sixty (60) Days have expired after the date of expiration of a stay, if the appointment has not previously been vacated.

**Business Day** – any day other than a Saturday, a Sunday, or a holiday on which national banking associations in New York are not open for business.

**Capital Account** – the account to be maintained by the Company for each Member in accordance with Section 4.06.

**Capital Contribution** – with respect to any Member, the amount of money and the net agreed value (as agreed to by the Members) of any property (other than money) contributed to the Company by the Member. Any reference in this Agreement to the Capital Contribution of a Member shall include the Capital Contribution of its predecessors in interest.

**Capital Contribution Repayment Amount** -- in respect of a Member as of the date of a Distribution, an amount equal to such Member's total capital contributions.

**Cash Equivalents** -- any of the following having a maturity of not greater than one year from the date of issuance thereof: (a) readily marketable direct obligations of the government of the United States of America or any agency or instrumentality thereof or obligations unconditionally guaranteed by the full faith and credit of the government of the United States of America; (b) insured certificates of deposit of or time deposits with any commercial bank that is a member of the Federal Reserve System, issues (or the parent of which issues) commercial paper rated as described in clause (c) below, is organized under the laws of the United States or any State thereof and has combined capital and surplus of at least One Billion Dollars (\$1,000,000,000.00); or (c) commercial paper issued by any corporation organized under the laws of any State of the United States and rated at least "Prime-1" (or the then equivalent grade) by Moody's Investor Service, Inc. (or any successor thereto) or "A-1" (or the then equivalent grade) by Standard & Poor's Rating Group, a division of Standard & Poor's Corporation (or any successor thereto).

**Cause** -- the commission by a Member, acting in its capacity as Manager, of (a) fraud, (b) willful misconduct, (c) gross negligence, or (d) a material breach of the representations, warranties or covenants set forth in this Agreement.

**Code** -- the Internal Revenue Code of 1986, as amended.

**Company** -- Sunlight General Sussex Solar, LLC, a New Jersey limited liability company.

**Company Minimum Gain** -- that amount determined in accordance with the principles of Treasury Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

**Control** -- the possession, directly or indirectly, of either of the following:

(a) (i) in the case of a corporation, more than fifty percent (50%) of the outstanding voting securities thereof; (ii) in the case of a limited liability company, partnership, limited partnership or joint venture, the right to more than fifty percent (50%) of the distributions (including liquidating distributions) therefrom; (iii) in the case of a trust or estate, including a business trust, more than fifty percent (50%) of the beneficial interest therein; and (iv) in the case of any other entity, more than fifty percent (50%) of the economic or beneficial interest therein; or

(b) in the case of any entity, the power or authority, through ownership of voting securities, by contract or otherwise, to exercise a controlling influence over the management of the entity.

**Day** -- a calendar day; provided, however, that if any period of Days referred to in this Agreement shall end on a Day that is not a Business Day, then the expiration of such period shall be automatically extended until the end of the first succeeding Business Day.

**Dispose, Disposing or Disposition** – with respect to any asset (including any Membership Interest or any portion thereof), a sale, assignment, transfer, conveyance, gift, exchange or other disposition of such asset, whether such disposition be voluntary, involuntary or by operation of Law, including the following: (a) in the case of an asset owned by a natural person, a transfer of such asset upon the death of its owner, whether by will, intestate succession or otherwise; and (b) in the case of an asset owned by an entity, (i) a merger or consolidation of such entity (other than where such entity is the survivor thereof), (ii) a conversion of such entity into another type of entity to the extent that such conversion would be treated as a sale or exchange for federal income tax purposes, or (iii) a distribution of such asset, including in connection with the dissolution, liquidation, winding-up or termination of such entity (unless, in the case of dissolution, such entity's business is continued without the commencement of liquidation or winding-up).

**Dissolution Event** – see Section 9.01.

**Distributable Cash** – as of any date, all cash, Cash Equivalents and liquid investments (excluding Capital Contributions) held by the Company as of such *less* any portion of such used (i) to establish Reserves, as reasonably determined by the Manager, (ii) to pay for all Company expenses and liabilities, including, without limitation, the payment of fees under management and maintenance agreements, debt payments (including interest and principal), and taxes payable by the Company, (iii) to pay for any capital improvements, replacements, and contingencies, all as reasonably determined by the Manager.

**Distribution** – a transfer of cash or property of the Company to a Member on account of the Membership Interests held by such Member, as described in Article 5.

**Effective Date** – see introductory paragraph.

**Encumber, Encumbering, or Encumbrance** – the creation of a lien (statutory or otherwise), mortgage, deed of trust, claim, option, easement, charge, pledge, security interest, hypothecation, assignment, use restriction or other encumbrance of any kind or nature whatsoever, whether voluntary or involuntary, choate or inchoate (including any agreement to give any of the foregoing), and any conditional sale or other title retention agreement.

**Federal Grant** – A grant in the amount of 30% of the cost of a Solar Generating Facility under Section 1603 of the American Recovery and Reinvestment Act of 2009.

**Fiscal Year** -- the calendar year, except that the first Fiscal Year of the Company shall commence on the date hereof and end on the next succeeding December 31, and the last Fiscal Year of the Company shall end on the date on which the Company shall terminate and commence on the January 1 immediately preceding such date of termination.

**Formation Date** – see Section 1.01.

**including** – including, without limitation.

**Initial Capital Contribution** – the amount that such Member has agreed to contribute to the capital of the Company as set forth in Schedule A.

**Investor Member** – Any person who, at the time of reference thereto, has been admitted as a Member, successor Member, or additional Member, and, in the case of any of the foregoing, has not withdrawn from the Company, in each such Person's capacity as Member.

**Law** – any applicable constitutional provision, statute, act, code (including the Code), law, regulation, rule, ordinance, order, decree, ruling, proclamation, resolution, judgment, decision, declaration, or interpretative or advisory opinion or letter, of a Governmental Authority having valid jurisdiction.

**Manager** – The Manager of the Company is SunLight General Capital Management, LLC, or any subsequent replacement or successor Manager of the Company in accordance with this Agreement. The Manager need not have an economic interest in the Company and need not be an individual.

**Member** – any Person executing this Agreement as of the date of this Agreement as a member or hereafter admitted to the Company as a member as provided in this Agreement, but such term does not include any Person who has ceased to be a member in the Company. The Members of the Company are the Manager and the Investor Members.

**Member Nonrecourse Debt** – has the meaning set forth with respect to the term “partner nonrecourse debt” in Treasury Regulation Section 1.704-2(b)(4).

**Membership Interest** – a Member's (a) interest in the Company's assets; (b) right to receive Company cash distributions; (c) right to be allocated Company tax items; (d) right to vote on Company matters or otherwise participate in Company management; and (e) other rights, obligations or interest in the Company, whether provided in this Agreement, the Act or otherwise.

**Minimum Gain Attributable to Member Nonrecourse Debt** – that amount with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if each Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with the principles of Treasury Regulation Section 1.704-2(i)(3).

**Nonrecourse Deduction** – has the meaning set forth in Treasury Regulation Section 1.704-2(b)(1).

**Nonrecourse Liability** – has the meaning set forth in Treasury Regulation Section 1.704-2(b)(3).

**Operating Documents** -- all contracts and agreements of all kinds entered into by or on behalf of the Company in connection with the business purposes thereof.

**Parties** – the Members executing this Agreement, and any other Person that becomes a Member in accordance with the provisions hereof.

**Permitted Transfer** – See Section 3.02.

**Person** -- Any individual or entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so permits.

**Solar Generating Facility** -- An installation of photovoltaic solar modules, inverters, mounting, wiring, meters, and other equipment necessary for the production and transmission of electric power from photovoltaic sources.

**Tax Matters Member** -- see Section 8.03.

**Term** -- see Section 1.06.

**Terminated Member** -- see Section 3.06.

**Transaction** -- see Section 3.08.

**Transfer** -- see Section 3.01.

**Treasury Regulations** -- the federal income tax regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of successor Treasury Regulations).

**United States person** -- has the meaning set forth in Code Section 7701(a)(30).

Other terms defined herein have the meanings so given them in this Agreement.

**2.02. Construction.** Unless the context requires otherwise: (a) the gender (or lack of gender) of all words used in this Agreement includes the masculine, feminine, and neuter; (b) words used or defined in the singular include the plural and vice versa; (c) references to Articles and Sections refer to Articles and Sections of this Agreement; (d) references to Laws refer to such Laws as they may be amended from time to time, and references to particular provisions of a Law include any corresponding provisions of any succeeding Law; (e) terms defined in this Agreement are used throughout this Agreement; and (f) references to money refer to legal currency of the United States of America.

### **ARTICLE 3 MEMBERSHIP; DISPOSITION OF INTERESTS**

**3.01. In General.** A Member may not sell, assign, transfer or otherwise dispose of, or pledge, hypothecate or otherwise Encumber (any of the foregoing, a "Transfer") its interest in the Company or any part thereof, except as permitted in this Article 3, and any act in violation of this Article 3 shall be null and void *ab initio*.

**3.02. Permitted Transfers.** Only the following Transfers by a Member, its constituents or the direct or indirect holders of any interest therein, shall be permitted (any such transfer a "Permitted Transfer"): (i) subject to Section 3.06, Transfers by will or trust or pursuant to the laws of intestacy or pursuant to the terms of any such trust, (ii) subject to Section 3.06, Transfers to any personal representative upon incapacity, and (iii) any other Transfer consented to in writing by the Manager in its sole and absolute discretion.

**3.03. Drag-Along and Tag-Along Rights.** In the event that the Manager determines to dissolve the Company, to sell all Membership Interests, whether in the form of a merger, exchange of interests, or any other form of transfer or transaction, or to sell all or substantially all of the assets of the Company, to a third party, including an Affiliate of the Manager, all Members shall be deemed to have consented to such sale on the terms negotiated by the Manager in its sole and absolute discretion. To the extent that any actions by the Manager require the consent of the Members pursuant to the Act or under any provision of this Agreement, each Member hereby designates and appoints SunLight General Capital LLC (or any replacement or successor thereto as Manager), with full power of substitution, as its proxy and attorney-in-fact for the purpose of voting its Membership Interests as said proxy may determine on any and all matters which may arise in connection with such transfer or transaction identified in this Section. This proxy is irrevocable and is coupled with an interest.

**3.04. Substituted Members.** In the event that a Member shall Transfer its interest in the Company pursuant to, and in accordance with, the terms of this Agreement, the transferee thereof shall become a Member only upon the Manager's receipt of all of the following:

(a) the transferee's acceptance of, and agreement to pay all costs of such Transfer and to be bound by all of the terms and provisions of this Agreement, in form and substance reasonably satisfactory to the Manager;

(b) evidence reasonably satisfactory to the Manager of the authority of such transferee to become a Member and to be bound by all of the terms and conditions of this Agreement;

(c) the written agreement of the transferee to continue the business of the Company in accordance with the terms and provisions of this Agreement;

(d) such other documents or instruments as may reasonably be required under the Act or otherwise in order to effect the admission of the transferee as a Member under this Agreement to the reasonable satisfaction of the Manager; and

(e) evidence reasonably satisfactory to the Manager that such Transfer would not (A) violate (i) any Federal and state securities laws and rules and regulations of the Securities and Exchange Commission, state securities commissions, and any other governmental entity with jurisdiction over such disposition, or (ii) any of the Operating Documents; (B) jeopardize the Company's classification for Federal income tax purposes as a partnership; or (C) affect the Company's existence as a limited liability company under the Act.

**3.05. Withdrawal of a Member.** A Member may not voluntarily withdraw or resign from the Company, retire or dissolve, except pursuant to a Transfer of all of such Member's interest in the Company in accordance with this Article 3. Resignation from the Company shall not entitle a Member to receive the fair value of his interest in the Company or any other distributions from the Company.

**3.06. Death of Member; Other Termination of Membership.**

(a) In the event of the death of a Member who is an individual or if a court of competent jurisdiction adjudges a Member to be incompetent to manage his or her person or property, the Member's executor, administrator, guardian, conservator, or other legal representative may exercise all of the Member's rights (including the transfer of the Member's interest in the Company to an heir or beneficiary under a will or trust or by intestate succession) for purposes of settling such Member's estate or administering such Member's property. If a Member is a corporation, trust or other entity and is dissolved or terminated, the powers of that Member may be exercised by its legal representative or successor.

(b) In the event of death or dissolution of a Member, any successor to the interest in the Company of the affected Member as a result thereof shall be deemed to be the transferee of the entire interest of the affected Member and may be admitted as a Member upon satisfaction of the requirements of Section 3.04.

**3.07 Access to Information.** Each Member shall be entitled to receive any information that it may reasonably request concerning the Company; provided, however, that this Section 3.07 shall not obligate the Company or the Manager to create any information that does not already exist at the time of such request (other than to convert existing information from one medium to another, such as providing a printout of information that is stored in a computer database). Each Member shall also have the right, upon reasonable notice, and at all reasonable times during usual business hours to inspect the properties of the Company and to audit, examine and make copies of the books of account and other records of the Company. Such right may be exercised through any agent or employee of such Member designated in writing by it or by an independent public accountant, engineer, attorney or other consultant so designated. The Member making the request shall bear all costs and expenses incurred in any inspection, examination or audit made on such Member's behalf. All information obtained pursuant to this Section 3.07 shall be subject to the provisions of Section 3.08.

**3.08 Confidential Information.**

(a) Except to the extent necessary for the exercise of its rights and remedies and the performance of its obligations under this Agreement, no Member will itself use or intentionally disclose (and will not permit the use or disclosure by any of its Affiliates or its advisors, counsel and public accountants (collectively, "advisors"), directly or indirectly, any of the Operating Documents or this Agreement or information furnished thereunder (the "Transaction"), and will use all reasonable efforts to have all such information kept confidential (consistent with its own practices) and not used in any way known to such Member to be detrimental to any of the others; provided that (i) any such Member and its advisors may use, retain and disclose any such information to its counsel and public accountants or any Governmental Authority or as otherwise required by law, (ii) any such Member and its advisors may use, retain and disclose any such information that has been publicly disclosed (other than by such party or any Affiliate thereof or any of its advisors in breach of this Section 3.08) or has rightfully come into the possession of such Member or any Affiliate thereof or any of its advisors other than from another Member or a Person acting on such other Member's behalf, (iii) to the extent that any such Member or any Affiliate thereof or its advisors may have received a subpoena or

other written demand under color of legal right for such information, such Member or such Affiliate or advisor may disclose such information, but such Member shall first, as soon as practicable upon receipt of such demand and unless otherwise prohibited by applicable law, furnish a copy thereof to the other Members and, if practicable so long as such Member shall not be in violation of such subpoena or demand or likely become liable to any penalty or sanctions thereunder unless based upon counsel's opinion, such Member is advised it must disclose such information, afford the other Members reasonable opportunity, at any other Member's cost and expense, to obtain a protective order or other reasonably satisfactory assurance of confidential treatment for the information required to be disclosed, (iv) disclosures to lenders, potential lenders or other Persons providing financing to the Company or any Member and potential purchasers of equity interests in the Company are permitted, if such Persons have agreed to abide by the terms of this Section 3.08, (v) any such Member and its advisors may disclose any such information, and make such filings, as may be required by this Agreement, and (vi) nothing in this Section 3.08 shall prevent a Member from using such information for its own internal purposes. Notwithstanding anything herein to the contrary, Members may disclose information to their Affiliates and other advisors in accordance with this Agreement, so long as such Persons agree to comply with the provisions of this Section 3.08.

(b) A Terminated Member may, subject to the other provisions of this Section 3.08, retain and use information regarding the Transaction for the limited purpose of preparing such Terminated Member's tax returns and defending audits, investigations and proceedings relating thereto.

(c) The Members agree that no adequate remedy at law exists for a breach or threatened breach of any of the provisions of this Section 3.08, the continuation of which unremedied will cause the Company and the other Members to suffer irreparable harm. Accordingly, the Members agree that the Company and the other Members shall be entitled, in addition to other remedies that may be available to them, to immediate injunctive relief from any breach of any of the provisions of this Section 3.08 and to specific performance of their rights hereunder, as well as to any other remedies available at law or in equity.

(d) The obligations of the Members under this Section 3.08 shall terminate on the third anniversary of the end of the Term.

(e) Notwithstanding anything to the contrary, the foregoing obligations shall not apply to the tax treatment or tax structure of the Transaction and each party hereto (and any employee, representative, or agent of any party) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all other materials of any kind (including opinions or other tax analyses) that are provided to any party hereto to the extent relating to such tax treatment and tax structure. However, any such information relating to such tax treatment and tax structure is required to be kept confidential to the extent necessary to comply with any applicable securities laws. The preceding sentences are intended to cause the Transaction not to be treated as having been offered under conditions of confidentiality for purposes of

Sections 1.6011-4(b)(3) and 301.6111-2(a)(2)(ii) (or any successor provision) of the Treasury Regulations and shall be construed in a manner consistent with such purpose.

## ARTICLE 4 CAPITAL CONTRIBUTIONS

**4.01 Initial Capital Contributions.** The Initial Capital Contribution to be made by each Member on or before the date of this Agreement in exchange for such Member's respective Percentage Interest is set forth in Schedule A.

**4.02 Limitation on Liability of Members.** The liability of each Member shall be limited to the aggregate of such Member's Capital Contributions and no Member shall, subject to the provisions of the Act, have any personal liability in respect of any liabilities or obligations of the Company or the Members, beyond the amount that it shall contribute, or be required to contribute, to the capital of the Company in accordance with this Agreement.

**4.03 No Withdrawal of Capital Contributions.** Except as specified under the terms of this Agreement or upon dissolution and liquidation of the Company, no Member shall have the right to withdraw, reduce or demand the return of its Capital Contribution, or any part thereof, or any distribution thereon. Except as otherwise provided herein, no Member shall have the right to receive property other than cash in connection with a distribution or return of capital. No Member shall be entitled to receive interest on such Member's Capital Contributions to the Company.

**4.04 Return of Capital Contributions.**

(a) Except as specified under the terms of this Agreement or upon dissolution and liquidation of the Company or as provided in Article 4 hereof, there is no agreement, nor time set, for the return of any Capital Contribution of any Member.

(b) None of the Members, nor any of their respective Affiliates, nor any officer, director, shareholder, employee or agent of any of the Members or their Affiliates, shall be personally liable for the return or repayment of any Capital Contribution.

**4.05 No Priority.** Except as otherwise provided under the terms of this Agreement, no Member shall have priority over another as to return of Capital Contributions or allocations of income, gain, profits, losses, credits or deductions or as to distributions.

**4.06 Capital Accounts.** A Capital Account shall be established and maintained for each Member. Each Member's Capital Account shall be increased by (a) the amount of money contributed by that Member to the Company, (b) the fair market value of property contributed by that Member to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take subject to under Section 752 of the Code), and (c) allocations to that Member of Company income and gain (or items thereof), including income

and gain-exempt from tax and income and gain described in Treasury Regulation Section 1.704-1(b)(2)(iv)(g), but excluding income and gain described in Treasury Regulation Section 1.704-1(b)(4)(i); and shall be decreased by (i) the amount of money distributed to that Member by the Company, (ii) the fair market value of property distributed to that Member by the Company (net of liabilities secured by such distributed property that such Member is considered to assume or take subject to under Section 752 of the Code), (iii) allocations to that Member of expenditures of the Company described (or treated as described) in Section 705(a)(2)(B) of the Code, and (iv) allocations of Company loss and deduction (or items thereof), including loss and deduction described in Treasury Regulation Section 1.704-1(b)(2)(iv)(g), but excluding items described in (iii) above and loss or deduction described in Treasury Regulation Section 1.704-1(b)(4)(i) or 1.704-1(b)(4)(iii). To the extent not otherwise inconsistent with the provisions of this Section 4.06, the Members' Capital Accounts shall be maintained and adjusted as required by the provisions of Treasury Regulation Sections 1.704-1(b)(2)(iv) and 1.704-1(b)(4) including adjustments required by the provisions of Treasury Regulation Section 1.704-1(b)(2)(iv)(f) and adjustments to reflect the allocations to the Members of depreciation, depletion, amortization, and gain or loss as computed for book purposes rather than the allocation of the corresponding items as computed for tax purposes, as required by Treasury Regulation Section 1.704-1(b)(2)(iv)(g). The Members' Capital Accounts shall be increased or decreased to reflect a revaluation of the Company's property on its books based on the fair market value of the Company's property on the date of adjustment immediately prior to (A) the contribution of money or other property to the Company by a new or existing Member as consideration for new or additional Membership Interest except contributions made on or prior to December 31st, 2010, or such earlier or later date decided by the Manager, (B) the distribution of money or other property by the Company to a Member as consideration for a Membership Interest, or (C) the liquidation of the Company. Upon the Disposition of all or a portion of a Membership Interest, the Capital Account of the Disposing Member that is attributable to such Membership Interest shall carry over to the Assignee in accordance with the provisions of Treasury Regulation Section 1.704-1(b)(2)(iv)(l). The foregoing provisions of this Article and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulation Sections 1.704-1 and 1.704-2 and will be interpreted and applied in a manner consistent with such Treasury Regulations and any amendment or successor provision thereto.

## ARTICLE 5 DISTRIBUTIONS AND ALLOCATIONS

### 5.01 Allocations.

(a) *General.* For purposes of maintaining the Capital Accounts pursuant to Section 4.066 and for income tax purposes, except as otherwise provided in this Section 5.01, each item of income, gain, loss, deduction and credit of the Company shall be allocated to the Members in accordance with their Membership Interests as set forth in Schedule A.

(b) *Company Minimum Gain Chargeback.* Notwithstanding the other provisions of this Section 5.01, except as provided in Treasury Regulation Section 1.704-2(f), if there is a net decrease in Company Minimum Gain during

any Company taxable period, each Member shall be allocated items of Company income and gain for such period (and, if necessary subsequent periods) in the manner and in the amounts provided in Treasury Regulation Sections 1.704-2(f)(6), 1.704-2(g)(2), 1.704-2(j)(2)(i) or any successor provisions. For purposes of this Section 5.01, each Member's Adjusted Capital Account balance shall be determined, and the allocation of income or gain required hereunder shall be effected, prior to the application of any other allocations pursuant to this Section 5.01.

(c) **Chargeback of Minimum Gain Attributable to Member Nonrecourse Debt.** Notwithstanding the other provisions of this Section 5.01, except Section 5.01(b) and as provided in Treasury Regulation Section 1.704-2(i)(4), if there is a net decrease in Minimum Gain Attributable to Member Nonrecourse Debt determined in accordance with Treasury Regulation Section 1.704-2(i)(5) at the beginning of a taxable period, any Member with a share of Minimum Gain Attributable to Member Nonrecourse Debt at the beginning of such taxable period shall be allocated items of Company income and gain for such period (and, if necessary, subsequent taxable periods) in the manner and amounts provided in Treasury Regulation Sections 1.704-2(i)(4) and 1.704-2(j)(2)(ii), or any successor provisions. For purposes of this Section 5.01, each Member's Adjusted Capital Account balance shall be determined, and the allocation of income or gain required hereunder shall be effected, prior to the application of any other allocations pursuant to this Section 5.01 with respect to such taxable period (other than an allocation pursuant to Section 5.01).

(d) **Nonrecourse Deductions.** Any Nonrecourse Deduction for any tax period shall be allocated to the Members in accordance with Section 5.01(a)(i) or (ii), as in effect at the time the Nonrecourse Deduction arises.

(e) **Limitations.** No allocations of items of loss or deductions shall be made to a Member if such allocation would cause or increase a deficit in the balance of a Member's Adjusted Capital Account. Any such items shall instead be allocated to other Members subject to the limitation set forth in the preceding sentence.

(f) **Qualified Income Offset.** In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6), gross income shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by Treasury Regulations, the deficit balance, if any, in such Member's Adjusted Capital Account as quickly as possible, provided that an allocation pursuant to this Section 5.01(f) shall be made only if and to the extent that such Member would have a deficit balance in its Adjusted Capital Account after all other allocations provided for in this Section 5.01(f) have been tentatively made as if this Section 5.01(f) were not in this Agreement.

(g) **Gross Income Allocation.** In the event any Member has a deficit balance in its Capital Account at the end of any taxable period that is in excess of the sum of (i) the amount such Member is obligated to restore pursuant to any provision of this Agreement and (ii) the amount such Member is deemed obligated to restore pursuant to the penultimate sentences of Treasury Regulation Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible; provided that an allocation pursuant to this Section 5.01(g) shall be made only if and to the extent that such Member would have a deficit balance in its Capital Account in excess of such amount after all other allocations provided for in this Article 5 have been made as if Sections 5.01(f) and 5.01(g) were not in this Agreement.

(h) **Curative Allocations.** The allocations set forth in sections 5.01(b), 5.01(c), 5.01(e), 5.01(f) and 5.01(g) hereof (the "regulatory allocations") are intended to comply with certain requirements of the Treasury Regulations. Notwithstanding any other provisions of this section 5.01, the regulatory allocations shall be taken into account in allocating items of income, gain, loss, deduction and credit among the members such that, to the extent possible, the net amount of allocations of such items and the regulatory allocations to each member shall be equal to the net amount that would have been allocated to each member if the regulatory allocations had not occurred.

(i) **Income Tax Allocations.** For income tax purposes, income, gain, loss, and deduction shall generally be allocable as provided in Sections 5.01(a) through 5.01(h) of this Agreement; provided, however, that income, gain, loss and deductions with respect to property contributed to the Company by a Member or revalued pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(f) shall be allocated among the Members in a manner that takes into account the variation between the adjusted tax basis of such property and its book value, as required by Section 704(c) of the Code and Treasury Regulation Section 1.704-1(b)(4)(i), using the remedial allocation method permitted by Treasury Regulation Section 1.704-3(d).

**5.02 Distributions.** All Distributable Cash shall be distributed by the Company to the Members in accordance with their Membership Interests as set forth in Schedule A.

**5.03 Distributions on Dissolution and Winding Up.** Upon the dissolution and winding up of the Company, after adjusting the Capital Accounts for (i) all allocations made under Section 5.01 and (ii) all distributions made under Section 5.02, all available proceeds shall be distributed to all of the Members as provided in Section 9.03.

**5.04 Varying Interests.** All items of income, gain, loss, deduction or credit shall be allocated, and all distributions shall be made, to the Persons shown on the records of the Company to have been Members as of the last calendar day of the period for which the allocation or distribution is to be made. Notwithstanding the foregoing, if during any taxable year there is a

change in any Membership Interests, the Members agree that their allocable shares of such items for the taxable year shall be determined on any method determined by the Manager to be permissible under Code Section 706 and the related Treasury Regulations to take account of the Members' varying Membership Interests.

**5.05** Withholding. Notwithstanding any other provision of this Agreement, the Company shall comply with any withholding requirements under any law and shall remit amounts withheld to, and file required forms with, applicable taxing authorities. To the extent that the Company is required to withhold and pay over any amounts to any taxing authority with respect to distributions or allocations to any Member, the amount withheld shall be treated as a distribution of cash to such Member in the amount of such withholding. In the event of any claimed over-withholding, Members shall be limited to an action against the applicable taxing authority. If an amount required to be withheld was not withheld from an actual distribution, the Company may reduce subsequent distributions by the amount of such required withholding and any penalties or interest thereon. Each Member agrees to furnish to the Company such forms or other documentation as is necessary to assist the Company in determining the extent of, and in fulfilling, its withholding obligations.

## ARTICLE 6 MEMBERS

**6.01** No Management Rights. Subject to the rights of the Members as set forth in this Agreement, no Member, by reason of its status as a Member, shall have any authority to act for or bind the Company or otherwise take part in the management or the business or affairs of the Company nor have any authority to act for or on behalf of the Company in any respect.

**6.02** Liability of Members. The debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Member, officer or agent of the Company shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member, officer and/or agent. No Member shall be liable to the Company or to any other Member to restore any deficit balance in its Capital Account (except as may be required by the Act) or to reimburse any other Member for any portion of such other Member's investment in the Company.

**6.03** Indemnification. If any Member or former Member shall be subject to a claim or demand relating to such Person being or having been a Member, and not because of such Member's acts or omissions, the Member or former Member (or such Person's heirs, executors, administrators or other legal representatives or in the case of an entity, its successor) shall be held harmless from and indemnified out of the assets of the Company (including insurance proceeds, if any) against all loss and reasonable expense arising from such claim or demand.

**6.04** Representations and Warranties. Each Member, and in the case of a Member that is an entity, the person(s) executing this Agreement on behalf of such entity, hereby represents and warrants to the Company and to each other Member that: (a) if such Member is an

entity, that it is duly organized, validly existing and in good standing under the law of its state of organization and that it has full power to execute this Agreement and to perform its obligations hereunder; (b) if such Member is an entity, the person signing this Agreement on behalf of the Member has been duly authorized to execute and deliver this Agreement; (c) the execution and delivery of this Agreement does not violate or represent a breach of, or constitute a default under, any instrument governing such Member, or any agreement to which the Member is a party or by which the Member is bound; (d) it is acquiring its Membership Interest for the Member's own account as an investment and without an intent to distribute the Membership Interest. Further, each Member acknowledges that the Membership Interests have not been registered under the U.S. Securities Act of 1933 or any state securities laws, and may not be resold or transferred by the Member without appropriate registration or the availability of an exemption from such requirements.

**6.05 Other Activities.** Any Member (including any Affiliate of a Member) may engage in or possess an interest in other business ventures of any nature or description, independently or with others, whether presently existing or hereafter created, including those in competition with the operations of the Company, and neither the Company nor any other Member (including any Affiliate of a Member) shall have any rights in or to such independent ventures or the income or profits derived therefrom.

**6.06 Acknowledgement of Fees and Distributions.** Each Member, and in the case of a Member that is an entity, the person(s) executing this Agreement on behalf of such entity, hereby acknowledges that certain fees and distributions may be chargeable to the Member by the Manager in connection with each Member's investment in the Company, including but not limited to, management fees and Performance Distributions.

## **ARTICLE 7 MANAGEMENT OF THE COMPANY**

**7.01 Authority of the Manager.** Subject to the delegation of rights and powers as provided for herein and except as otherwise herein provided, the Manager shall have the sole right and authority to manage the business and affairs of the Company and shall have all powers and rights necessary, appropriate or advisable to effectuate and carry out all, or any, of the purposes, powers, business and other activities of the Company, without the consent of the Members, including but not limited to (a) the incurrence of indebtedness on behalf of and in the name of the Company, (b) the admittance of additional Members, (c) the dissolution and liquidation of the Company in accordance with Section 9.01 below, (d) a sale of the Company, as provided in Section 3.03, or the sale, exchange, lease, mortgage, pledge or other transfer of all or substantially all of the assets of the Company, and (e) the approval of a merger or consolidation or any other form of combination of the Company with another business entity.

**7.02 Meetings of Members.**

(a) An annual meeting of the Members will be held in January of each year if

called by the Manager, or by Members holding Percentage Interests in excess of 50%, for the transaction of such business as may come before the meeting. If an annual meeting is not called, the Members need not hold annual meetings.

(b) Special meetings of the Members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the Manager, or by Members holding percentage Interests in excess of 50%, with respect to the issues proposed to be considered at such special meeting.

(c) The place of any annual or special meeting shall be at the Company's principal office (or at such other place as shall be determined by the Manager).

(d) The Manager or Members calling a meeting shall cause written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, to be given in the manner provided in Section 10.7 hereof not less than ten (10) nor more than sixty days (60) days before the date of the meeting (unless Members holding Percentage Interests in excess of 50% agree to shorter notice), to each Member of record entitled to vote at such meeting. The attendance of a Member at a meeting shall constitute a waiver of notice of such meeting, except where such Member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting has not been called or convened in accordance with the terms of this Agreement. Also, either before or after a meeting, a Member may sign a waiver of notice of the meeting, or subsequently ratify all the proceedings thereof, and such meeting shall be as valid as if called and noticed as aforesaid. The Members: (i) when assembled at an annual meeting, may act upon any business which they are entitled to transact under the terms of this Agreement or under the Act to the extent consistent with this Agreement; and (ii) when assembled at a special meeting, may act upon any business described in clause (i) above which was set forth in the notice calling the meeting or notice of which was or is thereafter waived in accordance with this Agreement.

(e) The presence of Members, represented in person or by proxy, holding Percentage Interests in excess of fifty (50%) percent shall constitute a quorum at a meeting of Members. If less than a quorum is represented at a meeting, the Members so represented may adjourn the meeting from time to time without further notice, except as required otherwise by the Act. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. If a quorum is present at a duly organized meeting, the Members so present may continue to transact business until adjournment, notwithstanding the withdrawal of one or more Members resulting in less than a quorum. Upon demand of any Member, the vote upon any question before the meeting shall be by ballot.

(f) At all meetings of Members, a Member may vote by proxy executed in writing by the Member or by its duly authorized attorney-in-fact. In order to be effective, such proxy shall: (x) be signed in the exact name of the Member on record with the Company;

and (y) be filed with the Manager. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

(g) Unless otherwise specifically provided herein, in any matters put to the vote of the Members or where any action is to be taken by or with the consent or approval of the Members, any such vote or action shall require the vote of those Members holding the requisite Percentage Interest necessary to approve the subject action(s) and entitled to vote with respect to the subject matter thereof. The voting rights of each Member shall be proportionate to the Percentage Interests of the Members at the time of voting.

(h) Any action required or allowed to be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed (either before or after the taking of such action) by Members entitled to vote with respect to the subject matter thereof.

(i) Meetings of the Members may be held by conference telephone or similar communication equipment so long as all Members participating in the meeting can hear one another, and all Members participating by telephone or similar communication equipment shall be deemed to be present in person at the meeting.

(j) Any action taken by the Members by the written consent of such Members may be executed and given by telecopy or similar electronic means. If any action is so taken by the Members by written consent of less than all of the Members, prompt notice of the taking of such action shall be furnished to each Member who did not execute such written consent, *provided* that the effectiveness of such action shall not be impaired by any delay or failure to furnish such notice.

**7.03 Voting.** To the extent that the Members are required or permitted to take any action under the terms of this Agreement, such action must be approved by the affirmative vote, at a meeting of Members at which a quorum (as determined in the same manner as set forth in Section 7.02(e)) is present (or by written consent in lieu thereof), of the holders of a majority of the Percentage Interests.

**7.04 Delegation; Officers.** The Manager shall have the power to delegate authority to such officers, employees, agents and representatives of the Company as it may from time to time deem appropriate, and on such terms as the Manager shall determine in its sole discretion. Any two or more offices may be held by the same person.

**7.05 Manager.** The Manager shall, using Company funds to the extent available, except where expressly provided to the contrary in this Agreement, for and on behalf of the Company with reasonable diligence and in a prompt and businesslike manner, exercising such care and skill as a prudent owner with sophistication and experience in owning and operating properties like the Solar Generating Facilities would exercise in dealing with its own property: (i) keep and maintain, or cause to be kept and maintained, adequate and correct books and records of account for the Company; (ii) be responsible for the financial management of the Company; (iii) receive or be responsible for receipt of all monies due and payable to the Company from any

source whatsoever; have charge and custody of, and be responsible for, all monies and other valuables of the Company and be responsible for deposit of all such monies in the name and to the credit of the Company with such depositaries as may be designated by the Manager; (iv) disburse or be responsible for the disbursement of the funds of the Company; (v) arrange for all financing of the Solar Generating Facilities and ongoing operations on commercially reasonable terms; (vi) execute and deliver on behalf of the Company any agreements with respect to (i) management of the Company and the Solar Generating Facilities, including the development of the Solar Generating Facilities, and (ii) maintenance of the Solar Generating Facilities; (vii) cause to be engaged, select, employ and enter into agreements with consultants for the Solar Generating Facilities and/or the Company, including, any architects, engineers, accountants and brokers as are designated by the Manager and to employ such firms or other entities as the Manager shall deem advisable for the operation of the Solar Generating Facilities and the Company in accordance with the provisions of the Agreement.

**7.06 Costs, Expenses and Payments.** The Company shall be responsible for all expenses incurred by the Manager in carrying out his or her duties on behalf of the Company.

**7.07 Standard of Care; Indemnification.**

(a) In carrying out his duties, no officer of the Company nor the Manager shall be liable to the Company or to any Member for damages for any breach of duty in such capacity, or otherwise, *provided* that such officer or the Manager, as applicable, is not the subject of a judgment or other final adjudication that establishes that (i) such person's acts or omissions were in bad faith, involved a knowing violation of law, or constituted fraud, gross negligence, or willful misconduct, or (ii) such person personally gained a financial profit or other advantage to which such person was not legally entitled. Each officer and the Manager (individually an "Indemnitee") shall be indemnified, to the fullest extent permitted under the Act, and held harmless by the Company from and against any and all losses, claims, damages, liabilities, expenses (including legal fees and disbursements), judgments, fines, settlements and all other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, in which the Indemnitee may be involved, or threatened to be involved, as a party or otherwise by reason of his status as an officer or the Manager, or his or her management of the affairs of the Company, or which relate to the Company, its property, business or affairs, whether or not the Indemnitee continues to be an officer or the Manager at the time any such liability or expense is paid or incurred, if the Indemnitee acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Company, and, with respect to any criminal proceeding, had no reasonable cause to believe his conduct to be unlawful; *provided* that no Indemnitee shall be entitled to indemnification if it shall be finally determined that such Indemnitee's act or omission constituted fraud, willful misconduct or gross negligence. Expenses (including legal fees and disbursements) incurred in defending any proceeding shall be paid by the Company in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the Indemnitee to repay such amount if it is ultimately determined by a court of competent jurisdiction that the Indemnitee is not entitled to be indemnified by the Company as authorized hereunder.

(b) The Company may, to the extent authorized from time to time by the Manager, grant rights of indemnification and to advancement of expenses to any employee or agent of the Company to the fullest extent of the provisions of this Section 7.07 with respect to indemnification and advancement of expenses of officers of the Company and the Manager.

(c) Notwithstanding the foregoing provisions of this Section 7.07, the Company shall indemnify an Indemnitee in connection with a proceeding (or part thereof) initiated by such Indemnitee only if such proceeding (or part thereof) was authorized by the Members; *provided* that an Indemnitee shall be entitled to reimbursement of his or her reasonable counsel fees with respect to a proceeding (or part thereof) initiated by such Indemnitee to enforce his or her right to indemnity or advancement of expenses under the provisions of this Section 7.07 to the extent the Indemnitee is successful on the merits in such proceeding (or part thereof).

(d) To the extent that, at law or in equity, an Indemnitee has duties (including fiduciary duties) and liabilities relating thereto to the Company or any Member, an Indemnitee acting under this Agreement shall not be liable to the Company or any Member for its good faith reliance on the provisions of this Agreement or any approval or authorization granted by the Company. The provisions of this Agreement, to the extent they restrict the duties and liabilities of an Indemnitee otherwise existing at law or in equity, are agreed by the Members to replace such other duties and liabilities of such Indemnitee.

**7.08 Resignation, Removal, Substitution, or Addition of a Manager; Transfer of Interest.**

Any Manager shall have an indefinite, continuous term as Manager, and may not be removed by the Members except, at a meeting of the Members at which a quorum (as determined in the same manner as set forth in Section 7.02(e)) is present (or by written consent in lieu thereof), by affirmative vote of the holders of a majority of the Percentage Interests after (i) the Manager has been finally adjudicated, with no opportunity for further appeal, of a felony, (ii) the Manager has been found, without opportunity for further appeal, to have breached its fiduciary duty of loyalty to the Company or to have acted in bad faith and in knowing, material violation of law or governmental regulations applicable to the Company and its assets, or (iii) the Manager files for relief under any provision of the Federal bankruptcy code or state insolvency laws, or involuntary proceedings under the Federal bankruptcy code or state insolvency laws are filed against the Manager and are not dismissed within sixty (60) days thereafter. The Manager may resign its functions as Manager at any time on thirty (30) days' advance notice to the Members and the Company, and shall be deemed to have resigned its functions as Manager immediately upon (w) his/her death or permanent disability preventing such Person from carrying out the duties of a Manager if an individual, (x) its dissolution, (y) its filing for relief under any provision of the Federal bankruptcy code or state insolvency laws, or (z) involuntary proceedings under the Federal bankruptcy code or state insolvency laws being filed against it and are not being dismissed within sixty (60) days thereafter. Upon such removal or resignation of

the sole Manager, the Members, at a meeting of Members at which a quorum (as determined in the same manner as set forth in Section 70.2(e)) is present (or by written consent in lieu thereof), by affirmative vote of the holders of a majority of the Percentage Interests, may appoint a substitute or replacement Manager, *provided* that unless the Members so act to replace or approve a substitute for such removed or resigned sole Manager within ninety (90) days after its removal or resignation, a Dissolution Event shall have occurred. By act of the Manager, at any time and without the consent or vote of the Members, an additional Manager may be added or any or all of the rights and interests of a Manager in the Company, including the right to function as a Manager, may be transferred by such Manager to another Person that is an Affiliate of any Manager, *provided* that all rights and interests of a Manager as Manager shall immediately terminate upon such Manager's removal or resignation in accordance with the provisions of this Section 7.08. To the extent that there is more than one Manager, the Managers shall manage the Company by the affirmative vote or consent of a majority of the Managers.

## ARTICLE 8 ACCOUNTING, BOOKS AND RECORDS

**8.01 Fiscal Year and Accounting Method.** The fiscal year and taxable year of the Company shall be the Fiscal Year. The Manager shall determine the accounting method to be used by the Company.

**8.02 Books and Records.**

(a) The books and records of the Company shall be maintained at the principal office of the Company.

(b) In addition, the Company shall maintain the following:

(i) A current list of the full name and last known address of each Member;

(ii) A copy of the filed Articles and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any document has been executed;

(iii) Copies of the Company's federal, state and local income tax returns and reports and financial statements, if any, for the three most recent years; and

(iv) Copies of this Agreement and any amendments thereto.

(a) Subject to Section 3.07, each Member (or such Member's designated representative) shall have the right during ordinary business hours and upon reasonable notice to inspect and copy (at such Member's own expense) all books and records of the Company.

**8.03 Tax Returns and Elections.** Within 120 days after the end of each Fiscal Year, or as soon as reasonably practicable thereafter, the Manager shall cause to be prepared and

furnished to each Member such information regarding the amount of each Member's share in the Company's Taxable Income or Tax Loss for such year, in sufficient detail to enable each Member to prepare its individual federal, state and other tax returns. The Company shall cause to be prepared and timely filed all federal, state and local income tax returns or other returns or statements required by applicable law. The Company shall claim all deductions and make such elections for federal or state income tax purposes which the Manager reasonably believes will produce the most favorable tax results for the Members. The Manager is hereby designated as the Company's "tax matters partner" under the Code, and in such capacity is hereby authorized and empowered to act for and represent the Company and each of the Members before the Internal Revenue Service in any audit or examination of any Company tax return and before any court.

**8.04 Bank Accounts.** All funds of the Company shall be deposited in a separate bank, money market or similar account(s) approved by the Manager and in the Company's name. Withdrawals therefrom shall be made only by the Manager or other persons authorized to do so by the Manager.

## ARTICLE 9 DISSOLUTION, WINDING-UP, AND TERMINATION

**9.01 Events Causing Dissolution.** The Company shall dissolve and wind up its affairs upon the happening of any of the following events (each, a "Dissolution Event"):

- (a) the sale or disposition of all or substantially all of the Solar Generating Facilities;
- (b) the dissolution of the Company by the unanimous written agreement of the Members;
- (c) the happening of any event which makes it unlawful for the Company's business to be continued;
- (d) the entry of a decree of judicial dissolution under the Act;
- (e) the Manager's determination to do so in its sole discretion, upon 30 days' written notice to the Members;
- (f) the occurrence of any other event which causes dissolution of a limited liability company under the Act or under the terms of this Agreement.

**9.02 Liquidating Trustee.** Upon dissolution of the Company, the Manager will act as the liquidating trustee pursuant to the Act (the "Liquidating Trustee").

**9.03 Liquidation.** As soon as possible after dissolution of the Company, the Liquidating Trustee will wind up the Company's business and affairs as follows:

(a) The Liquidating Trustee will prepare or cause to be prepared and delivered to each Member an accounting with respect to all Company accounts and the Capital Account of each Member and with respect to the Company's assets and liabilities and its operations from the date of the last previous audit of the Company delivered to the Members to the date of dissolution.

(b) The Liquidating Trustee will liquidate all Company assets which, in its sole discretion, it determines may be sold for such assets' fair market value or where it determines such liquidation is otherwise in the best interests of the Members.

c) In settling accounts after dissolution, the assets of the Company shall be distributed, in order of priority, as follows:

(i) to creditors, including, to the extent not prohibited by law, Members who are creditors, in satisfaction of liabilities of the Company;

(ii) to pay all expenses incurred in connection with the termination, liquidation and dissolution of the Company and distribution of its assets as herein provided;

(iii) to the establishment of Reserves for contingencies or unforeseen liabilities and obligations of the Company, which Reserves may be paid over to a bank or other party chosen by the Manager, to be held in escrow for payment of such contingent or unforeseen liabilities; and

(iv) to and among the Members in accordance with the provisions of Section 5.02.

The Members intend that the allocations provided for in Article 4 result in the Distributions required pursuant to Section 9.03(c)(iv) being in accordance with positive Capital Account balances of the Members and the Manager as provided for in the Treasury Regulations under Code Section 704(b). However, if after giving hypothetical effect to the allocations required by Article IV, the Capital Accounts of the Members and Manager are in such ratios or balances that Distributions pursuant to Section 9.03(c)(iv) would not be in accordance with the positive Capital Account balances of the Members as required by the Treasury Regulations under Code Section 704(b), such failure shall not affect or alter the Distributions required by Section 9.03(c)(iv). Rather, the Liquidating Trustee will have the authority to make other allocations of Profits or Losses, or items of income, gain, loss or deduction among the Members and Manager which, to the maximum extent possible, will result in the Capital Account of each Member and the Manager having a balance prior to Distribution equal to the amount of Distributions to be received by such Member or Manager pursuant to Section 9.03(c)(iv). At the expiration of such time period as the Liquidating Trustee shall deem advisable, the remaining balance of any Reserve established in accordance with clause (iii) shall be distributed in the manner set forth in clause (iv).

(d) If the Liquidating Trustee shall determine that it is in the best interest of the Members to distribute certain Company assets in kind, such assets will be distributed subject to such liens, encumbrances, restrictions, contracts, obligations, commitments or undertakings as existed with respect to such asset prior to the dissolution of the Company and have not been discharged by payments made pursuant to Section 9.03(c)(i).

**9.04 Termination.** Upon completion of the distribution of the Company property as provided in this Article 9, the Company shall be terminated, and the Manager (or such other persons as the Act may require) shall file articles of dissolution with the Secretary of State of Delaware, cancel any applications to do business or similar filings made in foreign jurisdictions and take such other actions as may be necessary to terminate the Company.

**9.05 Claims of the Members.** The Members shall look solely to the Company property for the return of their Capital Contributions, and if the assets of the Company remaining after payment or discharge of the debts or liabilities of the Company are insufficient to return such Capital Contribution, the Members shall have no recourse against the Company or any other Member or the Manager or former Member or Manager or any other officer, employee or agent of the Company.

## ARTICLE 10 GENERAL PROVISIONS

**10.01 Offset.** Whenever the Company is to pay any sum to any Member, any amounts then owed by that Member to the Company may be deducted from such sum before payment.

**10.02 Entire Agreement; Superseding Effect.** This Agreement constitutes the entire agreement of the Members and their Affiliates relating to the Company and the transactions contemplated hereby and supersedes all provisions and concepts contained in all prior contracts or agreements between the Members or any of their Affiliates with respect to the Company and the transactions contemplated hereby, whether oral or written.

**10.03 Effect of Waiver or Consent.** Except as otherwise provided in this Agreement, a waiver or consent, express or implied, to or of any breach or default by any Member in the performance by that Member of its obligations with respect to the Company is not a consent or waiver to or of any other breach or default in the performance by that Member of the same or any other obligations of that Member with respect to the Company. Except as otherwise provided in this Agreement, failure on the part of a Member to complain of any act of any Member or to declare any Member in default with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Member of its rights with respect to that default until the applicable statute-of-limitations period has run.

**10.04 Amendment or Restatement.** Any term of this Agreement or the Articles may be amended, and the observance of any term of this Agreement or the Articles may

be waived (either generally or in a particular instance and either retroactively or prospectively), only by the Manager; *provided* that the Manager may not, without the written consent of each Member adversely affected thereby, (i) amend this Agreement or, (ii) to the extent any provision concerning (a) the obligations of any Member to make contributions, (b) the allocation for tax purposes of any items of income, gain, loss, deduction or credit, (c) the manner of computing the distributions of any Member or (d) the compromise of an obligation of a Member to make a contribution, is contained in the Articles, no amendment of such provision in the Articles shall be made in a way that (w) increases the obligations of any Member to make contributions, (x) alters the allocation for tax purposes of any items of income, gain, loss, deduction or credit, (y) alters the manner of computing the distributions of any Member, or (z) allows the obligation of a Member to make a contribution to be compromised by consent of less than all the Members. Any amendment or waiver effected in accordance with this Section 10.04 shall be binding upon all present and future Members.

**10.05 Binding Effect.** Subject to the restrictions on Dispositions set forth in this Agreement, this Agreement is binding on and shall inure to the benefit of the Members and their respective legal representatives, successors and permitted assigns.

**10.06 Governing Law; Construction.** This Agreement shall be construed according to and governed by the laws of the State of New Jersey, excluding any conflict of laws rules. To the extent permitted by applicable law, the provisions of this Agreement shall override the provisions of the Act to the extent of any inconsistency or contradiction between them. It is the intent of the Members upon execution hereof that this Agreement shall be deemed to have been prepared by all of the parties to the end that no Member shall be entitled to the benefit of any favorable interpretation or construction of any term or provision hereof under any rule or law.

**10.07 Notices.** All notices, demands, requests or other communications which may be or are required to be given, served, or sent by any party to any other party pursuant to this Agreement shall be in writing and shall be hand delivered or mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, or transmitted by electronic mail (with the original to be sent the same day by Federal Express or other recognized overnight delivery service) or by Federal Express or other recognized overnight delivery service addressed to the recipient at its address set forth below (or at such other address as the recipient may theretofore have designated in writing). Each notice which shall be hand delivered or mailed in the manner described shall be deemed sufficiently given, served, sent, received, or delivered for all purposes on the first business day following the day the notice is delivered to the addressee (with the return receipt, the delivery receipt, or the affidavit of messenger being deemed conclusive (but not exclusive) evidence of such delivery) or the first business day following the day that delivery of the notice is refused by the addressee upon presentation. Each notice which shall be delivered by electronic mail in the manner described above shall be deemed sufficiently given, served, sent, received, or delivered for all purposes on the first business day following the date of such electronic mail delivery. Subject to the above, all notices shall be addressed as follows:

If to the Company or the Manager:

SunLight General Capital Management, LLC  
501 Fifth Avenue  
Suite 602  
New York, NY 10017

Attention: Principals  
Electronic Mail: principals@sunlightgeneral.com

If to any Member, to such Member's address as such Member notifies the Company.

**10.08 Counterparts.** This Agreement may be executed in multiple counterparts, and each such counterpart shall be considered an original, but all of which together shall constitute one and the same instrument.

**10.09 Further Assurances.** Each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate, in the sole discretion of the Manager, to effectuate and perform the provisions of this Agreement and the transactions contemplated herein.

**10.10 Third Parties.** The provisions of this Agreement are intended solely to benefit the Members and, to the fullest extent permitted by applicable law, should not be construed as conferring any benefit upon any creditor of the Company (and no such creditor shall be a third-party beneficiary of this Agreement) and no Member shall have any duty or obligation to any creditor of the Company to make any additional contributions to the Company.

**10.11 Severability.** If one or more of the provisions of this Agreement are held by a proper court to be unenforceable under applicable law, portions of such provisions, or such provisions in their entirety, to the extent necessary and permitted by law, shall be severed here from, and the balance of this Agreement shall be enforceable in accordance with its terms.

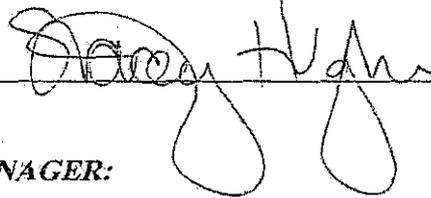
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have duly executed this Limited Liability Company Agreement of Sunlight General Sussex Solar, LLC as of the date first written above.

**INVESTOR MEMBER:**

SUNLIGHT GENERAL SUSSEX SOLAR  
LLC

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "Dorey Hahn", is written over a horizontal line. The signature is stylized and cursive.

**MANAGER:**

SUNLIGHT GENERAL CAPITAL  
MANAGEMENT, LLC  
a Delaware limited liability company

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "Lara Mmz", is written over a horizontal line. The signature is stylized and cursive.

**SCHEDULE A**  
**Members Percentage Interest:**

INVESTOR MEMBER:

100%

**EXHIBIT D**

**[Attach New Jersey Business Registration Certificate of the Company]**

12/01/11

Taxpayer Identification# 300-705-277/000

Dear Business Representative:

Congratulations! You are now registered with the New Jersey Division of Revenue.

Use the Taxpayer Identification Number listed above on all correspondence with the Divisions of Revenue and Taxation, as well as with the Department of Labor (if the business is subject to unemployment withholdings). Your tax returns and payments will be filed under this number, and you will be able to access information about your account by referencing it.

Additionally, please note that State law requires all contractors and subcontractors with Public agencies to provide proof of their registration with the Division of Revenue. The law also amended Section 92 of the Casino Control Act, which deals with the casino service industry.

We have attached a Proof of Registration Certificate for your use. To comply with the law, if you are currently under contract or entering into a contract with a State agency, you must provide a copy of the certificate to the contracting agency.

If you have any questions or require more information, feel free to call our Registration Hotline at (609)292-9292.

I wish you continued success in your business endeavors.

Sincerely,



James J. Fruscione  
Director  
New Jersey Division of Revenue

STATE OF NEW JERSEY  
BUSINESS REGISTRATION CERTIFICATE

DEPARTMENT OF TREASURY/  
DIVISION OF REVENUE  
PO BOX 252  
TRENTON, N.J. 08646-0252

TAXPAYER NAME:  
SUNLIGHT GENERAL SUSSEX SOLAR, LLC

TRADE NAME:

ADDRESS:  
15 ENGLE ST STE 104  
ENGLEWOOD NJ 07631-2920  
EFFECTIVE DATE:

SEQUENCE NUMBER:  
1679397

ISSUANCE DATE:  
12/01/11

12/01/11



Director  
New Jersey Division of Revenue

FORM-BRC

This Certificate is NOT assignable or transferable. It must be conspicuously displayed at above address.

EXHIBIT E

EPC Contract

On file with the Authority

**EXHIBIT F**

**[Attach Projected Construction Schedule for Projects]**

**[See Attachment VI to EPC  
(attached as Exhibit E to this Certificate)]**

**EXHIBIT G**

**[Attach Construction Performance Security]**

FORM A-3

Forms of Construction Performance Bond and Consent of Surety

CONSTRUCTION PERFORMANCE BOND

In providing the below Construction Performance Bond, such Construction Performance Bond shall not contain any conditions to its issuance or any conditions to the obligations of the surety company issuing same, except as expressly provided in this form of Construction Performance Bond.

Date:

Power Partners MasTec, LLC \_\_\_\_\_, PRINCIPAL

Travelers Casualty and Surety Company of America , SURETY

\_\_\_\_\_, SURETY

\_\_\_\_\_, SURETY

THE MORRIS COUNTY IMPROVEMENT AUTHORITY, and SunLight General Sussex Solar, LLC "Owner" as Obligee(s)

KNOW ALL MEN BY THESE PRESENTS, that we, the PRINCIPAL and SURETIES above named, are held and firmly bound unto the above named OBLIGEE, in the just and full sum of Twenty Six Million Four \* (\$ 26,403,700.00 ) for the payment of which sum well and truly to be made, the said PRINCIPAL and SURETIES bind themselves, their respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents. Provided, that, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the PRINCIPAL, for the payment of such sum only as is set forth opposite the name of such Surety at the end of this Bond.

\* Hundred Three Thousand Seven Hundred and NO/100 Dollars

WHEREAS, the PRINCIPAL has entered into a certain written agreement with the OBLIGEE, dated \_\_\_\_\_, 2011 entitled, "Power Purchase Agreement," (the "Agreement"), whereby the PRINCIPAL shall provide construction related services to The Morris County Improvement Authority, which Power Purchase Agreement is by reference made a part hereof, as if set forth in full herein.

NOW THEREFORE, the condition of this obligation is such that , if the PRINCIPAL shall faithfully perform its obligations under the Power Purchase Agreement solely as they relate to the engineering, procurement of materials, construction and installation of the Renewable

Energy Project(s) at the series Local Unit Facilities, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

PROVIDED, HOWEVER:

Whenever the PRINCIPAL shall be, and is, declared to be in default of its construction obligations under the Power Purchase Agreement by the OBLIGEE, the OBLIGEE having performed its construction obligations under the Power Purchase Agreement, the SURETIES may promptly remedy the default or shall promptly as follows:

- (1) Perform the construction obligations under the Power Purchase Agreement in accordance with the terms and conditions of the Power Purchase Agreement and for the elimination of any doubt it is made clear that this obligation shall not extend to any other services being provided under or in accordance with the terms and conditions of the Power Purchase Agreement other than the engineering, procurement of materials, construction and installation of the Renewable Energy Projects to the point of commercial operation, or
- (2) Obtain a Proposal or Proposals for performance of the construction obligations under the Power Purchase Agreement in accordance with the terms and conditions of the Power Purchase Agreement, and upon a determination by SURETIES and the OBLIGEE of the lowest responsible Respondent, arrange for a contract between such Respondent and the OBLIGEE, and make available as services continue (even though there should be a default or a succession of defaults under the contract or contracts arranged under this paragraph) sufficient funds to pay the cost of performance of such said construction obligations; but not exceeding, including other costs and damages for which the SURETIES may be liable hereunder, the amount set forth in the first paragraph hereof.
- (3) After investigation, determine the amount for which it may be liable to the OBLIGEE and, as soon as practicable after the amount is determined, tender payment therefor to the OBLIGEE.
- (4) Without waiver of any rights of the OBLIGEE, notify the OBLIGEE of the denial of liability in whole or in part citing reasons therefor.

Notwithstanding any term or condition contained in the Power Purchase Agreement to the contrary, it is understood and agreed that the PRINCIPAL's and SURETIES' obligation under this bond shall not be assigned without the written consent of the PRINCIPAL and the SURETIES, which consent shall not unreasonably be withheld; provided however, that this bond may be assigned to a trustee in connection with the issuance of any debt obligations issued by the OBLIGEE for or with respect to the Services .

No right or action shall accrue on this bond to or for the use of any person or corporation other than the OBLIGEE named herein or their heirs, executors, administrators, or successors of the OBLIGEE.

The PRINCIPAL and the SURETIES shall not be liable to the OBLIGEE in the aggregate in excess of the penal sum above stated. Any payment made by the SURETIES in good faith under this bond shall reduce the bond amount stated by a like amount.

Any suit under this Bond must be instituted before the expiration of two (2) years from the date the PRINCIPAL ceased performing those obligations covered by this bond.

The SURETIES hereby stipulate and agree that no modifications, omissions or additions in or to the terms of the Power Purchase Agreement or in or to the specifications therefor should in any way affect the obligation of the SURETIES on this Bond.

Notice to the SURETIES shall be by certified or registered mail and sent to:

[NAME AND ADDRESS OF SURETY]

**Travelers Casualty and Surety Company of America  
One Tower Square  
Hartford, CT 06183**

The SURETIES shall have no liability under this bond for any obligation of the PRINCIPAL to defease, pay for, assume responsibility with respect to or otherwise incur liability for any debt obligations issued by the OBLIGEE.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals on the date indicated above.

PRINCIPAL Power Partners MasTec, LLC

Limit: \$ 26,403,700.00

[Signature]  
Title Vice-President

SURETY Travelers Casualty and Surety Company of America

Limit: \$ 26,403,700.00

[Signature]  
Attorney-in-fact Joe Martinez

SURETY N/A

Limit: \$ N/A

N/A  
Attorney-in-fact N/A

Countersigned:

Not Required - Retalitory

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed and attested by a duly authorized officer, and its corporate seal to be hereto affixed this 8th day of December 2011.

Power Partners MasTec, LLC  
ATTEST:

Travelers Casualty and Surety Company of America  
(Name of Bank) (Name of Surety Company)

By: Mandy Latham

By: [Signature]

Name: Mandy Latham

Name: Sandra Parker

Title: Witness

Title: Witness

**SURETY DISCLOSURE STATEMENT AND CERTIFICATION**

pursuant to N.J.S.A. 2A:44-143

(for use when surety(ies) have a certificate from U.S. Secretary of the Treasury in accordance with 31 U.S.C. Section 9305)

Travelers Indemnity Company, St. Paul Fire and Marine Insurance Company, Travelers Casualty and Surety Company, United States Fidelity and Guaranty Company, Standard Fire Insurance Company, Travelers Casualty Insurance Company of America, Farmington Casualty Company, St. Paul Mercury Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Guardian Insurance Company, Fidelity and Guaranty Insurance Company, Travelers Casualty and Surety Company of America, surety(ies) on the attached bond, hereby certifies(y) the following:

- 1) Each surety meets the applicable capital and surplus requirements of R.S.17:17-6 or R.S.17:17-7 as of the surety's most current annual filing with the New Jersey Department of Insurance.
- 2) The capital and surplus, as determined in accordance with the applicable laws of this State, of the surety(ies) participating in the issuance of the attached bond is (are) in the following amounts as of the calendar year ended **December 31, 2009** (most recent calendar year for which capital and surplus amounts are available), which amounts have been certified by **KPMG LLP**, located at One Financial Plaza, Hartford, CT 06103-4103, in the Annual Audited Combined Financial Statements for the first eleven (11) companies below, and on a Stand-alone Annual Audited Financial Statement for the twelfth (12<sup>th</sup>) company below, all on file with the New Jersey Department of Insurance, 20 West State Street CN-325, Trenton, New Jersey 08625-0325.

<u>Surety Company</u>	<u>Capital</u>	<u>Surplus</u>
The Travelers Indemnity Company	\$10,790,700	\$8,372,638,876
St. Paul Fire and Marine Insurance Company	\$20,000,000	\$6,591,354,104
Travelers Casualty and Surety Company	\$25,000,000	\$6,197,925,689
United States Fidelity and Guaranty Company	\$35,214,075	\$2,465,755,650
The Standard Fire Insurance Company	\$5,000,000	\$1,375,963,003
Travelers Casualty Insurance Company of America	\$6,000,000	\$519,427,743
Farmington Casualty Company	\$6,000,000	\$271,696,232
St. Paul Mercury Insurance Company	\$4,230,000	\$67,015,259
Fidelity and Guaranty Insurance Underwriters, Inc.	\$5,000,000	\$36,182,279
St. Paul Guardian Insurance Company	\$4,200,000	\$27,198,158
Fidelity and Guaranty Insurance Company	\$5,000,000	\$19,329,592
Travelers Casualty and Surety Company of America	\$6,480,000	\$1,836,848,661

- 3) With respect to each surety participating in the issuance of the attached bond that has received from the U.S. Secretary of the Treasury a certificate of authority pursuant to 31 U.S.C. Section 9305, the underwriting limitation established therein on **July 1, 2010** (most recent calendar year available) is as follows:

<u>Surety Company</u>	<u>Limitation</u>
The Travelers Indemnity Company	\$837,264,000
St. Paul Fire and Marine Insurance Company	\$388,784,000
Travelers Casualty and Surety Company	\$408,938,000
United States Fidelity and Guaranty Company	\$246,576,000
The Standard Fire Insurance Company	\$137,596,000
Travelers Casualty Insurance Company of America	\$51,943,000
Farmington Casualty Company	\$27,170,000
St. Paul Mercury Insurance Company	\$6,702,000
Fidelity and Guaranty Insurance Underwriters, Inc.	\$3,618,000
St. Paul Guardian Insurance Company	\$2,720,000
Fidelity and Guaranty Insurance Company	\$1,933,000
Travelers Casualty and Surety Company of America	\$183,685,000

4) If, by virtue of one or more contracts of reinsurance, the amount of the bond indicated under Item 5 below exceeds the total underwriting limitation of all sureties on the bond as set forth in Item 3 above, then for each such contract of reinsurance:

a) The name and address of each such reinsurer under that contract and the amount of the reinsurer's participation in the contract is as follows:

<u>Reinsurer</u>	<u>Address</u>	<u>Amount</u>
------------------	----------------	---------------

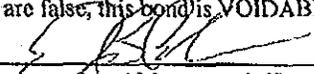
The amount of the bond indicated under Item 5 below *does not* exceed the total underwriting limitation of all sureties on the bond as set forth in Item 3 above.

and;

b) Each surety that is party to such contract of reinsurance certifies that each reinsurer listed under Item 4(a) satisfies the credit for reinsurance requirement established under P.L.1993, c. 243 (C.17:51B-1 *et seq.*) and any applicable regulations in effect as of the date on which the bond to which this statement and certification is attached shall have been filed with the appropriate public agency.

**CERTIFICATE**

I, **Eric B. Bruder**, as Attorney-in-Fact for the companies herein listed, corporations domiciled in Connecticut, Iowa, Maryland, Minnesota and Wisconsin, DO HEREBY CERTIFY that, to the best of my knowledge, the foregoing statements made by me are true, and ACKNOWLEDGE that, if any of those statements made by me are false, this bond is VOIDABLE.

  
\_\_\_\_\_  
(Signature of certifying agent/officer)

**Eric B. Bruder**  
\_\_\_\_\_  
(Print name of certifying agent/officer)

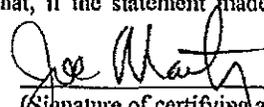
**Vice President and CFO, Bond & Financial Products**  
\_\_\_\_\_  
(Title of certifying agent/officer)

Date: 9/1/2010

5) The amount of the bond to which the statement and certification is attached is **\$26,403,700.00**, which *does not* exceed the total underwriting limitation of all sureties on the bond as set forth in Item 3 above

**CERTIFICATE**

I, **Joe Martinez** (name of agent), as Attorney-in-Fact for the companies herein listed, corporations domiciled in Connecticut, Iowa, Maryland, Minnesota and Wisconsin, DO HEREBY CERTIFY that, to the best of my knowledge, the foregoing statement made by me is true, and ACKNOWLEDGE that, if the statement made by me is false, this bond is VOIDABLE.

  
\_\_\_\_\_  
(Signature of certifying agent/officer)

**Joe Martinez**  
\_\_\_\_\_  
(Print name of certifying agent/officer)

**Attorney-in-Fact**  
\_\_\_\_\_  
(Title of certifying agent/officer)

Date: December 8, 2011



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 222891

Certificate No. 004546930

KNOW ALL MEN BY THESE PRESENTS: That St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, that Farmington Casualty Company, Travelers Casualty and Surety Company, and Travelers Casualty and Surety Company of America are corporations duly organized under the laws of the State of Connecticut, that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Donald R. Gibson, Sandra R. Parker, Melissa Haddick, Joe Martinez, Gina Rodriguez, and Tannis Mattson

of the City of Houston, State of Texas, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 19th day of September, 2011

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: [Signature]
George W. Thompson, Senior Vice President

On this the 19th day of September, 2011, before me personally appeared George W. Thompson, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal. My Commission expires the 30th day of June, 2016.



[Signature]
Marie C. Tetreault, Notary Public

**EXHIBIT H**

**[Attach Certificates of Insurance]**

NONE

## SIGNATURE AND INCUMBENCY CERTIFICATE OF THE COMPANY

I, Stacey L. Hughes and James B. Mann, each an Authorized Signatory of Sunlight General Capital Management, LLC, a Delaware limited liability which is the manager (the "Manager") of SunLight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*") and together with the Series 2011A Bonds, the "Series 2011 Bonds") by The Morris County Improvement Authority (the "*Authority*"), a portion of the proceeds of which will be made available to the Company for the purposes set forth in that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Lease Agreement*"; capitalized terms not defined herein shall have the respective meanings ascribed to such terms in the Company Lease Agreement) between the Authority, as owner and lessor, and the Company, as lessee, **DO HEREBY CERTIFY** on behalf of the Company as follows:

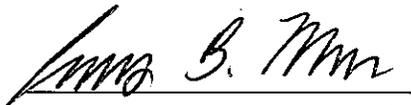
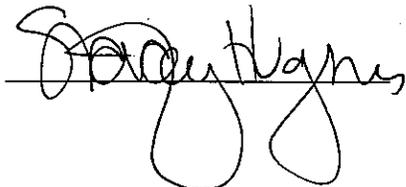
1. Authorized Signatories of the Manager are authorized to execute all documents, instruments and certificates of the Company, including without limitation the Company Documents (collectively, the "*Documents*"), on behalf of the Company.

2. At the time of such signing and execution and on the date hereof, we were and are the duly chosen, qualified and acting authorized signatories of the Manager who are authorized to execute the Documents on behalf of the Company, and are holding the respective offices of the Manager indicated by our official titles below.

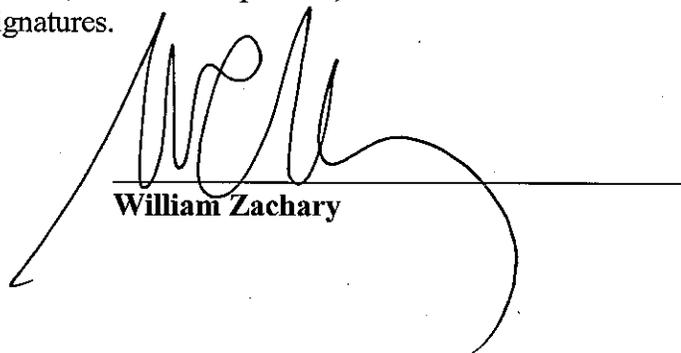
**[Remainder of this page intentionally left blank.]**

3. The Documents have been executed on behalf of the Company by the undersigned holding the offices of the Manager set opposite such names, and the signatures appurtenant thereto are the true and genuine specimen signatures of the undersigned.

**IN WITNESS WHEREOF**, we have hereunto set our hands as signatories of Sunlight General Capital Management, LLC, the Manager of the Company, this 14th day of December, 2011.

<u>Signature</u>	<u>Name</u>	<u>Official Title</u>
	James B. Mann	Authorized Signatory
	Stacey L. Hughes	Authorized Signatory

**I HEREBY CERTIFY** that the signatures on behalf of the Manager, on behalf of the Company, that appear above are true and genuine, I know said persons, and know them to hold the respective offices set opposite their several signatures.

  
\_\_\_\_\_  
**William Zachary**

Dated: December 14, 2011

## CERTIFICATE OF THE COMPANY AS TO PRELIMINARY OFFICIAL STATEMENT

I, Stacey L. Hughes or James B. Mann, an Authorized Signatory of Sunlight General Capital Management, LLC, a Delaware limited liability company, the manager (the "Manager") of both SunLight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company") and Sunlight General Sussex Holdings, LLC, a New Jersey limited liability company (the "Pledgor") which is the Sole Member of the Company, in connection with the issuance of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds") by The Morris County Improvement Authority (the "*Authority*"), a portion of the proceeds of which will be made available to the Company for the purposes set forth in that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Lease Agreement*"; capitalized terms not defined herein shall have the respective meanings ascribed to such terms in the Company Lease Agreement) between the Authority, as owner and lessor, and the Company, as lessee, **DO HEREBY CERTIFY** on behalf of the Company as follows:

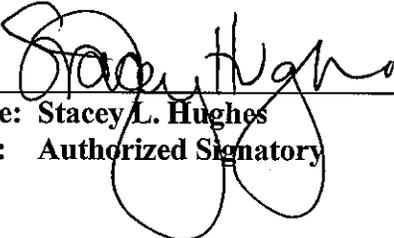
1. As of the date hereof, the description and information contained in the Preliminary Official Statement dated December 1, 2011, issued in connection with the Series 2011 Bonds (collectively, the "*Preliminary Official Statement*"), true copies of which are attached hereto as **Exhibit A**, under the headings "THE COMPANY", "LITIGATION – The Company" and in APPENDIX C are true and correct in all material respects; and, based on the Company's participation in the preparation of the Preliminary Official Statement but without having independently verified the information contained therein, other than as stated above, nothing has come to the Company's attention that would cause the Company to believe that the Preliminary Official Statement as of its date as it relates to the Company, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

2. The information in the Preliminary Official Statement regarding the Pledgor, the Company, its operations, and the transactions contemplated hereby and otherwise by any of the Company Documents, and the Preliminary Official Statement and other information therein pertaining to the Pledgor and the Company, all set forth in Section 1 above, has been "deemed final" as of its date within the meaning and for purposes of Rule 15c2-12 ("*Rule 15c2-12*") promulgated by the Securities and Exchange Commission of the United States under the Securities Exchange Act of 1934, as amended except for the omission of such information as is specified in Rule 15c2-12(b)(1) and except for changes permitted by other applicable law.

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Company this 1st day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC,  
its Manager**

By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

**EXHIBIT A**

**[Attach copy of Preliminary Official Statement]**

[See Closing Item No. 20]

## CERTIFICATE OF THE COMPANY AS TO OFFICIAL STATEMENT

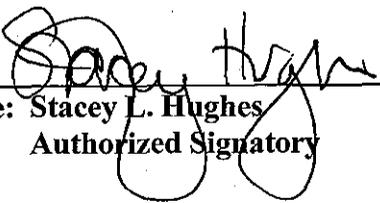
I, Stacey L. Hughes or James B. Mann, an Authorized Signatory of Sunlight General Capital Management, LLC, a Delaware limited liability company, the manager (the "Manager") of SunLight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), in connection with the issuance of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds") by The Morris County Improvement Authority (the "*Authority*"), a portion of the proceeds of which will be made available to the Company for the purposes set forth in that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Lease Agreement*"; capitalized terms not defined herein shall have the respective meanings ascribed to such terms in the Company Lease Agreement) between the Authority, as owner and lessor, and the Company, as lessee, **DO HEREBY CERTIFY** on behalf of the Company as follows:

As of the date hereof, the description and information contained in the Official Statement dated December 7, 2011 issued in connection with the Series 2011 Bonds (the "*Official Statement*"), a true copy of which is attached hereto as **Exhibit A**, under the headings "THE COMPANY", "LITIGATION – The Company" and in APPENDIX C are true and correct in all material respects; and, based on the Company's participation in the preparation of the Official Statement but without having independently verified the information contained therein, other than as stated above, nothing has come to the Company's attention that would cause the Company to believe that the Official Statement as of its date, and the Official Statement as of the Closing Date, as it relates to the Company, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Company this 7th day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC,  
its Manager**

By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

**EXHIBIT A**

**[Attach copy of Official Statement]**

[See Closing Item No. 21]

## BRING DOWN CERTIFICATE OF THE COMPANY AS TO OFFICIAL STATEMENT

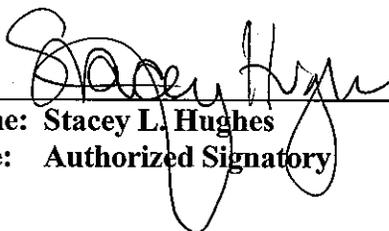
I, Stacey L. Hughes or James B. Mann, an Authorized Signatory of Sunlight General Capital Management, LLC, a Delaware limited liability company, the manager (the "Manager") of SunLight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds") by The Morris County Improvement Authority (the "*Authority*"), a portion of the proceeds of which will be made available to the Company for the purposes set forth in that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Lease Agreement*"; capitalized terms not defined herein shall have the respective meanings ascribed to such terms in the Company Lease Agreement) between the Authority, as owner and lessor, and the Company, as lessee, **DO HEREBY CERTIFY** on behalf of the Company as follows:

As of the date hereof, the description and information contained in the Official Statement dated December 7, 2011 issued in connection with the Series 2011 Bonds (the "*Official Statement*"), a true copy of which is attached hereto as **Exhibit A**, under the headings "THE COMPANY", "LITIGATION – The Company" and in APPENDIX C are true and correct in all material respects; and, based on the Company's participation in the preparation of the Official Statement but without having independently verified the information contained therein, other than as stated above, nothing has come to the Company's attention that would cause the Company to believe that the Official Statement as of its date, and the Official Statement as of the Closing Date, as it relates to the Company, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Company this 14th day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC,  
its Manager**

By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

**EXHIBIT A**

**[Attach copy of Official Statement]**

[See Closing Item No. 21a]

**COMPANY LETTER OF REPRESENTATION**

[See Closing Item 13a]

**BRING DOWN CERTIFICATE OF COMPANY LETTER OF  
REPRESENTATION**

I, Stacey L. Hughes or James B. Mann, an Authorized Signatory of Sunlight General Capital Management, LLC, a Delaware limited liability company, the manager (the "Manager") of SunLight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds"), which Series 2011 Bonds were sold by the Authority to the underwriter set forth in that certain Bond Purchase Agreement" dated December 7, 2011 (the "*Purchase Agreement*" between such parties; capitalized terms not defined in this certificate shall have the respective meanings ascribed to such terms in the Purchase Agreement), **DO HEREBY CERTIFY** on behalf of the Company as follows:

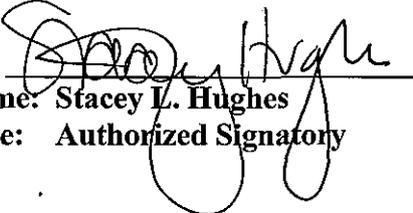
As of the date hereof, the representations, covenants and warranties contained in the Company's Letter of Representation dated December 7, 2011 and executed in connection with the Purchase Agreement are correct and may be relied upon by the Authority, the Underwriter, the Trustee, and the Company as if given the date hereof and set forth herein.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Company this 14th day of December, 2011.

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC,  
its Manager**

By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

**CERTIFICATE OF AN AUTHORIZED SIGNATORY OF THE LESSEE FOR  
COMPANY DEVELOPMENT FEES AND EXPENSES INCURRED ON BEHALF OF  
THE LESSEE**

**Company Development Fees and Expenses Requisition No. 1**

The Morris County Improvement Authority  
Administration and Records Building  
P.O. Box 3000  
Somerville, New Jersey 08876  
Attention: Michael J. Amorosa, Chairman

U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960  
Attention: Paul O'Brien, Vice President

Re: The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "**Series 2011 Bonds**")

Dear Sir or Madam:

Pursuant to (i) Section 509(d) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Morris County Improvement Authority (the "**Authority**"), as lessor, and SunLight General Sussex Solar, LLC (the "**Company**"), as lessee, and (ii) Section 5.02(2)(b) of the Authority's bond resolution duly adopted September 28, 2011 and entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY", as amended and supplemented, (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Signatory stated below, **HEREBY REQUESTS** that the Authority direct the Trustee (which direction has occurred through Section 5.02(2)(b) of the Bond Resolution) to pay the following Company Development Fees and Expenses incurred by or on behalf of the Company from moneys on deposit in the Project Fund in the aggregate amount of \$757,820.12 which amount shall be payable to the entities and in the amounts set forth on Schedule A attached hereto.

Such payment obligation has been properly incurred in accordance with all applicable law, is a Company Development Fees and Expense as such term is defined in the Bond Resolution, including without limitation within the aggregate ceiling of \$800,000 for such defined term (unless the Authority agrees, below or otherwise in writing, to an increase above

such ceiling – with this requisition no. 1 for \$757,820.12, the amount remaining to be withdrawn for Company Development Fees and Expenses is \$42,179.88, is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal.

**[Remainder of this page intentionally left blank.]**

Attached hereto as Exhibit A is one or more bills, invoices, receipts or other evidence that payment of said Company Development Fees and Expenses is due or has been paid by or on behalf of the Company in accordance with Schedule A attached hereto.

Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC,  
its Manager**

By: \_\_\_\_\_

Name: Stacey L. Hughes

Title: Authorized Signatory

**ATTEST:**

By: \_\_\_\_\_

Name: James B. Mann

Title: Authorized Signatory

The form (only) of this Certificate is hereby  
**ACKNOWLEDGED** by **THE MORRIS**  
**COUNTY IMPROVEMENT AUTHORITY** this  
14th day of December, 2011

By: \_\_\_\_\_

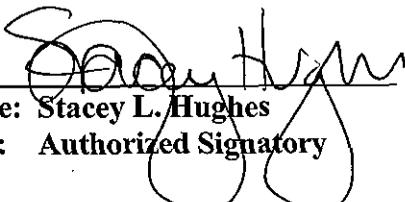
  
Glenn Roe  
Treasurer

Attached hereto as Exhibit A is one or more bills, invoices, receipts or other evidence that payment of said Company Development Fees and Expenses is due or has been paid by or on behalf of the Company in accordance with Schedule A attached hereto.

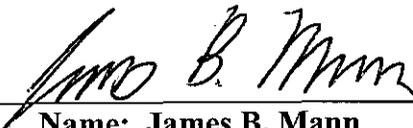
Very truly yours,

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC**

**By: Sunlight General Capital Management, LLC,  
its Manager**

By:   
Name: **Stacey L. Hughes**  
Title: **Authorized Signatory**

**ATTEST:**

By:   
Name: **James B. Mann**  
Title: **Authorized Signatory**

**The form (only) of this Certificate is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
14th day of December, 2011**

By: \_\_\_\_\_  
**Glenn Roe**  
**Treasurer**

**COSTS OF ISSUANCE/ADMINISTRATIVE EXPENSE REQUISITION NO. 1**

U.S Bank National Association  
21 South Street, 3rd Floor,  
Morristown, New Jersey 07960  
Attention: Paul O'Brien, Vice President

Re: The Morris County Improvement Authority (the "*Authority*")  
\$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds")

Ladies and Gentlemen:

Pursuant to Section 5.03(3) of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY", which was duly adopted by the Authority on September 28, 2011, as amended and supplemented in accordance with a Certificate of the Chairman of the Authority dated December 14, 2011 (collectively the "*Authority Bond Resolution*"; capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Authority Bond Resolution), you are hereby authorized, as Trustee for the Series 2011 Bonds, to pay the Costs of Issuance set forth in **Schedule A** attached hereto to the persons or entities set forth therein, including if applicable reimbursement to the Authority for Costs of Issuance previously paid by the Authority, from moneys on deposit in the Cost of Issuance Account of the Administrative Fund established pursuant to the Authority Bond Resolution.

-Each of the Costs of Issuance set forth in **Schedule A** attached hereto has been properly incurred, is a Costs of Issuance as defined under the Authority Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund established pursuant to the Authority Bond Resolution, and has not been the basis of any previous withdrawal. Attached hereto as **Exhibit A** is a bill, invoice, receipt or other evidence that payment of each of the Costs of Issuance is due or has been paid by or on behalf of the Authority.

Pursuant to Section 5.03(4)(c) of the Authority Bond Resolution), you are hereby authorized, as Trustee for the Series 2011 Bonds, to pay the Administrative Expenses set forth in **Schedule B** attached hereto to the persons or entities set forth therein, including if applicable reimbursement to the Authority for Administrative Expenses previously paid by the Authority, from moneys on deposit in the Administrative Expense Account of the Administrative Fund established pursuant to the Authority Bond Resolution.

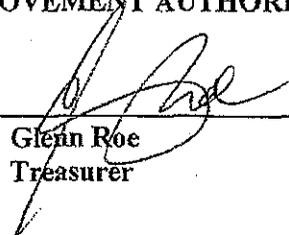
[00025037-]

Each of the Administrative Expenses set forth in **Schedule B** attached hereto has been properly incurred, is an Administrative Expense as defined under the Authority Bond Resolution, is a proper charge against the Administrative Expenses Account of the Administrative Fund established pursuant to the Authority Bond Resolution, and has not been the basis of any previous withdrawal. Attached hereto as **Exhibit B** is a bill, invoice, receipt or other evidence that payment of each Administrative Expense is due or has been paid by or on behalf of the Authority.

Very truly yours,

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By: \_\_\_\_\_

  
Glenn Roe  
Treasurer

**SCHEDULE A**

**Company Development Fees and Expenses List**

**SCHEDULE A**

**Costs of Issuance Bill List**

**Payee:**

1.	<b>NW Financial Group, LLC:</b> <b>Authority Financial Advisor</b>	<b>\$65,000</b>
2.	<b>Inglesino, Pearlman, Wyciskala &amp; Taylor, LLC</b> <b>Authority Bond Counsel Fee -</b>	<b>\$100,388.12</b>
3.	<b>McElroy, Deutsch, Mulvaney &amp; Carpenter, LLP:</b> <b>Trustee Counsel</b>	<b>\$5,000</b>
5.	<b>McElwee &amp; Quinn:</b> <b>Printer</b>	<b>\$2,500</b>
6.	<b>The Morris County Improvement Authority:</b> <b>Issuer Fee</b>	<b>\$100,000</b>
7.	<b>Nisivoccia:</b> <b>County Auditor</b>	<b>\$20,000</b>
8.	<b>U.S. Bank National Association:</b> <b>Trustee</b>	<b>\$ 700</b>
9.	<b>Wilentz Goldman &amp; Spitzer:</b> <b>County Bond Counsel</b>	<b>\$30,000</b>
10.	<b>McConnell, Lenard &amp; Campbell</b> <b>County Counsel \$11,232</b>	
	<b>To McConnell, Lenard &amp; Campbell</b>	<b>\$8,016</b>
	<b>To Sussex County as reimbursement for</b> <b>Fees previously paid</b>	<b>\$3,216</b>
	<b>Total Requisition:</b>	<b>\$334,820.12</b>

**SCHEDULE B**

**Administrative Expense Bill List**

**Payee:**

<b>1.</b>	<b>The Morris County Improvement Authority: First Annual Fee</b>	<b>\$20,000.00</b>
<b>2.</b>	<b>Inglesino, Pearlman, Wyciskala &amp; Taylor, LLC: Authority Bond Counsel: \$100,000</b>	
	<b>To Inglesino, Pearlman, Wyciskala &amp; Taylor</b>	<b>\$75,000</b>
	<b>To Sussex County for reimbursement for a portion of the IPWT Fee previously paid</b>	<b>\$25,000</b>
<b>3.</b>	<b>Gabel Associates</b>	<b>\$303,000</b>
	<b>Total Requisition:</b>	<b>\$423,000</b>

**[EXHIBIT A]**

**[Attach Company Development Fee and Expense Invoices]**



**NW FINANCIAL GROUP, LLC**  
*Exceeding Expectations*

60 Exchange Place  
 17th Floor  
 Jersey City, NJ 07302

Tel: (201) 854-0111  
 Fax: (201) 651-1885  
 www.nwfinancial.com

**Invoice**

Date
12/13/2011

**Billing Address:**  
 Mr. John H. Eskilson  
 County Administrator  
 County of Sussex  
 Sussex County Administrative Center  
 One Spring Street  
 Newton, New Jersey

Description & Breakdown	Amount
Financial Advisory Services in connection with proposed financing:  <p style="text-align: center;"><b>\$27,700,000</b></p> <p style="text-align: center;"><b>THE MORRIS COUNTY IMPROVEMENT AUTHORITY</b>            (Morris County, New Jersey)            County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,            Series 2011A [Federally Taxable] &amp; Series 2011B [Federally Taxable]</p> <p>Wiring Instructions            ABA #021407912            Capital One            35 Journal Square            Jersey City, NJ 07306            For further credit: w/c #4014-00726 6</p>	\$ 65,000.00
<b>Total</b>	<b>\$ 65,000.00</b>

INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

ATTORNEYS AT LAW

600 PARSIPPANY ROAD  
PARSIPPANY, NEW JERSEY 07054  
(T) (973) 947-7111  
(FAX) (973) 887-2700  
www.iandplaw.com

INVOICE

December 14, 2011

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, New Jersey 07963-0900

FOR ALL PROFESSIONAL SERVICES RENDERED as bond counsel to the Morris County Improvement Authority in connection with the issuance by the Authority of its \$26,715,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) And \$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable).

FEES:	\$100,000.00
DISBURSEMENTS:	<u>388.12</u>
TOTAL:	<u>\$100,388.12</u>

**McELROY, DEUTSCH, MULVANEY & CARPENTER, LLP**  
ATTORNEYS AT LAW

1300 MOUNT KEMBLE AVENUE  
P.O. BOX 2075  
MORRISTOWN, NEW JERSEY 07962-2075  
(973) 993-8100  
FACSIMILE (973) 425-0161

December 14, 2011

Paul D. O'Brien, Vice President  
U.S. Bank National Association  
21 South Street  
Morristown, New Jersey 07960

Re: The Morris County Improvement Authority  
\$26,715,000 County of Sussex Guaranteed Renewable Energy Program  
Lease Revenue Bonds, Series 2011A [Federally Taxable]  
\$985,000 County of Sussex Guaranteed Renewable Energy Program  
Lease Revenue Note, Series 2011B [Federally Taxable]

Dear Mr. O'Brien:

In connection with the issuance of the above-captioned obligations, enclosed herewith are our invoice and wiring instructions for all legal services rendered as counsel to U.S. Bank National Association.

It has been a pleasure working with you, and I look forward to doing so again in the future.

Very truly yours,

Nicholas A. Concilio

**McELROY, DEUTSCH, MULVANEY & CARPENTER, LLP**  
ATTORNEYS AT LAW

1300 MOUNT KEMBLE AVENUE  
P.O. BOX 2075  
MORRISTOWN, NEW JERSEY 07962-2075  
(973) 993-8100  
FACSIMILE (973) 425-0161

**Federal Tax #22-2445165**

**INVOICE**

December 14, 2011

U.S. Bank National Association  
21 South Street  
Morristown, New Jersey 07960  
Attention: Paul D. O'Brien, Vice President

-to-

McElroy, Deutsch, Mulvaney & Carpenter, LLP

---

**FOR ALL PROFESSIONAL SERVICES RENDERED** as counsel to U.S. Bank National Association in connection with the issuance by The Morris County Improvement Authority of its \$26,715,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A [Federally Taxable], and its \$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B [Federally Taxable], including review of bond documents and comments thereto, telephone conferences with working group, due diligence, draft and issuance of opinion letter as trustee's counsel and travel to/from pre-closing.

**FEES AND DISBURSEMENTS:**

**\$5,000.00**

**McELROY, DEUTSCH, MULVANEY & CARPENTER, LLP**  
ATTORNEYS AT LAW

1300 MOUNT KEMBLE AVENUE  
P.O. BOX 2075  
MORRISTOWN, NEW JERSEY 07962-2075  
(973) 993-8100  
FACSIMILE (973) 425-0161

**WIRING INSTRUCTIONS**

**McELROY, DEUTSCH, MULVANEY & CARPENTER, LLP**  
**ATTORNEY BUSINESS ACCOUNT**

BANK NAME:	Somerset Hills Bank 155 Morristown Road Bernardsville, New Jersey 07924 (908) 221-0100 Attention: Denise Miele, Branch Manager
ABA ROUTING #:	021213232
ACCOUNT NAME:	McElroy, Deutsch, Mulvaney & Carpenter, LLP Attorney Business Account
ACCOUNT NUMBER:	980000053
REFERENCE:	U0099-1018

**INVOICE**

Morris County Improvement Authority  
10 Court Street  
Morristown, NJ 07969

DATE : 12/13/11  
JOB NO.: 11-525  
TERMS : Payable Upon Receipt

Attention: John Bonanni

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**THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
(Morris County, New Jersey)**

**\$26,715,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A  
(Federally Taxable)**

**and**

**\$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B  
(Federally Taxable)**

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- |          |                                                                                                                                                                                                                                                            |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12/2/11  | Format the front cover to the Preliminary Official Statement with two proofs for distribution. Post to our website and create a Link for electronic distribution.                                                                                          |
| 12/13/11 | Format the front cover to the Official Statement with two proofs for distribution.                                                                                                                                                                         |
| 12/13/11 | Reproduce 85 copies of the Official Statement. 328 pages, 8-1/2" x 11", text prints Black two sides on 50# opaque, cover prints Black plus color logo on 80# white cover, perfect bind. Post to our website and create a Link for electronic distribution. |

TOTAL AMOUNT DUE..... \$2,500.00

Please remit payment to: McElwee & Quinn, LLC  
612 Fox Fields Road  
Bryn Mawr, PA 19010



Mount Arlington Corporate Center  
200 Valley Road Suite 300  
Mt. Arlington, NJ 07856-1320  
973-328-1825 | www.nisivoccia.com

Bernie Re, County Treasurer  
County of Sussex  
One Spring Street  
Newton, NJ 07860

Invoice No. 47415  
Date 12/07/2011  
Client No. 00094R

Preparation of three years audited Financial Statements and certain related  
data for the County of Sussex Official Statement with respect to the \$27,700,000  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 dated December 14, 2011 and related services.

\$ 20,000.00

I, do solemnly declare and certify under the penalties of the law that the within bill is  
correct in all its particulars; that the articles have been furnished or services rendered as  
stated therein; that no bonus has been given or received by any person or persons within  
the knowledge of this claimant in connection with the above claim; that the amount  
therein stated is justly due and owing; and that the amount charged is a reasonable one.

x *Raymond S. Sella*  
Partner

12-14-11  
Date

Federal ID# 22-1914888

Please include client # and invoice # on remittance.

"Thank You"



Corporate Trust Services  
21 South Street, 3<sup>rd</sup> Floor  
Mail Station: EX-NJ-WSSM  
Morristown, NJ 07960

Morris County Improvement Authority  
Morristown, NJ

December 14, 2011

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**Re: Morris County Improvement Authority/Sussex County  
Guaranteed REP Lease Revenue Bonds, Series 2011**

Annual Fee:		
Series A		\$ 350.00
Series B		<u>\$ 350.00</u>
	<b>TOTAL</b>	<b>\$ 700.00</b>

Please remit payment to:

U. S. Bank National Association  
Corporate Trust Services  
21 South Street, 3<sup>rd</sup> Floor  
Morristown, NJ 07960  
Attn: Paul O'Brien

**WILENTZ**  
WILENTZ, GOLDMAN & SPITZER P.A.

90 Woodbridge Center Drive  
Suite 900 Box 10  
Woodbridge, NJ 07095-0958  
(732) 636-8000  
Fax (732) 855-6117

Meridian Center I  
Two Industrial Way W  
Eatontown, NJ 07724-2265  
(732) 493-1000  
Fax (732) 493-8387

110 William Street  
26th Floor  
New York, NY 10038-3901  
(212) 267-3091  
Fax (212) 267-3828

Two Penn Center Plaza  
Suite 910  
Philadelphia, PA 19102  
(215) 569-0000  
Fax (215) 636-3909

**INVOICE**

U.S. Bank, National Association  
Morristown, New Jersey  
Attn: Rick Barnes

December 14, 2011

Invoice No. 1

**FINAL INVOICE**

Page 1 of 1

Anthony J. Pannella, Jr.

Matter Number 155876.001

County of Sussex

Sussex County Solar Program Through Morris County Improvement Authority

**For Professional Services as Rendered** as local bond counsel to the County of Sussex, State of New Jersey in connection with the issuance by the Morris County Improvement Authority of \$26,715,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy program Lease Revenue Bonds, Series 2011A (Federally Taxable) and \$985,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy program Lease Revenue Note, Series 2011B (Federally Taxable).

**TOTAL FEES AND DISBURSEMENTS.....\$30,000.00**

**Below please find our firm's wire transfer information.  
Please forward the payment of our fee via wire transfer. Thank you.**

WIRE INSTRUCTIONS

Account Name: Wilentz, Goldman and Spitzer – Attorney Business Account  
Account #: 659901290  
Routing #: 221272031  
Bank Name/Address: Investors Saving Bank  
946 Amboy Avenue  
Edison, NJ 08837

**When a client wires funds from outside the U.S. to our account, they should use our SWIFT number instead of the ABA. The SWIFT number for Investors is IBNJUS33.**

**Dennis R. McConnell, Esq.**  
**County Counsel**  
**County of Sussex**

County Counsel Solar Time:

Month	Hours	
July	25.4	
August	1.4	
September	8.3	
October	8.3	
November	14.5	
<u>December</u>	<u>35.7</u>	
Total Hours	93.6	
Hourly Rate \$120.00		
Total Fee		\$11,232.00



INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

ATTORNEYS AT LAW

600 PARSIPPANY ROAD  
PARSIPPANY, NEW JERSEY 07054  
(T) (973) 947-7111  
(FAX) (973) 887-2700  
www.iandplaw.com

INVOICE

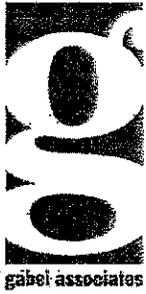
December 14, 2011

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, New Jersey 07963-0900

FOR ALL PROFESSIONAL SERVICES RENDERED as procurement counsel to the Morris County Improvement Authority in connection with the issuance by the Authority of its \$26,715,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) and \$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable).

FEES: \$100,000.00

TOTAL: \$100,000.00



# Invoice

**Sussex County**  
*Solar Feasibility & RFP*

---

Covering Period	12/1/2011 - 12/31/2011
Invoice	3411211
Purchase Order	NONE
Other Notation	

**Gabel Associates**  
Incorporated  
417 Denison Street  
Highland Park, NJ 08904  
732.286.0770  
Fax 732.286.0788

**Time Accounting  
Statement**

Federal Tax Id 22-3485400

## Account Summary

Fee	\$303,000.00
Total This Period	\$303,000.00

## Notes

Feasibility Phase	\$133,000
RFP Phase	170,000
Paid To Date	-0-
<b>TOTAL DUE</b>	<b>\$303,000</b>

## GENERAL CERTIFICATE OF THE MANAGER OF PLEDGOR

I, Stacey L. Hughes or James B. Mann, an of Authorized Signatory of Sunlight General Capital Management, LLC, a Delaware limited liability company which is the manager (the "Manager") of Sunlight General Sussex Holdings, LLC, a New Jersey limited liability company (the "Pledgor"), which is the Sole Member of SunLight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds") by The Morris County Improvement Authority (the "*Authority*"), a portion of the proceeds of which will be made available to the Company for the purposes set forth in that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Lease Agreement*"; capitalized terms not defined herein shall have the respective meanings ascribed to such terms in the Company Lease Agreement) between the Authority, as owner and lessor, and the Company, as lessee, **DO HEREBY CERTIFY** on behalf of the Pledgor as follows:

1. Attached hereto as **Exhibit A** is a true and complete copy of the Certificate of Unanimous Consent of the Sole Member of the Pledgor dated December 14, 2011, which has not been modified, amended, superseded or rescinded from the document attached hereto, and, as such, remains in full force and effect as of the date hereof, and pursuant to which, among other things, the Pledgor has authorized the due execution and delivery on the date hereof of (a) the Company Pledge Agreement by the Manager on behalf of Pledgor and (b) all other necessary agreements, certificates, instruments or other documents deemed by the Manager to be necessary, desirable or convenient to carry out, give effect to and consummate the transactions contemplated by the Company Pledge Agreement.

2. Attached hereto as **Exhibit B** is a true and complete copy of (a) the Good Standing Certificate from the Department of Treasury of the State of New Jersey evidencing, among other things, that the Pledgor is an active business in good standing in the State of New Jersey, which has not been modified, amended, superseded or rescinded from the document attached hereto, and, as such, remains in full force and effect as of the date hereof, and (b) the Pledgor's Certificate of Formation dated November 15, 2011 and Limited Liability Company Agreement dated November 15, 2011, each of which have not been modified, amended, superseded or rescinded from the documents attached hereto, and, as such, remain in full force and effect as of the date hereof in accordance with the terms hereof, and which permit the delegation to the Manager contemplated in Section 1 above.

[remainder of page intentionally left blank]

3. Attached hereto as **Exhibit C** is a true and complete copy of the Pledgors's Business Registration Certificate dated effective as of and issued on December 1, 2011 from the State of New Jersey, which has not been modified, amended, superseded or rescinded from the document attached hereto, and, as such, remains in full force and effect as of the date hereof.

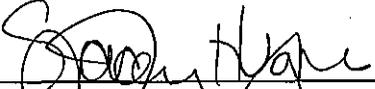
4. The Pledgor agrees to be bound by the terms of the Company Pledge Agreement.

5. There is no governmental action or proceeding and no litigation, action, suit, investigation or proceeding pending before any judicial or administrative court or agency against the Pledgor, in which an unfavorable decision, ruling or funding would already affect the validity or performance of the Company Pledge Agreement.

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Pledgor this 14th day of December, 2011.

**SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC**

**By: Sunlight General Capital Management, LLC,  
its Manager**

**By:**   
**Name:** Stacey L. Hughes  
**Title:** Authorized Signatory

**EXHIBIT A**

**[Attach Certificate of Unanimous Consent of the Members of the Pledgor  
dated December 14, 2011]**

## CERTIFICATE OF UNANIMOUS CONSENT OF SOLE MEMBER OF PLEDGOR

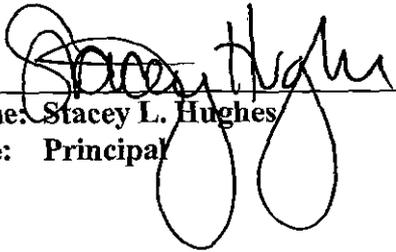
The undersigned, Sunlight General Capital LLC, a New York limited liability company, the sole member (the "Sole Member") of Sunlight General Sussex Holdings, LLC, a New Jersey limited liability company (the "Pledgor") of which Sunlight General Capital Management, LLC, a Delaware limited liability is the manager (the "Manager"), hereby certifies that, pursuant to the Limited Liability Company Agreement of the Pledgor dated November 15, 2011 and Section 42:2B-27 of the New Jersey Limited Liability Company Act, the Sole Member has duly resolved in connection with the issuance of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds") by The Morris County Improvement Authority (the "*Authority*"), that the Pledgor should enter into the Pledge and Security Agreement dated as of December 1, 2011 in favor of the Trustee; and that the Manager of the Pledgor and each of them is authorized and empowered to take any and all such further action to execute and deliver any and all such further agreements, instruments, documents and certificates and to pay such expenses in the name of and on behalf of the Pledgor as the Manager may deem necessary or advisable in connection with such matters, the execution and delivery of such agreements, instruments, documents and certificates the Manager to be conclusive evidence of its authorization hereunder and approval thereof.

(Signature appears on following page)

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Pledgor this 14th day of December, 2011.

**SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC**

**By: Sunlight General Capital LLC,  
its Sole Member**

By:   
Name: Stacey L. Hughes  
Title: Principal

**EXHIBIT B**

**[Attach Certificate of Good Standing of State of New Jersey, and  
Certificate of Formation and Operating Agreement of the Pledgor]**

**STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
SHORT FORM STANDING**

**SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC**

0400452814

*I, the Treasurer of the State of New Jersey, do hereby certify that the above-named New Jersey Domestic Limited Liability Company was registered by this office on November 15, 2011.*

*As of the date of this certificate, said business continues as an active business in good standing in the State of New Jersey, and its Annual Reports are current.*

*I further certify that the registered agent and registered office are:*

*Sunlight General Sussex Holdings, Llc  
15 Engle Street  
Suite 104  
Englewood, NJ 07631 2920*



Certification# 122352827

*IN TESTIMONY WHEREOF, I have  
hereunto set my hand and affixed my  
Official Seal at Trenton, this  
8th day of December, 2011*

*Andrew P Stamon-Eristoff  
State Treasurer*

Verify this certificate at  
[https://www1.state.nj.us/TYTR\\_StandingCert/JSP/Verify\\_Cert.jsp](https://www1.state.nj.us/TYTR_StandingCert/JSP/Verify_Cert.jsp)

NEW JERSEY DEPARTMENT OF THE TREASURY  
DIVISION OF REVENUE

**CERTIFICATE OF FORMATION**

**SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC**

0400452814

The above-named DOMESTIC LIMITED LIABILITY COMPANY was duly filed in accordance with New Jersey state law on 11/15/2011 and was assigned identification number 0400452814. Following are the articles that constitute its original certificate.

**1. Name:**

SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC

**2. Registered Agent:**

SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC

**3. Registered Office:**

15 ENGLE STREET  
SUITE 104  
ENGLEWOOD, NJ 07631 2920

**4. Business Purpose:**

SOLAR ENERGY

**Signatures:**

LAWRENCE A. KIRSCH  
AUTHORIZED REPRESENTATIVE



Certification# 122139619

Verify this certificate at  
[https://www1.state.nj.us/TYTR\\_StandingCert/JSP/Verify\\_Cert.jsp](https://www1.state.nj.us/TYTR_StandingCert/JSP/Verify_Cert.jsp)

*IN TESTIMONY WHEREOF, I have  
hereunto set my hand and affixed my  
Official Seal at Trenton, this  
15th day of November, 2011*

A handwritten signature in black ink, appearing to read "Andrew P. Sidamon-Eristoff".

*Andrew P. Sidamon-Eristoff  
State Treasurer*

**LIMITED LIABILITY COMPANY AGREEMENT**

**OF**

**SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC**

**A New Jersey Limited Liability Company**

**November 15<sup>th</sup>, 2011**

**LIMITED LIABILITY COMPANY AGREEMENT  
OF  
SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC**

**A New Jersey Limited Liability Company**

This Limited Liability Company Agreement (this “**Agreement**”) of Sunlight General Sussex Holdings, LLC (the “**Company**”), dated November 15, 2011 (the “**Effective Date**”), is adopted, executed and agreed to, for good and valuable consideration, by and among SunLight General Capital Management, LLC (the “**Manager**”) and any other party admitted pursuant to the terms hereof (each a “**Member**”).

**RECITALS**

**A.** The Company was formed by filing a certificate of formation on November 15, 2011.

**B.** The purpose of the Company, as more fully set forth herein, is to own, finance, refinance and manage its interest in, and operate or cause to be operated, the Solar Generating Facilities.

**C.** The Members desire to set forth in this Agreement their respective rights and obligations as Members of the Company, and in connection with the purchase, installation, financing, operations and disposition of the Solar Generating Facilities by the Company.

**ARTICLE 1  
ORGANIZATION**

**1.01. Formation.** The Manager formed the Company as a New Jersey limited liability company by the filing of a Certificate of Formation (the “**New Jersey Certificate**”), dated as of November 15, 2011 (the “**Formation Date**”), with the Secretary of State of New Jersey pursuant to the Act. This Agreement shall be effective upon the execution and delivery of this Agreement by all the Members. The Company shall be managed by a Manager. The Manager is hereby designated as the manager of the Company under the New Jersey Limited Liability Company Act (the “**Act**”).

**1.02. Name.** The name of the Company is “Sunlight General Sussex Holdings, LLC,” and all Company business must be conducted in that name or such other names that comply with Law as the Manager may select; provided that in the event of a change in name, the Manager shall notify the Members of such name change promptly thereafter.

**1.03. Registered Office; Registered Agent; Principal Office.** The address of the Company is 501 Fifth Avenue, Suite 602, New York, NY 10017 or such other office (which need not be a place of business of the Company) as the Manager may designate in the manner provided by Law. The principal office of the Company in the United States shall be at such place as the Manager may designate, which need not be in the State of New Jersey, and the Company shall maintain records there or in such other place as the Manager shall designate. The

Manager shall give prompt notice to each Member of any election or change in the principal office of the Company.

**1.04. Purposes**

(a) The purposes of the Company are limited to engaging in the acquisition, construction, lease, ownership and sale, and the operation, management, maintenance and financing of the Solar Generating Facilities and the purchase, ownership, use, transmission, marketing and sale of any input, output or right associated therewith, and all actions incidental, necessary or appropriate to the foregoing that may be engaged in by a limited liability company formed under the Act.

(b) The Company shall exist for the purposes and business specified in Section 1.04(a) and this Agreement shall not be deemed to create a partnership, company, joint venture or other arrangement among the Members with respect to any activities whatsoever other than the purposes and business specified in Section 1.04(a) and the activities related thereto.

**1.05. Foreign Qualification.** Prior to the Company's conducting business in any jurisdiction other than New Jersey, the Manager shall cause the Company to comply with all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction. At the request of the Manager, each Member shall execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with this Agreement that are necessary or appropriate to qualify, continue, and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business.

**1.06. Term.** The period of existence of the Company (the "Term") commenced on the Formation Date and shall end fifty (50) years from such date unless the Company is earlier dissolved in accordance with either the provisions of this Agreement or the Act.

**1.07. No State-Law Partnership.** The Members intend that the Company not be a partnership (including a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member, for any purposes other than tax purposes, and this Agreement may not be construed to suggest otherwise.

**ARTICLE 2  
DEFINITIONS AND CONSTRUCTION**

**2.01. Definitions.** As used in this Agreement, the following terms have the respective meanings set forth below or set forth in the Sections referred to below:

**Act** – the New Jersey Limited Liability Company Act, as amended from time to time.

**Adjusted Capital Account** – with respect to any Member for any period, such Member's Capital Account as of the end of such period, after giving effect to the following adjustments:

(a) Increase such Capital Account by any amounts that such Member is obligated to restore pursuant to the terms of this Agreement or is deemed obligated to restore as described in the penultimate sentences of Treasury Regulation Section 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) Decrease such Capital Account by the items described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(4),(5) and (6).

**advisors** – Section 3.08.

**Affiliate** – with respect to any Person, any Person directly or indirectly Controlling, Controlled by or under common Control with such Person.

**Agreement** – see introductory paragraph.

**Assignee** – any Person that acquires a Membership Interest or any portion thereof through a Disposition; provided that an Assignee shall have no right to be admitted to the Company as a Member except in accordance with Section 3.02.

**Bankruptcy or Bankrupt** – with respect to any Person, that (a) such Person (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary bankruptcy petition; (iii) becomes the subject of an order for relief or is declared insolvent in any federal or state bankruptcy or insolvency proceedings; (iv) files a petition or answer seeking for such Person a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Law; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against such Person in a proceeding of the type described in subclauses (i) through (iv) of this clause (a); or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of such Person or of all or any substantial part of such Person's properties; or (b) a proceeding seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Law has been commenced against such Person, and sixty (60) Days have expired without dismissal thereof or with respect to which, without such Person's consent or acquiescence, a trustee, receiver, or liquidator of such Person or of all or any substantial part of such Person's properties has been appointed and sixty (60) Days have expired without the appointment's having been vacated or stayed, or sixty (60) Days have expired after the date of expiration of a stay, if the appointment has not previously been vacated.

**Business Day** – any day other than a Saturday, a Sunday, or a holiday on which national banking associations in New York are not open for business.

**Capital Account** – the account to be maintained by the Company for each Member in accordance with Section 4.06.

**Capital Contribution** – with respect to any Member, the amount of money and the net agreed value (as agreed to by the Members) of any property (other than money) contributed to the Company by the Member. Any reference in this Agreement to the Capital Contribution of a Member shall include the Capital Contribution of its predecessors in interest.

**Capital Contribution Repayment Amount** -- in respect of a Member as of the date of a Distribution, an amount equal to such Member's total capital contributions.

**Cash Equivalents** -- any of the following having a maturity of not greater than one year from the date of issuance thereof: (a) readily marketable direct obligations of the government of the United States of America or any agency or instrumentality thereof or obligations unconditionally guaranteed by the full faith and credit of the government of the United States of America; (b) insured certificates of deposit of or time deposits with any commercial bank that is a member of the Federal Reserve System, issues (or the parent of which issues) commercial paper rated as described in clause (c) below, is organized under the laws of the United States or any State thereof and has combined capital and surplus of at least One Billion Dollars (\$1,000,000,000.00); or (c) commercial paper issued by any corporation organized under the laws of any State of the United States and rated at least "Prime-1" (or the then equivalent grade) by Moody's Investor Service, Inc. (or any successor thereto) or "A-1" (or the then equivalent grade) by Standard & Poor's Rating Group, a division of Standard & Poor's Corporation (or any successor thereto).

**Cause** -- the commission by a Member, acting in its capacity as Manager, of (a) fraud, (b) willful misconduct, (c) gross negligence, or (d) a material breach of the representations, warranties or covenants set forth in this Agreement.

**Code** -- the Internal Revenue Code of 1986, as amended.

**Company** -- Sunlight General Sussex Holdings, LLC, a New Jersey limited liability company.

**Company Minimum Gain** -- that amount determined in accordance with the principles of Treasury Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

**Control** -- the possession, directly or indirectly, of either of the following:

(a) (i) in the case of a corporation, more than fifty percent (50%) of the outstanding voting securities thereof; (ii) in the case of a limited liability company, partnership, limited partnership or joint venture, the right to more than fifty percent (50%) of the distributions (including liquidating distributions) therefrom; (iii) in the case of a trust or estate, including a business trust, more than fifty percent (50%) of the beneficial interest therein; and (iv) in the case of any other entity, more than fifty percent (50%) of the economic or beneficial interest therein; or

(b) in the case of any entity, the power or authority, through ownership of voting securities, by contract or otherwise, to exercise a controlling influence over the management of the entity.

**Day** -- a calendar day; provided, however, that if any period of Days referred to in this Agreement shall end on a Day that is not a Business Day, then the expiration of such period shall be automatically extended until the end of the first succeeding Business Day.

**Dispose, Disposing or Disposition** – with respect to any asset (including any Membership Interest or any portion thereof), a sale, assignment, transfer, conveyance, gift, exchange or other disposition of such asset, whether such disposition be voluntary, involuntary or by operation of Law, including the following: (a) in the case of an asset owned by a natural person, a transfer of such asset upon the death of its owner, whether by will, intestate succession or otherwise; and (b) in the case of an asset owned by an entity, (i) a merger or consolidation of such entity (other than where such entity is the survivor thereof), (ii) a conversion of such entity into another type of entity to the extent that such conversion would be treated as a sale or exchange for federal income tax purposes, or (iii) a distribution of such asset, including in connection with the dissolution, liquidation, winding-up or termination of such entity (unless, in the case of dissolution, such entity's business is continued without the commencement of liquidation or winding-up).

**Dissolution Event** – see Section 9.01.

**Distributable Cash** – as of any date, all cash, Cash Equivalents and liquid investments (excluding Capital Contributions) held by the Company as of such *less* any portion of such used (i) to establish Reserves, as reasonably determined by the Manager, (ii) to pay for all Company expenses and liabilities, including, without limitation, the payment of fees under management and maintenance agreements, debt payments (including interest and principal), and taxes payable by the Company, (iii) to pay for any capital improvements, replacements, and contingencies, all as reasonably determined by the Manager.

**Distribution** – a transfer of cash or property of the Company to a Member on account of the Membership Interests held by such Member, as described in Article 5.

**Effective Date** – see introductory paragraph.

**Encumber, Encumbering, or Encumbrance** – the creation of a lien (statutory or otherwise), mortgage, deed of trust, claim, option, easement, charge, pledge, security interest, hypothecation, assignment, use restriction or other encumbrance of any kind or nature whatsoever, whether voluntary or involuntary, choate or inchoate (including any agreement to give any of the foregoing), and any conditional sale or other title retention agreement.

**Federal Grant** – A grant in the amount of 30% of the cost of a Solar Generating Facility under Section 1603 of the American Recovery and Reinvestment Act of 2009.

**Fiscal Year** -- the calendar year, except that the first Fiscal Year of the Company shall commence on the date hereof and end on the next succeeding December 31, and the last Fiscal Year of the Company shall end on the date on which the Company shall terminate and commence on the January 1 immediately preceding such date of termination.

**Formation Date** – see Section 1.01.

**including** – including, without limitation.

**Initial Capital Contribution** – the amount that such Member has agreed to contribute to the capital of the Company as set forth in Schedule A.

**Investor Member** – Any person who, at the time of reference thereto, has been admitted as a Member, successor Member, or additional Member, and, in the case of any of the foregoing, has not withdrawn from the Company, in each such Person's capacity as Member.

**Law** – any applicable constitutional provision, statute, act, code (including the Code), law, regulation, rule, ordinance, order, decree, ruling, proclamation, resolution, judgment, decision, declaration, or interpretative or advisory opinion or letter, of a Governmental Authority having valid jurisdiction.

**Manager** – The Manager of the Company is SunLight General Capital Management, LLC, or any subsequent replacement or successor Manager of the Company in accordance with this Agreement. The Manager need not have an economic interest in the Company and need not be an individual.

**Member** – any Person executing this Agreement as of the date of this Agreement as a member or hereafter admitted to the Company as a member as provided in this Agreement, but such term does not include any Person who has ceased to be a member in the Company. The Members of the Company are the Manager and the Investor Members.

**Member Nonrecourse Debt** – has the meaning set forth with respect to the term “partner nonrecourse debt” in Treasury Regulation Section 1.704-2(b)(4).

**Membership Interest** – a Member's (a) interest in the Company's assets; (b) right to receive Company cash distributions; (c) right to be allocated Company tax items; (d) right to vote on Company matters or otherwise participate in Company management; and (e) other rights, obligations or interest in the Company, whether provided in this Agreement, the Act or otherwise.

**Minimum Gain Attributable to Member Nonrecourse Debt** – that amount with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if each Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with the principles of Treasury Regulation Section 1.704-2(i)(3).

**Nonrecourse Deduction** – has the meaning set forth in Treasury Regulation Section 1.704-2(b)(1).

**Nonrecourse Liability** – has the meaning set forth in Treasury Regulation Section 1.704-2(b)(3).

**Operating Documents** -- all contracts and agreements of all kinds entered into by or on behalf of the Company in connection with the business purposes thereof.

**Parties** – the Members executing this Agreement, and any other Person that becomes a Member in accordance with the provisions hereof.

**Permitted Transfer** – See Section 3.02.

**Person** -- Any individual or entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so permits.

**Solar Generating Facility** -- An installation of photovoltaic solar modules, inverters, mounting, wiring, meters, and other equipment necessary for the production and transmission of electric power from photovoltaic sources.

**Tax Matters Member** -- see Section 8.03.

**Term** -- see Section 1.06.

**Terminated Member** -- see Section 3.06.

**Transaction** -- see Section 3.08.

**Transfer** -- see Section 3.01.

**Treasury Regulations** -- the federal income tax regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of successor Treasury Regulations).

**United States person** -- has the meaning set forth in Code Section 7701(a)(30).

Other terms defined herein have the meanings so given them in this Agreement.

**2.02. Construction.** Unless the context requires otherwise: (a) the gender (or lack of gender) of all words used in this Agreement includes the masculine, feminine, and neuter; (b) words used or defined in the singular include the plural and vice versa; (c) references to Articles and Sections refer to Articles and Sections of this Agreement; (d) references to Laws refer to such Laws as they may be amended from time to time, and references to particular provisions of a Law include any corresponding provisions of any succeeding Law; (e) terms defined in this Agreement are used throughout this Agreement; and (f) references to money refer to legal currency of the United States of America.

### **ARTICLE 3 MEMBERSHIP; DISPOSITION OF INTERESTS**

**3.01. In General.** A Member may not sell, assign, transfer or otherwise dispose of, or pledge, hypothecate or otherwise Encumber (any of the foregoing, a "Transfer") its interest in the Company or any part thereof, except as permitted in this Article 3, and any act in violation of this Article 3 shall be null and void *ab initio*.

**3.02. Permitted Transfers.** Only the following Transfers by a Member, its constituents or the direct or indirect holders of any interest therein, shall be permitted (any such transfer a "Permitted Transfer"): (i) subject to Section 3.06, Transfers by will or trust or pursuant to the laws of intestacy or pursuant to the terms of any such trust, (ii) subject to Section 3.06, Transfers to any personal representative upon incapacity, and (iii) any other Transfer consented to in writing by the Manager in its sole and absolute discretion.

**3.03. Drag-Along and Tag-Along Rights.** In the event that the Manager determines to dissolve the Company, to sell all Membership Interests, whether in the form of a merger, exchange of interests, or any other form of transfer or transaction, or to sell all or substantially all of the assets of the Company, to a third party, including an Affiliate of the Manager, all Members shall be deemed to have consented to such sale on the terms negotiated by the Manager in its sole and absolute discretion. To the extent that any actions by the Manager require the consent of the Members pursuant to the Act or under any provision of this Agreement, each Member hereby designates and appoints SunLight General Capital LLC (or any replacement or successor thereto as Manager), with full power of substitution, as its proxy and attorney-in-fact for the purpose of voting its Membership Interests as said proxy may determine on any and all matters which may arise in connection with such transfer or transaction identified in this Section. This proxy is irrevocable and is coupled with an interest.

**3.04. Substituted Members.** In the event that a Member shall Transfer its interest in the Company pursuant to, and in accordance with, the terms of this Agreement, the transferee thereof shall become a Member only upon the Manager's receipt of all of the following:

(a) the transferee's acceptance of, and agreement to pay all costs of such Transfer and to be bound by all of the terms and provisions of this Agreement, in form and substance reasonably satisfactory to the Manager;

(b) evidence reasonably satisfactory to the Manager of the authority of such transferee to become a Member and to be bound by all of the terms and conditions of this Agreement;

(c) the written agreement of the transferee to continue the business of the Company in accordance with the terms and provisions of this Agreement;

(d) such other documents or instruments as may reasonably be required under the Act or otherwise in order to effect the admission of the transferee as a Member under this Agreement to the reasonable satisfaction of the Manager; and

(e) evidence reasonably satisfactory to the Manager that such Transfer would not (A) violate (i) any Federal and state securities laws and rules and regulations of the Securities and Exchange Commission, state securities commissions, and any other governmental entity with jurisdiction over such disposition, or (ii) any of the Operating Documents; (B) jeopardize the Company's classification for Federal income tax purposes as a partnership; or (C) affect the Company's existence as a limited liability company under the Act.

**3.05. Withdrawal of a Member.** A Member may not voluntarily withdraw or resign from the Company, retire or dissolve, except pursuant to a Transfer of all of such Member's interest in the Company in accordance with this Article 3. Resignation from the Company shall not entitle a Member to receive the fair value of his interest in the Company or any other distributions from the Company.

**3.06. Death of Member; Other Termination of Membership.**

(a) In the event of the death of a Member who is an individual or if a court of competent jurisdiction adjudges a Member to be incompetent to manage his or her person or property, the Member's executor, administrator, guardian, conservator, or other legal representative may exercise all of the Member's rights (including the transfer of the Member's interest in the Company to an heir or beneficiary under a will or trust or by intestate succession) for purposes of settling such Member's estate or administering such Member's property. If a Member is a corporation, trust or other entity and is dissolved or terminated, the powers of that Member may be exercised by its legal representative or successor.

(b) In the event of death or dissolution of a Member, any successor to the interest in the Company of the affected Member as a result thereof shall be deemed to be the transferee of the entire interest of the affected Member and may be admitted as a Member upon satisfaction of the requirements of Section 3.04.

**3.07 Access to Information.** Each Member shall be entitled to receive any information that it may reasonably request concerning the Company; provided, however, that this Section 3.07 shall not obligate the Company or the Manager to create any information that does not already exist at the time of such request (other than to convert existing information from one medium to another, such as providing a printout of information that is stored in a computer database). Each Member shall also have the right, upon reasonable notice, and at all reasonable times during usual business hours to inspect the properties of the Company and to audit, examine and make copies of the books of account and other records of the Company. Such right may be exercised through any agent or employee of such Member designated in writing by it or by an independent public accountant, engineer, attorney or other consultant so designated. The Member making the request shall bear all costs and expenses incurred in any inspection, examination or audit made on such Member's behalf. All information obtained pursuant to this Section 3.07 shall be subject to the provisions of Section 3.08.

**3.08 Confidential Information.**

(a) Except to the extent necessary for the exercise of its rights and remedies and the performance of its obligations under this Agreement, no Member will itself use or intentionally disclose (and will not permit the use or disclosure by any of its Affiliates or its advisors, counsel and public accountants (collectively, "advisors"), directly or indirectly, any of the Operating Documents or this Agreement or information furnished thereunder (the "Transaction"), and will use all reasonable efforts to have all such information kept confidential (consistent with its own practices) and not used in any way known to such Member to be detrimental to any of the others; provided that (i) any such Member and its advisors may use, retain and disclose any such information to its counsel and public accountants or any Governmental Authority or as otherwise required by law, (ii) any such Member and its advisors may use, retain and disclose any such information that has been publicly disclosed (other than by such party or any Affiliate thereof or any of its advisors in breach of this Section 3.08) or has rightfully come into the possession of such Member or any Affiliate thereof or any of its advisors other than from another Member or a Person acting on such other Member's behalf, (iii) to the extent that any such Member or any Affiliate thereof or its advisors may have received a subpoena or

other written demand under color of legal right for such information, such Member or such Affiliate or advisor may disclose such information, but such Member shall first, as soon as practicable upon receipt of such demand and unless otherwise prohibited by applicable law, furnish a copy thereof to the other Members and, if practicable so long as such Member shall not be in violation of such subpoena or demand or likely become liable to any penalty or sanctions thereunder unless based upon counsel's opinion, such Member is advised it must disclose such information, afford the other Members reasonable opportunity, at any other Member's cost and expense, to obtain a protective order or other reasonably satisfactory assurance of confidential treatment for the information required to be disclosed, (iv) disclosures to lenders, potential lenders or other Persons providing financing to the Company or any Member and potential purchasers of equity interests in the Company are permitted, if such Persons have agreed to abide by the terms of this Section 3.08, (v) any such Member and its advisors may disclose any such information, and make such filings, as may be required by this Agreement, and (vi) nothing in this Section 3.08 shall prevent a Member from using such information for its own internal purposes. Notwithstanding anything herein to the contrary, Members may disclose information to their Affiliates and other advisors in accordance with this Agreement, so long as such Persons agree to comply with the provisions of this Section 3.08.

(b) A Terminated Member may, subject to the other provisions of this Section 3.08, retain and use information regarding the Transaction for the limited purpose of preparing such Terminated Member's tax returns and defending audits, investigations and proceedings relating thereto.

(c) The Members agree that no adequate remedy at law exists for a breach or threatened breach of any of the provisions of this Section 3.08, the continuation of which unremedied will cause the Company and the other Members to suffer irreparable harm. Accordingly, the Members agree that the Company and the other Members shall be entitled, in addition to other remedies that may be available to them, to immediate injunctive relief from any breach of any of the provisions of this Section 3.08 and to specific performance of their rights hereunder, as well as to any other remedies available at law or in equity.

(d) The obligations of the Members under this Section 3.08 shall terminate on the third anniversary of the end of the Term.

(e) Notwithstanding anything to the contrary, the foregoing obligations shall not apply to the tax treatment or tax structure of the Transaction and each party hereto (and any employee, representative, or agent of any party) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all other materials of any kind (including opinions or other tax analyses) that are provided to any party hereto to the extent relating to such tax treatment and tax structure. However, any such information relating to such tax treatment and tax structure is required to be kept confidential to the extent necessary to comply with any applicable securities laws. The preceding sentences are intended to cause the Transaction not to be treated as having been offered under conditions of confidentiality for purposes of

Sections 1.6011-4(b)(3) and 301.6111-2(a)(2)(ii) (or any successor provision) of the Treasury Regulations and shall be construed in a manner consistent with such purpose.

## ARTICLE 4 CAPITAL CONTRIBUTIONS

**4.01 Initial Capital Contributions.** The Initial Capital Contribution to be made by each Member on or before the date of this Agreement in exchange for such Member's respective Percentage Interest is set forth in Schedule A.

**4.02 Limitation on Liability of Members.** The liability of each Member shall be limited to the aggregate of such Member's Capital Contributions and no Member shall, subject to the provisions of the Act, have any personal liability in respect of any liabilities or obligations of the Company or the Members, beyond the amount that it shall contribute, or be required to contribute, to the capital of the Company in accordance with this Agreement.

**4.03 No Withdrawal of Capital Contributions.** Except as specified under the terms of this Agreement or upon dissolution and liquidation of the Company, no Member shall have the right to withdraw, reduce or demand the return of its Capital Contribution, or any part thereof, or any distribution thereon. Except as otherwise provided herein, no Member shall have the right to receive property other than cash in connection with a distribution or return of capital. No Member shall be entitled to receive interest on such Member's Capital Contributions to the Company.

**4.04 Return of Capital Contributions.**

(a) Except as specified under the terms of this Agreement or upon dissolution and liquidation of the Company or as provided in Article 4 hereof, there is no agreement, nor time set, for the return of any Capital Contribution of any Member.

(b) None of the Members, nor any of their respective Affiliates, nor any officer, director, shareholder, employee or agent of any of the Members or their Affiliates, shall be personally liable for the return or repayment of any Capital Contribution.

**4.05 No Priority.** Except as otherwise provided under the terms of this Agreement, no Member shall have priority over another as to return of Capital Contributions or allocations of income, gain, profits, losses, credits or deductions or as to distributions.

**4.06 Capital Accounts.** A Capital Account shall be established and maintained for each Member. Each Member's Capital Account shall be increased by (a) the amount of money contributed by that Member to the Company, (b) the fair market value of property contributed by that Member to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take subject to under Section 752 of the Code), and (c) allocations to that Member of Company income and gain (or items thereof), including income

and gain exempt from tax and income and gain described in Treasury Regulation Section 1.704-1(b)(2)(iv)(g), but excluding income and gain described in Treasury Regulation Section 1.704-1(b)(4)(i); and shall be decreased by (i) the amount of money distributed to that Member by the Company, (ii) the fair market value of property distributed to that Member by the Company (net of liabilities secured by such distributed property that such Member is considered to assume or take subject to under Section 752 of the Code), (iii) allocations to that Member of expenditures of the Company described (or treated as described) in Section 705(a)(2)(B) of the Code, and (iv) allocations of Company loss and deduction (or items thereof), including loss and deduction described in Treasury Regulation Section 1.704-1(b)(2)(iv)(g), but excluding items described in (iii) above and loss or deduction described in Treasury Regulation Section 1.704-1(b)(4)(i) or 1.704-1(b)(4)(iii). To the extent not otherwise inconsistent with the provisions of this Section 4.06, the Members' Capital Accounts shall be maintained and adjusted as required by the provisions of Treasury Regulation Sections 1.704-1(b)(2)(iv) and 1.704-1(b)(4) including adjustments required by the provisions of Treasury Regulation Section 1.704-1(b)(2)(iv)(f) and adjustments to reflect the allocations to the Members of depreciation, depletion, amortization, and gain or loss as computed for book purposes rather than the allocation of the corresponding items as computed for tax purposes, as required by Treasury Regulation Section 1.704-1(b)(2)(iv)(g). The Members' Capital Accounts shall be increased or decreased to reflect a revaluation of the Company's property on its books based on the fair market value of the Company's property on the date of adjustment immediately prior to (A) the contribution of money or other property to the Company by a new or existing Member as consideration for new or additional Membership Interest except contributions made on or prior to December 31st, 2010, or such earlier or later date decided by the Manager, (B) the distribution of money or other property by the Company to a Member as consideration for a Membership Interest, or (C) the liquidation of the Company. Upon the Disposition of all or a portion of a Membership Interest, the Capital Account of the Disposing Member that is attributable to such Membership Interest shall carry over to the Assignee in accordance with the provisions of Treasury Regulation Section 1.704-1(b)(2)(iv)(l). The foregoing provisions of this Article and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulation Sections 1.704-1 and 1.704-2 and will be interpreted and applied in a manner consistent with such Treasury Regulations and any amendment or successor provision thereto.

## ARTICLE 5 DISTRIBUTIONS AND ALLOCATIONS

### 5.01 Allocations.

(a) *General.* For purposes of maintaining the Capital Accounts pursuant to Section 4.066 and for income tax purposes, except as otherwise provided in this Section 5.01, each item of income, gain, loss, deduction and credit of the Company shall be allocated to the Members in accordance with their Membership Interests as set forth in Schedule A.

(b) *Company Minimum Gain Chargeback.* Notwithstanding the other provisions of this Section 5.01, except as provided in Treasury Regulation Section 1.704-2(f), if there is a net decrease in Company Minimum Gain during

any Company taxable period, each Member shall be allocated items of Company income and gain for such period (and, if necessary subsequent periods) in the manner and in the amounts provided in Treasury Regulation Sections 1.704-2(f)(6), 1.704-2(g)(2), 1.704-2(j)(2)(i) or any successor provisions. For purposes of this Section 5.01, each Member's Adjusted Capital Account balance shall be determined, and the allocation of income or gain required hereunder shall be effected, prior to the application of any other allocations pursuant to this Section 5.01.

(c) **Chargeback of Minimum Gain Attributable to Member Nonrecourse Debt.** Notwithstanding the other provisions of this Section 5.01, except Section 5.01(b) and as provided in Treasury Regulation Section 1.704-2(i)(4), if there is a net decrease in Minimum Gain Attributable to Member Nonrecourse Debt determined in accordance with Treasury Regulation Section 1.704-2(i)(5) at the beginning of a taxable period, any Member with a share of Minimum Gain Attributable to Member Nonrecourse Debt at the beginning of such taxable period shall be allocated items of Company income and gain for such period (and, if necessary, subsequent taxable periods) in the manner and amounts provided in Treasury Regulation Sections 1.704-2(i)(4) and 1.704-2(j)(2)(ii), or any successor provisions. For purposes of this Section 5.01, each Member's Adjusted Capital Account balance shall be determined, and the allocation of income or gain required hereunder shall be effected, prior to the application of any other allocations pursuant to this Section 5.01 with respect to such taxable period (other than an allocation pursuant to Section 5.01).

(d) **Nonrecourse Deductions.** Any Nonrecourse Deduction for any tax period shall be allocated to the Members in accordance with Section 5.01(a)(i) or (ii), as in effect at the time the Nonrecourse Deduction arises.

(e) **Limitations.** No allocations of items of loss or deductions shall be made to a Member if such allocation would cause or increase a deficit in the balance of a Member's Adjusted Capital Account. Any such items shall instead be allocated to other Members subject to the limitation set forth in the preceding sentence.

(f) **Qualified Income Offset.** In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6), gross income shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by Treasury Regulations, the deficit balance, if any, in such Member's Adjusted Capital Account as quickly as possible, provided that an allocation pursuant to this Section 5.01(f) shall be made only if and to the extent that such Member would have a deficit balance in its Adjusted Capital Account after all other allocations provided for in this Section 5.01(f) have been tentatively made as if this Section 5.01(f) were not in this Agreement.

(g) **Gross Income Allocation.** In the event any Member has a deficit balance in its Capital Account at the end of any taxable period that is in excess of the sum of (i) the amount such Member is obligated to restore pursuant to any provision of this Agreement and (ii) the amount such Member is deemed obligated to restore pursuant to the penultimate sentences of Treasury Regulation Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible; provided that an allocation pursuant to this Section 5.01(g) shall be made only if and to the extent that such Member would have a deficit balance in its Capital Account in excess of such amount after all other allocations provided for in this Article 5 have been made as if Sections 5.01(f) and 5.01(g) were not in this Agreement.

(h) **Curative Allocations.** The allocations set forth in sections 5.01(b), 5.01(c), 5.01(e), 5.01(f) and 5.01(g) hereof (the "regulatory allocations") are intended to comply with certain requirements of the Treasury Regulations. Notwithstanding any other provisions of this section 5.01, the regulatory allocations shall be taken into account in allocating items of income, gain, loss, deduction and credit among the members such that, to the extent possible, the net amount of allocations of such items and the regulatory allocations to each member shall be equal to the net amount that would have been allocated to each member if the regulatory allocations had not occurred.

(i) **Income Tax Allocations.** For income tax purposes, income, gain, loss, and deduction shall generally be allocable as provided in Sections 5.01(a) through 5.01(h) of this Agreement; provided, however, that income, gain, loss and deductions with respect to property contributed to the Company by a Member or revalued pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(f) shall be allocated among the Members in a manner that takes into account the variation between the adjusted tax basis of such property and its book value, as required by Section 704(c) of the Code and Treasury Regulation Section 1.704-1(b)(4)(i), using the remedial allocation method permitted by Treasury Regulation Section 1.704-3(d).

**5.02 Distributions.** All Distributable Cash shall be distributed by the Company to the Members in accordance with their Membership Interests as set forth in Schedule A.

**5.03 Distributions on Dissolution and Winding Up.** Upon the dissolution and winding up of the Company, after adjusting the Capital Accounts for (i) all allocations made under Section 5.01 and (ii) all distributions made under Section 5.02, all available proceeds shall be distributed to all of the Members as provided in Section 9.03.

**5.04 Varying Interests.** All items of income, gain, loss, deduction or credit shall be allocated, and all distributions shall be made, to the Persons shown on the records of the Company to have been Members as of the last calendar day of the period for which the allocation or distribution is to be made. Notwithstanding the foregoing, if during any taxable year there is a

change in any Membership Interests, the Members agree that their allocable shares of such items for the taxable year shall be determined on any method determined by the Manager to be permissible under Code Section 706 and the related Treasury Regulations to take account of the Members' varying Membership Interests.

**5.05**     **Withholding**. Notwithstanding any other provision of this Agreement, the Company shall comply with any withholding requirements under any law and shall remit amounts withheld to, and file required forms with, applicable taxing authorities. To the extent that the Company is required to withhold and pay over any amounts to any taxing authority with respect to distributions or allocations to any Member, the amount withheld shall be treated as a distribution of cash to such Member in the amount of such withholding. In the event of any claimed over-withholding, Members shall be limited to an action against the applicable taxing authority. If an amount required to be withheld was not withheld from an actual distribution, the Company may reduce subsequent distributions by the amount of such required withholding and any penalties or interest thereon. Each Member agrees to furnish to the Company such forms or other documentation as is necessary to assist the Company in determining the extent of, and in fulfilling, its withholding obligations.

## ARTICLE 6 MEMBERS

**6.01**     **No Management Rights**. Subject to the rights of the Members as set forth in this Agreement, no Member, by reason of its status as a Member, shall have any authority to act for or bind the Company or otherwise take part in the management or the business or affairs of the Company nor have any authority to act for or on behalf of the Company in any respect.

**6.02**     **Liability of Members**. The debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Member, officer or agent of the Company shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member, officer and/or agent. No Member shall be liable to the Company or to any other Member to restore any deficit balance in its Capital Account (except as may be required by the Act) or to reimburse any other Member for any portion of such other Member's investment in the Company.

**6.03**     **Indemnification**. If any Member or former Member shall be subject to a claim or demand relating to such Person being or having been a Member, and not because of such Member's acts or omissions, the Member or former Member (or such Person's heirs, executors, administrators or other legal representatives or in the case of an entity, its successor) shall be held harmless from and indemnified out of the assets of the Company (including insurance proceeds, if any) against all loss and reasonable expense arising from such claim or demand.

**6.04**     **Representations and Warranties**. Each Member, and in the case of a Member that is an entity, the person(s) executing this Agreement on behalf of such entity, hereby represents and warrants to the Company and to each other Member that: (a) if such Member is an

entity, that it is duly organized, validly existing and in good standing under the law of its state of organization and that it has full power to execute this Agreement and to perform its obligations hereunder; (b) if such Member is an entity, the person signing this Agreement on behalf of the Member has been duly authorized to execute and deliver this Agreement; (c) the execution and delivery of this Agreement does not violate or represent a breach of, or constitute a default under, any instrument governing such Member, or any agreement to which the Member is a party or by which the Member is bound; (d) it is acquiring its Membership Interest for the Member's own account as an investment and without an intent to distribute the Membership Interest. Further, each Member acknowledges that the Membership Interests have not been registered under the U.S. Securities Act of 1933 or any state securities laws, and may not be resold or transferred by the Member without appropriate registration or the availability of an exemption from such requirements.

**6.05 Other Activities.** Any Member (including any Affiliate of a Member) may engage in or possess an interest in other business ventures of any nature or description, independently or with others, whether presently existing or hereafter created, including those in competition with the operations of the Company, and neither the Company nor any other Member (including any Affiliate of a Member) shall have any rights in or to such independent ventures or the income or profits derived therefrom.

**6.06 Acknowledgement of Fees and Distributions.** Each Member, and in the case of a Member that is an entity, the person(s) executing this Agreement on behalf of such entity, hereby acknowledges that certain fees and distributions may be chargeable to the Member by the Manager in connection with each Member's investment in the Company, including but not limited to, management fees and Performance Distributions.

## ARTICLE 7 MANAGEMENT OF THE COMPANY

**7.01 Authority of the Manager.** Subject to the delegation of rights and powers as provided for herein and except as otherwise herein provided, the Manager shall have the sole right and authority to manage the business and affairs of the Company and shall have all powers and rights necessary, appropriate or advisable to effectuate and carry out all, or any, of the purposes, powers, business and other activities of the Company, without the consent of the Members, including but not limited to (a) the incurrence of indebtedness on behalf of and in the name of the Company, (b) the admittance of additional Members, (c) the dissolution and liquidation of the Company in accordance with Section 9.01 below, (d) a sale of the Company, as provided in Section 3.03, or the sale, exchange, lease, mortgage, pledge or other transfer of all or substantially all of the assets of the Company, and (e) the approval of a merger or consolidation or any other form of combination of the Company with another business entity.

**7.02 Meetings of Members.**

(a) An annual meeting of the Members will be held in January of each year if

called by the Manager, or by Members holding Percentage Interests in excess of 50%, for the transaction of such business as may come before the meeting. If an annual meeting is not called, the Members need not hold annual meetings.

(b) Special meetings of the Members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the Manager, or by Members holding percentage Interests in excess of 50%, with respect to the issues proposed to be considered at such special meeting.

(c) The place of any annual or special meeting shall be at the Company's principal office (or at such other place as shall be determined by the Manager).

(d) The Manager or Members calling a meeting shall cause written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, to be given in the manner provided in Section 10.7 hereof not less than ten (10) nor more than sixty days (60) days before the date of the meeting (unless Members holding Percentage Interests in excess of 50% agree to shorter notice), to each Member of record entitled to vote at such meeting. The attendance of a Member at a meeting shall constitute a waiver of notice of such meeting, except where such Member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting has not been called or convened in accordance with the terms of this Agreement. Also, either before or after a meeting, a Member may sign a waiver of notice of the meeting, or subsequently ratify all the proceedings thereof, and such meeting shall be as valid as if called and noticed as aforesaid. The Members: (i) when assembled at an annual meeting, may act upon any business which they are entitled to transact under the terms of this Agreement or under the Act to the extent consistent with this Agreement; and (ii) when assembled at a special meeting, may act upon any business described in clause (i) above which was set forth in the notice calling the meeting or notice of which was or is thereafter waived in accordance with this Agreement.

(e) The presence of Members, represented in person or by proxy, holding Percentage Interests in excess of fifty (50%) percent shall constitute a quorum at a meeting of Members. If less than a quorum is represented at a meeting, the Members so represented may adjourn the meeting from time to time without further notice, except as required otherwise by the Act. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. If a quorum is present at a duly organized meeting, the Members so present may continue to transact business until adjournment, notwithstanding the withdrawal of one or more Members resulting in less than a quorum. Upon demand of any Member, the vote upon any question before the meeting shall be by ballot.

(f) At all meetings of Members, a Member may vote by proxy executed in writing by the Member or by its duly authorized attorney-in-fact. In order to be effective, such proxy shall: (x) be signed in the exact name of the Member on record with the Company;

and (y) be filed with the Manager. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

(g) Unless otherwise specifically provided herein, in any matters put to the vote of the Members or where any action is to be taken by or with the consent or approval of the Members, any such vote or action shall require the vote of those Members holding the requisite Percentage Interest necessary to approve the subject action(s) and entitled to vote with respect to the subject matter thereof. The voting rights of each Member shall be proportionate to the Percentage Interests of the Members at the time of voting.

(h) Any action required or allowed to be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed (either before or after the taking of such action) by Members entitled to vote with respect to the subject matter thereof.

(i) Meetings of the Members may be held by conference telephone or similar communication equipment so long as all Members participating in the meeting can hear one another, and all Members participating by telephone or similar communication equipment shall be deemed to be present in person at the meeting.

(j) Any action taken by the Members by the written consent of such Members may be executed and given by telecopy or similar electronic means. If any action is so taken by the Members by written consent of less than all of the Members, prompt notice of the taking of such action shall be furnished to each Member who did not execute such written consent, *provided* that the effectiveness of such action shall not be impaired by any delay or failure to furnish such notice.

**7.03 Voting.** To the extent that the Members are required or permitted to take any action under the terms of this Agreement, such action must be approved by the affirmative vote, at a meeting of Members at which a quorum (as determined in the same manner as set forth in Section 7.02(e)) is present (or by written consent in lieu thereof), of the holders of a majority of the Percentage Interests.

**7.04 Delegation; Officers.** The Manager shall have the power to delegate authority to such officers, employees, agents and representatives of the Company as it may from time to time deem appropriate, and on such terms as the Manager shall determine in its sole discretion. Any two or more offices may be held by the same person.

**7.05 Manager.** The Manager shall, using Company funds to the extent available, except where expressly provided to the contrary in this Agreement, for and on behalf of the Company with reasonable diligence and in a prompt and businesslike manner, exercising such care and skill as a prudent owner with sophistication and experience in owning and operating properties like the Solar Generating Facilities would exercise in dealing with its own property: (i) keep and maintain, or cause to be kept and maintained, adequate and correct books and records of account for the Company; (ii) be responsible for the financial management of the Company; (iii) receive or be responsible for receipt of all monies due and payable to the Company from any

source whatsoever; have charge and custody of, and be responsible for, all monies and other valuables of the Company and be responsible for deposit of all such monies in the name and to the credit of the Company with such depositaries as may be designated by the Manager; (iv) disburse or be responsible for the disbursement of the funds of the Company; (v) arrange for all financing of the Solar Generating Facilities and ongoing operations on commercially reasonable terms; (vi) execute and deliver on behalf of the Company any agreements with respect to (i) management of the Company and the Solar Generating Facilities, including the development of the Solar Generating Facilities, and (ii) maintenance of the Solar Generating Facilities; (vii) cause to be engaged, select, employ and enter into agreements with consultants for the Solar Generating Facilities and/or the Company, including, any architects, engineers, accountants and brokers as are designated by the Manager and to employ such firms or other entities as the Manager shall deem advisable for the operation of the Solar Generating Facilities and the Company in accordance with the provisions of the Agreement.

**7.06 Costs, Expenses and Payments.** The Company shall be responsible for all expenses incurred by the Manager in carrying out his or her duties on behalf of the Company.

**7.07 Standard of Care; Indemnification.**

(a) In carrying out his duties, no officer of the Company nor the Manager shall be liable to the Company or to any Member for damages for any breach of duty in such capacity, or otherwise, *provided* that such officer or the Manager, as applicable, is not the subject of a judgment or other final adjudication that establishes that (i) such person's acts or omissions were in bad faith, involved a knowing violation of law, or constituted fraud, gross negligence, or willful misconduct, or (ii) such person personally gained a financial profit or other advantage to which such person was not legally entitled. Each officer and the Manager (individually an "Indemnitee") shall be indemnified, to the fullest extent permitted under the Act, and held harmless by the Company from and against any and all losses, claims, damages, liabilities, expenses (including legal fees and disbursements), judgments, fines, settlements and all other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, in which the Indemnitee may be involved, or threatened to be involved, as a party or otherwise by reason of his status as an officer or the Manager, or his or her management of the affairs of the Company, or which relate to the Company, its property, business or affairs, whether or not the Indemnitee continues to be an officer or the Manager at the time any such liability or expense is paid or incurred, if the Indemnitee acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Company, and, with respect to any criminal proceeding, had no reasonable cause to believe his conduct to be unlawful; *provided* that no Indemnitee shall be entitled to indemnification if it shall be finally determined that such Indemnitee's act or omission constituted fraud, willful misconduct or gross negligence. Expenses (including legal fees and disbursements) incurred in defending any proceeding shall be paid by the Company in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the Indemnitee to repay such amount if it is ultimately determined by a court of competent jurisdiction that the Indemnitee is not entitled to be indemnified by the Company as authorized hereunder.

(b) The Company may, to the extent authorized from time to time by the Manager, grant rights of indemnification and to advancement of expenses to any employee or agent of the Company to the fullest extent of the provisions of this Section 7.07 with respect to indemnification and advancement of expenses of officers of the Company and the Manager.

(c) Notwithstanding the foregoing provisions of this Section 7.07, the Company shall indemnify an Indemnitee in connection with a proceeding (or part thereof) initiated by such Indemnitee only if such proceeding (or part thereof) was authorized by the Members; *provided* that an Indemnitee shall be entitled to reimbursement of his or her reasonable counsel fees with respect to a proceeding (or part thereof) initiated by such Indemnitee to enforce his or her right to indemnity or advancement of expenses under the provisions of this Section 7.07 to the extent the Indemnitee is successful on the merits in such proceeding (or part thereof).

(d) To the extent that, at law or in equity, an Indemnitee has duties (including fiduciary duties) and liabilities relating thereto to the Company or any Member, an Indemnitee acting under this Agreement shall not be liable to the Company or any Member for its good faith reliance on the provisions of this Agreement or any approval or authorization granted by the Company. The provisions of this Agreement, to the extent they restrict the duties and liabilities of an Indemnitee otherwise existing at law or in equity, are agreed by the Members to replace such other duties and liabilities of such Indemnitee.

**7.08 Resignation, Removal, Substitution, or Addition of a Manager; Transfer of Interest.**

Any Manager shall have an indefinite, continuous term as Manager, and may not be removed by the Members except, at a meeting of the Members at which a quorum (as determined in the same manner as set forth in Section 7.02(e)) is present (or by written consent in lieu thereof), by affirmative vote of the holders of a majority of the Percentage Interests after (i) the Manager has been finally adjudicated, with no opportunity for further appeal, of a felony, (ii) the Manager has been found, without opportunity for further appeal, to have breached its fiduciary duty of loyalty to the Company or to have acted in bad faith and in knowing, material violation of law or governmental regulations applicable to the Company and its assets, or (iii) the Manager files for relief under any provision of the Federal bankruptcy code or state insolvency laws, or involuntary proceedings under the Federal bankruptcy code or state insolvency laws are filed against the Manager and are not dismissed within sixty (60) days thereafter. The Manager may resign its functions as Manager at any time on thirty (30) days' advance notice to the Members and the Company, and shall be deemed to have resigned its functions as Manager immediately upon (w) his/her death or permanent disability preventing such Person from carrying out the duties of a Manager if an individual, (x) its dissolution, (y) its filing for relief under any provision of the Federal bankruptcy code or state insolvency laws, or (z) involuntary proceedings under the Federal bankruptcy code or state insolvency laws being filed against it and are not being dismissed within sixty (60) days thereafter. Upon such removal or resignation of

the sole Manager, the Members, at a meeting of Members at which a quorum (as determined in the same manner as set forth in Section 70.2(e)) is present (or by written consent in lieu thereof), by affirmative vote of the holders of a majority of the Percentage Interests, may appoint a substitute or replacement Manager, *provided* that unless the Members so act to replace or approve a substitute for such removed or resigned sole Manager within ninety (90) days after its removal or resignation, a Dissolution Event shall have occurred. By act of the Manager, at any time and without the consent or vote of the Members, an additional Manager may be added or any or all of the rights and interests of a Manager in the Company, including the right to function as a Manager, may be transferred by such Manager to another Person that is an Affiliate of any Manager, *provided* that all rights and interests of a Manager as Manager shall immediately terminate upon such Manager's removal or resignation in accordance with the provisions of this Section 7.08. To the extent that there is more than one Manager, the Managers shall manage the Company by the affirmative vote or consent of a majority of the Managers.

## ARTICLE 8 ACCOUNTING, BOOKS AND RECORDS

**8.01 Fiscal Year and Accounting Method.** The fiscal year and taxable year of the Company shall be the Fiscal Year. The Manager shall determine the accounting method to be used by the Company.

**8.02 Books and Records.**

(a) The books and records of the Company shall be maintained at the principal office of the Company.

(b) In addition, the Company shall maintain the following:

(i) A current list of the full name and last known address of each Member;

(ii) A copy of the filed Articles and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any document has been executed;

(iii) Copies of the Company's federal, state and local income tax returns and reports and financial statements, if any, for the three most recent years; and

(iv) Copies of this Agreement and any amendments thereto.

(a) Subject to Section 3.07, each Member (or such Member's designated representative) shall have the right during ordinary business hours and upon reasonable notice to inspect and copy (at such Member's own expense) all books and records of the Company.

**8.03 Tax Returns and Elections.** Within 120 days after the end of each Fiscal Year, or as soon as reasonably practicable thereafter, the Manager shall cause to be prepared and

furnished to each Member such information regarding the amount of each Member's share in the Company's Taxable Income or Tax Loss for such year, in sufficient detail to enable each Member to prepare its individual federal, state and other tax returns. The Company shall cause to be prepared and timely filed all federal, state and local income tax returns or other returns or statements required by applicable law. The Company shall claim all deductions and make such elections for federal or state income tax purposes which the Manager reasonably believes will produce the most favorable tax results for the Members. The Manager is hereby designated as the Company's "tax matters partner" under the Code, and in such capacity is hereby authorized and empowered to act for and represent the Company and each of the Members before the Internal Revenue Service in any audit or examination of any Company tax return and before any court.

**8.04 Bank Accounts.** All funds of the Company shall be deposited in a separate bank, money market or similar account(s) approved by the Manager and in the Company's name. Withdrawals therefrom shall be made only by the Manager or other persons authorized to do so by the Manager.

## ARTICLE 9 DISSOLUTION, WINDING-UP, AND TERMINATION

**9.01 Events Causing Dissolution.** The Company shall dissolve and wind up its affairs upon the happening of any of the following events (each, a "Dissolution Event"):

- (a) the sale or disposition of all or substantially all of the Solar Generating Facilities;
- (b) the dissolution of the Company by the unanimous written agreement of the Members;
- (c) the happening of any event which makes it unlawful for the Company's business to be continued;
- (d) the entry of a decree of judicial dissolution under the Act;
- (e) the Manager's determination to do so in its sole discretion, upon 30 days' written notice to the Members;
- (f) the occurrence of any other event which causes dissolution of a limited liability company under the Act or under the terms of this Agreement.

**9.02 Liquidating Trustee.** Upon dissolution of the Company, the Manager will act as the liquidating trustee pursuant to the Act (the "Liquidating Trustee").

**9.03 Liquidation.** As soon as possible after dissolution of the Company, the Liquidating Trustee will wind up the Company's business and affairs as follows:

(a) The Liquidating Trustee will prepare or cause to be prepared and delivered to each Member an accounting with respect to all Company accounts and the Capital Account of each Member and with respect to the Company's assets and liabilities and its operations from the date of the last previous audit of the Company delivered to the Members to the date of dissolution.

(b) The Liquidating Trustee will liquidate all Company assets which, in its sole discretion, it determines may be sold for such assets' fair market value or where it determines such liquidation is otherwise in the best interests of the Members.

c) In settling accounts after dissolution, the assets of the Company shall be distributed, in order of priority, as follows:

(i) to creditors, including, to the extent not prohibited by law, Members who are creditors, in satisfaction of liabilities of the Company;

(ii) to pay all expenses incurred in connection with the termination, liquidation and dissolution of the Company and distribution of its assets as herein provided;

(iii) to the establishment of Reserves for contingencies or unforeseen liabilities and obligations of the Company, which Reserves may be paid over to a bank or other party chosen by the Manager, to be held in escrow for payment of such contingent or unforeseen liabilities; and

(iv) to and among the Members in accordance with the provisions of Section 5.02.

The Members intend that the allocations provided for in Article 4 result in the Distributions required pursuant to Section 9.03(c)(iv) being in accordance with positive Capital Account balances of the Members and the Manager as provided for in the Treasury Regulations under Code Section 704(b). However, if after giving hypothetical effect to the allocations required by Article IV, the Capital Accounts of the Members and Manager are in such ratios or balances that Distributions pursuant to Section 9.03(c)(iv) would not be in accordance with the positive Capital Account balances of the Members as required by the Treasury Regulations under Code Section 704(b), such failure shall not affect or alter the Distributions required by Section 9.03(c)(iv). Rather, the Liquidating Trustee will have the authority to make other allocations of Profits or Losses, or items of income, gain, loss or deduction among the Members and Manager which, to the maximum extent possible, will result in the Capital Account of each Member and the Manager having a balance prior to Distribution equal to the amount of Distributions to be received by such Member or Manager pursuant to Section 9.03(c)(iv). At the expiration of such time period as the Liquidating Trustee shall deem advisable, the remaining balance of any Reserve established in accordance with clause (iii) shall be distributed in the manner set forth in clause (iv).

(d) If the Liquidating Trustee shall determine that it is in the best interest of the Members to distribute certain Company assets in kind, such assets will be distributed subject to such liens, encumbrances, restrictions, contracts, obligations, commitments or undertakings as existed with respect to such asset prior to the dissolution of the Company and have not been discharged by payments made pursuant to Section 9.03(c)(i).

**9.04 Termination.** Upon completion of the distribution of the Company property as provided in this Article 9, the Company shall be terminated, and the Manager (or such other persons as the Act may require) shall file articles of dissolution with the Secretary of State of Delaware, cancel any applications to do business or similar filings made in foreign jurisdictions and take such other actions as may be necessary to terminate the Company.

**9.05 Claims of the Members.** The Members shall look solely to the Company property for the return of their Capital Contributions, and if the assets of the Company remaining after payment or discharge of the debts or liabilities of the Company are insufficient to return such Capital Contribution, the Members shall have no recourse against the Company or any other Member or the Manager or former Member or Manager or any other officer, employee or agent of the Company.

## ARTICLE 10 GENERAL PROVISIONS

**10.01 Offset.** Whenever the Company is to pay any sum to any Member, any amounts then owed by that Member to the Company may be deducted from such sum before payment.

**10.02 Entire Agreement; Superseding Effect.** This Agreement constitutes the entire agreement of the Members and their Affiliates relating to the Company and the transactions contemplated hereby and supersedes all provisions and concepts contained in all prior contracts or agreements between the Members or any of their Affiliates with respect to the Company and the transactions contemplated hereby, whether oral or written.

**10.03 Effect of Waiver or Consent.** Except as otherwise provided in this Agreement, a waiver or consent, express or implied, to or of any breach or default by any Member in the performance by that Member of its obligations with respect to the Company is not a consent or waiver to or of any other breach or default in the performance by that Member of the same or any other obligations of that Member with respect to the Company. Except as otherwise provided in this Agreement, failure on the part of a Member to complain of any act of any Member or to declare any Member in default with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Member of its rights with respect to that default until the applicable statute-of-limitations period has run.

**10.04 Amendment or Restatement.** Any term of this Agreement or the Articles may be amended, and the observance of any term of this Agreement or the Articles may

be waived (either generally or in a particular instance and either retroactively or prospectively), only by the Manager; *provided* that the Manager may not, without the written consent of each Member adversely affected thereby, (i) amend this Agreement or, (ii) to the extent any provision concerning (a) the obligations of any Member to make contributions, (b) the allocation for tax purposes of any items of income, gain, loss, deduction or credit, (c) the manner of computing the distributions of any Member or (d) the compromise of an obligation of a Member to make a contribution, is contained in the Articles, no amendment of such provision in the Articles shall be made in a way that (w) increases the obligations of any Member to make contributions, (x) alters the allocation for tax purposes of any items of income, gain, loss, deduction or credit, (y) alters the manner of computing the distributions of any Member, or (z) allows the obligation of a Member to make a contribution to be compromised by consent of less than all the Members. Any amendment or waiver effected in accordance with this Section 10.04 shall be binding upon all present and future Members.

**10.05 Binding Effect.** Subject to the restrictions on Dispositions set forth in this Agreement, this Agreement is binding on and shall inure to the benefit of the Members and their respective legal representatives, successors and permitted assigns.

**10.06 Governing Law; Construction.** This Agreement shall be construed according to and governed by the laws of the State of New Jersey, excluding any conflict of laws rules. To the extent permitted by applicable law, the provisions of this Agreement shall override the provisions of the Act to the extent of any inconsistency or contradiction between them. It is the intent of the Members upon execution hereof that this Agreement shall be deemed to have been prepared by all of the parties to the end that no Member shall be entitled to the benefit of any favorable interpretation or construction of any term or provision hereof under any rule or law.

**10.07 Notices.** All notices, demands, requests or other communications which may be or are required to be given, served, or sent by any party to any other party pursuant to this Agreement shall be in writing and shall be hand delivered or mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, or transmitted by electronic mail (with the original to be sent the same day by Federal Express or other recognized overnight delivery service) or by Federal Express or other recognized overnight delivery service addressed to the recipient at its address set forth below (or at such other address as the recipient may theretofore have designated in writing). Each notice which shall be hand delivered or mailed in the manner described shall be deemed sufficiently given, served, sent, received, or delivered for all purposes on the first business day following the day the notice is delivered to the addressee (with the return receipt, the delivery receipt, or the affidavit of messenger being deemed conclusive (but not exclusive) evidence of such delivery) or the first business day following the day that delivery of the notice is refused by the addressee upon presentation. Each notice which shall be delivered by electronic mail in the manner described above shall be deemed sufficiently given, served, sent, received, or delivered for all purposes on the first business day following the date of such electronic mail delivery. Subject to the above, all notices shall be addressed as follows:

If to the Company or the Manager:

SunLight General Capital Management, LLC  
501 Fifth Avenue  
Suite 602  
New York, NY 10017

Attention: Principals  
Electronic Mail: principals@sunlightgeneral.com

If to any Member, to such Member's address as such Member notifies the Company.

**10.08 Counterparts.** This Agreement may be executed in multiple counterparts, and each such counterpart shall be considered an original, but all of which together shall constitute one and the same instrument.

**10.09 Further Assurances.** Each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate, in the sole discretion of the Manager, to effectuate and perform the provisions of this Agreement and the transactions contemplated herein.

**10.10 Third Parties.** The provisions of this Agreement are intended solely to benefit the Members and, to the fullest extent permitted by applicable law, should not be construed as conferring any benefit upon any creditor of the Company (and no such creditor shall be a third-party beneficiary of this Agreement) and no Member shall have any duty or obligation to any creditor of the Company to make any additional contributions to the Company.

**10.11 Severability.** If one or more of the provisions of this Agreement are held by a proper court to be unenforceable under applicable law, portions of such provisions, or such provisions in their entirety, to the extent necessary and permitted by law, shall be severed here from, and the balance of this Agreement shall be enforceable in accordance with its terms.

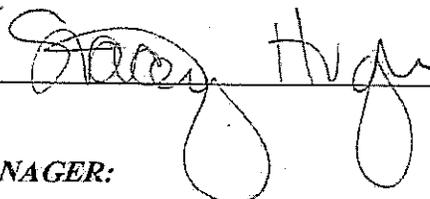
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have duly executed this Limited Liability Company Agreement of Sunlight General Sussex Holdings, LLC as of the date first written above.

**INVESTOR MEMBER:**

SUNLIGHT GENERAL SUSSEX HOLDINGS  
LLC

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "Stacy Huger", written over a horizontal line.

**MANAGER:**

SUNLIGHT GENERAL CAPITAL  
MANAGEMENT, LLC  
a Delaware limited liability company

By: \_\_\_\_\_

A handwritten signature in black ink, written over a horizontal line.

**SCHEDULE A**  
**Members Percentage Interest:**

INVESTOR MEMBER:

100%

**EXHIBIT C**

**[Attached New Jersey Business Registration Certificate of the Pledgor]**

12/01/11

Taxpayer Identification# 352-426-480/000

Dear Business Representative:

Congratulations! You are now registered with the New Jersey Division of Revenue.

Use the Taxpayer Identification Number listed above on all correspondence with the Divisions of Revenue and Taxation, as well as with the Department of Labor (if the business is subject to unemployment withholdings). Your tax returns and payments will be filed under this number, and you will be able to access information about your account by referencing it.

Additionally, please note that State law requires all contractors and subcontractors with Public agencies to provide proof of their registration with the Division of Revenue. The law also amended Section 92 of the Casino Control Act, which deals with the casino service industry.

We have attached a Proof of Registration Certificate for your use. To comply with the law, if you are currently under contract or entering into a contract with a State agency, you must provide a copy of the certificate to the contracting agency.

If you have any questions or require more information, feel free to call our Registration Hotline at (609)292-9292.

I wish you continued success in your business endeavors.

Sincerely,



James J. Fruscione  
Director  
New Jersey Division of Revenue

STATE OF NEW JERSEY  
BUSINESS REGISTRATION CERTIFICATE

DEPARTMENT OF TREASURY/  
DIVISION OF REVENUE  
PO BOX 252  
TRENTON, N.J. 08646-0252

TAXPAYER NAME:

SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC

TRADE NAME:

ADDRESS:

15 ENGLE ST STE 104  
NEW YORK NY 07631-2920

EFFECTIVE DATE:

12/01/11

SEQUENCE NUMBER:

1679402

ISSUANCE DATE:

12/01/11



Director  
New Jersey Division of Revenue

FORM-BRC

This Certificate is NOT assignable or transferable. It must be conspicuously displayed at above address.

## SIGNATURE AND INCUMBENCY CERTIFICATE OF THE PLEDGOR

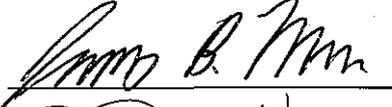
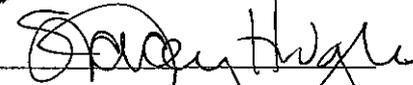
I, Stacey L. Hughes and James B. Mann, each an Authorized Signatory, of Sunlight General Capital Management, LLC, a Delaware limited liability company which is the manager (the “**Manager**”) of Sunlight General Sussex Holdings, LLC, a New Jersey limited liability company (the “**Pledgor**”), which is the sole member of SunLight General Sussex Solar, LLC (the “**Company**”) in connection with the issuance this day of \$26,715,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated the date hereof (the “*Series 2011A Bonds*”) and the \$985,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)” dated the date hereof (the “*Series 2011B Note*” and together with the Series 2011A Bonds, the “Series 2011 Bonds”) by The Morris County Improvement Authority (the “*Authority*”), a portion of the proceeds of which will be made available to the Company for the purposes set forth in that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “*Company Lease Agreement*”; capitalized terms not defined herein shall have the respective meanings ascribed to such terms in the Company Lease Agreement) between the Authority, as owner and lessor, and the Company, as lessee, **DO HEREBY CERTIFY** on behalf of the Pledgor as follows:

1. Authorized Signatures of the Manager are authorized to execute all documents, instruments and certificates of the Pledgor, including without limitation the Company Pledge Agreement (collectively, the “*Documents*”), on behalf of the Pledgor.

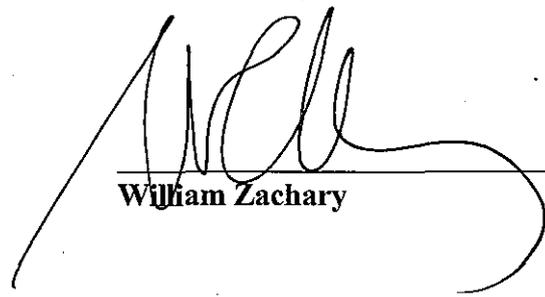
2. At the time of such signing and execution and on the date hereof, we were and are the duly chosen, qualified and acting authorized signatories of the Manager who are authorized to execute the Documents on behalf of the Pledgor, and are holding the office of the Manager indicated by my official titles below.

**[Remainder of this page intentionally left blank.]**

3. The Documents have been executed on behalf of the Pledgor by the undersigned holding the office of the Manager set opposite such name, and the signature appurtenant thereto are the true and genuine specimen signatures of the undersigned.

<u>Signature</u>	<u>Name</u>	<u>Official Title</u>
	James B. Mann	<u>Authorized Signatory</u>
	Stacey L. Hughes	<u>Authorized Signatory</u>

**I HEREBY CERTIFY** that the signatures of the Authorized Signatories that appear above are true and genuine, I know said persons, and know them to hold the respective offices set opposite their several signatures.

  
**William Zachary**

Dated: December 14, 2011

**Closing Item No. 42**

SREC Registration Documents

[On File with the Company]

**GENERAL CERTIFICATE OF FREDON TOWNSHIP,  
AS SERIES 2011 LOCAL UNIT**

I, JOANNE CHARNER, the Municipal Clerk of Fredon Township (the "*Township*"), a public body corporate and politic organized and existing under the laws of the State of New Jersey ("*State*"), in the County of Morris, New Jersey (the "*County*"), and in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*") by The Morris County Improvement Authority (the "*Authority*"), **DO HEREBY CERTIFY** on behalf of the Township as follows:

1. On July 28, 2011, the Township adopted Resolution 2011-56 entitled "RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY" (the "*Local Finance Board Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Township at a meeting duly called and held on July 28, 2011, and at which a quorum existed and acted throughout.

2. On November 10, 2011, the Township adopted Resolution 2011-73 entitled "RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 [FEDERALLY TAXABLE]" (the "*License Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the Township at a meeting duly called and held on November 10, 2011, and at which a quorum existed and acted throughout.

3. As of the date hereof, the Local Finance Board Authorizing Resolution, and the License Authorizing Resolution (collectively, the "*Resolutions*") have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect. The officials and/or officers of the Township that have executed, attested, sealed and delivered the "License and Access

2011 (the "*Local Unit License Agreement*"), a true and complete copy of which is attached hereto as **Exhibit C**, between the Township and the Authority and this certificate were duly authorized to take such action pursuant to the terms of the Resolutions.

4. The Township is not aware of any litigation, pending or threatened, involving the Township that would materially impair its valid authorization, execution, delivery or performance of and under the Local Unit License Agreement. The Township has full right, power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Local Unit License Agreement, including without limitation the payments to be made by the Borough thereunder, and the granting of the Local Unit License by the Township, as such term is defined therein.

5. The Township has not entered into a third party power purchase agreement for the purchase of electricity at the Local Unit Facility that is the subject of the License Agreement.

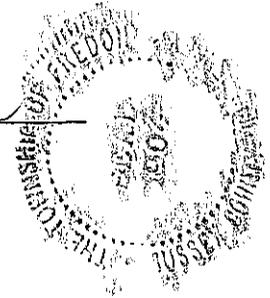
6. The Township hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the Township's rights to review, acknowledge, accept, execute and deliver any Township requisitions, and attachments thereto, applicable to either the Township Renewable Energy Projects or the Township Capital Improvement Projects (the "*Draw Papers*").

7. The Township hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the Township's rights to review, acknowledge, accept, execute and deliver the Township REP Acceptance Certificate applicable to such Township Renewable Energy Projects (the "*REP Acceptance Certificate*").

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the Township this 14th day of December, 2011.

**FREDON TOWNSHIP**

By: Joanne Charner  
**Joanne Charner**  
**Municipal Clerk**



**EXHIBIT A**

**[Attach Local Finance Board Authorizing Resolution]**

**TOWNSHIP OF FREDON  
RESOLUTION 2011-56**

**RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE  
MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011  
RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH  
AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE  
NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH  
PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY  
OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE  
REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT)  
(FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT  
TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED  
THEREBY**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-

54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A:54(l) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, the governing body of the Series 2011 Local Unit adopting this resolution (the "*Participant*") desires to authorize the Authority and its consultants to submit the Local Finance Board Application on their behalf to finance the proposed Renewable Energy Project(s) for the Participant (the "*Participant Project*") set forth in Schedule A to **Exhibit A** attached hereto (it being understood that the Participant is taking no action in connection with the other Renewable Energy Projects of the other Series 2011 Local Units as set forth on **Schedule A** to **Exhibit A** hereto and further that a final detailed Participant Project list will be sent to each Series 2011 Local Unit prior to their signing the certificate attached hereto as Exhibit A);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

**WHEREAS**, the pricing terms for the purchase of renewable energy generated electricity produced from the Participant Project and sold through the Authority to the Participant, and bought by the Participant at an agreed upon price lower than that presently being paid by the Participant for electricity from its local utility, which pricing terms shall be competitively procured through the Company RFP process and the Company Proposal, shall be established under the Authority's Series 2011 Local Unit Renewable Energy Program for an initial term no greater than 15 years, simultaneously with, or prior to the issuance of the Series 2011 Bonds;

**WHEREAS**, the Participant understands and acknowledges that by taking this official action, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project, and that the Authority is taking several actions in reliance upon such action, including without limitation seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds; and

**WHEREAS**, the Participant believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Participant as follows:

**Section 1.** The Participant believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**Section 2.** The Mayor, Deputy Mayor, and, the Clerk of the Participant (including their designees in writing, each an "*Authorized Officer*") are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Participant Project through the issuance of the Series 2011 Bonds, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the Participant at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

**Section 3.** Upon a date to be selected by the Authority and upon receipt of a finalized Participant Project, but in no event later than the sale date of the Series 2011 Bonds, the Authorized Officers shall deliver to the Authority a fully executed certificate, substantially in the form attached hereto as **Exhibit A**, evidencing the proper officials approval of the substance and scope of the Participant Project.

**Section 4.** The Participant understands and acknowledges that by adopting this resolution, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project through a portion of the proceeds of the Authority's Series 2011 Bonds, and that the Authority is taking several actions in reliance upon this action by the Participant, including without limitation seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds, all for the benefit of the Participant and the other Series 2011 Local Units. Therefore, the Participant covenants to the Authority that: (i) except for extraordinary circumstances not presently contemplated, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program, so long as the Company Proposal results in a savings to the Participant, and further, this official action authorizes the Authority to take all such actions contemplated above in order to develop the Participant Project and to provide the Participant with such savings and (ii) prior to the sale of the Series 2011 Bonds, the Series 2011 Local Unit shall (a), if the Participant is a board of education, obtain any and all approvals from the State Department of Education with respect to the Participant Project, and (b) adopt a resolution authorizing, among other things, the Series 2011 Local Unit to enter into that certain "License and Access Agreement (Morris County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds in such form as shall be presented to the Series 2011 Local Unit prior to adoption of the supplemental resolution (the "Local Unit License Agreement").

**Section 5.** The Authorized Officer shall direct the Participant official in charge of the officially adopted resolutions of the governing body of the Participant to (a) prepare an official, certified copy of this resolution, as adopted, and (b) deliver such certified copy in accordance with Section 10 below. Further, the Participant hereby consents to such certified copy of the resolution, and any further information regarding the Participant and/or the Participant Project, as the Authorized Officer shall determine to be necessary, desirable or convenient in connection with the Local Finance Board Application, to be submitted as part of, or pursuant to the Local Finance Board Application.

**Section 6.** The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Participant Project, producing the contemplated energy savings for the Participant, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Series 2011 Local Units.

**Section 7.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Participant Project and record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

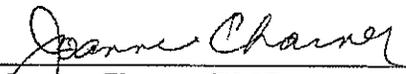
**Section 8.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 9.** All actions of the Authorized Officers or Participant consultants taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Participant Project or any of the foregoing transactions contemplated by this resolution, are hereby ratified and approved.

**Section 10.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

#### **CERTIFICATION**

I hereby certify that the above is a true copy of a Resolution passed by the Fredon Township Committee at a Regular Meeting of that body held on July 28, 2011.

  
\_\_\_\_\_  
Joanne Charner, RMC  
Municipal Clerk

**Exhibit A**

[See Closing Item No. 44]

**EXHIBIT B**

**[Attach License Authorizing Resolution]**

**TOWNSHIP OF FREDON**  
**RESOLUTION 2011-73**  
**RESOLUTION OF FREDON TOWNSHIP**  
**AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND**  
**DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS**  
**TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY**  
**IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED**  
**RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF**  
**SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE)**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act,

constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*")

and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the “*Municipal Series 2011 Local Units*”); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the “*Board of Education Series 2011 Local Units*”); and
- (iii) County and Sussex County Technical School (the “*County Series 2011 Local Units*”);

(each a “*Series 2011 Local Unit*”, and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the “*Series 2011 Local Units*”), through the issuance by the Authority of one or more series of bonds and notes entitled “County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)” dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the “*Series 2011 Bonds*”);

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Uniform Shared Services and Consolidation Act (as amended and supplemented from time to time, the “*Shared Services Act*”) and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the

month of issuance of the first series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a “Local Unit License Agreement”, and collectively, the “Local Unit License Agreements”) with each Series 2011 Local Unit, including the Participant, that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the “Local Unit License”), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for a term of fifteen (15) years on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the municipality/County Series 2011 Local Unit) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the board of education Series 2011 Local Units);

**WHEREAS**, pursuant to (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the Board of Public Utilities (“BPU”) protocol for measuring energy savings in PPA agreements dated February 20, 2009. (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, (v) all other applicable law, and (vi) pursuant to a competitive contracting process governed thereby, the Authority selected Sunlight General Sussex Solar, LLC, as solar developer (the “Company”) to implement the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, at the Local Unit Facilities; and

**WHEREAS**, upon or prior to the issuance of the Series 2011A Bonds, the Authority and the Company shall enter into that certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the initial series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the “Power Purchase Agreement”), which Power Purchase Agreement shall, among other things, obligate the Company to develop the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, on their Local Unit Facilities, and combined with the Local Unit License Agreement, provide for the sale of the electricity produced by the Renewable Energy through the Authority to the Series 2011 Local Units, including the Participant, Projects at a fixed price, plus fixed escalation, set forth in the Power Purchase Agreement (the “PPA Price”), all as authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law and N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities.

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWNSHIP OF FREDON (THE "PARTICIPANT"), IN THE COUNTY OF SUSSEX, NEW JERSEY, as follows:**

**Section 1.** The Participant's Renewable Energy Projects and the financing of the Participant's Renewable Energy Projects through the Local Unit License Agreement, the Power Purchase Agreement, the resolutions and agreements in connection with the Series 2011 Bonds, and the other Renewable Energy Program documents, is hereby approved.

**Section 2.** The Mayor, Deputy Mayor, and the Clerk (collectively, the "*Authorized Officer*") are hereby each severally authorized and directed to execute or acknowledge, as the case may be, and deliver (i) the Local Unit License Agreement for the Participant and the Power Purchase Agreement to be acknowledged by the Participant, both in substantially the forms attached hereto as Exhibit A, with such changes thereto as the Authorized Officer deems in their sole discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of any changes to the forms. The Authorized Officer is hereby further authorized and directed to execute such other closing certificates (the "*Closing Certificate*") deemed necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of the provisions and form of such Closing Certificate, which shall include without limitation, (x) the PPA Price, including escalation, (y) affirming that the PPA Price is less than the exiting tariff paid by the Participant for electricity, and (z) that Participant has received a copy of the report of the Authority's energy engineering consultant regarding the selection of the Company and the establishment of the PPA Price.

**Section 3.** The Secretary and any Assistant Secretary of the Participant are each hereby severally authorized and directed, upon the execution or acknowledgment of the documents set forth in Section 2 hereof; to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed, when required by the Authority, to thereupon affix the seal of the Participant to such documents.

**Section 4.** Upon the execution or acknowledgment and attestation of and if required, the placing of the seal on the documents set forth in Section 2 hereof as contemplated by Sections 2 and 3 hereof the Authorized Officer is hereby authorized and directed to (i) deliver such fully executed or acknowledged, attested and sealed Local Unit License Agreement of the Participant to the other parties thereto and (ii) perform such other actions as the Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

**Section 5.** The governing body of the Participant hereby authorizes the performance of any act, the execution or acknowledgment and delivery of any other document, instrument or Closing Certificates, including without limitation any solar renewable energy certificate auction or other applications or documents, which the Authorized Officer deems necessary, desirable or convenient in connection with this contemplated transaction, and the governing body of the Participant hereby directs the Authorized Officer. to execute or acknowledge, attest and affix (or

cause the attestation or affixation of) the seal to any such documents, instruments or Closing Certificates, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons.

**Section 6.** This resolution shall take effect immediately.

**Section 7.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

#### CERTIFICATION

I hereby certify that the above is a true copy of a Resolution passed by the Fredon Township Committee at a Regular Meeting of that body held on November 10, 2011.

  
Joanne Charner, RMC  
Municipal Clerk

**EXHIBIT C**

**[Attach License and Access Agreement]**

See Closing Item #1

**GENERAL CERTIFICATE OF TOWN OF NEWTON,  
AS SERIES 2011 LOCAL UNIT**

I, THOMAS S. RUSSO, JR., the Town Manager of the Town of Newton (the "*Town*"), a public body corporate and politic organized and existing under the laws of the State of New Jersey ("*State*"), in the County of Morris, New Jersey (the "*County*"), and in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*") by The Morris County Improvement Authority (the "*Authority*"), **DO HEREBY CERTIFY** on behalf of the Town as follows:

1. On August 22, 2011, the Town adopted its resolution entitled "RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY" (the "*Local Finance Board Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Town at a meeting duly called and held on August 22, 2011, and at which a quorum existed and acted throughout.

2. On November 14, 2011, the Town adopted Resolution No. 232-2011 entitled "AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE)" (the "*License Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the Town at a meeting duly called and held on November 14, 2011, and at which a quorum existed and acted throughout.

3. As of the date hereof, the Local Finance Board Authorizing Resolution, and the License Authorizing Resolution (collectively, the "*Resolutions*") have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect. The officials and/or officers of the Town that have executed, attested, sealed and delivered the "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the

“*Local Unit License Agreement*”), a true and complete copy of which is attached hereto as **Exhibit C**, between the Town and the Authority and this certificate were duly authorized to take such action pursuant to the terms of the Resolutions.

4. The Town is not aware of any litigation, pending or threatened, involving the Township that would materially impair its valid authorization, execution, delivery or performance of and under the Local Unit License Agreement. The Town has full right, power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Local Unit License Agreement, including without limitation the payments to be made by the Town thereunder, and the granting of the Local Unit License by the Town, as such term is defined therein.

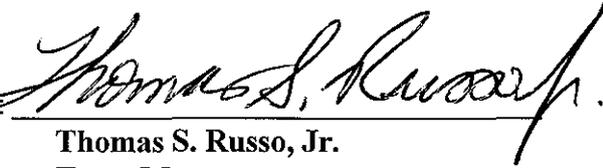
5. The Town has not entered into a third party power purchase agreement for the purchase of electricity at the Local Unit Facility that is the subject of the License Agreement.

6. The Town hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the “*Consulting Energy Engineer*”) the Town’s rights to review, acknowledge, accept, execute and deliver any Town requisitions, and attachments thereto, applicable to either the Town Renewable Energy Projects or the Town Capital Improvement Projects (the “*Draw Papers*”).

7. The Town hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the “*Consulting Energy Engineer*”) the Town’s rights to review, acknowledge, accept, execute and deliver the Town REP Acceptance Certificate applicable to such Town Renewable Energy Projects (the “*REP Acceptance Certificate*”).

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the Town this 14th day of December, 2011.

**TOWN OF NEWTON**

By:   
Thomas S. Russo, Jr.  
Town Manager

**EXHIBIT A**

**[Attach Local Finance Board Authorizing Resolution]**



## TOWN OF NEWTON

### RESOLUTION #169-2011

JULY 25, 2011

**"Resolution of the Series 2011 Local Unit Participating in the Morris County Improvement Authority's Series 2011 Renewable Energy Program, and Authorizing Such Authority to Apply to the Local Finance Board for the Necessary Consents and Approvals on Behalf of Such Participant, all in Connection with the Authority's County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (County of Sussex Project) (Federally Taxable) in an Aggregate Principal Amount not to Exceed \$50,000,000 and the Participant Project Financed Thereby"**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units"); and

**WHEREAS**, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law; and

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program; and

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County; and

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program; and

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program; and

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*"); and

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning; and

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units; and

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*"); and

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A:54(l) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs; and

**WHEREAS**, the governing body of the Series 2011 Local Unit adopting this resolution (the "Participant") desires to authorize the Authority and its consultants to submit the Local Finance Board Application on their behalf to finance the proposed Renewable Energy Project(s) for the Participant (the "Participant Project") set forth in Schedule A to **Exhibit A** attached hereto (it being understood that the Participant is taking no action in connection with the other Renewable Energy Projects of the other Series 2011 Local Units as set forth on **Schedule A** to **Exhibit A** hereto and further that a final detailed Participant Project list will be sent to each Series 2011 Local Unit prior to their signing the certificate attached hereto as Exhibit A); and

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "Company RFP") and the receipt of proposals from prospective solar developers, including that (the "Company Proposal") of the successful respondent (the "Company"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable; and

**WHEREAS**, the pricing terms for the purchase of renewable energy generated electricity produced from the Participant Project and sold through the Authority to the Participant, and bought by the Participant at an agreed upon price lower than that presently being paid by the Participant for electricity from its local utility, which pricing terms shall be competitively procured through the Company RFP process and the Company Proposal, shall be established under the Authority's Series 2011 Local Unit Renewable Energy Program for an initial term no greater than 15 years, simultaneously with, or prior to the issuance of the Series 2011 Bonds; and

**WHEREAS**, the Participant understands and acknowledges that by taking this official action, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project, and that the Authority is taking several actions in reliance upon such action, including without limitation seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds; and

**WHEREAS**, the Participant believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**NOW THEREFORE BE IT RESOLVED** by the Governing Body of the Town of Newton as follows:

**Section 1.** The Participant believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**Section 2.** The Mayor, Town Manager, and the Chief Financial Officer (CFO) of the Town of Newton (including their designees in writing, each an "Authorized Officer") are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Participant Project through the issuance of the Series 2011 Bonds, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the Participant at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

**Section 3.** Upon a date to be selected by the Authority and upon receipt of a finalized Participant Project, but in no event later than the sale date of the Series 2011 Bonds, the Authorized Officers shall deliver to the Authority a fully executed certificate, substantially in the form attached hereto as **Exhibit A**, evidencing the proper officials approval of the substance and scope of the Participant Project.

**Section 4.** The Participant understands and acknowledges that by adopting this resolution, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project through a portion of the proceeds of the Authority's Series 2011 Bonds, and that the Authority is taking several actions in reliance upon this action by the Participant, including without limitation seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds, all for the benefit of the Participant and the other Series 2011 Local Units.

Therefore, the Participant covenants to the Authority that: (i) except for extraordinary circumstances not presently contemplated, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program, so long as the Company Proposal results in a savings to the Participant, and further, this official action authorizes the Authority to take all such actions contemplated above in order to develop the Participant Project and to provide the Participant with such savings and (ii) prior to the sale of the Series 2011 Bonds, the Series 2011 Local Unit shall (a), if the Participant is a board of education, obtain any and all approvals from the State Department of Education with respect to the Participant Project, and (b) adopt a resolution authorizing, among other things, the Series 2011 Local Unit to enter into that certain "License and Access Agreement (Morris County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds in such form as shall be presented to the Series 2011 Local Unit prior to adoption of the supplemental resolution (the "Local Unit License Agreement").

**Section 5.** The Authorized Officer shall direct the Participant official in charge of the officially adopted resolutions of the governing body of the Participant to (a) prepare an official, certified copy of this resolution, as adopted, and (b) deliver such certified copy in accordance with Section 10 below. Further, the Participant hereby consents to such certified copy of the resolution, and any further information regarding the Participant and/or the Participant Project, as the Authorized Officer shall determine to be necessary, desirable or convenient in connection with the Local Finance Board Application, to be submitted as part of, or pursuant to the Local Finance Board Application.

**Section 6.** The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Participant Project, producing the contemplated energy savings for the Participant, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Series 2011 Local Units.

**Section 7.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Participant Project and record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

**Section 8.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 9.** All actions of the Authorized Officers or Participant consultants taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Participant Project or any of the foregoing transactions contemplated by this resolution, are hereby ratified and approved.

**Section 10.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

**Section 11.** This resolution shall take effect immediately.

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## **SCHEDULE A**

[Attach Local Unit's Local Unit Facility(ies) and Renewable Energy Project(s)]

## EXHIBIT A

### **Morris County Improvement Authority**

not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes]  
Bonds, Series 2011 (Federally Taxable)

### **Series 2011 Local Unit List of Local Unit Facilities**

#### **a. Series 2011 Municipal Local Units**

(i) Fredon Township (<http://www.twp.fredon.nj.us/>)

(A) Civic Center  
**Roof Mounted System**  
**System Size: (61.18 kW)**  
436 Route 94  
Fredon, NJ

(ii) Town of Newton (<http://www.newtontownhall.com/>)

(A) DPW Complex  
**Roof Mounted System**  
**System Size: (88.78 kW)**  
117 Moran Street  
Newton, NJ

(B) Wastewater Treatment Plant  
**Ground Mounted System**  
**System Size: (151.80 kW)**  
Townsend Street  
Newton, NJ

(iii) Green Township (<http://www.greentwp.com/>)

(A) Green Hills School  
**Roof Mounted System**  
**System Size: (157.09 kW)**  
69 Mackerley Road  
Newton, NJ

**b. Series 2011 Board of Education Local Units**

(i) Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)

(A) Franklin Elementary School  
**Roof and Parking Canopy**  
**System Size: (376.74 kW)**  
50 Washington Avenue  
Franklin, NJ

(ii) Lafayette Township Board of Education (<http://www.ltes.org>)

(A) Lafayette Township School  
**Roof and Ground**  
**System Size: (379.96 kW)**  
178 Beaver Run Road  
Lafayette, NJ

(iii) Newton Board of Education (<http://www.newtonnj.org>)

(A) Merriam Avenue School  
**Roof and Parking Canopy**  
**System Size: (256.45 kW)**  
81 Merriam Avenue  
Newton, NJ; and

(B) Newton High School  
**Roof and Parking Canopy**  
**System Size: (305.21 kW)**  
44 Ryerson Avenue  
Newton, NJ

(iv) Lenape Valley Regional Board of Education (<http://www.lvhs.org>)

(A) Lenape Valley Regional High School  
**Ground and Parking Canopy**  
**System Size: (1,170.70 kW)**  
28 Sparta Road  
Stanhope, NJ

(v) Byram Township School District (<http://www.byramschools.org/>)

(A) Byram Lakes Elementary School  
**Roof, Ground, and Parking Canopy**  
**System Size: (692.07 kW)**  
11 Mansfield Drive  
Stanhope, NJ

- (B) Byram Intermediate School  
**Roof and Parking Canopy**  
**System Size: (476.79 kW)**  
12 Mansfield Drive  
Stanhope, NJ
  
- (vi) Hardyston Board of Education (<http://www.htps.org/BOE/BOEIndex.htm>)
  - (A) Hardyston Middle School  
**Ground and Parking Canopy**  
**System Size: (331.20 kW)**  
183 Wheatsworth Road  
Hamburg, NJ
  
- (vii) High Point Regional School District (<http://www.hpregional.org/>)
  - (A) High Point Regional High School  
**Roof and Ground**  
**System Size: (1,380.84 kW)**  
299 Pidgeon Hill Road  
Sussex, NJ
  
- (viii) Kittatinny Regional School District (<http://www.krhs.net/>)
  - (A) Kittatinny Regional High School  
**Roof and Parking Canopy**  
**System Size: (282.67 kW)**  
77 Halsey Road  
Newton, NJ
  
- (ix) Frankford Township Consolidated Schools  
(<http://www.frankfordschool.org/>)
  - (A) Frankford Township School  
**Ground Mounted System**  
**System Size: (463.68 kW)**  
2 Pines Road  
Branchville, NJ
  
- c. **Series 2011 County Local Units**
  - (i) Sussex County Technical School (<http://www.sussex.tec.nj.us/>)
    - (A) Sussex County Technical School  
**Roof and Ground**  
**System Size: (1,696.48 kW)**  
105 North Church Road  
Sparta, NJ

(ii) County of Sussex (<http://www.sussex.nj.us/>)

(A) Sussex County Parking Deck/Jail

**Parking Canopy**

**System Size: (468.05 kW)**

39 High Street

Newton, NJ

(B) Juvenile Detention Center

**Ground Mounted System**

**System Size: (146.28 kW)**

135 Morris Turnpike

Newton, NJ

(C) Wheatsworth Facility

**Ground and Parking Canopy**

**System Size: (245.64 kW)**

149 Wheatsworth Road

Hardyston, NJ

(D) Main Library

**Ground Mounted System**

**System Size: (100.28 kW)**

125 Morris Turnpike

Newton, NJ

(iii) Sussex County MUA (<http://www.scmua.org/>)

(A) Sussex County MUA Admin. Parking Area

**Ground and Parking Canopy**

**System Size: (113.60 kW)**

34 South Route 94

Lafayette, NJ

**EXHIBIT A**

**[Attach Form of Local Unit Facility Acceptance Certificate]**

**Exhibit A**

[See Closing Item No. 44]

**EXHIBIT B**

**[Attach License Authorizing Resolution]**



**TOWN OF NEWTON**  
**RESOLUTION #232-2011**

**NOVEMBER 14, 2011 AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE)**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units"); and

**WHEREAS**, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act"), and other applicable law; and

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program; and

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County; and

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program; and

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants", if any, and together with the Authority Consultants, the "Consultants"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program; and

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities"); and

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects" and together with the Renewable Energy Projects and any

Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning; and

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units; and

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "Series 2011 Bonds"); and

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Uniform Shared Services and Consolidation Act (as amended and supplemented from time to time, the "Shared Services Act") and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the first series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License

Agreements") with each Series 2011 Local Unit, including the Participant, that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for a term of fifteen (15) years on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the municipality/County Series 2011 Local Unit) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the board of education Series 2011 Local Units); and

**WHEREAS**, pursuant to (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, (v) all other applicable law, and (vi) pursuant to a competitive contracting process governed thereby, the Authority selected Sunlight General Sussex Solar, LLC, as solar developer (the "Company") to implement the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, at the Local Unit Facilities; and

**WHEREAS**, upon or prior to the issuance of the Series 2011 A Bonds, the Authority and the Company shall enter into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the initial series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement"), which Power Purchase Agreement shall, among other things, obligate the Company to develop the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, on their Local Unit Facilities, and combined with the Local Unit License Agreement, provide for the sale of the electricity produced by the Renewable Energy through the Authority to the Series 2011 Local Units, including the Participant, Projects at a fixed price, plus fixed escalation, set forth in the Power Purchase Agreement (the "PPA Price"), all as authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law and N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities;

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWN OF NEWTON (THE "PARTICIPANT"), IN THE COUNTY OF SUSEX, NEW JERSEY, as follows:**

**Section 1.** The Participant's Renewable Energy Projects and the financing of the Participant's Renewable Energy Projects through the Local Unit License Agreement, the Power Purchase Agreement, the resolutions and agreements in connection with the Series 2011 Bonds, and the other Renewable Energy Program documents, is hereby approved.

**Section 2.** The Mayor, the Municipal Clerk, and the Town Manager (collectively, the "Authorized Officer") are hereby each severally authorized and directed to execute or acknowledge, as the case may be, and deliver (i) the Local Unit License Agreement for the Participant and the Power Purchase Agreement to be acknowledged by the Participant, both in substantially the forms attached hereto as Exhibit A, with such changes thereto as the Authorized Officer deems in their sole discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of any changes to the forms. The Authorized Officer is hereby further authorized and directed to execute such other closing certificates (the "Closing Certificate") deemed necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of the provisions and form of such Closing Certificate, which shall include without limitation, (x) the PPA Price, including escalation, (y) affirming that the PPA Price is less than the existing tariff paid by the Participant for electricity, and (z) that Participant has received a copy of the report of the Authority's energy engineering consultant regarding the selection of the Company and the establishment of the PPA Price.

**Section 3.** The Secretary and any Assistant Secretary of the Participant are each hereby severally authorized and directed, upon the execution or acknowledgment of the documents set forth in Section 2 hereof: to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed, when required by the Authority, to thereupon affix the seal of the Participant to such documents.

**Section 4.** Upon the execution or acknowledgment and attestation of and if required, the placing of the seal on the documents set forth in Section 2 hereof as contemplated by Sections 2 and 3 hereof the Authorized Officer is hereby authorized and directed to (i) deliver such fully executed or acknowledged, attested and sealed Local Unit License Agreement of the Participant to the other parties thereto and (ii) perform such other actions as the Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

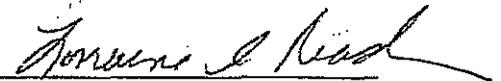
**Section 5.** The governing body of the Participant hereby authorizes the performance of any act, the execution or acknowledgment and delivery of any other document, instrument or Closing Certificates, including without limitation any solar renewable energy certificate auction or other applications or documents, which the Authorized Officer deems necessary, desirable or convenient in connection with this contemplated transaction, and the governing body of the Participant hereby directs the Authorized Officer, to execute or acknowledge, attest and affix (or cause the attestation or affixation of) the seal to any such documents, instruments or Closing Certificates, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons.

**Section 6.** This resolution shall take effect immediately.

**Section 7.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

**CERTIFICATION**

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, November 14, 2011.



Lorraine A. Read, RMC  
Municipal Clerk

**EXHIBIT C**

**[Attach License and Access Agreement]**

See Closing Item #1

**GENERAL CERTIFICATE OF BYRAM TOWNSHIP BOARD OF EDUCATION,  
AS SERIES 2011 LOCAL UNIT**

I, THERESA LINSKEY, the Business Administrator/Board Secretary of the Byram Township Board of Education (the "*Board of Education*"), a public body corporate and politic organized and existing under the laws of the State of New Jersey ("*State*"), and responsible for the supervision of the public schools located in the Byram Township Public School District (the "*School District*"), in the County of Sussex, New Jersey (the "*County*"), and in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*") by The Morris County Improvement Authority (the "*Authority*"), **DO HEREBY CERTIFY** on behalf of the Board of Education as follows:

1. On August 31, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY" (the "*Local Finance Board Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on August 31, 2011, and at which a quorum existed and acted throughout.

2. On November 16, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF BYRAM TOWNSHIP BOARD OF EDUCATION AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 [FEDERALLY TAXABLE]" (the "*License Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on November 16, 2011, and at which a quorum existed and acted throughout.

3. As of the date hereof, the Local Finance Board Authorizing Resolution, and the License Authorizing Resolution (collectively, the "*Resolutions*") have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect. The officials and/or officers of the Board of Education that have executed, attested, sealed and delivered the "License and

Access Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “*Local Unit License Agreement*”), a true and complete copy of which is attached hereto as **Exhibit C**, between the Board of Education and the Authority and this certificate were duly authorized to take such action pursuant to the terms of the Resolutions.

4. The Board of Education is not aware of any litigation, pending or threatened, involving the Board of Education that would materially impair its valid authorization, execution, delivery or performance of and under the Local Unit License Agreement. The Board of Education has full right, power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Local Unit License Agreement, including without limitation the payments to be made by the Board of Education thereunder, and the granting of the Local Unit License by the Board of Education, as such term is defined therein.

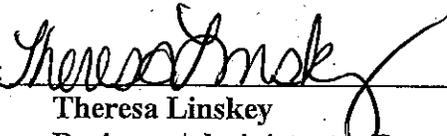
5. The Board of Education has not entered into a third party power purchase agreement for the purchase of electricity at the Local Unit Facility that is the subject of the License Agreement.

6. The Board of Education hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the “*Consulting Energy Engineer*”) the Board of Education’s rights to review, acknowledge, accept, execute and deliver any Board of Education requisitions, and attachments thereto, applicable to either the Board of Education Renewable Energy Projects or the Board of Education Capital Improvement Projects (the “*Draw Papers*”).

7. The Board of Education hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the “*Consulting Energy Engineer*”) the Board of Education’s rights to review, acknowledge, accept, execute and deliver the Board of Education REP Acceptance Certificate applicable to such Board of Education Renewable Energy Projects (the “*REP Acceptance Certificate*”).

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the Board of Education this 14th day of December, 2011.

BYRAM TOWNSHIP BOARD OF EDUCATION

By:   
\_\_\_\_\_  
Theresa Linskey  
Business Administrator/Board Secretary

**EXHIBIT A**

**[Attach Local Finance Board Authorizing Resolution]**

**EXTRACT FROM THE MINUTES OF  
A MEETING OF THE BOARD OF EDUCATION  
OF THE TOWNSHIP OF BYRAM,  
SUSSEX COUNTY, NJ  
AS RECORDED IN THE OFFICIAL MINUTE BOOK**

The Board of Education of the Township of Byram in the County of Sussex, State of New Jersey, convened in Regular Meeting on August 31, 2011 at 7:11 p.m. in the Byram Annex library.

The following members of the board of education were present:  
Mrs. Cinotti, Mr. Garrity, Mrs. Risley, Mrs. Sanchez, Mrs. Walsh

The following members of the board of education were absent:  
Mrs. Dachisen, Mrs. Wise

Moved by Mrs. Risley, seconded by Mr. Garrity that the following resolution be approved:

**RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE  
MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE  
ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE  
LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS  
ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE  
AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY  
PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX  
PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT  
NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED  
THEREBY**

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

WHEREAS, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of

Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the

Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of

bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "Series 2011 Bonds");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A:54(l) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, the governing body of the Series 2011 Local Unit adopting this resolution (the "*Participant*") desires to authorize the Authority and its consultants to submit the Local Finance Board Application on their behalf to finance the proposed Renewable Energy Project(s) for the Participant (the "*Participant Project*") set forth in Schedule A to **Exhibit A** attached hereto (it being understood that the Participant is taking no action in connection with the other Renewable Energy Projects of the other Series 2011 Local Units as set forth on **Schedule A** to **Exhibit A** hereto and further that a final detailed Participant Project list will be sent to each Series 2011 Local Unit prior to their signing the certificate attached hereto as Exhibit A);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

**WHEREAS**, the pricing terms for the purchase of renewable energy generated electricity produced from the Participant Project and sold through the Authority to the Participant, and bought by the Participant at an agreed upon price lower than that presently being paid by the Participant for electricity from its local utility, which pricing terms shall be competitively procured through the Company RFP process and the Company Proposal, shall be established

under the Authority's Series 2011 Local Unit Renewable Energy Program for an initial term no greater than 15 years, simultaneously with, or prior to the issuance of the Series 2011 Bonds;

**WHEREAS**, the Participant understands and acknowledges that by taking this official action, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project, and that the Authority is taking several actions in reliance upon such action, including without limitation seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds; and

**WHEREAS**, the Participant believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Byram Township Board of Education as follows:

**Section 1.** The Participant believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**Section 2.** The Board President and the School Business Administrator of the Participant (including their designees in writing, each an "*Authorized Officer*") are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Participant Project through the issuance of the Series 2011 Bonds, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the Participant at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

**Section 3.** Upon a date to be selected by the Authority and upon receipt of a finalized Participant Project, but in no event later than the sale date of the Series 2011 Bonds, the Authorized Officers shall deliver to the Authority a fully executed certificate, substantially in the form attached hereto as **Exhibit A**, evidencing the proper officials approval of the substance and scope of the Participant Project.

**Section 4.** The Participant understands and acknowledges that by adopting this resolution, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project through a portion of the proceeds of the Authority's Series 2011 Bonds, and that the Authority is taking several actions in reliance upon this action by the Participant, including without limitation seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds, all for the benefit of the Participant and the other Series 2011 Local Units. Therefore, the Participant covenants to the Authority that: (i) except for extraordinary circumstances not presently contemplated, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program, so long as the Company Proposal results in a savings to the Participant, and further, this official action authorizes the Authority to take all such actions contemplated above in order to develop the Participant Project and to provide the Participant with such savings and (ii) prior to the sale of the Series 2011 Bonds, the Series 2011 Local Unit shall (a), if the Participant is a board of education, obtain any and all approvals from the State Department of Education with respect to the Participant Project, and (b) adopt a resolution authorizing, among other things, the Series 2011 Local Unit to enter into that certain "License and Access Agreement (Morris County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds in such form as shall be presented to the Series 2011 Local Unit prior to adoption of the supplemental resolution (the "Local Unit License Agreement").

**Section 5.** The Authorized Officer shall direct the Participant official in charge of the officially adopted resolutions of the governing body of the Participant to (a) prepare an official, certified copy of this resolution, as adopted, and (b) deliver such certified copy in accordance with Section 10 below. Further, the Participant hereby consents to such certified copy of the resolution, and any further information regarding the Participant and/or the Participant Project, as the Authorized Officer shall determine to be necessary, desirable or convenient in connection with the Local Finance Board Application, to be submitted as part of, or pursuant to the Local Finance Board Application.

**Section 6.** The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Participant Project, producing the contemplated energy savings for the Participant, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Series 2011 Local Units.

**Section 7.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Participant Project and record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

**Section 8.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 9.** All actions of the Authorized Officers or Participant consultants taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Participant Project or any of the foregoing transactions contemplated by this resolution, are hereby ratified and approved.

**Section 10.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

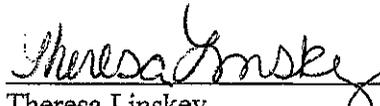
**Section 11.** This resolution shall take effect immediately.

Carried Unanimously by a roll call vote.

Yes	5
Nays	0
Absent	2

State of New Jersey)  
County of Sussex ) ss

I, Theresa Linskey, Secretary of the Board of Education of the Township of Byram, in the County of Sussex, State of New Jersey, hereby certify that the foregoing extract from the minutes of the meeting of the Board of Education of said district duly called and held on August 31, 2011 has been compared by me with the original minutes as officially recorded in my office in the minute book of said Byram Township Board of Education, and is a true, complete copy thereof and of the whole of said original minutes so far as the same relate to the subject matter referred to in said extract in witness I have hereunto set my hand and affixed the corporate seal of said Board of Education this day September 6, 2011.

  
\_\_\_\_\_  
Theresa Linskey  
Business Administrator/Board Secretary

(Affix Seal)

**Exhibit A**

[See Closing Item No. 44]

**EXHIBIT B**

**[Attach License Authorizing Resolution]**

**EXTRACT FROM THE MINUTES OF  
A MEETING OF THE BOARD OF EDUCATION  
OF THE TOWNSHIP OF BYRAM,  
SUSSEX COUNTY, NJ  
AS RECORDED IN THE OFFICIAL MINUTE BOOK**

The Board of Education of the Township of Byram in the County of Sussex, State of New Jersey, convened in Regular Meeting on November 16, 2011 at 7:30 p.m. in the Byram Annex library.

The following members of the board of education were present:

Mrs. Cinotti, Mrs. Dachisen, Mr. Garrity, Mrs. Risley, Mrs. Sanchez, Mrs. Walsh, Ms. Wise

The following members of the board of education were absent:

None

Moved by Mr. Garrity, seconded by Ms. Wise, that the Byram Township Board of Education authorize the following resolution:

**RESOLUTION OF  
BYRAM TOWNSHIP BOARD OF EDUCATION  
AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND  
DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS  
TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE  
ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES  
2011 (FEDERALLY TAXABLE)**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54,

"Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Peariman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Uniform Shared Services and Consolidation Act (as amended and supplemented from time to time, the "*Shared Services Act*") and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the first series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit, including the Participant, that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for a term of fifteen (15) years on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the municipality/County Series 2011 Local Unit) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the board of education Series 2011 Local Units);

**WHEREAS**, pursuant to (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, (v) all other applicable law, and (vi) pursuant to a competitive contracting process governed thereby, the Authority selected Sunlight General Sussex Solar, LLC, as solar developer (the "*Company*") to implement the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, at the Local Unit Facilities; and

**WHEREAS**, upon or prior to the issuance of the Series 2011A Bonds, the Authority and the Company shall enter into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the initial series of Series

2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*"), which Power Purchase Agreement shall, among other things, obligate the Company to develop the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, on their Local Unit Facilities, and combined with the Local Unit License Agreement, provide for the sale of the electricity produced by the Renewable Energy through the Authority to the Series 2011 Local Units, including the Participant, Projects at a fixed price, plus fixed escalation, set forth in the Power Purchase Agreement (the "*PPA Price*"), all as authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law and N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities.

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE BYRAM TOWNSHIP BOARD OF EDUCATION (THE "PARTICIPANT"), IN THE COUNTY OF SUSEX, NEW JERSEY, as follows:**

**Section 1.** The Participant's Renewable Energy Projects and the financing of the Participant's Renewable Energy Projects through the Local Unit License Agreement, the Power Purchase Agreement, the resolutions and agreements in connection with the Series 2011 Bonds, and the other Renewable Energy Program documents, is hereby approved.

**Section 2.** The Board President and School Business Administrator (collectively, the "*Authorized Officer*") are hereby each jointly authorized and directed to execute or acknowledge, as the case may be, and deliver (i) the Local Unit License Agreement for the Participant and the Power Purchase Agreement to be acknowledged by the Participant, both in substantially the forms attached hereto as Exhibit A, with such changes thereto as the Authorized Officer deems in their sole discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of any changes to the forms. The Authorized Officer is hereby further authorized and directed to execute such other closing certificates (the "*Closing Certificate*") deemed necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of the provisions and form of such Closing Certificate, which shall include without limitation, (x) the PPA Price, including escalation, (y) affirming that the PPA Price is less than the exiting tariff paid by the Participant for electricity, and (z) that Participant has received a copy of the report of the Authority's energy engineering consultant regarding the selection of the Company and the establishment of the PPA Price.

**Section 3.** The Secretary of the Board of Education is authorized and directed, upon the execution or acknowledgment of the documents set forth in Section 2 hereof: to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed, when required by the Authority, to thereupon affix the seal of the Participant to such documents.

**Section 4.** Upon the execution or acknowledgment and attestation of and if required, the placing of the seal on the documents set forth in Section 2 hereof as contemplated by Sections 2 and 3 hereof the Authorized Officer is hereby authorized and directed to (i) deliver such fully executed or acknowledged, attested and sealed Local Unit License Agreement of the Participant to the other parties thereto and (ii) perform such other actions as the Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

**Section 5.** The governing body of the Participant hereby authorizes the performance of any act, the execution or acknowledgment and delivery of any other document, instrument or Closing Certificates,

including without limitation any solar renewable energy certificate auction or other applications or documents, which the Authorized Officer deems necessary, desirable or convenient in connection with this contemplated transaction, and the governing body of the Participant hereby directs the Authorized Officer to execute or acknowledge, attest and affix (or cause the attestation or affixation of) the seal to any such documents, instruments or Closing Certificates, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons.

**Section 6.** This resolution shall take effect immediately; however, as the documents the Authority provided to the Board omitted certain essential information, the approvals granted by this resolution are conditional and subject to legal counsel and insurance broker review of final, fully-completed documents, including, but not limited to the License and Access Agreement, Power Purchase Agreement and all applicable appendices, exhibits and attachments.

**Section 7.** The approvals granted by this resolution shall be conditional upon several amendments being made and agreed to Article VIII, "Insurance and Indemnification," of the Power Purchase Agreement between the Authority and Sunlight General Sussex Solar, LLC, as recommended by the Board's insurance broker, including, but not limited to provisions concerning subrogation, joint insurance funds, insurance limits, apportionment of negligence, additional insureds, umbrella or excess coverages and any other requirements stated in the request for proposal for a solar service provider.

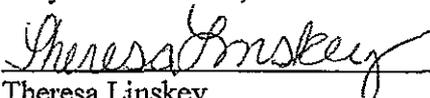
**Section 8.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

Carried Unanimously by a roll call vote.

Yes	6
Nays	0
Abstain	1
Absent	0

State of New Jersey)  
County of Sussex ) ss

I, Theresa Linskey, Secretary of the Board of Education of the Township of Byram, in the County of Sussex, State of New Jersey, hereby certify that the foregoing extract from the minutes of the meeting of the Board of Education of said district duly called and held on November 16, 2011 has been compared by me with the original minutes as officially recorded in my office in the minute book of said Byram Township Board of Education, and is a true, complete copy thereof and of the whole of said original minutes so far as the same relate to the subject matter referred to in said extract in witness I have hereunto set my hand and affixed the corporate seal of said Board of Education this day November 17, 2011.

  
\_\_\_\_\_  
Theresa Linskey  
Business Administrator/Board Secretary

(Affix Seal)

**EXHIBIT C**

**[Attach License and Access Agreement]**

See Closing Item #1

**GENERAL CERTIFICATE OF FRANKFORD TOWNSHIP BOARD OF EDUCATION,  
AS SERIES 2011 LOCAL UNIT**

I, CHRISTOPHER M. LESSARD, the Business Administrator of the Frankford Township Board of Education (the "*Board of Education*"), a public body corporate and politic organized and existing under the laws of the State of New Jersey ("*State*"), and responsible for the supervision of the public schools located in the Frankford Township Public School District (the "*School District*"), in the County of Sussex, New Jersey (the "*County*"), and in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*") by The Morris County Improvement Authority (the "*Authority*"), **DO HEREBY CERTIFY** on behalf of the Board of Education as follows:

1. On August 8, 2011, the Board of Education adopted Resolution VI.A.2 entitled "RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY" (the "*Local Finance Board Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on August 8, 2011, and at which a quorum existed and acted throughout.

2. On November 21, 2011, the Board of Education adopted Resolution 20111121-11 entitled "FRANKFORD TOWNSHIP BOARD OF EDUCATION RESOLUTION AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 [FEDERALLY TAXABLE]" (the "*License Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on November 21, 2011, and at which a quorum existed and acted throughout.

3. As of the date hereof, the Local Finance Board Authorizing Resolution, and the License Authorizing Resolution (collectively, the "*Resolutions*") have not been altered, amended,

supplemented or repealed, and, as such, remain in full force and effect. The officials and/or officers of the Board of Education that have executed, attested, sealed and delivered the "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Local Unit License Agreement*"), a true and complete copy of which is attached hereto as **Exhibit C**, between the Board of Education and the Authority and this certificate were duly authorized to take such action pursuant to the terms of the Resolutions.

4. The Board of Education has not entered into a third party power purchase agreement for the purchase of electricity at the Local Unit Facility that is the subject of the License Agreement.

5. The Board of Education is not aware of any litigation, pending or threatened, involving the Board of Education that would materially impair its valid authorization, execution, delivery or performance of and under the Local Unit License Agreement. The Board of Education has full right, power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Local Unit License Agreement, including without limitation the payments to be made by the Board of Education thereunder, and the granting of the Local Unit License by the Board of Education, as such term is defined therein.

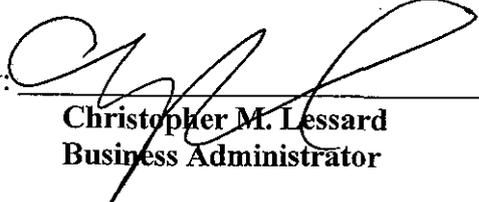
6. The Board of Education hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the Board of Education's rights to review, acknowledge, accept, execute and deliver any Board of Education requisitions, and attachments thereto, applicable to either the Board of Education Renewable Energy Projects or the Board of Education Capital Improvement Projects (the "*Draw Papers*").

7. The Board of Education hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the Board of Education's rights to review, acknowledge, accept, execute and deliver the Board of Education REP Acceptance Certificate applicable to such Board of Education Renewable Energy Projects (the "*REP Acceptance Certificate*").

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Board of Education this 14th day of December, 2011.

**FRANKFORD TOWNSHIP  
BOARD OF EDUCATION**

By: \_\_\_\_\_



**Christopher M. Lessard  
Business Administrator**

**EXHIBIT A**

**[Attach Local Finance Board Authorizing Resolution]**

**RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities,

including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A:54(l) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local*

*Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, the governing body of the Series 2011 Local Unit adopting this resolution (the “*Participant*”) desires to authorize the Authority and its consultants to submit the Local Finance Board Application on their behalf to finance the proposed Renewable Energy Project(s) for the Participant (the “*Participant Project*”) set forth in Schedule A to **Exhibit A** attached hereto (it being understood that the Participant is taking no action in connection with the other Renewable Energy Projects of the other Series 2011 Local Units as set forth on **Schedule A** to **Exhibit A** hereto and further that a final detailed Participant Project list will be sent to each Series 2011 Local Unit prior to their signing the certificate attached hereto as Exhibit A);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“*BPU*”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that (the “*Company Proposal*”) of the successful respondent (the “*Company*”), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

**WHEREAS**, the pricing terms for the purchase of renewable energy generated electricity produced from the Participant Project and sold through the Authority to the Participant, and bought by the Participant at an agreed upon price lower than that presently being paid by the Participant for electricity from its local utility, which pricing terms shall be competitively procured through the Company RFP process and the Company Proposal, shall be established under the Authority’s Series 2011 Local Unit Renewable Energy Program for an initial term no greater than 15 years, simultaneously with, or prior to the issuance of the Series 2011 Bonds;

**WHEREAS**, the Participant understands and acknowledges that by taking this official action, the Participant intends to participate in the Authority’s Series 2011 Local Unit Renewable Energy Program to fund the Participant Project, and that the Authority is taking several actions in reliance upon such action, including without limitation seeking

the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds; and

**WHEREAS**, the Participant believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Participant as follows:

**Section 1.** The Participant believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**Section 2.** The Board President, Business Administrator and the Superintendent of the Participant (including their designees in writing, each an "Authorized Officer") are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Participant Project through the issuance of the Series 2011 Bonds, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the Participant at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

**Section 3.** Upon a date to be selected by the Authority and upon receipt of a finalized Participant Project, but in no event later than the sale date of the Series 2011 Bonds, the Authorized Officers shall deliver to the Authority a fully executed certificate, substantially in the form attached hereto as **Exhibit A**, evidencing the proper officials approval of the substance and scope of the Participant Project.

**Section 4.** The Participant understands and acknowledges that by adopting this resolution, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project through a portion of the proceeds of the Authority's Series 2011 Bonds, and that the Authority is taking several actions in reliance upon this action by the Participant, including without limitation

seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application; and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds, all for the benefit of the Participant and the other Series 2011 Local Units. Therefore, the Participant covenants to the Authority that: (i) except for extraordinary circumstances not presently contemplated, which include, but are not limited to evidence that, in the determination of the Board of Education, that participation will not be cost effective and/or will not result in cost savings to the Board the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program, so long as the Company Proposal results in a significant savings rendering continued participation in the project cost-effective to the Participant, and further, this official action authorizes the Authority to take all such actions contemplated above in order to develop the Participant Project and to provide the Participant with such savings and (ii) prior to the sale of the Series 2011 Bonds, the Series 2011 Local Unit shall (a), if the Participant is a board of education, obtain any and all approvals from the State Department of Education with respect to the Participant Project, and (b) adopt a resolution authorizing, among other things, the Series 2011 Local Unit to enter into that certain "License and Access Agreement (Morris County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds in such form as shall be presented to the Series 2011 Local Unit prior to adoption of the supplemental resolution (the "Local Unit License Agreement").

**Section 5.** The Authorized Officer shall direct the Participant official in charge of the officially adopted resolutions of the governing body of the Participant to (a) prepare an official, certified copy of this resolution, as adopted, and (b) deliver such certified copy in accordance with Section 10 below. Further, the Participant hereby consents to such certified copy of the resolution, and any further information regarding the Participant and/or the Participant Project, as the Authorized Officer shall determine to be necessary, desirable or convenient in connection with the Local Finance Board Application, to be submitted as part of, or pursuant to the Local Finance Board Application.

**Section 6.** The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Participant Project, producing the contemplated energy savings for the Participant, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Series 2011 Local Units.

**Section 7.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Participant

Project and record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

**Section 8.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 9.** All actions of the Authorized Officers or Participant consultants taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Participant Project or any of the foregoing transactions contemplated by this resolution, are hereby ratified and approved.

**Section 10.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

**Section 11.** This resolution shall take effect immediately.

[remainder of this page left intentionally blank]

**Exhibit A**

[See Closing Item No. 44]

**RESOLUTION: 20111121-11**  
Frankford Township Board of Education  
November 21, 2011

**RESOLUTION OF  
FRANKFORD TOWNSHIP BOARD OF EDUCATION  
AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND  
DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS  
TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED  
RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF  
SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE)**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory

thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the “*Shared Services Act*”), and all other applicable law, the terms of which agreement has been set forth in that certain “Service Agreement (Sussex County Renewable Energy Program)” dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the “*Service Agreement*”) between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority’s energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the “*Authority Consultants*”) and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the “*Sussex County Consultants*”; if any, and together with the Authority Consultants, the “*Consultants*”; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the “*Local Unit Facilities*”);

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the

hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, ~~Lafayette Township Board of Education~~, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Uniform Shared Services and Consolidation Act (as amended and supplemented from time to time, the "*Shared Services Act*") and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the first series of Series 2011 Bonds (as the same may be amended or

supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit, including the Participant, that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit License"); (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for a term of fifteen (15) years on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the municipality/County Series 2011 Local Unit) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the board of education Series 2011 Local Units);

**WHEREAS**, pursuant to (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, (v) all other applicable law, and (vi) pursuant to a competitive contracting process governed thereby, the Authority selected Sunlight General Sussex Solar, LLC, as solar developer (the "Company") to implement the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, at the Local Unit Facilities; and

**WHEREAS**, upon or prior to the issuance of the Series 2011A Bonds, the Authority and the Company shall enter into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the initial series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement"), which Power Purchase Agreement shall, among other things, obligate the Company to develop the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, on their Local Unit Facilities, and combined with the Local Unit License Agreement, provide for the sale of the electricity produced by the Renewable Energy through the Authority to the Series 2011 Local Units, including the Participant, Projects at a fixed price, plus fixed escalation, set forth in the Power Purchase Agreement (the "PPA Price"), all as authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law and N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities.

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE FRANKFORD TOWNSHIP BOARD OF EDUCATION (THE "PARTICIPANT"), IN THE COUNTY OF SUSEX, NEW JERSEY, as follows:**

**Section 1.** The Participant's Renewable Energy Projects and the financing of the Participant's Renewable Energy Projects through the Local Unit License Agreement, the Power Purchase Agreement, the resolutions and agreements in connection with the Series 2011 Bonds, and the other Renewable Energy Program documents, is hereby approved.

**Section 2.** The Board President and School Business Administrator (collectively, the "*Authorized Officer*") are hereby each ~~severally~~ jointly authorized and directed to execute or acknowledge, as the case may be, and deliver (i) the Local Unit License Agreement for the Participant and the Power Purchase Agreement to be acknowledged by the Participant, both in substantially the forms attached hereto as Exhibit A, with such changes thereto as the Authorized Officer deems in their sole discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of any changes to the forms. The Authorized Officer is hereby further authorized and directed to execute such other closing certificates (the "*Closing Certificate*") deemed necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of the provisions and form of such Closing Certificate, which shall include without limitation, (x) the PPA Price, including escalation, (y) affirming that the PPA Price is less than the exiting tariff paid by the Participant for electricity, and (z) that Participant has received a copy of the report of the Authority's energy engineering consultant regarding the selection of the Company and the establishment of the PPA Price.

**Section 3.** The Secretary of the Board of Education ~~and any Assistant Secretary of the Participant are each hereby severally~~ is authorized and directed, upon the execution or acknowledgment of the documents set forth in Section 2 hereof: to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed, when required by the Authority, to thereupon affix the seal of the Participant to such documents.

**Section 4.** Upon the execution or acknowledgment and attestation of and if required, the placing of the seal on the documents set forth in Section 2 hereof as contemplated by Sections 2 and 3 hereof the Authorized Officer is hereby authorized and directed to (i) deliver such fully executed or acknowledged, attested and sealed Local Unit License Agreement of the Participant to the other parties thereto and (ii) perform such other actions as the Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

**Section 5.** The governing body of the Participant hereby authorizes the performance of any act, the execution or acknowledgment and delivery of any other document, instrument or Closing Certificates, including without limitation any solar renewable energy certificate auction or other applications or documents, which the Authorized Officer deems necessary, desirable or

convenient in connection with this contemplated transaction, and the governing body of the Participant hereby directs the Authorized Officer, to execute or acknowledge, attest and affix (or cause the attestation or affixation of) the seal to any such documents, instruments or Closing Certificates, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons.

**Section 6.** This resolution shall take effect immediately; however, as the documents the Authority provided to the Board omitted certain essential information, the approvals granted by this resolution are conditional and subject to legal counsel and insurance broker review of final, fully-completed documents, including, but not limited to the License and Access Agreement, Power Purchase Agreement and all applicable appendices, exhibits and attachments.

**Section 7.** The approvals granted by this resolution shall be conditional upon several amendments being made and agreed to Article VIII, "Insurance and Indemnification," of the Power Purchase Agreement between the Authority and Sunlight General Sussex Solar, LLC, as recommended by the Board's insurance broker, including, but not limited to provisions concerning subrogation, joint insurance funds, insurance limits, apportionment of negligence, additional insureds, umbrella or excess coverages and any other requirements stated in the request for proposal for a solar service provider.

**Section 87.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@jandplaw.com](mailto:dwainger@jandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

**EXHIBIT C**

**[Attach License and Access Agreement]**

See Closing Item #1

**EXHIBIT B**

**[Attach License Authorizing Resolution]**

**GENERAL CERTIFICATE OF FRANKLIN BOROUGH BOARD OF EDUCATION,  
AS SERIES 2011 LOCAL UNIT**

I, WILLIAM J. SABO, the Business Administrator/Board Secretary of Franklin Borough Board of Education (the "*Board of Education*"), a public body corporate and politic organized and existing under the laws of the State of New Jersey ("*State*"), and responsible for the supervision of the public schools located in the Franklin Borough Public School District (the "*School District*"), in the County of Sussex, New Jersey (the "*County*"), and in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*") by The Morris County Improvement Authority (the "*Authority*"), **DO HEREBY CERTIFY** on behalf of the Board of Education as follows:

1. On July 25, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY" (the "*Local Finance Board Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on July 25, 2011, and at which a quorum existed and acted throughout.

2. On November 8, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF FRANKLIN BOROUGH BOARD OF EDUCATION AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 [FEDERALLY TAXABLE]" (the "*License Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on November 8, 2011 and at which a quorum existed and acted throughout.

3. As of the date hereof, the Local Finance Board Authorizing Resolution, and the License Authorizing Resolution (collectively, the "*Resolutions*") have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect. The officials and/or officers

of the Board of Education that have executed, attested, sealed and delivered the "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Local Unit License Agreement*"), a true and complete copy of which is attached hereto as **Exhibit C**, between the Board of Education and the Authority and this certificate were duly authorized to take such action pursuant to the terms of the Resolutions.

4. The Board of Education has not entered into a third party power purchase agreement for the purchase of electricity at the Local Unit Facilities that are the subject of the License Agreement.

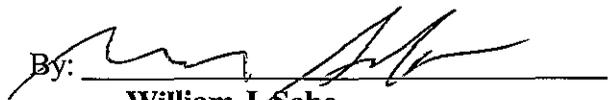
5. The Board of Education is not aware of any litigation, pending or threatened, involving the Board of Education that would materially impair its valid authorization, execution, delivery or performance of and under the Local Unit License Agreement. The Board of Education has full right, power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Local Unit License Agreement, including without limitation the payments to be made by the Board of Education thereunder, and the granting of the Local Unit License by the Board of Education, as such term is defined therein.

6. The Board of Education hereby delegates to Birdsell Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the Board of Education's rights to review, acknowledge, accept, execute and deliver any Board of Education requisitions, and attachments thereto, applicable to either the Board of Education Renewable Energy Projects or the Board of Education Capital Improvement Projects (the "*Draw Papers*").

7. The Board of Education hereby delegates to Birdsell Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the Board of Education's rights to review, acknowledge, accept, execute and deliver the Board of Education REP Acceptance Certificate applicable to such Board of Education Renewable Energy Projects (the "*REP Acceptance Certificate*").

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Board of Education this 14th day of December, 2011.

**FRANKLIN BOROUGH  
BOARD OF EDUCATION**

By:   
**William J. Sabo**  
**Business Administrator/Board Secretary**

**EXHIBIT A**

**[Attach Local Finance Board Authorizing Resolution]**

EXTRACT FROM THE MINUTES OF  
A MEETING OF THE BOARD OF EDUCATION  
OF FRANKLIN BOROUGH, SUSSEX  
COUNTY, N.J. AS RECORDED  
IN THE OFFICIAL MINUTE BOOK.

The Board of Education of Franklin Borough in the County of Sussex New Jersey, convened in Regular Session on 25 July 2011 at 7:30 P.M. in the Franklin Elementary School Library.

The following members of the Board of Education were present:

Mary Alonso	Richard Kell
Stacey Korger	Louise Murphy
Jeanine Paszkiel	Victoria Pennella
Andrew Weekley	Wayne D. Yahm

The following members were absent:

Ronald Neal

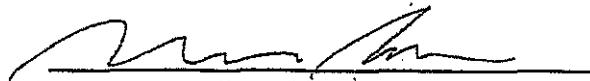
On motion by Mr. Yahm, seconded by Mr. Kell, and carried by the following roll call vote, approved the resolution authorizing the Morris County Improvement Authority to include the Franklin Borough Board of Education as a participant in the local finance board application to be filed by the Morris County Improvement Authority in connection with the Morris County Improvement Authority/Sussex Solar Project [the roof and two parking lot canopy option – approximately 376 kw] and authorized the execution of the local unit facility certificate any and all documents with respect to this project (DOCUMENT B).

Yes	-	7
No	-	Mrs. Korger
Abstain	-	0

STATE OF NEW JERSEY ) ss  
COUNTY OF SUSSEX )

I, William J. Sabo, Secretary of the Board of Education of the Borough of Franklin, in the County of Sussex, State of New Jersey, hereby certify that the foregoing extract from the minutes of the meeting of the Board of Education of said district duly called and held on 25 July 2011 has been compared by me with the original minutes as officially recorded in my office in the minute book of said Borough of Franklin, Board of Education and is a true, complete copy thereof and of the whole of said original minutes so far as the same relate to the subject matter referred to in said extract in witness I have hereunto set my hand and affixed the corporate seal of said Board of Education.

SEAL

  
Board Secretary

**RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE  
MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011  
RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH  
AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE  
NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH  
PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY  
OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE  
REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT)  
(FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT  
TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED  
THEREBY**

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

WHEREAS, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities,

including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A:54(l) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local*

*Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, the governing body of the Series 2011 Local Unit adopting this resolution (the "*Participant*") desires to authorize the Authority and its consultants to submit the Local Finance Board Application on their behalf to finance the proposed Renewable Energy Project(s) for the Participant (the "*Participant Project*") set forth in Schedule A to Exhibit A attached hereto (it being understood that the Participant is taking no action in connection with the other Renewable Energy Projects of the other Series 2011 Local Units as set forth on Schedule A to Exhibit A hereto and further that a final detailed Participant Project list will be sent to each Series 2011 Local Unit prior to their signing the certificate attached hereto as Exhibit A);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

WHEREAS, the pricing terms for the purchase of renewable energy generated electricity produced from the Participant Project and sold through the Authority to the Participant, and bought by the Participant at an agreed upon price lower than that presently being paid by the Participant for electricity from its local utility, which pricing terms shall be competitively procured through the Company RFP process and the Company Proposal, shall be established under the Authority's Series 2011 Local Unit Renewable Energy Program for an initial term no greater than 15 years, simultaneously with, or prior to the issuance of the Series 2011 Bonds;

WHEREAS, the Participant understands and acknowledges that by taking this official action, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project, and that the Authority is taking several actions in reliance upon such action, including without limitation seeking

the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds; and

**WHEREAS**, the Participant believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Participant as follows:

**Section 1.** The Participant believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**Section 2.** The Board President and the Business Administrator/Board Secretary of the Participant (including their designees in writing, each an "Authorized Officer") are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Participant Project through the issuance of the Series 2011 Bonds, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the Participant at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

**Section 3.** Upon a date to be selected by the Authority and upon receipt of a finalized Participant Project, but in no event later than the sale date of the Series 2011 Bonds, the Authorized Officers shall deliver to the Authority a fully executed certificate, substantially in the form attached hereto as Exhibit A, evidencing the proper officials approval of the substance and scope of the Participant Project.

**Section 4.** The Participant understands and acknowledges that by adopting this resolution, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project through a portion of the proceeds of the Authority's Series 2011 Bonds, and that the Authority is taking several actions in reliance upon this action by the Participant, including without limitation

seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds, all for the benefit of the Participant and the other Series 2011 Local Units. Therefore, the Participant covenants to the Authority that: (i) except for extraordinary circumstances not presently contemplated, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program, so long as the Company Proposal results in a savings to the Participant, and further, this official action authorizes the Authority to take all such actions contemplated above in order to develop the Participant Project and to provide the Participant with such savings; and (ii) prior to the sale of the Series 2011 Bonds, the Series 2011 Local Unit shall (a), if the Participant is a board of education, obtain any and all approvals from the State Department of Education with respect to the Participant Project, and (b) adopt a resolution authorizing, among other things, the Series 2011 Local Unit to enter into that certain "License and Access Agreement (Morris County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds in such form as shall be presented to the Series 2011 Local Unit prior to adoption of the supplemental resolution (the "Local Unit License Agreement").

**Section 5.** The Authorized Officer shall direct the Participant official in charge of the officially adopted resolutions of the governing body of the Participant to (a) prepare an official, certified copy of this resolution, as adopted, and (b) deliver such certified copy in accordance with Section 10 below. Further, the Participant hereby consents to such certified copy of the resolution, and any further information regarding the Participant and/or the Participant Project, as the Authorized Officer shall determine to be necessary, desirable or convenient in connection with the Local Finance Board Application, to be submitted as part of, or pursuant to the Local Finance Board Application.

**Section 6.** The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Participant Project, producing the contemplated energy savings for the Participant, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Series 2011 Local Units.

**Section 7.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Participant Project and record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

**Section 8.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 9.** All actions of the Authorized Officers, or Participant consultants taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Participant Project or any of the foregoing transactions contemplated by this resolution, are hereby ratified and approved.

**Section 10.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

**Section 11.** This resolution shall take effect immediately.

[remainder of this page left intentionally blank]

**Exhibit A**

[See Closing Item No. 44]

**EXHIBIT B**

**[Attach License Authorizing Resolution]**

**RESOLUTION OF  
FRANKLIN BOROUGH BOARD OF EDUCATION  
AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND  
DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS  
TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED  
RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF  
SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE)**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory

thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the “*Shared Services Act*”), and all other applicable law, the terms of which agreement has been set forth in that certain “Service Agreement (Sussex County Renewable Energy Program)” dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the “*Service Agreement*”) between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority’s energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the “*Authority Consultants*”) and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the “*Sussex County Consultants*”, if any, and together with the Authority Consultants, the “*Consultants*”; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the “*Local Unit Facilities*”);

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the

hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the “*Municipal Series 2011 Local Units*”); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lenape Valley Board of Education, Newton Board of Education (collectively, the “*Board of Education Series 2011 Local Units*”); and
- (iii) County and Sussex County Technical School (the “*County Series 2011 Local Units*”);

(each a “*Series 2011 Local Unit*”, and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the “*Series 2011 Local Units*”), through the issuance by the Authority of one or more series of bonds and notes entitled “County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)” dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the “*Series 2011 Bonds*”);

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Uniform Shared Services and Consolidation Act (as amended and supplemented from time to time, the “*Shared Services Act*”) and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the first series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a

"Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit, including the Participant, that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for a term of fifteen (15) years on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the municipality/County Series 2011 Local Unit) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the board of education Series 2011 Local Units);

**WHEREAS**, pursuant to (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, (v) all other applicable law, and (vi) pursuant to a competitive contracting process governed thereby, the Authority selected Sunlight General Sussex Solar, LLC, as solar developer (the "Company") to implement the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, at the Local Unit Facilities; and

**WHEREAS**, upon or prior to the issuance of the Series 2011A Bonds, the Authority and the Company shall enter into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the initial series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement"), which Power Purchase Agreement shall, among other things, obligate the Company to develop the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, on their Local Unit Facilities, and combined with the Local Unit License Agreement, provide for the sale of the electricity produced by the Renewable Energy through the Authority to the Series 2011 Local Units, including the Participant, Projects at a fixed price, plus fixed escalation, set forth in the Power Purchase Agreement (the "PPA Price"), all as authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law and N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities.

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE FRANKLIN BOROUGH BOARD OF EDUCATION (THE "PARTICIPANT"), IN THE COUNTY OF SUSEX, NEW JERSEY, as follows:**

**Section 1.** The Participant's Renewable Energy Projects and the financing of the Participant's Renewable Energy Projects through the Local Unit License Agreement, the Power Purchase Agreement, the resolutions and agreements in connection with the Series 2011 Bonds, and the other Renewable Energy Program documents, is hereby approved.

**Section 2.** The Board President and School Business Administrator (collectively, the "*Authorized Officer*") are hereby each jointly authorized and directed to execute or acknowledge, as the case may be, and deliver (i) the Local Unit License Agreement for the Participant and the Power Purchase Agreement to be acknowledged by the Participant, both in substantially the forms attached hereto as Exhibit A, with such changes thereto as the Authorized Officer deems in their sole discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of any changes to the forms. The Authorized Officer is hereby further authorized and directed to execute such other closing certificates (the "*Closing Certificate*") deemed necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of the provisions and form of such Closing Certificate, which shall include without limitation, (x) the PPA Price, including escalation, (y) affirming that the PPA Price is less than the exiting tariff paid by the Participant for electricity, and (z) that Participant has received a copy of the report of the Authority's energy engineering consultant regarding the selection of the Company and the establishment of the PPA Price.

**Section 3.** The Secretary of the Board of Education is authorized and directed, upon the execution or acknowledgment of the documents set forth in Section 2 hereof: to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed, when required by the Authority, to thereupon affix the seal of the Participant to such documents.

**Section 4.** Upon the execution or acknowledgment and attestation of and if required, the placing of the seal on the documents set forth in Section 2 hereof as contemplated by Sections 2 and 3 hereof the Authorized Officer is hereby authorized and directed to (i) deliver such fully executed or acknowledged, attested and sealed Local Unit License Agreement of the Participant to the other parties thereto and (ii) perform such other actions as the Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

**Section 5.** The governing body of the Participant hereby authorizes the performance of any act, the execution or acknowledgment and delivery of any other document, instrument or Closing Certificates, including without limitation any solar renewable energy certificate auction or other applications or documents, which the Authorized Officer deems necessary, desirable or convenient in connection with this contemplated transaction, and the governing body of the Participant hereby directs the Authorized Officer to execute or acknowledge, attest and affix (or

cause the attestation or affixation of) the seal to any such documents, instruments or Closing Certificates, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons.

**Section 6.** This resolution shall take effect immediately; however, as the documents the Authority provided to the Board omitted certain essential information, the approvals granted by this resolution are conditional and subject to legal counsel and insurance broker review of final, fully-completed documents, including, but not limited to the License and Access Agreement, Power Purchase Agreement and all applicable appendices, exhibits and attachments.

**Section 7.** The approvals granted by this resolution shall be conditional upon several amendments being made and agreed to Article VIII, "Insurance and Indemnification," of the Power Purchase Agreement between the Authority and Sunlight General Sussex Solar, LLC, as recommended by the Board's insurance broker, including, but not limited to provisions concerning subrogation, joint insurance funds, insurance limits, apportionment of negligence, additional insureds, umbrella or excess coverages and any other requirements stated in the request for proposal for a solar service provider.

**Section 8.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

**EXHIBIT A**

**ATTACH FORM OF LICENSE AGREEMENT**

**AND**

**POWER PURCHASE AGREEMENT**

**EXHIBIT C**

**[Attach License and Access Agreement]**

See Closing Item #1

**GENERAL CERTIFICATE OF GREEN TOWNSHIP BOARD OF EDUCATION,  
AS SERIES 2011 LOCAL UNIT**

I, SALLYANN McCARTY, the Business Administrator/Board Secretary of Green Township Board of Education (the "*Board of Education*"), a public body corporate and politic organized and existing under the laws of the State of New Jersey ("*State*"), and responsible for the supervision of the public schools located in the Green Township Public School District (the "*School District*"), in the County of Sussex, New Jersey (the "*County*"), and in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds") by The Morris County Improvement Authority (the "*Authority*"), **DO HEREBY CERTIFY** on behalf of the Board of Education as follows:

1. On July 20, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY" (the "*Local Finance Board Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on July 20, 2011, and at which a quorum existed and acted throughout.

2. On November 16, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF GREEN TOWNSHIP BOARD OF EDUCATION AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 [FEDERALLY TAXABLE]" (the "*License Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on November 16, 2011, and at which a quorum existed and acted throughout.

3. As of the date hereof, the Local Finance Board Authorizing Resolution, and the License Authorizing Resolution (collectively, the "*Resolutions*") have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect. The officials and/or officers

of the Board of Education that have executed, attested, sealed and delivered the "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Local Unit License Agreement*"), a true and complete copy of which is attached hereto as **Exhibit C**, between the Board of Education and the Authority and this certificate were duly authorized to take such action pursuant to the terms of the Resolutions.

4. The Board of Education is not aware of any litigation, pending or threatened, involving the Board of Education that would materially impair its valid authorization, execution, delivery or performance of and under the Local Unit License Agreement. The Board of Education has full right, power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Local Unit License Agreement, including without limitation the payments to be made by the Board of Education thereunder, and the granting of the Local Unit License by the Board of Education, as such term is defined therein.

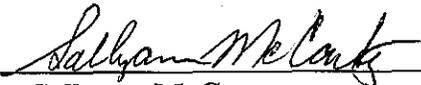
5. The Board of Education has not entered into a third party power purchase agreement for the purchase of electricity at the Local Unit Facility that is the subject of the License Agreement.

6. The Board of Education hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the Borough's rights to review, acknowledge, accept, execute and deliver any Borough requisitions, and attachments thereto, applicable to either the Board of Education Renewable Energy Projects or the Board of Education Capital Improvement Projects (the "*Draw Papers*").

7. The Board of Education hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the Board of Education's rights to review, acknowledge, accept, execute and deliver the Board of Education REP Acceptance Certificate applicable to such Board of Education Renewable Energy Projects (the "*REP Acceptance Certificate*").

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the Board of Education this 14th day of December, 2011.

**GREEN TOWNSHIP  
BOARD OF EDUCATION**

By:   
**Sallyann McCarty**  
**Business Administrator/Board Secretary**

**EXHIBIT A**

**[Attach Local Finance Board Authorizing Resolution]**

Extract from the Minutes of the  
Green Township Board of Education

The Board of Education of the Township of Green in the County of Sussex, New Jersey convened in a Regular Meeting on Wednesday, July 20, 2011 at 7:30 pm in the Green Hills School music room.

**Members present:** Mr. William Ippolito - President, Mr. Michael Wood - Vice-President, Dr. Joseph Cercone, Mrs. Ann Marie Cooke, Mrs. Betsy Wermuth., Mrs. Jennifer Cinotti and Mr. Matthew Fox. Mr. Timothy Kirby and Mrs. Kelly-Anne McDonnell were absent. Also in attendance was Mr. John Nittolo, Superintendent/Principal, and Mrs. Sallyann McCarty, Business Administrator.

**TITLE OF RESOLUTION:** Motion to approve the Series 2011 Renewable Energy program as follows:

**RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-

44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or

for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

(i) Fredon Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and

(ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education (the "*Participant*"), Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and

(iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A:54(l) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, the governing body of the Participant desires to authorize the Authority and its consultants to submit the Local Finance Board Application on their behalf to finance the proposed Renewable Energy Project(s) for the Participant (the "*Participant Project*") set forth in Schedule A to **Exhibit A** attached hereto (it being understood that the Participant is taking no action in connection with the other Renewable Energy Projects of the other Series 2011 Local Units as set forth on **Schedule A** to **Exhibit A** hereto and further that a final detailed Participant Project list will be sent to each Series 2011 Local Unit prior to their signing the certificate attached hereto as Exhibit A);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

**WHEREAS**, the pricing terms for the purchase of renewable energy generated electricity produced from the Participant Project and sold through the Authority to the Participant, and bought by the Participant at an agreed upon price lower than that presently being paid by the Participant for electricity from its local utility, which pricing terms shall be competitively procured through the Company RFP process and the Company Proposal, shall be established under the Authority's Series 2011 Local Unit Renewable Energy Program for an initial term no greater than 15 years, simultaneously with, or prior to the issuance of the Series 2011 Bonds;

**WHEREAS**, the Participant understands and acknowledges that by taking this official

action, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project, and that the Authority is taking several actions in reliance upon such action, including without limitation seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds; and

**WHEREAS**, the Participant believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Participant as follows:

**Section 1.** The Participant believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**Section 2.** The Board President and the Business Administrator/Board Secretary of the Participant (including their designees in writing, each an "*Authorized Officer*") are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Participant Project through the issuance of the Series 2011 Bonds, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the Participant at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

**Section 3.** Upon a date to be selected by the Authority and upon receipt of a finalized Participant Project, but in no event later than the sale date of the Series 2011 Bonds, the Authorized Officers shall deliver to the Authority a fully executed certificate, substantially in the form attached hereto as **Exhibit A**, evidencing the proper officials approval of the substance and scope of the Participant Project.

**Section 4.** The Participant understands and acknowledges that by adopting this resolution, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project through a portion of the proceeds of the Authority's Series 2011 Bonds, and that the Authority is taking several actions in reliance

upon this action by the Participant, including without limitation seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds, all for the benefit of the Participant and the other Series 2011 Local Units. Therefore, the Participant covenants to the Authority that: (i) except for extraordinary circumstances not presently contemplated, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program, so long as the Company Proposal results in a savings to the Participant, and further, this official action authorizes the Authority to take all such actions contemplated above in order to develop the Participant Project and to provide the Participant with such savings and (ii) prior to the sale of the Series 2011 Bonds, the Participant shall (a), as a board of education, obtain any and all approvals from the State Department of Education with respect to the Participant Project, and (b) adopt a resolution authorizing, among other things, the Series 2011 Local Unit to enter into that certain "License and Access Agreement (Morris County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds in such form as shall be presented to the Participant prior to adoption of the supplemental resolution (the "Local Unit License Agreement").

**Section 5.** The Authorized Officer shall direct the Participant official in charge of the officially adopted resolutions of the governing body of the Participant to (a) prepare an official, certified copy of this resolution, as adopted, and (b) deliver such certified copy in accordance with Section 10 below. Further, the Participant hereby consents to such certified copy of the resolution, and any further information regarding the Participant and/or the Participant Project, as the Authorized Officer shall determine to be necessary, desirable or convenient in connection with the Local Finance Board Application, to be submitted as part of, or pursuant to the Local Finance Board Application.

**Section 6.** The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Participant Project, producing the contemplated energy savings for the Participant, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Participant.

**Section 7.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Participant Project and record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

**Section 8.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 9.** All actions of the Authorized Officers or Participant consultants taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Participant Project or any of the foregoing transactions contemplated by this resolution, are hereby ratified and approved.

**Section 10.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

**Section 11.** This resolution shall take effect immediately.

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**EXHIBIT A**

**[Attach Form of Local Unit Facility Acceptance Certificate]**

**THE FOLLOWING ACTION WAS TAKEN:** Motion to approve made by Mr. Matthew Fox, second by Mrs. Betsy Wermuth.

**AYE:** Mr. William Ippolito, Mr. Michael Wood, Dr. Joseph Cercone, Mrs. Ann Marie Cooke, Mrs. Betsy Wermuth, Mrs. Jennifer Cinotti and Mr. Matthew Fox.

**NO:** None

**ABSTAIN:** None

I, Sallyann McCarty, Secretary of the Board of Education of Green Township School District in the County of Sussex, State of New Jersey, hereby certify that the foregoing extract from the minutes of the Regular Meeting of the Board of Education of said district duly called and held on July 20, 2011 has been compared by me with the original minutes as officially recorded in the Board of Education office in the minute book of said Green Township Board of Education and is a true, complete copy hereof and of the whole of said original minutes so far as the same relate to the subject matter referred to in said extract. In witness I have hereunto set my hand and affixed the corporate seal of said Board of Education this 27<sup>th</sup> day of July, 2011.

  
Sallyann McCarty – Board Secretary

Seal

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**Exhibit A**

[See Closing Item No. 44]

**EXHIBIT B**

**[Attach License Authorizing Resolution]**

## Extract from the Minutes of the Green Township Board of Education

The Board of Education of the Township of Green in the County of Sussex, New Jersey convened in a regular meeting on Wednesday, November 16, 2011 at 7:33 p.m. in the Green Hills School music room.

Members present: Mr. Michael Wood - Vice-President, Dr. Joseph Cercone, Mrs. Jennifer Cinotti, Mrs. Ann Marie Cooke, Mrs. Kelly-Anne McDonnell, Mr. Matthew Fox, Mrs. Betsy Wermuth and Mr. Timothy Kirby. Mr. William Ippolito was absent. Also present were Mr. John Nittolo, Superintendent/Principal and Mrs. Sallyann McCarty, Business Administrator.

### THE FOLLOWING ACTION WAS TAKEN:

TITLE OF RESOLUTION: Motion to authorize the School Business Administrator to sign the Solar Project Local Unit Facility Acceptance Certificate (Attachment A) and Power Purchase Agreement (Attachment C) and License Agreements (Attachment D) as per Resolution (Attachment B) below:

**RESOLUTION OF GREEN TOWNSHIP BOARD OF EDUCATION  
AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND  
DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS  
TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED  
RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF  
SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE)**

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

WHEREAS, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof

and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or

adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Uniform Shared Services and Consolidation Act (as amended and supplemented from time to time, the "*Shared Services Act*") and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and

Access Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the first series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a “*Local Unit License Agreement*”, and collectively, the “*Local Unit License Agreements*”) with each Series 2011 Local Unit, including the Participant, that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the “*Local Unit License*”), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for a term of fifteen (15) years on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the municipality/County Series 2011 Local Unit) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the board of education Series 2011 Local Units);

**WHEREAS**, pursuant to (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the Board of Public Utilities (“*BPU*”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, (v) all other applicable law, and (vi) pursuant to a competitive contracting process governed thereby, the Authority selected Sunlight General Sussex Solar, LLC, as solar developer (the “*Company*”) to implement the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, at the Local Unit Facilities; and

**WHEREAS**, upon or prior to the issuance of the Series 2011A Bonds, the Authority and the Company shall enter into that certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the initial series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the “*Power Purchase Agreement*”), which Power Purchase Agreement shall, among other things, obligate the Company to develop the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, on their Local Unit Facilities, and combined with the Local Unit License Agreement, provide for the sale of the electricity produced by the Renewable Energy through the Authority to the Series 2011 Local Units, including the Participant, Projects at a fixed price, plus fixed escalation, set forth in the Power Purchase Agreement (the “*PPA Price*”), all as authorized pursuant to N.J.S.A. 40:37A-77 and -78

of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law and N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities.

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE GREEN TOWNSHIP BOARD OF EDUCATION (THE "PARTICIPANT"), IN THE COUNTY OF SUSEX, NEW JERSEY, as follows:**

**Section 1.** The Participant's Renewable Energy Projects and the financing of the Participant's Renewable Energy Projects through the Local Unit License Agreement, the Power Purchase Agreement, the resolutions and agreements in connection with the Series 2011 Bonds, and the other Renewable Energy Program documents, is hereby approved.

**Section 2.** The Superintendent, the Business Administrator, and the Board President (collectively, the "*Authorized Officer*") are hereby each severally authorized and directed to execute or acknowledge, as the case may be, and deliver (i) the Local Unit License Agreement for the Participant and the Power Purchase Agreement to be acknowledged by the Participant, both in substantially the forms attached hereto as Exhibit A, with such changes thereto as the Authorized Officer deems in their sole discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of any changes to the forms. The Authorized Officer is hereby further authorized and directed to execute such other closing certificates (the "*Closing Certificate*") deemed necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of the provisions and form of such Closing Certificate, which shall include without limitation, (x) the PPA Price, including escalation, (y) affirming that the PPA Price is less than the exiting tariff paid by the Participant for electricity, and (z) that Participant has received a copy of the report of the Authority's energy engineering consultant regarding the selection of the Company and the establishment of the PPA Price.

**Section 3.** The Secretary and any Assistant Secretary of the Participant are each hereby severally authorized and directed, upon the execution or acknowledgment of the documents set forth in Section 2 hereof: to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed, when required by the Authority, to thereupon affix the seal of the Participant to such documents.

**Section 4.** Upon the execution or acknowledgment and attestation of and if required, the placing of the seal on the documents set forth in Section 2 hereof as contemplated by Sections 2 and 3 hereof the Authorized Officer is hereby authorized and directed to (i) deliver such fully executed or acknowledged, attested and sealed Local Unit License Agreement of the Participant to the other parties thereto and (ii) perform

such other actions as the Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

**Section 5.** The governing body of the Participant hereby authorizes the performance of any act, the execution or acknowledgment and delivery of any other document, instrument or Closing Certificates, including without limitation any solar renewable energy certificate auction or other applications or documents, which the Authorized Officer deems necessary, desirable or convenient in connection with this contemplated transaction, and the governing body of the Participant hereby directs the Authorized Officer to execute or acknowledge, attest and affix (or cause the attestation or affixation of) the seal to any such documents, instruments or Closing Certificates, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons.

**Section 6.** This resolution shall take effect immediately.

**Section 7.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

**EXHIBIT C**

**[Attach License and Access Agreement]**

See Closing Item #1

**GENERAL CERTIFICATE OF HARDYSTON TOWNSHIP BOARD OF EDUCATION,  
AS SERIES 2011 LOCAL UNIT**

I, JAMES SEKELSKY, the Business Administrator/Board Secretary of Hardyston Township Board of Education (the "*Board of Education*"), a public body corporate and politic organized and existing under the laws of the State of New Jersey ("*State*"), and responsible for the supervision of the public schools located in the Hardyston Township Public School District (the "*School District*"), in the County of Sussex, New Jersey (the "*County*"), and in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*") by The Morris County Improvement Authority (the "*Authority*"), **DO HEREBY CERTIFY** on behalf of the Board of Education as follows:

1. On July 26, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF THE SERIES 2011 HARDYSTON TOWNSHIP BOARD OF EDUCATION IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY" (the "*Local Finance Board Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on July 26, 2011, and at which a quorum existed and acted throughout.

2. On November 15, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF HARDYSTON TOWNSHIP BOARD OF EDUCATION AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 [FEDERALLY TAXABLE]" (the "*License Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on November 15, 2011, and at which a quorum existed and acted throughout.

3. As of the date hereof, the Local Finance Board Authorizing Resolution, and the License Authorizing Resolution (collectively, the "*Resolutions*") have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect. The officials and/or officers

of the Board of Education that have executed, attested, sealed and delivered the "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Local Unit License Agreement*"), a true and complete copy of which is attached hereto as **Exhibit C**, between the Board of Education and the Authority and this certificate were duly authorized to take such action pursuant to the terms of the Resolutions.

4. The Board of Education is not aware of any litigation, pending or threatened, involving the Board of Education that would materially impair its valid authorization, execution, delivery or performance of and under the Local Unit License Agreement. The Board of Education has full right, power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Local Unit License Agreement, including without limitation the payments to be made by the Board of Education thereunder, and the granting of the Local Unit License by the Board of Education, as such term is defined therein.

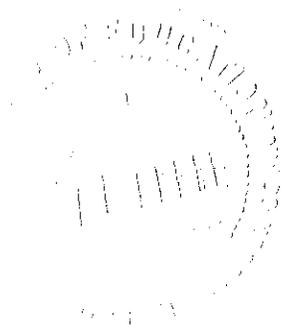
5. The Board of Education has not entered into a third party power purchase agreement for the purchase of electricity at the Local Unit Facility that is the subject of the License Agreement.

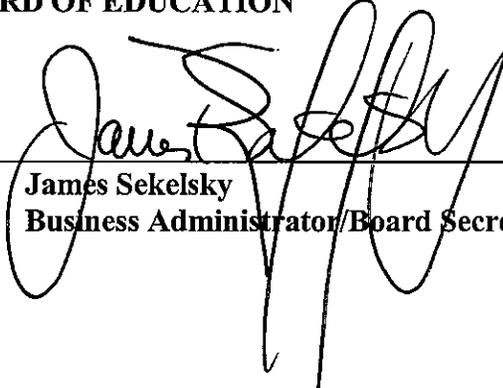
6. The Board of Education hereby delegates to Birdsell Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the Board of Education's rights to review, acknowledge, accept, execute and deliver any Board of Education requisitions, and attachments thereto, applicable to either the Board of Education Renewable Energy Projects or the Board of Education Capital Improvement Projects (the "*Draw Papers*").

7. The Board of Education hereby delegates to Birdsell Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the Board of Education's rights to review, acknowledge, accept, execute and deliver the Board of Education REP Acceptance Certificate applicable to such Board of Education Renewable Energy Projects (the "*REP Acceptance Certificate*").

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the Board of Education this 14th day of December, 2011.

**HARDYSTON TOWNSHIP  
BOARD OF EDUCATION**



By:   
**James Sekelsky**  
**Business Administrator/Board Secretary**

**EXHIBIT A**

**[Attach Local Finance Board Authorizing Resolution]**

# Hardyston Township Board of Education

183 Wheatsworth Road  
Hamburg, New Jersey 07419

The Hardyston Township Board of Education in the County of Sussex, New Jersey convened the regular board meeting on July 26th, 2011 at 7:00 p.m. at the Hardyston Middle School, 183 Wheatsworth Road, Hamburg, NJ 07419. Present: Todd Anderson, Dorothy Beltramine, Ed Blahut, Christine Clavin, Gregg Hoffmann, William Repasy, and Cheryl Whitehead. Absent: Cindy McVey and Randy Roof,

Resolution of the SERIES 2011 HARDYSTON TOWNSHIP BOARD OF EDUCATION IN THE MORRIS County Improvement Authority'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, all in Connection with the AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (county of sussex project) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED.

1. \_\_\_\_\_ Whitehead \_\_\_\_\_

2. \_\_\_\_\_ Hoffmann \_\_\_\_\_

Mr. Todd Anderson	YES	Ms. Dorothy Beltramine	YES
Mr. Ed Blahut	YES	Mr. Gregg Hoffmann	YES
Ms. Cindy McVey	Absent	Mr. Bill Repasy	YES
Ms. Cheryl Whitehead	YES	Mr. Randy Roof	Absent
Ms. Christine Clavin	YES		

**Motion Carried 7-0**

I, James R. Sekelsky, Secretary of the Hardyston Township Board of Education, in the County of Sussex, State of New Jersey, hereby certify that the foregoing extract from the minutes of the Board of Education meeting of said district duly called and held as stated above has been compared by me with the original minutes as officially recorded in my office in the minutes book of said Hardyston Township Board of Education, and is a true and complete copy thereof and of the whole of said original minutes so far as the same relate to the subject matter referred to in said extract in witness I have hereunto set my hand and affixed the corporate seal of said Board of Education this 3rd day of August 2011.

James R. Sekelsky  
Board Secretary

State of New Jersey  
County of Sussex  
Township of Hardyston

**RESOLUTION OF THE SERIES 2011 HARDYSTON TOWNSHIP BOARD OF EDUCATION PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities,

including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A:54(l) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local*

*Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, the governing body of the Series 2011 Local Unit adopting this resolution (the "*Participant*") desires to authorize the Authority and its consultants to submit the Local Finance Board Application on their behalf to finance the proposed Renewable Energy Project(s) for the Participant (the "*Participant Project*") set forth in Schedule A to **Exhibit A** attached hereto (it being understood that the Participant is taking no action in connection with the other Renewable Energy Projects of the other Series 2011 Local Units as set forth on **Schedule A to Exhibit A** hereto and further that a final detailed Participant Project list will be sent to each Series 2011 Local Unit prior to their signing the certificate attached hereto as **Exhibit A**);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

**WHEREAS**, the pricing terms for the purchase of renewable energy generated electricity produced from the Participant Project and sold through the Authority to the Participant, and bought by the Participant at an agreed upon price lower than that presently being paid by the Participant for electricity from its local utility, which pricing terms shall be competitively procured through the Company RFP process and the Company Proposal, shall be established under the Authority's Series 2011 Local Unit Renewable Energy Program for an initial term no greater than 15 years, simultaneously with, or prior to the issuance of the Series 2011 Bonds;

**WHEREAS**, the Participant understands and acknowledges that by taking this official action, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project, and that the Authority is taking several actions in reliance upon such action, including without limitation seeking

the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds; and

**WHEREAS**, the Participant believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Hardyston Township Board Education (participant) as follows:

**Section 1.** The Participant believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**Section 2.** The president, superintendent, and the business administrator of the Participant (including their designees in writing, each an "Authorized Officer") are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Participant Project through the issuance of the Series 2011 Bonds, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the Participant at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

**Section 3.** Upon a date to be selected by the Authority and upon receipt of a finalized Participant Project, but in no event later than the sale date of the Series 2011 Bonds, the Authorized Officers shall deliver to the Authority a fully executed certificate, substantially in the form attached hereto as **Exhibit A**, evidencing the proper officials approval of the substance and scope of the Participant Project.

**Section 4.** The Participant understands and acknowledges that by adopting this resolution, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project through a portion of the proceeds of the Authority's Series 2011 Bonds, and that the Authority is taking several actions in reliance upon this action by the Participant, including without limitation

seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds, all for the benefit of the Participant and the other Series 2011 Local Units. Therefore, the Participant covenants to the Authority that: (i) except for extraordinary circumstances not presently contemplated, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program, so long as the Company Proposal results in a savings to the Participant, and further, this official action authorizes the Authority to take all such actions contemplated above in order to develop the Participant Project and to provide the Participant with such savings and (ii) prior to the sale of the Series 2011 Bonds, the Series 2011 Local Unit shall (a), if the Participant is a board of education, obtain any and all approvals from the State Department of Education with respect to the Participant Project, and (b) adopt a resolution authorizing, among other things, the Series 2011 Local Unit to enter into that certain "License and Access Agreement (Morris County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds in such form as shall be presented to the Series 2011 Local Unit prior to adoption of the supplemental resolution (the "Local Unit License Agreement").

**Section 5.** The Authorized Officer shall direct the Participant official in charge of the officially adopted resolutions of the governing body of the Participant to (a) prepare an official, certified copy of this resolution, as adopted, and (b) deliver such certified copy in accordance with Section 10 below. Further, the Participant hereby consents to such certified copy of the resolution, and any further information regarding the Participant and/or the Participant Project, as the Authorized Officer shall determine to be necessary, desirable or convenient in connection with the Local Finance Board Application, to be submitted as part of, or pursuant to the Local Finance Board Application.

**Section 6.** The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Participant Project, producing the contemplated energy savings for the Participant, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Series 2011 Local Units.

**Section 7.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Participant Project and record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

**Section 8.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 9.** All actions of the Authorized Officers or Participant consultants taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Participant Project or any of the foregoing transactions contemplated by this resolution, are hereby ratified and approved.

**Section 10.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

**Section 11.** This resolution shall take effect immediately.

[remainder of this page left intentionally blank]

**Exhibit A**

[See Closing Item No. 44]

**EXHIBIT B**

**[Attach License Authorizing Resolution]**

# Hardyston Township Board of Education

183 Wheatsworth Road  
Hamburg, New Jersey 07419

The Hardyston Township Board of Education in the County of Sussex, New Jersey convened the special board meeting on November 15th, 2011 at 7:00 p.m. at the Hardyston Middle School, 183 Wheatsworth Road, Hamburg, NJ 07419. Present: Todd Anderson, Dorothy Beltramine, Ed Blahut, Christine Clavin, Gregg Hoffmann, William Repasy, and Randy Roof. Absent: Cindy McVey and Cheryl Whitehead.

## RESOLUTION OF HARDYSTON TOWNSHIP BOARD OF EDUCATION AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE)

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Uniform Shared Services and Consolidation Act (as amended and supplemented from time to time, the "*Shared Services Act*") and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the first series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit, including the Participant, that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for a term of fifteen (15) years on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the municipality/County Series 2011 Local Unit) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the board of education Series 2011 Local Units);

**WHEREAS**, pursuant to (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, (v) all other applicable law, and (vi) pursuant to a competitive contracting process governed thereby, the Authority selected Sunlight

General Sussex Solar, LLC, as solar developer (the "*Company*") to implement the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, at the Local Unit Facilities; and

**WHEREAS**, upon or prior to the issuance of the Series 2011A Bonds, the Authority and the Company shall enter into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the initial series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*"), which Power Purchase Agreement shall, among other things, obligate the Company to develop the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, on their Local Unit Facilities, and combined with the Local Unit License Agreement, provide for the sale of the electricity produced by the Renewable Energy through the Authority to the Series 2011 Local Units, including the Participant, Projects at a fixed price, plus fixed escalation, set forth in the Power Purchase Agreement (the "*PPA Price*"), all as authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law and N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities.

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE HARDYSTON TOWNSHIP BOARD OF EDUCATION (THE "PARTICIPANT"), IN THE COUNTY OF SUSEX, NEW JERSEY, as follows:**

**Section 1.** The Participant's Renewable Energy Projects and the financing of the Participant's Renewable Energy Projects through the Local Unit License Agreement, the Power Purchase Agreement, the resolutions and agreements in connection with the Series 2011 Bonds, and the other Renewable Energy Program documents, is hereby approved.

**Section 2.** The President, the Chief School Administrator, and the Business Administrator (collectively, the "*Authorized Officer*") are hereby each severally authorized and directed to execute or acknowledge, as the case may be, and deliver (i) the Local Unit License Agreement for the Participant and the Power Purchase Agreement to be acknowledged by the Participant, both in substantially the forms attached hereto as Exhibit A, with such changes thereto as the Authorized Officer deems in their sole discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of any changes to the forms. The Authorized Officer is hereby further authorized and directed to execute such other closing certificates (the "*Closing Certificate*") deemed necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of the provisions and form of such Closing Certificate, which shall include without limitation, (x) the PPA Price, including escalation, (y) affirming that the PPA Price is less than the exiting tariff paid by the Participant for electricity, and (z) that Participant has received a copy of the report of the Authority's energy engineering consultant regarding the selection of the Company and the establishment of the PPA Price.

**Section 3.** The Secretary and any Assistant Secretary of the Participant are each hereby severally authorized and directed, upon the execution or acknowledgment of the documents set forth in Section 2 hereof: to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed, when required by the Authority, to thereupon affix the seal of the Participant to such documents.

**Section 4.** Upon the execution or acknowledgment and attestation of and if required, the placing of the seal on the documents set forth in Section 2 hereof as contemplated by Sections 2 and 3 hereof the Authorized Officer is hereby authorized and directed to (i) deliver such fully executed or acknowledged, attested and sealed Local Unit License Agreement of the Participant to the other parties thereto and (ii) perform such other actions as the Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

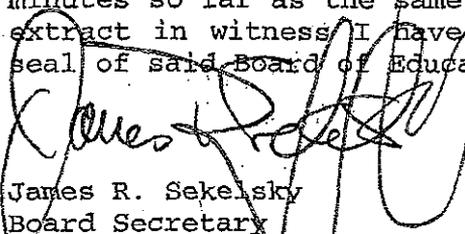
**Section 5.** The governing body of the Participant hereby authorizes the performance of any act, the execution or acknowledgment and delivery of any other document, instrument or Closing Certificates, including without limitation any solar renewable energy certificate auction or other applications or documents, which the Authorized Officer deems necessary, desirable or convenient in connection with this contemplated transaction, and the governing body of the Participant hereby directs the Authorized Officer. to execute or acknowledge, attest and affix (or cause the attestation or affixation of) the seal to any such documents, instruments or Closing Certificates, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons.

**Section 6.** This resolution shall take effect immediately.

**Section 7.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

1. _____ Clavin _____	2. _____ Roof _____		
Mr. Todd Anderson	YES	Ms. Dorothy Beltramine	YES
Mr. Ed Blahut	YES	Mr. Gregg Hoffmann	YES
Ms. Cindy McVey	Absent	Mr. Bill Repasy	YES
Ms. Cheryl Whitehead	Absent	Mr. Randy Roof	YES
Ms. Christine Clavin	YES	<b>Motion Carried 7-0</b>	

I, James R. Sekelsky, Secretary of the Hardyston Township Board of Education, in the County of Sussex, State of New Jersey, hereby certify that the foregoing extract from the minutes of the Board of Education meeting of said district duly called and held as stated above has been compared by me with the original minutes as officially recorded in my office in the minutes book of said Hardyston Township Board of Education, and is a true and complete copy thereof and of the whole of said original minutes so far as the same relate to the subject matter referred to in said extract in witness I have hereunto set my hand and affixed the corporate seal of said Board of Education this 16th day of November 2011.

  
James R. Sekelsky  
Board Secretary

State of New Jersey  
County of Sussex  
Township of Hardyston

**EXHIBIT C**

**[Attach License and Access Agreement]**

See Closing Item #1

**GENERAL CERTIFICATE OF HIGH POINT REGIONAL HIGH SCHOOL DISTRICT  
BOARD OF EDUCATION, AS SERIES 2011 LOCAL UNIT**

I, LINDA A. ALVAREZ, the Business Administrator/Board Secretary of the High Point Regional High School District Board of Education (the "*Board of Education*"), a public body corporate and politic organized and existing under the laws of the State of New Jersey ("*State*") and responsible for the supervision of the public schools located in the High Point Regional High School District (the "*School District*"), in the County of Sussex, New Jersey (the "*County*"), and in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*") and together with the Series 2011A Bonds, the "Series 2011 Bonds") by The Morris County Improvement Authority (the "*Authority*"), **DO HEREBY CERTIFY** on behalf of the Board of Education as follows:

1. On July 18, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY" (the "*Local Finance Board Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on July 18, 2011, and at which a quorum existed and acted throughout.

2. On November 21, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF HIGH POINT REGIONAL HIGH SCHOOL AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 [FEDERALLY TAXABLE]" (the "*License Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on November 21, 2011 and at which a quorum existed and acted throughout.

3. As of the date hereof, the Local Finance Board Authorizing Resolution, and the License Authorizing Resolution (collectively, the “*Resolutions*”) have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect. The officials and/or officers of the Board of Education that have executed, attested, sealed and delivered the “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “*Local Unit License Agreement*”), a true and complete copy of which is attached hereto as **Exhibit B**, between the Board of Education and the Authority and this certificate were duly authorized to take such action pursuant to the terms of the Resolutions.

4. The Board of Education has not entered into a third party power purchase agreement for the purchase of electricity at the Local Unit Facility that is the subject of the License Agreement.

5. The Board of Education is not aware of any litigation, pending or threatened, involving the Board of Education that would materially impair its valid authorization, execution, delivery or performance of and under the Local Unit License Agreement. The Board of Education has full right, power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Local Unit License Agreement, including without limitation the payments to be made by the Board of Education thereunder, and the granting of the Local Unit License by the Board of Education, as such term is defined therein.

6. The Board of Education hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the “*Consulting Energy Engineer*”) the Township’s rights to review, acknowledge, accept, execute and deliver any Board of Education requisitions, and attachments thereto, applicable to either the Board of Education Renewable Energy Projects or the Board of Education Capital Improvement Projects (the “*Draw Papers*”).

7. The Board of Education hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the “*Consulting Energy Engineer*”) the Board of Education’s rights to review, acknowledge, accept, execute and deliver the Board of Education REP Acceptance Certificate applicable to such Board of Education Renewable Energy Projects (the “*REP Acceptance Certificate*”).

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the Board of Education this 14th day of December, 2011.

**HIGH POINT REGIONAL HIGH SCHOOL  
DISTRICT BOARD OF EDUCATION**

By:   
**Linda A. Alvarez**  
**Business Administrator/Board Secretary**

**EXHIBIT A**

**[Attach Local Finance Board Authorizing Resolution]**

A MEETING OF THE BOARD OF EDUCATION  
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The Local Unit understands that any changes desired by the Local Unit to the Local Unit Facility and Renewable Energy Project from that set forth on Schedule A to this certificate (i) are the responsibility of the Local Unit to inform the Authority and its consultants, and (ii) may or may not be accepted by the Authority, depending on the timing of any such proposed change. The Local Unit may contact County Administrator and Authority Chairman, John Bonanni, (973) 285-6047, [jbbonanni@co.morris.nj.us](mailto:jbbonanni@co.morris.nj.us), the Sussex County Administrator, John Eskilson, (973) 579-0250, [jeskilson@sussex.nj.us](mailto:jeskilson@sussex.nj.us), or the Authority's engineering consultant for the Program, Daniel Swayze of Birdsall Services Group, Inc. at (908) 497-8900, [dswayze@birdsall.com](mailto:dswayze@birdsall.com), with any subsequent changes. To the extent the Company proposes other changes acceptable to the Authority, the Authority shall seek the consent of the Local Unit.

3. It is recommended that the Board adopt the following resolution authorizing the Morris County Improvement Authority to apply to the local finance board for the necessary consents and approvals on behalf of the High Point Regional High School:

**RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with

its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy-related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and

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(iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A:54(l) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, the governing body of the Series 2011 Local Unit adopting this resolution (the "*Participant*") desires to authorize the Authority and its consultants to submit the Local Finance Board Application on their behalf to finance the proposed Renewable Energy Project(s) for the Participant (the "*Participant Project*") set forth in Schedule A to **Exhibit A** attached hereto (it being understood that the Participant is taking no action in connection with the other Renewable Energy Projects of the other Series 2011 Local Units as set forth on **Schedule A to Exhibit A** hereto and further that a final detailed Participant Project list will be sent to each Series 2011 Local Unit prior to their signing the certificate attached hereto as Exhibit A);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable;

**WHEREAS**, the pricing terms for the purchase of renewable energy generated electricity produced from the Participant Project and sold through the Authority to the Participant, and bought by the Participant at an agreed upon price lower than that presently being paid by the Participant for electricity from its local utility, which pricing terms shall be competitively procured through the Company RFP process and the Company Proposal, shall be established under the Authority's Series 2011 Local Unit Renewable Energy Program for an initial term no greater than 15 years, simultaneously with, or prior to the issuance of the Series 2011 Bonds;

**WHEREAS**, the Participant understands and acknowledges that by taking this official action, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project, and that the Authority is taking several actions in reliance upon such action, including without limitation seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding

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with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds; and

**WHEREAS**, the Participant believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Participant as follows:

**Section 1.** The Participant believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**Section 2.** The Superintendent or the Business Administrator of the Participant (including their designees in writing, each an "Authorized Officer") are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Participant Project through the issuance of the Series 2011 Bonds, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the Participant at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

**Section 3.** Upon a date to be selected by the Authority and upon receipt of a finalized Participant Project, but in no event later than the sale date of the Series 2011 Bonds, the Authorized Officers shall deliver to the Authority a fully executed certificate, substantially in the form attached hereto as **Exhibit A**, evidencing the proper officials approval of the substance and scope of the Participant Project.

**Section 4.** The Participant understands and acknowledges that by adopting this resolution, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project through a portion of the proceeds of the Authority's Series 2011 Bonds, and that the Authority is taking several actions in reliance upon this action by the Participant, including without limitation seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds, all for the benefit of the Participant and the other Series 2011 Local Units. Therefore, the Participant covenants to the Authority that: (i) except for extraordinary circumstances not presently contemplated, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program, so long as the Company Proposal results in a savings to the Participant, and further, this official action authorizes the Authority to take all such actions contemplated above in order to develop the Participant Project and to provide the Participant with such savings and (ii) prior to the sale of the Series 2011 Bonds, the Series 2011 Local Unit shall (a), if the Participant is a board of education, obtain any and all approvals from the State Department of Education with respect to the Participant Project, and (b) adopt a resolution authorizing, among other things, the Series 2011 Local Unit to enter into that certain "License and Access Agreement (Morris County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds in such form as shall be presented to the Series 2011 Local Unit prior to adoption of the supplemental resolution (the "Local Unit License Agreement").

**Section 5.** The Authorized Officer shall direct the Participant official in charge of the officially adopted resolutions of the governing body of the Participant to (a) prepare an official, certified copy of this resolution, as adopted, and (b) deliver such certified copy in accordance with Section 10 below. Further, the Participant hereby consents to such certified copy of the resolution, and any further information regarding the Participant and/or the Participant Project, as the Authorized Officer shall determine to be necessary, desirable or convenient in connection with the Local Finance Board Application, to be submitted as part of, or pursuant to the Local Finance Board Application.

**Section 6.** The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Participant Project, producing the contemplated energy savings for the Participant, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Series 2011 Local Units.

**Section 7.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Participant Project and record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

**Section 8.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 9.** All actions of the Authorized Officers or Participant consultants taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Participant Project or any of the foregoing transactions contemplated by this resolution, are hereby ratified and approved.

**Section 10.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

The motions unanimously carried by a voice vote.

AYES:	Mr. Walter Stumpf Jr.	Mrs. Pamela Flynn	Mr. Charles Musilli, III
	Mr. Thomas Case	Mr. Joseph Hoffmann	Mr. Edward Vander Berg
	Mr. Paul Derin		

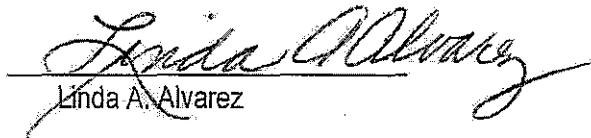
NOES: None

State of New Jersey }  
County of Sussex }                      SS:

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I, Linda A. Alvarez, Secretary of the High Point Regional High School Board of Education in the County of Sussex, State of New Jersey, hereby certify that the foregoing extract from the minutes of the meeting of said district duly called and held on July 18, 2011 has been compared by me with the original minutes as officially recorded in my office in the minute book of said High Point Regional High School Board of Education and is a true, complete copy thereof and of the whole of said original minutes so far as the same relate to the subject matter referred to in said extract in witness I have hereunto set my hand and affixed the corporate seal of said Board of Education this the 29<sup>th</sup> day of July 2011.

(AFFIX SEAL)

  
Linda A. Alvarez

**Exhibit A**

[See Closing Item No. 44]

**EXHIBIT B**

**[Attach License Authorizing Resolution]**

THE MINUTES OF  
A MEETING OF THE BOARD OF EDUCATION  
OF HIGH POINT REGIONAL HIGH SCHOOL DISTRICT  
SUSSEX COUNTY, N. J. AS RECORDED  
IN THE OFFICIAL MINUTE BOOK

The Special Meeting of the Board of Education of the High Point Regional High School District was held on Monday, November 21, 2011 at 7:05 P.M. at the High Point Regional High School Board Cafeteria on Pidgeon Hill Road, Wantage, New Jersey.

**MEMBERS PRESENT** Mr. Walter Stumpf Jr, President  
Mr. Thomas Case  
Mrs. Pamela Flynn  
Mr. Joseph Hoffmann  
Mr. Charles Musilli, III  
Mr. Kenneth Nelson (left at 7:40 pm)  
Mr. Charlie Rolon, Jr.  
Mr. Edward Vander Berg

**MEMBERS ABSENT** Mr. Paul Derin

**Also Present:** Dr. John W. Hannum, Superintendent; Ms. Linda A. Alvarez, Business Administrator/ Board Secretary; and members of the public and High Point staff members.

A motion was made by Mr. Vander Berg, duly seconded by Mr. Rolon, that the Board approve the following resolutions:

RESOLVED, that the Board approve the resolution of High Point Regional High School authorizing the execution or acknowledgment and delivery of certain agreements and certain other actions to be taken all in connection with the Morris County Improvement Authority's County of Sussex guaranteed renewable energy program lease revenue bonds (County of Sussex Program), series 2011 (Federally Taxable). (Attachment F-4)

The motion unanimously carried by a voice vote.

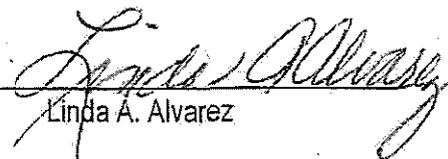
AYES:	Mr. Walter Stumpf Jr.	Mr. Joseph Hoffmann	Mr. Charlie Rolon
	Mr. Thomas Case	Mr. Musilli, III	Mr. Edward Vander Berg
	Mrs. Pamela Flynn		

NOES: None

State of: New Jersey }  
County of Sussex } SS:

I, Linda A. Alvarez, Secretary of the High Point Regional High School Board of Education in the County of Sussex, State of New Jersey, hereby certify that the foregoing extract from the minutes of the meeting of said district duly called and held on November 21, 2011 has been compared by me with the original minutes as officially recorded in my office in the minute book of said High Point Regional High School Board of Education and is a true, complete copy thereof and of the whole of said original minutes so far as the same relate to the subject matter referred to in said extract in witness I have hereunto set my hand and affixed the corporate seal of said Board of Education this the 22<sup>nd</sup> day of November 2011.

(AFFIX SEAL)

  
Linda A. Alvarez

**EXHIBIT C**

**[Attach License and Access Agreement]**

See Closing Item #1

**GENERAL CERTIFICATE OF KITTATINNY REGIONAL BOARD OF EDUCATION, AS  
SERIES 2011 LOCAL UNIT**

I, KATHLEEN KANE, the Business Administrator/Board Secretary of the Kittatinny Regional Board of Education (the "*Board of Education*"), a public body corporate and politic organized and existing under the laws of the State of New Jersey ("*State*") and responsible for the supervision of the public schools located in the Kittatinny Regional School District (the "*School District*"), in the County of Sussex, New Jersey (the "*County*"), and in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*") by The Morris County Improvement Authority (the "*Authority*"), **DO HEREBY CERTIFY** on behalf of the Board of Education as follows:

1. On July 21, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY" (the "*Local Finance Board Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on July 21, 2011, and at which a quorum existed and acted throughout.

2. On November 17, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF KITTATINNY REGIONAL BOARD OF EDUCATION AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROJECT), SERIES 2011 [FEDERALLY TAXABLE]" (the "*License Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on November 17, 2011, and at which a quorum existed and acted throughout.

3. As of the date hereof, the Local Finance Board Authorizing Resolution, and the License Authorizing Resolution (collectively, the "*Resolutions*") have not been altered, amended,

supplemented or repealed, and, as such, remain in full force and effect. The officials and/or officers of the Board of Education that have executed, attested, sealed and delivered the "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Local Unit License Agreement*"), a true and complete copy of which is attached hereto as **Exhibit C**, between the Board of Education and the Authority and this certificate were duly authorized to take such action pursuant to the terms of the Resolutions.

4. The Board of Education has not entered into a third party power purchase agreement for the purchase of electricity at the Local Unit Facility that is the subject of the License Agreement.

5. The Board of Education is not aware of any litigation, pending or threatened, involving the Board of Education that would materially impair its valid authorization, execution, delivery or performance of and under the Local Unit License Agreement. The Board of Education has full right, power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Local Unit License Agreement, including without limitation the payments to be made by the Board of Education thereunder, and the granting of the Local Unit License by the Board of Education, as such term is defined therein.

6. The Board of Education hereby delegates to Birdsell Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the Township's rights to review, acknowledge, accept, execute and deliver any Board of Education requisitions, and attachments thereto, applicable to either the Board of Education Renewable Energy Projects or the Board of Education Capital Improvement Projects (the "*Draw Papers*").

7. The Board of Education hereby delegates to Birdsell Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the Board of Education's rights to review, acknowledge, accept, execute and deliver the Board of Education REP Acceptance Certificate applicable to such Board of Education Renewable Energy Projects (the "*REP Acceptance Certificate*").

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the Board of Education this 14th day of December, 2011.

**KITTATINNY REGIONAL  
BOARD OF EDUCATION**

By:   
**Kathleen Kane**  
**Business Administrator/Board Secretary**

**EXHIBIT A**

**[Attach Local Finance Board Authorizing Resolution]**

**EXTRACT FROM THE MINUTES OF  
A MEETING OF THE BOARD OF EDUCATION  
OF KITTATINNY REGIONAL HIGH SCHOOL DISTRICT  
SUSSEX COUNTY, N. J. AS RECORDED  
IN THE OFFICIAL MINUTE BOOK**

The Board of Education of Kittatinny Regional High School District in the County of Sussex, New Jersey, convened in the Regular Meeting on Thursday, November 17, 2011 at 7:00 p.m. in the Library at Kittatinny Regional High School.

The following members of the Board of Education were present:

Members present:	Mr. James Hunt, President	Mr. David Ormesher, Vice President
	Mrs. Judy Youngs	Mr. Robert Greene
	Mr. Anthony Norod	Ms. Eleanore Shaffer
	Mrs. Barbara Andrews	Mr. John Tracey

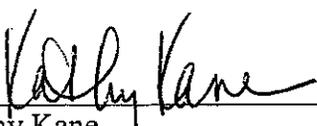
Members Absent: None

A motion was made by Ms. Shaffer, seconded by Mrs. Andrews and carried by a majority vote with Mr. Tracey voting no to approve the attached resolution authorizing the execution or acknowledgment and delivery of certain agreements and certain other actions to be taken all in connection with the Morris County Improvement Authority's County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds (County of Sussex Program), Series 2011 (Federally Taxable), and to authorize the Board President, Superintendent and Board Secretary to execute any and all documents addressed in the resolution, subject to finalizing the insurance and indemnification language set forth in Article VIII of the agreement and after review by the Board Attorney. (Attachment B&G-1)

State of New Jersey)  
)  
County of Sussex )

I, Kathy Kane, Interim Business Administrator/Board Secretary to the Board of Education of the Kittatinny Regional High School in the County of Sussex, State of New Jersey, hereby certify that the foregoing extract from the minutes of the meeting of the Board of Education of said district duly called and held on Thursday, November 17, 2011 has been compared by me with the original minutes as officially recorded in my office in the minute book of said Kittatinny Regional High School Board of Education and is true, complete copy thereof and of the whole of said original minutes so far as the same relate to the subject matter referred to in said extract. In witness I have hereunto set my hand and affixed the corporate seal of said Board of Education this thirteenth day of December 2011.

SEAL

  
\_\_\_\_\_  
Kathy Kane  
Business Administrator/Board Secretary

**RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities,

including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the “*Municipal Series 2011 Local Units*”); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the “*Board of Education Series 2011 Local Units*”); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the “*County Series 2011 Local Units*”);

(each a “*Series 2011 Local Unit*”, and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the “*Series 2011 Local Units*”), through the issuance by the Authority of one or more series of bonds and notes entitled “County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)” dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the “*Series 2011 Bonds*”);

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A:54(1) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the “*Local*”

*Finance Board Application*”) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the “*Local Finance Board*”) in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, the governing body of the Series 2011 Local Unit adopting this resolution (the “*Participant*”) desires to authorize the Authority and its consultants to submit the Local Finance Board Application on their behalf to finance the proposed Renewable Energy Project(s) for the Participant (the “*Participant Project*”) set forth in Schedule A to **Exhibit A** attached hereto (it being understood that the Participant is taking no action in connection with the other Renewable Energy Projects of the other Series 2011 Local Units as set forth on **Schedule A to Exhibit A** hereto and further that a final detailed Participant Project list will be sent to each Series 2011 Local Unit prior to their signing the certificate attached hereto as Exhibit A);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities (“*BPU*”) protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the “*Company RFP*”) and the receipt of proposals from prospective solar developers, including that (the “*Company Proposal*”) of the successful respondent (the “*Company*”), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

**WHEREAS**, the pricing terms for the purchase of renewable energy generated electricity produced from the Participant Project and sold through the Authority to the Participant, and bought by the Participant at an agreed upon price lower than that presently being paid by the Participant for electricity from its local utility, which pricing terms shall be competitively procured through the Company RFP process and the Company Proposal, shall be established under the Authority’s Series 2011 Local Unit Renewable Energy Program for an initial term no greater than 15 years, simultaneously with, or prior to the issuance of the Series 2011 Bonds;

**WHEREAS**, the Participant understands and acknowledges that by taking this official action, the Participant intends to participate in the Authority’s Series 2011 Local Unit Renewable Energy Program to fund the Participant Project, and that the Authority is taking several actions in reliance upon such action, including without limitation seeking

the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds; and

**WHEREAS**, the Participant believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Participant as follows:

**Section 1.** The Participant believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**Section 2.** The Superintendent, Business Administrator and the Board President of the Participant (including their designees in writing, each an "Authorized Officer") are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Participant Project through the issuance of the Series 2011 Bonds, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the Participant at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

**Section 3.** Upon a date to be selected by the Authority and upon receipt of a finalized Participant Project, but in no event later than the sale date of the Series 2011 Bonds, the Authorized Officers shall deliver to the Authority a fully executed certificate, substantially in the form attached hereto as **Exhibit A**, evidencing the proper officials approval of the substance and scope of the Participant Project.

**Section 4.** The Participant understands and acknowledges that by adopting this resolution, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project through a portion of the proceeds of the Authority's Series 2011 Bonds, and that the Authority is taking several actions in reliance upon this action by the Participant, including without limitation

seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds, all for the benefit of the Participant and the other Series 2011 Local Units. Therefore, the Participant covenants to the Authority that: (i) except for extraordinary circumstances not presently contemplated, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program, so long as the Company Proposal results in a savings to the Participant, and further, this official action authorizes the Authority to take all such actions contemplated above in order to develop the Participant Project and to provide the Participant with such savings and (ii) prior to the sale of the Series 2011 Bonds, the Series 2011 Local Unit shall (a), if the Participant is a board of education, obtain any and all approvals from the State Department of Education with respect to the Participant Project, and (b) adopt a resolution authorizing, among other things, the Series 2011 Local Unit to enter into that certain "License and Access Agreement (Morris County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds in such form as shall be presented to the Series 2011 Local Unit prior to adoption of the supplemental resolution (the "Local Unit License Agreement").

**Section 5.** The Authorized Officer shall direct the Participant official in charge of the officially adopted resolutions of the governing body of the Participant to (a) prepare an official, certified copy of this resolution, as adopted, and (b) deliver such certified copy in accordance with Section 10 below. Further, the Participant hereby consents to such certified copy of the resolution, and any further information regarding the Participant and/or the Participant Project, as the Authorized Officer shall determine to be necessary, desirable or convenient in connection with the Local Finance Board Application, to be submitted as part of, or pursuant to the Local Finance Board Application.

**Section 6.** The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Participant Project, producing the contemplated energy savings for the Participant, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Series 2011 Local Units.

**Section 7.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Participant Project and record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

**Section 8.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 9.** All actions of the Authorized Officers or Participant consultants taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Participant Project or any of the foregoing transactions contemplated by this resolution, are hereby ratified and approved.

**Section 10.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

**Section 11.** This resolution shall take effect immediately.

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**Exhibit A**

[See Closing Item No. 44]

**EXHIBIT B**

**[Attach License Authorizing Resolution]**

**EXTRACT FROM THE MINUTES OF  
A MEETING OF THE BOARD OF EDUCATION  
OF KITTATINNY REGIONAL HIGH SCHOOL DISTRICT  
SUSSEX COUNTY, N. J. AS RECORDED  
IN THE OFFICIAL MINUTE BOOK**

The Board of Education of Kittatinny Regional High School District in the County of Sussex, New Jersey, convened in the Regular Meeting on Thursday, November 17, 2011 at 7:00 p.m. in the Library at Kittatinny Regional High School.

The following members of the Board of Education were present:

Members present:	Mr. James Hunt, President	Mr. David Ormesher, Vice President
	Mrs. Judy Youngs	Mr. Robert Greene
	Mr. Anthony Norod	Ms. Eleanore Shaffer
	Mrs. Barbara Andrews	Mr. John Tracey

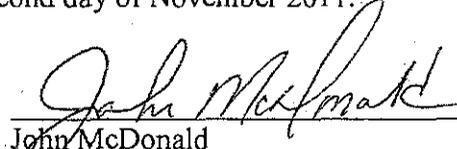
Members Absent: None

A motion was made by Ms. Shaffer, seconded by Mrs. Andrews and carried by a majority vote with Mr. Tracey voting no to approve the attached resolution authorizing the execution or acknowledgment and delivery of certain agreements and certain other actions to be taken all in connection with the Morris County Improvement Authority's County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds (County of Sussex Program), Series 2011 (Federally Taxable), and to authorize the Board President, Superintendent and Board Secretary to execute any and all documents addressed in the resolution, subject to finalizing the insurance and indemnification language set forth in Article VIII of the agreement and after review by the Board Attorney. (Attachment B&G-1)

State of New Jersey)  
)  
County of Sussex )

I, John McDonald, Interim Business Administrator/Board Secretary to the Board of Education of the Kittatinny Regional High School in the County of Sussex, State of New Jersey, hereby certify that the foregoing extract from the minutes of the meeting of the Board of Education of said district duly called and held on Thursday, November 17, 2011 has been compared by me with the original minutes as officially recorded in my office in the minute book of said Kittatinny Regional High School Board of Education and is true, complete copy thereof and of the whole of said original minutes so far as the same relate to the subject matter referred to in said extract. In witness I have hereunto set my hand and affixed the corporate seal of said Board of Education this twenty second day of November 2011.

SEAL

  
\_\_\_\_\_  
John McDonald  
Interim Business Administrator/Board Secretary

**EXHIBIT C**

**[Attach License and Access Agreement]**

See Closing Item #1

**GENERAL CERTIFICATE OF NEWTON BOARD OF EDUCATION, AS SERIES 2011  
LOCAL UNIT**

I, DONNA C. SNYDER, the Business Administrator/Board Secretary of the Newton Board of Education (the "*Board of Education*"), a public body corporate and politic organized and existing under the laws of the State of New Jersey ("*State*") and responsible for the supervision of the public schools located in the Newton Public School District (the "*School District*"), in the County of Sussex, New Jersey (the "*County*"), and in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds") by The Morris County Improvement Authority (the "*Authority*"), **DO HEREBY CERTIFY** on behalf of the Board of Education as follows:

1. On July 26, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY" (the "*Local Finance Board Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on July 26, 2011, and at which a quorum existed and acted throughout.

2. On November 8, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF NEWTON BOARD OF EDUCATION AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROJECT), SERIES 2011 [FEDERALLY TAXABLE]" (the "*License Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on November 8, 2011, and at which a quorum existed and acted throughout.

3. As of the date hereof, the Local Finance Board Authorizing Resolution, and the License Authorizing Resolution (collectively, the "*Resolutions*") have not been altered, amended,

supplemented or repealed, and, as such, remain in full force and effect. The officials and/or officers of the Board of Education that have executed, attested, sealed and delivered the "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Local Unit License Agreement*"), a true and complete copy of which is attached hereto as **Exhibit C**, between the Board of Education and the Authority and this certificate were duly authorized to take such action pursuant to the terms of the Resolutions.

4. The Board of Education has not entered into a third party power purchase agreement for the purchase of electricity at the Local Unit Facility that is the subject of the License Agreement.

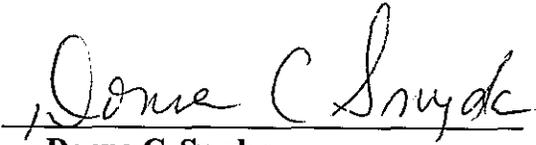
5. The Board of Education is not aware of any litigation, pending or threatened, involving the Board of Education that would materially impair its valid authorization, execution, delivery or performance of and under the Local Unit License Agreement. The Board of Education has full right, power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Local Unit License Agreement, including without limitation the payments to be made by the Board of Education thereunder, and the granting of the Local Unit License by the Board of Education, as such term is defined therein.

6. The Board of Education hereby delegates to Birdsell Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the Township's rights to review, acknowledge, accept, execute and deliver any Board of Education requisitions, and attachments thereto, applicable to either the Board of Education Renewable Energy Projects or the Board of Education Capital Improvement Projects (the "*Draw Papers*").

7. The Board of Education hereby delegates to Birdsell Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the Board of Education's rights to review, acknowledge, accept, execute and deliver the Board of Education REP Acceptance Certificate applicable to such Board of Education Renewable Energy Projects (the "*REP Acceptance Certificate*").

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Board of Education this 14th day of December, 2011.

**NEWTON BOARD OF EDUCATION**

By:   
**Donna C. Snyder**  
**Business Administrator/Board Secretary**

**EXHIBIT A**

**[Attach Local Finance Board Authorizing Resolution]**

**RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (COUNTY OF SUSSEX PROJECT) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY**

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

WHEREAS, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities,

including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A:54(l) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local*

*Finance Board Application*) to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs;

**WHEREAS**, the governing body of the Series 2011 Local Unit adopting this resolution (the "*Participant*") desires to authorize the Authority and its consultants to submit the Local Finance Board Application on their behalf to finance the proposed Renewable Energy Project(s) for the Participant (the "*Participant Project*") set forth in Schedule A to Exhibit A attached hereto (it being understood that the Participant is taking no action in connection with the other Renewable Energy Projects of the other Series 2011 Local Units as set forth on Schedule A to Exhibit A hereto and further that a final detailed Participant Project list will be sent to each Series 2011 Local Unit prior to their signing the certificate attached hereto as Exhibit A);

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

**WHEREAS**, the pricing terms for the purchase of renewable energy generated electricity produced from the Participant Project and sold through the Authority to the Participant, and bought by the Participant at an agreed upon price lower than that presently being paid by the Participant for electricity from its local utility, which pricing terms shall be competitively procured through the Company RFP process and the Company Proposal, shall be established under the Authority's Series 2011 Local Unit Renewable Energy Program for an initial term no greater than 15 years, simultaneously with, or prior to the issuance of the Series 2011 Bonds;

**WHEREAS**, the Participant understands and acknowledges that by taking this official action, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project, and that the Authority is taking several actions in reliance upon such action, including without limitation seeking

the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds; and

**WHEREAS**, the Participant believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Participant as follows:

**Section 1.** The Participant believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**Section 2.** The SBA/BS, Superintendent, and the \_\_\_\_\_ of the Participant (including their designees in writing, each an "Authorized Officer") are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Participant Project through the issuance of the Series 2011 Bonds, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the Participant at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

**Section 3.** Upon a date to be selected by the Authority and upon receipt of a finalized Participant Project, but in no event later than the sale date of the Series 2011 Bonds, the Authorized Officers shall deliver to the Authority a fully executed certificate, substantially in the form attached hereto as **Exhibit A**, evidencing the proper officials approval of the substance and scope of the Participant Project.

**Section 4.** The Participant understands and acknowledges that by adopting this resolution, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project through a portion of the proceeds of the Authority's Series 2011 Bonds, and that the Authority is taking several actions in reliance upon this action by the Participant, including without limitation

seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds, all for the benefit of the Participant and the other Series 2011 Local Units. Therefore, the Participant covenants to the Authority that: (i) except for extraordinary circumstances not presently contemplated, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program, so long as the Company Proposal results in a savings to the Participant, and further, this official action authorizes the Authority to take all such actions contemplated above in order to develop the Participant Project and to provide the Participant with such savings and (ii) prior to the sale of the Series 2011 Bonds, the Series 2011 Local Unit shall (a), if the Participant is a board of education, obtain any and all approvals from the State Department of Education with respect to the Participant Project, and (b) adopt a resolution authorizing, among other things, the Series 2011 Local Unit to enter into that certain "License and Access Agreement (Morris County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds in such form as shall be presented to the Series 2011 Local Unit prior to adoption of the supplemental resolution (the "Local Unit License Agreement").

**Section 5.** The Authorized Officer shall direct the Participant official in charge of the officially adopted resolutions of the governing body of the Participant to (a) prepare an official, certified copy of this resolution, as adopted, and (b) deliver such certified copy in accordance with Section 10 below. Further, the Participant hereby consents to such certified copy of the resolution, and any further information regarding the Participant and/or the Participant Project, as the Authorized Officer shall determine to be necessary, desirable or convenient in connection with the Local Finance Board Application, to be submitted as part of, or pursuant to the Local Finance Board Application.

**Section 6.** The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Participant Project, producing the contemplated energy savings for the Participant, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Series 2011 Local Units.

**Section 7.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Participant Project and record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

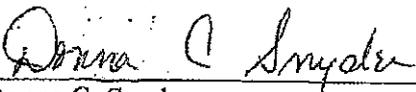
**Section 8.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 9.** All actions of the Authorized Officers or Participant consultants taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Participant Project or any of the foregoing transactions contemplated by this resolution, are hereby ratified and approved.

**Section 10.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

**Section 11.** This resolution shall take effect immediately.

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\_\_\_\_\_  
Donna C. Snyder  
Business Administrator/Board Secretary

8-22-11  
Date

**Exhibit A**

[See Closing Item No. 44]

**EXHIBIT B**

**[Attach License Authorizing Resolution]**

# Newton Public Schools

57 Trinity Street ♦ Newton, NJ 07860-1831

973-383-7392 phone ♦ 973-383-5378 fax

www.newtonnj.org

Dr. G. Kennedy Greene  
Superintendent

Donna C. Snyder  
Business Administrator

## EXTRACT FROM THE MINUTES OF A MEETING OF THE BOARD OF EDUCATION OF THE TOWN OF NEWTON, SUSSEX COUNTY, NJ AS RECORDED IN THE OFFICIAL MINUTE BOOK

### MINUTES OF THE REGULAR MEETING OF NOVEMBER 8, 2011

Mr. Caffrey, Board President, called the meeting to order at 6:00 PM in the Library at Merriam Avenue School, 81 Merriam Ave., Newton, NJ, noting in the opening statement that the notice of this meeting was sent to the New Jersey Herald, the Star Ledger, and the Town Clerk of Newton on October 3, 2011 and appropriately posted. The notice requirements of the Open Public Meetings Act have been satisfied.

Members Present: Mr. Caffrey, Ms. Cooke, Ms. Dunn, Ms. Egner, Ms. Gianni,  
Mr. Goldschmidt, Mr. Heckman, Ms. Larsen, Mr. Morris, Mrs. Thomas, Mrs. VanAuken  
and Dr. Greene.

ROLL CALL

Members Absent: None

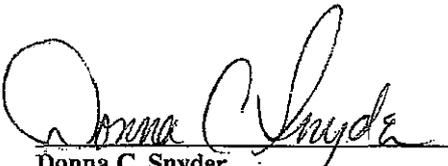
The following resolution was offered by Ms. Egner, seconded by Mr. Goldschmidt and adopted by the 11 member Board of Education with the following roll call vote:

- A. Authorize the School Business Administrator to sign the Solar Project Local Unit Facility Acceptance Certificate as per Attachment B, and Power Purchase and License Agreements as per Resolution Attachment C.

Roll Call: Ayes: 11 Nays: 0 Abstention: 0

STATE OF NEW JERSEY)  
COUNTY OF SUSSEX ) SS

I, Donna C. Snyder, Secretary of the Board of Education of the Town of Newton, in the County of Sussex, State of New Jersey, hereby certify that the foregoing extract from the minutes of the meeting of the Board of Education of said district duly called and held on November 8, 2011 has been compared by me with the original minutes as officially recorded in my office in the minute book of said Town of Newton Board of Education, and is a true, complete copy thereof and of the whole of said original minutes so far as the same relate to the subject matter referred to in said extract in witness I have hereunto set my hand and affixed the corporate seal of said Board of Education this 9<sup>th</sup> day of November 2011.

  
Donna C. Snyder  
SBA/Board Secretary

**EXHIBIT C**

**[Attach License and Access Agreement]**

See Closing Item #1

## GENERAL CERTIFICATE OF COUNTY OF SUSSEX, AS SERIES 2011 LOCAL UNIT

I, JOHN ESKILSON, the County Administrator of the County of Sussex, New Jersey (the "*County*"), a political subdivision of the State of New Jersey ("*State*"), in connection with the issuance this day by the Morris County Improvement Authority (the "*Authority*"), a public body corporate and politice of the State of New Jersey (the "*State*") organized and existing pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), of the Authority's \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*") by The Morris County Improvement Authority (the "*Authority*"), **DO HEREBY CERTIFY** on behalf of the County as follows:

1. On July 27, 2011, the County adopted its resolution entitled "RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM (COUNTY OF SUSSEX PROGRAM), AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY" (the "*Local Finance Board Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the County at a meeting duly called and held on July 27, 2011, and at which a quorum existed and acted throughout.

2. On November 14, 2011, the County adopted its resolution entitled "RESOLUTION OF COUNTY OF SUSSEX AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 [FEDERALLY TAXABLE]" (the "*License Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the County at a meeting duly called and held on November 14, 2011, and at which a quorum existed and acted throughout.

3. As of the date hereof, the Local Finance Board Authorizing Resolution, and the License Authorizing Resolution (collectively, the "*Resolutions*") have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect. The officials and/or officers

of the County that have executed, attested, sealed and delivered the "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Local Unit License Agreement*"), a true and complete copy of which is attached hereto as **Exhibit C**, between the County and the Authority and this certificate were duly authorized to take such action pursuant to the terms of the Resolutions.

4. The County has not entered into a third party power purchase agreement for the purchase of electricity at the Local Unit Facility that is the subject of the License Agreement.

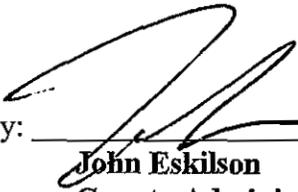
5. The County is not aware of any litigation, pending or threatened, involving the County that would materially impair its valid authorization, execution, delivery or performance of and under the Local Unit License Agreement. The County has full right, power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Local Unit License Agreement, including without limitation the payments to be made by the County thereunder, and the granting of the Local Unit License by the County, as such term is defined therein.

6. The County hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the County's rights to review, acknowledge, accept, execute and deliver any County requisitions, and attachments thereto, applicable to either the County Renewable Energy Projects or the County Capital Improvement Projects (the "*Draw Papers*").

7. The County hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the County's rights to review, acknowledge, accept, execute and deliver the County REP Acceptance Certificate applicable to such County Renewable Energy Projects (the "*REP Acceptance Certificate*").

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the County this 14th day of December, 2011.

**COUNTY OF SUSSEX**

By:   
\_\_\_\_\_  
**John Eskilson**  
**County Administrator**

**EXHIBIT A**

**[Attach Local Finance Board Authorizing Resolution]**

**RESOLUTION RE: RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM (COUNTY OF SUSSEX PROGRAM), AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000.00 AND THE PARTICIPANT PROJECT FINANCED THEREBY**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*"); and

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law; and

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program; and

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County; and

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program; and

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program; and

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*"); and

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning; and

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units; and

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "Series 2011 Local Unit", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "Series 2011 Bonds"); and

**WHEREAS**, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A:54(l) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "*Local Finance Board Application*") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "*Local Finance Board*") in the Department of Local Government Services of the State Department of Community Affairs; and

**WHEREAS**, the governing body of the Series 2011 Local Unit adopting this resolution (the "*Participant*") desires to authorize the Authority and its consultants to submit the Local Finance Board Application on their behalf to finance the proposed Renewable Energy Project(s) for the Participant (the "*Participant Project*") set forth in Schedule A to **Exhibit A** attached hereto (it being understood that the Participant is taking no action in connection with the other Renewable Energy Projects of the other Series 2011 Local Units as set forth on **Schedule A to Exhibit A** hereto and further that a final detailed Participant Project list will be sent to each Series 2011 Local Unit prior to their signing the certificate attached hereto as Exhibit A); and

**WHEREAS**, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "*Company RFP*") and the receipt of proposals from prospective solar developers, including that (the "*Company Proposal*") of the successful respondent (the "*Company*"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable; and

**WHEREAS**, the pricing terms for the purchase of renewable energy generated electricity produced from the Participant Project and sold through the Authority to the Participant, and bought by the Participant at an agreed upon price lower than that presently being paid by the Participant for electricity from its local utility, which pricing terms shall be competitively procured through the Company RFP process and the Company Proposal, shall be established under the Authority's Series 2011 Local Unit Renewable Energy Program for an initial term no greater than 15 years, simultaneously with, or prior to the issuance of the Series 2011 Bonds; and

**WHEREAS**, the Participant understands and acknowledges that by taking this official action, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project, and that the Authority is taking several actions in reliance upon such action, including without limitation seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds; and

**WHEREAS**, the Participant believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**NOW, THEREFORE, BE IT RESOLVED** by the governing body of the Participant as follows:

**Section 1.** The Participant believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

**Section 2.** The Freeholder-Director, County Administrator, and the County Treasurer of the Participant (including their designees in writing, each an "Authorized Officer") are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Participant Project through the issuance of the Series 2011 Bonds, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the Participant at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

**Section 3.** Upon a date to be selected by the Authority and upon receipt of a finalized Participant Project, but in no event later than the sale date of the Series 2011 Bonds, the Authorized Officers shall deliver to the Authority a fully executed certificate, substantially in the form attached hereto as **Exhibit A**, evidencing the proper officials approval of the substance and scope of the Participant Project.

**Section 4.** The Participant understands and acknowledges that by adopting this resolution, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project through a portion of the proceeds of the Authority's Series 2011 Bonds, and that the Authority is taking several actions in reliance upon this action by the Participant, including without limitation seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds; as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds, all for the benefit of the Participant and the other Series 2011 Local Units. Therefore, the Participant covenants to the Authority that: (i) except for extraordinary circumstances not presently contemplated, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program, so long as the Company Proposal results in a savings to the Participant, and further, this official action authorizes the Authority to take all such actions contemplated above in order to develop the Participant Project and to provide the Participant with such savings and (ii) prior to the sale of the Series 2011 Bonds, the Series 2011 Local Unit shall (a), if the Participant is a board of education, obtain any and all approvals from the State Department of Education with respect to the Participant Project, and (b) adopt a resolution authorizing, among other things, the Series 2011 Local Unit to enter into that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds in such form as shall be presented to the Series 2011 Local Unit prior to adoption of the supplemental resolution (the "Local Unit License Agreement").

**Section 5.** The Authorized Officer shall direct the Participant official in charge of the officially adopted resolutions of the governing body of the Participant to (a) prepare an official, certified copy of this resolution, as adopted, and (b) deliver such certified copy in accordance with Section 10 below. Further, the Participant hereby consents to such certified copy of the resolution, and any further information regarding the Participant and/or the Participant Project, as the Authorized Officer shall determine to be necessary, desirable or convenient in connection with the Local Finance Board Application, to be submitted as part of, or pursuant to the Local Finance Board Application.

**Section 6.** The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Participant Project, producing the contemplated energy savings for the Participant, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Series 2011 Local Units.

**Section 7.** The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Participant Project and record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

**Section 8.** To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

**Section 9.** All actions of the Authorized Officers or the Participant (including the Participant's consultants) taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Participant Project or any of the foregoing transactions contemplated by this Resolution, are hereby ratified and approved.

**Section 10.** Upon the adoption hereof, a certified copy of this Resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

**Section 11.** This Resolution shall take effect immediately.

Certified as a true copy of a  
Resolution adopted by the  
Board on the 27<sup>th</sup> day of July, 2011.

*Elaine A. Morgan*  
Elaine A. Morgan, Clerk  
Board of Chosen Freeholders  
County of Sussex

RECORD OF VOTE						
FREEMOLDER	AYE	NAY	ABST	ABS	MOVE	SEC
Crabb	✓				✓	
Space	✓					✓
Vanden	✓					
Zeilman	✓					
Zeoli	✓					

ABST - Abstain  
MOVE - Resolution Moved  
ABS - Absent  
SEC - Resolution Seconded

**Exhibit A**

[See Closing Item No. 44]

**EXHIBIT B**

**[Attach License Authorizing Resolution]**

**RESOLUTION RE: RESOLUTION OF COUNTY OF SUSSEX AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE)**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*"); and

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by Resolution No. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "*Act*"), and other applicable law; and

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program; and

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County; and

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birdsall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program; and

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program; and

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*"); and

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning; and

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units; and

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and

- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
- (iii) County and Sussex County Technical School (the "*County Series 2011 Local Units*");

(each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000.00 (the "*Series 2011 Bonds*"); and

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Uniform Shared Services and Consolidation Act (as amended and supplemented from time to time, the "*Shared Services Act*") and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the first series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit, including the Participant, that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for a term of fifteen (15) years on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the municipality/County Series 2011 Local Unit) and under

N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the board of education Series 2011 Local Units); and

**WHEREAS**, pursuant to (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, (v) all other applicable law, and (vi) pursuant to a competitive contracting process governed thereby, the Authority selected Sunlight General Sussex Solar, LLC, as solar developer (the "Company") to implement the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, at the Local Unit Facilities; and

**WHEREAS**, upon or prior to the issuance of the Series 2011A Bonds, the Authority and the Company shall enter into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the initial series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement"), which Power Purchase Agreement shall, among other things, obligate the Company to develop the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, on their Local Unit Facilities, and combined with the Local Unit License Agreement, provide for the sale of the electricity produced by the Renewable Energy through the Authority to the Series 2011 Local Units, including the Participant, Projects at a fixed price, plus fixed escalation, set forth in the Power Purchase Agreement (the "PPA Price"), all as authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law and N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE COUNTY OF SUSSEX (THE "PARTICIPANT"), IN THE COUNTY OF SUSSEX, NEW JERSEY, as follows:**

**Section 1.** The Participant's Renewable Energy Projects and the financing of the Participant's Renewable Energy Projects through the Local Unit License Agreement, the Power Purchase Agreement, the resolutions and agreements in connection with the Series 2011 Bonds, and the other Renewable Energy Program documents, is hereby approved.

**Section 2.** Richard A. Zeoli, Freeholder Director, John H. Eskilson, County Administrator and Elaine A. Morgan, Clerk, Board of Chosen Freeholders (collectively, the "*Authorized Officer*") are hereby each severally authorized and directed to execute or acknowledge, as the case may be, and deliver (i) the Local Unit License Agreement for the Participant and the Power Purchase Agreement to be acknowledged by the Participant, both in substantially the forms attached hereto as Exhibit A, with such changes thereto as the Authorized Officer deems in their sole discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of any changes to the forms. The Authorized Officer is hereby further authorized and directed to execute such other closing certificates (the "*Closing Certificate*") deemed necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of the provisions and form of such Closing Certificate, which shall include without limitation, (x) the PPA Price, including escalation, (y) affirming that the PPA Price is less than the exiting tariff paid by the Participant for electricity, and (z) that Participant has received a copy of the report of the Authority's energy engineering consultant regarding the selection of the Company and the establishment of the PPA Price.

**Section 3.** The Clerk of the Board of Chosen Freeholders of the Participant is hereby severally authorized and directed, upon the execution or acknowledgment of the documents set forth in Section 2 hereof: to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed, when required by the Authority, to thereupon affix the seal of the Participant to such documents.

**Section 4.** Upon the execution or acknowledgment and attestation of and if required, the placing of the seal on the documents set forth in Section 2 hereof as contemplated by Sections 2 and 3 hereof the Authorized Officer is hereby authorized and directed to (i) deliver such fully executed or acknowledged, attested and sealed Local Unit License Agreement of the Participant to the other parties thereto and (ii) perform such other actions as the Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

**Section 5.** The governing body of the Participant hereby authorizes the performance of any act, the execution or acknowledgment and delivery of any other document, instrument or Closing Certificates, including without limitation any solar renewable energy certificate auction or other applications or documents, which the Authorized Officer deems necessary, desirable or convenient in connection with this contemplated transaction, and the governing body of the Participant hereby directs the Authorized Officer. to execute or acknowledge, attest and affix (or cause the attestation or affixation of) the seal to any such documents, instruments or Closing Certificates, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons.

**Section 6.** This Resolution shall take effect immediately.

**Section 7.** Upon the adoption hereof, a certified copy of this Resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Peariman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@landplaw.com](mailto:dwainger@landplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

Certified as a true copy of the  
Resolution adopted by the  
Board on the 14<sup>th</sup> day of November, 2011.

  
Elaine A. Morgan, Clerk  
Board of Chosen Freeholders  
County of Sussex

RECORD OF VOTE						
FREEHOLDER	AYE	NAY	ABST	ABS	MOVE	SEC
Crabb	✓				✓	
Space	✓					✓
Vohden	✓					
Zellman	✓					
Zeoli	✓					

ABST - Abstain  
MOVE - Resolution Moved  
ABS - Absent  
SEC - Resolution Seconded

**EXHIBIT C**

**[Attach License and Access Agreement]**

See Closing Item #1

**GENERAL CERTIFICATE OF SUSSEX COUNTY VOCATIONAL SCHOOL BOARD OF  
EDUCATION, AS SERIES 2011 LOCAL UNIT**

I, ROBERT CLARK, the Business Administrator of the Sussex County Vocational School Board of Education (the "*Board of Education*"), a public body corporate and politic organized and existing under the laws of the State of New Jersey ("*State*"), in the County of Sussex, New Jersey (the "*County*"), and in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds") by The Morris County Improvement Authority (the "*Authority*"), **DO HEREBY CERTIFY** on behalf of the Board of Education as follows:

1. On July 20, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF THE SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, ALL IN CONNECTION WITH THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROJECT), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY" (the "*Local Finance Board Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit A**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on July 20, 2011, and at which a quorum existed and acted throughout.

2. On November 15, 2011, the Board of Education adopted its resolution entitled "RESOLUTION OF SUSSEX COUNTY TECHNICAL SCHOOL AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 [FEDERALLY TAXABLE]" (the "*License Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the Board of Education at a meeting duly called and held on November 15, 2011, and at which a quorum existed and acted throughout.

3. As of the date hereof, the Local Finance Board Authorizing Resolution, and the License Authorizing Resolution (collectively, the "*Resolutions*") have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect. The officials and/or officers of the Board of Education that have executed, attested, sealed and delivered the "License and

Access Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “*Local Unit License Agreement*”), a true and complete copy of which is attached hereto as **Exhibit C**, between the Board of Education and the Authority and this certificate were duly authorized to take such action pursuant to the terms of the Resolutions.

4. The Board of Education has not entered into a third party power purchase agreement for the purchase of electricity at the Local Unit Facility that is the subject of the License Agreement.

5. The Board of Education is not aware of any litigation, pending or threatened, involving the Board of Education that would materially impair its valid authorization, execution, delivery or performance of and under the Local Unit License Agreement. The Board of Education has full right, power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Local Unit License Agreement, including without limitation the payments to be made by the Board of Education thereunder, and the granting of the Local Unit License by the Board of Education, as such term is defined therein.

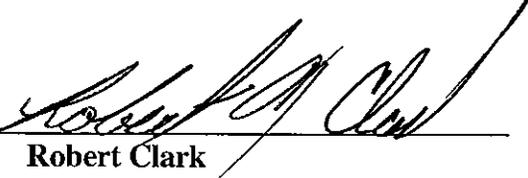
6. The Board of Education hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the “*Consulting Energy Engineer*”) the Township’s rights to review, acknowledge, accept, execute and deliver any Board of Education requisitions, and attachments thereto, applicable to either the Board of Education Renewable Energy Projects or the Board of Education Capital Improvement Projects (the “*Draw Papers*”).

7. The Board of Education hereby delegates to Birdsall Services Group, Inc. and Gabel Associates (individually or collectively the “*Consulting Energy Engineer*”) the Board of Education’s rights to review, acknowledge, accept, execute and deliver the Board of Education REP Acceptance Certificate applicable to such Board of Education Renewable Energy Projects (the “*REP Acceptance Certificate*”).

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Board of Education this 14th day of December, 2011.

**SUSSEX COUNTY VOCATIONAL SCHOOL  
BOARD OF EDUCATION**

By: \_\_\_\_\_

  
**Robert Clark**  
**Business Administrator**

**EXHIBIT A**

**[Attach Local Finance Board Authorizing Resolution]**

EXTRACT FROM THE MINUTES OF A MEETING OF THE BOARD OF EDUCATION OF THE VOCATIONAL SCHOOL IN THE COUNTY OF SUSSEX, SUSSEX COUNTY, NJ, AS RECORDED IN THE OFFICIAL SET OF MINUTES

The Board of Education of the Vocational School in the County of Sussex, Sussex County, NJ, convened in a regular meeting July 20, 2011, at 4:00 p.m. in the Library, 105 North Church Road, Sparta, New Jersey.

The following members of the Board of Education were present:

Mr. Fiedorczyk, Dr. Lamonte, Ms. Shake and Mr. Sargent

Member(s) Absent: Mr. Cofrancesco

The following resolution was offered by Mr. Fiedorczyk seconded by, Dr. Lamonte and adopted by the Board of Education by the following roll call vote:

- B4. Resolution of the SERIES 2011 LOCAL UNIT PARTICIPATING IN THE MORRIS County Improvement Authority'S SERIES 2011 RENEWABLE ENERGY PROGRAM, AND AUTHORIZING SUCH AUTHORITY TO APPLY TO THE LOCAL FINANCE BOARD FOR THE NECESSARY CONSENTS AND APPROVALS ON BEHALF OF SUCH PARTICIPANT, all in Connection with the AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (county of sussex project) (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND THE PARTICIPANT PROJECT FINANCED THEREBY

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable

EXTRACT FROM THE MINUTES OF A MEETING OF THE BOARD OF EDUCATION OF THE VOCATIONAL SCHOOL IN THE COUNTY OF SUSSEX, SUSSEX COUNTY, NJ, AS RECORDED IN THE OFFICIAL SET OF MINUTES

law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants", if any, and together with the Authority Consultants, the "Consultants"); to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County, Sussex County Municipal Utilities Authority and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "Series 2011 Bonds");

EXTRACT FROM THE MINUTES OF A MEETING OF THE BOARD OF EDUCATION OF THE VOCATIONAL SCHOOL IN THE COUNTY OF SUSSEX, SUSSEX COUNTY, NJ, AS RECORDED IN THE OFFICIAL SET OF MINUTES

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40:37A:54(l) of the Act and N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, the governing body of the Series 2011 Local Unit adopting this resolution (the "Participant") desires to authorize the Authority and its consultants to submit the Local Finance Board Application on their behalf to finance the proposed Renewable Energy Project(s) for the Participant (the "Participant Project") set forth in Schedule A to Exhibit A attached hereto (it being understood that the Participant is taking no action in connection with the other Renewable Energy Projects of the other Series 2011 Local Units as set forth on Schedule A to Exhibit A hereto and further that a final detailed Participant Project list will be sent to each Series 2011 Local Unit prior to their signing the certificate attached hereto as Exhibit A);

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, Contracting for Renewable Energy Services, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, Contracting for Renewable Energy Services: Update on Power Purchase Agreements, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which shall include a request for solar developer proposals to be issued by the Authority (the "Company RFP") and the receipt of proposals from prospective solar developers, including that (the "Company Proposal") of the successful respondent (the "Company"), the Authority shall select the Company to (y) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects and (z) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, in both cases for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms to be set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

WHEREAS, the pricing terms for the purchase of renewable energy generated electricity produced from the Participant Project and sold through the Authority to the Participant, and bought by the Participant at an agreed upon price lower than that presently being paid by the Participant for electricity from its local utility, which pricing terms shall be competitively procured through the Company RFP process and the Company Proposal, shall be established under the Authority's Series 2011 Local Unit Renewable Energy Program for an initial term no greater than 15 years, simultaneously with, or prior to the issuance of the Series 2011 Bonds;

WHEREAS, the Participant understands and acknowledges that by taking this official action, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project, and that the Authority is taking several actions in reliance upon such action, including without limitation seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds; and

WHEREAS, the Participant believes: (i) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

NOW THEREFORE BE IT RESOLVED by the governing body of the Participant as follows:

Section 1. The Participant believes: (a) it is in the public interest to accomplish such purposes as set forth in the preambles hereof, including the financing of the Participant Project; (b) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the Participant; (c) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Participant and will not create an undue financial burden to be placed upon the Participant.

EXTRACT FROM THE MINUTES OF A MEETING OF THE BOARD OF EDUCATION OF THE VOCATIONAL SCHOOL IN THE COUNTY OF SUSSEX, SUSSEX COUNTY, NJ, AS RECORDED IN THE OFFICIAL SET OF MINUTES

Section 2. The Board President and the Business Administrator\Board Secretary of the Participant (including their designees in writing, each an "Authorized Officer") are each hereby severally authorized to assist the Authority with the preparation and submission of the Local Finance Board Application for the purpose of financing the Participant Project through the issuance of the Series 2011 Bonds, and to take all action necessary, desirable, or convenient in connection therewith. Accordingly, the Authorized Officers, and any consultants of their choosing, shall, if necessary, represent the Participant at any public hearing held by the Local Finance Board in connection with the Local Finance Board Application.

Section 3. Upon a date to be selected by the Authority and upon receipt of a finalized Participant Project, but in no event later than the sale date of the Series 2011 Bonds, the Authorized Officers shall deliver to the Authority a fully executed certificate, substantially in the form attached hereto as Exhibit A, evidencing the proper officials approval of the substance and scope of the Participant Project.

Section 4. The Participant understands and acknowledges that by adopting this resolution, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program to fund the Participant Project through a portion of the proceeds of the Authority's Series 2011 Bonds, and that the Authority is taking several actions in reliance upon this action by the Participant, including without limitation seeking the required approvals from the Local Finance Board to issue the Series 2011 Bonds, as set forth in the Local Finance Board Application, and proceeding with the issuance of the Company RFP, the selection of the Company, the establishment of the renewable energy pricing under the Company Proposal, and the marketing, sale and issuance of the Series 2011 Bonds, all for the benefit of the Participant and the other Series 2011 Local Units. Therefore, the Participant covenants to the Authority that: (i) except for extraordinary circumstances not presently contemplated, the Participant intends to participate in the Authority's Series 2011 Local Unit Renewable Energy Program, so long as the Company Proposal results in a savings to the Participant, and further, this official action authorizes the Authority to take all such actions contemplated above in order to develop the Participant Project and to provide the Participant with such savings and (ii) prior to the sale of the Series 2011 Bonds, the Series 2011 Local Unit shall (a), if the Participant is a board of education, obtain any and all approvals from the State Department of Education with respect to the Participant Project, and (b) adopt a resolution authorizing, among other things, the Series 2011 Local Unit to enter into that certain "License and Access Agreement (Morris County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the Series 2011 Bonds in such form as shall be presented to the Series 2011 Local Unit prior to adoption of the supplemental resolution (the "Local Unit License Agreement").

Section 5. The Authorized Officer shall direct the Participant official in charge of the officially adopted resolutions of the governing body of the Participant to (a) prepare an official, certified copy of this resolution, as adopted, and (b) deliver such certified copy in accordance with Section 10 below. Further, the Participant hereby consents to such certified copy of the resolution, and any further information regarding the Participant and/or the Participant Project, as the Authorized Officer shall determine to be necessary, desirable or convenient in connection with the Local Finance Board Application, to be submitted as part of, or pursuant to the Local Finance Board Application.

Section 6. The Authorized Officers are hereby severally authorized to take such other actions, and execute such other certificates, documents, and instruments, as such Authorized Officers shall deem to be necessary, desirable, or convenient to assist the Authority in developing the Participant Project, producing the contemplated energy savings for the Participant, issuing the Company RFP and selecting the Company through the most desirable Company Proposal in accordance with the terms of the Company RFP and applicable law, marketing, selling, and issuing the Series 2011 Bonds, procuring the final terms of the Renewable Energy Program documents, or any other action related to the implementation of the Renewable Energy Program for the Series 2011 Local Units.

Section 7. The Local Finance Board is hereby respectfully requested to consider the Local Finance Board Application as the means to finance the Participant Project and record its findings and recommendations as provided by N.J.S.A. 40A:5A-7 of the Local Authorities Fiscal Control Law.

Section 8. To the extent the Series 2011 Bonds are issued in any year other than 2011, references herein to "2011" may without any further action be changed to the year of issuance of such Series 2011 Bonds.

EXTRACT FROM THE MINUTES OF A MEETING OF THE BOARD OF EDUCATION OF THE VOCATIONAL SCHOOL IN THE COUNTY OF SUSSEX, SUSSEX COUNTY, NJ, AS RECORDED IN THE OFFICIAL SET OF MINUTES

Section 9. All actions of the Authorized Officers or Participant consultants taken prior to the date of adoption hereof in connection with the Series 2011 Bonds, the Participant Project or any of the foregoing transactions contemplated by this resolution, are hereby ratified and approved.

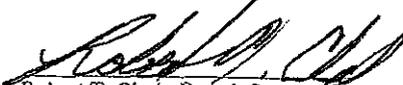
Section 10. Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

Section 11. This resolution shall take effect immediately.

Roll Call: Ayes: 4 Mr. Fiedorczyk, Dr. Lamonte Ms. Shake, and Mr. Sargent  
Nays: 0  
Abstain: 0  
Absent: 1 Mr. Cofrancesco,  
Not Voting: 0

State of New Jersey)  
County of Sussex ) SS

I, Robert T. Clark, Board Secretary of the Board of Education of the Vocational School in the County of Sussex, Sussex County, State of New Jersey, hereby certify that the foregoing extract from the minutes of the meeting of the Board of Education of said district duly called and held June 23, 2011, has been compared by me with the original minutes as officially recorded in my office in the minute book of said Board of Education of the Vocational School in the County of Sussex, and is a true, complete copy thereof and of the whole of said original minutes so far as the same relate to the subject matter referred to in said extract in witness I have hereunto set my hand and affixed the corporate seal of said Board of Education this 21st day of July 2011.

  
Robert T. Clark, Board Secretary

**Exhibit A**

[See Closing Item No. 44]

**EXHIBIT B**

**[Attach License Authorizing Resolution]**

EXTRACT FROM THE MINUTES OF A MEETING OF THE  
BOARD OF EDUCATION OF THE VOCATIONAL SCHOOL IN THE COUNTY OF  
SUSSEX  
SUSSEX COUNTY, NJ, AS RECORDED IN THE OFFICIAL SET OF MINUTES

The Board of Education of the Vocational School in the County of Sussex, Sussex County, NJ, convened in a **Work Session & Regular Meeting** on November 15, 2011 at 2:05 p.m. at 105 North Church Road Sparta, New Jersey.

The following members of the Board of Education were present:

Mr. Cofrancesco, Dr. Lamonte, Ms. Shake

Member(s) Absent: Mr. Fiedorczyk and Mr. Sargent

The following resolution was offered by Ms. Shake, and seconded by Dr. Lamonte, and adopted by the Board of Education by the following roll call vote:

B1.                   RESOLUTION OF SUSSEX COUNTY TECHNICAL SCHOOL  
AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND  
DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS  
TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE  
ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX  
PROGRAM), SERIES 2011 (FEDERALLY TAXABLE)

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act"), and other applicable law;

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act,

and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants", if any, and together with the Authority Consultants, the "Consultants"); to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references

herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lenape Valley Board of Education, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "Series 2011 Bonds");

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Uniform Shared Services and Consolidation Act (as amended and supplemented from time to time, the "Shared Services Act") and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the first series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit, including the Participant, that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for a term of fifteen (15) years on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local

Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the municipality/County Series 2011 Local Unit) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the board of education Series 2011 Local Units);

WHEREAS, pursuant to (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, Contracting for Renewable Energy Services, (iii) the Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, Contracting for Renewable Energy Services: Update on Power Purchase Agreements, (v) all other applicable law, and (vi) pursuant to a competitive contracting process governed thereby, the Authority selected Sunlight General Sussex Solar, LLC, as solar developer (the "Company") to implement the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, at the Local Unit Facilities; and

WHEREAS, upon or prior to the issuance of the Series 2011A Bonds, the Authority and the Company shall enter into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the initial series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement"), which Power Purchase Agreement shall, among other things, obligate the Company to develop the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, on their Local Unit Facilities, and combined with the Local Unit License Agreement, provide for the sale of the electricity produced by the Renewable Energy through the Authority to the Series 2011 Local Units, including the Participant, Projects at a fixed price, plus fixed escalation, set forth in the Power Purchase Agreement (the "PPA Price"), all as authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law and N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities.

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE SUSSEX COUNTY TECHNICAL SCHOOL (THE "PARTICIPANT"), IN THE COUNTY OF SUSEX, NEW JERSEY, as follows:

Section 1. The Participant's Renewable Energy Projects and the financing of the Participant's Renewable Energy Projects through the Local Unit License Agreement, the Power Purchase Agreement, the resolutions and agreements in connection with the Series 2011 Bonds, and the other Renewable Energy Program documents, is hereby approved.

Section 2. The Board President, and the Business Administrator/Board Secretary (collectively, the "Authorized Officer") are hereby each severally authorized and directed to execute or acknowledge, as the case may be, and deliver (i) the Local Unit License Agreement for the Participant and the Power Purchase Agreement to be acknowledged by the Participant, both in substantially the forms attached hereto as Exhibit A, with such changes thereto as the Authorized Officer deems in their sole discretion to be necessary, desirable or

convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of any changes to the forms. The Authorized Officer is hereby further authorized and directed to execute such other closing certificates (the "Closing Certificate") deemed necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of the provisions and form of such Closing Certificate, which shall include without limitation, (x) the PPA Price, including escalation, (y) affirming that the PPA Price is less than the exiting tariff paid by the Participant for electricity, and (z) that Participant has received a copy of the report of the Authority's energy engineering consultant regarding the selection of the Company and the establishment of the PPA Price.

Section 3. The Business Administrator\Board Secretary is authorized and directed, upon the execution or acknowledgment of the documents set forth in Section 2 hereof: to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed, when required by the Authority, to thereupon affix the seal of the Participant to such documents.

Section 4. Upon the execution or acknowledgment and attestation of and if required, the placing of the seal on the documents set forth in Section 2 hereof as contemplated by Sections 2 and 3 hereof the Authorized Officer is hereby authorized and directed to (i) deliver such fully executed or acknowledged, attested and sealed Local Unit License Agreement of the Participant to the other parties thereto and (ii) perform such other actions as the Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

Section 5. The governing body of the Participant hereby authorizes the performance of any act, the execution or acknowledgment and delivery of any other document, instrument or Closing Certificates, including without limitation any solar renewable energy certificate auction or other applications or documents, which the Authorized Officer deems necessary, desirable or convenient in connection with this contemplated transaction, and the governing body of the Participant hereby directs the Authorized Officer to execute or acknowledge, attest and affix (or cause the attestation or affixation of) the seal to any such documents, instruments or Closing Certificates, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons.

Section 6. This resolution shall take effect immediately; however, as the documents the Authority provided to the Board omitted certain essential information, the approvals granted by this resolution are conditional and subject to legal counsel and insurance broker review of final, fully-completed documents, including, but not limited to the License and Access Agreement, Power Purchase Agreement and all applicable appendices, exhibits and attachments.

Section 7. The approvals granted by this resolution shall be conditional upon several amendments being made and agreed to Article VIII, "Insurance and Indemnification," of the Power Purchase Agreement between the Authority and

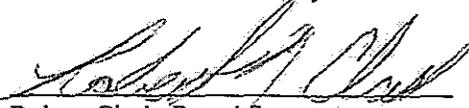
Sunlight General Sussex Solar, LLC, as recommended by the Board's insurance broker, including, but not limited to provisions concerning subrogation, joint insurance funds, insurance limits, apportionment of negligence, additional insureds, umbrella or excess coverages and any other requirements stated in the request for proposal for a solar service provider.

Section 8. Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

Roll Call: Ayes: 3 Mr. Cofrancesco, Dr. Lamonte and Ms. Shake  
Nays: 0  
Abstain: 0  
Absent: 2 Mr. Fiedorczyk and Mr. Sargent  
Not Voting: 0

State of New Jersey)  
County of Sussex ) SS

I, Robert Clark, Secretary of the Board of Education of the Vocational School in the County of Sussex, Sussex County, State of New Jersey, hereby certify that the foregoing extract from the minutes of the meeting of the Board of Education of said district duly called and held on November 15, 2011, has been compared by me with the original minutes as officially recorded in my office in the minute book of said Board of Education of the Vocational School in the County of Sussex, and is a true, complete copy thereof and of the whole of said original minutes so far as the same relate to the subject matter referred to in said extract in witness I have hereunto set my hand and affixed the corporate seal of said Board of Education this 15th day of November, 2011.

  
Robert Clark, Board Secretary

**EXHIBIT C**

**[Attach License and Access Agreement]**

See Closing Item #1

**GENERAL CERTIFICATE THE SUSSEX COUNTY COMMUNITY COLLEGE,  
AS SERIES 2011 LOCAL UNIT**

I, FRANK NOCELLA, the Vice President of Finance and Operations of the Sussex County Community College (the "*College*"), a public body corporate and politic organized and existing under the laws of the State of New Jersey ("*State*"), in the County of Sussex, New Jersey (the "*County*"), and in connection with the issuance this day of \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*") by The Morris County Improvement Authority (the "*Authority*"), **DO HEREBY CERTIFY** on behalf of the College as follows:

1. Participation by the College was not contemplated prior to submission of the Local Finance Board Application ("*Local Finance Board Application*") in connection with the Series 2011 Bonds. By execution hereof, the College acknowledges the filing of the Local Finance Board Application by the Authority in connection with the Renewable Energy Program and hereby ratifies and approves all prior actions taken by the Authority in connection with the College's participation in the Renewable Energy Program. In accordance with the foregoing, the College does not have a resolution attached hereto as **Exhibit A**.

2. On November 30, 2011, the College adopted its resolution entitled "RESOLUTION AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 [FEDERALLY TAXABLE]" (the "*License Authorizing Resolution*"), a copy of which is attached hereto as **Exhibit B**, which resolution was duly adopted by the College at a meeting duly called and held on November 30, 2011, and at which a quorum existed and acted throughout.

3. As of the date hereof, the Local Finance Board Authorizing Resolution, and the License Authorizing Resolution (collectively, the "*Resolutions*") have not been altered, amended, supplemented or repealed, and, as such, remain in full force and effect. The officials and/or officers of the College that have executed, attested, sealed and delivered the "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Local Unit License Agreement*"), a true and complete copy of which is attached hereto as **Exhibit C**, between the College and the Authority and this certificate were duly authorized to take such action pursuant to the terms of the Resolutions.

4. The College has not entered into a third party power purchase agreement for the purchase of electricity at the Local Unit Facility that is the subject of the License Agreement.

5. The College is not aware of any litigation, pending or threatened, involving the College that would materially impair its valid authorization, execution, delivery or performance of and under the Local Unit License Agreement. The College has full right, power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Local Unit License Agreement, including without limitation the payments to be made by the College thereunder, and the granting of the Local Unit License by the College, as such term is defined therein.

6. The College hereby delegates to Birdsell Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the College's rights to review, acknowledge, accept, execute and deliver any College requisitions, and attachments thereto, applicable to either the College Renewable Energy Projects or the College Capital Improvement Projects (the "*Draw Papers*").

7. The College hereby delegates to Birdsell Services Group, Inc. and Gabel Associates (individually or collectively the "*Consulting Energy Engineer*") the College's rights to review, acknowledge, accept, execute and deliver the College REP Acceptance Certificate applicable to such College Renewable Energy Projects (the "*REP Acceptance Certificate*").

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the College this  
14th day of December, 2011.

SUSSEX COUNTY COMMUNITY COLLEGE

By: Frank Nocella  
Frank Nocella  
Vice President of Finance and Operations

**EXHIBIT A**

**[Attach Local Finance Board Authorizing Resolution]**

NOT APPLICABLE

**EXHIBIT B**

**[Attach License Authorizing Resolution]**

**RESOLUTION OF SUSSEX COUNTY COMMUNITY COLLEGE  
AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND  
DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS  
TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED  
RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF  
SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE)**

**WHEREAS**, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*");

**WHEREAS**, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law;

**WHEREAS**, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program;

**WHEREAS**, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services*");

Act”), and all other applicable law, the terms of which agreement has been set forth in that certain “Service Agreement (Sussex County Renewable Energy Program)” dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the “*Service Agreement*”) between the County and the Authority, and consented to by Morris County;

**WHEREAS**, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority’s energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the “*Authority Consultants*”) and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

**WHEREAS**, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the “*Sussex County Consultants*”, if any, and together with the Authority Consultants, the “*Consultants*”; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

**WHEREAS**, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the “*Local Unit Facilities*”);

**WHEREAS**, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the “*Capital Improvement Projects*” and together with the Renewable Energy Projects and any Completion Project as defined in the

hereinafter defined Bond Resolution, the “*Projects*”), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

**WHEREAS**, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

**WHEREAS**, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the “*Municipal Series 2011 Local Units*”); and
- (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Newton Board of Education (collectively, the “*Board of Education Series 2011 Local Units*”); and
- (iii) County, Sussex County Technical School and Sussex County Community College (the “*County Series 2011 Local Units*”);

(each a “*Series 2011 Local Unit*”, and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the “*Series 2011 Local Units*”), through the issuance by the Authority of one or more series of bonds and notes entitled “County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)” dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the “*Series 2011 Bonds*”);

**WHEREAS**, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Uniform Shared Services and Consolidation Act (as amended and supplemented from time to time, the “*Shared Services Act*”) and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)” to be dated as of the first day of the month of issuance of the first series of Series 2011 Bonds (as the same may be amended or

supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit, including the Participant, that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for a term of fifteen (15) years on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the municipality/County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the board of education Series 2011 Local Units) and N.J.S.A. 18A:64A-25.28 (q) of the County College Contracts Law (for the County Series 2011 Local Units);

**WHEREAS**, pursuant to (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, (v) all other applicable law, and (vi) pursuant to a competitive contracting process governed thereby, the Authority selected Sunlight General Sussex Solar, LLC, as solar developer (the "Company") to implement the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, at the Local Unit Facilities; and

**WHEREAS**, upon or prior to the issuance of the Series 2011A Bonds, the Authority and the Company shall enter into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the initial series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement"), which Power Purchase Agreement shall, among other things, obligate the Company to develop the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, on their Local Unit Facilities, and combined with the Local Unit License Agreement, provide for the sale of the electricity produced by the Renewable Energy through the Authority to the Series 2011 Local Units, including the Participant, Projects at a fixed price, plus fixed escalation, set forth in the Power Purchase Agreement (the "PPA Price"), all as authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law, N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law and N.J.S.A. 18A:64A-25.28 (q) of the County College Contracts Law, and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities.

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE SUSSEX COUNTY COMMUNITY COLLEGE (THE "PARTICIPANT"), IN THE COUNTY OF SUSSEX, NEW JERSEY, as follows:**

**Section 1.** The Participant's Renewable Energy Projects and the financing of the Participant's Renewable Energy Projects through the Local Unit License Agreement, the Power Purchase Agreement, the resolutions and agreements in connection with the Series 2011 Bonds, and the other Renewable Energy Program documents, is hereby approved.

**Section 2.** The President of Participant and the Vice President of Finance & Operations for Participant (collectively, the "Authorized Officer") are hereby each severally authorized and directed to execute or acknowledge, as the case may be, and deliver (i) the Local Unit License Agreement for the Participant and the Power Purchase Agreement to be acknowledged by the Participant, both in substantially the forms attached hereto as Exhibit A, with such changes thereto as the Authorized Officer deems in their sole discretion to be necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of any changes to the forms. The Authorized Officer is hereby further authorized and directed to execute such other closing certificates (the "Closing Certificate") deemed necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of the provisions and form of such Closing Certificate, which shall include without limitation, (x) the PPA Price, including escalation, (y) affirming that the PPA Price is less than the exiting tariff paid by the Participant for electricity, and (z) that Participant has received a copy of the report of the Authority's energy engineering consultant regarding the selection of the Company and the establishment of the PPA Price.

**Section 3.** The Secretary and any Assistant Secretary of the Participant are each hereby severally authorized and directed, upon the execution or acknowledgment of the documents set forth in Section 2 hereof: to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed, when required by the Authority, to thereupon affix the seal of the Participant to such documents.

**Section 4.** Upon the execution or acknowledgment and attestation of and if required, the placing of the seal on the documents set forth in Section 2 hereof as contemplated by Sections 2 and 3 hereof the Authorized Officer is hereby authorized and directed to (i) deliver such fully executed or acknowledged, attested and sealed Local Unit License Agreement of the Participant to the other parties thereto and (ii) perform such other actions as the Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

**Section 5.** The governing body of the Participant hereby authorizes the performance of any act, the execution or acknowledgment and delivery of any other document, instrument or Closing Certificates, including without limitation any solar renewable energy certificate auction or other applications or documents, which the Authorized Officer deems necessary, desirable or convenient in connection with this contemplated transaction, and the governing body of the

Participant hereby directs the Authorized Officer, to execute or acknowledge, attest and affix (or cause the attestation or affixation of) the seal to any such documents, instruments or Closing Certificates, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons.

**Section 6.** This resolution shall take effect immediately; however, as the documents the Authority provided to the Participant does not include certain information regarding final pricing of the County Series 2011 Local Units bonds and may be changed with regard to certain insurance provisions, this Resolution is conditional and subject to legal counsel review of final documents, including, but not limited to the License and Access Agreement, the Power Purchase Agreement and all applicable appendices, exhibits and attachments.

**Section 7.** Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Peariman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at [dwainger@iandplaw.com](mailto:dwainger@iandplaw.com) followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

Agreed: Glen Vetrano  
Glen Vetrano, Secretary/Treasurer – Board of Trustees

Date: 11-30-11

**EXHIBIT A**  
**ATTACH FORM OF LICENSE AGREEMENT**  
**AND**  
**POWER PURCHASE AGREEMENT**

**EXHIBIT C**

**[Attach License and Access Agreement]**

See Closing Item #1

## LOCAL UNIT FACILITY ACCEPTANCE CERTIFICATE

On behalf of the Township of Fredon (the "*Local Unit*"), and as a duly authorized officer of the Local Unit, I hereby represent, warrant and covenant as follows:

1. The Local Unit understands that it has been preliminarily selected by the Morris County Improvement Authority (the "*Authority*") as one of the local government participants in the Authority's 2011 Renewable Energy Program (Sussex County Program) (the "*Program*"). The Local Unit further understands that although there is no legal agreement between the Authority and the Local Unit until such parties execute that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" (a form of which "*License Agreement*" shall be supplied to the Local Unit by the Authority when the Program is closer to implementation), the information being provided to the Authority in this Certificate enables the Authority to draft the License Agreement, seek the necessary approvals, and otherwise implement the Program.

2. The License Agreement shall refer to the building(s) or ground(s) (each "*Local Unit Facility*"), location, size and scope (and if applicable, style) of the solar project (the "*Renewable Energy Project*") to be implemented on behalf of the Local Unit by the Authority and its various contract parties, including a competitively selected solar developer (the "*Company*"). Various consultants to the Authority, based on site visits and past information supplied by the Local Unit to the Authority, have identified the Local Unit Facility(ies) and Renewable Energy Project(s) (which include solar overlays prepared by Authority consultants) set forth on Schedule A to this certificate for inclusion in the License Agreement, for selection of the Company, and for financing and implementation under the Authority's Renewable Energy Program.

a. The Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate has been reviewed on behalf of the Local Unit, at a minimum, by the Local Unit official responsible for managing the day to day affairs of the Local Unit (which may include the undersigned), and at least by an in-house facilities director or consulting engineer and/or architect. Based on such review, and the review of such other in-house officers or employees or outside consultants of the Local Unit's choosing (including council, board, legal or technical review), if deemed necessary by the Local Unit, the description of the Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate is materially accurate, and can be used by the Authority in drafting the various Program documents, selecting the Company, and seeking the various Program approvals.

b. The Local Unit understands that any changes desired by the Local Unit to the Local Unit Facility and Renewable Energy Project from that set forth on Schedule A to this certificate (i) are the responsibility of the Local Unit to inform the Authority and its consultants, and (ii) may or may not be accepted by the Authority, depending on the timing of any such proposed change. The Local Unit may contact County Administrator and Authority Chairman, John Bonanni, (973) 285-6047, [jbbonanni@co.morris.nj.us](mailto:jbbonanni@co.morris.nj.us), the Sussex County Administrator, John Eskilson, (973) 579 - 0250, [jeskilson@sussex.nj.us](mailto:jeskilson@sussex.nj.us), or the Authority's engineering consultant for the Program, Daniel Swayze of Birdsall Services Group, Inc. at (908) 497-8900, [dswayze@birdsall.com](mailto:dswayze@birdsall.com), with any subsequent changes. To the extent the Company proposes other changes acceptable to the Authority, the Authority shall seek the consent of the Local Unit.

  
Local Unit Authorized Officer

Dated: July 14, 2011

**SCHEDULE A**

[Attach Local Unit's Local Unit Facility(ies) and Renewable Energy Project(s)]

## EXHIBIT A

### Morris County Improvement Authority

Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

### Series 2011 Local Unit List of Local Unit Facilities

#### a. Series 2011 Municipal Local Units

(i) *Fredon Township* (<http://www.twp.fredon.nj.us/>)

(A) *Civic Center (Roof 61 kW)*  
436 Route 94  
Fredon, NJ

(ii) *Town of Newton* (<http://www.newtontownhall.com/>)

(A) *DPW Complex (Roof 73 kW)*  
39 Trinity Street  
Newton, NJ

(B) *Wastewater Treatment Plant (Rack 109 kW)*  
Townsend Street  
Newton, NJ

#### b. Series 2011 Board of Education Local Units

(i) *Byram Township School District* (<http://www.byramschools.org/>)

(A) *Byram Lakes Elementary School (Roof 38 kW)*  
11 Mansfield Drive  
Stanhope, NJ

(B) *Byram Intermediate School (Parking Canopy 455 kW)*  
12 Mansfield Drive  
Stanhope, NJ

(ii) *Frankford Township Consolidated Schools* (<http://www.frankfordschool.org/>)

(A) *Frankford Township School (Rack 362 kW)*  
2 Pines Road  
Branchville, NJ

- (iii) *Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*
- (A) *Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)*  
*50 Washington Avenue*  
*Franklin, NJ*
- (iv) *Green Township Board of Education (<http://greenhills.org>)*
- (A) *Green Hills School (Roof 157 kW)*  
*69 Mackerley Road*  
*Greendell, NJ*
- (v) *Hardyston Board of Education (<http://www.htps.org/BOE/BOEIndex.htm>)*
- (A) *Hardyston Middle School (Rack 612 kW)*  
*183 Wheatsworth Road*  
*Hamburg, NJ*
- (vi) *High Point Regional School District (<http://www.hpregional.org/>)*
- (A) *High Point Regional High School (Roof 453 kW)*  
*299 Pidgeon Hill Road*  
*Sussex, NJ*
- (vii) *Kittatinny Regional School District (<http://www.krhs.net/>)*
- (A) *Kittatinny Regional High School (Roof 187 kW and Parking Canopy 173 kW)*  
*77 Halsey Road*  
*Newton, NJ*
- (ix) *Lenape Valley Regional Board of Education (<http://www.lvhs.org>)*
- (A) *Lenape Valley Regional High School (Parking Canopy 393 kW and Rack 774 kW)*  
*28 Sparta Road*  
*Stanhope, NJ*
- (x) *Newton Board of Education (<http://www.newtonnj.org>)*
- (A) *Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)*  
*81 Merriam Avenue*  
*Newton, NJ; and*

(B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)*  
*44 Ryerson Avenue*  
*Newton, NJ*

c. **Series 2011 County Local Units**

(i) *Sussex County Technical School (<http://www.sussex.tec.nj.us/>)*

(A) *Sussex County Technical School (Roof 112 kW, Rack 792 kW and Parking Canopy 290 kW)*  
*105 North Church Road*  
*Sparta, NJ*

(ii) *County of Sussex (<http://www.sussex.nj.us/>)*

(A) *Sussex County Judicial Center (Parking Canopy 468 kW)*  
*39 High Street*  
*Newton, NJ*

(B) *Wheatsworth Facility (Rack 149 kW)*  
*149 Wheatsworth Road*  
*Hardyston, NJ*

(C) *Main Library (Rack 100 kW)*  
*125 Morris Turnpike*  
*Newton, NJ*

## LOCAL UNIT FACILITY ACCEPTANCE CERTIFICATE

On behalf of the Town of Newton (the "Local Unit"), and as a duly authorized officer of the Local Unit, I hereby represent, warrant and covenant as follows:

1. The Local Unit understands that it has been preliminarily selected by the Morris County Improvement Authority (the "Authority") as one of the local government participants in the Authority's 2011 Renewable Energy Program (Sussex County Program) (the "Program"). The Local Unit further understands that although there is no legal agreement between the Authority and the Local Unit until such parties execute that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" (a form of which "License Agreement" shall be supplied to the Local Unit by the Authority when the Program is closer to implementation), the information being provided to the Authority in this Certificate enables the Authority to draft the License Agreement, seek the necessary approvals, and otherwise implement the Program.

2. The License Agreement shall refer to the building(s) or ground(s) (each "Local Unit Facility"), location, size and scope (and if applicable, style) of the solar project (the "Renewable Energy Project") to be implemented on behalf of the Local Unit by the Authority and its various contract parties, including a competitively selected solar developer (the "Company"). Various consultants to the Authority, based on site visits and past information supplied by the Local Unit to the Authority, have identified the Local Unit Facility(ies) and Renewable Energy Project(s) (which include solar overlays prepared by Authority consultants) set forth on Schedule A to this certificate for inclusion in the License Agreement, for selection of the Company, and for financing and implementation under the Authority's Renewable Energy Program.

a. The Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate has been reviewed on behalf of the Local Unit, at a minimum, by the Local Unit official responsible for managing the day to day affairs of the Local Unit (which may include the undersigned), and at least by an in-house facilities director or consulting engineer and/or architect. Based on such review, and the review of such other in-house officers or employees or outside consultants of the Local Unit's choosing (including council, board, legal or technical review), if deemed necessary by the Local Unit, the description of the Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate is materially accurate, and can be used by the Authority in drafting the various Program documents, selecting the Company, and seeking the various Program approvals.

b. The Local Unit understands that any changes desired by the Local Unit to the Local Unit Facility and Renewable Energy Project from that set forth on Schedule A to this certificate (i) are the responsibility of the Local Unit to inform the Authority and its consultants, and (ii) may or may not be accepted by the Authority, depending on the timing of any such proposed change. The Local Unit may contact County Administrator and Authority Chairman, John Bonanni, (973) 285-6047, [jbbonanni@co.morris.nj.us](mailto:jbbonanni@co.morris.nj.us), the Sussex County Administrator, John Eskilson, (973) 579 - 0250, [jeskilson@sussex.nj.us](mailto:jeskilson@sussex.nj.us), or the Authority's engineering consultant for the Program, Daniel Swayze of Birdsell Services Group, Inc. at (908) 497-8900, [dswayze@birdsell.com](mailto:dswayze@birdsell.com), with any subsequent changes. To the extent the Company proposes other changes acceptable to the Authority, the Authority shall seek the consent of the Local Unit.



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Helen R. Le Frois, Mayor  
Town of Newton

Dated: July 14 2011

**SCHEDULE A**

[Attach Local Unit's Local Unit Facility(ies) and Renewable Energy Project(s)]

**EXHIBIT A**

**Morris County Improvement Authority**

Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

**a. Series 2011 Municipal Local Units**

(i) *Fredon Township (<http://www.twp.fredon.nj.us/>)*

(A) *Civic Center (Roof 61 kW)*  
436 Route 94  
Fredon, NJ

(ii) *Town of Newton (<http://www.newtontownhall.com/>)*

(A) *DPW Complex (Roof 73 kW)*  
39 Trinity Street  
Newton, NJ

(B) *Wastewater Treatment Plant (Rack 109 kW)*  
Townsend Street  
Newton, NJ

**b. Series 2011 Board of Education Local Units**

(i) *Byram Township School District (<http://www.byramschools.org/>)*

(A) *Byram Lakes Elementary School (Roof 38 kW)*  
11 Mansfield Drive  
Stanhope, NJ

(B) *Byram Intermediate School (Parking Canopy 455 kW)*  
12 Mansfield Drive  
Stanhope, NJ

(ii) *Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*

(A) *Frankford Township School (Rack 362 kW)*  
2 Pines Road  
Branchville, NJ

- (iii) *Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*
- (A) *Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)*  
*50 Washington Avenue*  
*Franklin, NJ*
- (iv) *Green Township Board of Education (<http://greenhills.org>)*
- (A) *Green Hills School (Roof 157 kW)*  
*69 Mackerley Road*  
*Greendell, NJ*
- (v) *Hardyston Board of Education (<http://www.htps.org/BOE/BOEIndex.htm>)*
- (A) *Hardyston Middle School (Rack 612 kW)*  
*183 Wheatsworth Road*  
*Hamburg, NJ*
- (vi) *High Point Regional School District (<http://www.hpregonal.org/>)*
- (A) *High Point Regional High School (Roof 453 kW)*  
*299 Pidgeon Hill Road*  
*Sussex, NJ*
- (vii) *Kittatinny Regional School District (<http://www.krhs.net/>)*
- (A) *Kittatinny Regional High School (Roof 187 kW and Parking Canopy 173 kW)*  
*77 Halsey Road*  
*Newton, NJ*
- (ix) *Lenape Valley Regional Board of Education (<http://www.lvhs.org>)*
- (A) *Lenape Valley Regional High School (Parking Canopy 393 kW and Rack 774 kW)*  
*28 Sparta Road*  
*Stanhope, NJ*
- (x) *Newton Board of Education (<http://www.newtonnj.org>)*
- (A) *Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)*  
*81 Merriam Avenue*  
*Newton, NJ; and*

- (B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)*  
44 Ryerson Avenue  
Newton, NJ

c. **Series 2011 County Local Units**

- (i) *Sussex County Technical School (<http://www.sussex.tec.nj.us/>)*

- (A) *Sussex County Technical School (Roof 112 kW, Rack 792 kW and Parking Canopy 290 kW)*  
105 North Church Road  
Sparta, NJ

- (ii) *County of Sussex (<http://www.sussex.nj.us/>)*

- (A) *Sussex County Judicial Center (Parking Canopy 468 kW)*  
39 High Street  
Newton, NJ

- (B) *Wheatsworth Facility (Rack 149 kW)*  
149 Wheatsworth Road  
Hardyston, NJ

- (C) *Main Library (Rack 100 kW)*  
125 Morris Turnpike  
Newton, NJ

## LOCAL UNIT FACILITY ACCEPTANCE CERTIFICATE

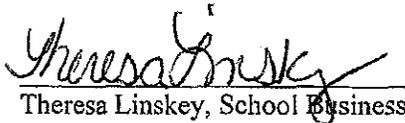
On behalf of the Byram Township Board of Education (the "Local Unit"), and as a duly authorized officer of the Local Unit, I hereby represent, warrant and covenant as follows:

1. The Local Unit understands that it has been preliminarily selected by the Morris County Improvement Authority (the "Authority") as one of the local government participants in the Authority's 2011 Renewable Energy Program (Sussex County Program) (the "Program"). The Local Unit further understands that although there is no legal agreement between the Authority and the Local Unit until such parties execute that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" (a form of which "License Agreement" shall be supplied to the Local Unit by the Authority when the Program is closer to implementation), the information being provided to the Authority in this Certificate enables the Authority to draft the License Agreement, seek the necessary approvals, and otherwise implement the Program.

2. The License Agreement shall refer to the building(s) or ground(s) (each "Local Unit Facility"), location, size and scope (and if applicable, style) of the solar project (the "Renewable Energy Project") to be implemented on behalf of the Local Unit by the Authority and its various contract parties, including a competitively selected solar developer (the "Company"). Various consultants to the Authority, based on site visits and past information supplied by the Local Unit to the Authority, have identified the Local Unit Facility(ies) and Renewable Energy Project(s) (which include solar overlays prepared by Authority consultants) set forth on Schedule A to this certificate for inclusion in the License Agreement, for selection of the Company, and for financing and implementation under the Authority's Renewable Energy Program.

a. The Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate has been reviewed on behalf of the Local Unit, at a minimum, by the Local Unit official responsible for managing the day to day affairs of the Local Unit (which may include the undersigned), and at least by an in-house facilities director or consulting engineer and/or architect. Based on such review, and the review of such other in-house officers or employees or outside consultants of the Local Unit's choosing (including council, board, legal or technical review), if deemed necessary by the Local Unit, the description of the Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate is materially accurate, and can be used by the Authority in drafting the various Program documents, selecting the Company, and seeking the various Program approvals.

b. The Local Unit understands that any changes desired by the Local Unit to the Local Unit Facility and Renewable Energy Project from that set forth on Schedule A to this certificate (i) are the responsibility of the Local Unit to inform the Authority and its consultants, and (ii) may or may not be accepted by the Authority, depending on the timing of any such proposed change. The Local Unit may contact County Administrator and Authority Chairman, John Bonanni, (973) 285-6047, [jbannoni@co.morris.nj.us](mailto:jbannoni@co.morris.nj.us), the Sussex County Administrator, John Eskilson, (973) 579 - 0250, [jeskilson@sussex.nj.us](mailto:jeskilson@sussex.nj.us), or the Authority's engineering consultant for the Program, Daniel Swayze of Birdsall Services Group, Inc. at (908) 497-8900, [dswayze@birdsall.com](mailto:dswayze@birdsall.com), with any subsequent changes. To the extent the Company proposes other changes acceptable to the Authority, the Authority shall seek the consent of the Local Unit.

  
Theresa Linskey, School Business Administrator

Dated: August 31, 2011

**SCHEDULE A**

[Attach Local Unit's Local Unit Facility(ies) and Renewable Energy Project(s)]

**EXHIBIT A**

**Morris County Improvement Authority**

Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

**a. Series 2011 Municipal Local Units**

(i) *Fredon Township (<http://www.twp.fredon.nj.us/>)*

(A) *Civic Center (Roof 61 kW)*  
436 Route 94  
Fredon, NJ

(ii) *Town of Newton (<http://www.newtontownhall.com/>)*

(A) *DPW Complex (Roof 73 kW)*  
39 Trinity Street  
Newton, NJ

(B) *Wastewater Treatment Plant (Rack 109 kW)*  
Townsend Street  
Newton, NJ

**b. Series 2011 Board of Education Local Units**

(i) *Byram Township School District (<http://www.byramschools.org/>)*

(A) *Byram Lakes Elementary School (Roof 38 kW)*  
11 Mansfield Drive  
Stanhope, NJ

(B) *Byram Intermediate School (Parking Canopy 455 kW)*  
12 Mansfield Drive  
Stanhope, NJ

(ii) *Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*

(A) *Frankford Township School (Rack 362 kW)*  
2 Pines Road  
Branchville, NJ

- (iii) *Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*
- (A) *Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)*  
*50 Washington Avenue*  
*Franklin, NJ*
- (iv) *Green Township Board of Education (<http://greenhills.org>)*
- (A) *Green Hills School (Roof 157 kW)*  
*69 Mackerley Road*  
*Greendell, NJ*
- (v) *Hardyston Board of Education (<http://www.htps.org/BOE/BOEIndex.htm>)*
- (A) *Hardyston Middle School (Rack 612 kW)*  
*183 Wheatsworth Road*  
*Hamburg, NJ*
- (vi) *High Point Regional School District (<http://www.hpregional.org/>)*
- (A) *High Point Regional High School (Roof 453 kW)*  
*299 Pidgeon Hill Road*  
*Sussex, NJ*
- (vii) *Kittatinny Regional School District (<http://www.krhs.net/>)*
- (A) *Kittatinny Regional High School (Roof 187 kW and Parking Canopy 173 kW)*  
*77 Halsey Road*  
*Newton, NJ*
- (ix) *Lenape Valley Regional Board of Education (<http://www.lvhs.org>)*
- (A) *Lenape Valley Regional High School (Parking Canopy 393 kW and Rack 774 kW)*  
*28 Sparta Road*  
*Stanhope, NJ*
- (x) *Newton Board of Education (<http://www.newtonnj.org>)*
- (A) *Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)*  
*81 Merriam Avenue*  
*Newton, NJ; and*

- (B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)*  
44 Ryerson Avenue  
Newton, NJ

c. **Series 2011 County Local Units**

- (i) *Sussex County Technical School (<http://www.sussex.tec.nj.us/>)*

- (A) *Sussex County Technical School (Roof 112 kW, Rack 792 kW and Parking Canopy 290 kW)*  
105 North Church Road  
Sparta, NJ

- (ii) *County of Sussex (<http://www.sussex.nj.us/>)*

- (A) *Sussex County Judicial Center (Parking Canopy 468 kW)*  
39 High Street  
Newton, NJ

- (B) *Wheatsworth Facility (Rack 149 kW)*  
149 Wheatsworth Road  
Hardyston, NJ

- (C) *Main Library (Rack 100 kW)*  
125 Morris Turnpike  
Newton, NJ

## LOCAL UNIT FACILITY ACCEPTANCE CERTIFICATE

On behalf of the Frankford Township School District (the "Local Unit"), and as a duly authorized officer of the Local Unit, I hereby represent, warrant and covenant as follows:

1. The Local Unit understands that it has been preliminarily selected by the Morris County Improvement Authority (the "Authority") as one of the local government participants in the Authority's 2011 Renewable Energy Program (Sussex County Program) (the "Program"). The Local Unit further understands that although there is no legal agreement between the Authority and the Local Unit until such parties execute that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" (a form of which "License Agreement" shall be supplied to the Local Unit by the Authority when the Program is closer to implementation), the information being provided to the Authority in this Certificate enables the Authority to draft the License Agreement, seek the necessary approvals, and otherwise implement the Program.

2. The License Agreement shall refer to the building(s) or ground(s) (each "Local Unit Facility"), location, size and scope (and if applicable, style) of the solar project (the "Renewable Energy Project") to be implemented on behalf of the Local Unit by the Authority and its various contract parties, including a competitively selected solar developer (the "Company"). Various consultants to the Authority, based on site visits and past information supplied by the Local Unit to the Authority, have identified the Local Unit Facility(ies) and Renewable Energy Project(s) (which include solar overlays prepared by Authority consultants) set forth on Schedule A to this certificate for inclusion in the License Agreement, for selection of the Company, and for financing and implementation under the Authority's Renewable Energy Program.

a. The Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate has been reviewed on behalf of the Local Unit, at a minimum, by the Local Unit official responsible for managing the day to day affairs of the Local Unit (which may include the undersigned), and at least by an in-house facilities director or consulting engineer and/or architect. Based on such review, and the review of such other in-house officers or employees or outside consultants of the Local Unit's choosing (including council, board, legal or technical review), if deemed necessary by the Local Unit, the description of the Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate is materially accurate, and can be used by the Authority in drafting the various Program documents, selecting the Company, and seeking the various Program approvals.

b. The Local Unit understands that any changes desired by the Local Unit to the Local Unit Facility and Renewable Energy Project from that set forth on Schedule A to this certificate (i) are the responsibility of the Local Unit to inform the Authority and its consultants, and (ii) may or may not be accepted by the Authority, depending on the timing of any such proposed change. The Local Unit may contact County Administrator and Authority Chairman, John Bonanni, (973) 285-6047, [jbonanni@co.morris.nj.us](mailto:jbonanni@co.morris.nj.us), the Sussex County Administrator, John Eskilson, (973) 579 - 0250, [jeskilson@sussex.nj.us](mailto:jeskilson@sussex.nj.us), or the Authority's engineering consultant for the Program, Daniel Swayze of Birdsall Services Group, Inc. at (908) 497-8900, [dswayze@birdsall.com](mailto:dswayze@birdsall.com), with any subsequent changes. To the extent the Company proposes other changes acceptable to the Authority, the Authority shall seek the consent of the Local Unit.



Local Unit Authorized Officer

Dated: August 8, 2011

**SCHEDULE A**

[Attach Local Unit's Local Unit Facility(ies) and Renewable Energy Project(s)]

**EXHIBIT A**

**Morris County Improvement Authority**

Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

**a. Series 2011 Municipal Local Units**

(i) *Fredon Township (<http://www.twp.fredon.nj.us/>)*

(A) *Civic Center (Roof 61 kW)*  
436 Route 94  
Fredon, NJ

(ii) *Town of Newton (<http://www.newtontownhall.com/>)*

(A) *DPW Complex (Roof 73 kW)*  
39 Trinity Street  
Newton, NJ

(B) *Wastewater Treatment Plant (Rack 109 kW)*  
Townsend Street  
Newton, NJ

**b. Series 2011 Board of Education Local Units**

(i) *Byram Township School District (<http://www.byramschools.org/>)*

(A) *Byram Lakes Elementary School (Roof 38 kW)*  
11 Mansfield Drive  
Stanhope, NJ

(B) *Byram Intermediate School (Parking Canopy 455 kW)*  
12 Mansfield Drive  
Stanhope, NJ

(ii) *Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*

(A) *Frankford Township School (Rack 362 kW)*  
2 Pines Road  
Branchville, NJ

- (iii) *Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*
- (A) *Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)*  
*50 Washington Avenue*  
*Franklin, NJ*
- (iv) *Green Township Board of Education (<http://greenhills.org>)*
- (A) *Green Hills School (Roof 157 kW)*  
*69 Mackerley Road*  
*Greendell, NJ*
- (v) *Hardyston Board of Education (<http://www.htps.org/BOE/BOEIndex.htm>)*
- (A) *Hardyston Middle School (Rack 612 kW)*  
*183 Wheatsworth Road*  
*Hamburg, NJ*
- (vi) *High Point Regional School District (<http://www.hpregonal.org/>)*
- (A) *High Point Regional High School (Roof 453 kW)*  
*299 Pidgeon Hill Road*  
*Sussex, NJ*
- (vii) *Kittatinny Regional School District (<http://www.krhs.net/>)*
- (A) *Kittatinny Regional High School (Roof 187 kW and Parking Canopy 173 kW)*  
*77 Halsey Road*  
*Newton, NJ*
- (ix) *Lenape Valley Regional Board of Education (<http://www.lvhs.org>)*
- (A) *Lenape Valley Regional High School (Parking Canopy 393 kW and Rack 774 kW)*  
*28 Sparta Road*  
*Stanhope, NJ*
- (x) *Newton Board of Education (<http://www.newtonnj.org>)*
- (A) *Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)*  
*81 Merriam Avenue*  
*Newton, NJ; and*

- (B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)*  
44 Ryerson Avenue  
Newton, NJ

**c. Series 2011 County Local Units**

- (i) *Sussex County Technical School (<http://www.sussex.tec.nj.us/>)*

- (A) *Sussex County Technical School (Roof 112 kW, Rack 792 kW and Parking Canopy 290 kW)*  
105 North Church Road  
Sparta, NJ

- (ii) *County of Sussex (<http://www.sussex.nj.us/>)*

- (A) *Sussex County Judicial Center (Parking Canopy 468 kW)*  
39 High Street  
Newton, NJ

- (B) *Wheatworth Facility (Rack 149 kW)*  
149 Wheatworth Road  
Hardyston, NJ

- (C) *Main Library (Rack 100 kW)*  
125 Morris Turnpike  
Newton, NJ

## LOCAL UNIT FACILITY ACCEPTANCE CERTIFICATE

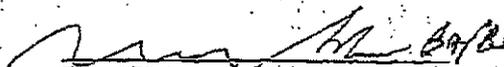
On behalf of the Franklin Borough Board of Education (the "Local Unit"), and as a duly authorized officer of the Local Unit, I hereby represent, warrant and covenant as follows:

1. The Local Unit understands that it has been preliminarily selected by the Morris County Improvement Authority (the "Authority") as one of the local government participants in the Authority's 2011 Renewable Energy Program (Sussex County Program) (the "Program"). The Local Unit further understands that although there is no legal agreement between the Authority and the Local Unit until such parties execute that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" (a form of which "License Agreement" shall be supplied to the Local Unit by the Authority when the Program is closer to implementation), the information being provided to the Authority in this Certificate enables the Authority to draft the License Agreement, seek the necessary approvals, and otherwise implement the Program.

2. The License Agreement shall refer to the building(s) or ground(s) (each "Local Unit Facility"), location, size and scope (and if applicable, style) of the solar project (the "Renewable Energy Project") to be implemented on behalf of the Local Unit by the Authority and its various contract parties, including a competitively selected solar developer (the "Company"). Various consultants to the Authority, based on site visits and past information supplied by the Local Unit to the Authority, have identified the Local Unit Facility(ies) and Renewable Energy Project(s) (which include solar overlays prepared by Authority consultants) set forth on Schedule A to this certificate for inclusion in the License Agreement, for selection of the Company, and for financing and implementation under the Authority's Renewable Energy Program.

a. The Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate has been reviewed on behalf of the Local Unit, at a minimum, by the Local Unit official responsible for managing the day to day affairs of the Local Unit (which may include the undersigned), and at least by an in-house facilities director or consulting engineer and/or architect. Based on such review, and the review of such other in-house officers or employees or outside consultants of the Local Unit's choosing (including council, board, legal or technical review), if deemed necessary by the Local Unit, the description of the Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate is materially accurate, and can be used by the Authority in drafting the various Program documents, selecting the Company, and seeking the various Program approvals.

b. The Local Unit understands that any changes desired by the Local Unit to the Local Unit Facility and Renewable Energy Project from that set forth on Schedule A to this certificate (i) are the responsibility of the Local Unit to inform the Authority and its consultants, and (ii) may or may not be accepted by the Authority, depending on the timing of any such proposed change. The Local Unit may contact County Administrator and Authority Chairman, John Bonanni, (973) 285-6047, [jbbonanni@co.morris.nj.us](mailto:jbbonanni@co.morris.nj.us), the Sussex County Administrator, John Eskilson, (973) 579 - 0250, [jeskilson@sussex.nj.us](mailto:jeskilson@sussex.nj.us), or the Authority's engineering consultant for the Program, Daniel Swayze of Birdsall Services Group, Inc. at (908) 497-8900, [dswayze@birdsall.com](mailto:dswayze@birdsall.com), with any subsequent changes. To the extent the Company proposes other changes acceptable to the Authority, the Authority shall seek the consent of the Local Unit.

  
Local Unit Authorized Officer

Dated: July 25, 2011

## **SCHEDULE A**

[Attach Local Unit's Local Unit Facility(ies) and Renewable Energy Project(s)]

**EXHIBIT A**

**Morris County Improvement Authority**

Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

**a. Series 2011 Municipal Local Units**

(i) *Fredon Township (<http://www.twp.fredon.nj.us/>)*

(A) *Civic Center (Roof 61 kW)*  
*436 Route 94*  
*Fredon, NJ*

(ii) *Town of Newton (<http://www.newtontownhall.com/>)*

(A) *DPW Complex (Roof 73 kW)*  
*39 Trinity Street*  
*Newton, NJ*

(B) *Wastewater Treatment Plant (Rack 109 kW)*  
*Townsend Street*  
*Newton, NJ*

**b. Series 2011 Board of Education Local Units**

(i) *Byram Township School District (<http://www.byramschools.org/>)*

(A) *Byram Lakes Elementary School (Roof 38 kW)*  
*11 Mansfield Drive*  
*Stanhope, NJ*

(B) *Byram Intermediate School (Parking Canopy 455 kW)*  
*12 Mansfield Drive*  
*Stanhope, NJ*

(ii) *Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*

(A) *Frankford Township School (Rack 362 kW)*  
*2 Pines Road*  
*Branchville, NJ*

- (iii) *Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*
  - (A) *Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)*  
*50 Washington Avenue*  
*Franklin, NJ*
- (iv) *Green Township Board of Education (<http://greenhills.org>)*
  - (A) *Green Hills School (Roof 157 kW)*  
*69 Mackerley Road*  
*Greendell, NJ*
- (v) *Hardyston Board of Education (<http://www.htps.org/BOE/BOEIndex.htm>)*
  - (A) *Hardyston Middle School (Rack 612 kW)*  
*183 Wheatsworth Road*  
*Hamburg, NJ*
- (vi) *High Point Regional School District (<http://www.hpregional.org/>)*
  - (A) *High Point Regional High School (Roof 453 kW)*  
*299 Pidgeon Hill Road*  
*Sussex, NJ*
- (vii) *Kittatinny Regional School District (<http://www.krhs.net/>)*
  - (A) *Kittatinny Regional High School (Roof 187 kW and Parking Canopy 173 kW)*  
*77 Halsey Road*  
*Newton, NJ*
- (ix) *Lenape Valley Regional Board of Education (<http://www.lvhs.org>)*
  - (A) *Lenape Valley Regional High School (Parking Canopy 393 kW and Rack 774 kW)*  
*28 Sparta Road*  
*Stanhope, NJ*
- (x) *Newton Board of Education (<http://www.newtonnj.org>)*
  - (A) *Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)*  
*81 Merriam Avenue*  
*Newton, NJ; and*

(B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)*  
44 Ryerson Avenue  
Newton, NJ

c. **Series 2011 County Local Units**

(i) *Sussex County Technical School (<http://www.sussex.tec.nj.us/>)*

(A) *Sussex County Technical School (Roof 112 kW, Rack 792 kW and Parking Canopy 290 kW)*  
105 North Church Road  
Sparta, NJ

(ii) *County of Sussex (<http://www.sussex.nj.us/>)*

(A) *Sussex County Judicial Center (Parking Canopy 468 kW)*  
39 High Street  
Newton, NJ

(B) *Wheatsworth Facility (Rack 149 kW)*  
149 Wheatsworth Road  
Hardyston, NJ

(C) *Main Library (Rack 100 kW)*  
125 Morris Turnpike  
Newton, NJ

## LOCAL UNIT FACILITY ACCEPTANCE CERTIFICATE

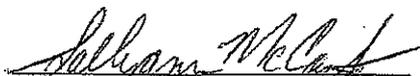
On behalf of the Green Township Board of Education (the "*Local Unit*"), and as a duly authorized officer of the Local Unit, I hereby represent, warrant and covenant as follows:

1. The Local Unit understands that it has been preliminarily selected by the Morris County Improvement Authority (the "*Authority*") as one of the local government participants in the Authority's 2011 Renewable Energy Program (Sussex County Program) (the "*Program*"). The Local Unit further understands that although there is no legal agreement between the Authority and the Local Unit until such parties execute that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" (a form of which "*License Agreement*" shall be supplied to the Local Unit by the Authority when the Program is closer to implementation), the information being provided to the Authority in this Certificate enables the Authority to draft the License Agreement, seek the necessary approvals, and otherwise implement the Program.

2. The License Agreement shall refer to the building(s) or ground(s) (each "*Local Unit Facility*"), location, size and scope (and if applicable, style) of the solar project (the "*Renewable Energy Project*") to be implemented on behalf of the Local Unit by the Authority and its various contract parties, including a competitively selected solar developer (the "*Company*"). Various consultants to the Authority, based on site visits and past information supplied by the Local Unit to the Authority, have identified the Local Unit Facility(ies) and Renewable Energy Project(s) (which include solar overlays prepared by Authority consultants) set forth on Schedule A to this certificate for inclusion in the License Agreement, for selection of the Company, and for financing and implementation under the Authority's Renewable Energy Program.

a. The Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate has been reviewed on behalf of the Local Unit, at a minimum, by the Local Unit official responsible for managing the day to day affairs of the Local Unit (which may include the undersigned), and at least by an in-house facilities director or consulting engineer and/or architect. Based on such review, and the review of such other in-house officers or employees or outside consultants of the Local Unit's choosing (including council, board, legal or technical review), if deemed necessary by the Local Unit, the description of the Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate is materially accurate, and can be used by the Authority in drafting the various Program documents, selecting the Company, and seeking the various Program approvals.

b. The Local Unit understands that any changes desired by the Local Unit to the Local Unit Facility and Renewable Energy Project from that set forth on Schedule A to this certificate (i) are the responsibility of the Local Unit to inform the Authority and its consultants, and (ii) may or may not be accepted by the Authority, depending on the timing of any such proposed change. The Local Unit may contact County Administrator and Authority Chairman, John Bonanni, (973) 285-6047, [jbbonanni@co.morris.nj.us](mailto:jbbonanni@co.morris.nj.us), the Sussex County Administrator, John Eskilson, (973) 579 - 0250, [jeskilson@sussex.nj.us](mailto:jeskilson@sussex.nj.us), or the Authority's engineering consultant for the Program, Daniel Swayze of Birdsall Services Group, Inc. at (908) 497-8900, [dswayze@birdsall.com](mailto:dswayze@birdsall.com), with any subsequent changes. To the extent the Company proposes other changes acceptable to the Authority, the Authority shall seek the consent of the Local Unit.

  
Local Unit Authorized Officer

Dated: November 16, 2011

**SCHEDULE A**

[Attach Local Unit's Local Unit Facility(ies) and Renewable Energy Project(s)]

**EXHIBIT A**

**Morris County Improvement Authority**

Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

**a. Series 2011 Municipal Local Units**

(i) *Fredon Township (<http://www.twp.fredon.nj.us/>)*

(A) *Civic Center (Roof 61 kW)*  
436 Route 94  
Fredon, NJ

(ii) *Town of Newton (<http://www.newtontownhall.com/>)*

(A) *DPW Complex (Roof 73 kW)*  
39 Trinity Street  
Newton, NJ

(B) *Wastewater Treatment Plant (Rack 109 kW)*  
Townsend Street  
Newton, NJ

**b. Series 2011 Board of Education Local Units**

(i) *Byram Township School District (<http://www.byramschools.org/>)*

(A) *Byram Lakes Elementary School (Roof 38 kW)*  
11 Mansfield Drive  
Stanhope, NJ

(B) *Byram Intermediate School (Parking Canopy 455 kW)*  
12 Mansfield Drive  
Stanhope, NJ

(ii) *Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*

(A) *Frankford Township School (Rack 362 kW)*  
2 Pines Road  
Branchville, NJ

- (iii) *Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*
- (A) *Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)*  
*50 Washington Avenue*  
*Franklin, NJ*
- (iv) *Green Township Board of Education (<http://greenhills.org>)*
- (A) *Green Hills School (Roof 157 kW)*  
*69 Mackerley Road*  
*Greendell, NJ*
- (v) *Hardyston Board of Education (<http://www.htps.org/BOE/BOEIndex.htm>)*
- (A) *Hardyston Middle School (Rack 612 kW)*  
*183 Wheatsworth Road*  
*Hamburg, NJ*
- (vi) *High Point Regional School District (<http://www.hpregional.org/>)*
- (A) *High Point Regional High School (Roof 453 kW)*  
*299 Pidgeon Hill Road*  
*Sussex, NJ*
- (vii) *Kittatinny Regional School District (<http://www.krhs.net/>)*
- (A) *Kittatinny Regional High School (Roof 187 kW and Parking Canopy 173 kW)*  
*77 Halsey Road*  
*Newton, NJ*
- (ix) *Lenape Valley Regional Board of Education (<http://www.lvhs.org>)*
- (A) *Lenape Valley Regional High School (Parking Canopy 393 kW and Rack 774 kW)*  
*28 Sparta Road*  
*Stanhope, NJ*
- (x) *Newton Board of Education (<http://www.newtonnj.org>)*
- (A) *Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)*  
*81 Merriam Avenue*  
*Newton, NJ; and*

(B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)*  
44 Ryerson Avenue  
Newton, NJ

c. **Series 2011 County Local Units**

(i) *Sussex County Technical School (<http://www.sussex.tec.nj.us/>)*

(A) *Sussex County Technical School (Roof 112 kW, Rack 792 kW and Parking Canopy 290 kW)*  
105 North Church Road  
Sparta, NJ

(ii) *County of Sussex (<http://www.sussex.nj.us/>)*

(A) *Sussex County Judicial Center (Parking Canopy 468 kW)*  
39 High Street  
Newton, NJ

(B) *Wheatsworth Facility (Rack 149 kW)*  
149 Wheatsworth Road  
Hardyston, NJ

(C) *Main Library (Rack 100 kW)*  
125 Morris Turnpike  
Newton, NJ

## LOCAL UNIT FACILITY ACCEPTANCE CERTIFICATE

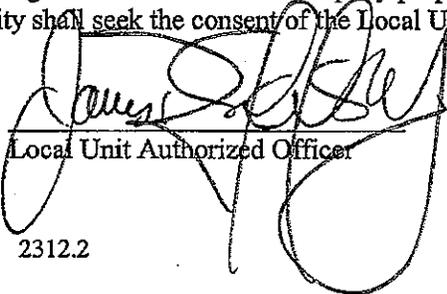
On behalf of the Hardyston Board of Education (the "Local Unit"), and as a duly authorized officer of the Local Unit, I hereby represent, warrant and covenant as follows:

1. The Local Unit understands that it has been preliminarily selected by the Morris County Improvement Authority (the "Authority") as one of the local government participants in the Authority's 2011 Renewable Energy Program (Sussex County Program) (the "Program"). The Local Unit further understands that although there is no legal agreement between the Authority and the Local Unit until such parties execute that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" (a form of which "License Agreement" shall be supplied to the Local Unit by the Authority when the Program is closer to implementation), the information being provided to the Authority in this Certificate enables the Authority to draft the License Agreement, seek the necessary approvals, and otherwise implement the Program.

2. The License Agreement shall refer to the building(s) or ground(s) (each "Local Unit Facility"), location, size and scope (and if applicable, style) of the solar project (the "Renewable Energy Project") to be implemented on behalf of the Local Unit by the Authority and its various contract parties, including a competitively selected solar developer (the "Company"). Various consultants to the Authority, based on site visits and past information supplied by the Local Unit to the Authority, have identified the Local Unit Facility(ies) and Renewable Energy Project(s) (which include solar overlays prepared by Authority consultants) set forth on Schedule A to this certificate for inclusion in the License Agreement, for selection of the Company, and for financing and implementation under the Authority's Renewable Energy Program.

a. The Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate has been reviewed on behalf of the Local Unit, at a minimum, by the Local Unit official responsible for managing the day to day affairs of the Local Unit (which may include the undersigned), and at least by an in-house facilities director or consulting engineer and/or architect. Based on such review, and the review of such other in-house officers or employees or outside consultants of the Local Unit's choosing (including council, board, legal or technical review), if deemed necessary by the Local Unit, the description of the Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate is materially accurate, and can be used by the Authority in drafting the various Program documents, selecting the Company, and seeking the various Program approvals.

b. The Local Unit understands that any changes desired by the Local Unit to the Local Unit Facility and Renewable Energy Project from that set forth on Schedule A to this certificate (i) are the responsibility of the Local Unit to inform the Authority and its consultants, and (ii) may or may not be accepted by the Authority, depending on the timing of any such proposed change. The Local Unit may contact County Administrator and Authority Chairman, John Bonanni, (973) 285-6047, [jbonanni@co.morris.nj.us](mailto:jbonanni@co.morris.nj.us), the Sussex County Administrator, John Eskilson, (973) 579 - 0250, [jeskilson@sussex.nj.us](mailto:jeskilson@sussex.nj.us), or the Authority's engineering consultant for the Program, Daniel Swayze of Birdsall Services Group, Inc. at (908) 497-8900, [dswayze@birdsall.com](mailto:dswayze@birdsall.com), with any subsequent changes. To the extent the Company proposes other changes acceptable to the Authority, the Authority shall seek the consent of the Local Unit.

  
Local Unit Authorized Officer

Dated: November 15, 2011

**SCHEDULE A**

[Attach Local Unit's Local Unit Facility(ies) and Renewable Energy Project(s)]

**EXHIBIT A**

**Morris County Improvement Authority**

Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

**a. Series 2011 Municipal Local Units**

(i) *Fredon Township (<http://www.twp.fredon.nj.us/>)*

(A) *Civic Center (Roof 61 kW)*  
436 Route 94  
Fredon, NJ

(ii) *Town of Newton (<http://www.newtontownhall.com/>)*

(A) *DPW Complex (Roof 73 kW)*  
39 Trinity Street  
Newton, NJ

(B) *Wastewater Treatment Plant (Rack 109 kW)*  
Townsend Street  
Newton, NJ

**b. Series 2011 Board of Education Local Units**

(i) *Byram Township School District (<http://www.byramschools.org/>)*

(A) *Byram Lakes Elementary School (Roof 38 kW)*  
11 Mansfield Drive  
Stanhope, NJ

(B) *Byram Intermediate School (Parking Canopy 455 kW)*  
12 Mansfield Drive  
Stanhope, NJ

(ii) *Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*

(A) *Frankford Township School (Rack 362 kW)*  
2 Pines Road  
Branchville, NJ

- (iii) *Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*
  - (A) *Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)*  
*50 Washington Avenue*  
*Franklin, NJ*
  
- (iv) *Green Township Board of Education (<http://greenhills.org>)*
  - (A) *Green Hills School (Roof 157 kW)*  
*69 Mackerley Road*  
*Greendell, NJ*
  
- (v) *Hardyston Board of Education (<http://www.htps.org/BOE/BOEIndex.htm>)*
  - (A) *Hardyston Middle School (Rack 612 kW)*  
*183 Wheatsworth Road*  
*Hamburg, NJ*
  
- (vi) *High Point Regional School District (<http://www.hpregional.org/>)*
  - (A) *High Point Regional High School (Roof 453 kW)*  
*299 Pidgeon Hill Road*  
*Sussex, NJ*
  
- (vii) *Kittatinny Regional School District (<http://www.krhs.net/>)*
  - (A) *Kittatinny Regional High School (Roof 187 kW and Parking Canopy 173 kW)*  
*77 Halsey Road*  
*Newton, NJ*
  
- (ix) *Lenape Valley Regional Board of Education (<http://www.lvhs.org>)*
  - (A) *Lenape Valley Regional High School (Parking Canopy 393 kW and Rack 774 kW)*  
*28 Sparta Road*  
*Stanhope, NJ*
  
- (x) *Newton Board of Education (<http://www.newtonnj.org>)*
  - (A) *Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)*  
*81 Merriam Avenue*  
*Newton, NJ; and*

- (B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)*  
44 Ryerson Avenue  
Newton, NJ

**c. Series 2011 County Local Units**

- (i) *Sussex County Technical School (<http://www.sussex.tec.nj.us/>)*

- (A) *Sussex County Technical School (Roof 112 kW, Rack 792 kW and Parking Canopy 290 kW)*  
105 North Church Road  
Sparta, NJ

- (ii) *County of Sussex (<http://www.sussex.nj.us/>)*

- (A) *Sussex County Judicial Center (Parking Canopy 468 kW)*  
39 High Street  
Newton, NJ

- (B) *Wheatsworth Facility (Rack 149 kW)*  
149 Wheatsworth Road  
Hardyston, NJ

- (C) *Main Library (Rack 100 kW)*  
125 Morris Turnpike  
Newton, NJ

## LOCAL UNIT FACILITY ACCEPTANCE CERTIFICATE

On behalf of the **High Point Regional High School Board of Education** (the "*Local Unit*"), and as a duly authorized officer of the Local Unit, I hereby represent, warrant and covenant as follows:

1. The Local Unit understands that it has been preliminarily selected by the Morris County Improvement Authority (the "*Authority*") as one of the local government participants in the Authority's 2011 Renewable Energy Program (Sussex County Program) (the "*Program*"). The Local Unit further understands that although there is no legal agreement between the Authority and the Local Unit until such parties execute that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" (a form of which "*License Agreement*" shall be supplied to the Local Unit by the Authority when the Program is closer to implementation), the information being provided to the Authority in this Certificate enables the Authority to draft the License Agreement, seek the necessary approvals, and otherwise implement the Program.

2. The License Agreement shall refer to the building(s) or ground(s) (each "*Local Unit Facility*"), location, size and scope (and if applicable, style) of the solar project (the "*Renewable Energy Project*") to be implemented on behalf of the Local Unit by the Authority and its various contract parties, including a competitively selected solar developer (the "*Company*"). Various consultants to the Authority, based on site visits and past information supplied by the Local Unit to the Authority, have identified the Local Unit Facility(ies) and Renewable Energy Project(s) (which include solar overlays prepared by Authority consultants) set forth on Schedule A to this certificate for inclusion in the License Agreement, for selection of the Company, and for financing and implementation under the Authority's Renewable Energy Program.

a. The Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate has been reviewed on behalf of the Local Unit, at a minimum, by the Local Unit official responsible for managing the day to day affairs of the Local Unit (which may include the undersigned), and at least by an in-house facilities director or consulting engineer and/or architect. Based on such review, and the review of such other in-house officers or employees or outside consultants of the Local Unit's choosing (including council, board, legal or technical review), if deemed necessary by the Local Unit, the description of the Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate is materially accurate, and can be used by the Authority in drafting the various Program documents, selecting the Company, and seeking the various Program approvals.

b. The Local Unit understands that any changes desired by the Local Unit to the Local Unit Facility and Renewable Energy Project from that set forth on Schedule A to this certificate (i) are the responsibility of the Local Unit to inform the Authority and its consultants, and (ii) may or may not be accepted by the Authority, depending on the timing of any such proposed change. The Local Unit may contact County Administrator and Authority Chairman, John Bonanni, (973) 285-6047, [jbbonanni@co.morris.nj.us](mailto:jbbonanni@co.morris.nj.us), the Sussex County Administrator, John Eskilson, (973) 579 - 0250, [jeskilson@sussex.nj.us](mailto:jeskilson@sussex.nj.us), or the Authority's engineering consultant for the Program, Daniel Swayze of Birdsall Services Group, Inc. at (908) 497-8900, [dswayze@birdsall.com](mailto:dswayze@birdsall.com), with any subsequent changes. To the extent the Company proposes other changes acceptable to the Authority, the Authority shall seek the consent of the Local Unit.



Local Unit Authorized Officer

Linda A. Alvarez

School Business Administrator/Board Secretary

Dated: July 18, 2011

**SCHEDULE A**

[Attach Local Unit's Local Unit Facility(ies) and Renewable Energy Project(s)]

## EXHIBIT A

### Morris County Improvement Authority

Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

### Series 2011 Local Unit List of Local Unit Facilities

#### a. Series 2011 Municipal Local Units

(i) *Fredon Township (<http://www.twp.fredon.nj.us/>)*

(A) *Civic Center (Roof 61 kW)*  
*436 Route 94*  
*Fredon, NJ*

(ii) *Town of Newton (<http://www.newtontownhall.com/>)*

(A) *DPW Complex (Roof 73 kW)*  
*39 Trinity Street*  
*Newton, NJ*

(B) *Wastewater Treatment Plant (Rack 109 kW)*  
*Townsend Street*  
*Newton, NJ*

#### b. Series 2011 Board of Education Local Units

(i) *Byram Township School District (<http://www.byramschools.org/>)*

(A) *Byram Lakes Elementary School (Roof 38 kW)*  
*11 Mansfield Drive*  
*Stanhope, NJ*

(B) *Byram Intermediate School (Parking Canopy 455 kW)*  
*12 Mansfield Drive*  
*Stanhope, NJ*

(ii) *Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*

(A) *Frankford Township School (Rack 362 kW)*  
*2 Pines Road*  
*Branchville, NJ*

- (iii) *Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*
- (A) *Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)*  
*50 Washington Avenue*  
*Franklin, NJ*
- (iv) *Green Township Board of Education (<http://greenhills.org>)*
- (A) *Green Hills School (Roof 157 kW)*  
*69 Mackerley Road*  
*Greendell, NJ*
- (v) *Hardyston Board of Education (<http://www.htps.org/BOE/BOEIndex.htm>)*
- (A) *Hardyston Middle School (Rack 612 kW)*  
*183 Wheatsworth Road*  
*Hamburg, NJ*
- (vi) *High Point Regional School District (<http://www.hpregional.org/>)*
- (A) *High Point Regional High School (Roof 453 kW)*  
*299 Pidgeon Hill Road*  
*Sussex, NJ*
- (vii) *Kittatinny Regional School District (<http://www.krhs.net/>)*
- (A) *Kittatinny Regional High School (Roof 187 kW and Parking Canopy 173 kW)*  
*77 Halsey Road*  
*Newton, NJ*
- (ix) *Lenape Valley Regional Board of Education (<http://www.lvhs.org>)*
- (A) *Lenape Valley Regional High School (Parking Canopy 393 kW and Rack 774 kW)*  
*28 Sparta Road*  
*Stanhope, NJ*
- (x) *Newton Board of Education (<http://www.newtonnj.org>)*
- (A) *Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)*  
*81 Merriam Avenue*  
*Newton, NJ; and*

(B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)*  
*44 Ryerson Avenue*  
*Newton, NJ*

**c. Series 2011 County Local Units**

(i) *Sussex County Technical School (<http://www.sussex.tec.nj.us/>)*

(A) *Sussex County Technical School (Roof 112 kW, Rack 792 kW and Parking Canopy 290 kW)*  
*105 North Church Road*  
*Sparta, NJ*

(ii) *County of Sussex (<http://www.sussex.nj.us/>)*

(A) *Sussex County Judicial Center (Parking Canopy 468 kW)*  
*39 High Street*  
*Newton, NJ*

(B) *Wheatsworth Facility (Rack 149 kW)*  
*149 Wheatsworth Road*  
*Hardyston, NJ*

(C) *Main Library (Rack 100 kW)*  
*125 Morris Turnpike*  
*Newton, NJ*

## LOCAL UNIT FACILITY ACCEPTANCE CERTIFICATE

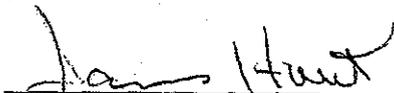
On behalf of the [Kittatinny Regional <sup>Col. Dist.</sup>] (the "Local Unit"), and as a duly authorized officer of the Local Unit, I hereby represent, warrant and covenant as follows:

1. The Local Unit understands that it has been preliminarily selected by the Morris County Improvement Authority (the "Authority") as one of the local government participants in the Authority's 2011 Renewable Energy Program (Sussex County Program) (the "Program"). The Local Unit further understands that although there is no legal agreement between the Authority and the Local Unit until such parties execute that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" (a form of which "License Agreement" shall be supplied to the Local Unit by the Authority when the Program is closer to implementation), the information being provided to the Authority in this Certificate enables the Authority to draft the License Agreement, seek the necessary approvals, and otherwise implement the Program.

2. The License Agreement shall refer to the building(s) or ground(s) (each "Local Unit Facility"), location, size and scope (and if applicable, style) of the solar project (the "Renewable Energy Project") to be implemented on behalf of the Local Unit by the Authority and its various contract parties, including a competitively selected solar developer (the "Company"). Various consultants to the Authority, based on site visits and past information supplied by the Local Unit to the Authority, have identified the Local Unit Facility(ies) and Renewable Energy Project(s) (which include solar overlays prepared by Authority consultants) set forth on Schedule A to this certificate for inclusion in the License Agreement, for selection of the Company, and for financing and implementation under the Authority's Renewable Energy Program.

a. The Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate has been reviewed on behalf of the Local Unit, at a minimum, by the Local Unit official responsible for managing the day to day affairs of the Local Unit (which may include the undersigned), and at least by an in-house facilities director or consulting engineer and/or architect. Based on such review, and the review of such other in-house officers or employees or outside consultants of the Local Unit's choosing (including council, board, legal or technical review), if deemed necessary by the Local Unit, the description of the Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate is materially accurate, and can be used by the Authority in drafting the various Program documents, selecting the Company, and seeking the various Program approvals.

b. The Local Unit understands that any changes desired by the Local Unit to the Local Unit Facility and Renewable Energy Project from that set forth on Schedule A to this certificate (i) are the responsibility of the Local Unit to inform the Authority and its consultants, and (ii) may or may not be accepted by the Authority, depending on the timing of any such proposed change. The Local Unit may contact County Administrator and Authority Chairman, John Bonanni, (973) 285-6047, [jbonanni@co.morris.nj.us](mailto:jbonanni@co.morris.nj.us), the Sussex County Administrator, John Eskilson, (973) 579 - 0250, [jeskilson@sussex.nj.us](mailto:jeskilson@sussex.nj.us), or the Authority's engineering consultant for the Program, Daniel Swayze of Birdsall Services Group, Inc. at (908) 497-8900, [dswayze@birdsall.com](mailto:dswayze@birdsall.com), with any subsequent changes. To the extent the Company proposes other changes acceptable to the Authority, the Authority shall seek the consent of the Local Unit.

  
Local Unit Authorized Officer  
Board President

Dated: July 26, 2011

**SCHEDULE A**

[Attach Local Unit's Local Unit Facility(ies) and Renewable Energy Project(s)]

**EXHIBIT A**

**Morris County Improvement Authority**

Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

**a. Series 2011 Municipal Local Units**

(i) *Fredon Township (<http://www.twp.fredon.nj.us/>)*

(A) *Civic Center (Roof 61 kW)*  
*436 Route 94*  
*Fredon, NJ*

(ii) *Town of Newton (<http://www.newtontownhall.com/>)*

(A) *DPW Complex (Roof 73 kW)*  
*39 Trinity Street*  
*Newton, NJ*

(B) *Wastewater Treatment Plant (Rack 109 kW)*  
*Townsend Street*  
*Newton, NJ*

**b. Series 2011 Board of Education Local Units**

(i) *Byram Township School District (<http://www.bvramschools.org/>)*

(A) *Byram Lakes Elementary School (Roof 38 kW)*  
*11 Mansfield Drive*  
*Stanhope, NJ*

(B) *Byram Intermediate School (Parking Canopy 455 kW)*  
*12 Mansfield Drive*  
*Stanhope, NJ*

(ii) *Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*

(A) *Frankford Township School (Rack 362 kW)*  
*2 Pines Road*  
*Branchville, NJ*

- (iii) *Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*
- (A) *Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)*  
50 Washington Avenue  
Franklin, NJ
- (iv) *Green Township Board of Education (<http://greenhills.org>)*
- (A) *Green Hills School (Roof 157 kW)*  
69 Mackerley Road  
Greendell, NJ
- (v) *Hardyston Board of Education (<http://www.htps.org/BOE/BOEIndex.htm>)*
- (A) *Hardyston Middle School (Rack 612 kW)*  
183 Wheatsworth Road  
Hamburg, NJ
- (vi) *High Point Regional School District (<http://www.hpregional.org/>)*
- (A) *High Point Regional High School (Roof 453 kW)*  
299 Pidgeon Hill Road  
Sussex, NJ
- (vii) *Kittatinny Regional School District (<http://www.krhs.net/>)*
- (A) *Kittatinny Regional High School (Roof 187 kW and Parking Canopy 173 kW)*  
77 Halsey Road  
Newton, NJ
- (ix) *Lenape Valley Regional Board of Education (<http://www.lvhs.org>)*
- (A) *Lenape Valley Regional High School (Parking Canopy 393 kW and Rack 774 kW)*  
28 Sparta Road  
Stanhope, NJ
- (x) *Newton Board of Education (<http://www.newtonnj.org>)*
- (A) *Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)*  
81 Merriam Avenue  
Newton, NJ; and

- (B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)*  
44 Ryerson Avenue  
Newton, NJ

c. **Series 2011 County Local Units**

- (i) *Sussex County Technical School (<http://www.sussex.tec.nj.us/>)*

- (A) *Sussex County Technical School (Roof 112 kW, Rack 792 kW and Parking Canopy 290 kW)*  
105 North Church Road  
Sparta, NJ

- (ii) *County of Sussex (<http://www.sussex.nj.us/>)*

- (A) *Sussex County Judicial Center (Parking Canopy 468 kW)*  
39 High Street  
Newton, NJ

- (B) *Wheatsworth Facility (Rack 149 kW)*  
149 Wheatsworth Road  
Hardyston, NJ

- (C) *Main Library (Rack 100 kW)*  
125 Morris Turnpike  
Newton, NJ

## LOCAL UNIT FACILITY ACCEPTANCE CERTIFICATE

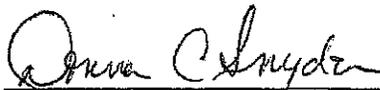
On behalf of the Newton Board of Education (the "*Local Unit*"), and as a duly authorized officer of the Local Unit, I hereby represent, warrant and covenant as follows:

1. The Local Unit understands that it has been preliminarily selected by the Morris County Improvement Authority (the "*Authority*") as one of the local government participants in the Authority's 2011 Renewable Energy Program (Sussex County Program) (the "*Program*"). The Local Unit further understands that although there is no legal agreement between the Authority and the Local Unit until such parties execute that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" (a form of which "*License Agreement*" shall be supplied to the Local Unit by the Authority when the Program is closer to implementation), the information being provided to the Authority in this Certificate enables the Authority to draft the License Agreement, seek the necessary approvals, and otherwise implement the Program.

2. The License Agreement shall refer to the building(s) or ground(s) (each "*Local Unit Facility*"), location, size and scope (and if applicable, style) of the solar project (the "*Renewable Energy Project*") to be implemented on behalf of the Local Unit by the Authority and its various contract parties, including a competitively selected solar developer (the "*Company*"). Various consultants to the Authority, based on site visits and past information supplied by the Local Unit to the Authority, have identified the Local Unit Facility(ies) and Renewable Energy Project(s) (which include solar overlays prepared by Authority consultants) set forth on Schedule A to this certificate for inclusion in the License Agreement, for selection of the Company, and for financing and implementation under the Authority's Renewable Energy Program.

a. The Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate has been reviewed on behalf of the Local Unit, at a minimum, by the Local Unit official responsible for managing the day to day affairs of the Local Unit (which may include the undersigned), and at least by an in-house facilities director or consulting engineer and/or architect. Based on such review, and the review of such other in-house officers or employees or outside consultants of the Local Unit's choosing (including council, board, legal or technical review), if deemed necessary by the Local Unit, the description of the Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate is materially accurate, and can be used by the Authority in drafting the various Program documents, selecting the Company, and seeking the various Program approvals.

b. The Local Unit understands that any changes desired by the Local Unit to the Local Unit Facility and Renewable Energy Project from that set forth on Schedule A to this certificate (i) are the responsibility of the Local Unit to inform the Authority and its consultants, and (ii) may or may not be accepted by the Authority, depending on the timing of any such proposed change. The Local Unit may contact County Administrator and Authority Chairman, John Bonanni, (973) 285-6047, [jbonanni@co.morris.nj.us](mailto:jbonanni@co.morris.nj.us), the Sussex County Administrator, John Eskilson, (973) 579 - 0250, [jeskilson@sussex.nj.us](mailto:jeskilson@sussex.nj.us), or the Authority's engineering consultant for the Program, Daniel Swayze of Birdsall Services Group, Inc. at (908) 497-8900, [dswayze@birdsall.com](mailto:dswayze@birdsall.com), with any subsequent changes. To the extent the Company proposes other changes acceptable to the Authority, the Authority shall seek the consent of the Local Unit.

  
Local Unit Authorized Officer

Dated: July 26, 2011

**SCHEDULE A**

[Attach Local Unit's Local Unit Facility(ies) and Renewable Energy Project(s)]

**EXHIBIT A**

**Morris County Improvement Authority**

Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

**a. Series 2011 Municipal Local Units**

(i) *Fredon Township (<http://www.twp.fredon.nj.us/>)*

(A) *Civic Center (Roof 61 kW)*  
*436 Route 94*  
*Fredon, NJ*

(ii) *Town of Newton (<http://www.newtontownhall.com/>)*

(A) *DPW Complex (Roof 73 kW)*  
*39 Trinity Street*  
*Newton, NJ*

(B) *Wastewater Treatment Plant (Rack 109 kW)*  
*Townsend Street*  
*Newton, NJ*

**b. Series 2011 Board of Education Local Units**

(i) *Byram Township School District (<http://www.byramschools.org/>)*

(A) *Byram Lakes Elementary School (Roof 38 kW)*  
*11 Mansfield Drive*  
*Stanhope, NJ*

(B) *Byram Intermediate School (Parking Canopy 455 kW)*  
*12 Mansfield Drive*  
*Stanhope, NJ*

(ii) *Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*

(A) *Frankford Township School (Rack 362 kW)*  
*2 Pines Road*  
*Branchville, NJ*

- (iii) *Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*
- (A) *Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)*  
*50 Washington Avenue*  
*Franklin, NJ*
- (iv) *Green Township Board of Education (<http://greenhills.org>)*
- (A) *Green Hills School (Roof 157 kW)*  
*69 Mackerley Road*  
*Greendell, NJ*
- (v) *Hardyston Board of Education (<http://www.htps.org/BOE/BOEIndex.htm>)*
- (A) *Hardyston Middle School (Rack 612 kW)*  
*183 Wheatsworth Road*  
*Hamburg, NJ*
- (vi) *High Point Regional School District (<http://www.hpregional.org/>)*
- (A) *High Point Regional High School (Roof 453 kW)*  
*299 Pidgeon Hill Road*  
*Sussex, NJ*
- (vii) *Kittatinny Regional School District (<http://www.krhs.net/>)*
- (A) *Kittatinny Regional High School (Roof 187 kW and Parking Canopy 173 kW)*  
*77 Halsey Road*  
*Newton, NJ*
- (ix) *Lenape Valley Regional Board of Education (<http://www.lvhs.org>)*
- (A) *Lenape Valley Regional High School (Parking Canopy 393 kW and Rack 774 kW)*  
*28 Sparta Road*  
*Stanhope, NJ*
- (x) *Newton Board of Education (<http://www.newtonnj.org>)*
- (A) *Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)*  
*81 Merriam Avenue*  
*Newton, NJ; and*

- (B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)*  
44 Ryerson Avenue  
Newton, NJ

c. **Series 2011 County Local Units**

- (i) *Sussex County Technical School (<http://www.sussex.tec.nj.us/>)*

- (A) *Sussex County Technical School (Roof 112 kW, Rack 792 kW and Parking Canopy 290 kW)*  
105 North Church Road  
Sparta, NJ

- (ii) *County of Sussex (<http://www.sussex.nj.us/>)*

- (A) *Sussex County Judicial Center (Parking Canopy 468 kW)*  
39 High Street  
Newton, NJ

- (B) *Wheatsworth Facility (Rack 149 kW)*  
149 Wheatsworth Road  
Hardyston, NJ

- (C) *Main Library (Rack 100 kW)*  
125 Morris Turnpike  
Newton, NJ

## LOCAL UNIT FACILITY ACCEPTANCE CERTIFICATE

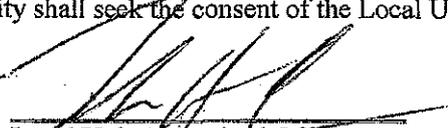
On behalf of the [County of Sussex] (the "Local Unit"), and as a duly authorized officer of the Local Unit, I hereby represent, warrant and covenant as follows:

1. The Local Unit understands that it has been preliminarily selected by the Morris County Improvement Authority (the "Authority") as one of the local government participants in the Authority's 2011 Renewable Energy Program (Sussex County Program) (the "Program"). The Local Unit further understands that although there is no legal agreement between the Authority and the Local Unit until such parties execute that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" (a form of which "License Agreement" shall be supplied to the Local Unit by the Authority when the Program is closer to implementation), the information being provided to the Authority in this Certificate enables the Authority to draft the License Agreement, seek the necessary approvals, and otherwise implement the Program.

2. The License Agreement shall refer to the building(s) or ground(s) (each "Local Unit Facility"), location, size and scope (and if applicable, style) of the solar project (the "Renewable Energy Project") to be implemented on behalf of the Local Unit by the Authority and its various contract parties, including a competitively selected solar developer (the "Company"). Various consultants to the Authority, based on site visits and past information supplied by the Local Unit to the Authority, have identified the Local Unit Facility(ies) and Renewable Energy Project(s) (which include solar overlays prepared by Authority consultants) set forth on Schedule A to this certificate for inclusion in the License Agreement, for selection of the Company, and for financing and implementation under the Authority's Renewable Energy Program.

a. The Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate has been reviewed on behalf of the Local Unit, at a minimum, by the Local Unit official responsible for managing the day to day affairs of the Local Unit (which may include the undersigned), and at least by an in-house facilities director or consulting engineer and/or architect. Based on such review, and the review of such other in-house officers or employees or outside consultants of the Local Unit's choosing (including council, board, legal or technical review), if deemed necessary by the Local Unit, the description of the Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate is materially accurate, and can be used by the Authority in drafting the various Program documents, selecting the Company, and seeking the various Program approvals.

b. The Local Unit understands that any changes desired by the Local Unit to the Local Unit Facility and Renewable Energy Project from that set forth on Schedule A to this certificate (i) are the responsibility of the Local Unit to inform the Authority and its consultants, and (ii) may or may not be accepted by the Authority, depending on the timing of any such proposed change. The Local Unit may contact County Administrator and Authority Chairman, John Bonanni, (973) 285-6047, [jbonanni@co.morris.nj.us](mailto:jbonanni@co.morris.nj.us), the Sussex County Administrator, John Eskilson, (973) 579 - 0250, [jeskilson@sussex.nj.us](mailto:jeskilson@sussex.nj.us), or the Authority's engineering consultant for the Program, Daniel Swayze of Birdsall Services Group, Inc. at (908) 497-8900, [dswayze@birdsall.com](mailto:dswayze@birdsall.com), with any subsequent changes. To the extent the Company proposes other changes acceptable to the Authority, the Authority shall seek the consent of the Local Unit.

  
Local Unit Authorized Officer  
John H. Eskilson, County Administrator

Dated: July \_\_, 2011  
Aug. 24, 2011

**SCHEDULE A**

[Attach Local Unit's Local Unit Facility(ies) and Renewable Energy Project(s)]

**EXHIBIT A**

**Morris County Improvement Authority**

Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

**a. Series 2011 Municipal Local Units**

(i) *Fredon Township (<http://www.twp.fredon.nj.us/>)*

(A) *Civic Center (Roof 61 kW)*  
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Fredon, NJ

(ii) *Town of Newton (<http://www.newtontownhall.com/>)*

(A) *DPW Complex (Roof 73 kW)*  
39 Trinity Street  
Newton, NJ

(B) *Wastewater Treatment Plant (Rack 109 kW)*  
Townsend Street  
Newton, NJ

**b. Series 2011 Board of Education Local Units**

(i) *Byram Township School District (<http://www.byramschools.org/>)*

(A) *Byram Lakes Elementary School (Roof 38 kW)*  
11 Mansfield Drive  
Stanhope, NJ

(B) *Byram Intermediate School (Parking Canopy 455 kW)*  
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(ii) *Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*

(A) *Frankford Township School (Rack 362 kW)*  
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- (iii) *Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*
  - (A) *Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)*  
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- (iv) *Green Township Board of Education (<http://greenhills.org>)*
  - (A) *Green Hills School (Roof 157 kW)*  
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*Greendell, NJ*
- (v) *Hardyston Board of Education (<http://www.htps.org/BOE/BOEIndex.htm>)*
  - (A) *Hardyston Middle School (Rack 612 kW)*  
*183 Wheatsworth Road*  
*Hamburg, NJ*
- (vi) *High Point Regional School District (<http://www.hpregional.org/>)*
  - (A) *High Point Regional High School (Roof 453 kW)*  
*299 Pidgeon Hill Road*  
*Sussex, NJ*
- (vii) *Kittatinny Regional School District (<http://www.krhs.net/>)*
  - (A) *Kittatinny Regional High School (Roof 187 kW and Parking Canopy 173 kW)*  
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  - (A) *Lenape Valley Regional High School (Parking Canopy 393 kW and Rack 774 kW)*  
*28 Sparta Road*  
*Stanhope, NJ*
- (x) *Newton Board of Education (<http://www.newtonnj.org>)*
  - (A) *Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)*  
*81 Merriam Avenue*  
*Newton, NJ; and*

(B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)*  
44 Ryerson Avenue  
Newton, NJ

c. **Series 2011 County Local Units**

(i) *Sussex County Technical School (<http://www.sussex.tec.nj.us/>)*

(A) *Sussex County Technical School (Roof 112 kW, Rack 792 kW and Parking Canopy 290 kW)*  
105 North Church Road  
Sparta, NJ

(ii) *County of Sussex (<http://www.sussex.nj.us/>)*

(A) *Sussex County Judicial Center (Parking Canopy 468 kW)*  
39 High Street  
Newton, NJ

(B) *Wheatsworth Facility (Rack 149 kW)*  
149 Wheatsworth Road  
Hardyston, NJ

(C) *Main Library (Rack 100 kW)*  
125 Morris Turnpike  
Newton, NJ

## LOCAL UNIT FACILITY ACCEPTANCE CERTIFICATE

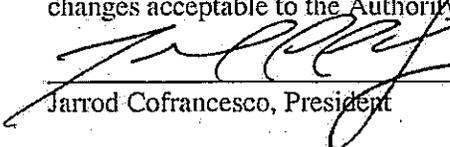
On behalf of the Sussex County Technical School (the "Local Unit"), and as a duly authorized officer of the Local Unit, I hereby represent, warrant and covenant as follows:

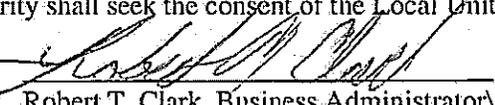
1. The Local Unit understands that it has been preliminarily selected by the Morris County Improvement Authority (the "Authority") as one of the local government participants in the Authority's 2011 Renewable Energy Program (Sussex County Program) (the "Program"). The Local Unit further understands that although there is no legal agreement between the Authority and the Local Unit until such parties execute that certain "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" (a form of which "License Agreement" shall be supplied to the Local Unit by the Authority when the Program is closer to implementation), the information being provided to the Authority in this Certificate enables the Authority to draft the License Agreement, seek the necessary approvals, and otherwise implement the Program.

2. The License Agreement shall refer to the building(s) or ground(s) (each "Local Unit Facility"), location, size and scope (and if applicable, style) of the solar project (the "Renewable Energy Project") to be implemented on behalf of the Local Unit by the Authority and its various contract parties, including a competitively selected solar developer (the "Company"). Various consultants to the Authority, based on site visits and past information supplied by the Local Unit to the Authority, have identified the Local Unit Facility(ies) and Renewable Energy Project(s) (which include solar overlays prepared by Authority consultants) set forth on Schedule A to this certificate for inclusion in the License Agreement, for selection of the Company, and for financing and implementation under the Authority's Renewable Energy Program.

a. The Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate has been reviewed on behalf of the Local Unit, at a minimum, by the Local Unit official responsible for managing the day to day affairs of the Local Unit (which may include the undersigned), and at least by an in-house facilities director or consulting engineer and/or architect. Based on such review, and the review of such other in-house officers or employees or outside consultants of the Local Unit's choosing (including council, board, legal or technical review), if deemed necessary by the Local Unit, the description of the Local Unit Facility and Renewable Energy Project set forth on Schedule A to this certificate is materially accurate, and can be used by the Authority in drafting the various Program documents, selecting the Company, and seeking the various Program approvals.

b. The Local Unit understands that any changes desired by the Local Unit to the Local Unit Facility and Renewable Energy Project from that set forth on Schedule A to this certificate (i) are the responsibility of the Local Unit to inform the Authority and its consultants, and (ii) may or may not be accepted by the Authority, depending on the timing of any such proposed change. The Local Unit may contact County Administrator and Authority Chairman, John Bonanni, (973) 285-6047, [jbonanni@co.morris.nj.us](mailto:jbonanni@co.morris.nj.us), the Sussex County Administrator, John Eskilson, (973) 579 - 0250, [jeskilson@sussex.nj.us](mailto:jeskilson@sussex.nj.us), or the Authority's engineering consultant for the Program, Daniel Swayze of Birdsall Services Group, Inc. at (908) 497-8900, [dswayze@birdsall.com](mailto:dswayze@birdsall.com), with any subsequent changes. To the extent the Company proposes other changes acceptable to the Authority, the Authority shall seek the consent of the Local Unit.

  
Jarrod Cofrancesco, President

  
Robert T. Clark, Business Administrator/  
Board Secretary

Dated: November 15, 2011

**SCHEDULE A**

[Attach Local Unit's Local Unit Facility(ies) and Renewable Energy Project(s)]

**EXHIBIT A**

**Morris County Improvement Authority**

Not to exceed \$50,000,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds, Series  
2011 (Federally Taxable)

**Series 2011 Local Unit List of Local Unit Facilities**

**a. Series 2011 Municipal Local Units**

(i) *Fredon Township (<http://www.twp.fredon.nj.us/>)*

(A) *Civic Center (Roof 61 kW)*  
*436 Route 94*  
*Fredon, NJ*

(ii) *Town of Newton (<http://www.newtontownhall.com/>)*

(A) *DPW Complex (Roof 73 kW)*  
*39 Trinity Street*  
*Newton, NJ*

(B) *Wastewater Treatment Plant (Rack 109 kW)*  
*Townsend Street*  
*Newton, NJ*

**b. Series 2011 Board of Education Local Units**

(i) *Byram Township School District (<http://www.byramschools.org/>)*

(A) *Byram Lakes Elementary School (Roof 38 kW)*  
*11 Mansfield Drive*  
*Stanhope, NJ*

(B) *Byram Intermediate School (Parking Canopy 455 kW)*  
*12 Mansfield Drive*  
*Stanhope, NJ*

(ii) *Frankford Township Consolidated Schools (<http://www.frankfordschool.org/>)*

(A) *Frankford Township School (Rack 362 kW)*  
*2 Pines Road*  
*Branchville, NJ*

- (iii) *Franklin Borough Board of Education (<http://www.fboe.org/boe.htm>)*
- (A) *Franklin Elementary School (Roof 123 kW and Parking Canopy 104 kW)*  
*50 Washington Avenue*  
*Franklin, NJ*
- (iv) *Green Township Board of Education (<http://greenhills.org>)*
- (A) *Green Hills School (Roof 157 kW)*  
*69 Mackerley Road*  
*Greendell, NJ*
- (v) *Hardyston Board of Education (<http://www.htps.org/BOE/BOEIndex.htm>)*
- (A) *Hardyston Middle School (Rack 612 kW)*  
*183 Wheatsworth Road*  
*Hamburg, NJ*
- (vi) *High Point Regional School District (<http://www.hpregional.org/>)*
- (A) *High Point Regional High School (Roof 453 kW)*  
*299 Pidgeon Hill Road*  
*Sussex, NJ*
- (vii) *Kittatinny Regional School District (<http://www.krhs.net/>)*
- (A) *Kittatinny Regional High School (Roof 187 kW and Parking Canopy 173 kW)*  
*77 Halsey Road*  
*Newton, NJ*
- (ix) *Lenape Valley Regional Board of Education (<http://www.lvhs.org>)*
- (A) *Lenape Valley Regional High School (Parking Canopy 393 kW and Rack 774 kW)*  
*28 Sparta Road*  
*Stanhope, NJ*
- (x) *Newton Board of Education (<http://www.newtonnj.org>)*
- (A) *Merriam Avenue School (Roof 105 kW and Parking Canopy 242 kW)*  
*81 Merriam Avenue*  
*Newton, NJ; and*

(B) *Newton High School (Roof 222 kW and Parking Canopy 124 kW)*  
44 Ryerson Avenue  
Newton, NJ

c. **Series 2011 County Local Units**

(i) *Sussex County Technical School (<http://www.sussex.tec.nj.us/>)*

(A) *Sussex County Technical School (Roof 112 kW, Rack 792 kW and Parking Canopy 290 kW)*  
105 North Church Road  
Sparta, NJ

(ii) *County of Sussex (<http://www.sussex.nj.us/>)*

(A) *Sussex County Judicial Center (Parking Canopy 468 kW)*  
39 High Street  
Newton, NJ

(B) *Wheatworth Facility (Rack 149 kW)*  
149 Wheatworth Road  
Hardyston, NJ

(C) *Main Library (Rack 100 kW)*  
125 Morris Turnpike  
Newton, NJ

LOCAL UNIT ACCEPTANCE CERTIFICATE

Sussex County Community College

Not applicable

## GENERAL CERTIFICATE OF TRUSTEE AND ACCEPTANCE OF TRUST

The undersigned, as representative of U.S. Bank National Association, Morristown, New Jersey (the "Trustee"), as Trustee under a bond resolution of The Morris County Improvement Authority (the "Authority") entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY", which was duly adopted by the Authority on September 28, 2011, as amended and supplemented in accordance with a Certificate of the Chairman of the Authority dated December 14, 2011 (collectively the "Authority Bond Resolution"; capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Authority Bond Resolution) authorizing the issuance of the Authority's \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "Series 2011A Bonds") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Series 2011 Bonds"), and as a national banking association organized and existing under the laws of the United States of America with trust and fiduciary powers in the State of New Jersey (the "State") authorized to conduct business and serve as a trustee and fiduciary under the laws of the State, **HEREBY CERTIFIES** as follows:

1. The duties and obligations under the Authority Bond Resolution and under the other Program Documents of the Trustee, bond registrar and Paying Agent for the Series 2011 Bonds have been duly accepted by the Trustee, and the Continuing Disclosure Agreements have been duly authorized, executed and delivered by the Trustee, as dissemination agent.

2. The (a) acceptance by the Trustee of its duties and obligations under the Authority Bond Resolution and under the other Program Documents relating to the Trustee, bond registrar and Paying Agent and compliance with the provisions thereof, (b) performance by the Trustee, as dissemination agent, of its duties and obligations under the Continuing Disclosure Agreements and compliance with the provisions thereof, and (c) performance by the Trustee of its duties and obligations under the Company Pledge Agreement and compliance with the provisions thereof, will not conflict with or constitute a breach of or default under any law, administrative regulation, consent decree or any agreement or other instrument to which it is subject.

3. The Trustee is in compliance in all respects with the covenants and agreements contained in the Authority Bond Resolution and the other Program Documents relating to the Trustee, bond registrar and Paying Agent.

4. No litigation is pending or, to the knowledge of such officer, threatened against or affecting the Trustee (or to such officer's knowledge, any basis therefor) in any way contesting or affecting the existence or trust powers of the Trustee or the existence or fiduciary powers of the bond registrar and Paying Agent.

5. The Series 2011 Bonds have been duly authenticated and delivered by the Trustee, and any and all other agreements and documents required to be executed and delivered by the Trustee in order to carry out, to give effect to and to consummate the transactions contemplated by the Authority Bond Resolution and the other Program Documents have each been duly authorized, executed and delivered by the Trustee as of the date of the Closing, and each is in full force and effect.

6. The (a) acceptance of the duties and obligations of the Trustee, bond registrar and Paying Agent under the Authority Bond Resolution and under the other Program Documents, (b) authorization, execution and delivery of the Continuing Disclosure Agreements, and any other agreement or instrument to which the Trustee is a party and which is used in consummation of the transactions contemplated by the Authority Bond Resolution and the other Program Documents, and (c) fulfillment of the terms and provisions of such agreements and instruments by the Trustee, will not (i) conflict with, violate or result in a breach of any law or any administrative regulation or decree applicable to the Trustee, or (ii) conflict with, or result in a breach of, or constitute a default under, any indenture, mortgage, deed of trust, agreement or other instrument to which the Trustee is a party, or by which it is bound, or any order, rule or regulation applicable to the Trustee of any court or other governmental body.

7. The duties and obligations of the Trustee as Trustee, bond registrar and Paying Agent under the Authority Bond Resolution and the other Program Documents, and its duties and obligations as dissemination agent under the Continuing Disclosure Agreements, constitute the legal, valid and binding obligations of the Trustee, enforceable against the Trustee in accordance with their respective terms, subject to bankruptcy, insolvency or other laws or the application by a court of legal or equitable principles affecting creditors' rights generally.

8. All approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to the performance by the Trustee of its obligations under the Authority Bond Resolution or under the other Program Documents have been obtained and are in full force and effect.

9. Attached hereto as **Exhibit A** is a true, correct and complete copy of the By-laws of the Trustee and such By-laws are in full force and effect on the date hereof.

10. The Trustee hereby acknowledges receipt of the net proceeds of the sale of the Series 2011 Bonds.

**[Remainder of page intentionally left blank]**

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of December,  
2011.

**U.S. BANK NATIONAL ASSOCIATION**

By:   
Paul D. O'Brien  
Vice President

AMENDED AND RESTATED  
BYLAWS  
OF  
U.S. BANK NATIONAL ASSOCIATION

ARTICLE I.  
MEETINGS OF SHAREHOLDERS

Section 1.     Annual Meeting

The annual meeting of shareholders shall be held at the main banking house of the Association or other convenient place duly authorized by the Board of Directors (the "Board") at 11:00 a.m. on the second Tuesday in March of each year, or such other date or time which the Board may designate at any Board meeting held prior to the required date for sending notice of the annual meeting to the shareholders. Notice of such meeting shall be mailed to shareholders not less than ten (10) or more than sixty (60) days prior to the meeting date.

Section 2.     Special Meetings

Special meetings of shareholders may be called and held at such times and upon such notice as is specified in the Articles of Association.

Section 3.     Quorum

A majority of the outstanding capital stock represented in person or by proxy shall constitute a quorum of any meeting of the shareholders, unless otherwise provided by law, but less than a quorum may adjourn any meeting, from time to time, and the meeting may be held as adjourned without further notice.

Section 4.     Inspectors

The Board of Directors may, and in the event of its failure so to do, the Chairman of the Board may appoint Inspectors of Election who shall determine the presence of quorum, the validity of proxies, and the results of all elections and all other matters voted upon by shareholders at all annual and special meetings of shareholders.

Section 5.     Voting

In deciding on questions at meetings of shareholders, except in the election of directors, each shareholder shall be entitled to one vote for each share of stock held. A majority of votes cast shall decide each matter submitted to the shareholders, except where by law a larger vote is required. In all elections of directors, each shareholder shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, or to cumulate such shares and give one candidate as many votes as the number of directors multiplied by the number of his shares equal, or to distribute them on the same principle among as many candidates as he shall think fit.

Section 6. Waiver and Consent

The shareholders may act without notice or a meeting by a unanimous written consent by all shareholders.

**ARTICLE II.  
BOARD OF DIRECTORS**

Section 1. Term of Office

The directors of this Association shall hold office for one year and until their successors are duly elected and qualified.

Section 2. Number

As provided in the Articles of Association, the Board of this Association shall consist of not less than five nor more than twenty-five members. At any meeting of the shareholders held for the purpose of electing directors, or changing the number thereof, the number of directors may be determined by a majority of the votes cast by the shareholders in person or by proxy. Any vacancy occurring in the Board shall be filled by the remaining directors. Between meetings of the shareholders held for the purpose of electing directors, the Board by a majority vote of the full Board may increase the size of the Board by not more than four directors in any one but not to more than a total of twenty-five directors, and fill any vacancy so created in the Board. All directors shall hold office until their successors are elected and qualified.

Section 3. Regular Meetings

The organizational meeting of the Board of Directors shall be held as soon as practicable following the annual meeting of shareholders at such time and place as the Chairman or President may designate. Other regular meetings of the Board of Directors shall be held quarterly at such time and place as may be designated in the notice of the meeting. When any regular meeting of the Board falls on a holiday, the meeting shall be held on the next banking business day, unless the Board shall designate some other day.

Section 4. Special Meetings

Special meetings of the Board of Directors may be called by the Chairman of the Board of the Association, or at the request of three or more Directors. Notice of the time, place and purposes of such meetings shall be given by letter, by telephone, in person, by facsimile, by electronic mail or other reasonable manner to every Director.

Section 5. Quorum

A majority of the entire membership of the Board shall constitute a quorum of any meeting of the Board.

Section 6. Necessary Vote

A majority of those Directors present and voting at any meeting of the Board of Directors shall decide each matter considered, except where otherwise required by law or the Articles or Bylaws of this Association.

Section 7. Compensation

Directors, excluding full-time employees of the Bank, shall receive such reasonable compensation as may be fixed from time to time by the Board of Directors.

Section 8. Election-Age & Retirement-Age Limitation

No person shall be elected or re-elected a Director after reaching his or her seventieth (70<sup>th</sup>) birthday. Every Director of the Bank shall retire no later than the first month next following his or her seventieth (70<sup>th</sup>) birthday

**ARTICLE III.  
OFFICERS**

Section 1. Who Shall Constitute

The Officers of the Association shall be a Chairman of the Board, Chief Executive Officer, a President, a Secretary, and other officers such as Vice Chairman of the Board, Executive Vice Presidents, Senior Vice Presidents, Vice Presidents, Assistant Vice Presidents, Assistant Secretaries, Trust Officers, Assistant Trust Officers, Controller, and Assistant Controller, as the Board may appoint from time to time. The Board may choose to delegate authority to elect officers other than the Chairman, Chief Executive Office, President, Secretary, Vice Chairman and Executive Vice Presidents, to the Chief Executive Officer or President. Any person may hold two offices. The Chief Executive Officer and the President shall at all times be members of the Board of Directors.

Section 2. Term of Office

All officers shall be elected for and shall hold office until their respective successors are elected and qualified or until their earlier death, resignation, retirement, disqualification or removal from office, subject to the right of the Board of Directors in its sole discretion to discharge any officer at any time.

Section 3. Chairman of the Board

The Chairman of the Board shall have general executive powers and duties and shall perform such other duties as may be assigned from time to time by the Board of Directors. He shall, when present, preside at all meetings of the shareholders and directors and shall be ex officio a member of all committees of the Board. He shall name all members of the committees of the Board, subject to the confirmation thereof by the Board.

Section 4. Chief Executive Officer

The Chief Executive Officer, who may also be the Chairman or the President, shall have general executive powers and duties and shall perform such other duties as may be assigned from time to time by the Board of Directors.

Section 5. President

The President shall have general executive powers and duties and shall perform such other duties as may be assigned from time to time by the board of Directors. In addition, if designated by the Board of Directors, the President shall be the Chief Executive Officer and shall have all the powers and duties of the Chief Executive Officer, including the same power to name temporarily a Chief Executive Officer to serve in the absence of the President if there is a vacancy in the position of the chairman or in the event of the absence or incapacity of the Chairman.

Section 6. Vice Chairmen of the Board

The Board of Directors shall have the power to elect one or more Vice Chairmen of the Board of Directors. Any such Vice Chairman of the Board shall participate in the formation of the policies of the Association and shall have such other duties as may be assigned to him from time to time by the Chairman of the Board or by the Board of Directors.

Section 7. Other Officers

The Secretary and all other officers appointed by the Board of Directors shall have such duties as defined by law and as may from time to time be assigned to them by the Chief Executive Officer or the Board of Directors.

**ARTICLE IV.  
COMMITTEES**

Section 1. Compensation Committee

The duties of the Compensation Committee of the Association shall be carried out by the Compensation Committee of the financial holding company that is the parent of this Association.

Section 2. Committee on Audit

The duties of the Audit Committee of the Association shall be carried out by the Audit Committee of the financial holding company that is the parent of this Association.

Section 3. Trust Risk Management Committee

The Board of Directors of this Association shall appoint a Trust Risk Management Committee to provide oversight of the fiduciary activities of the Association. The Trust Risk Management Committee shall determine policies governing fiduciary activities. The Trust Risk Management Committee or such sub-committees, officers or others as may be duly designated by the Trust Risk Management Committee shall oversee the processes related to fiduciary activities to assure conformity with fiduciary policies it establishes, including ratifying the

acceptance and the closing out or relinquishment of all trusts. All actions of the Trust Risk Committee shall be reported to the Board of Directors.

Section 4. Other Committees

The Board of Directors may appoint, from time to time, other committees for such purposes and with such powers as the Board may direct.

**ARTICLE V.  
MINUTE BOOK**

The organization papers of this Association, the Bylaws as revised or amended from time to time and the proceedings of all regular and special meetings of the shareholders and the directors shall be recorded in a minute book or books. All reports of committees required to be made to the Board shall be recorded in a minute book or shall be filed by the recording officer. The minutes of each meeting of the shareholders and the Board shall be signed by the recording officer.

**ARTICLE VI.  
CONVEYANCES, CONTRACTS, ETC.**

All transfers and conveyances of real estate, mortgages, and transfers, endorsements or assignments of stock, bonds, notes, debentures or other negotiable instruments, securities or personal property shall be signed by any elected or appointed officer.

All checks, drafts, certificates of deposit and all funds of the Association held in its own or in a fiduciary capacity may be paid out by an order, draft or check bearing the manual or facsimile signature of any elected or appointed officer of the Association.

All mortgage satisfactions, releases, all types of loan agreements, all routine transactional documents of the Association, and all other instruments not specifically provided for, whether to be executed in a fiduciary capacity or otherwise, may be signed on behalf of the Association by any elected or appointed officer thereof.

The Secretary or any Assistant Secretary of the Association or other proper officer may execute and certify that required action or authority has been given or has taken place by resolution of the Board under this Bylaw without the necessity of further action by the Board.

**ARTICLE VII.  
SEAL**

The Association shall have no corporate seal.

**ARTICLE VIII.  
INDEMNIFICATION OF DIRECTORS,  
OFFICERS, AND EMPLOYEES**

Section 1.     Indemnification

The Association shall indemnify such persons for such liabilities in such manner under such circumstances and to such extent as permitted by the Delaware General Corporation Law as now enacted or hereafter amended. The Board of Directors may authorize the purchase and maintenance of insurance and/or the execution of individual agreements for the purpose of such indemnification, and the Association shall advance all reasonable costs and expenses (including attorneys' fees) incurred in defending any action, suit or proceeding to all persons entitled to indemnification under this Section 1.

Section 2.     Payments

Notwithstanding Section 1, however, (a) any indemnification payments to an institution-affiliated party, as defined at 12 USC 1813(u), for an administrative proceeding or civil action initiated by a federal banking agency, shall be reasonable and consistent with the requirements of 12 USC 1828(k) and the associated regulations; and (b) any indemnification payments and advancement of costs and expenses to an institution-affiliated party, as defined at 12 USC 1813(u), in cases involving an administrative proceeding or civil action not initiated by a federal banking agency, shall be consistent with safe and sound banking practices.

**ARTICLE IX.  
AMENDMENTS**

These Bylaws, or any of them, may be added to, altered, amended or repealed by the Board at any regular or special meeting of the Board.

**ARTICLE X.  
GOVERNING LAW**

This Association designates the Delaware General Corporation Law, as amended from time to time, as the governing law for its corporate governance procedures, to the extent not inconsistent with Federal banking statutes and regulations.

June 26, 2002

## SIGNATURE AND INCUMBENCY CERTIFICATE OF TRUSTEE

The undersigned, as representative of U.S. Bank National Association, Morristown, New Jersey (the "Trustee"), as Trustee under a bond resolution of The Morris County Improvement Authority (the "Authority") entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY", which was duly adopted by the Authority on September 28, 2011, as amended and supplemented in accordance with a Certificate of the Chairman of the Authority dated December 14, 2011 (collectively the "Authority Bond Resolution"; capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Authority Bond Resolution) authorizing the issuance of the Authority's \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "Series 2011A Bonds") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Series 2011 Bonds"), and as a national banking association organized and existing under the laws of the United States of America with trust and fiduciary powers in the State of New Jersey (the "State") authorized to conduct business and serve as a trustee and fiduciary under the laws of the State, **HEREBY CERTIFIES** as follows:

1. On or before the date hereof, certain or all of the undersigned representative(s) of the Trustee signed and properly executed by manual or facsimile signature certain certificates, instruments and documents related to the sale, issuance and delivery of the Series 2011 Bonds, including without limitation the authentication certificate of the Trustee as part of the Series 2011 Bonds and each Program Document to which the Trustee is a party.
2. Each of the below named individuals is on the date hereof, and was on the date of initial authentication of the Series 2011 Bonds and the execution of the Program Documents to which the Trustee is a party, the duly elected incumbent in the office of the Trustee indicated after his or her name, and the signature set forth opposite his or her name is his or her genuine signature.
3. All documents to be executed in connection with the issuance of the Series 2011 Bonds have been executed by the undersigned holding the offices set opposite such names, and the signatures appurtenant thereto are the true and genuine specimen signatures of the undersigned.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, we have hereunto set our hands on behalf of the Trustee this 14th day of December, 2011.

<u>Signature</u>	<u>Name</u>	<u>Official Title</u>
	Paul D. O'Brien	Vice President
	Thomas J. Brett	Vice President

**I HEREBY CERTIFY** that the signatures of the officers of the Trustee that appear above are true and genuine, and I know said officers and know them to hold the respective offices set opposite their several signatures.

  
**Rick Barnes**  
**Vice President**

Dated: December 14, 2011

**CERTIFICATE OF THE TRUSTEE REGARDING RECEIPT AND APPLICATION OF  
PROCEEDS OF SERIES 2011 BONDS**

The undersigned, as representative of U.S. Bank National Association, Morristown, New Jersey (the "Trustee"), as Trustee under a bond resolution of The Morris County Improvement Authority (the "*Authority*") entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY", which was duly adopted by the Authority on September 28, 2011 as amended and supplemented in accordance with a Certificate of the Chairman of the Authority dated December 14, 2011 (collectively the "*Authority Bond Resolution*" authorizing the issuance of the Authority's \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*"), and as a national banking association organized and existing under the laws of the United States of America with trust and fiduciary powers in the State of New Jersey (the "*State*") authorized to conduct business and serve as a trustee and fiduciary under the laws of the State, HEREBY CERTIFIES as follows:

1. The Trustee has received and applied the Proceeds of the Series 2011 Bonds in accordance with the Order of Authority as to Authentication and Delivery and Statement as to Receipt and Application of Proceeds (the "*Order*") issued to the Trustee on the date hereof and attached hereto as Exhibit A. All capitalized terms used but not defined in this certificate shall have the meanings set forth in the attached Order.

**[Remainder of this page intentionally left blank.]**

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of December,  
2011.

**U.S. BANK NATIONAL ASSOCIATION**

By:   
Paul D. O'Brien  
Vice President

**Exhibit A**

**Attach Order of the Authority as to Authentication and Delivery of Series 2011  
Bonds and Statement as to Receipt and Application of Proceeds**

**See Closing Item # 22**

## RECEIPT OF PURCHASER

The undersigned, an authorized officer of RBC Capital Markets LLC, as underwriter (the "*Underwriter*") to the "Bond Purchase Agreement" dated December 7, 2011 (the "*Purchase Agreement*") among The Morris County Improvement Authority (the "*Authority*"), SunLight General Sussex Solar, LLC (the "*Company*"), the Underwriter, pursuant to which the Underwriter purchased the Authority's \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*"), **HEREBY ACKNOWLEDGES** receipt of the Series 2011 Bonds this day delivered to U.S. Bank National Association (the "*Trustee*") as representative of The Depository Trust Company, New York, New York, as securities depository.

The Underwriter **FURTHER ACKNOWLEDGES** that payment of the purchase price for the Series 2011 Bonds in the amount of \$27,573,909 (which amount is equal to the par amount of the Series 2011 Bonds of 27,700,000, less an underwriter's discount of \$126,091.00), is being paid this day by the Underwriter in immediately available funds to the Trustee for the holders of the Series 2011 Bonds.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Underwriter this  
14th day of December, 2011.

**RBC CAPITAL MARKETS LLC**  
**As Underwriter**

By:   
**Brian Burke**  
**Managing Director**

**CERTIFICATE OF PURCHASER RELATING TO  
CERTAIN DISCLOSURE REQUIREMENTS**

The undersigned, an authorized officer of RBC Capital Markets LLC, as the underwriter (the “*Underwriter*”) pursuant to the “Bond Purchase Agreement” dated December 7, 2011 (the “*Purchase Agreement*”) among The Morris County Improvement Authority (the “*Authority*”), SunLight General Sussex Solar, LLC (the “*Company*”), the Underwriter, pursuant to which the Underwriter purchased the Authority’s \$26,715,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)” dated the date hereof (the “*Series 2011A Bonds*”) and the \$985,000 aggregate principal amount of “County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)” dated the date hereof (the “*Series 2011B Note*” and together with the Series 2011A Bonds, the “Series 2011 Bonds”), **HEREBY CERTIFIES** as follows:

1. Pursuant to the provisions of MSRB Rule G-32 (“*Rule G-32*”), an electronic copy of the final Official Statement dated December 7, 2011 executed and delivered in connection with the issuance of the Series 2011 Bonds (the “*Official Statement*”) has been submitted by the Underwriter to the MSRB through the Electronic Municipal Market Access (EMMA) website of the MSRB. December 14, 2011, the date of issuance of the Series 2011 Bonds, is the end of the underwriting period for the purposes and within the meaning of Rule 15c2-12 promulgated by the Securities and Exchange Commission in accordance with the provisions of the Securities Exchange Act of 1934, as amended (“*Rule 15c2-12*”).

2. The Underwriter will comply with all other applicable provisions of Rule G-32 and Rule 15c2-12 as the same relate to the issuance of the Series 2011 Bonds.

**[Remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, I have hereunto set my hand on behalf of the Underwriter this  
14th day of December, 2011.

**RBC CAPITAL MARKETS LLC,  
as Underwriter**

By:   
**Brian Burke**  
**Managing Director**

**ISSUE PRICE CERTIFICATE**

See Closing Item No. 24a

INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

ATTORNEYS AT LAW

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PARSIPPANY, NEW JERSEY 07054  
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December 14, 2011

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, New Jersey 07963

**Re: The Morris County Improvement Authority  
\$26,715,000 County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011A (Federally Taxable) and  
\$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue  
Note, Series 2011B (Federally Taxable)**

Dear Authority Commissioners:

We have acted as bond counsel to The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*"), organized and existing under the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State and the acts amendatory thereof and supplemental thereto (the "*Act*"), in connection with the authorization, sale and issuance this day of its \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" (the "*Series 2011A Bonds*") and \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*").

The Series 2011 Bonds are issued pursuant to a bond resolution of the Authority adopted on September 28, 2011 and entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY", as amended and supplemented by a Certificate of the Chairman of the Authority dated the date hereof executed and delivered in accordance with Section 2.02(1)(e) thereof, and as may be further amended or supplemented from time to time in accordance with the terms thereof (the "*Bond Resolution*"), the Act and all other applicable law. All capitalized terms which are used herein and are not defined herein shall have the meanings ascribed to such terms in the Bond Resolution.

The Series 2011A Bonds are being issued for the purpose of (i) funding the Projects for the Series 2011 Local Units as part of the Authority's Renewable Energy Program, (ii) reimbursing or paying, as applicable, the Authority and the County for certain development costs of the Renewable Energy Program, (iii) paying certain fees and costs incurred by or for the Company (as hereinafter defined) in connection with the Renewable Energy Program and (iv) paying the various costs of issuing the Series 2011 Bonds. The Series 2011B Note is being issued for the purpose of paying capitalized interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

The Series 2011 Bonds are special and limited obligations of the Authority, payable as to principal, redemption premium, if any, and interest solely from and secured by the Authority's pledge of the Trust Estate to the hereinafter defined Trustee in accordance with the terms of the Bond Resolution. The Trust Estate includes, without limitation, (i) the Revenues, (ii) payments made by the County of Sussex, New Jersey (the "*County*") under the County Guaranty (as hereinafter defined), and (iii) the Funds and Accounts (except the Administrative Expense Account and the Costs of Issuance Account of the Administrative Fund and the County Security Fund) established under the Bond Resolution and held by the Trustee.

The Revenues include, without limitation, the Basic Lease Payments to be made by SunLight General Sussex Solar, LLC (the "*Company*" or the "*Lessee*"), a limited liability company created and in good standing under the laws of the State, and registered and authorized to transact business in the State, under that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Lease Agreement*"), by and between the Authority, as lessor, and the Company, as lessee. In conjunction with the Company Lease Agreement, the Authority has entered into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" with the Company, dated as of December 1, 2011, (the "*Power Purchase Agreement*") for the right and obligation to purchase from the Company electricity generated by the Renewable Energy Projects. The Authority has assigned certain of these rights and obligations to each of the Series 2011 Local Units pursuant to the terms of the respective "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)", each dated as of December 1, 2011 (the "*Local Unit License Agreements*"), by and between each of the respective Series 2011 Local Units, as licensor, and the Authority, as licensee.

Simultaneously with the execution and delivery of the Company Lease Agreement, the Power Purchase Agreement, and the Local Unit License Agreements, (i) the Authority, the Trustee, and the Company have entered into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Continuing Disclosure Agreement*") and (ii) the Authority, the County and the Trustee have entered into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*County Continuing Disclosure Agreement*" and together with the Company Continuing Disclosure Agreement, the "*Continuing Disclosure Agreements*").

The Company Lease Agreement, the Power Purchase Agreement, the Local Unit License Agreements, the County Guaranty Agreement (as defined herein) and the Continuing Disclosure Agreements shall be collectively referred to herein as the “*Authority Financing Documents*”.

The Series 2011A Bonds are dated the date hereof, mature in the principal amounts and bear interest at the rates of interest as stated therein and in the Bond Resolution, and are issued in fully registered form in denominations of \$5,000 or any integral multiple thereof. The Series 2011B Note is dated the date hereof and matures on January 15, 2013.

Interest on the Series 2011A Bonds is payable semiannually on June 15 and December 15 in each year until final maturity thereof (each an “*Interest Payment Date*”), commencing June 15, 2012. The Series 2011A Bonds are subject to optional [and mandatory sinking fund] redemption prior to their stated maturities in the manner and upon the terms and conditions set forth therein and in the Bond Resolution. Principal and redemption premium, if any, of the Series 2011 Bonds are payable by presentation and surrender thereof at the principal corporate trust office of U.S. Bank, National Association, Morristown, New Jersey (the “*Trustee*”, “*Registrar*” and “*Paying Agent*”). Except as set forth below regarding payments made to Cede & Co., interest on the Series 2011 Bonds is payable by check of the Paying Agent mailed to each registered owner of the Series 2011 Bonds at the address of such registered owner shown on the registration books maintained by the Trustee, in its capacity as registrar, as of the first day of the month next preceding the Interest Payment Date.

The Series 2011 Bonds are issued in fully registered form without coupons, initially registered in the name of and held by Cede & Co., as nominee for The Depository Trust Company, New York, New York (“*DTC*”), an automated depository for securities and clearinghouse for securities transactions. Purchases of the Series 2011 Bonds will be made in book-entry-only form (without certificates) in denominations of \$5,000 or any integral multiple thereof. So long as DTC or its nominee is the registered owner of the Series 2011 Bonds, payment of the principal and redemption premium, if any, of and interest on the Series 2011 Bonds will be made by the Trustee or the Paying Agent, as the case may be, directly to Cede & Co., as nominee for DTC, in immediately available funds when due. Disbursal of such payments to the DTC participants is the responsibility of DTC, and disbursal of such payments to the beneficial owners of the Series 2011 Bonds is the responsibility of the DTC participants and not the responsibility of the Authority, the Trustee or the Paying Agent.

Payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with the terms of (i) a guaranty ordinance of the County finally adopted by the Board of Chosen Freeholders of the County on August 17, 2011, (ii) a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond, and (iii) a “County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the “*County Guaranty Agreement*”) between the County and the Authority, as acknowledged by the Company, all pursuant to Section 37 of the Act (N.J.S.A. 40:37A-80) (collectively, the “*County*

*Guaranty*”).

In our capacity as bond counsel, we have examined (i) the Constitution and statutes of the State, including the Act, (ii) the Bond Resolution, (iii) the Authority Financing Documents, (iv) the County Guaranty, (v) a specimen of the Series 2011A Bonds and (vi) a specimen of the Series 2011 B Note, and such other documents, records of the Authority and instruments as we have deemed necessary to enable us to express the opinions hereinafter set forth. As to matters of fact, we have relied upon the representations of the Authority and, where we have deemed appropriate, representations or other certifications of public officials and, to the extent that we have deemed such reliance proper, on certain representations, certifications of facts, and statements of reasonable expectations made by the Authority in connection with the Series 2011 Bonds.

Further, in expressing such opinions, we have relied upon the genuineness, truthfulness and completeness of the resolutions, documents, records and instruments referred to above.

Based upon and subject to the foregoing, we are of the opinion that:

(1) The Authority has been duly created and is validly existing as a public body corporate and politic under the provisions of the Constitution and statutes of the State, including the Act, with the right and power to adopt the Bond Resolution, to enter into the Authority Financing Documents and to issue the Series 2011 Bonds.

(2) The Bond Resolution has been duly adopted by the Authority, is in full force and effect, is valid and binding upon the Authority, is enforceable in accordance with its terms and no other authorization for the Bond Resolution is required. The Bond Resolution creates the valid pledge which it purports to create of the Trust Estate.

(3) The Series 2011 Bonds have been duly authorized and issued by the Authority in accordance with law, including the Act, and in accordance with the Bond Resolution and are valid and binding special obligations of the Authority, enforceable in accordance with their terms and the terms of the Bond Resolution, and are entitled to the benefits of the Bond Resolution and the Act. Neither the State, nor the County (except to the extent of the County Guaranty, which does not guaranty the payment of redemption premium, if any), nor any municipality therein nor any other political subdivision thereof, other than the Authority (but solely to the extent of the Trust Estate in accordance with the terms of the Bond Resolution), is obligated to pay the principal of, redemption premium, if any, or interest on the Series 2011 Bonds, and neither the faith and credit nor the taxing power of the State, the County (except to the extent of the County Guaranty, which does not guaranty the payment of redemption premium, if any), any municipality therein or any other political subdivision thereof, is pledged to the payment of the principal of, redemption premium, if any, or interest on the Series 2011 Bonds.

(4) The Authority Financing Documents have each been duly authorized, executed and delivered by the Authority, and assuming their due authorization, execution and delivery by the other parties thereto, constitute valid and binding agreements of the Authority and such other parties, and are enforceable in accordance with their respective terms.

(5) The County has the full legal right and power to adopt and execute, as the case may be, the County Guaranty and the County Guaranty creates the valid and binding obligation of the County, enforceable in accordance with its terms. Under the County Guaranty, the County is obligated to make any required payments under the terms of the County Guaranty to the Authority or the Trustee out of the first funds becoming legally available to the County for this purpose and to provide the funds for such payments, if not otherwise available, from the levy of *ad valorem* taxes upon all the taxable property in the County without limitation as to rate or amount. The obligations of the County under the County Guaranty to make full payment of the principal of and interest on the Series 2011 Bonds (which does not include redemption premium, if any) shall be full, unconditional and irrevocable.

(6) Under current law, interest on the Series 2011 Bonds and any gain on the sale thereof are not includable as gross income under the New Jersey Gross Income Tax Act.

The above opinions are limited to and based upon the laws and judicial decisions of the State and the federal laws and judicial decisions of the United States of America as of the date hereof, and are subject to any amendment, repeal or other modification of the applicable laws or judicial decisions that served as the basis for their opinions or to any laws or judicial decisions hereafter enacted or rendered. No opinion is expressed regarding federal tax consequences arising with respect to the Series 2011 Bonds.

We note, in connection with the opinions expressed herein, that the enforceability of rights or remedies with respect to the Bond Resolution, the Series 2011 Bonds, the Authority Financing Documents and the County Guaranty may be limited, however, by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or remedies heretofore or hereafter enacted and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases. We express no opinion as to the availability of any particular remedy.

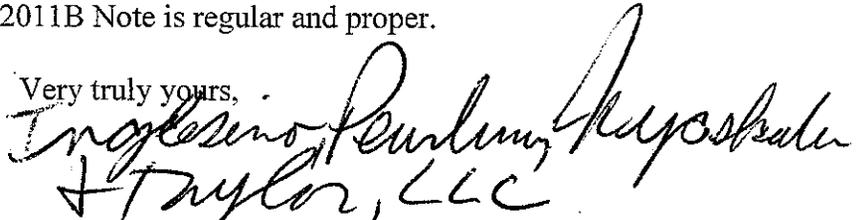
In rendering the opinions contained in paragraphs 4 and 5 above, we have relied upon the respective opinions, dated the date hereof, of independent counsel to the Company and the County, as the case may be, (i) with respect to the due authorization, execution and delivery of the Authority Financing Documents by the other parties thereto, (ii) with respect to the due authorization, adoption, execution and delivery of the County Guaranty by the County, including, without limitation, proper compliance with all publication, hearing and other procedural requirements of Section 37 of the Act (N.J.S.A. 40:37A-80) and of the Local Bond Law, constituting Chapter 169 of the Pamphlet Laws of 1960 of the State, (iii) to the effect that the County Guaranty has not been amended, modified or repealed since the date of final adoption and that the County Guaranty is still in full force and effect, and (iv) to the effect that the County Guaranty is a valid and binding obligation of the County, enforceable against the County in

accordance with its terms.

This opinion is being delivered to you at your request. Our engagement by you with respect to the opinions expressed herein does not require, and shall not be construed to constitute, a continuing obligation on our part to notify or otherwise inform you or the reliance parties hereof of the amendment, repeal or other modification of the applicable laws, judicial decisions, actions, facts, or circumstances that served as the basis for this opinion letter or of laws or judicial decisions hereafter enacted or rendered which impact on this opinion letter.

We have examined one of the Series 2011A Bonds as executed by the Authority and as authenticated by the Trustee, and, in our opinion, the form, execution and authentication of said Series 2011A Bonds are regular and proper. We have examined the Series 2011B Note as executed by the Authority and as authenticated by the Trustee, and, in our opinion, the form, execution and authentication of said Series 2011B Note is regular and proper.

Very truly yours,

A handwritten signature in black ink, appearing to read "Inglesino, Pearlman, Wyciskala & Taylor, LLC". The signature is written in a cursive, flowing style.

Inglesino, Pearlman, Wyciskala & Taylor, LLC

INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

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December 14, 2011

The Morris County Improvement Authority  
Morristown, New Jersey

RBC Capital Markets, LLC  
Florham Park, New Jersey

U.S. Bank National Association  
Morristown, New Jersey

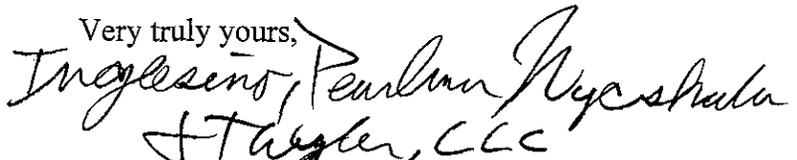
SunLight General Sussex Solar, LLC  
New York, New York

**Re: \$26,715,000 The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue  
Bonds, Series 2011A (Federally Taxable) and  
\$985,000 The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue  
Note, Series 2011B (Federally Taxable)**

Ladies and Gentlemen:

We deliver to you herewith a copy of our approving legal opinion, a form of which is attached hereto as Exhibit A, dated December 14, 2011 relating to the issuance of the above referenced Bonds.

You are entitled to rely on such opinion as though same were addressed to you.

Very truly yours,  
  
Inglesino, Pearlman, Wyciskala  
& Taylor, LLC

**EXHIBIT A**

**See Closing Item No. 51**

INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

ATTORNEYS AT LAW

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December 14, 2011

The Morris County Improvement Authority  
Morristown, New Jersey

RBC Capital Markets, LLC  
Florham Park, New Jersey

U.S. Bank National Association  
Morristown, New Jersey

SunLight General Sussex Solar, LLC  
New York, New York

**Re: \$26,715,000 The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue  
Bonds, Series 2011A (Federally Taxable) and  
\$985,000 The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue  
Note, Series 2011B (Federally Taxable)**

Ladies and Gentlemen:

We have acted as bond counsel to The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*"), organized and existing under the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State and the acts amendatory thereof and supplemental thereto (the "*Act*"), in connection with the authorization, sale and issuance this day of its (i) \$26,715,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) (the "Series 2011A Bonds") and (ii) \$985,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Bonds").

The Series 2011 Bonds are issued pursuant to a bond resolution of the Authority adopted on September 28, 2011 and entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY", as amended and supplemented by a

Certificate of the Chairman of the Authority dated the date hereof executed and delivered in accordance with Section 2.02(1)(e) thereof, and as may be further amended or supplemented from time to time in accordance with the terms thereof (the "*Bond Resolution*"), the Act and all other applicable law. All capitalized terms which are used herein and are not defined herein shall have the meanings ascribed to such terms in the Bond Resolution.

The Series 2011A Bonds are being issued for the purpose of (i) funding the Projects for the Series 2011 Local Units as part of the Authority's Renewable Energy Program, (ii) reimbursing or paying, as applicable, the Authority and the County for certain development costs of the Renewable Energy Program, (iii) paying certain fees and costs incurred by or for the Company (as hereinafter defined) in connection with the Renewable Energy Program and (iv) paying the various costs of issuing the Series 2011 Bonds. The Series 2011B Note is being issued for the purpose of paying capitalized interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

The Series 2011 Bonds are special and limited obligations of the Authority, payable as to principal, redemption premium, if any, and interest solely from and secured by the Authority's pledge of the Trust Estate to the hereinafter defined Trustee in accordance with the terms of the Bond Resolution. The Trust Estate includes, without limitation, (i) the Revenues, (ii) payments made by the County of Sussex, New Jersey (the "*County*") under the County Guaranty (as hereinafter defined), and (iii) the Funds and Accounts (except the Administrative Expense Account and the Costs of Issuance Account of the Administrative Fund and the County Security Fund) established under the Bond Resolution and held by the Trustee.

The Revenues include, without limitation, the Basic Lease Payments to be made by SunLight General Sussex Solar, LLC (the "*Company*" or the "*Lessee*"), a limited liability company created and in good standing under the laws of the State, and registered and authorized to transact business in the State, under that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "*Company Lease Agreement*"), by and between the Authority, as lessor, and the Company, as lessee. In conjunction with the Company Lease Agreement, the Authority has entered into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" with the Company, dated as of December 1, 2011, (the "*Power Purchase Agreement*") for the right and obligation to purchase from the Company electricity generated by the Renewable Energy Projects. The Authority has assigned certain of these rights and obligations to each of the Series 2011 Local Units pursuant to the terms of the respective "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)", each dated as of December 1, 2011 (the "*Local Unit License Agreements*"), by and between each of the respective Series 2011 Local Units, as licensor, and the Authority, as licensee.

Simultaneously with the execution and delivery of the Company Lease Agreement, the Power Purchase Agreement, and the Local Unit License Agreements, (i) the Authority, the Trustee,

and the Company have entered into that certain “Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “*Company Continuing Disclosure Agreement*”) and (ii) the Authority, the County and the Trustee have entered into that certain “County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “*County Continuing Disclosure Agreement*”) and together with the Company Continuing Disclosure Agreement, the “*Continuing Disclosure Agreements*”).

The Company Lease Agreement, the Power Purchase Agreement, the Local Unit License Agreements, the County Guaranty Agreement (as defined herein) and the Continuing Disclosure Agreements shall be collectively referred to herein as the “*Authority Financing Documents*”.

The Series 2011A Bonds are dated the date hereof, mature in the principal amounts and bear interest at the rates of interest as stated therein and in the Bond Resolution, and are issued in fully registered form in denominations of \$5,000 or any integral multiple thereof. The Series 2011B Note is dated the date hereof and matures on January 15, 2013.

Interest on the Series 2011A Bonds is payable semiannually on June 15 and December 15 in each year until final maturity thereof (each an “*Interest Payment Date*”), commencing June 15, 2012. The Series 2011A Bonds are subject to optional [and mandatory sinking fund] redemption prior to their stated maturities in the manner and upon the terms and conditions set forth therein and in the Bond Resolution. Principal and redemption premium, if any, of the Series 2011 Bonds are payable by presentation and surrender thereof at the principal corporate trust office of U.S. Bank, National Association, Morristown, New Jersey (the “*Trustee*”, “*Registrar*” and “*Paying Agent*”). Except as set forth below regarding payments made to Cede & Co., interest on the Series 2011 Bonds is payable by check of the Paying Agent mailed to each registered owner of the Series 2011 Bonds at the address of such registered owner shown on the registration books maintained by the Trustee, in its capacity as registrar, as of the first day of the month next preceding the Interest Payment Date.

The Series 2011 Bonds are issued in fully registered form without coupons, initially registered in the name of and held by Cede & Co., as nominee for The Depository Trust Company, New York, New York (“*DTC*”), an automated depository for securities and clearinghouse for securities transactions. Purchases of the Series 2011 Bonds will be made in book-entry-only form (without certificates) in denominations of \$5,000 or any integral multiple thereof. So long as DTC or its nominee is the registered owner of the Series 2011 Bonds, payment of the principal and redemption premium, if any, of and interest on the Series 2011 Bonds will be made by the Trustee or the Paying Agent, as the case may be, directly to Cede & Co., as nominee for DTC, in immediately available funds when due. Disbursal of such payments to the DTC participants is the responsibility of DTC, and disbursal of such payments to the beneficial owners of the Series 2011 Bonds is the responsibility of the DTC participants and not the responsibility of the Authority, the Trustee or the Paying Agent.

Payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with the terms of (i) a guaranty ordinance of the County finally adopted by the Board of Chosen Freeholders of the County on August 17, 2011, (ii) a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond, and (iii) a "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "*County Guaranty Agreement*") between the County and the Authority, as acknowledged by the Company, all pursuant to Section 37 of the Act (N.J.S.A. 40:37A-80) (collectively, the "*County Guaranty*").

In our capacity as bond counsel, we have examined (i) the Constitution and statutes of the State, including the Act, (ii) the Bond Resolution, (iii) the Authority Financing Documents, (iv) the County Guaranty, (v) a specimen of the Series 2011A Bonds and (vi) a specimen of the Series 2011 B Note, and such other documents, records of the Authority and instruments as we have deemed necessary to enable us to express the opinions hereinafter set forth. As to matters of fact, we have relied upon the representations of the Authority and, where we have deemed appropriate, representations or other certifications of public officials and, to the extent that we have deemed such reliance proper, on certain representations, certifications of facts, and statements of reasonable expectations made by the Authority in connection with the Series 2011 Bonds.

Further, in expressing such opinions, we have relied upon the genuineness, truthfulness and completeness of the resolutions, documents, records and instruments referred to above.

Based upon and subject to the foregoing, we are of the opinion that:

1. The Bond Purchase Agreement dated December 7, 2011, between the Authority, the Company and the Underwriter set forth therein (the "Purchase Agreement") has been duly authorized, executed and delivered, and the Bond Resolution has been duly adopted by the Authority and constitutes a valid, binding and enforceable agreement of the Authority in accordance with its respective terms, except to the extent that the enforceability thereof may be limited by Creditors' Rights Limitations. In rendering the foregoing opinion with respect to the enforceability of the Purchase Agreement against the Authority and the Company, we have assumed the due authorization, execution and delivery of such documents by the other respective parties thereto. Terms not defined herein shall have the meaning ascribed to such terms in the Purchase Agreement.

2. The Authority has duly authorized the distribution of the Preliminary Official Statement, dated December 1, 2011, (the "Preliminary Official Statement") and duly authorized

the distribution of the Official Statement dated December 7, 2011 (the "Official Statement").

3. The description and information in the Preliminary Official Statement and Official Statement set forth under the headings "INTRODUCTION" (except as to the extent as such description and information relates to the County and the Company), "THE RENEWABLE ENERGY PROGRAM", "DESCRIPTION OF THE SERIES 2011 BONDS (except as to "Book-Entry Only System")", "SECURITY FOR THE SERIES 2011 BONDS", "PLEDGE OF THE STATE NOT TO LIMIT POWER OF AUTHORITY OR RIGHTS OF BONDHOLDERS", "LEGALITY FOR INVESTMENT", "BANKRUPTCY - Municipal Bankruptcy", "APPROVAL OF LEGALITY", "TAX MATTERS" and "SECONDARY MARKET DISCLOSURE", and in "APPENDIX D - Form of Bond Resolution, Power Purchase Agreement, License and Access Agreement, Company Lease Agreement and County Guaranty Agreement", "APPENDIX E - Proposed Form of Approving Legal Opinion", and "APPENDIX F - Forms of Continuing Disclosure Agreements" is true and correct in all material respects.

4. Based solely upon our participation as Bond Counsel in the preparation of the Official Statement and without having undertaken to determine independently the accuracy, completeness or adequacy of the statements contained in the Official Statement (other than as to the information under the heading set forth in Paragraph 3 above), we have no reason to believe that, as of the date hereof, the information contained in the Official Statement (except for the financing and statistical data included therein, and the statements contained in the Official Statement under the captions "THE COMPANY", "DESCRIPTION OF THE SERIES 2011 BONDS-Book-Entry Only System", "SOURCES AND USES OF SERIES 2011A BONDS AND SERIES 2011B NOTE PROCEEDS", "BANKRUPTCY-Company Bankruptcy", "LITIGATION", "APPENDIX A - Certain Information Concerning the County", "APPENDIX B - Audited Financial Statements of the County" and "APPENDIX C - Certain Information Concerning the Company", as to which we express no view) contains any untrue statement of a material fact or omits to state a material fact required or necessary to be stated therein in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading in any material respect.

5. The Bonds are exempt securities within the meaning of Section 3(a)(2) of the Securities Act of 1933, as amended, and Section 304(a)(4) of the Trust Indenture Act of 1939, as amended, and it is not necessary in connection with the sale of the Bonds to the public to register the Bonds under the Securities Act of 1933, as amended, or to qualify the Bond Resolution under the Trust Indenture Act of 1939, as amended.

6. All consents, approvals, permits or other actions by or filings with any governmental authority required for the execution by the Authority of the Purchase Agreement, and the delivery by the Authority of the Purchase Agreement, the Bond Resolution, the Bonds, the Disclosure Agreements, the Lease Agreement and for the performance by the Authority of the transactions contemplated thereby, have been duly obtained or made and are in full force and

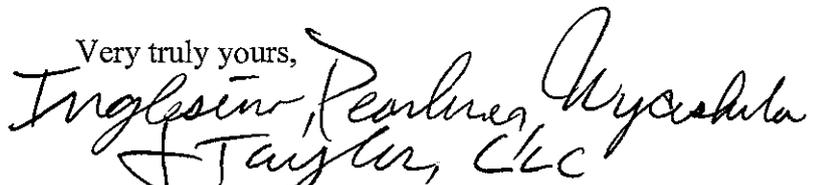
effect.

The above opinions are limited to and based upon the laws and judicial decisions of the State of New Jersey and the federal laws and judicial decisions of the United States of America as of the date hereof, and are subject to any amendment, repeal or other modification of the applicable laws or judicial decisions that served as the basis for our opinions or to any laws or judicial decisions hereafter enacted or rendered. We assume no obligation to update our opinions after the date hereof to reflect any future action, fact or circumstance, or change in law or interpretation, or otherwise. We express no opinion on the effect of any action taken after the date hereof or not taken in reliance upon an opinion of other counsel on the exclusion from gross income for federal income tax purposes of interest on the Bonds. No opinion is expressed regarding other federal tax consequences or other federal taxes arising with respect to the Bonds.

We note, in connection with the opinions expressed herein, that the enforceability of rights or remedies with respect to the Authority Bond Resolution, the Bonds, the Authority Financing Documents and the County Guaranty may be limited, however, by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or remedies heretofore or hereafter enacted and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases. We express no opinion as to the availability of any particular remedy.

This opinion is being delivered to you at your request. Our engagement by you with respect to the opinions expressed herein does not require, and shall not be construed to constitute, a continuing obligation on our part to notify or otherwise inform you or the reliance parties hereof of the amendment, repeal or other modification of the applicable laws or judicial decisions that served as the basis for this opinion letter or of laws or judicial decisions hereafter enacted or rendered which impact on this opinion letter.

We have examined one of the Bonds as executed by the Authority and as authenticated by the Trustee, and, in our opinion, the form, execution and authentication of said Bonds are regular and proper.

Very truly yours,  
  
Inglesino, Pearlman, Wyciskala  
& Taylor, LLC

INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

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December 14, 2011

The Morris County Improvement Authority  
Morristown, New Jersey

RBC Capital Markets, LLC  
Florham Park, New Jersey

U.S. Bank National Association  
Morristown, New Jersey

SunLight General Sussex Solar, LLC  
New York, New York

**Re: \$26,715,000 The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue  
Bonds, Series 2011A (Federally Taxable) and  
\$985,000 The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue  
Note, Series 2011B (Federally Taxable)**

Ladies and Gentlemen:

We have acted as general counsel to The Morris County Improvement Authority (the "*Authority*"), a public body corporate and politic of the State of New Jersey (the "*State*"), organized and existing under the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State and the acts amendatory thereof and supplemental thereto (the "*Act*"), in connection with the authorization, sale and issuance this day of its (i) \$26,715,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) (the "Series 2011A Bonds") and (ii) \$985,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Bonds").

The Series 2011 Bonds are issued pursuant to a bond resolution of the Authority adopted on September 28, 2011 and entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE

REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY”, as amended and supplemented by a Certificate of the Chairman of the Authority dated the date hereof executed and delivered in accordance with Section 2.02(1)(e) thereof, and as may be further amended or supplemented from time to time in accordance with the terms thereof (the “*Bond Resolution*”), the Act and all other applicable law. All capitalized terms which are used herein and are not defined herein shall have the meanings ascribed to such terms in the Bond Resolution.

The Series 2011A Bonds are being issued for the purpose of (i) funding the Projects for the Series 2011 Local Units as part of the Authority’s Renewable Energy Program, (ii) reimbursing or paying, as applicable, the Authority and the County for certain development costs of the Renewable Energy Program, (iii) paying certain fees and costs incurred by or for the Company (as hereinafter defined) in connection with the Renewable Energy Program and (iv) paying the various costs of issuing the Series 2011 Bonds. The Series 2011B Note is being issued for the purpose of paying capitalized interest on the Series 2011A Bonds on June 15, 2012 and December 15, 2012.

The Series 2011 Bonds are special and limited obligations of the Authority, payable as to principal, redemption premium, if any, and interest solely from and secured by the Authority’s pledge of the Trust Estate to the hereinafter defined Trustee in accordance with the terms of the Bond Resolution. The Trust Estate includes, without limitation, (i) the Revenues, (ii) payments made by the County of Sussex, New Jersey (the “*County*”) under the County Guaranty (as hereinafter defined), and (iii) the Funds and Accounts (except the Administrative Expense Account and the Costs of Issuance Account of the Administrative Fund and the County Security Fund) established under the Bond Resolution and held by the Trustee.

The Revenues include, without limitation, the Basic Lease Payments to be made by SunLight General Sussex Solar, LLC (the “*Company*” or the “*Lessee*”), a limited liability company created and in good standing under the laws of the State, and registered and authorized to transact business in the State, under that certain “Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “*Company Lease Agreement*”), by and between the Authority, as lessor, and the Company, as lessee. In conjunction with the Company Lease Agreement, the Authority has entered into that certain “Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)” with the Company, dated as of December 1, 2011, (the “*Power Purchase Agreement*”) for the right and obligation to purchase from the Company electricity generated by the Renewable Energy Projects. The Authority has assigned certain of these rights and obligations to each of the Series 2011 Local Units pursuant to the terms of the respective “License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)”, each dated as of December 1, 2011 (the “*Local Unit License Agreements*”), by and between each of the respective Series 2011 Local Units, as licensor, and the Authority, as licensee.

Simultaneously with the execution and delivery of the Company Lease Agreement, the Power Purchase Agreement, and the Local Unit License Agreements, (i) the Authority, the Trustee, and the Company have entered into that certain “Company Continuing Disclosure Agreement

(Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “*Company Continuing Disclosure Agreement*”) and (ii) the Authority, the County and the Trustee have entered into that certain “County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (the “*County Continuing Disclosure Agreement*” and together with the Company Continuing Disclosure Agreement, the “*Continuing Disclosure Agreements*”).

The Company Lease Agreement, the Power Purchase Agreement, the Local Unit License Agreements, the County Guaranty Agreement (as defined herein) and the Continuing Disclosure Agreements shall be collectively referred to herein as the “*Authority Financing Documents*”.

Payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with the terms of (i) a guaranty ordinance of the County finally adopted by the Board of Chosen Freeholders of the County on August 17, 2011, (ii) a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond, and (iii) a “County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)” dated as of December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the “*County Guaranty Agreement*”) between the County and the Authority, as acknowledged by the Company, all pursuant to Section 37 of the Act (N.J.S.A. 40:37A-80) (collectively, the “*County Guaranty*”).

In our capacity as bond counsel, we have examined (i) the Constitution and statutes of the State, including the Act, (ii) the Bond Resolution, (iii) the Authority Financing Documents, (iv) the County Guaranty, (v) a specimen of the Series 2011A Bonds and (vi) a specimen of the Series 2011 B Note, and such other documents, records of the Authority and instruments as we have deemed necessary to enable us to express the opinions hereinafter set forth. As to matters of fact, we have relied upon the representations of the Authority and, where we have deemed appropriate, representations or other certifications of public officials and, to the extent that we have deemed such reliance proper, on certain representations, certifications of facts, and statements of reasonable expectations made by the Authority in connection with the Series 2011 Bonds. Further, in expressing such opinions, we have relied upon the genuineness, truthfulness and completeness of the resolutions, documents, records and instruments referred to above.

Based upon and subject to the foregoing, we are of the opinion that:

1. The Authority has been duly created and is validly existing under the Constitution and laws of the State of New Jersey (the “State”), including the Act, and has full power and authority to carry out and consummate all transactions contemplated by the Authority Financing Documents and the Authority Bond Resolution.
2. All action taken by the Authority in connection with the authorization, execution and delivery of each of the Authority Financing Documents, and the Official Statement, and in connection with the authorization and adoption of the Authority Bond Resolution have been in

compliance in all respects with the provisions of the State Constitution and applicable laws, including, *inter alia*, Chapter 231 of the Laws of the State of New Jersey, 1975, as amended, the New Jersey Open Public Meetings Law.

3. The adoption and the performance of the terms of the Authority Bond Resolution and the execution, delivery and performance by the Authority of the Authority Financing Documents and the Series 2011 Bonds will not violate any provision of any law of the State or any applicable judgment, order or regulation of any court or of any public or governmental agency or authority of the State having jurisdiction over the Authority and will not conflict with or result in any breach in any of the provisions of, or constitute a default under, any agreement or instrument to which the Authority is a party or by which it or any of its property is or may be bound, nor will such action result in violation of the by-laws of the Authority.

4. There is no controversy or litigation of any nature now pending or to our knowledge threatened, restraining or enjoining the authorization, issuance, sale, execution or delivery of the Series 2011 Bonds or the security pledged therefor or the authorization or adoption of the Authority Financing Documents or the Authority Bond Resolution, or in any way questioning or affecting the validity of the Series 2011 Bonds or the validity of the Authority Financing Documents or any proceedings of the Authority taken with respect to the authorization, issuance or sale thereof, or the pledge or application of any moneys or security provided for the payment of the Series 2011 Bonds, or in any way questioning or affecting the creation, organization, corporate existence or powers of the Authority, or the title of any of the present officers thereof to their respective titles. In addition, there is no controversy or litigation of any nature now pending or to our knowledge threatened that would materially adversely affect the financial position of the Authority or the enforceability of the Authority Financing Documents or the Authority Bond Resolution.

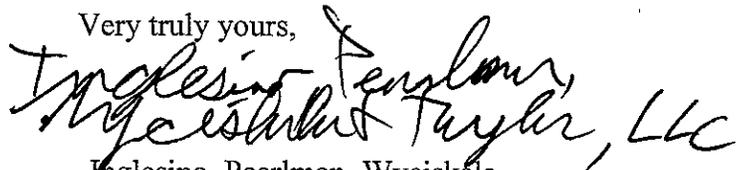
5. The information contained in the Official Statement under the headings "THE AUTHORITY" and "LITIGATION - The Authority" is true and correct and based upon our participation in the preparation of the Official Statement as Counsel to the Authority and without having undertaken to determine independently the accuracy, completeness or fairness of the statements contained in the Official Statement, except as set forth above, we have no reason to believe that the Official Statement (except for the financial statements and other financial and statistical data included therein, as to which no view is expressed) contained or contains any untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, except that we make no representation as to the initial public offering prices (or yields) of the Series 2011 Bonds on the inside front cover thereto or the information contained in the Official Statement under the headings "THE COMPANY", "DESCRIPTION OF THE SERIES 2011 BONDS – Book-Entry Only System," "DEBT SERVICE SCHEDULE," "BANKRUPTCY", "LITIGATION – The Company, - The Series 2011 Local Units, - The County," "TAX MATTERS", "APPENDIX A - Certain Information Concerning the County," "APPENDIX B – Audited Financial Statements of the County," "APPENDIX C – Certain Information Concerning the Company", and "APPENDIX E-Forms of Continuing Disclosure Agreements.

The above opinions are limited to and based upon the laws and judicial decisions of the State of New Jersey and the federal laws and judicial decisions of the United States of America as of the date hereof, and are subject to any amendment, repeal or other modification of the applicable laws or judicial decisions that served as the basis for our opinions or to any laws or judicial decisions hereafter enacted or rendered. We assume no obligation to update our opinions after the date hereof to reflect any future action, fact or circumstance, or change in law or interpretation, or otherwise. We express no opinion on the effect of any action taken after the date hereof or not taken in reliance upon an opinion of other counsel on the exclusion from gross income for federal income tax purposes of interest on the Series 2011 Bonds. No opinion is expressed regarding other federal tax consequences or other federal taxes arising with respect to the Series 2011 Bonds.

We note, in connection with the opinions expressed herein, that the enforceability of rights or remedies with respect to the Authority Bond Resolution, the Series 2011 Bonds, the Authority Financing Documents and the County Guaranty may be limited, however, by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or remedies heretofore or hereafter enacted and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases. We express no opinion as to the availability of any particular remedy.

This opinion is being delivered to you at your request. Our engagement by you with respect to the opinions expressed herein does not require, and shall not be construed to constitute, a continuing obligation on our part to notify or otherwise inform you or the reliance parties hereof of the amendment, repeal or other modification of the applicable laws or judicial decisions that served as the basis for this opinion letter or of laws or judicial decisions hereafter enacted or rendered which impact on this opinion letter.

Very truly yours,



Inglesino, Pearlman, Wyciskala  
& Taylor, LLC

# COUNTY OF SUSSEX



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*County Counsel*  
*Sussex County Administrative Center*  
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*Newton, NJ 07860*

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December 14, 2011

Board of Chosen Freeholders  
County of Sussex  
Newton, New Jersey

RBC Capital Markets, LLC  
Florham Park, New Jersey

The Morris County Improvement  
Authority  
Morristown, New Jersey

U.S. Bank National Association  
Morristown, New Jersey

Inglesino, Pearlman, Wyciskala & Taylor, LLC  
Parsippany, New Jersey

SunLight General Sussex Solar, LLC  
New York, New York

Dear Ladies and Gentlemen:

In my capacity as County Counsel to the County of Sussex, New Jersey (the "County"), I have reviewed certain documents and instruments relative to the issuance of (i) \$26,715,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) (the "Series 2011A Bonds") and (ii) \$985,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Bonds") by The Morris County Improvement Authority (the "Authority"). Capitalized terms used herein but not otherwise defined shall have the same meanings ascribed to them in the Bond Purchase Agreement dated December 7, 2011 ("Purchase Agreement") between the Underwriter set forth therein and the Authority and Company, and the letter of representation of the County dated December 7, 2011 (the "Letter of Representation").

Based on my examination of an ordinance entitled, "GUARANTY ORDINANCE OF THE COUNTY OF SUSSEX, NEW JERSEY SECURING THE MORRIS COUNTY

IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000" (the "Guaranty Ordinance"), evidenced by (i) the execution by the Director of the Board of Chosen Freeholders of the County of a certificate on the Bonds (the 'Guaranty Certificate") and (ii) the executed "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement" and collectively with the Guaranty Certificate, the "County Guaranty"), the Preliminary Official Statement, the Official Statement of the Morris County Improvement Authority; and other records of the County as I have deemed necessary, I hereby render the opinion hereinafter set forth.

1. The County is a body corporate and politic of the State duly organized and existing under the laws of the State. The County has full legal right and power and is authorized to adopt, execute, enter into and perform its obligations under the Guaranty Ordinance, the County Guaranty, the County Disclosure Agreement and the Letter of Representation (collectively, the "County Documents") and all such documents have in all respects been duly and lawfully authorized, approved, executed, delivered and published, as applicable by the County as required by law. The County has the legal right to authorize the use of information related to the County in the Preliminary Official Statement and the Official Statement. The County has duly authorized all necessary action to be taken by it for the approval of the use of information related to the County in the Preliminary Official Statement and the Official Statement.

2. The final adoption, execution and performance of the County Documents does not and will not contravene any provision of existing law or regulation and, to the best of my knowledge after due inquiry, will not conflict with, or result in the breach of the terms, conditions or provisions of any agreement of the County, or constitute a default under or result in or permit the creation or imposition of any lien, change or encumbrance upon any of the properties of the County pursuant to any indenture, mortgage or other agreement or instrument to which the County is a party or by which its assets are bound.

3. Each of the County Documents is in full force and effect and constitutes a legal, valid and binding obligation of the County enforceable against the County in accordance with its terms, except as such enforceability may be limited by any applicable bankruptcy, moratorium or similar laws affecting creditors' rights generally ("Creditors' Rights Limitations"), and the obligation of the County to make payments under the County Guaranty is irrevocable, unconditional and a direct and general obligation of the County payable, unless paid by some other source, from the levy of ad valorem taxes upon all the taxable property within jurisdiction of the County without limitation as to the rate or amount.

4. The County Proceedings have not been modified, amended, superseded or rescinded and will remain in full force and effect so long as the Bonds remain outstanding.

5. All consents, approvals or authorizations of any governmental authority required on the part of the County in connection with the final adoption and execution of the County Proceedings and the execution and delivery of the County Documents have been duly obtained, and the County has complied with all applicable provisions of law requiring any designation, declaration, filing, registration and/or qualification with any governmental authority in connection with such adoption, execution and delivery.

6. The County is in compliance with all provisions of all constitutions, statutes, rules, regulations and orders and all governmental and nongovernmental bodies, all governmental approvals and all orders, judgments and decrees of all courts and arbitrators with respect to the performance of its obligations under, and the execution and delivery of the County Documents.

7. To the best of my knowledge after due inquiry, the County is not in violation of any provision of, or in default under any agreement or instrument which would materially and adversely affect the financial condition of the County.

8. Except as otherwise disclosed in the Official Statement, there is no action, suit, proceeding, inquiry or investigation at law or in equity or by or before any governmental instrumentality or other agency, pending or, to my knowledge, after due inquiry, now threatened against or affecting the County (or, to my knowledge any basis therefor), or to which the County is or may be a party or to which the property of the County is or may be subject; questioning or challenging the validity of any proceeding taken or to be taken by the County in connection with the final adoption of the County Proceedings or authorization, execution and delivery of the County Documents or seeking to prohibit, restrain or enjoin the authorization and final adoption of the County Proceedings, or the execution and delivery of the County Documents, or wherein an unfavorable decision, ruling or finding would adversely affect, financially or otherwise, (a) the existence or organization of the County or the title to office of any member of the Board of Chosen Freeholders of the County or any power of the County, (b) the validity or enforceability of the proceedings taken by the County for the authorization and final adoption of the County Proceedings, the execution and delivery of the County Documents or for the approval of the Official statement, or (c) the ability of the County to perform its obligations under the County Documents.

9. The County has duly authorized all necessary action to be taken by it for the use of the information related to the County in the Preliminary Official Statement and the Official Statement.

10. The information and descriptions in the Official Statement and Preliminary Official Statement set forth under headings "LITIGATION - The County" and APPENDIX A (except for financial and statistical data included therein as to which no opinion is

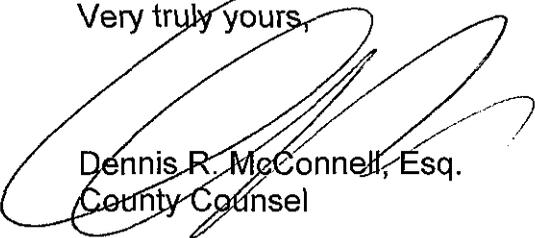
expressed) is accurate and fairly presents the information intended to be shown with respect thereto and does not contain any untrue statement of a material fact or omit to state any material fact required or necessary to be stated therein in order to make the statements made therein, in light of the circumstances under which they were made, not misleading, and without having undertaken to determine independently the accuracy, completeness or fairness of the statements contained in the Official Statement, except as set forth above, I have no reason to believe that information and descriptions set forth in the Preliminary Official Statement and Official Statement under the headings "SECURITY FOR THE SERIES 2011 BONDS - County Guaranty", and "SECONDARY MARKET DISCLOSURE" contained or contains any untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

11. All actions taken by the County in connection with the authorization of the County Disclosure Agreement and authorization and final adoption of the Guaranty Ordinance have been in compliance in all respects with the provisions of the State Constitution and applicable laws, including, inter alia, Chapter 231 of the Laws of the State of 1975, as amended, the New Jersey Open Public Meetings Act.

12. The resolution entitled "RESOLUTION PROVIDING SUSSEX COUNTY'S CONSENT TO THE ISSUANCE BY THE MORRIS COUNTY IMPROVEMENT AUTHORITY OF THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND RELATED DOCUMENTS" and the Guaranty Ordinance have each been duly and lawfully adopted by the County and are in full force and effect, and the covenants of the County therein are valid and binding obligations of the County enforceable in accordance with their terms.

This opinion only may be relied upon by the parties to whom it is addressed. Reliance hereon by any other person requires my written consent.

Very truly yours,



Dennis R. McConnell, Esq.  
County Counsel



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MORRIS BROWN (1956-2011) FREDERICK K. BECKER RICHARD F. LERT JOHN A. HOFFMAN STEPHEN E. BARCAN BARRY M. EPSTEIN VINCENT P. MALTESE DAVID M. WILDSTEIN GORDON J. GOLUM MARVIN J. BRAUTH STUART A. HOBERMAN STEPHEN A. SPITZER ANNE S. BABINEAU CHRISTINE D. PETRUZZELLI BRIAN J. MOLLOY RANDALL J. RICHARDS JOSEPH J. JANKOWSKI DAVID S. GORDON FREDERICK J. DENNEHY ROY H. TANZMAN STEVEN J. TRIPP JAY J. ZIZNEWSKI ALAN WASSERMAN JAMES E. TRABILSY MAUREEN S. BINETTI ANTHONY J. PANNELLA, JR. MICHAEL J. BARRETT MICHAEL F. SCHAFF ANGELO JOHN CICALDI KEVIN M. BERRY JOHN T. KELLY C. KENNETH SHANK EDWIN LEVITT-GRUBERGER BRUCE M. KLEINMAN BARRY A. COOKE JON G. KUPILIK PETER R. HERMAN EDWARD T. KOLE

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December 14, 2011

Board of Chosen Freeholders County of Sussex Newton, New Jersey

RBC Capital Markets, LLC Florham Park, New Jersey

The Morris County Improvement Authority Morristown, New Jersey

U.S. Bank National Association Morristown, New Jersey

SunLight General Sussex Solar, LLC New York, New York

Dear Ladies and Gentlemen:

In our capacity as Bond Counsel to the County of Sussex, New Jersey (the "County"), we have reviewed certain documents and instruments relative to the issuance of (i) \$26,715,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) (the "Series 2011A Bonds") and (ii) \$985,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "Series 2011B Note" and together with the Series 2011A Bonds, the "Bonds") by The Morris County Improvement Authority (the "Authority"). Capitalized terms used herein but not otherwise defined shall have the same meanings ascribed to them in the Bond Purchase Agreement dated December 7, 2011 ("Purchase Agreement") between the Underwriter and Company set forth therein, and the Authority, and the letter of representation of the County dated December 7, 2011 (the "Letter of Representation").

Based on our examination of an ordinance entitled, "GUARANTY ORDINANCE OF THE COUNTY OF SUSSEX, NEW JERSEY SECURING THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE

REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000" (the "Guaranty Ordinance"), evidenced by (i) the execution by the Director of the Board of Chosen Freeholders of the County of a certificate on the Bonds (the "Guaranty Certificate") and (ii) the executed "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement" and collectively with the Guaranty Certificate, the "County Guaranty"), the Preliminary Official Statement, the Official Statement of the Morris County Improvement Authority; and other records of the County as we have deemed necessary, we hereby render the opinion hereinafter set forth.

1. The County is a body corporate and politic of the State duly organized and existing under the laws of the State. The County has full legal right and power and is authorized to adopt, execute, enter into and perform its obligations under the Guaranty Ordinance, the County Guaranty, the County Disclosure Agreement and the Letter of Representation (collectively, the "County Documents") and all such documents have in all respects been duly and lawfully authorized, approved, executed, delivered and published, as applicable by the County as required by law. The County has the legal right to authorize the use of information related to the County in the Preliminary Official Statement and the Official Statement. The County has duly authorized all necessary action to be taken by it for the approval of the use of information related to the County in the Preliminary Official Statement and the Official Statement.

2. The final adoption, execution and performance of the County Documents does not and will not contravene any provision of existing law or regulation and, to the best of my knowledge after due inquiry, will not conflict with, or result in the breach of the terms, conditions or provisions of any agreement of the County, or constitute a default under or result in or permit the creation or imposition of any lien, change or encumbrance upon any of the properties of the County pursuant to any indenture, mortgage or other agreement or instrument to which the County is a party or by which its assets are bound.

3. Each of the County Documents is in full force and effect and constitutes a legal, valid and binding obligation of the County enforceable against the County in accordance with its terms, except as such enforceability may be limited by any applicable bankruptcy, moratorium or similar laws affecting creditors' rights generally ("Creditors' Rights Limitations"). For the payment of its obligations under the County Guaranty, the County has the power and is fully, unconditionally and irrevocably obligated, to the extent that funds are not otherwise available, to levy ad valorem taxes upon all taxable property within the County, to pay principal of (including sinking fund installments, if any, but not redemption premium, on the Bonds, as applicable) without limitation as to rate or amount

4. The County Proceedings have not been modified, amended, superseded or rescinded and will remain in full force and effect so long as the Bonds remain outstanding.

5. All consents, approvals or authorizations of any governmental authority required on the part of the County in connection with the final adoption and execution of the County Proceedings and the execution and delivery of the County Documents have been duly obtained, and the County has complied with all applicable provisions of law requiring any designation, declaration, filing,

registration and/or qualification with any governmental authority in connection with such adoption, execution and delivery.

6. The County is in compliance with all provisions of all constitutions, statutes, rules, regulations and orders and all governmental and nongovernmental bodies, all governmental approvals and all orders, judgments and decrees of all courts and arbitrators with respect to the performance of its obligations under, and the execution and delivery of the County Documents.

7. To the best of our knowledge after due inquiry, the County is not in violation of any provision of, or in default under any agreement or instrument which would materially and adversely affect the financial condition of the County.

8. Except as otherwise disclosed in the Official Statement, there is no action, suit, proceeding, inquiry or investigation at law or in equity or by or before any governmental instrumentality or other agency, pending or, to my knowledge, after due inquiry, now threatened against or affecting the County (or, to our knowledge any basis therefor), or to which the County is or may be a party or to which the property of the County is or may be subject; questioning or challenging the validity of any proceeding taken or to be taken by the County in connection with the final adoption of the County Proceedings or authorization, execution and delivery of the County Documents or seeking to prohibit, restrain or enjoin the authorization and final adoption of the County Proceedings, or the execution and delivery of the County Documents, or wherein an unfavorable decision, ruling or finding would adversely affect, financially or otherwise, (a) the existence or organization of the County or the title to office of any member of the Board of Chosen Freeholders of the County or any power of the County, (b) the validity or enforceability of the proceedings taken by the County for the authorization and final adoption of the County Proceedings, the execution and delivery of the County Documents or for the approval of the Official statement, or (c) the ability of the County to perform its obligations under the County Documents.

9. The County has duly authorized all necessary action to be taken by it for the use of the information related to the County in the Preliminary Official Statement and the Official Statement.

10. The description and information in the Preliminary Official Statement and the Official Statement set forth under the heading "SECURITY FOR THE SERIES 2011 BONDS – County Guaranty" is true and correct in all material respects.

11. The information and descriptions in the Official Statement and Preliminary Official Statement set forth under headings "LITIGATION - The County" and APPENDIX A (except for financial and statistical data included therein as to which no opinion is expressed) is accurate and fairly presents the information intended to be shown with respect thereto and does not contain any untrue statement of a material fact or omit to state any material fact required or necessary to be stated therein in order to make the statements made therein, in light of the circumstances under which they were made, not misleading, and without having undertaken to determine independently the accuracy, completeness or fairness of the statements contained in the Official Statement, except as set forth above, we have no reason to believe that information and descriptions set forth in the Preliminary Official Statement and Official Statement under the heading "SECONDARY MARKET DISCLOSURE" contained or contains any untrue statement of a material fact or omitted or omits to

state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

12. All actions taken by the County in connection with the authorization of the County Disclosure Agreement and authorization and final adoption of the Guaranty Ordinance have been in compliance in all respects with the provisions of the State Constitution and applicable laws, including, inter alia, Chapter 231 of the Laws of the State of 1975, as amended, the New Jersey Open Public Meetings Act.

13. The resolution entitled "RESOLUTION PROVIDING SUSSEX COUNTY'S CONSENT TO THE ISSUANCE BY THE MORRIS COUNTY IMPROVEMENT AUTHORITY OF THE AUTHORITY'S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 (FEDERALLY TAXABLE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000,000 AND RELATED DOCUMENTS" and the Guaranty Ordinance have each been duly and lawfully adopted by the County and are in full force and effect, and the covenants of the County therein are valid and binding obligations of the County enforceable in accordance with their terms.

This opinion only may be relied upon by the parties to whom it is addressed. Reliance hereon by any other person requires my written consent.

Very truly yours,

  
WILENTZ, GOLDMAN & SPITZER, P.A.

**NIXON PEABODY**<sup>LLP</sup>  
ATTORNEYS AT LAW

100 Summer Street  
Boston, Massachusetts 02110  
(617) 345-1000  
Fax: (617) 345-1300

December 14, 2011

The Morris County Improvement Authority  
Somerville, New Jersey

RBC Capital Markets, LLC  
Florham Park, NJ

U.S. Bank National Association, as trustee  
Morristown, New Jersey

Sunlight General Sussex Solar, LLC  
New York, New York

Sunlight General Sussex Holdings, LLC  
New York, New York

Ladies and Gentlemen:

As counsel for Sunlight General Sussex Solar, LLC (the "Company"), a New Jersey limited liability company, and Sunlight General Sussex Holdings, LLC ("Holdco"), a New Jersey limited liability company and the sole member of the Company, we are delivering this opinion to you in connection with the issuance by The Morris County Improvement Authority (the "Authority") of its \$27,700,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 [Federally Taxable] (the "Bonds") pursuant to a "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority" adopted by the Authority on September 28, 2011, as amended and supplemented by a Certificate of an Authorized Officer of the Authority executed in connection with the issuance of the Bonds (as so amended, the "Bond Resolution"). Capitalized terms not otherwise defined in this opinion shall have the meaning set forth in the Bond Resolution. The proceeds of the Bonds will be applied pursuant to a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between the Authority and the Company to finance a portion of the cost of the design, permitting, acquisition, construction and installation of Renewable Energy Projects located at Local Unit Facilities of fourteen different Series 2011 Local Units pursuant to fourteen separate "License and Access Agreements (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Local Unit License Agreements") between the Authority and each Series 2011 Local Unit, and acknowledged and accepted by the Company. Pursuant to the Company Lease Agreement, the Company has agreed to make Basic Lease Payments to U.S. Bank National Association, as trustee (the "Trustee") in amounts that will pay principal of and interest (other than capitalized interest) on the Bonds and the Company has agreed to construct, operate and maintain the Renewable Energy Projects. Certain rights and obligations of the Authority under the Local Unit License Agreements have been assigned by the Authority to, and assumed by, the Company under the Company Lease Agreement. Pursuant to a "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Power Purchase Agreement") between the Authority and the Company, and the Local Unit License

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Agreements, the Company will sell the electrical power generated by the Renewable Energy Projects to the Series 2011 Local Units for a specified Power Purchase Price. In connection with the sale of the Bonds, the Authority and RBC Capital Markets, LLC (the "Underwriter") entered into a Bond Purchase Agreement dated December 7, 2011 (the "Bond Purchase Agreement"), which was acknowledged and accepted by the Company solely with respect to the maturity schedule and pricing information set forth on Exhibit A thereto. In order to secure certain of the Company's obligations to the Authority, Holdco, as sole member of the Company, has pledged its interest in the Company to the Trustee pursuant to a "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Pledge Agreement") by Holdco, in favor of the Trustee.

At a closing held today, the Company has executed and delivered to the Authority the Financing Documents, as hereinafter defined, and Holdco has executed and delivered to the Trustee the Pledge Agreement, and the Company and Holdco have each executed and delivered such additional documents as are required by the Bond Resolution or the Bond Purchase Agreement (collectively, the Company Lease Agreement, the Power Purchase Agreement, the "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011, among the Company, the Authority and the Trustee (the "Company Continuing Disclosure Agreement"), those Local Unit License Agreements acknowledged and accepted by the Company pursuant to the Company Lease Agreement, the Bond Purchase Agreement, the Letter of Representations of the Company to the Underwriter dated December 14, 2011 (the "Letter of Representations"), and such other documents required to be entered into pursuant to any of such agreements, the "Financing Documents").

We have examined and relied upon the provisions of an executed copy of each of the following documents:

1. the Company Lease Agreement;
2. the Power Purchase Agreement;
3. the Pledge Agreement;
4. the Company Continuing Disclosure Agreement;
5. the Local Unit License Agreements;
6. the Bond Purchase Agreement;

7. the Letter of Representations and a bring down certificate relating thereto dated December 14, 2011;
8. the Company's General Certificate dated December 14, 2011 regarding certain matters, including without limitation a Certificate of Unanimous Consent of the Sole Member of the Company, dated December 14, 2011, certifying as to certain matters, including authorizing the Company to enter into the Financing Documents, and certain other factual matters (the "Company Certificate");
9. a certificate of Good Standing of the State of New Jersey dated December 8, 2011 (the "Company Good Standing Certificate") and a Business Registration Certificate of the State of New Jersey dated effective as of December 1, 2011 and issued on December 1, 2011 (the "Company Business Registration Certificate"), together with the Company Certificate of Formation filed with the State of New Jersey on November 15, 2011 and Limited Liability Company Agreement dated November 15, 2011 (collectively, with the Company Good Standing Certificate and the Company Business Registration Certificate, the "Company Organizing Documents") attesting to the existence and good standing in New Jersey of the Company;
10. Holdco's General Certificate dated December 14, 2011 regarding certain matters, including without limitation a Certificate of Unanimous Consent of the Sole Member of Holdco, dated December 14, 2011, certifying as to certain matters, including authorizing Holdco to enter into the Pledge Agreement, and certain other factual matters (the "Holdco Certificate");
11. a Certificate of Good Standing of the State of New Jersey dated December 8, 2011 (the "Holdco Good Standing Certificate") and a Business Registration Certificate of the State of New Jersey dated effective as of December 1, 2011 and issued on December 1, 2011 (the "Holdco Business Registration Certificate"), together with Holdco's Certificate of Formation filed with the State of New Jersey on November 15, 2011 and Limited Liability Company Agreement dated November 15, 2011 (collectively, with the Holdco Good Standing Certificate and the Holdco Business Registration Certificate, the "Holdco Organizing Documents") attesting to the existence and good standing in New Jersey of Holdco; and
12. such other documents, records, certificates and instruments as we have deemed necessary as a basis for the opinions expressed below.

In addition, we have examined such other documents and made such investigation of fact and such examination of law as we have deemed necessary for the purposes of the opinions

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expressed below. In conducting our examination, we have relied, without independent verification, upon certificates of authorized signatories or officers of the Company and Holdco, public officials, and other appropriate persons, and on the representations and warranties as to matters of fact and on the covenants as to the application of proceeds contained in the Financing Documents and the Pledge Agreement. We further have relied, with your permission, as to matters of fact, including the matters of fact set forth herein, upon representations contained in the Financing Documents and the Pledge Agreement and in certificates, copies of which have been furnished to you, including the Company Certificate and the Holdco Certificate.

For purposes of the opinions expressed below, we have assumed that each of the parties (other than the Company and Holdco) to the documents referred to herein has all requisite power and authority and has taken all necessary corporate or other action, consistent with all applicable laws and regulations, to execute and deliver such documents and, in the case of the Authority, to issue the Bonds and apply the proceeds thereof as set forth in the Bond Resolution and the Company Lease Agreement, and to effect the transactions contemplated by the documents referred to herein.

Wherever, a statement herein is qualified by "known to us", "to our knowledge", or any similar phrase, it is intended to be limited to the actual knowledge of the lawyers in this firm who have had active involvement in negotiating or preparing the Financing Documents and the Pledge Agreement. Except as otherwise expressly indicated, we have not undertaken any independent investigation to determine the accuracy of any such statement, and any limited inquiry undertaken by us during preparation of this opinion letter should not be regarded as such an investigation.

The opinions expressed herein are limited to matters governed by the laws of the State of New Jersey and the federal laws of the United States of America. We express no opinion herein as to the laws of any other jurisdiction.

Based upon and subject to the foregoing and subject to the additional qualifications set forth below, we are of the opinion that:

1. The Company and Holdco are each a validly existing limited liability company under the laws of the State of New Jersey with authority under applicable law adequate for the execution, delivery and performance of its respective obligations under the Financing Documents or the Pledge Agreement, respectively.
2. Each of the Financing Documents has been duly authorized, executed and delivered by or on behalf of the Company, and the Pledge Agreement has been duly authorized, executed and delivered by or on behalf of Holdco and, assuming the proper authorization,

execution and delivery by the other parties thereto, and subject to the qualifications stated in the unnumbered paragraphs at the end hereof, is a legal, valid and binding obligation of the Company or Holdco, as applicable, enforceable against the Company or Holdco, as applicable, in accordance with its terms. The opinions expressed above are subject to the qualification that enforcement of the indemnification and contribution provisions of the Financing Documents or the Pledge Agreement may be limited by federal or state securities laws or by the public policy underlying such laws, and that we express no opinion regarding the enforceability of the limitation of jurisdiction to the New Jersey state courts.

3. The execution and delivery by the Company of the Financing Documents and the performance by the Company of its obligations thereunder, and the execution and delivery by Holdco of the Pledge Agreement and the performance by Holdco of its obligations thereunder do not and will not in any material respect (a) violate any provision of the Company Organizing Documents or the Holdco Organizing Documents, as applicable, (b) violate any provision of any federal or New Jersey law, statute, or regulation or, to our knowledge, based solely upon the Company Certificate and the Holdco Certificate, court order or consent decree to which the Company or Holdco is subject, or (c) to our knowledge, based solely upon the Company Certificate and the Holdco Certificate, result in any material breach or violation of, or constitute a default under, any material agreement to which the Company or Holdco is a party.
4. To our knowledge, based solely on the Company Certificate and the Holdco Certificate, without having investigated any governmental records or court dockets, there is no governmental action or proceeding and no litigation, action, suit, inquiry, investigation or proceeding pending before any judicial or administrative court or agency against the Company or Holdco, in which an unfavorable decision, ruling or 'finding' would adversely affect the validity or performance of the Financing Documents or the Pledge Agreement.

Our opinions that each of the Financing Documents delivered to you today is the legal, valid and binding obligation of the Company, and that the Pledge Agreement delivered to the Trustee today is the legal, valid and binding obligation of Holdco, enforceable in accordance with its terms, are subject to (a) bankruptcy, insolvency, reorganization, moratorium, and other laws of general application relating to or affecting the enforcement of creditors' rights generally, (b) equitable principles, and (c) laws concerning recourse by creditors to security in the absence of notice and hearing. We express no opinion as to the recording or filing of the Financing Documents or the Pledge Agreement. Our opinion is further subject to the qualification that certain provisions of and some of the remedies provided for in, the Financing Documents or the

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Pledge Agreement may be affected by, or may be unenforceable in whole or in part by reason of, certain laws and judicial decisions, (including without limitation the grant of powers of attorney thereunder), but the application of such laws and decisions would not materially interfere with the remedy of the practical realization of the benefits of the security intended to be provided by certain of the Financing Documents or the Pledge Agreement. We do not express any opinion herein as to the availability of the remedy of specific performance or injunctive relief or other relief in equity upon breach of any of the agreements, documents, or obligations referred to herein.

This Opinion is solely for your benefit and may not be relied upon by any other person. This opinion is specifically limited to matters as of the date hereof, and we undertake no obligation to update it. We express no opinion on the possible effects of changes in factual or legal matters occurring after the date of this opinion.

Respectfully,

A handwritten signature in cursive script that reads "Nixon Peabody LLP". The signature is written in dark ink and is positioned to the right of the word "Respectfully,".



GIBBONS P.C.

One Gateway Center  
Newark, NJ 07102-5310  
Direct: 973.598.4500

December 14, 2011

RBC Capital Markets, LLC  
as Underwriter referenced in the  
within-mentioned Contract of Purchase  
Florham Park, New Jersey

Re: The Morris County Improvement Authority (Morris County, New Jersey)  
\$26,715,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue  
Bonds, Series 2011A (Federally Taxable) and  
\$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note,  
Series 2011B (Federally Taxable)

Ladies and Gentlemen:

We have acted as counsel to you (the "Underwriter"), in connection with the purchase by the Underwriter from The Morris County Improvement Authority (the "Authority") of its \$26,715,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) (the "Bonds") and \$985,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable) (the "Notes" and collectively with the Bonds, the "Obligations") pursuant to the Bond Purchase Agreement, dated December 7, 2011 (the "Contract of Purchase") between the Underwriter, the Authority and SunLight General Sussex Solar, LLC. The Obligations are issued on the date hereof under and pursuant to (i) the County Improvement Authorities Law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State of New Jersey, as amended and supplemented (the "Act"), (ii) a bond resolution of the Authority entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted on September 28, 2011, as amended and supplemented by certificates of an Authorized Officer of the Authority to be executed in connection with the issuance of the Obligations (collectively, the "Bond Resolution") and (iii) all other applicable laws.

In that connection, we have reviewed certain portions of the Act, the Bond Resolution, the Official Statement of the Authority dated December 7, 2011, certifications of the Authority and such other records and documents, and we have made such investigations of law, as we have deemed appropriate as a basis for the conclusions hereinafter expressed. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Contract of Purchase.

RBC Capital Markets, LLC

December 14, 2011

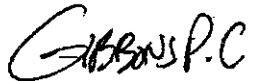
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In arriving at the conclusions hereinafter expressed, we are not expressing any opinion or view on, and are assuming and relying on, the validity, accuracy and sufficiency of the documents, certificates and opinions referred to above (including the accuracy of all factual matters represented and legal conclusions contained therein) and the due authorization, issuance, delivery, validity and enforceability of the Obligations. We have assumed that all documents, certificates and opinions that we have reviewed, and the signatures thereto, are genuine.

Based on and subject to the foregoing, and in reliance thereon, we are of the opinion that, under existing law the Obligations are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Resolution is exempt from qualification under the Trust Indenture Act of 1939, as amended.

We are furnishing this letter to you solely for your benefit. This letter is not to be used, circulated, quoted or otherwise referred to or relied upon for any other purpose or by any other person, without our written consent.

Sincerely,



GIBBONS P.C.

**MCÉLROY, DEUTSCH, MULVANEY & CARPENTER, LLP**  
ATTORNEYS AT LAW

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P.O. BOX 2075  
MORRISTOWN, NEW JERSEY 07962-2075  
(973) 993-8100  
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December 14, 2011

The Morris County Improvement Authority  
Morristown, New Jersey 07960

U.S. Bank National Association  
Morristown, New Jersey 07960

Sussex County Board of Chosen Freeholders  
Newton, New Jersey 07860

SunLight General Sussex Solar, LLC  
New York, New York 10017

RBC Capital Markets, LLC  
Florham Park, New Jersey 07932

Ladies and Gentlemen:

We have acted as counsel to U.S. Bank National Association (the "*Trustee*") in its capacity as trustee, bond registrar, paying agent and dissemination agent in connection with the issuance by The Morris County Improvement Authority (the "*Authority*") of its \$26,715,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A [Federally Taxable], and its \$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B [Federally Taxable], each dated the date hereof (collectively, the "*Bonds*"), pursuant to (i) a bond resolution of the Authority adopted on September 28, 2011 and entitled, "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented by a Certificate of an Authorized Officer of the Authority dated the date hereof executed and delivered in accordance with Section 2.02(1)(e) thereof, as the same may be further amended or supplemented from time to time in accordance with the terms thereof (collectively, the "*Bond Resolution*"), (ii) the Act and (iii) all other applicable law. Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Bond Resolution and in the Bond Purchase Agreement, dated December 7, 2011, by and among RBC Capital Markets, LLC, the Authority and SunLight General Sussex Solar, LLC.

As the basis for this opinion, we have examined the original or certified counterparts of the Bond Resolution and each of the Program Documents. We have also examined such matters of law as we have deemed necessary and appropriate. In rendering this opinion, we have assumed and relied upon the truth, completeness, authenticity and due authorization of all documents, opinions and certificates and the genuineness of all the signatures thereon, other than those of the Trustee, as executed and delivered in connection with the Bonds. We have also assumed that the Bond Resolution and each of the Program Documents are valid and legally binding upon the respective parties thereto (other than the Trustee) and are enforceable against such parties in accordance with their respective terms.

# **MC ELROY, DEUTSCH, MULVANEY & CARPENTER, LLP**

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Based upon and subject to the foregoing, we are of the opinion that:

1. The Trustee is a national banking association duly created and validly existing under the laws of the United States of America with trust and fiduciary powers in the State.
2. The Trustee has duly accepted its appointment as trustee, bond registrar and paying agent under the Bond Resolution, and it is duly authorized and empowered to discharge and perform all duties imposed upon it as trustee, bond registrar and paying agent thereunder and under the other applicable Program Documents.
3. The Trustee has duly authorized, executed and delivered the County Disclosure Agreement and the Company Disclosure Agreement, and it is duly authorized and empowered to discharge and perform all duties imposed upon it as dissemination agent thereunder.
4. The Trustee has duly authenticated the Bonds.
5. The acceptance and performance by the Trustee of its duties and obligations as trustee, bond registrar and paying agent under the Bond Resolution and under the other applicable Program Documents, and its duties and obligations as dissemination agent under the County Disclosure Agreement and the Company Disclosure Agreement, have been duly authorized by all necessary corporate action on the part of the Trustee and do not require any approval, consent or review of any court or public or governmental body or regulatory authority or any stockholder approval, or such required approvals and consents have heretofore been duly obtained.
6. The acceptance and performance by the Trustee of its duties and obligations as trustee, bond registrar and paying agent under the Bond Resolution and under the other applicable Program Documents, and its duties and obligations as dissemination agent under the County Disclosure Agreement and the Company Disclosure Agreement, do not and will not contravene or cause a breach or violation of or default under any provisions of the articles of incorporation, charter or by-laws of the Trustee, or any existing law or regulation to which the Trustee is or may be subject.
7. The duties and obligations of the Trustee as trustee, bond registrar and paying agent under the Bond Resolution and under the other applicable Program Documents, and its duties and obligations as dissemination agent under the County Disclosure Agreement and the Company Disclosure Agreement, constitute the legal, valid and binding obligations of the Trustee, enforceable against the Trustee in accordance with their respective terms.

# **MCÉLROY, DEUTSCH, MULVANEY & CARPENTER, LLP**

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The foregoing opinion regarding the enforceability of the Trustee's duties under the Bond Resolution and under the other applicable Program Documents, and to the extent applicable, the security interests created thereby, are subject to: (a) bankruptcy, insolvency, reorganization, arrangement, moratorium, fraudulent conveyance, bulk sales and other similar laws and equitable principles relating to or affecting the rights of creditors and secured parties generally or providing for the relief of debtors; (b) the refusal of a particular court to grant (i) equitable remedies, including, without limitation, the remedy of specific performance or injunctive relief, or (ii) a particular remedy sought by the Trustee under the Bond Resolution or under the other applicable Program Documents as opposed to another remedy provided for therein or another remedy available at law or in equity; and (c) general principles of equity, including, without limitation, the concepts of materiality, reasonableness, good faith and fair dealing (regardless of whether such remedies are sought in a proceeding at law or in equity).

Without limiting the foregoing, we express no opinion as to: (a) any limitations based on statute or public policy limiting a person's right to waive the benefits of statutory provisions or common law rights; (b) any provision relating to indemnification to the extent prohibited by public policy; and (c) the enforceability of any (i) non-judicial foreclosure or sale or other self-help remedies provided for in the Bond Resolution and in the other applicable Program Documents, (ii) provisions that purport to restrict access to legal or equitable remedies or waive any rights or that purport to establish evidentiary standards, and (iii) provisions relating to subrogation rights, suretyship, delay or omission of enforcement of rights or remedies, agreements to agree on future matters, waivers or ratification of future acts, prohibitions against the transfer, alienation or hypothecation of property, severance, consent judgments or marshaling of assets.

The opinions expressed herein are limited to and based upon the laws and judicial decisions of the State and the federal laws and judicial decisions of the United States of America as of the date hereof, and are subject to any amendment, repeal or other modification of the applicable laws or judicial decisions that served as the basis for our opinions or to any laws or judicial decisions hereafter enacted or rendered.

Our engagement by the Trustee with respect to the opinions expressed herein does not require, and shall not be construed to constitute, a continuing obligation on our part to notify or otherwise inform the addressees hereof of the amendment, repeal or other modification of the applicable laws or judicial decisions that served as the basis for this opinion letter or of any laws or judicial decisions hereafter enacted or rendered that impact on this opinion letter.

**McELROY, DEUTSCH, MULVANEY & CARPENTER, LLP**

The Morris County Improvement Authority  
U.S. Bank National Association  
Sussex County Board of Chosen Freeholders  
SunLight General Sussex Solar, LLC  
RBC Capital Markets, LLC  
December 14, 2011  
Page 4

This opinion letter is being furnished solely to the parties to whom it is addressed, and it may not be relied upon by any other person or quoted in whole or in part or otherwise referred to without our express prior written consent.

Very truly yours,

McELROY, DEUTSCH, MULVANEY & CARPENTER, LLP

## CERTIFICATE OF AUDITORS

Nisivoccia LLP has acted as Auditors to the County of Sussex, in the State of New Jersey (the "County"), in connection with the issuance by the County of \$33,100,000 aggregate principal amount of County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 [Federally Taxable] (the "Bonds"), dated December 1, 2011.

The Auditors take responsibility for the audited financial statements for the years ended December 31, 2010, 2009, and 2008 to the extent specified in the Auditors report dated June 30, 2011, except for Note 8 which is dated November 18, 2011, contained in the Preliminary Official Statement dated October 25, 2011, as amended and supplemented on November 22, 2011, and the final Official Statements dated December 1, 2011 distributed in connection with the sale of the Bonds.

The Auditors consent to the inclusion of the complied financial statements in the Official Statement.

IN WITNESS WHEREOF, I have hereunto set my hand this 7<sup>th</sup> day of December 2011.

NISIVOCCIA LLP

Nisivoccia LLP

**CERTIFICATE OF FINANCIAL ADVISOR**

December 14, 2011

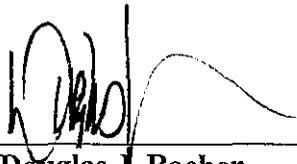
The Morris County Improvement Authority  
Morristown, New Jersey

Ladies and Gentlemen:

In connection with the issuance this day by The Morris County Improvement Authority (the "*Authority*") of its \$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "*Series 2011 Bonds*"), please be advised that without having undertaken to determine independently the accuracy, completeness or adequacy of the statements contained in the Preliminary Official Statement dated December 1, 2011, issued in connection with the Series 2011 Bonds (collectively, the "*Preliminary Official Statement*") or the Official Statement dated December 7, 2011 (the "*Official Statement*"), each with respect to the Series 2011 Bonds, we have no reason to believe that the Preliminary Official Statement or the Official Statement are untrue or misleading; and that to the best of our knowledge, no event affecting the Authority has occurred, since the date of the Preliminary Official Statement and the Official Statement, for the purpose for which such documents are to be used or that is necessary to disclose therein in order to make the statements and information therein, not misleading in any material way.

Very truly yours,

**NW FINANCIAL GROUP, LLC**

By:   
\_\_\_\_\_  
**Douglas J. Bacher**  
**Managing Director**

# Moody's

INVESTORS SERVICE

## New Issue: MOODY'S ASSIGNS Aa2 RATING TO MORRIS COUNTY IMPROVEMENT AUTHORITY'S (NJ) \$25.9 MILLION COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS, SERIES 2011 A

Global Credit Research - 28 Nov 2011

### AFFIRMS Aa2 RATING AND ASSIGNS NEGATIVE OUTLOOK ON SUSSEX COUNTY'S \$159 MILLION IN OUTSTANDING LONG-TERM AND COUNTY-GUARANTEED BONDS

MORRIS COUNTY IMPROVEMENT AUTHORITY, NJ  
Counties  
NJ

#### Moody's Rating

ISSUE	RATING
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)	Aa2
Sale Amount	\$25,900,000
Expected Sale Date	12/05/11
Rating Description	General Obligation

#### Moody's Outlook NEG

#### Opinion

NEW YORK, November 28, 2011 –Moody's Investors Service has assigned a Aa2 rating to Morris County Improvement Authority's (NJ) \$25.9 million Sussex County Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A. Concurrently, Moody's has affirmed the Aa2 rating on approximately \$159 million of the county's outstanding parity debt, including \$67 million of county-guaranteed Sussex County Utilities Authority debt. All of the bonds are secured by the county's general obligation, unlimited tax pledge. Proceeds of the current issue will be used to permanently finance the installation of solar panels on municipal and school buildings within the county.

#### SUMMARY RATINGS RATIONALE

The Aa2 rating reflects the county's pressured, yet adequate financial position, large tax base with slightly above average wealth levels and low debt burden.

Assignment of the negative outlook reflects our expectation that financial operations will remain structurally imbalanced and Current Fund balance will become more narrow.

#### STRENGTHS

- Sizable tax base
- Stable local economy

#### CHALLENGES

- Structurally imbalanced financial operations
- Revenue raising limitations

#### DETAILED CREDIT DISCUSSION

##### MORRIS COUNTY IMPROVEMENT AUTHORITY CONDUIT ISSUER FOR SUSSEX COUNTY

The Morris County Improvement Authority (MCIA) is a conduit issuer for Sussex County in this case and has no individual taxing authority. This rating is directly linked to Sussex County's general obligation bond rating, as its general obligation pledge ultimately secures this transaction. Bonds are expected to be repaid by lease payments from Sunlight General Solar (the Company). The lease payments will consist of proceeds from Solar Renewable Energy Credits (SRECs), Power Purchase Payments from the municipalities and school districts, and grant funds from the Treasury Department Grant Program. The Company has agreed to make full lease payments on an ongoing basis; these payments will begin upon completed installation of all panels at each locality (13 municipalities and school districts). The lease payments are due five months before debt service payment dates, pursuant to the Company Lease Agreement.

Moody's believes Guaranty mechanics provide sufficient time cushion and security to ensure timely payments to bondholders, either by utilizing cash on hand or accessing the capital markets if the need arises. Under the terms of the County Guaranty Agreement, the county will be notified 30 days prior to debt service payment due dates in the event that pledged funds held by the Trustee are insufficient to cover bond holder payments, and the Trustee will continue to notify the county on a weekly basis. Pursuant to the Guaranty Agreement, the county's obligation to fund deficiencies is absolute and unconditional, and is backed by its unlimited property tax pledge.

Assignment of the county's GO rating also factors in the county's ability to absorb debt service payments (MADS of \$2.9 million in 2013) should

the guaranty be called upon. The county maintains sufficient reserves and liquidity, with \$11.7 million of Current Fund balance and \$20.2 million of cash and available investments (fiscal 2010), to honor the guaranty. The presence of a County Security Fund (debt service reserve fund) cash funded at \$1.5 million provides additional security.

#### FINANCIAL POSITION EXPECTED TO NARROW FURTHER

Moody's expects the county's financial position to narrow, given expected draws from reserves following two consecutive years of material declines. In fiscal 2009, Current Fund balance declined for the first time in more than seven years. Fund balance decreased by \$2.2 million to a still healthy \$15.8 million (or 14.4% of Current Fund revenues). In fiscal 2010, underperformance of economically sensitive revenues drove an additional, and more substantial, Current Fund balance reduction. Fund balance declined by \$4.1 million to approximately \$11.7 million (a more narrow 11% of Current Fund revenues). Net of a deferred charge of \$2.3 million related to the payroll fraud in 2009, Current Fund balance was a slimmer 8.8% of revenues. These reserve levels fall below the county's five-year average of 14.8% between fiscal 2004 and 2008.

Projected results for fiscal 2011 indicate continued structurally imbalanced, although improved, financial operations. Reports project a third consecutive reserve draw of approximately \$2 million, reducing fund balance to \$10 million or approximately 9% of pro forma current Fund revenues. Although work force reductions and service changes have reduced the county's financial structural gap to a projected \$2 million from \$4.1 million in 2009 (the amount of fund balance draws), financial operations remain pressured given growing expenditures (notably salaries and health benefits) and stagnant economically sensitive revenues. The county's revenues are derived primarily from property taxes (70% of operating revenues in fiscal 2010, fully guaranteed by the underlying municipalities, with miscellaneous revenues comprising the majority of the balance (26.6%).

The county annually budgets funds to supplement revenues of the Sussex County Municipal Utilities Authority (MUA) for solid waste. In fiscal 2011, the state cut aid for solid waste debt service entirely. The state had provided \$3 million in fiscal 2010 and \$2.1 million in fiscal 2009. In order to avoid an unanticipated payment by the county to the MUA to subsidize revenues as required by a service agreement, the MUA drew down landfill closure reserves. In fiscal 2012, the MUA expects that increased revenues from an expected rate increase and mandatory flow diversion will prevent future calls on the county's service agreement.

Notably, in May 2009 the county was the victim of fraud when its payroll paying agent stole approximately \$2.5 million, equal to the amount owed in federal and state taxes on behalf of county employees. The county has since addressed this fraud by negotiating down the federal tax liability with the IRS to \$790,000. It has also paid \$500,000 of the liability and funded a reserve of \$1.6 million with bond proceeds, which will fund the remaining liability of \$1.5 million.

#### SUBSTANTIAL RESIDENTIAL TAX BASE IN NORTHWESTERN NEW JERSEY

Moody's expects the county's substantial \$19 billion tax base to remain stable given offsetting forces of a softening of the regional residential real estate market and modest development. The county's trend of strong equalized valuation growth reversed in 2009 when equalized values declined by 3.2%, primarily reflecting market value depreciation. In 2011, equalized values declined for a third consecutive year - by 4.5%. Despite market value declines, assessed valuation continued to grow as a result of new residential and commercial construction. Management expects growth to continue as New Jersey's revised economic development plan may relax limitations put on the county from the state's Highlands Preservation Act. Two sizable resort developments, Mountain Creek in Vernon (GO rated Aa3) and Crystal Springs in Hardyston (GO rated Aa2/stable outlook), both along the Route 94 corridor, are in various stages of completion. Mountain Creek, acquired by the Fortress Investment Group in 2006 for a reported \$2.8 billion, is expected to consist of 1,700 condominiums, two conference centers, and 100,000 square feet of retail built around an existing ski slope, with full project build-out expected over the next 15 years.

Located in northwestern New Jersey (GO rated Aa3/stable outlook), the primarily residential (83% of assessed valuation) Sussex County benefits from its proximity to employment centers in neighboring Morris County, NJ (GO rated Aaa/negative outlook) and in New York City (GO rated Aa2/stable outlook) 60 miles east. Unemployment rates in the county are typically below those for the state and nation. As of the most recent available data (September 2011), the county's unemployment rate was 8.1%, as compared with 8.8% unemployment statewide and 8.9% nationwide. Management indicates that ThorLabs, a laser manufacturer, is expanding its operations in Newton (GO rated A1), providing approximately 300 new high-end jobs to the county. In addition, the poverty level in Sussex County is less than one-half of the state's rate, which may reflect a smaller population living on a fixed income, as 9% of residents are aged 65 and older compared with 13% throughout the state. Income indicators approximate state medians and equalized value per capita, a measure of property wealth, is an above average \$128,522 (170% of the U.S., although 98% of the state median).

#### AVERAGE DEBT BURDEN EXPECTED TO DECLINE; RAPID AMORTIZATION

The county's average direct debt burden (0.7% of equalized valuation) is expected to decline given a adopted debt policy that limits new debt issuance to between \$6 million and \$7 million annually, and rapid amortization of principal. In fiscal 2010, debt service comprised a high 13% of total operating expenditures, reflecting the county's rapid amortization schedule (96.2% retired in 10 years). The county's capital program follows its debt policy, identifying \$6 million to \$7 million of annual capital borrowing needs.

#### OUTLOOK

The negative outlook reflects the county's narrowed reserve levels and likelihood that it will remain challenged to restore financial flexibility, given continued structural imbalance to financial operations and limited revenue raising ability. Given the county's dependence on property tax revenues, slowed growth in equalized valuation may also contribute to future budgetary pressure.

#### KEY STATISTICS:

2007 Population: 144,166 (10.1% increase since 2000)

2011 Equalized Value: \$19.2 billion

2011 Equalized Value Per Capita (as % of NJ and US): \$128,522 (98% and 170%)

1999 Per Capita Income (as % of NJ and US): \$26,992 (100% and 125%)

1999 Median Family Income (as % of NJ and US): \$73,335 (112% and 147%)

2000 Median Housing Value (as % of NJ and US): \$157,700 (92% and 132%)

Direct debt burden: 0.7%

Payout of principal (10 years): 96.2%

2009 Current Fund balance: \$15.8 million (14.4% of Current Fund revenues)

2010 Current Fund balance: \$11.7 million (10.9% of Current Fund revenues)

Post-sale Parity Debt Outstanding: \$184.9 million

The principal methodology used in this rating was General Obligation Bonds Issued by U.S. Local Governments published in October 2009. Please see the Credit Policy page on [www.moody.com](http://www.moody.com) for a copy of this methodology.

#### REGULATORY DISCLOSURES

The Global Scale Credit Ratings on this press release that are issued by one of Moody's affiliates outside the EU are considered EU Qualified by Extension and therefore available for regulatory use in the EU. Further information on the EU endorsement status and on the Moody's office that has issued a particular Credit Rating is available on [www.moody.com](http://www.moody.com).

For ratings issued on a program, series or category/class of debt, this announcement provides relevant regulatory disclosures in relation to each rating of a subsequently issued bond or note of the same series or category/class of debt or pursuant to a program for which the ratings are derived exclusively from existing ratings in accordance with Moody's rating practices. For ratings issued on a support provider, this announcement provides relevant regulatory disclosures in relation to the rating action on the support provider and in relation to each particular rating action for securities that derive their credit ratings from the support provider's credit rating. For provisional ratings, this announcement provides relevant regulatory disclosures in relation to the provisional rating assigned, and in relation to a definitive rating that may be assigned subsequent to the final issuance of the debt, in each case where the transaction structure and terms have not changed prior to the assignment of the definitive rating in a manner that would have affected the rating. For further information please see the ratings tab on the issuer/entity page for the respective issuer on [www.moody.com](http://www.moody.com).

Information sources used to prepare the rating are the following: parties involved in the ratings, parties not involved in the ratings, public information, and confidential and proprietary Moody's Investors Service's information.

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Moody's adopts all necessary measures so that the information it uses in assigning a rating is of sufficient quality and from sources Moody's considers to be reliable including, when appropriate, independent third-party sources. However, Moody's is not an auditor and cannot in every instance independently verify or validate information received in the rating process.

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Please see ratings tab on the issuer/entity page on [www.moody.com](http://www.moody.com) for the last rating action and the rating history.

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Please see [www.moody.com](http://www.moody.com) for any updates on changes to the lead rating analyst and to the Moody's legal entity that has issued the rating.

#### Analysts

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Public Finance Group  
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Vito Galluccio  
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The Depository Trust Company

A subsidiary of The Depository Trust & Clearing Corporation

BLANKET ISSUER LETTER OF REPRESENTATIONS

[To be Completed by Issuer]

Morris County Improvement Authority

[Name of Issuer]

December 17, 2002

[Date]

[For Municipal Issues: Underwriting Department—Eligibility; 50th Floor]
[For Corporate Issues: General Counsel's Office; 49th Floor]
The Depository Trust Company
55 Water Street
New York, NY 10041-0099

Ladies and Gentlemen:

This letter sets forth our understanding with respect to all issues (the "Securities") that Issuer shall request be made eligible for deposit by The Depository Trust Company ("DTC").

To induce DTC to accept the Securities as eligible for deposit at DTC, and to act in accordance with DTC's Rules with respect to the Securities, Issuer represents to DTC that Issuer will comply with the requirements stated in DTC's Operational Arrangements, as they may be amended from time to time.

Note:

Schedule A contains statements that DTC believes accurately describe DTC, the method of effecting book-entry transfers of securities distributed through DTC, and certain related matters.

Very truly yours,

Morris County Improvement Authority
(Issuer)

By: (Authorized Officer's Signature)

James J. Rosenberg, Chairperson
(Print Name)
Administration & Records Building
Court Street, 5th floor
(Street Address)

Morristown, NJ 07960
(City) (State) (Country) (Zip Code)

(973) 285-6040
(Phone Number)

jrosenberg@co.morris.nj.us
(E-mail Address)

Received and Accepted:
THE DEPOSITORY TRUST COMPANY

By: (Signature)



The Depository Trust & Clearing Corporation

**CORPORATION SERVICE COMPANY**

www.cscglobal.com

CSC- West Trenton  
P.O.Box 77132  
830 Bear Tavern Road, Suite 305  
West Trenton, NJ 08628-1020  
800-631-2155  
609-530-0877 (Fax)

**Matter#** 72-008

**Project Id :**

**Additional Reference :** NOT PROVIDED

**Order#** 091205-1

**Order Date** 02/09/2012

**Entity Name :**

SUNLIGHT GENERAL SUSSEX SOLAR, LLC (Debtor)/ MORRIS  
COUNTY IMPROVEMENT AUTHORITY (Secured Party)

**Jurisdiction :**

NJ-DEPARTMENT OF TREASURY COMMERCIAL RECORDING

**Request for :**

UCC Filing

**File Type :**

ORIGINAL

**Result :**

Filed

**File Number :**

26141800

**Filing Date :**

02/09/2012

Ordered by DAVID WAINGER at INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

Thank you for using CSC. For real-time 24 hour access to the status of any order placed with CSC, access our website at [www.cscglobal.com](http://www.cscglobal.com).

If you have any questions concerning this order or CSCGlobal, please feel free to contact us.

Michael Melocchi

[mmelocch@cscinfo.com](mailto:mmelocch@cscinfo.com)

The responsibility for verification of the files and determination of the information therein lies with the filing officer; we accept no liability for errors or omissions.

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

RECEIVED THE SECRETARY  
2012 FEB 9 10 53 AM

26141800

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road  
Suite 204  
Parsippany, New Jersey 07054

Attn: Stephen B. Pearlman, Esq.

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME  
**SunLight General Sussex Solar, LLC**

OR  
1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY  
**15 Engle Street, Suite 104 Englewood NJ 07631 USA**

1d. SEE INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 1e. TYPE OF ORGANIZATION 1f. JURISDICTION OF ORGANIZATION 1g. ORGANIZATIONAL ID#, if any  
**LLC New Jersey**  NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR  
2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

2d. SEE INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 2e. TYPE OF ORGANIZATION 2f. JURISDICTION OF ORGANIZATION 2g. ORGANIZATIONAL ID#, if any  
 NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR(S)) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME  
**Morris County Improvement Authority**

OR  
3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY  
**10 Court Street, PO Box 900 Morristown NJ 07963-0900 USA**

4. This FINANCING STATEMENT covers the following collateral:

The Debtor has executed, in favor of the Secured Party, that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011, as more particularly set forth as "Exhibit A" attached hereto and made a part hereof, and notice is hereby given by the Debtor that the Debtor, pursuant to Section 309 of said Lease Purchase Agreement, has pledged all of its rights, title and interest in the Construction Performance Bond (defined thereunder), the sale of renewable energy produced by the Renewable Energy Projects under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements and in the sale of SRECs from the Renewable Energy Project (as such capitalized terms are defined in said Lease Purchase Agreement) and all proceeds and products of any and all of the foregoing.

5. ALTERNATIVE DESIGNATION (if applicable): LESSEE/LESSOR CONSIGNEE/CONSIGNOR BAILEE/BAILOR SELLER/BUYER AS LIEN NON-UCC FILING

6. This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attach Addendum. 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (optional). All Debtors Debtor 1 Debtor 2

8. OPTIONAL FILER REFERENCE DATA

To be filed in the Office of the Secretary of the State of New Jersey.

# Exhibit A

## TABLE OF CONTENTS

**LEASE PURCHASE AGREEMENT**  
(Sussex County Renewable Energy Program, Series 2011)

By and Between

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Lessor**

and

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC, as Lessee**

Dated as of December 1, 2011

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

(001645-3)

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LEASE PURCHASE AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

THIS "LEASE PURCHASE AGREEMENT" (Sussex County Renewable Energy Program, Series 2011) (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "Company Lease Agreement"), dated as of December 1, 2011, is made by and among the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority" or "Lessor"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of the County of Morris (the "County of Morris"), State of New Jersey ("State") as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act") and other applicable law, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a limited liability company organized and existing under the laws of the State of Delaware, duly authorized to conduct business in the State (including any successors and assigns, the "Company" or "Lessee").

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act"), and other applicable law;

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Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects", and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kittanning Regional School District, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following Series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,

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WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and witnessed to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdal Services Group and Cabot Associates, its energy counsel and bond counsel, Logistics, Pearson, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants"), if any, and together with the Authority Consultants, the "Consultants"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy

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Series 2011A (Federally Taxable)" dated their date of delivery (the "Series 2011A Bonds") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note, and together with the Series 2011A Bonds, "Series 2011 Bonds"), by the same sale method as the Series 2011A Bonds;

WHEREAS, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective Series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, such agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "Local Unit Licenses"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced

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from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(i) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "Company RFP") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "Company Proposal") submitted with respect to Sunlight General Sussex Solar, LLC (the "Company"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (i) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (ii) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (iii) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

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purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (b) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the Company under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-30);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and

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- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(i) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis;

(ii) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(iii) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to

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executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the Company RPP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

WHEREAS, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

WHEREAS, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "EPC Contractor"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain "Strategy Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "EPC Contract") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) and between the Company and the EPC Contractor, in the estimated amount of \$7,812,860 (the "In-Kind Equity Contribution") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the initial Basic Lease

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Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "Equity Contribution"), (ii) a cash reserve in the amount of \$1,500,000 (the "County Reserve") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRBCs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty;

WHEREAS, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, reduces the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

WHEREAS, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

WHEREAS, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge

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Agreement"), and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c2-12") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement") and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents" with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i) the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary

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Official Statement"); and (ii) the execution and delivery of a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

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## ARTICLE 1

### DEFINITIONS AND EXHIBITS

#### SECTION 101. Definitions.

(a) The terms set forth in this Section shall have the meanings ascribed to them for all purposes of this Company Lease Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires. Terms used in this Company Lease Agreement and not otherwise defined shall have the meaning assigned to them in the Bond Resolution.

(b) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

Act  
Authority  
Board of Education Series 2011 Local Units  
Board of Freeholders  
Bond Purchase Agreement  
Bond Resolution  
Bonds  
BPU  
Capital Improvement Projects\*  
Cash Equity Contribution  
Company  
Company Continuing Disclosure Agreement  
Company Documents  
Company Lease Agreement  
Company Pledge Agreement  
Company Proposal  
Company RFP  
County  
County Continuing Disclosure Agreement  
County Guaranty  
County Guaranty Agreement  
County Reserve  
County Security  
County Security Agreement  
County Security Provider  
County Service Agreement  
County Series 2011 Local Units

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Dissemination Agent  
 Equity Contribution  
 EPC Contract  
 EPC Contractor  
 Initial Tranche  
 In-Kind Equity Contribution  
 Local Units  
 Local Unit Facilities\*  
 Local Unit License  
 Local Unit License Agreement  
 Local Unit License Agreements  
 Municipal Series 2011 Local Units  
 Official Statement  
 Power Purchase Agreement  
 Preliminary Official Statement  
 Preliminary Program Costs  
 Program Documents  
 Projects\*  
 Renewable Energy Program  
 Renewable Energy Projects\*  
 Rule 15c2-12  
 Sale Documents  
 Second Tranche  
 Section 1603 Grant  
 Series 2011 Bonds  
 Series 2011A Bonds  
 Series 2011B Note  
 Series 2011 Local Unit\*  
 Series 2011 Local Units  
 Shared Services Act  
 SRECs  
 State  
 Underwriter

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(c) The following defined terms shall, for all purposes of this Company Lease Agreement, have the meanings ascribed to such terms in the Bond Resolution:

Account  
 Additional Bonds  
 Administrative Expense Account  
 Administrative Fund

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"Acceptance Certificates" shall mean, individually or collectively, as the case may be, the CIP Acceptance Certificates and the REP Acceptance Certificates.

"Additional Lease Payment" shall mean any amount payable by the Company at the times and under the other terms of the Company Lease Agreement, other than Basic Lease Payments, including without limitation, (i) Administrative Expenses not otherwise provided from a portion of the proceeds of the Bonds, including the second and succeeding Bond Year Administrative Fee, (ii) interest on any past due Lease Payments payable at the Overdue Rate (but not any such past due Basic Lease Payment), (iii) to the extent Company funds are available, after payment of all reasonable Company expenses and prior to any member distributions, *repayment of any deficiency in the County Security Fund Requirement*, (iv) the Purchase Option Price in accordance with Section 701 of the Company Lease Agreement, (v) the Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement, (vi) the Restoration Security Fund deposits up to the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution, and (vii) a one-time payment of \$1,500,000 payable no later than the earlier of (j) ninety (90) days after completion of the Renewable Energy Projects or (k) March 15, 2013 for deposit in the County Security Fund to satisfy the County Security Fund Requirement.

"Administrative Expenses" shall mean the fees and expenses which are incurred from time to time by or on behalf of the Authority, the County, the County Security Provider, or the Series 2011 Local Units, including the Administrative Fee, if any, in carrying out their respective rights and duties under the terms of the Company Lease Agreement, without limitation the Preliminary Program Costs, accounting, administrative, financial advisory, and legal expenses, the Consulting Energy Engineering Services, the fees and expenses of the Trustee, the Paying Agent, or any other fiduciaries or agents acting on behalf of the Authority, the County, or the Series 2011 Local Units, under or pursuant to the terms of the Program Documents, which amounts shall be due and payable by the Company as an Additional Lease Payment at the times set forth in the Program Documents, or, as applicable, upon presentation of an invoice for payment; provided, however, that to the extent an Administrative Expense is incurred solely due to the action or inaction of a Series 2011 Local Unit not caused by or otherwise resulting from any action, inaction or request of the Company, such Administrative Expense shall be paid by such Series 2011 Local Unit upon presentation of no invoice for payment. Other than the Series 2011 Bond proceeds deposited in the Administrative Fund in accordance with Section 2.03(7)(a) of the Bond Resolution and earmarked for certain costs and expenses, including certain Administrative Expenses, and other than the Authority's annual Administrative Fee and the Trustee's annual fee to be paid as an Additional Lease Payment by the Company, the Company and the Series 2011 Local Units shall only be responsible for the reasonable amount of Administrative Expenses caused by the action or inaction of the Company or the Series 2011 Local Unit, as applicable, to the extent any such Administrative Expenses arise in the course of the implementation of the Renewable Energy Projects and/or the performance by the Authority, County, and/or Series 2011 Local Unit of their rights, duties and obligations under the Program Documents.

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Aged Account  
 Bond  
 Capitalized Interest Account  
 Code  
 Company Development Fees and Expenses  
 Completion Conditions  
 Completion Project  
 Consulting Energy Engineer  
 Consulting Energy Engineering Services  
 Cost  
 Costs of Insurance Account  
 County Security Fund  
 County Security Fund Requirement  
 Debt Service Fund  
 Funds  
 General Fund  
 Gross Substitute Power Purchase Price  
 Interest Account  
 Investment Securities  
 Net Substitute Power Purchase Price  
 Outstanding  
 Paying Agent  
 Principal Account  
 Principal Office  
 Project Fund  
 Rating Agency  
 Renewable Energy Program Interested Party  
 Restoration Security Fund  
 Restoration Security Fund Requirement  
 Revenue Account  
 Revenue Fund  
 Revenue  
 Series  
 Series 2011B Bonds  
 Sinking Fund Installments  
 Supplemental Resolution  
 Tax Certificate  
 Tax-exempt Bonds  
 Trustee  
 Trust Estate

(d) The following defined terms shall, for all purposes of this Company Lease Agreement, have the following meanings:

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"Administrative Fee" shall mean the sum of the following, payable by the Company to the Authority at the times and the amounts as set forth below:

(i) With respect to the Series 2011 Bonds for the first Bond Year upon initial issuance thereof, the Authority's fee for the Renewable Energy Program in the amount of \$120,000, consisting of the sum of (a) \$100,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Costs of Insurance Account of the Administrative Fund pursuant to Section 2.03(7)(a)(i) of the Bond Resolution and (b) \$20,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Administrative Expense Account of the Administrative Fund pursuant to Section 2.03(7)(a)(ii)(A) of the Bond Resolution; plus

(ii) For all Bond Years with respect to the Series 2011 Bonds thereafter (commencing June 15, 2013), a sum of money payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund payable on the Basic Lease Payment Date immediately preceding the first day of any such Bond Year, equal to \$20,000, which amount may be referred to as the Authority's annual Administrative Fee; plus

(iii) For all Bond Years with respect to the Series 2011 Bonds commencing December 15, 2017 and thereafter, a sum or sums of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(c) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(iv) For all Bond Years with respect to the Series 2011 Bonds, a sum of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(b) and/or Section 6.3(d) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(v) With respect to any Series of Bonds, interest on any past due Basic Lease Payments payable at the Overdue Rate in accordance with the Company Lease Agreement (but not any such past due Basic Lease Payment); plus

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(vi) For all Bond Years with respect to any Series of Additional Bonds, such amounts as may be set forth in a Supplemental Resolution, including without limitation, for any Series of Additional Bonds that refund the Series 2011 Bonds or any other Series of Outstanding Bonds, (a) a financing fee payable upon the issuance of any such Series of Additional Bonds (from the proceeds thereof, from the Company, or otherwise) in the amount of two percent (2%) of the aggregate principal amount of any such Series of Additional Bonds, or such different amount as shall be agreed to by the Company and the Authority, plus (b) all reasonable Administrative Expenses of the Authority and any other Renewable Energy Program Interested Party involved in any such refunding payable upon the issuance of any such Series of Additional Bonds, plus (c) an annual financing fee of one percent (1%) of the aggregate principal amount of any such Series of Additional Bonds Outstanding and payable by the Company as of the first day of each Bond Year until final maturity (stated or otherwise) thereof, plus (d) the amounts, if any, payable to the Authority pursuant to Section 6.3(d) of the Power Purchase Agreement, except as any such amounts may be modified in any such Supplemental Resolution authorizing the issuance of any such Series of Additional Bonds.

"Applicable" shall mean (i) with reference to any Series 2011 Local Unit, the Series 2011 Local Unit intended to be benefited or obligated thereby, (ii) with reference to any Renewable Energy Project, the Renewable Energy Project for the intended Series 2011 Local Unit, (iii) with reference to any Local Unit Facilities, the Local Unit Facilities for the intended Series 2011 Local Unit, and (iv) with reference to any Local Unit License Agreement, the Local Unit License Agreement executed for the benefit of the intended Series 2011 Local Unit.

"Applicable Law" means all applicable provisions of any constitution, statute, law, ordinance, code, rule, regulation, decision, order, decree, judgment, release, license, permit, stipulation or other official pronouncement enacted, promulgated or issued by any Governmental Authority.

"Architect" shall mean individually or collectively, as the case may be, the individual or entity appointed or caused to be appointed or employed by the Applicable Series 2011 Local Unit, the Lessor, or the Lessee, as applicable, with respect to the provision of architectural services relating to the Renewable Energy Project or the Capital Improvement Project on, in, affixed or adjacent to, or otherwise for the benefit of the Local Unit Facilities for such Applicable Series 2011 Local Unit, all in accordance with applicable law, which may include the Local Public Contracts Law or the Public Schools Contracts Law, including any rules and regulations relating thereto and to which such Applicable Series 2011 Local Unit, the Lessor, or the Lessee is subject, including without limitation any architect of record with respect to such Projects and/or Local Unit Facilities. The Architect may be a Contractor providing services pursuant to a Development Contract.

"Authorized Officer" or "Authorized Representative" shall mean, (i) with respect to the Authority, the Chairman, the Vice Chairman, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who

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investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(j)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(e) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701 of the Company Lease Agreement with respect to prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above) in order to avoid the same funds being double counted), (vi) Section 3.7(e)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Basic Lease Payment Date" shall mean any date set forth in Exhibit A-3 to the Company Lease Agreement and designated as a Basic Lease Payment Date, which for the Interest Period (January 15 and July 15, commencing January 15, 2013) and Principal Portion (January 15, commencing January 15, 2013) of any Basic Lease Payment, shall be a day five (5) months prior to any (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) regularly scheduled Interest Payment Date and any regularly scheduled Principal Payment Date, respectively, or if either of such days is not a Business Day, the first Business Day prior to such date.

"Bond Counsel" shall mean Inglesino, Passman, Wysocka & Taylor, LLC, or any other attorney at law, or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exclusion of interest on bonds or other obligations issued by states and political subdivisions, and duly admitted in practice law before the highest court of any state.

"Bond Year" shall mean (i) with respect to any Series of Outstanding Bonds, including the Series 2011 Bonds, a period of twelve (12) consecutive months beginning on June 15 of any calendar year and ending on June 14 of the immediately succeeding calendar year except that (ii) the first Bond Year with respect to the Series 2011 Bonds shall be a period commencing on the date of issuance of the Series 2011 Bonds and ending on June 14, 2012 and (iii) the first Bond Year with respect to any other Series of Bonds shall be a period commencing on the date of issuance of such Series of Bonds and ending on the succeeding 14<sup>th</sup> day of June.

"Bondholder", "Bond Holder", "Holder" or "Holder of Bonds" shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds, which by its terms, upon original issuance of the Series 2011 Bonds, shall mean the respective registered owners of the Series 2011A Bonds and with respect to the Series 2011B Note, the County.

"Business Day" shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or the

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shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairman or by the Vice Chairman of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to any Series 2011 Local Unit: the person designated as an Authorized Officer in the Applicable Local Unit License Agreement of any such Series 2011 Local Unit or any other person or persons who shall be authorized to act on behalf of such Series 2011 Local Unit by virtue of a resolution of the governing body of such Series 2011 Local Unit, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (ii) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-law or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

"Base Rate" shall mean the rate of interest established by the Trustee from time to time as its reference rate in making loans but does not reflect the rate of interest charged to any particular class of borrowers, and is not tied to any external rate of interest or index. The applicable rate will change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any party. If no other rate shall be so established by the Trustee, the Base Rate shall be the Trustee's prime rate as determined from time to time.

"Basic Lease Payment" shall mean, as of each Basic Lease Payment Date, the amount set forth in Exhibit A-3 to the Company Lease Agreement corresponding to such Basic Lease Payment Date and designated as a Basic Lease Payment. The Basic Lease Payment as of any Basic Lease Payment Date is equal to the payment of the Principal Portion and Interest Portion due on such Basic Lease Payment Date, and shall be established as the amount set forth in Exhibit A-3 to the Company Lease Agreement for such date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments), and interest on the Outstanding Bonds on the next occurring (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) Principal Payment Date and Interest Payment Date respectively, of the Outstanding Bonds, including without limitation the credits available under (i) Section 302(a)(i) and (ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to

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Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

"Certificate" shall mean a written certificate signed in the name of the Authority, any Series 2011 Local Unit, the County, the Company or the Trustee. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the instruments so combined shall be read and construed as a single instrument.

"CIP Acceptance Certificate" shall mean the certificate, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Capital Improvement Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Capital Improvement Projects for each such Series 2011 Local Unit has been completed in accordance with the Plans and Specifications therefore, and has been accepted by such Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution. The Authority and the Company acknowledge and agree that the Company shall not be responsible for the construction of any Capital Improvement Projects under the Program Documents and any references in such Program Documents to the Capital Improvement Projects shall be of no further force and effect.

"CIP Acceptance State" shall mean the good working order condition of the Capital Improvement Projects for the Series 2011 Local Units, at the time of the authorization, execution and delivery of, and as certified and acknowledged by such Applicable Series 2011 Local Units in, the respective CIP Acceptance Certificates.

"Company Appendices" shall mean that portion of the Preliminary Official Statement and the Official Statement relating to the Company, including the appendices thereof, which may include financial, demographic or other information supplied by or on behalf of the Company, or a link or other reference to such information, all as shall be designated in the Company Continuing Disclosure Agreement, and as to which the Company shall make certain certifications under federal securities law.

"Construction Manager" shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either the Lessor or any Series 2011 Local Unit with the consent of the Lessor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Project by the Lessee for any Series 2011 Local Unit, or the oversight of the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement

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Projects, if any, by the Lessee for any Series 2011 Local Unit. The Consulting Energy Engineer may act as Construction Manager.

"Construction Performance Bond" shall have the meaning ascribed to such term in the Power Purchase Agreement.

"Contractor" shall mean the Company and the EPC Contractor, in any such case as the entity obligated to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Developer" shall mean an Affiliate of the Company to be designated at the time of execution of the Development Agreement.

"Development Agreement" means the Development Agreement to be entered into by and between the Company and the Developer for development services related to the Projects.

"Development Contract" shall mean (i) in the case of the Company, the Company Lease Agreement, (ii) as to the EPC Contractor, the EPC Contract, and (iii) in the case of any other Contractor, that certain contract obligating any such other subcontractor or other third-party, as Contractor and on behalf of the Company, to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units. Nothing in any Development Contract shall relieve the Company from its obligations under the Company Lease Agreement and the other Company Documents, which obligations shall include the Company's contractual obligation to design, permit, acquire, construct, install, operate and/or maintain all of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, and to design, permit, acquire, construct, renovate and/or install all of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Development Fee" means the fees payable to the Developer for services provided under the Development Agreement.

"Draw Date" shall have the meaning ascribed in such term in Section 510(f) of this Company Lease Agreement, and shall not be a regularly scheduled set of dates, but shall occur no more frequently than twice a month.

"Draw Paper Ratio" shall have the meaning ascribed to such term in Section 510(c) of this Company Lease Agreement.

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"Interconnection Agreement" shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Lessee, the Applicable Series 2011 Local Unit and/or the Lessor, with respect to the interconnection of the completed Renewable Energy Projects for such Series 2011 Local Unit to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

"Interest Payment Date" shall mean, the date on which interest on the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June and December until final maturity of the Bonds, including the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled interest payment date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Interest Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the interest due and owing on the Outstanding Bonds, including the Series 2011 Bonds, on the immediately succeeding interest payment date, as set forth in Exhibit A-3 to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Interest Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the interest on the Bonds on the next occurring interest payment date of the Bonds, including without limitation the credits available under (i) Section 302(a)(1) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(1)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(v)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Lease Payments" shall mean all amounts due and payable by the Company pursuant to the terms of the Company Lease Agreement, and shall consist of Basic Lease Payments and the Additional Lease Payments.

"Lease Term" or "Term" shall mean the period during which this Company Lease Agreement is in effect, as specified in Section 402 hereof.

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"Draw Paper" shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

"Event of Default" shall have the meaning ascribed to such term in Section 1001 of this Company Lease Agreement.

"Excess Power Purchase Price Payments" shall have the meaning ascribed to such term in Section 311(a) of this Company Lease Agreement.

"Exhibit A-3" shall mean Exhibit A-3 to this Company Lease Agreement, which for all purposes of the Program Documents, shall mean Exhibit A-3 attached hereto and made a part of this Company Lease Agreement.

"Force Majeure" shall mean any event which is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party or its affiliates, including, but not limited to and without limitation, (a) strikes or other labor disputes (other than strikes or labor disputes solely by employees or contractors of the Parties to this Power Purchase Agreement as a result of such Party's failure to comply with a collective bargaining agreement), (b) adverse weather conditions, breakdowns or failure of the utility transmission or distribution system not caused by the Service Provider, and (c) other acts of nature, riot or civil unrest. The term Force Majeure does not include (i) any acts or omissions of any third party, including, without limitation, any vendor, customer, or supplier of the Service Provider, unless such acts or omissions are themselves excused by reason of Force Majeure; (ii) any full or partial curtailment in the electric output of the Renewable Energy Projects that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear, unless such mishap is caused by Force Majeure; (iii) changes in market conditions that affect the cost of the Service Provider's supplies, or that affect demand or price for any of the Service Provider's products, including, but not limited to the price of electricity, SRSCs or other environmental attributes; or (iv) any action that constitutes negligence or gross negligence by the Party claiming a Force Majeure event.

"Governmental Authority" means any federal, state or local legislative, executive, judicial, quasi-judicial or other public authority, agency, department, bureau, division, unit, court, tribunal, or other public body, person or entity having jurisdiction over a Party, the Renewable Energy Projects or this Company Lease Agreement.

"Independent Insurance Consultant" shall mean a nationally recognized, independent actuary, insurance company or broker acceptable to the Lessor that has actuarial personnel experienced in the area of insurance for which the Lessee is to be self-insured.

"Initial Basic Lease Payment Date" shall mean January 15, 2013, the first Basic Lease Payment Date.

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"Leased Property" shall mean the Renewable Energy Projects, as set forth in Exhibit A-1 to the Company Lease Agreement and in Exhibit B to the respective Local Unit License Agreements for the Series 2011 Local Units, together with all properties, rights, duties and obligations related thereto, including without limitation the right to enter upon and locate the Renewable Energy Projects on the Local Unit Facilities, as all such property shall be leased by the Authority, as owner and lessor, to the Company, as lessee, pursuant to Section 401 of the Company Lease Agreement for the Lease Term, with the express intent that such lease shall convey ownership of such property for purposes of the Code to the Company. The Leased Property shall not include the Capital Improvement Projects, if any, of the Series 2011 Local Units, all of which shall be owned by the respective Series 2011 Local Units.

"Mandatory Purchase Price" shall have the meaning ascribed to such term in Section 702 of the Company Lease Agreement relating to the acceleration of the Bonds of any Series, including the Series 2011 Bonds.

"Maximum Net Bond Funded Project Cost Amount" shall mean the sum of (i) the Maximum Net Bond Funded Project Cost Amount funded with a portion of the proceeds of the Series 2011 Bonds and deposited with the Trustee in the Project Fund upon initial issuance thereof, together with (ii) any interest earned thereon prior to disbursement from the Project Fund in accordance with the Company Lease Agreement and the Bond Resolution, which amount has been estimated by the Lessee to be sufficient, together with the Equity Contribution, to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

"Maximum Net Bond Funded Project Cost Amount" shall mean \$24,700,000, the amount deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(e)(i), (ii) and (iii) of the Bond Resolution to fund a portion of the Project Costs, which amount was established by the Lessee pursuant to the Company Proposal.

"Net Proceeds" shall mean any insurance, condemnation, Construction Performance Bond or other performance bond, or any other financial guaranty proceeds paid with respect to any portion of the Projects, remaining after payment therefrom of all expenses incurred in the collection thereof; and, with respect to insurance, if and at such time as the Lessee elects to provide self-insurance under Section 614 of this Company Lease Agreement, any moneys payable from any self-insurance fund of the Lessee which may lawfully be expended for the purposes for which such self-insurance is provided.

"Overdue Rate" shall mean two percent (2%) per annum over the Base Rate, which rate shall change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any Renewable Energy Program Interested Parties, provided, however, that notwithstanding the foregoing, to the extent the County Security, if any, shall have

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been drawn upon to reimburse the County in full for any County payments under the County Guaranty, the Overdue Rate with respect to interest to be paid on past due Basic Lease Payments (such payment of interest constituting an Additional Lease Payment hereunder) shall have such different meaning, if any, as may be set forth in the County Security Agreement, if any.

"Permitted Encumbrances" shall mean as of any particular time: (i) liens for taxes and assessments not then delinquent with respect to the Leased Property, (ii) the Company Lease Agreement and the other Program Documents, (iii) the pledge and assignment by the Lessor of the Reimbursement Collateral to the County Security Provider, if any, under the County Security Agreement, if any, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security, (iv) the pledge of the Trust Estate by the Lessor to the Trustee under the Bond Resolution, and (v) any mechanic's, laborer's, materialman's, supplier's or vendor's lien or right arising during construction of any Renewable Energy Project prior to December 17, 2012 and not filed or perfected in the manner prescribed by law.

"Plans and Specifications" shall mean the architectural and engineering drawings and specifications prepared by the Architect or other Contractor (through a Development Contract or otherwise) describing the Renewable Energy Projects or the Capital Improvement Projects (if any), including any Completion Project, as the case may be, as agreed to among the Company and the Applicable Series 2011 Local Unit pursuant to Section 501 of the Company Lease Agreement.

"PPA Price" shall have the meaning set forth in Section 6.2 of the Power Purchase Agreement.

"Power Purchase Price Payments" shall mean the payments made by the respective Series 2011 Local Units for the purchase of electricity to the Trustee at the direction of and on behalf of the Lessee and Lessor, all in accordance with Section 5.1(c)(i) of the Local Unit License Agreements.

"Principal Payment Date" shall mean, the date on which principal (including Sinking Fund Installments, if any) of the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June until final maturity of the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Principal Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Principal Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the principal

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"REP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Renewable Energy Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Renewable Energy Projects for each such Series 2011 Local Unit have been completed in accordance with the Plans and Specifications therefor, and have been accepted by the Company and the Applicable Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution.

"Reserved Rights" shall mean the Authority's right to retain the following under the Company Lease Agreement, which shall not be part of the Trust Estate pledged to the Trustee under Section 1.04 of the Bond Resolution:

(i) Receive the Additional Lease Payments earmarked for purposes other than the Purchase Option Price or the Mandatory Purchase Price (which Purchase Option Price or the Mandatory Purchase Price Additional Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), including without limitation (a) the Administrative Fee, if any, and any other Administrative Expenses, which the Authority shall be obligated to pay or cause to be paid to the Renewable Energy Program Interests Parties due such Administrative Expenses, and (b) interest payable on past due Lease Payments at the Overdue Rate (but not the Basic Lease Payments that may be paid together with any payment at the Overdue Rate, which Basic Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), provided, further, that the portion of which interest that is attributable to past due Basic Lease Payments may be assigned by the Authority to the County and/or the County Security Provider, if any, as part of the Reimbursement Collateral;

(ii) The payments set forth in Section 5.2(a)(ii) and (iii) of the Local Unit License Agreements for the Series 2011 Local Units that reflect the difference between the Gross Substitute Power Purchase Price and the Net Substitute Power Purchase Price, which includes the Administrative Fee;

(iii) Receive notices provided for in the Company Lease Agreement or any other Program Document;

(iv) Appoint, replace or remove such parties as shall be appointed, replaced or removed under the Company Lease Agreement or any other Program Document at the direction of the Authority; and

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(including Sinking Fund Installments) of the Outstanding Bonds, including the Series 2011 Bonds, due and owing on the immediately succeeding Principal Payment Date, as set forth in Exhibit A-3 attached to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Principal Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments) the Bonds on the next occurring Principal Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(3)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial payment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(a) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Purchase Option Price" shall have the meaning ascribed to such term in Section 701 of the Company Lease Agreement relating to the optional redemption of the Bonds of any Series, including the Series 2011 Bonds.

"Reimbursement Collateral" shall mean, to the extent a County Security Agreement shall be delivered to the Lessor and the Trustee in accordance with the provisions of Section 5.07(6) of the Bond Resolution, (i) the SRECs, (ii) the Net Substitute Power Purchase Price, and (iii) any past due Basic Lease Payments, together with any Additional Lease Payments constituting interest payable on such past due Basic Lease Payments at the Overdue Rate, all of which shall have been pledged and assigned by the Lessor to the County Security Provider under the County Security Agreement, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security. If no County Security Agreement shall be so delivered, which shall be the case upon original issuance of the Series 2011A Bonds, this term shall mean the County Reserve and any other monies and securities on deposit in the County Security Fund at any time, if any, that shall be available to the Lessee, in such case as County Security Provider, after and to the extent the County has been fully paid under its County Guaranty; provided that no such monies shall be made available to the Lessee until the County has completed all of its payment obligations under the County Guaranty and been fully reimbursed therefor, from the County Security Fund or otherwise.

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(v) The right to give or withhold consents, including consents to amendments, permitted or required of the Authority under the Company Lease Agreement or any other Program Documents, to the extent that any such consent or amendment would diminish the rights or enlarge the responsibilities or adversely affect the ability of the Authority to realize or perform same, respectively, or which would increase the Authority's potential liability or exposure to any party to any Program Document or to any third party as a result thereof. All such notices, appointments or consents under any other Program Document (i.e., other than the Company Lease Agreement) shall be unaffected by these rights, as the Authority's rights under the other Program Documents are not subject to the pledge of the Trust Estate under Section 1.04 of the Bond Resolution, and are either retained by the Authority, or assigned pursuant to the terms of the Program Documents, but in any event, shall not constitute Revenues or other part of the Trust Estate for purposes of the Bond Resolution.

"Tax Benefit Recapture Event" has the meaning set forth in Section 609(d).

## SECTION 102. Exhibits.

The following Exhibits are attached to, and by reference are made a part of, this Company Lease Agreement pursuant to which the Renewable Energy Projects are to be leased by the Authority to the Lessee:

(a) Exhibit A: Various details regarding a description of the Projects, the schedule of regularly scheduled Basic Lease Payments and maximum Project Costs funded from the Series 2011 Bonds.

(i) Exhibit A-1: Description of Renewable Energy Projects for Series 2011 Local Units;

(ii) Exhibit A-2: Description of Capital Improvement Projects (if any) for Series 2011 Local Units;

(iii) Exhibit A-3: Basic Lease Payment Schedule, consisting of Exhibit A-3-Regular and Exhibit A-3-Alternate; and

(iv) Exhibit A-4: Notice Information for Series 2011 Local Units.

(b) Exhibit B: Form of Acceptance Certificates, consisting of:

(i) Exhibit B-1: Form of REP Acceptance Certificates; and

(ii) Exhibit B-2: Form of CIP Acceptance Certificates.

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(c) Exhibit C: Form of Draw Papers.

(f) Exhibit C-1. Initial Project Workforce Form AA201.

(d) Exhibit D: Certificates of an Authorized Officer of the Lessee for Company Development Fees and Expenses Incurred on behalf of the Lessee.

(e) Exhibit E: Attach Form of Power Purchase Agreement and Company Continuing Disclosure Agreement.

#### SECTION 103. Inapplicable Terms.

Notwithstanding anything to the contrary contained in this Company Lease Agreement, the parties hereto acknowledge and agree that (a) the Lessee is not responsible for the construction of any Capital Improvement Projects under the Program Documents and any references herein to Capital Improvement Projects, CIP Acceptance Certificates or any other term defined by reference to Capital Improvement Projects (without limiting the application of any such term to the extent not related to Capital Improvement Projects) shall be of no further force and effect, and (b) there shall be no need for a County Security Agreement, a County Security Provider or County Security and any references thereto shall be of no further force and effect.

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(e) The execution and delivery by the Lessee of the Company Documents, the performance by the Lessee of all of its respective agreements and obligations under each of such documents and to be bound by the other Company Documents, and the incurring by the Lessee of all of the obligations contemplated by the Company Documents, have been duly authorized by all necessary requisite actions on the part of the Lessee, and the provisions of the Company Documents do not and shall not (i) contravene any provision of the Lessee's certificate of incorporation, by-laws and any other organizational documentation (each from time to time in effect), (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessee under any material agreement, mortgage or other instrument to which the Lessee is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessee's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation to which the Lessee is or may be bound, or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable to such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessee, or (v) to the best of Lessee's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of execution and delivery hereof and prior to the date of issuance of the Series 2011 Bonds, or are not required as a matter of law until a future date including the Interconnection Agreement for each Project, under any provision of applicable law.

(d) The officers or other authorized signatories of the Lessee executing and delivering its Company Documents have been duly authorized to execute and deliver the same under the laws of the State and the state of its organization and any other organizational documentation, and upon the Lessee's execution and delivery of the Company Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Company Documents shall constitute valid and binding obligations of the Lessee, enforceable against the Lessee in accordance with their respective terms.

(c) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessee or, to the best of the Lessee's knowledge, threatened against the Lessee (or, to the best of the Lessee's knowledge, is there any basis therefore) (i) that contests or would contest the Lessee's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Company Document or that would preclude the Lessee from performing in accordance with the terms of any Company Document or (ii) wherein an unfavorable decision, ruling or finding would adversely affect (A) the transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessee is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

(f) The Lessee has obtained all authorizations, consents and approvals that are

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## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES; DISCLAIMERS

#### SECTION 201. Representations, Covenants and Warranties of Lessee.

The Lessee represents, covenants and warrants as follows:

(a) The Lessee (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and (ii) has or will have all requisite power and authority, and as applicable, all requisite governmental licenses, authorizations, consents and approvals, to (A) own or lease its assets and carry on and transact its business, including without limitation the conduct of business within the State in accordance with the terms of the Company Documents, (B) authorize, execute, deliver and perform its obligations under the Company Documents, and (C) accept and be bound by the terms of the other Program Documents, and (iii) is duly qualified and is licensed and, as applicable, is in good standing under the laws of each jurisdiction, including the State, where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license. The Lessee has all of the requisite power and authority and has full legal right to (x) enter into each of the Company Documents, (y) perform, observe and comply with all of its respective agreements and obligations under the Company Documents, and (z) otherwise be bound by the terms of all of the other Company Documents.

(b) The constitution and the laws of the State and the jurisdiction of the Lessee's organization authorize the Lessee to, and the Lessee has the right, power, authority and expertise to, and shall (i) design, permit, acquire, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of the Local Unit Facilities for all of the Series 2011 Local Units in accordance with the technical specifications set forth in Appendix C of the Company RFP attached hereto as part of Exhibit A-1, and otherwise in accordance with the terms of the Company Documents, (ii) design, permit, acquire, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities in accordance with the plans and specifications and construction documents included or referred to herein and otherwise in accordance with the terms of the Program Documents, (iii) enter into the Company Documents, to acknowledge and consent and otherwise be bound by the terms of the other Program Documents, and to consummate the transactions and perform the obligations contemplated thereby. Notwithstanding the foregoing, the Lessee shall in all circumstances commence construction of the first Renewable Energy Project on or before May 15, 2012 and all Renewable Energy Projects on or before September 15, 2012, and complete construction and file all Acceptance Certificates for all Projects in accordance with the provisions of Section 510(e) hereof no later than December 14, 2012, unless extended, per Project, by Force Majeure, or Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement or cure period which, absent a cure would lead to a Series 2011 Local Unit Event of Default. Any such extension shall have no effect on the obligation to make Basis Lease Payments on time and in full.

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required in order for Lessee to execute and deliver this Company Lease Agreement and to perform its financial and other obligations hereunder, except for permits and approvals to be obtained after the date hereof pursuant to Section 510(c).

(g) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessee shall not transfer, lease, assign, mortgage or encumber the Projects or any property of the Lessee constituting the Trust Assets.

(h) The Lessee currently intends to continue this Company Lease Agreement for its entire Term and to pay all Basis Lease Payments required hereunder, unless the Lessee shall pay and otherwise comply with the terms related to the Purchase Option Price or Mandatory Purchase Price in accordance with Article VII hereof, or any other termination provisions contained in this Company Lease Agreement.

(i) Information supplied and statements made by the Lessee in any financial statement or current budget delivered prior to or contemporaneously with this Company Lease Agreement, including the Company Appendices, present such information fairly, accurately and completely, in all material respects and in accordance with generally accepted accounting principles. The Lessee agrees to take all reasonable actions in connection with the Authority's marketing and sale of the Bonds, including without limitation executing Certificates of an Authorized Officer of the Lessee (i) regarding the deemed final nature of the Company Appendices for purposes of Rule 15c2-12, and (ii) to the effect that the Company Appendices, and any other information concerning the Company or its rights, duties and obligations under the Company Documents set forth in the Preliminary Official Statement and the Official Statement (A) contain no material misstatement of fact and (B) do not omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, materially misleading.

(j) Information provided by Lessee, in writing or at the interview date with the Authority pursuant to the Company RFP process on October 19, 2011, upon which Lessee relied in selecting Lessee under the Company RFP process, remains materially accurate.

#### SECTION 202. Representations, Covenants and Warranties of Lessor.

The Lessor represents, covenants and warrants as follows:

(a) The Lessor (i) is a public body corporate and politic duly organized, validly existing and in good standing under the Act and other applicable laws of the State, (ii) has full and complete power to enter into or adopt, as the case may be, the Program Documents and to carry out the transactions contemplated hereby, (iii) is possessed with full power to own and hold real and personal property, including the Renewable Energy Projects, and to lease the Leased Property subject to the terms of the Act and any other applicable law, and (iv) has duly authorized the execution and delivery of or has duly adopted, as the case may be, the Program Documents.

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(b) Neither the execution and delivery or adoption, as the case may be, of the Program Documents, the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby conflicts with or results in a breach of the terms, conditions or provisions of any restriction, any agreement or any instrument to which the Lessor is now a party or by which the Lessor or its property are bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Lessor or upon the Project, except Permitted Encumbrances.

(c) The execution and delivery by the Lessor of the Program Documents, the performance by the Lessor of all of its respective agreements and obligations under each of the Program Documents, and the incurring by the Lessor of all of the obligations contemplated by the Program Documents, have been duly authorized by all necessary requisite actions on the part of the Lessor, and the Lessor's authorization, execution, delivery and performance pursuant to the terms of the Program Documents do not and shall not (i) contravene any provision of the Act, (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessor under any material agreement, mortgage or other instrument to which the Lessor is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessor's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation thereunder or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable to such entity), (iv) require any waivers, consents or approvals by the creditors or trustees for creditors of the Lessor, or (v) to the best of Lessor's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency, except those actions that have been taken or shall be taken prior to the date of issuance of the Series 2011 Bonds, under any provision of any applicable law.

(d) The officers of the Lessor executing and delivering its Program Documents have been duly authorized to execute and deliver the same under the Act, and upon delivery thereof by the other parties thereto, the Program Documents shall constitute valid and binding obligations of the Lessor, enforceable against the Lessor in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessor or, to the best of the Lessor's knowledge, threatened against the Lessor (or, to the best of the Lessor's knowledge, there is any basis for such contest or would contest the Lessor's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Program Document or that would preclude the Lessor from performing in accordance with the terms of any Program Document or (ii) wherein an unfavorable decision, ruling or finding would adversely affect (A) the

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transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessor is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

(f) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessor shall not transfer, lease, assign, mortgage or encumber the Projects or the Trust Estate.

(g) Upon the exercise by the Lessee of its option to purchase the entire Renewable Energy Projects pursuant to Article VII hereof, the Lessor (i) shall deliver to the Lessee all of the documents that are or may be necessary to vest all of the Lessor's right, title and interest in and to the Renewable Energy Projects in the Lessee, and (ii) shall release all liens and encumbrances created under this Company Lease Agreement, or the other Program Documents with respect to the Renewable Energy Projects, all as provided in Article VII hereof.

(h) Simultaneously with the execution and delivery hereof, Lessor shall issue the Series 2011A Bonds and the Series 2011B Note to provide capitalized interest payments on the Series 2011A Bonds due June 15, 2012 and December 15, 2012. To the extent the Company proposes a Completion Project on one (1) or more existing Local Unit Facility or Facilities that contemplated in the Company Proposal, Lessor may consider issuing Additional Bonds in an amount, together with all Outstanding Series 2011 Bonds, shall not exceed \$50,000,000. To the extent Lessor, in its sole discretion, determines the issuance of any such Additional Bonds is in the best interests of the Authority, the County and the Applicable Local Unit, the Authority shall issue such Additional Bonds in an amount sufficient to pay for any such Completion Project, any reserves or capitalized interest, as required, and the costs of issuance thereof, but only to the extent the Company Lease Agreement is amended and supplemented to increase the Basic Lease Payment schedule to reflect the issuance of such Series of Additional Bonds.

#### SECTION 203. Disclaimer of Lessor and Trustee.

THE TRUSTEE, BY ACCEPTANCE OF THE TRUSTS SET FORTH IN THE BOND RESOLUTION, AND THE LESSOR, BY ADOPTION OF THE BOND RESOLUTION, BY ISSUANCE OF THE BONDS AND BY EXECUTION AND DELIVERY OF ALL OTHER PROGRAM DOCUMENTS, MAKE NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF ANY PROJECT.

#### SECTION 204. Tax Covenants of Lessee.

There shall be no covenants herein arising from or otherwise relating to the issuance of the Series 2011 Bonds, as such Bonds shall not be issued as a Series of Tax-exempt Bonds.

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### ARTICLE III

#### LEASE PAYMENTS

##### SECTION 301. Lease Payments.

(a) The Lessee agrees to pay to the Trustee the following Lease Payments, as rent for the Leased Property for the Term hereof, in immediately available funds, no later than when due, delivered to the principal corporate trust office of, or some other location designated by, the Trustee:

(i) For deposit in the Revenue Account of the Revenue Fund, Basic Lease Payments, as set forth in Sections 305 and 306 hereof and Exhibit A-3 hereof, on each Basic Lease Payment Date; and

(ii) For deposit in the Administrative Expense Account of the Administrative Fund, from time to time as provided herein, as Additional Lease Payments, all as set forth in Section 308 hereof.

(A) Administrative Expenses (including the Authority's annual Administrative Fee, but excluding those properly payable by the Applicable Series 2011 Local Unit(s)) at the times set forth in invoices to be received by the Lessee from the Trustee in accordance with the Bond Resolution, provided that no further invoice shall be required for payment amount not to exceed \$5,000, which shall be due and payable in advance on the first day of any Bond Year (except that the initial Administrative Fee shall be funded from a portion of the proceeds of the Series 2011 Bonds);

(B) Interest on any overdue Lease Payments at the Overdue Rate, which amounts shall be immediately due and payable to the extent any Lease Payments are overdue;

(C) The Purchase Option Price in accordance with Section 701 of the Company Lease Agreement;

(D) The Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement; and

(E) All other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder or under the terms of any other Company Document, which shall be deposited in the Administrative Fund if no other direction is set

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forth in the Company Documents or to the particular Fund or Account set forth in any such Company Document.

(iii) For deposit in the Restoration Security Fund, the amounts necessary to fund the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution as Additional Lease Payments, all as set forth in Section 308 hereof;

(iv) For deposit in the County Security Fund, \$1,500,000, the initial amount of the County Security Fund Requirement for the County Reserve, to be funded by the Lessee no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and thereafter, any deficiency in the County Security Fund Requirement shall be funded by the Company to the extent of any available funds after payment of all reasonable Company expenses and prior to any member allocations; and

(v) The Lessee shall be entitled to a credit against Basic Lease Payments for unused moneys held in the Project Fund in accordance with Section 510(e)(1)(B) hereof, and for earnings on other funds held by the Trustee and certain other Revenue Fund monies in accordance with Section 310(e) hereof, all at the times and in the amounts and determined in accordance with the provisions of the Bond Resolution and this Company Lease Agreement; and then the Principal Portion of Basic Lease Payments and second to Additional Lease Payments due, if any.

(e) Notwithstanding anything to the contrary herein, the Lessee may make any and all Lease Payments in immediately available funds through wire transfer or otherwise, to the extent the Trustee or other payee consents in writing to such method of delivery.

##### SECTION 302. Lease Payments to be Unconditional, Except for Power Purchase-Price Payments; No Abatement or Set-Off.

(a) Except as set forth in clauses (i) and (ii) below, the obligation of the Lessee to make Lease Payments in full and when due shall be absolute and unconditional in all events, including without limitation any circumstance regarding the Projects, regardless of whether any such event shall be foreseen or otherwise, and regardless of whether any such event shall occur by accident or otherwise. The Lessee hereby acknowledges and irrevocably covenants that the terms of this Company Lease Agreement create a valid and binding obligation of the Lessee to make Lease Payments from any available source under all circumstances.

(i) Lessee shall receive a credit against the Interest Portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of all Power Purchase-Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment

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Date.

SECTION 303. Termination of Lease Term; Lease Payment Obligation.

(ii) Lessee shall receive a credit against the Principal Portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of any remaining Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment Date, after accounting for the application of the credit set forth in clause (i) above.

(iii) For purposes of applying this credit, Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee within ten (10) Business Days of any Basic Lease Payment Date shall be deemed to have been received by the Trustee the Business Day after such Basic Lease Payment Date (and therefore the Lessee shall not be entitled to a credit for such amounts paid by the Series 2011 Local Units until the following Basic Lease Payment Date). The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the aggregate amount of all Power Purchase Price Payments made by the Series 2011 Local Units since the prior Basic Lease Payment Date that are available for such credit: (A) as of the date that is thirty (30) days prior to each Basic Lease Payment Date; and (B) on the Business Day immediately following the ten (10) Business Day credit cutoff date noted above.

(b) Notwithstanding any dispute between the Lessor and the Lessee, or between or among any party hereto and any one or more of any Renewable Energy Program Interest Party or any other person, in any case concerning any provision of any Program Document, the Lessee shall make all Lease Payments in full and when due, and the Lessee shall not withhold any Lease Payment pending final resolution of such dispute, nor shall the Lessee assert against the Lessor, the Trustee, any Renewable Energy Program Interest Party or any other person any right of set-off, recoupment or counterclaim against its obligation to make such Lease Payments, regardless of whether or not the Projects are completed, available for use, or used by the Lessee or any other Renewable Energy Program Interest Party, as applicable.

(c) However, nothing herein shall be construed to release the Lessor from the performance of its obligations hereunder; and if the Lessor should fail to perform any such obligation, the Lessee may institute such legal action against the Lessor as the Lessee may deem necessary to compel the performance of such obligation, but if and only if the Lessor is not in default under the terms of this Company Lease Agreement and if the Lessee shall have paid all amounts that are required to be paid pursuant to the terms of this Company Lease Agreement; and if the Lessee shall have performed all of its obligations under the terms of this Company Lease Agreement and continues to pay and perform as provided herein, the Lessee shall not be precluded from bringing any action it may otherwise have against the Lessor.

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SECTION 304. Return of Renewable Energy Projects upon Termination of Company Lease Agreement; CIP Acceptance State.

(a) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value (as defined in the Power Purchase Agreement) in accordance with Section 609(d) hereof, Lessee shall (i) take no action regarding the removal of any such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, or if none, the Local Unit Facilities to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or therefrom that would ordinarily degrade the state of any such Capital Improvement Projects, if any, or Capital Improvement Project from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from the Lessee's operation and maintenance of such Renewable Energy Projects.

(b) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are eligible for sale by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value in accordance with Section 609(d) hereof, but no accommodation on sale price or other terms shall be reached in accordance with Section 3.7(b) of the Power Purchase Agreement, and the Lessee shall accordingly be prospectively entitled to the full use and enjoyment of any such Renewable Energy Projects, the Lessee shall (i) promptly remove such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, for any such Applicable Series 2011 Local Units to the CIP Acceptance State, or if no Capital Improvement Projects, to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or therefrom that would ordinarily degrade the state of any such Capital Improvement Projects or Local Unit Facility from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessor to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from either (A) the Lessee's operation and maintenance of such Renewable Energy Projects or (B) the Lessee's removal of such Renewable Energy Projects.

(c) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessor to the Applicable Series 2011 Local Units for nominal consideration in accordance with Section 609(f) hereof (after a Lessee Event of Default), Lessee shall (i) take no action regarding the removal of any such Renewable Energy Projects

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from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, for any such Applicable Series 2011 Local Units to the CIP Acceptance State, after giving effect to the normal wear and tear thereon or therefrom that would ordinarily degrade the state of any such Capital Improvement Projects from the date of any such CIP Acceptance Certificate to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, from the Lessee's operation and maintenance of such Renewable Energy Projects.

SECTION 305. Basic Lease Payments; Principal Portion.

(a) The Principal Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of principal due and payable on the Bonds, including the Series 2011 Bonds, on the immediately succeeding Principal Payment Date, with respect to regularly scheduled Principal Payment Dates, all as set forth on Exhibit A-3 hereto; provided, however, that no Principal Portion of Basic Lease Payments shall be payable by the Lessee, or the Principal Portion of Basic Lease Payments shall be reduced, as applicable, (a) to the extent of a balance available for payment of principal on the Bonds on deposit in the Principal Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Principal Portion of Basic Lease Payments in accordance with (A) Section 302(a)(ii) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(e)(6)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 507(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(e) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award or (ii) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(iii)(B) hereof.

SECTION 306. Basic Lease Payments; Interest Portion.

(a) The Interest Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of interest due and payable on the Bonds, including the Series

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2011 Bonds, on the immediately succeeding Interest Payment Date, with respect to regularly scheduled Interest Payment Dates, all as set forth on Exhibit A-3 hereto; provided, however, that no Interest Portion of Basic Lease Payments shall be payable by the Lessee, or the Interest Portion of Basic Lease Payments shall be reduced, as applicable, (a) for any period to the extent interest payable on the Bonds for such period shall have been previously provided to the Trustee as capitalized interest for deposit in the Capitalized Interest Account of the Debt Service Fund; from proceeds derived from the sale of the Bonds and (b) in the extent of a balance available for payment of interest on the Bonds on deposit in the Interest Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Interest Portion of Basic Lease Payments in accordance with (A) Section 302(a)(f) heretofore with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) heretofore with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(e)(9)(B) heretofore with respect to excess amounts in the Project Fund, (D) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(e)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award, or (ii) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(iii)(B) heretofore.

**SECTION 307. Interest Calculation.**

The Interest Portion of Basic Lease Payments is equal to the interest accrued on the Bonds, including the Series 2011 Bonds. Interest on the Bonds is computed upon the basis of a 360-day year, consisting of twelve 30-day months.

**SECTION 308. Additional Lease Payments.**

(a) At the times required in the definition of "Administrative Fee", when not otherwise provided for from a portion of the proceeds of a Series of Bonds, including the Series 2011 Bonds, the Lessee shall pay the Administrative Fee to the Trustee as an Additional Lease Payment for deposit in the Administrative Expense Account of the Administrative Fund.

(b) The Lessee shall pay to the Trustee, for deposit in the Administrative Expense Account of the Administrative Fund as an Additional Lease Payment, from time to time

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consent, and any amounts that may be required to be paid into a rebate fund at the times required hereunder and under any such Tax Certificates.

**SECTION 309. General Obligation of Company to Make Lease Payments; Pledge of Reimbursement Collateral; Company Pledge Agreement.**

(a) The Lessee hereby covenants to make all Lease Payments due under this Company Lease Agreement, during the entire Lease Term, from any and all funds or other assets available to the Lessee, including without limitation, but not limited to, such economic benefits as may be conferred upon the Company pursuant to the Program Documents.

(b) **Pledge of Section 1603 Grant to Trustee.** Subject to American Recovery and Reinvestment Act of 2009, as security and further assurance for the Lessee's obligations to make certain initial Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Trustee a collateral security interest in the Section 1603 Grant, such grant of a collateral security interest to remain in effect only so long as set forth in the Company Pledge Agreement, including specifically Sections 2.0) and 7.11 thereof. At the Lessee's discretion for so long as the EPC Contractor is continuing to provide the In-Kind Equity Contribution and no Event of Default has occurred hereunder, the aforementioned security interest granted in favor of the Trustee may be subordinate to that of the EPC Contractor under the EPC Contract.

(c) **Pledge of Certain Revenue to Authority.** As security and further assurance for the Lessee's obligations to perform its obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Authority a collateral security interest in any funds it may receive with respect to the following:

- (i) the sale of renewable energy produced by the Renewable Energy Projects under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements;
- (ii) the sale of SRECs from the Renewable Energy Projects;
- and
- (iii) the Construction Performance Bond.

At the Lessee's discretion for so long as the EPC Contractor is continuing to provide the In-Kind Equity Contribution and no Event of Default has occurred hereunder, the aforementioned security interest granted in favor of the Authority may be subordinate to that of the EPC Contractor under the EPC Contract.

The Lessor hereby covenants that the security interest granted pursuant to this

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upon the Lessee's receipt from the Trustee of an invoice therefore in accordance with the terms of the Bond Resolution, reasonable compensation for all services rendered by the Trustee pursuant to the Bond Resolution, all reasonable expenses, charges, counsel fees and other disbursements (including those of the Trustee's attorneys, agents and employees) incurred in the performance of its powers and duties under the Bond Resolution, and any other Administrative Expenses.

(c) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, interest on any past due Lease Payment at the Overdue Rate in accordance with Section 1007 heretofore.

(d) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Purchase Option Price in accordance with Section 701 heretofore, reflecting the optional redemption of a Series of Bonds, including the Series 2011 Bonds.

(e) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Mandatory Purchase Price in accordance with Section 702 heretofore, reflecting the acceleration or any other mandatory payment of a Series of Bonds, including the Series 2011 Bonds.

(f) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the amounts required to fund the Restoration Security Fund at the Restoration Security Fund Requirement, in the amounts and at the times as set forth in Section 5.07(9) and Exhibit C to the Bond Resolution. Notwithstanding the foregoing, however, the Lessee shall be required to pay to the Restoration Security Fund an amount to bring the balance therein to the Restoration Security Fund Requirement from time to time if the Lessee has sufficient available cash flow to fund the same after making all other payments payable by the Company during such year; provided, however, in no event shall cash flow distributions be made to the members of the Company in any year in which the Restoration Security Fund is required to be funded to the extent the Restoration Security Fund is not funded in such year to the level required by the Restoration Security Fund Requirement.

(g) The Lessee shall make a one-time payment of \$1,500,000 payable no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, for deposit by the Trustee in the County Security Fund to satisfy the County Security Fund Requirement.

(h) The Lessee shall pay to the Trustee as an Additional Lease Payment all other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder, under the Bond Resolution, under the Tax Certificates for any Series of Tax-exempt Bonds or under any other Program Document, including without limitation deficiencies in the payment of principal (including mandatory sinking fund installments) of and interest on Bonds when due as may be contemplated by Article V of the Bond Resolution, which Article shall not be amended by Lessor to add any such payment obligation without Lessee's

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Section 309(c) shall not, provided no Event of Default has occurred and is continuing, adversely affect any of the Lessee's:

- (A) use and enjoyment of the Renewable Energy Projects;
- (B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements; or
- (C) SRECs.

(d) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee shall and hereby does acknowledge

(i) that the Lessor has the right to deliver the County Security Agreement, if any, in accordance with the provisions of Section 5.07 of the Bond Resolution, whereupon the Reimbursement Collateral shall be assigned and pledged by the Lessor to the County and the County Security Provider, if any, in accordance with the terms of the County Guaranty Agreement and such County Security Agreement, respectively, as to which terms the Lessor hereby covenants that the rights of the County and the County Security Provider to the Reimbursement Collateral shall not adversely affect any of the Lessee's:

- (A) use and enjoyment of the Renewable Energy Projects;
- (B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements; or
- (C) SRECs.

In all cases prior to the date of an Event of Default caused by the Lessee, it being the express intent of the parties that any such assignment and pledge of the Reimbursement Collateral is only to protect the County and/or the County Security Provider to the extent any such Renewable Energy Program Interested Party shall not have been reimbursed for funds expended under the Program Documents due to the Lessee's actions or inactions under the Program Documents, and it being the further express intent of the parties that any and all such remedies flowing from any such Event of Default caused by the Lessee are within the Lessee's control to prevent by complying with the terms of this and all

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other Program Documents, including without limitation the making of Lease Payments in full and on time.

(ii) upon an Event of Default, including an occurrence as a result of the Lessee's failure to make its Lease Payments on time and in full, the Lessee's rights to the Leased Property may be terminated in accordance with the terms hereof, and the County and the County Security Provider, if any, may realize all or a portion of the Reimbursement Collateral in accordance with the terms of their respective County Guaranty Agreement and County Security Agreement, if any and as applicable, which economic benefits comprising the Reimbursement Collateral had been previously available to the Lessee, and would continue to be so available, should any such Event of Default never occur or be timely cured.

(e) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby covenants to deliver the Company Pledge Agreement from the Pledgor defined in the Company Pledge Agreement contemporaneously herewith, and in any event, no later than the issuance of the Series 2011 Bonds, the terms of which Company Pledge Agreement are hereby acknowledged and accepted by the Lessee.

(f) The Lessee, as debtor, authorizes the Trustee, on behalf of itself as creditor, and the Lessor, as creditor, to file UCC1 financing statements with respect to the foregoing pledge of collateral contemplated by this Section 399.

#### SECTION 310. Investment of Bond Resolution Funds; Credit for Certain Investment Earnings.

(a) The Lessor shall cause the monies in the Funds and Accounts established under the Bond Resolution to be invested in accordance with the provisions of Section 5.11 of the Bond Resolution; provided, however, that the Lessee may direct the Lessor in writing to cause the Trustee to invest the Project Fund, the County Security Fund and the Restoration Security Fund in any investment securities available under the Bond Resolution; absent any such direction from the Lessee, the Lessor may cause the investment of the Project Fund, the County Security Fund and the Restoration Security Fund in such investment securities as the Lessor shall determine.

(b) (i) To the extent interest earnings on any such Funds or Accounts are transferred to the Aged Account of the Revenue Fund in accordance with the provisions of Section 5.11(3) and (4) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such earnings, plus interest earned thereon as of any such Basic Lease Payment Date, against the next due Interest Portion of Basic Lease

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Payments due and owing from the Lessee, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied or if additional interest earnings are on deposit in the Aged Account, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), within ten (10) Business Days after each Basic Lease Payment Date, of the amount of such interest earnings credit available to the Company as of the next Basic Lease Payment Date.

(ii) To the extent the amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Interest Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(i) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Interest Portion of Basic Lease Payments due and owing from the Lessee, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

(iii) To the extent amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Principal Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(ii) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

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### ARTICLE IV

#### LEASE OF LEASED PROPERTY; TERM OF COMPANY LEASE AGREEMENT

##### SECTION 401. Lease of Leased Property.

(a) The Lessor hereby agrees to (i) finance its share of the Renewable Energy Projects and the Capital Improvement Projects, if any, for the Series 2011 Local Units, through the issuance of the Series 2011 Bonds, the balance of which shall be financed by or on behalf of the Lessee through the Equity Contribution, and (ii) enter into the Local Unit License Agreements with the Series 2011 Local Units, thereby giving the Lessor nominal ownership of the Renewable Energy Projects, and providing the Company with a license and access to the Local Unit Facilities for the Series 2011 Local Units.

(b) The Lessee hereby agrees to (i) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects as described on Exhibit A-1 hereof and (ii) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, as described on Exhibit A-2 hereof, all for the Series 2011 Local Units.

(c) Upon the acquisition of title to the Leased Property from the Contractor (the timing of which does not adversely affect the Lessee's obligations hereunder, including the obligations to make Lease Payments), the Lessor hereby agrees to lease to the Lessee, except for the Reserved Rights, all of its right, title and interest in and to the Leased Property for the duration of the Lease Term hereof, and to grant to the Lessee an option to purchase the Leased Property as set forth in Article VII hereof. The Lessee hereby agrees to take and lease from the Lessor, other than the Reserved Rights, all of the Lessor's right, title and interest in and to the Leased Property on the terms and conditions set forth in this Company Lease Agreement, including, without limitation, all of the Lessee's duties and obligations under the Program Documents. The lease of the Leased Property from the Lessor to the Lessee is also intended to convey to the Lessee any product of the Leased Property, including any right, title and interest of the Lessor in and to the SRECs and the right to electricity generated from the Renewable Energy Projects for the Series 2011 Local Units at their respective Local Unit Facilities, subject to the terms and conditions of the Program Documents. The Lessor hereby acknowledges the Lessee's intent to exercise such option to purchase the Leased Property during or upon the termination of the Lease Term.

(d) It is an express purpose of this Company Lease Agreement that the benefits and burdens of owning the Leased Property being conveyed by the Lessor to the Lessee pursuant to this Company Lease Agreement be such that the Lessee shall be deemed to be the owner of the Leased Property for purposes of the Code. Accordingly, Lessor and Lessee agree and acknowledge that, for federal income tax purposes: (i) Lessee will treat the use of Series 2011 Bond proceeds to purchase, construct and install the Renewable Energy Projects as construction loan advances of Series 2011 Bond proceeds to Lessee by Authority; (ii) Lessee will treat all payments (or credits against such payments) made under this Company Lease Agreement

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as payments of interest and principal to the Authority with respect to such construction loan, with an allocation of principal and interest based upon the Authority's related principal and interest payments on the Series 2011 Bonds; and (iii) Lessee will report all payments made by the Series 2011 Local Units under the Power Purchase Agreements as revenues earned by Lessee. Notwithstanding the foregoing, for State law purposes, Lessor and Lessee agree that under the Program Document structure, any benefit to the Company shall be deemed incidental, the primary purpose of the Renewable Energy Program being to provide the Series 2011 Local Units with electricity at multi-year locked in rates to the greatest extent practicable below tariff, which goal has been effectively realized through the financing structure contemplated by the Program Documents.

##### SECTION 402. Lease Term.

(a) This Company Lease Agreement shall be and remain in effect with respect to the Leased Property (the "Lease Term") commencing on the date of authorization, execution, authentication and delivery of the Series 2011 Bonds that shall finance, among other things, the Renewable Energy Project component of the Leased Property, and continuing until terminated as provided for in this Section 402. The Term of this Company Lease Agreement shall terminate upon the occurrence of the first of the following of events:

(i) The exercise by the Lessee of its option or its requirement to purchase the Lessor's entire interest in the Leased Property pursuant to Article VII hereof;

(ii) The occurrence and continuation of an Event of Default hereunder by the Lessee and the Lessor's election to exercise remedies under this Company Lease Agreement pursuant to Section 1002 hereof;

(iii) Subject to an extension of this Company Lease Agreement in accordance with clause (iv) below, which provisions shall control even if the other requirements of this clause (iii) have been satisfied, the occurrence of all of the following: (A) the payment by the Lessee of all Lease Payments, which requirement as to Basic Lease Payments (unless sooner terminated or extended in accordance with the provisions hereof) shall be fully satisfied on December 15, 2027 (unless extended by an amendment hereto resulting from the issuance of Additional Bonds); (B) the Bonds, including the Series 2011 Bonds, shall no longer be Outstanding under the Bond Resolution, and if the provisions of Section 703(b) are applicable, and (C) on the date specified in the Certificate of Authorized Officer of the Lessee required by Section 703(b)(iii); or

(iv) The expiration date of any extension to the initial term of this Company Lease Agreement, which initial term would be determined by clauses (i), (ii), and (iii) above, as such extension date shall be set forth in any amendment of this Company Lease Agreement (in accordance with the

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amendment provisions of Section 1103 hereof), to the extent permitted under then applicable law.

(b) Notwithstanding the foregoing, this Company Lease Agreement shall be in effect until all the obligations created hereunder have been fulfilled.

(c) Notwithstanding the foregoing, any termination by reason of clause (a)(ii) above shall not alter or terminate the Lessee's unconditional payment obligations hereunder, including Sections 502 and 509 hereof.

#### SECTION 403. Net Lease.

(a) The Lessee intends for the Lease Payments to be net to the Lessor. The obligation of the Lessee to pay Lease Payments shall be absolute and unconditional and shall in no way be released, discharged or otherwise affected for any reason, including, without limitation, (i) any defect in the condition, quality or fitness for use of, or title to, any Project or (ii) any damage to or abandonment, destruction, requisition or taking of any portion of any Project.

(b) The Lessee shall comply with and pay all (i) local, state and federal taxes incurred with respect to the design, permitting, acquisition, construction, renovation, installation, operation, maintenance, ownership, possession or use of any Renewable Energy Project or the design, permitting, acquisition, construction, renovation or installation of any Capital Improvement Projects, including, without limitation, income, franchise, gross receipts, sales, use, documentary stamp, excise and real and personal property taxes, (ii) payments in lieu of taxes, assessments, licenses, registration fees, freight and transportation charges and any other charges imposed or liabilities incurred with respect to the design, permitting, acquisition, construction, renovation, installation, operation, maintenance, ownership, possession or use of any Renewable Energy Project or the design, permitting, acquisition, construction, renovation or installation of any Capital Improvement Projects, (iii) Lease Payments, and (iv) penalties, fines or interest imposed on any of this foregoing during the Lease Term.

(c) The Lessee shall pay, from a portion of the proceeds of the Bonds or otherwise, all reasonable expenses incurred by the Lessor in connection with all filings or recordings of any documents relating to this Company Lease Agreement, the other Company Documents, or the Lessor's rights hereunder and thereunder. The Lessor shall have the right to make any of the payments required of the Lessee, but shall not be obligated to pay the same, and to charge such payment with interest at the Overdue Rate from the due date thereof through the date of payment as an Additional Lease Payment to be paid by the Lessee with the next Basic Lease Payment due under this Company Lease Agreement.

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## ARTICLE V

### CONSTRUCTION OF PROJECT; CARE AND USE; DRAW PROCEDURES

#### SECTION 501. Design of Project.

(a) Within ninety (90) days of the execution and delivery of this Company Lease Agreement, the Lessee shall cause preliminary Plans and Specifications to be prepared by one or more Architects or other Contractors with respect to all of the Projects for all of the Series 2011 Local Units and within the parameters set forth in the Company RFP. In preparing or causing the preparation of such preliminary Plans and Specifications, the Lessee expressly acknowledges that the Lessor shall only be providing financing, through the issuance of the Series 2011 Bonds, for the Maximum Net Bond Funded Project Cost Amount, and that any costs and expenses beyond such amount, except for any Completion Projects agreed in writing to be financed by the Lessor, are to be borne solely and wholly by the Lessee from any available funds.

(b) Copies of the Plans and Specifications, when in form satisfactory to the Lessor, shall be promptly delivered to the Lessor and the Applicable Series 2011 Local Units for the review, comment and approval of the Applicable Series 2011 Local Units. Within five (5) Business Days of receipt, each Applicable Series 2011 Local Unit shall have reviewed, and either commented on or approved the Plans and Specifications prepared by the Lessee for each respective Renewable Energy Project and each Capital Improvement Project. If, any, for the respective Series 2011 Local Units. To the extent approval from any Series 2011 Local Unit shall not be received, the Lessee shall promptly modify the Plans and Specifications to address the Series 2011 Local Unit's reasonable concerns, whereupon the Lessee shall resubmit the Plans and Specifications to the Lessor and the Applicable Series 2011 Local Unit for further review, comment and approval. Such process shall continue until the Lessor and Lessee have received the approval of all of the Series 2011 Local Units; provided however, that both parties and the Applicable Series 2011 Local Units shall endeavor to complete the review, comment and approval process within one (1) month of the original submission to the Lessor and the Series 2011 Local Units. Notwithstanding any other provision of this Agreement or any other Company Document, to the extent an Applicable Series 2011 Local Unit does not adhere to the timetable set forth in this Section 501(b), then the required completion date for the respective Renewable Energy Project shall be extended by a time period equal to the delay by the Applicable Series 2011 Local Unit.

(c) Promptly after having received the respective Series 2011 Local Unit approvals of the Plans and Specifications related to their respective Projects, the Lessee shall submit or cause the submission of such Plans and Specifications to all other federal, state or local governmental or quasi-governmental agencies having jurisdiction over the Projects or any part thereof, and shall receive any required Project permits or approvals.

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#### SECTION 502. Construction of Project.

(a) The Lessee shall be responsible for entering into the Development Agreement with the Developer and for the letting of Development Contracts with Contractors for (a) the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for all of the Series 2011 Local Units, (b) the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for all of the Series 2011 Local Units, (c) the completion and acceptance of the Renewable Energy Projects in accordance with the Plans and Specifications hereof and the other terms hereof, including the filing of the REP Acceptance Certificates in accordance with Section 510(d)(X) hereof, (d) the completion of the Capital Improvement Projects in accordance with the Plans and Specifications hereof and the other terms hereof, including the filing of the CIP Acceptance Certificates in accordance with Section 510(d)(ii) hereof, and (e) all other matters that are incidental to the performance of the duties and powers that are expressly granted to the Lessee herein in connection with any of the foregoing. The Lessee may carry on its functions hereunder without obtaining any further approval of the Lessor; provided, however, that the Lessee shall issue monthly reports to the Lessor and the Applicable Series 2011 Local Unit detailing the progress of the foregoing and the anticipated completion dates thereof.

(b) After complying with the notification provisions of this subsection (b), the Lessee shall enter into one or more Development Contracts with the Contractor(s) providing for (i) the design, permitting, acquisition, construction, installation, operation and/or maintenance of the Renewable Energy Projects in accordance with the Plans and Specifications and/or (ii) the design, permitting, acquisition, construction, renovation, and/or installation of the Capital Improvement Projects in accordance with the Plans and Specifications. At least five (5) Business Days prior to the Lessee's entering into of each such Development Contract, the Lessee shall notify and provide each of the Lessor, the Applicable Series 2011 Local Unit and the Construction Manager with substantially final drafts thereof. Within a reasonable period of time thereafter, the Lessor, the Applicable Series 2011 Local Units and/or the Construction Manager shall notify the Lessee of any deviation therein from the Plans and Specifications for the Projects or from applicable law, if any. The Lessee shall, in its discretion, determine to incorporate or disregard any such advice into the final form of such Development Contracts; provided, however, that any such action or inaction shall not relieve the Lessee from completing the Projects in accordance with the agreed upon Plans and Specifications and in accordance with all applicable law. After such five (5) Business Day notice period, the Lessee may enter into such Development Contracts, providing only that final executed copies thereof be delivered to each of the Lessor, the Applicable Series 2011 Local Unit and the Construction Manager. After such execution, the Lessee shall cause each Contractor to perform its obligations under the Development Contracts, and shall deliver the completed Project available for occupancy and use by the Company with respect to the Renewable Energy Projects and the Applicable Series 2011 Local Unit with respect to the Capital Improvement Projects, on or before December 14, 2012, as such date may be extended in accordance with the Program Documents.

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(c) None of the Lessor, the Series 2011 Local Unit or the Trustee makes any warranties or representations or accepts any liabilities or responsibilities with respect to or for the adequacy, sufficiency or suitability of, or defects in or with respect to, the design, permitting, acquisition, construction, renovation or installation of the Project.

#### SECTION 503. Construction Performance Bond and Other Guaranty.

Any Development Contracts authorized to be entered into by the Lessor under the terms of this Company Lease Agreement in connection with the design, permitting, acquisition, construction, and installation of the Renewable Energy Projects and the design, permitting, acquisition, construction, renovation and installation of the Capital Improvement Projects shall be let in accordance with the requirements set forth in Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP attached as part of Exhibit A-1 hereto. The Lessee shall cause each Contractor to provide a Construction Performance Bond covering, with respect to the portion of the Projects to which the Development Contract applies, the (i) performance of the Development Contract, including coverage for correction of defects developing within one year after completion of construction and commencement of commercial operation of each Project, and (b) payment for labor and materials, in each case issued by a reputable surety company qualified to do business in the State. Such bond or bonds shall name the Lessor, the Lessee as co-obligees, or shall otherwise entitle the Lessor to draw upon such Construction Performance Bond, and shall be in amounts equal to the fixed contract price plus the Equity Contribution, if not so included in the fixed contract price; provided, however, that the one-year post completion and commencement of commercial operation portion may be limited to ten percent of the Development Contract price allocated to such Project in the Development Contract.

#### SECTION 504. Default in Contractors' Performance.

(a) In the event of default of the Contractor, including any subcontractor, under any Development Contract made in connection with any Project, the Lessee shall promptly proceed, either separately or in conjunction with others, to exhaust the remedies of the Lessee against the Contractor or any subcontractor so in default and against each surety for the performance of such Contractor or subcontractor. All such actions shall be construed to be Costs of the Project for purposes of this Company Lease Agreement, inasmuch as the same shall be necessary to enable any such Project to be designed, permitted, constructed, acquired, renovated or installed in accordance with the terms hereof and of the Development Contracts. The Lessee agrees to advise the Lessor, in writing, of the steps it intends to take in connection with any such default. If the Lessee shall so notify the Lessor, the Lessor may, in good faith, in its own name or in the name of the Lessee, with notice to the Lessee, prosecute or defend any action or proceeding or take such other action involving the Contractor, including any subcontractor, or surety that the Lessor deems reasonably necessary, and in such event the Lessor hereby agrees to compensate fully with the Lessee, but at the sole cost and expense of the Lessor. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing shall be paid into the Project Fund or the Revenue Fund, as shall be determined by the Lessee.

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(b) In the event that the Lessee is unable to comply with its requirements under this Company Lease Agreement prior to the execution of any Acceptance Certificate or if for any reason the design, permitting, acquisition, construction, renovation and installation of any Project is delayed, there shall be no resulting liability on the part of the Lessor and there shall be no diminution in or postponement of the amounts that are due and payable by the Lessee to the Lessor under the terms of this Company Lease Agreement.

**SECTION 505. Additional Rights of Lessor.**

The Lessor agrees that the Lessee shall, at its own expense, have the right to make immaterial changes to any Project or to make such additions, modifications and improvements thereto as in the Lessee's judgment are necessary to enable it to perform its obligations under this Company Lease Agreement without materially impairing the Project or materially changing the design of the Project from the Plans and Specifications; provided, however, that none of the foregoing shall in any way damage the Project or cause the Project to be used for purposes other than those authorized under the provisions of all applicable law. With respect to any such additions (only) to the Project in accordance with the provisions of this Section 505, such additions shall for all purposes of this Company Lease Agreement be deemed to be and remain the property of the Lessee and shall not become part of the Project, and any such item may be removed, altered or changed by the Lessee upon or before the termination of this Company Lease Agreement; provided, however, that such removal, alteration or change shall not damage the Project or, if any such damage shall occur, the Lessee shall repair the same at its sole cost and expense.

**SECTION 506. Maintenance and Use of Project; Lessor Access; Repairs Not to Create Liens.**

(a) With respect to the Renewable Energy Projects or a portion thereof financed under this Company Lease Agreement, the Lessee shall, at its own and sole expense, maintain, preserve and keep such Projects or any portion thereof, as the case may be, in good repair, working order and condition, and shall from time to time make all repairs, replacements and improvements necessary to keep such Projects or any portion thereof in such condition. The requirements to repair and keep the Capital Improvement Projects in good working order shall remain with the owners thereof, the Applicable Series 2011 Local Units.

(b) The Lessee agrees that the Lessor and the Applicable Series 2011 Local Unit shall have the right (but not the obligation) to enter upon the premises at reasonable times and upon reasonable notice in a reasonable manner where the Renewable Energy Projects or a portion thereof, as the case may be, is located in order to inspect the same for the purpose of assuring that such Renewable Energy Projects are being properly maintained, preserved and kept in good repair and condition. The Lessee further agrees that the Lessor or the Applicable Series 2011 Local Unit shall have such rights of access to such Renewable Energy Projects as may be reasonably necessary to cause the proper maintenance, preservation and keeping in good repair of

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such Renewable Energy Projects in the event of a failure by the Lessee to perform its obligations hereunder, which rights of access shall in no way imply any obligation on the part of the Lessor or the Applicable Series 2011 Local Unit.

(c) The Lessee shall not permit any mechanic's or materialmen's or other lien to be established or remain against any portion of the Projects for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the Lessee pursuant to Section 505 hereof and this Section 506, other than Permitted Liens; provided, however, that if any such lien is established and the Lessee notifies the Lessor of its intention so to do, the Lessee may, in good faith, contest any lien filed or established against the Projects and, in such event, permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such item, the interest of the Lessor or the Applicable Series 2011 Local Unit in such Project shall be materially endangered or such Project or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide the Lessor and the Applicable Series 2011 Local Unit with full security against any such loss or forfeiture. The Lessor shall cooperate, and shall cause the Applicable Series 2011 Local Unit to cooperate fully with the Lessee in any such contest upon such request at the sole cost and expense of the Lessee.

**SECTION 507. Possession and Enjoyment of Projects during Lease Term.**

(a) From and after the execution and delivery of the RPP Acceptance Certificate with respect to the applicable Renewable Energy Projects, the Lessor hereby agrees that during the Lease Term the Lessee, so long as the Lessee is not in default hereunder, shall have the quiet use and enjoyment of such Renewable Energy Projects, and the Lessee shall during such Lease Term peacefully and quietly have, hold and enjoy such Renewable Energy Projects, without suit, trouble or hindrance from the Lessor, any 2011 Local Unit, or any party claiming under or through the Lessor or such Local Unit, except as expressly set forth in the Program Documents. The Lessor and the Applicable Series 2011 Local Unit shall, at the request of the Lessee and at the Lessee's sole cost and expense, join in any legal action in which the Lessee asserts its right to such possession and enjoyment against any third-party to the extent the Lessor and the Applicable Series 2011 Local Unit lawfully may so do; in addition, the Lessee, while not in default hereunder, may in its discretion and at its sole cost and expense bring any such action in the name of the Lessor.

(b) From and after the execution and delivery of the CIP Acceptance Certificate with respect to the applicable Capital Improvement Projects, if any, the Lessor and the Lessee hereby agree that during the Lease Term, the Applicable Series 2011 Local Unit, as its owner thereof, shall have the quiet use and enjoyment of such Capital Improvement Projects, and the Applicable Series 2011 Local Unit shall during such Lease Term peacefully and quietly have, hold and enjoy such Capital Improvement Projects, without suit, trouble or hindrance from the Lessor or the Lessee, or any party claiming under or through the Lessor or the Lessee, except as

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may be expressly set forth in the Program Documents.

**SECTION 508. Lessee's Negligence.**

Subject to Section 606 hereof, the Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Projects, or any portion thereof, and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of the Lessee or of Contractors or other third parties, and whether such property damage be to the Lessee's property or to the property of others, which injury, death or damage is proximately caused by the negligent conduct of the Lessee or its officers, employees and agents, including any Contractors. The Lessee hereby assumes responsibility for and agrees to reimburse the Lessor and the Applicable Series 2011 Local Unit for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorneys' fees), of whatsoever kind and nature, imposed on, incurred by or asserted against the Lessor or the Applicable Series 2011 Local Unit that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part upon the negligent conduct of the Lessee or its officers, employees and agents, to the maximum extent permitted by law.

**SECTION 509. Project Costs; Payment.**

(a) The Project Costs to be incurred by the Lessee, or on behalf of the Lessee by any Contractor, relating to the acquisition, construction, and installation of the Renewable Energy Projects and the acquisition, construction, renovation and installation of the Capital Improvement Projects for all Series 2011 Local Units have been estimated by the Lessee under the Company RFP to be an aggregate amount not to exceed the sum of the Maximum Gross Bond Funded Project Cost Amount plus the Equity Contribution. Accordingly, the Lessor shall cause the Series 2011 Bonds to be issued, and further, shall cause the Maximum Net Bond Funded Project Cost Amount to be deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(c)(i) and (ii) of the Bond Resolution. The Lessee represents that such initial deposit of the Maximum Net Bond Funded Project Cost Amount, together with interest to be earned thereon prior to disbursement in accordance with the terms hereof and of the Bond Resolution giving rise to the Maximum Gross Bond Funded Project Cost Amount, together with the Equity Contribution, shall be sufficient to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

(b) It is expressly acknowledged by the Lessee and the Lessor that the Lessor shall be under no obligation to issue any Bonds in an amount in excess of the Maximum Net Bond Funded Project Cost Amount to fund any Project Cost, including the Costs of any Completion Project related to either the Renewable Energy Projects or the Capital Improvement Projects of the Series 2011 Local Units on, in or about their Local Unit Facilities, unless the Authority agrees to issue a Series of Additional Bonds pursuant to the provisions of Section

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202(h) hereof.

(c) Any Project Costs in excess of such estimated Project Cost amount as set forth in subsection (a) above shall be solely borne by and solely paid from any funds available to the Lessee (which shall not include moneys under the Bond Resolution, absent the Lessor's written consent). The Lessee hereby covenants to complete all of the Projects in accordance with the Plans and Specifications regardless of the actual Costs of such Projects and regardless of the amount remaining on deposit in the Project Fund to pay such Project Costs. To the extent the Lessee shall complete all of the Projects in accordance with the Plans and Specifications in an aggregate amount less than any such deposit, plus estimated investment earnings, in the amount of such estimated Project Costs, any excess amounts remaining on deposit in the Project Fund, after the final Acceptance Certificate shall have been filed by the Lessee in accordance with the terms hereof, shall be applied as a credit to the next due Basic Lease Payments otherwise due and owing by the Lessee in accordance with Section 510(e)(1)(B) hereof and Section 5.02(3)(b) of the Bond Resolution.

(d) The Lessee shall cause moneys on hand from time to time in the Project Fund, held by the Trustee, to be made available for payment of all Project Costs, in the manner provided herein for submission of Draw Papers, including Sections 510 and 511 hereof, and in the Bond Resolution, including Sections 5.02(1) and 5.02(2)(a) thereof. The Lessee may cause moneys on hand from time to time in the Project Fund held by the Trustee to be made available for payment of all Company Development Fees and Expenses up to an aggregate amount of \$800,000 unless the Lessee receives the written acknowledgment of a higher ceiling from the Lessor, through the submission of a Certificate of an Authorized Officer of the Lessee substantially in the form of Exhibit D hereto, and otherwise following the terms set forth in Section 5.02(2)(b) of the Bond Resolution; provided, however, that notwithstanding the foregoing, the Lessee may not withdraw moneys from the Project Fund for payment of Company Development Fees and Expenses in excess of \$500,000, excluding those third-party and other Company Development Fees and Expenses approved by the Authority and paid upon issuance of the Series 2011A Bonds or thereunder, until the Company has satisfied, or caused the satisfaction of, all of the Completion Conditions. The Lessee, at its sole discretion, may apply less of the aggregate amount on deposit in the Project Fund and earmarked for payment of Company Development Fees and Expenses to such purpose, and instead apply all or a portion of such earmark (including any interest earned thereon) toward Costs of the Renewable Energy Projects or Capital Improvement Projects in the manner contemplated by Sections 510 and 511 hereof, and Section 5.02(2)(a) of the Bond Resolution. Any moneys remaining on deposit in the Project Fund, including interest earnings, upon the payment of all Project Costs (for which the Company shall submit such Exhibit D form Certificate), shall be applied in the manner set forth in Section 510(e) hereof.

**SECTION 510. Submission of Draws; Procedures; Acceptance Certificates.**

(a) As payments are required for the Project under this Company Lease

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Agreement, the Lessee shall prepare and assemble the Draw Papers (as defined below) and submit them to the Trustee.

(b) On or before 10:00 a.m. EST on each date on which the Lessee intends to submit Draw Papers requisitioning funds held by the Trustee in the Project Fund for Costs of the Renewable Energy Project or Capital Improvement Projects for an Applicable Series 2011 Local Unit (each a "Draw Date"), the Lessee shall advise the Trustee in writing of the aggregate amount of funds needed for disbursement to pay such Project Costs. An amount equal to the lesser of (i) such aggregate amount of funds needed and (ii) the amount of funds available in the Project Fund (and not otherwise earmarked to pay the Costs of the Projects for the other Series 2011 Local Units) shall be applied to the payment of such Project Costs upon submission of the Draw Papers in accordance with subsection (c) below.

(c) Except as otherwise provided in Section 511 hereof, the Lessee shall cause the Trustee to make payments from the Project Fund to the Contractors under the Development Contracts or other third-party vendors, in either case for Costs of the Projects, but only after the Lessee shall have supplied the Trustee with a duly authorized, completed and executed requisition from the Lessee substantially in the form of Exhibit C hereto (together with any attachments thereto, the "Draw Papers"), each executed by the Lessee, acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.1(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and acknowledged as to form only by the Lessor (in accordance with Section 4.1(e) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), stating with respect to each such payment to be made: (i) the requisition number, (ii) the name and address of the Contractor, other person, other corporation or other entity to which payment is due or, if for reimbursement to the Lessee, to which Contractor, other person, other corporation or other entity and when payment has previously been made by the Lessee, and as applicable in either case, the Development Contract under which such payment is or was due, (iii) the amount to be paid, (iv) the Renewable Energy Project or Capital Improvement Project to which such payment is to be applied, including the Applicable Series 2011 Local Unit and their Local Unit Facility, (v) that such payment obligation has been properly incurred in accordance with the Plans and Specifications, is an item of the Cost of such Project, is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal, (vi) that attached thereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Lessee. Lessee also agrees to file a monthly Initial Project Workforce Form AA201, and (vii) the amount being requisitioned shall not exceed seventy percent (70%) of any Renewable Energy Project Cost for which payment is being sought, it being expressly understood by the Lessee that for each requisition being submitted, the Lessee shall pay or cause to be paid at least thirty percent (30%) from the Equity Contribution (the ratio of not exceeding seventy percent (70%) payment from requisition and at least thirty percent (30%) payment from Equity Contribution for each Project Cost for which a requisition is submitted shall be defined herein as the "Draw Paper Ratio"), substantially in the form of, and consistent with the instructions included in, Exhibit C-1 attached hereto, with the Lessor and the Division of Public Contracts

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when the Lessee has submitted all Draw Papers respecting Costs of such Capital Improvement Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed, renovated and installed in accordance with the Plans and Specifications thereof, (z) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Capital Improvement Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only. Each such CIP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.3(g) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.3(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager); and

(e) If, upon the completion of the design, permitting, acquisition, construction, renovation and installation of all of the Projects for the Series 2011 Local Units on or prior to December 14, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), as evidenced by the filing of all Acceptance Certificates by the Company, as duly acknowledged by the Series 2011 Local Units and the Lessor, on or prior to December 14, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), all in accordance with the terms hereof, of the Bond Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, then upon the Trustee's receipt of the final Acceptance Certificate so designated, the Trustee shall, without any further authorization, (i) transfer any surplus funds remaining on deposit in the Project Fund to the Debt Service Fund for application as a credit to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if still not fully applied, then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied, all unless the provisions of Section 5.02 of the Bond Resolution require application otherwise, in which case the Trustee shall (ii) apply any such surplus funds remaining on deposit in the Project Fund in accordance with the terms of Section 5.02 of the Bond Resolution. To the extent the final Acceptance Certificate for all of the Series 2011 Local Units shall not have been filed by the

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Equal Opportunity Compliance, through and including the month after the final Acceptance Certificate has been filed.

(d) From time to time, in accordance with the terms of the Company Lease Agreement, the Local Unit License Agreements with respect to the Series 2011 Local Units, and this Bond Resolution, the Lessee shall file with the Trustee, duly authorized, completed, executed, acknowledged, and delivered Acceptance Certificates in the form of Exhibit B hereto at the following times and with respect to the following matters, and upon receipt thereof, the Trustee shall take the following actions:

(1) The Lessee shall file with the Trustee (A) the REP Acceptance Certificates in the form of Exhibit B-1 hereto, one for each Series 2011 Local Unit, signed by an Authorized Officer of the Lessee with respect to the Renewable Energy Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, (x) when the Lessee has submitted all Draw Papers respecting Costs of such Renewable Energy Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed and installed in accordance with the Plans and Specifications thereof, (z) when all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by the Lessee and such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Renewable Energy Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.2(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.2(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager) and until accompanied by one or more Interconnection Agreements with respect to all such Renewable Energy Projects or Completion Projects related thereto;

(2) The Lessee shall file with the Trustee (A) the CIP Acceptance Certificates in the form of Exhibit B-2 hereto, one for each Series 2011 Local Unit that is financing Capital Improvement Projects with a portion of the proceeds of the Bonds, signed by an Authorized Officer of the Lessee with respect to such Capital Improvement Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, (x)

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Lessee, as duly acknowledged by the Series 2011 Local Units and the Lessor, all in accordance with the terms hereof, of the Bond Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, on or prior to December 14, 2012, as extended if applicable (thereby causing an Event of Default hereunder, but not under the Bond Resolution), the Trustee shall transfer any funds remaining on deposit in the Project Fund as set forth in a Certificate of an Authorized Officer of the Authority, as required pursuant to the provisions of Section 5.02(c)(6) of the Bond Resolution.

#### SECTION 511. Reimbursement to Lessee from Monies in the Project Fund.

Notwithstanding the provisions of Section 510 hereof to the contrary, the Lessee shall be entitled to submit Draw Papers to the Trustee and receive reimbursement for the amounts set forth in such Draw Papers for advances made with respect to the Project, prior to a given Draw Date, so long as the Lessee submits the requisite requisition and supporting copies of invoices prior to being reimbursed directly by the Trustee.

#### SECTION 512. Construction Period Insurance.

Each Contractor shall be required to provide and maintain in force during the entire acquisition, construction, renovation or installation period of all Projects, and prior to the Contractor's performance of work under any Development Contract, builder's risk or property damage insurance (in an amount not less than the full value of all work done and materials and equipment provided or delivered by the Contractor and, in any event, not less than the applicable Purchase Option Price at such time), comprehensive liability insurance, worker's compensation insurance and any other insurance required by law or customarily maintained with respect to like projects. All such policies of insurance shall show the Lessor, the Lessee and the Applicable Series 2011 Local Unit as named insureds, in such amounts as their interests may appear. Evidence of such insurance shall be filed with the Lessor. Notwithstanding the foregoing, the EPC Contractor and the Company will not be required to maintain property insurance concurrently. The EPC Contractor shall supply builder's risk insurance until completion and the Company shall supply property insurance thereafter.

#### SECTION 513. Taxes and Other Governmental Charges and Utility Charges.

The Lessee shall pay when due all gas, water, steam, electricity, heat, power, telephone and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Renewable Energy Projects. The Lessee shall also pay all property and excise taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Renewable Energy Projects or any part thereof or the Lease Payments, which become due during the Term of this Company Lease Agreement with respect thereto, and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Renewable Energy Projects; provided, however, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only

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such installments as are required to be paid during the Term of this Company Lease Agreement as and when the same become due. The Lessee shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate or other similar tax payable by the Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any real estate or other tax upon property and arises out of or is levied upon the Lessor's interest in the Renewable Energy Projects hereunder.

The Lessee may, at its own expense and in its or the Lessor's name, contest in good faith any such taxes, assessments or utility or other charges (and the Lessor shall cooperate fully in any such contest) and, in the event of any such contest, permit such taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items, the interest of the Lessor in the Renewable Energy Projects shall be materially endangered, or the Renewable Energy Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss or forfeiture that may result from nonpayment.

**SECTION 514. Site Visits.**

The Lessor shall visit the site of the Project at least quarterly to monitor the acquisition, construction, renovation and installation of the Projects by the Lessee and/or the Contractors, as the case may be.

**SECTION 515. Construction Manager.**

At its sole discretion, the Lessor may employ one or more Construction Manager, payable from a portion of the proceeds of the Series 2011 Bonds in excess of the Maximum Net Bond Funded Project Cost Amount, to act on behalf of the Lessor in exercising any of its rights, or in discharging any of its duties and obligations under this Company Lease Agreement or other Project Document with respect to the (a) design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units and/or the (b) design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units.

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insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

**SECTION 603. Auto Liability Insurance.**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard comprehensive automobile liability insurance policy or policies in protection of the Lessee, the Lessor, and the Applicable Series 2011 Local Unit. Said policy or policies shall be written in a comprehensive form, shall comply with N.J.S.A. 39:6b-1 et seq. and all local regulations and case law regarding the scope and effect of the New Jersey Compulsory Motor Vehicle Insurance Statute, and shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage arising from the maintenance, use or operation of any owned or non-owned vehicle used in or in connection with the Projects. Said policy or policies shall provide coverage in an amount not less than \$1,000,000.00, shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles, which may be used by Lessee in connection with the services, required under the Power Purchase Agreement, such auto liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

**SECTION 604. [Reserved].**

**SECTION 605. Worker's Compensation Insurance.**

If required by State law, the Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, worker's compensation insurance covering all of Lessee's and its Contractors' employees on, in, near or about the Projects, and, upon request, shall furnish to the Lessor certificates evidencing such coverage. To the extent the Lessee is procuring or maintaining such insurance, such coverage may, at the option of the Lessee, be provided through a self-insurance program that is established and operating in conformity with all applicable State law. To the extent that any other entity is procuring or maintaining such insurance, such insurance shall be provided under a policy written by an insurance company approved by the State in a minimum amount of \$1,000,000 for damage

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**ARTICLE VI**

**INSURANCE; TITLE TO PROJECT AND OTHER MATTERS**

**SECTION 601. Insurance Coverage for the Projects.**

The Lessee shall procure and maintain or cause to be procured and maintained, from and after the date it accesses a Local Unit Facility and through the balance of the Term of this Company Lease Agreement and in accordance with the further terms of this Article VI, (i) public liability insurance, including, without limitation, bodily injury and property damage coverage, (ii) auto liability insurance, including, without limitation, bodily injury and property damage coverage, (iii) worker's compensation insurance, and (iv) property insurance, including, without limitation, fire and comprehensive other risk coverage, all to be procured and maintained with an insurance company approved by the State and such insurance policy or policies naming the Lessee, the Lessor and the Applicable Series 2011 Local Units as insureds or, if the Lessee elects and receives the consent of the Lessor, the Lessee shall provide to the Lessor a Certificate of an Authorized Officer of the Lessee to the effect that adequate reserves are deposited and maintained in trust with an independent trustee in the amounts sufficient to cover the loss or damage to any Project. Any insurance proceeds in excess of the Purchase Option Price for all of the Bonds Outstanding at such time with respect to the Projects under this Company Lease Agreement shall be remitted to the Lessee. Notwithstanding the foregoing, the timing of delivery of insurance required by this Company Lease Agreement can be changed with a Certificate of an Authorized Officer of the Authority.

**SECTION 602. Public Liability Insurance.**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard commercial general liability insurance policy or policies in protection of the Lessee, the Lessor and the Applicable Series 2011 Local Units. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by the operation or ownership of the Projects. Said policy or policies shall provide coverage in the amount of \$1,000,000.00. This coverage must be in writing on an occurrence form, claims made policies will be unacceptable. This Comprehensive General Liability insurance shall cover the Lessee, the Authority, each of the Series 2011 Local Units and their employees, agents and officers from and against any claim arising out of personal injury of Lessee or the Lessee's failure to comply with the terms of this Company Lease Agreement. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by a Lessee or by any other persons. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in this Company Lease Agreement. The policy shall also be endorsed to include coverage for products, completed operations, and independent contractors. Such public liability

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resulting from a single accident or event.

**SECTION 606. Excess Liability**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, an excess liability insurance policy or policies in protection of the Lessee, the Lessor, and the Applicable Local Unit Facility, each applicable Series 2011 Local Unit. Said policy or policies shall be in the amount of \$4,000,000.00 shall be in the form of an Umbrella policy rather than a following form excess policy. This policy or policies shall be specifically endorsed to be excess of the required Comprehensive General Liability Coverage, the Employers' Liability Coverage on the Workers' Compensation policy, and the Comprehensive Automobile Liability policy.

**SECTION 607. Other Insurance and Requirements for All Insurance.**

All insurance required by Article V hereof or this Article VI (a) may be carried under a separate policy or a rider or endorsement, (b) shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State, or may be maintained as part of any insurance pool permitted under the laws of the State, (c) shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the Lessor at least thirty (30) days before the cancellation or revision becomes effective, and (d) shall name the Lessee, the Lessor and the Applicable Series 2011 Local Units as insured parties as their respective interests may appear. The Lessee shall deposit with the Lessor original policies evidencing any such insurance procured by it or a certificates or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy, the party obligated under the terms of this Company Lease Agreement to maintain such insurance shall furnish to the other party evidence that the policy has been renewed or replaced by another policy conforming to the provisions of Article V hereof and this Article VI, unless such insurance is no longer obtainable in which event such party shall notify the other party of this fact and the Lessee shall thereafter self-insure pursuant to the terms of this Article VI. Neither the Trustee nor any Applicable Series 2011 Local Unit shall have responsibility with respect to any determinations as to the sufficiency of any insurance required under this Company Lease Agreement nor as to the compliance by the Lessee with the provisions of the Bond Resolution regarding insurance.

**SECTION 608. Indemnification.**

The Lessee shall (a) indemnify and save harmless the Lessor and the Series 2011 Local Units and their agents, employees, officers and directors from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of any breach or non-performance by the Lessee of its obligations under this Company Lease Agreement, or negligence or misconduct by the Lessee in

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connection with such performance or non-performance, or the ownership, rental, possession, operation, condition, sale or return of the Projects, and (b) reimburse the Lessor or the Series 2011 Local Units for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Lessor or the Series 2011 Local Units, as applicable, has acted with gross negligence or willful misconduct in connection with the liabilities for which the Lessor or the Series 2011 Local Units, as applicable, is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 608 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefore by the Lessor or the Series 2011 Local Units, as applicable (which demand cannot be made prior to the Lessee's receipt thereof), and shall survive the termination or expiration of this Company Lease Agreement.

**SECTION 609. Title to Projects Upon Termination of Company Lease Agreement.**

(a) Upon the financing of the Renewable Energy Projects with a portion of the proceeds of the Bonds and the filing of the REP Acceptance Certificates, the Lessor shall be the holder of title to such Renewable Energy Projects for all state law purposes, subject to the lease of the Leased Property contemplated hereby. Upon the filing of the CIP Acceptance Certificates, if any, the parties herein acknowledge that the respective Series 2011 Local Units shall be the fee owners of the respective Capital Improvement Projects described in any such Certificates. The parties further acknowledge that the Lessor may assign the Reimbursement Collateral pursuant to the terms of the County Security Agreement, if any, and/or the County Guaranty Agreement. So long as no Event of Default shall have occurred and be continuing hereunder, the Lessor shall not sell, assign or alienate all or any part of the Renewable Energy Projects (but such provision shall not apply to the Capital Improvement Projects, the Lessor having no interest therein) or any interest therein to any other Renewable Energy Program Interested Party or other third-party (other than to the Lessee pursuant to Article VII hereof), it being the purpose and intent hereof that the Lessee shall have the option to purchase all of the Lessor's right, title and interest in and to the Renewable Energy Projects during or upon the termination of this Company Lease Agreement, with credit toward the Basic Lease Payments for any such purchase price paid, all in accordance with Article VII hereof.

(b) Upon the termination of this Company Lease Agreement in accordance with Section 402(a)(ii) or (iv) hereof, (i) all of the Lessor's right, title and interest in and to the Renewable Energy Projects (and not the Capital Improvement Projects, the Lessor having no interest therein) shall be deemed sold, for purposes of State law, by the Lessor to the Lessee for the consideration of all previous Basic Lease Payments, and to the extent the Lessor was deemed to have a fee interest therein or to have retained title thereto for purposes of State law, such interest shall be deemed extinguished under State Law and such title thereto shall be deemed

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conditions, all in accordance with the provisions of Section 5.2(d) of the Local Unit License Agreement for any such Applicable Series 2011 Local Unit.

(c) Upon the termination of this Company Lease Agreement due to a Lessee Event of Default in accordance with Section 402(a)(v) hereof, (i) Lessor shall possess full right, title and interest in and to the Renewable Energy Projects for all of the Series 2011 Local Units (but not the Capital Improvement Projects, if any, which title shall remain with the respective Series 2011 Local Units), (ii) Lessee shall have no further leasehold or other right, title and interest in and to such Renewable Energy Projects (nor any such Capital Improvement Projects), (iii) except for the rights of the Series 2011 Local Units to effect a nominal value purchase of their respective Renewable Energy Projects in accordance with subsection (f) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessee and its officers shall take all actions necessary to authorize, execute and deliver to the Lessor any and all documents necessary to vest in the Lessor all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessee or the Lessor to be prepared and filed with the Lessee and the Lessor, and, upon the request of the Lessee or the Lessor, shall execute and deliver to the Lessee and the Lessor all such instruments as may be desirable to evidence such discharge and satisfaction.

(f) Upon the termination of this Company Lease Agreement as contemplated in Section 609(c) above, the parties acknowledge that the right, title and interest in and to the Renewable Energy Project developed for any one or more Series 2011 Local Units may be sold by the Lessor to any such Applicable Series 2011 Local Unit for nominal consideration in accordance with the provisions of Section 5.2(a)(iv) of the Local Unit License Agreement for such Applicable Series 2011 Local Unit.

(g) Notwithstanding any other provision of this Section 609, in no event shall there be any transfer of any Renewable Energy Project or any interest therein to any person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event. The expression "Tax Benefit Recapture Event" means an event which would entitle the United States Department of the Treasury or the Internal Revenue Service to require that the Lessee return all or part of the Section 1603 Grant in lieu of tax credit received in connection with the Renewable Energy Projects, or to disallow the Lessee's tax deductions or recapture all or a portion of the investment tax credits previously claimed with respect to investments in energy property for depreciation.

**SECTION 610. No Further Encumbrances; Exceptions.**

(a) The Lessee shall not, directly or indirectly, create, incur, assume or suffer

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automatically and without further action conveyed by Lessor to Lessee, (ii) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (f) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(e) Upon the termination of this Company Lease Agreement due to an optional or mandatory pre-purchase of the Renewable Energy Projects in accordance with Section 402(a)(i) and Sections 701 or 702, as applicable, hereof, (i) the rights of the Lessor and the Lessee in the title to the Renewable Energy Projects (but not the Capital Improvement Projects, which title shall remain with the respective Series 2011 Local Units) shall be as set forth in Section 703 hereof, (ii) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(d) Upon the termination of the Power Purchase Agreement, the parties acknowledge that (i) the Company and each Series 2011 Local Unit shall have thirty (30) days from any such termination to negotiate a fair market value purchase price for the Renewable Energy Project developed for any such Applicable Series 2011 Local Unit and (ii) to the extent the Company and any such Applicable Series 2011 Local Unit can agree to any such fair market value purchase price for such Renewable Energy Project, the parties acknowledge that the right, title and interest in and to such Renewable Energy Project may be sold by the Lessee to any such Applicable Series 2011 Local Unit for such fair market value price, and any other terms and

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to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Projects, other than the respective rights of the Lessor and the Lessee as herein provided and the Permitted Encumbrances or in any other Program Document. Except as expressly provided in this Article VI, the Lessee shall promptly, at its own expense, take such action as may be necessary to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Lessee shall reimburse the Lessor and/or the Applicable Series 2011 Local Units, as applicable, for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

(b) The Lessee may, at its own expense and in its name, contest in good faith any taxes, assessments or utility and other charges and, in the event of any such contest, permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such taxes, assessments or charges or that the Lessee shall be materially affected or the Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss that may result from nonpayment, in form satisfactory to the Lessor.

**SECTION 611. Trustee Indemnification.**

The Lessee shall (a) indemnify and save harmless the Trustee and its agents, employees, officers and directors from and against any and all liabilities, including, without limitation, all claims, demands, damages, losses, costs, penalties, charges and expenses (including, but not limited to, reasonable attorneys' fees) in any way relating to or arising from (i) the development, ownership, possession, operation, condition, sale, rental, sub-lease or return of the Projects, (ii) the Program Documents, and (iii) any resignation by the Trustee in accordance with Section 10.07(2) of the Bond Resolution; and (b) reimburse the Trustee for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Trustee may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Trustee has acted with negligence or willful misconduct in connection with the liabilities for which the Trustee is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 611 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefor by the Trustee, and shall survive the termination or expiration of this Company Lease Agreement.

**SECTION 612. Advances.**

If the Lessee shall fail to perform any of its obligations under this Company Lease Agreement, the Lessor or the Applicable Series 2011 Local Units may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and the Lessee shall be obligated to repay all such advances on demand to the Lessor or

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the Applicable Series 2011 Local Units, as the case may be, as Additional Lease Payments with interest at the Overdue Rate from the date of the advance to the date of repayment.

**SECTION 613. Net Proceeds of Insurance; Form of Policies.**

(a) Each policy of insurance obtained pursuant to or required by this Article VI shall provide that all Net Proceeds thereunder shall be payable (i) with respect to the Renewable Energy Projects, to the Lessor for deposit with the Trustee in the Project Fund, the Revenue Fund or such other Fund or Account under the Bond Resolution, in any event as directed by the Lessee, but only so long as the Lessee has not caused an Event of Default hereunder, in which latter case such Net Proceeds shall be payable to the Lessor, (ii) with respect to the Capital Improvement Projects, to the Applicable Series 2011 Local Unit, or at their direction, to the Trustee for deposit in the Project Fund, or other Fund or Account under the Bond Resolution, or (iii) if not discernable as to Project or otherwise, payable to the Lessor or at the Lessor's direction, to the Trustee for deposit in the Project Fund, the Revenue Fund, or other Fund or Account under the Bond Resolution.

(b) The Lessee shall pay or cause to be paid when due the premiums for all insurance policies required by this Company Lease Agreement, and shall promptly furnish or cause to be furnished to the Lessor and the Series 2011 Local Units evidence of such payments. All such policies shall provide that the Applicable Series 2011 Local Units and the Lessor shall be given not less than thirty (30) days' notice of each expiration, any intended cancellation and any intended reduction of the coverage provided thereby.

(c) Neither the Applicable Series 2011 Local Units nor the Authority shall be responsible for the sufficiency of any insurance herein required, and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Applicable Series 2011 Local Units or the Authority, as the case may be.

(d) The Lessee shall cause to be delivered to the Applicable Series 2011 Local Units and the Lessor on each anniversary of the date of issuance of the Series 2011 Bonds a Certificate of an Authorized Officer of the Lessee, satisfactory to the Applicable Series 2011 Local Units and the Lessor, that the insurance policies required by this Company Lease Agreement are in full force and effect.

**SECTION 614. Self-Insurance.**

Self-insurance, in lieu of policy coverage, maintained by the Lessee pursuant to this Article VI shall only be deemed to comply with this Article VI to the extent all of the following are satisfied:

(a) The self-insurance program shall be acceptable to the Lessor, the Applicable Series 2011 Local Units and the Lessee, as evidenced by Certificates of Authorized

Officers to such effect;

(b) The self-insurance program shall be approved by an Independent Insurance Consultant;

(c) The self-insurance program shall include an actuarially sound claims reserve fund out of which each self-insured claim shall be paid; the adequacy of each such fund shall be evaluated on an annual basis by an Independent Insurance Consultant; and any deficiencies in any self-insurance claims reserve fund shall be remedied in accordance with the recommendation of an Independent Insurance Consultant;

(d) The self-insurance claims fund shall be held in a separate trust fund by an independent trustee, which independent trustee may also be the Trustee serving as such under the Bond Resolution;

(e) The self-insurance program shall comply in every particular with all applicable laws; and

(f) In the event the self-insurance program shall be discontinued, the actuarial soundness of its claims reserve fund, as determined by an Independent Insurance Consultant, shall be maintained.

**ARTICLE VII**

**OPTION TO PURCHASE; PREPAYMENT OF LEASE PAYMENTS**

**SECTION 701. Lessee's Prepayment and Purchase Option; Purchase Option Price.**

(a) The Lessee is hereby granted the option to prepay its Basic Lease Payments in part, in accordance with Section 5.07 of the Bond Resolution. Any partial prepayment shall not affect the Lessor's right, title and interest in and to the Renewable Energy Projects, nor the Series 2011 Local Units' right, title and interest in and to the Capital Improvement Projects. At the Lessee's option, as directed in a Certificate of an Authorized Officer of the Company delivered by the Company to the Trustee, the Lessor, and the County accompanying any such partial prepayment, any such partial prepayment shall be either (i) credited to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied or (ii) applied to defease Outstanding Bonds in the manner contemplated by Article XII of the Bond Resolution, and in the amounts and on the dates as set forth in any such partial prepayment Certificate of the Company, which in the case of such defeasance option selected by the Company, such Certificate of the Company shall be acknowledged by an Authorized Officer of the Authority to the effect that such dates and amounts conform to the requirements of the Bond Resolution. Upon any such partial prepayment, new schedules reflecting the revised Basic Lease Payments due from the Lessee, taking into account any such partial prepayment, shall be attached by the Lessor hereto.

The Lessee may not utilize funds in the County Security Fund or Restoration Security Fund, if any, toward any such partial prepayment; provided, however, that such limitation does not extend to monies previously released from the County Security Fund and transferred to the Aged Account in the Revenue Fund in accordance with Section 5.07(3)(a) of the Bond Resolution at the time of any such partial prepayment; provided, further however, that such limitation does not extend to such amounts that would be eligible for release pursuant to the calculations referred to in Section 5.07(3)(a) of the Bond Resolution immediately after any such partial prepayment (to the extent the Series 2011 Bonds will not be redeemed simultaneously with the prepayment, the Series 2011 Bonds that will be defeased upon the prepayment shall not be considered Outstanding for purposes of such calculations, and therefore can be released and applied to any such prepayment if the calculations so warrant release), to the extent the Lessor has verified such calculations in writing to the Lessee and the Trustee. In any such instance where this limitation does not so extend, the Lessee may direct the Trustee in writing, with a copy to the Lessor, to apply any such amounts in the County Security Fund, if any, to any such partial prepayment, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(b) The Lessee is further hereby granted the option to prepay and purchase all

of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, if any) in whole, at the times set forth in Section 701(c) hereof, by paying to the Trustee the "Purchase Option Price", which for any date of calculation shall be the sum of (i) the aggregate amount of unpaid principal of the Bonds to their maturity date under the terms of the Bond Resolution and as set forth in the Lessee's notice to the Trustee of such prepayment, (ii) any interest accrued on the Bonds from the last interest Payment Date thereof on which interest thereon was paid to the final maturity date set forth in clause (i) above, (iii) the redemption premium, if any, applicable to the payment of the Bonds on the maturity date set forth in clause (i) above, and (iv) any costs of redemption or defeasance or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

The Lessee may direct the Trustee in writing, with a copy to the Lessor, that all or a portion of the Purchase Option Price (where all of the Outstanding Bonds shall be paid) shall be funded from the County Security Fund, if any, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(c) The prepayment options set forth in subsections (a) and (b) above may be exercised by the Lessee at any time by (i) giving written notice to the Trustee and the Lessor of the exercise of such option at least fifty-two (52) days prior to the final maturity date set forth in such notice, and (ii) if the prepayment shall occur before January 15, 2021, complying with any other requirements of Article XII of the Bond Resolution that may be required by the Trustee or the Lessor to defease the Bonds in accordance with the terms of the Bond Resolution, including, without limitation, a verification report from a nationally recognized accounting firm approved by the Trustee and the Lessor to the effect that the amount so prepaid shall equal the Purchase Option Price (for a full prepayment) and shall therefore be sufficient to defease the Bonds (in whole or in part, as the case may be) by paying all of the principal thereof and redemption premium, if any, thereon through and including the final maturity thereof, plus all interest accruing thereon to such final maturity date. Such option shall be exercised by depositing with said notice cash and/or investment securities in such amount as shall be sufficient, together with interest to accrue thereon, to pay the Bonds to be defeased on said redemption date.

(d) Notwithstanding any provision herein or in any Program Document to the contrary, the Lessee may not advance refund, currently refund or otherwise refund any Series of Bonds with bonds, notes or other obligations of the Lessee, or such other moneys available to the Lessee, and use such moneys to make any prepayments hereunder unless (i) provision has been made by the Lessee for the payment of all (A) principal of, redemption premium if any, and interest on the Series of Bonds being refunded to any redemption date and (B) Administrative Expenses of the Lessor relating thereto, and (ii) if applicable, prior written notification of any such refunding has been given to the Lessor. Notwithstanding the foregoing, the Lessor may, in its sole discretion at the times and under the circumstances and for the purposes set forth in the Bond Resolution, advance refund, currently refund, or otherwise refund any Series of Bonds, the allocation of the benefit from which shall be determined between the Lessor and the Lessee at the time of any such defeasance and/or refunding.

**SECTION 702. Mandatory Prepayment and Purchase of Project; Mandatory Purchase Price.**

(a) Upon the acceleration of the Bonds, the Lessee shall forthwith prepay and purchase all of the Renewable Energy Projects (but not the Capital Improvement Projects, if any) by paying to the Trustee, immediately upon receipt of notice of such acceleration, the "Mandatory Purchase Price", which for any date of calculation shall be the sum of (i) the aggregate amount of the unpaid principal of the Bonds, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the date that the amount in clause (i) above has been paid in full, and (iii) any costs of acceleration or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

(b) In the event the Mandatory Purchase Price remains unpaid when due, the Lessee shall make an Additional Lease Payment immediately due and payable equal to, for any date of such deficiency, the amount of such deficiency times the per diem Overdue Rate.

**SECTION 703. Effect of Prepayment.**

(a) In the event of a deposit sufficient to purchase the Renewable Energy Projects (but not the Capital Improvement Projects, if any) pursuant to Section 701 or 702 hereof and to pay any and all amounts due hereunder, (i) all of the Lessor's right, title and interest in and to such Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest) shall be deemed sold to the Lessee for the consideration set forth in such Sections, (ii) except for the rights of the Series 2011 Local Units to effect a Fair Market Value purchase of their respective Renewable Energy Projects in accordance with Section 609(f) hereof, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereon under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest), free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(b) Notwithstanding anything to the contrary herein or in any Program Document, including without limitation subsection (a) above, to the extent the Lessee has satisfied all of the conditions of subsection (a) above in order to terminate this Company Lease Agreement, including the payment of all amounts due and owing hereunder and under the other Company

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**ARTICLE VIII**

**DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS**

**SECTION 801. Damage, Destruction and Condemnation.**

(a) If either (i) the Projects or any portion thereof are destroyed or damaged by fire or other casualty or (ii) title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by any governmental body, other than Sussex County, a division of Sussex County Government, any Series 2011 Local Unit, or by any person, firm or corporation acting under governmental authority, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessor to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to purchase the Project in whole by paying the then applicable Purchase Option Price in accordance with Section 701 hereof and causing the Lessor to deposit, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so deposit, such Net Proceeds with the Trustee in the Revenue Fund, the Debt Service Fund, or such other Fund or Account that would allow the application of the Net Proceeds toward the Purchase Option Price. Subsections (y) and (z) above are mutually exclusive.

(b) If title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by Sussex County, a division of Sussex County Government, or any Series 2011 Local Unit, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project

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Documents, and at the date all of such conditions are satisfied, (i) the Lessee is not in any continuing default or Event of Default hereunder or under any Company Document, (ii) the term of one (1) or more Local Unit License Agreements with one (1) or more Series 2011 Local Units has not expired, (iii) the Lessee delivers to the Lessor and such Series 2011 Local Unit a Certificate of an Authorized Officer of the Lessee expressing the Lessee's interest in continuing the term of this Company Lease Agreement to a specified date which date shall be no later than the termination date of any such Local Unit License Agreements, then without any further action (a) the Company Lease Agreement shall not terminate, but rather shall continue for a term no longer than the termination date of the Applicable Local Unit License Agreement, all as set forth in any such Certificate, (b) the Lessee's only remaining payment obligations under the Company Lease Agreement are to pay rent for the Leased Property in an amount that shall be the sum of (i) the Authority's annual Administrative Fee, (ii) any Administrative Expense that Lessee causes the Authority, the County or any such Series 2011 Local Unit to incur, both as Additional Lease Payments hereunder, there being no continuing obligation to make Basic Lease Payments to the Series 2011 Bonds and any Additional Bonds that are Outstanding are either deferred or redeemed under the Bond Resolution, and (iii) ten (10) dollars per annum, payable annually in advance, (c) the Lessee can only cause an Event of Default hereunder should the Lessee fail to pay such amount, fail to operate and maintain the Applicable Renewable Energy Project, or fail to allow the Applicable Series 2011 Local Unit to discharge its obligations under its Local Unit License Agreement, such as to take and pay for the Electricity generated under the Renewable Energy Program by the Lessee for the benefit of any such Series 2011 Local Unit, and (d) the Company retains all other rights, duties and obligations under the Program Documents, until the termination of the Applicable Local Unit License Agreement with respect to the particular Project, including without limitation the right to receive the PPA Price, as escalated, for the duration of any such term. The Lessee may continue this arrangement with the Authority and more than one (1) Series 2011 Local Unit, to the extent all such conditions are satisfied with respect to any other Series 2011 Local Unit and their respective Renewable Energy Projects, until the termination of this Company Lease Agreement, without interruption, in accordance with the terms of Section 402(a)(iii) hereof, in which case title to the Applicable Renewable Energy Project(s) shall transfer in accordance with the provisions of Section 609(b) hereof.

**SECTION 784. Substitution of Project.**

The Lessee is hereby granted the full power of substitution with respect to any Project so long as the Lessor and the Trustee receive the prior written consent of the Applicable Series 2011 Local Unit and the Authority, along with revised Exhibits to the Applicable Program Documents.

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Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to have no further obligation with respect to the affected Project(s). Subsections (y) and (z) above are mutually exclusive.

(c) In the event of any damage, destruction, condemnation, taking or other event that constitutes a revocation or deemed revocation under Section 3.7 of any Local Unit License Agreement with respect to a Project requiring payment of the amount set forth in Section 3.7(a)(iv) of such Local Unit License Agreement, upon receipt of such amount, this Company Lease Agreement and the obligations of Lessee thereunder with respect to and solely with respect to such Project, shall terminate and title thereto shall vest in Lessee. Such event shall have no effect on the Lessee's obligations to continue to make all Lease Payments on time and in full.

**SECTION 802. Insufficiency of Net Proceeds.**

If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement relating to the Projects as so damaged or taken, the Lessee shall either:

(a) direct the application of the Net Proceeds in the manner as set forth in Sections 801(a)(y) or 801(b)(y) above, thereby requiring the Lessee to complete the work relating to the Projects as so set forth, except that the Lessee shall itself pay any Project Costs in excess of the amount of the Net Proceeds, and, if by reason of any such insufficiency of the Net Proceeds the Lessee shall make any payments pursuant to the provisions of this Section 802(a), the Lessee shall not be entitled to any reimbursement therefor from the Lessor, nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Projects;

(b) direct the application of the Net Proceeds in the manner as set forth in Section 801(a)(z) above, thereby requiring the Lessee to make an equity contribution to the extent the Net Proceeds are insufficient to cover the Purchase Option Price and thereupon exercise Lessee's option to purchase the Project in whole, in accordance with Article VII hereof, in which event the Net Proceeds shall be used toward this purpose; or

(c) direct the application of the Net Proceeds consistent with the determination contemplated in Section 801(b)(y) above, thereby causing the Net Proceeds to be applied to the payment of the Interest Portion and, to the extent available, the Principal Portion of the Basic Lease Payments due on the immediately succeeding Basic Lease Payment Dates until all of the Net Proceeds have been so applied, in which event the Lessee shall not be entitled to any reimbursement therefor from the Lessor nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Project. Subsections (a), (b) and (c) above are mutually exclusive.

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**SECTION 803. Cooperation of Lessor.**

The Lessor and the Applicable Series 2011 Local Unit shall cooperate fully with the Lessee, at the sole cost and expense of the Lessee, in filing any proof of loss with respect to any insurance policy covering the casualties described in Section 801 hereof and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Projects or any part thereof. In no event shall the Lessor or the Applicable Series 2011 Local Unit voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim or any prospective or pending condemnation proceeding with respect to the Projects or any part thereof, without the prior written consent of the Lessee.

**SECTION 804. Condemnation of Other Property Owned by Lessee.**

The Lessee shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for the destruction of, damage to or taking of its property not included in the Project.

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**SECTION 905. Reorganization.**

It is understood and agreed by the parties hereto that reorganization of the Lessee with the consent of the Lessor shall not constitute an assignment under this Article IX.

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**ARTICLE IX**

**ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING**

**SECTION 901. Assignment by Lessor.**

Except for this Company Lease Agreement and as otherwise provided below and in any other Program Document, including without limitation with respect to its payment obligations under the Power Purchase Agreement to the Series 2011 Local Units under the Local Unit License Agreements, or with respect to the assignment of the Reimbursement Collateral to the County and the County Security Provider, if any, under the County Guaranty Agreement and the County Security Agreement, if any and as applicable, the Lessor shall not assign its obligations under this Company Lease Agreement and no such purported assignment thereof shall be effective. All of the Lessor's right, title and interest in and to this Company Lease Agreement, the Lease Payments and the other amounts due to it hereunder and under the Project shall be assigned by the Lessor to the Trustee pursuant to the pledge of the Trust Estate under the Bond Resolution no later than the execution and delivery hereof.

**SECTION 902. Lease Payments to Trustee.**

The Lessor and the Lessee hereby agree that from and after the adoption of the Bond Resolution and the execution of this Company Lease Agreement, so long as the same shall remain in effect, payment by the Lessee to the Trustee or, if applicable, to the successor thereof of any moneys or sums due hereunder from the Lessee to the Lessor shall satisfy the obligation of the Lessee to pay such money or sums.

**SECTION 903. Assignment and Subleasing by Lessee.**

This Company Lease Agreement may not be assigned or subleased by the Lessee without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Lessee entered into this Company Lease Agreement as the successful respondent pursuant to the Company RFP and all applicable law, and the Lessor and the Series 2011 Local Units have selected the Lessee, and not any assignee, to receive the rights, and perform the duties and obligations hereunder. Any such purported assignment or sublease shall be deemed null and void without such prior written consent.

**SECTION 904. Restriction on Mortgage or Sale of Project by Lessee.**

The Lessee shall not mortgage, sell, assign, transfer or convey the Projects or any portion thereof during the Term of this Company Lease Agreement without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Program Documents contemplate such Projects being available, directly in the case of the Capital Improvement Projects, or indirectly in the case of the Renewable Energy Projects as a source of power, for the benefit of the Series 2011 Local Units.

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**ARTICLE X**

**EVENTS OF DEFAULT; REMEDIES**

**SECTION 1001. Events of Default.**

(a) An Event of Default hereunder means the occurrence of any one or more of the following events:

(i) The Lessee fails to (A) make any Basic Lease Payment as it becomes due or (B) make any Additional Lease Payment as it becomes due or maintain any insurance requirement set forth hereunder, and in the case of (B) only, such failure is not cured within thirty (30) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, if the Basic Lease Payment is paid with funds from the County Reserve, such payment will not constitute an Event of Default.

(ii) The Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder or under any Company Document, and such failure is not cured within ninety (90) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, that if such failure cannot be cured within said ninety (90) day period, the Lessee shall not be in default if it has commenced to cure within such ninety (90) day period, it continuously proceeds with the cure, and if such action to cure the default is acceptable to the Lessor and the Lessor indicates the same in writing.

(iii) The discovery by the Lessor or the Trustee that any material statement, representation or warranty made by the Lessee in this Company Lease Agreement, or in any writing delivered by the Lessee pursuant hereto or in connection herewith, is false, misleading or erroneous in any material respect.

(iv) The Lessee becomes insolvent or admits in writing its inability to pay its debts as they mature or applies for, consents to or acquiesces in the appointment of a trustee, receiver or custodian for the Lessee or a substantial part of its property; or in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed for the Lessee or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, moratorium or other proceeding under bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or, if permitted by law, against the Lessee and, if instituted against the Lessee, is consented to or acquiesced in by the Lessee or is not dismissed within sixty (60) days.

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(v) The entering of an order or decree appointing a receiver for the Leased Property or for any part thereof or for the revenues thereof with or without the consent or acquiescence of the Lessee, and such order or decree shall not be vacated, discharged or stayed within ninety (90) days after the date of such entry.

(b) Upon the occurrence of an Event of Default under this Section 1001, the Trustee shall transmit a written notice, including electronic mail, of such Event of Default to the Lessor, the Lessee and the Series 2011 Local Units within thirty (30) days of the Trustee's knowledge thereof.

(c) Upon the occurrence of an Event of Default under this Section 1001, all obligations of the Lessee under this Company Lease Agreement shall remain in full force and effect.

#### SECTION 1002. Remedies.

(a) Upon the occurrence and continuation of any Event of Default as described in Section 1001 hereof, at the option of the Lessor, the Mandatory Purchase Price with respect to the Project shall become immediately due and payable by the Lessee upon the Lessor's declaration. So long as the Lessor is not in default hereunder, the Lessor shall have the right to direct all remedial proceedings under this Company Lease Agreement, including the consent to remedies taken upon an Event of Default. Subject to the preceding sentence, the Lessor shall have the right, without any further demand or notice, to take one or any combination of the remedial steps below:

(i) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and exclude the Lessee from using it; provided, however, that if this Company Lease Agreement has not been terminated, the Lessor shall return possession of same to the Lessee when the Event of Default has been cured; and provided, further, that the Lessee shall continue to be responsible for the Lease Payments due hereunder during the remainder of the Lease Term.

(ii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and sell, lease or sublease its interest therein or any part thereof.

(iii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and apply any portion of same, or of the proceeds of same (in accordance with clause (ii) above) in accordance with the

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provisions of Section 5.07(1)(b) of the Bond Resolution

(iv) With or without terminating this Company Lease Agreement, declare all Lease Payments due or to become due hereunder to be immediately due and payable by the Lessee, whereupon such Lease Payments shall be immediately due and payable.

(v) Take whatever action at law or in equity may appear necessary or desirable to collect the Lease Payments then due and thereafter to become due hereunder with respect to the Project or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Company Lease Agreement.

(b) Notwithstanding any other provisions of this Section 1002, in no event shall there be any transfer of any Renewable Energy Project or any interest therein to any person (such as a governmental entity) if such transfer would result in a Tax Benefit Receipture Event as described in Section 609.

#### SECTION 1003. Reinstatement.

Notwithstanding any termination of this Company Lease Agreement that shall be made in accordance with the provisions of Section 1002 hereof, unless the Lessor shall have entered into a firm bilateral agreement providing for the reletting of the Project for a period of at least one year, if, after the maturity of the Outstanding Bonds shall have been accelerated by the Trustee (upon the occurrence of an Event of Default) under the terms of the Bond Resolution, (a) all arrears of interest on such Outstanding Bonds and interest on overdue installments of principal, redemption premium, if any, and (to the extent permitted by law) interest on such Bonds at a rate per annum equal to the highest rate per annum borne by any of the Bonds shall have been paid, (b) the principal and redemption premium, if any, on all Outstanding Bonds that have become due and payable (other than by an acceleration) shall have been paid, (c) all other sums payable under the terms of the Bond Resolution, except the principal of and the interest on such Bonds that by such acceleration shall have become due and payable, and under the terms of the other Program Documents shall have been paid, (d) all other things shall have been performed in respect of which there was an Event of Default, (e) the reasonable fees and expenses of the Lessor, the Trustee, the Series 2011 Local Units, the County, the County Security Provider, and the Bondholders, including Administrative Expenses thereof (including reasonable attorneys' fees paid or incurred) shall have been paid, and (f) such acceleration under the terms of the Bond Resolution is rescinded, then the Lessee's Event of Default hereunder shall be waived without further action by the Trustee or the Lessor or any other Renewable Energy Program Interested Party. Upon such payment and waiver, this Company Lease Agreement shall be fully reinstated as if it had never been terminated, and the Lessee shall be restored to the use, occupancy and possession of the Renewable Energy Projects and the other Leased Property.

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#### SECTION 1004. Section of Remedies; No Waiver of Elected Remedies.

No failure on the part of either party to exercise, and no delay in exercising any right or remedy so provided for herein, shall operate as a waiver thereof, nor shall any single or partial exercise by either party of any right or remedy so provided hereunder preclude any other or further exercise of any other right or remedy provided hereunder.

#### SECTION 1005. No Additional Waiver Implied by One Waiver.

In the event any agreement contained in this Company Lease Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder, and shall not be construed to be an implied term hereof or a course of dealing between the parties hereto.

#### SECTION 1006. Agreement to Pay Attorneys' Fees and Expenses.

In the event either party to this Company Lease Agreement should default under any of the provisions hereof and the non-defaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement, performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall, on demand therefor, pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

#### SECTION 1007. Late Charges.

Whenever any payment of Lease Payments is not made when due, the Lessee promises to pay to the Lessor, in addition to the amount due, interest thereon at the Overdue Rate; provided, however, that this Section 1007 shall not be applicable if or to the extent the application thereof would affect the validity of this Company Lease Agreement.

#### SECTION 1008. Delay Notice.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof. Any such right or power may be exercised from time to time and as often as may be deemed expedient, and any one exercise thereof shall not be deemed an exclusive exercise. To entitle any party to exercise any remedy reserved to it in this Company Lease Agreement, it shall not be necessary to give any notice other than as may be specifically required in this Company Lease Agreement.

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### ARTICLE XI

#### ADMINISTRATIVE PROVISIONS

##### SECTION 1101. Notices.

Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Company Lease Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) If to Lessor: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
Email: jbonanni@co.morris.nj.us

With a copy to: Stephen B. Pearman, Esq.  
Ingleside, Pearman, Wymiskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearman@sandplaw.com

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- (b) If to the Lessee: Stacy L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email: principals@sunlightgeneral.com
- With a copy to: James F. Duffy, Esq.  
Nixon Peabody, LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com
- (c) If to the Trustee: U.S. Bank National Association  
23 South Street, 3rd Floor  
Morristown, NJ 07960
- With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: nconcilio@mdmc-law.com
- (d) If to the Series 2011 Local Units: See Exhibit A-4 attached hereto.
- (e) If to the Construction Manager: Jessica Vogel, CBSB  
Birdsall Services Group, Inc.  
1101 Laurel Oak Road, Suite 160  
Voorhees, NJ 08043  
Email: jvogel@birdsall.com
- With a copy to: Joseph Santilli  
Gabel Associates  
417 Denison Street  
Highland Park, NJ 08904  
Email: Joseph.santilli@gabelassociates.com

**SECTION 1102. Severability.**

In the event any provision of this Company Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

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**SECTION 1106. Lessor and Lessee Officers.**

Whenever under the provisions of this Company Lease Agreement the approval of the Lessor or the Lessee is required or the Lessor or the Lessee is required to take some action at the request of the other, such approval of such request shall be given for each party by its respective Authorized Officer, and any party hereto shall be authorized to rely upon any such approval or request.

**SECTION 1107. Captions.**

The captions or headings in this Company Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Company Lease Agreement.

**SECTION 1108. Company Lease Agreement is Original.**

For all purposes of filing, perfection or any other matter requiring identification or possession of the "original" copy of a lease, the executed original hereof identified as the "original" shall be the "original" to evidence this Company Lease Agreement.

**SECTION 1109. Binding; Counterparts.**

This Company Lease Agreement shall be binding upon the parties hereto only when duly executed on behalf of both the Lessor and the Lessee together; provided, however, that each set of counterparts taken together shall constitute an original.

**SECTION 1110. Inspections Permitted.**

The Lessee shall, whenever requested, advise the Lessor and the Applicable Series 2011 Local Units of the exact location and condition of the Projects. The Lessor and the Applicable Series 2011 Local Units may enter upon the premises of the Projects for the purpose of inspection at all reasonable times, and, upon reasonable notice, may enter upon the job, building or place where the Projects and the books and records of the Lessee with respect thereto are located.

**SECTION 1111. Time is of the Essence.**

Time is of the essence with respect to this Company Lease Agreement, and no covenant or obligation hereunder to be performed by the Lessee may be waived except by the written consent of the Lessor and the Lessee. Waiver of any such covenant or obligation or a forbearance to invoke any remedy on any occasion shall not constitute or be treated as a waiver of such covenant or obligation or any other covenant or obligation as in any other occasion and shall not preclude the Lessor from invoking such remedy at any later time prior to the Lessee's cure of the condition giving rise to such remedy. Each of the Lessor's rights hereunder is

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**SECTION 1103. Amendments, Changes and Modifications.**

(a) This Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to the recomputation of Basic Lease Payments or Additional Lease Payments related to the Purchase Option Price or Mandatory Purchase Price, or with respect to any other term of this Company Lease Agreement affecting the security of the Bond Resolution, by (i) written amendment authorized and delivered by each of the Lessor and the Lessee and (ii) by compliance with Article XI of the Bond Resolution regarding conditions required for amendment of the Bond Resolution, which may include the consent of the Trustee.

(b) Other than as provided in subsection (a) above, this Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to its Term or any of its other provisions by written amendment authorized and executed by the Lessor, the Lessee, and to the extent any of the rights, duties or obligations of any Series 2011 Local Units or other Renewable Energy Program Interested Parties under a Program Document are affected, with the written acknowledgment and consent of any one or more such Series 2011 Local Units and/or Renewable Energy Program Interested Parties, as applicable.

(c) To the extent Bonds are Outstanding at the time of any amendment, supplement or modification of this Company Lease Agreement, any such proposed amendment, supplement or modification, in substantially final form, shall be delivered by the Lessor at least fifteen (15) days in advance of its execution to the Trustee and each Rating Agency that at such time is rating any such Bonds, unless this provision is waived by any such Rating Agency and the Trustee; moreover, no such amendment, supplement or modification shall be entered into by the parties unless there shall be no adverse effect on the rating of such Bonds. Where there shall be no such adverse effect on the rating of such Bonds, a final copy of any such authorized, executed and delivered amendment, supplement or modification of this Company Lease Agreement shall be promptly delivered to each such Rating Agency and the Trustee.

**SECTION 1104. Further Assurances and Corrective Instruments.**

The Lessor and the Lessee agree that they shall, if necessary, execute, acknowledge and deliver such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Projects or the Leased Property, or any inadequate or incorrect description intended so to be, or for carrying out the expressed intention of this Company Lease Agreement.

**SECTION 1105. Applicable Law.**

This Company Lease Agreement shall be governed by and construed in accordance with the laws of the State.

100016343-5)

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cumulative to its other rights hereunder and not alternative thereto.

**SECTION 1112. No Personal Liability or Accountability.**

No covenant or agreement contained in this Company Lease Agreement shall be deemed to be the covenant or agreement of any present, past or future officer, agent or employee of the Lessor or the Lessee, in his or her individual capacity, and neither the officers, agents or employees of the Lessor or the Lessee nor any official executing this Company Lease Agreement shall be liable personally on this Company Lease Agreement or be subject to any personal liability or accountability by reason of any transaction or activity relating to this Company Lease Agreement.

**SECTION 1113. Gender.**

Use of the masculine, feminine or neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the other genders whenever and wherever appropriate.

**SECTION 1114. Receipt of Company Lease Agreement.**

The parties hereto each acknowledge receipt of a signed, true and exact copy of this Company Lease Agreement.

**SECTION 1115. Waiver of Sovereign Immunity.**

For the purposes of this Company Lease Agreement, the Lessor acknowledges and agrees that (a) its execution and delivery of this Company Lease Agreement and (b) its performance of the actions contemplated by this Company Lease Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Lessor in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this Company Lease Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Lessor and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**SECTION 1116. Approvals.**

In order to ensure that construction of the Renewable Energy Projects is not unduly delayed, in the event that any party to this Company Lease Agreement seeks the approval or consent of another party to this Company Lease Agreement, the party considering such request

100016345-5)

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STATE OF NEW YORK )  
                          ) SS:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
Notary Public

JAMES BROOKES MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02946233847  
Qualified in New York County  
My Commission Expires January 03, 2015

EXHIBIT A

1. DESCRIPTION OF PROJECTS

EXHIBIT A-1: See attached Description of Renewable Energy Project for each Series 2011 Local Unit, to be constructed in accordance with Exhibit C to the Company RFP, also attached. See also attachment of Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP

EXHIBIT A-2: See attached Description of Capital Improvement Project for each Series 2011 Local Unit

2. BASIC LEASE PAYMENT SCHEDULE

EXHIBIT A-3: See attached Basic Lease Payment Schedule

Exhibit A-3-Regular  
Exhibit A-3-Alternate

3. NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS

EXHIBIT A-4: Notice Information for Series 2011 Local Units

4. MAXIMUM PROJECT COSTS FINANCED BY THE SERIES 2011 BONDS

The maximum Project Costs financed by the Series 2011 Bonds is the Maximum Net Bond Funded Project Cost Amount of \$24,700,000.

(0091645-5)

A-1

(0091645-5)

EXHIBIT A-1

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fins. All parking canopy systems shall utilize a T-Bar, stogie, unilover construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP.

EXHIBIT A-1 (cont.)

[Attach Appendix C to the Company RFP]

Morris County Improvement Authority  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

Series 2011 Local Unit List of Local Unit Facilities

(0091645-5)

A-1-1

(0091645-5)

A-1-2

EXHIBIT A-1 (cont.)

(Attach Article VII to the Company RTP)

EXHIBIT A-2

Please see the Local Unit Facility Roof Warranty Chart at the end of this Exhibit A-2 for information concerning roof warranties and duration of existing roof warranties for each Local Unit Facility. The Capital Improvement Projects set forth below related to maintaining and extending existing roof warranties must be compatible with the information contained in the Chart.

Local Unit Facility Roof Warranty Chart

See Attached

(00014315-5)

A-1-3

(00014345-5)

A-2-1

EXHIBIT A-3-Regular  
BASIC LEASE PAYMENT SCHEDULE  
(paying 5 months prior to Series 2011 Bonds)

Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011A & B (Federally Taxable)  
\*Preliminary, subject to change\*

Basic Lease Payment Date**	Principal	Semi-Annual Interest	Semi-Annual Lease Payment	Annual Lease Payment
1/15/2012				
7/15/2012				
1/15/2013	1,850,000	505,394.59	2,355,394.59	
7/15/2013	-	485,425.45	485,425.45	2,841,820.04
1/15/2014	1,850,000	485,425.45	2,335,425.45	
7/15/2014	-	470,976.95	470,976.95	2,806,403.40
1/15/2015	1,850,000	470,976.95	2,320,976.95	
7/15/2015	-	451,218.95	451,218.95	2,772,195.90
1/15/2016	1,850,000	451,218.95	2,301,218.95	
7/15/2016	-	428,223.45	428,223.45	2,729,442.40
1/15/2017	1,850,000	428,223.45	2,278,223.45	
7/15/2017	-	401,305.95	401,305.95	2,679,529.40
1/15/2018	1,845,000	401,305.95	2,246,305.95	
7/15/2018	-	371,693.70	371,693.70	2,617,939.65
1/15/2019	1,845,000	371,693.70	2,216,693.70	
7/15/2019	-	340,439.40	340,439.40	2,557,133.10
1/15/2020	1,845,000	340,439.40	2,185,439.40	

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A-3-1

7/15/2020	-	307,340.10	307,340.10	2,492,779.50
1/15/2021	1,845,000	307,340.10	2,152,340.10	
7/15/2021	-	273,818.30	273,818.30	2,425,658.40
1/15/2022	1,845,000	273,818.30	2,118,518.30	
7/15/2022	-	227,765.25	227,765.25	2,346,083.55
1/15/2023	1,845,000	227,765.25	2,072,765.25	
7/15/2023	-	182,212.20	182,212.20	2,254,977.45
1/15/2024	1,845,000	182,212.20	2,027,212.20	
7/15/2024	-	136,659.15	136,659.15	2,163,871.35
1/15/2025	1,845,000	136,659.15	1,931,659.15	
7/15/2025	-	91,106.10	91,106.10	2,072,765.25
1/15/2026	1,845,000	91,106.10	1,936,106.10	
7/15/2026	-	45,553.05	45,553.05	1,981,669.15
1/15/2027	1,845,000	45,553.05	1,890,553.05	
7/15/2027	-	-	-	1,890,553.05
		<b>27,700,000</b>	<b>8,532,870.53</b>	<b>36,632,870.53</b>
				<b>36,632,870.59</b>

\* Basic Lease Payment Schedule derived from and will be equal to the debt service payments and amortization schedule for the Series 2011 A and B Bonds, once determined. The Series 2011 A Bonds are assumed to include annual principal payments on June 15, 2013 through and including June 15, 2027 and semiannual interest payments on June 15 and December 15 of each year, commencing on June 15, 2012 (the June 15, 2012 and December 15, 2012 interest payments will be paid by capitaland interest being funded through the Series 2011B Bonds). The Series 2011B Bonds are assumed to be issued on December 16, 2011 simultaneously with the bond financing and will include a single payment of principal and interest on January 15, 2012. The interest rates included in this schedule correspond to the principal payment dates of the Series 2011 Bonds which are 5-months after such Basic Lease Payment dates.

(00014345-5)

A-3-2

Note: There are no Basic Lease Payment Dates on January 15, 2012 and July 15, 2012, each five (5) months prior to the corresponding interest payment dates for the Series 2011A Bonds of June 15, 2012 and December 15, 2012, because the Series 2011A Bond interest due on such Series 2011A Bond interest payment dates has been provided for through the deposit of the Series 2011B Note proceeds in the Capitalized Interest Account of the Debt Service Fund. There is no Series 2011B Note interest due on such dates.

100016345-5)

A-3-3

100016345-5)

A-3-4

**EXHIBIT A-4**  
**NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS**

**Morris County Improvement Authority**  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011 B Note

**Series 2011 Local Unit Distribution List**

**EXHIBIT B**  
**FORMS OF ACCEPTANCE CERTIFICATES**

See Attached:

Form B-1, Form of REP Acceptance Certificate  
Form B-2, Form of CIP Acceptance Certificate

100016345-5)

A-4-1

100016345-5)

B-1

EXHIBIT B-1

FORM OF REP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as Lessor (the "Authority"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

- 1. As of \_\_\_\_\_, 20\_\_\_\_, the [A] Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.
2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof, or if such funds were insufficient, the Company has provided available funding as the Equity Contribution, to complete the design, permitting, acquisition, construction and installation thereof.
3. The [A] Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the [A] Renewable Energy Projects for all purposes of Section 510(d)(5)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.
4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the [A] Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the [A] Renewable Energy Projects.
5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 609(a)(5)] B-1-1

6. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC
By: Sunlight General Capital Management, LLC, its Manager
By: \_\_\_\_\_
Name: Sherry L. Hughes
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_
Name:
Title:

The terms of this REP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[LICENSOR]
By: CONSTRUCTION MANAGER

By: \_\_\_\_\_
Name:
Title:

510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the [A] Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, release any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

The form (only) of this REP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
By: BIRDSALL SERVICES GROUP, INC., AS CONSTRUCTION MANAGER

By: \_\_\_\_\_
Name:
Title:

EXHIBIT B-2

FORM OF CIP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the [A] Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof, or if such funds were insufficient, the Company has provided available funding as the Equity Contribution, to complete the design, permitting, acquisition, construction, renovation, and installation thereof.

3. By obtaining the Licensor's execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor's acceptance of (a) the [A] Capital Improvement Projects for all purposes of Section 510(d)(1)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which [A] Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor's acceptance of the [A] Capital Improvement Projects for all purposes of Section 510(d)(1)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. [Choose one, as applicable]

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for 06011245-5] B-2-1

The terms of this CIP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this CIP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

the [A] Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, release any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacy L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

06011245-5

B-2-2

EXHIBIT C

FORM OF DRAW PAPERS

Requisition No. \_\_\_\_\_

\_\_\_\_\_, 20\_\_

U.S. Bank National Association, as Trustee

Re: The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(e) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted September 28, 2011 and entitled "Resolution Authorizing the issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects")] [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects")] being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, DOES HEREBY CERTIFY and REQUISITION moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "Trustee") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for \_\_\_\_\_ services [insured in connection with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
for:  
services] [incurred in connection with the following Development Contract:  
] and

(b) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
for  
services] [incurred in connection with the following Development Contract:  
\_\_\_\_\_]

*(Please Note, include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted)*

2. (a) Such funds requested in accordance with Section 1(a) of this  
Requisition were incurred in connection with the [acquisition, construction, or installation of the  
[A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or  
installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company  
Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all  
with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

(b) Such funds requested in accordance with Section 1(b) of this  
Requisition were incurred in connection with the [acquisition, construction, or installation of the  
[A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or  
installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company  
Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all  
with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

3. Such payment obligation, for which funds have been requested in accordance with  
Section 1(a) [(b)] of this Requisition, (i) has been properly incurred in accordance with the  
Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against  
the Project Fund, (iv) has not been the basis of any previous withdrawal, (v) attached hereto is a  
bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has  
been paid by or on behalf of the Company, and (vi) the amount being requisitioned shall not  
exceed the Draw Paper Ratio. This Requisition, together with any such attachments  
contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw Date for all  
purposes of the Company Lease Agreement, the Board Resolution and the Local Unit License  
Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of  
[00110345-3] C-2

By: \_\_\_\_\_  
Name:  
Title:

counterparts, each of which may be executed by one or more of the respective parties, and all of  
which shall be regarded for all purposes as one original and shall constitute and be but one and  
the same.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC

By: Sunlight General Capital  
Management, LLC, Its Manager

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

The terms of this Requisition are hereby  
ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this \_\_\_\_ day of \_\_\_\_,  
20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_\_ day of \_\_\_\_, 20\_\_.

By: BIRDSALL SERVICES GROUP, INC., AS  
CONSTRUCTION MANAGER  
[00110345-3] C-3

EXHIBIT C-1

[Attach Initial Project Workforce Form AA201]

[Insert Form found at [http://www.state.nj.us/treasury/contract\\_compliance/bdfrm201.pdf](http://www.state.nj.us/treasury/contract_compliance/bdfrm201.pdf)]

EXHIBIT D

CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LESSEE FOR COMPANY DEVELOPMENT FEES AND EXPENSES INCURRED ON BEHALF OF THE LESSEE

The Morris County Improvement Authority
P.O. Box 900
Morristown, NJ 07963-0900
Attention: John Bonanni, Chairman
jbonanni@co.morris.nj.us

U.S. Bank National Association, as Trustee
Corporate Trust Services
21 South Street, 3rd Floor
Morristown, NJ 07960
Attention: Paul O'Brien
paul.obrien@usbank.com

Re: The Morris County Improvement Authority
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 509(d) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2)(b) of the Authority's bond resolution duly adopted September 23, 2011 and entitled "Resolution Authorizing the Issuance of County Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, HEREBY REQUESTS that the Authority direct the Trustee (which direction has occurred through Section 5.02(2)(b) of the Bond Resolution) to pay the following Company Development Fees and Expenses incurred by or on behalf of the Company from moneys on deposit in the Project Fund in the aggregate amount of \$800,000, which amount shall be payable to

[Name]
for [Name] services]

(00016345-5)

D-1

[the Company for reimbursement of Company Development Fees and Expenses previously paid by the Company to the Company for [Name] services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Company Development Fee and Expense as such term is defined in the Bond Resolution, including without limitation within the aggregate ceiling of \$ [Amount] for such defined term (unless the Authority agrees, below or otherwise in writing, to an increase above such ceiling), is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Company Development Fees and Expenses is due or has been paid by or on behalf of the Company.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: [Name]
Name: Stacey L. Hughes
Title: Authorized Signatory

ATTEST:

By: [Name]
Name:
Title:

(00016345-5)

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The form (only) of this Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this [Day] of [Month], 20 [Year].

By: [Name]
Name:
Title:

EXHIBIT E

[Attach form of Power Purchase Agreement and Company Continuing Disclosure Agreement]

(00014214-5)

D-3

(00014214-5)

E-1

**CORPORATION SERVICE COMPANY**

www.cscglobal.com

CSC- West Trenton  
P.O.Box 77132  
830 Bear Tavern Road, Suite 305  
West Trenton, NJ 08628-1020  
800-631-2155  
609-530-0877 (Fax)

**Matter#** 72-008

**Order#** 090986-3

**Project Id :**

**Order Date** 02/09/2012

**Additional Reference :** NOT PROVIDED

**Entity Name :** SUNLIGHT GENERAL SUSSEX SOLAR, LLC (Debtor)/ U.S. BANK  
NATIONAL ASSOCIATION (Secured Party)

**Jurisdiction :** NJ-DEPARTMENT OF TREASURY COMMERCIAL RECORDING

**Request for :** UCC Filing  
**File Type :** ORIGINAL

**Result :** Filed

**File Number :** 26141794  
**Filing Date :** 02/09/2012

Ordered by DAVID WAINGER at INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

Thank you for using CSC. For real-time 24 hour access to the status of any order placed with CSC, access our website at [www.cscglobal.com](http://www.cscglobal.com).

If you have any questions concerning this order or CSCGlobal, please feel free to contact us.

Michael Melocchi  
[mmelocch@cscinfo.com](mailto:mmelocch@cscinfo.com)

The responsibility for verification of the files and determination of the information therein lies with the filing officer; we accept no liability for errors or omissions.

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

RECEIVED  
 2011 DEC 4 10 30

26141794

A. NAME & PHONE OF CONTACT AT FILER [optional]

---

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Inglesino, Pearlman, Wyciskaja & Taylor, LLC  
 600 Parsippany Road  
 Suite 204  
 Parsippany, New Jersey 07054

Attn: Stephen B. Pearlman, Esq.

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

**1. DEBTOR'S EXACT FULL LEGAL NAME** - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME <b>SunLight General Sussex Solar, LLC</b>						
OR	1b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
1c. MAILING ADDRESS <b>15 Engle Street, Suite 104</b>			CITY <b>Englewood</b>	STATE <b>NJ</b>	POSTAL CODE <b>07631</b>	COUNTRY <b>USA</b>
1d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION <b>LLC</b>	1f. JURISDICTION OF ORGANIZATION <b>New Jersey</b>	1g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE		

**2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME** - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME						
OR	2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
2c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY
2d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE		

**3. SECURED PARTY'S NAME** (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME <b>U.S. Bank National Association</b>						
OR	3b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
3c. MAILING ADDRESS <b>21 South Street, 3rd Floor</b>			CITY <b>Morristown</b>	STATE <b>NJ</b>	POSTAL CODE <b>07960</b>	COUNTRY <b>USA</b>

4. This FINANCING STATEMENT covers the following collateral:

The Debtor has executed, in favor of the Secured Party, that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011, as more particularly set forth as "Exhibit A" attached hereto and made a part hereof, and notice is hereby given by the Debtor that the Debtor, pursuant to Section 309 of said Lease Purchase Agreement, has pledged all of its rights, title and interest in the "Section 1603 Grant" (as such term is defined in said Lease Purchase Agreement) and all proceeds and products of any and all of the foregoing.

5. ALTERNATIVE DESIGNATION (if applicable):	LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILOB	SELLER/BUYER	AG. LIEN	NON-UCC FILING
6. This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable).	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (ADDITIONAL FEE) (optional).		All Debtors		Debtor 1	Debtor 2
8. OPTIONAL FILER REFERENCE DATA						

To be filed in the Office of the Secretary of State of the State of New Jersey.

# Exhibit A

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**LEASE PURCHASE AGREEMENT**  
(Sussex County Renewable Energy Program, Series 2011)

By and Between

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Lessor**

and

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC, as Lessee**

Dated as of December 1, 2011

With respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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LEASE PURCHASE AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

THIS "LEASE PURCHASE AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "Company Lease Agreement"), dated as of December 1, 2011, is made by and among the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority" or "Lessor"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of the County of Morris (the "County of Morris"), State of New Jersey ("State") as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act") and other applicable law, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a limited liability company organized and existing under the laws of the State of Delaware, duly authorized to conduct business in the State (including any successors and assigns, the "Company" or "Lessee").

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 et seq., the "Act"), and other applicable law;

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Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects", and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kinnarney Regional School District, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,

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WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 et seq., the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birstall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesin, Pearlman, Wysocki & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants", if any, and together with the Authority Consultants, the "Consultants"); to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy

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Series 2011A (Federally Taxable)" dated their date of delivery (the "Series 2011A Bonds") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note, and together with the Series 2011A Bonds, "Series 2011 Bonds"), by the same sale method as the Series 2011A Bonds;

WHEREAS, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced

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from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units) under N.J.S.A. 18A:18A-42(a) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Utility Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "Company RFP") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "Company Proposal") submitted with respect to Sunlight General Sussex Solar, LLC (the "Company"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Sussex Local Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (k) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (i) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (ii) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (iii) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

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purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the Company under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-37);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and

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- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(c) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(i) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition, construction, renovation, and installation of such Projects on a requirement basis;

(ii) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units; and

(iii) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to

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executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

WHEREAS, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

WHEREAS, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MarTec LLC, of Charlotte, North Carolina and authorized to payment for services performed by the EPC Contractor in connection with the delay of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "EPC Contract") between the Company and the EPC Contractor with respect to such Renewable Energy Projects by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,850 (the "In-Kind Equity Contribution") until the earlier of (a) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (b) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease

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Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "Equity Contribution"), (ii) a cash reserve in the amount of \$1,500,000 (the "County Reserve") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty.

WHEREAS, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, reduces the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

WHEREAS, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

WHEREAS, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge

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Official Statement"); and (ii) the execution and delivery of a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

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Agreement"); and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c2-12") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement" and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements"); the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents" with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:SA-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i) the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary

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## ARTICLE I

### DEFINITIONS AND EXHIBITS

#### SECTION 101. Definitions.

(a) The terms set forth in this Section shall have the meanings ascribed to them for all purposes of this Company Lease Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires. Terms used in this Company Lease Agreement and not otherwise defined shall have the meaning assigned to them in the Bond Resolution.

(b) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereto:

Act  
Authority  
Board of Education Series 2011 Local Units  
Board of Freeholders  
Bond Purchase Agreement  
Bond Resolution  
Bonds  
BPU  
Capital Improvement Projects  
Cash Equity Contribution  
Company  
Company Continuing Disclosure Agreement  
Company Documents  
Company Lease Agreement  
Company Pledge Agreement  
Company Proposal  
Company RFP  
County  
County Continuing Disclosure Agreement  
County Guaranty  
County Guaranty Agreement  
County Reserve  
County Security  
County Security Agreement  
County Security Provider  
County Service Agreement  
County Series 2011 Local Units

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Dissemination Agent  
 Equity Contribution  
 EPC Contract  
 EPC Contractor  
 Initial Tranche  
 In-Kind Equity Contribution  
 Local Units  
 Local Unit Facilities\*  
 Local Unit License  
 Local Unit License Agreement  
 Local Unit License Agreements  
 Municipal Series 2011 Local Units  
 Official Statement  
 Power Purchase Agreement  
 Preliminary Official Statement  
 Preliminary Program Costs  
 Program Documents  
 Projects\*  
 Renewable Energy Program  
 Renewable Energy Projects\*  
 Rule 15c2-12  
 Sale Documents  
 Second Tranche  
 Section 1603 Grant  
 Series 2011 Bonds  
 Series 2011A Bonds  
 Series 2011B Note  
 Series 2011 Local Unit\*  
 Series 2011 Local Units  
 Shared Services Act  
 SRECs  
 State  
 Underwriter

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(c) The following defined terms shall, for all purposes of this Company Lease Agreement, have the meanings ascribed to such terms in the Bond Resolution:

Account  
 Additional Bonds  
 Administrative Expense Account  
 Administrative Fund

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"Acceptance Certificates" shall mean, individually or collectively, as the case may be, the CIP Acceptance Certificates and the REP Acceptance Certificates.

"Additional Lease Payment" shall mean any amount payable by the Company at the times and under the other terms of the Company Lease Agreement, other than Basic Lease Payments, including without limitation, (i) Administrative Expenses not otherwise provided from a portion of the proceeds of the Bonds, including the second and succeeding Bond Year Administrative Fee, (ii) interest on any past due Lease Payments payable at the Overdue Rate (but not any such past due Basic Lease Payment), (iii) to the extent Company funds are available, after payment of all reasonable Company expenses and prior to any member distributions, replenishment of any deficiency in the County Security Fund Requirement, (iv) the Purchase Option Price in accordance with Section 701 of the Company Lease Agreement, (v) the Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement, (vi) the Restoration Security Fund deposits up to the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution, and (vii) a one-time payment of \$1,500,000 payable no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 for deposit in the County Security Fund to satisfy the County Security Fund Requirement.

"Administrative Expenses" shall mean the fees and expenses which are incurred from time to time by or on behalf of the Authority, the County, the County Security Provider, or the Series 2011 Local Units, including the Administrative Fee, if any, in carrying out their respective rights and duties under the terms of the Program Documents, including, without limitation the Preliminary Program Costs, accounting, administrative, financial advisory, and legal expenses, the Consulting Energy Engineering Services, the fees and expenses of the Trustee, the Paying Agent, or any other fiduciaries or agents acting on behalf of the Authority, the County, or the Series 2011 Local Units, under or pursuant to the terms of the Program Documents, which amounts shall be due and payable by the Company as an Additional Lease Payment at the times set forth in the Program Documents, or, as applicable, upon presentation of an invoice for payment; provided, however, that to the extent an Administrative Expense is incurred solely due to the action or inaction of a Series 2011 Local Unit not caused by or otherwise resulting from any action, inaction or request of the Company, such Administrative Expense shall be paid by such Series 2011 Local Unit upon presentation of an invoice for payment. Other than the Series 2011 Bond proceeds deposited in the Administrative Fund in accordance with Section 2.03(7)(a) of the Bond Resolution and earmarked for certain costs and expenses, including certain Administrative Expenses, and other than the Authority's annual Administrative Fee and the Trustee's annual fee to be paid as an Additional Lease Payment by the Company, the Company and the Series 2011 Local Units shall only be responsible for the reasonable amount of Administrative Expenses caused by the action or inaction of the Company or the Series 2011 Local Unit, as applicable, to the extent any such Administrative Expenses arise in the course of the implementation of the Renewable Energy Projects and/or the performance by the Authority, County, and/or Series 2011 Local Unit of their rights, duties and obligations under the Program Documents.

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Aged Account  
 Bond  
 Capitalized Interest Account  
 Code  
 Company Development Fees and Expenses  
 Completion Conditions  
 Completion Project  
 Consulting Energy Engineer  
 Consulting Energy Engineering Services  
 Cost  
 Costs of Insurance Account  
 County Security Fund  
 County Security Fund Requirement  
 Debt Service Fund  
 Funds  
 General Fund  
 Gross Substitute Power Purchase Price  
 Interest Account  
 Investment Securities  
 Net Substitute Power Purchase Price  
 Outstanding  
 Paying Agent  
 Principal Account  
 Principal Office  
 Project Fund  
 Rating Agency  
 Renewable Energy Program Interested Party  
 Restoration Security Fund  
 Restoration Security Fund Requirement  
 Revenue Account  
 Revenue Fund  
 Revenues  
 Series  
 Series 2011B Bonds  
 Sinking Fund Installments  
 Supplemental Resolution  
 Tax Certificate  
 Tax-exempt Bonds  
 Trustee  
 Trust Estate

(d) The following defined terms shall, for all purposes of this Company Lease Agreement, have the following meanings:

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"Administrative Fee" shall mean the sum of the following, payable by the Company to the Authority at the times and the amounts as set forth below:

(i) With respect to the Series 2011 Bonds for the first Bond Year upon initial issuance thereof, the Authority's fee for the Renewable Energy Program in the amount of \$120,000, consisting of the sum of (a) \$100,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Costs of Insurance Account of the Administrative Fund pursuant to Section 2.03(7)(a)(i) of the Bond Resolution and (b) \$20,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Administrative Expense Account of the Administrative Fund pursuant to Section 2.03(7)(a)(ii)(A) of the Bond Resolution; plus

(ii) For all Bond Years with respect to the Series 2011 Bonds thereafter (commencing June 15, 2013), a sum of money payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund payable on the Basic Lease Payment Date immediately preceding the first day of any such Bond Year, equal to \$20,000, which amount may be referred to as the Authority's annual Administrative Fee; plus

(iii) For all Bond Years with respect to the Series 2011 Bonds commencing December 15, 2017 and thereafter, a sum or sums of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(c) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(iv) For all Bond Years with respect to the Series 2011 Bonds, a sum of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(b) and/or Section 6.3(d) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(v) With respect to any Series of Bonds, interest on any past due Basic Lease Payments payable at the Overdue Rate in accordance with the Company Lease Agreement (but not any such past due Basic Lease Payment); plus

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(vi) For all Bond Years with respect to any Series of Additional Bonds, such amounts as may be set forth in a Supplemental Resolution, including without limitation, for any Series of Additional Bonds that refund the Series 2011 Bonds or any other Series of Outstanding Bonds, (a) a financing fee payable upon the issuance of any such Series of Additional Bonds (from the proceeds thereof, from the Company, or otherwise) in the amount of two percent (2%) of the aggregate principal amount of any such Series of Additional Bonds, or such different amount as shall be agreed to by the Company and the Authority, plus (b) all reasonable Administrative Expenses of the Authority and any other Renewable Energy Program Interested Party involved in any such refunding payable upon the issuance of any such Series of Additional Bonds, plus (c) an annual financing fee of one percent (1%) of the aggregate principal amount of any such Series of Additional Bonds Outstanding and payable by the Company as of the first day of each Bond Year until final maturity (stated or otherwise) thereof, plus (d) the amounts, if any, payable to the Authority pursuant to Section 6.2(d) of the Power Purchase Agreement, except as any such amounts may be modified in any such Supplemental Resolution authorizing the issuance of any such Series of Additional Bonds.

"Applicable" shall mean (i) with reference to any Series 2011 Local Unit, the Series 2011 Local Unit intended to be benefited or obligated thereby, (ii) with reference to any Renewable Energy Project, the Renewable Energy Project for the intended Series 2011 Local Unit, (iii) with reference to any Local Unit Facilities, the Local Unit Facilities for the intended Series 2011 Local Unit, and (iv) with reference to any Local Unit License Agreement, the Local Unit License Agreement executed for the benefit of the intended Series 2011 Local Unit.

"Applicable Law" means all applicable provisions of any constitution, statute, law, ordinance, code, rule, regulation, decision, order, decree, judgment, release, license, permit, stipulation or other official pronouncement enacted, promulgated or issued by any Governmental Authority.

"Architect" shall mean individually or collectively, as the case may be, the individual or entity appointed or caused to be appointed or employed by the Applicable Series 2011 Local Unit, the Lessor, or the Lessee, as applicable, with respect to the provision of architectural services relating to the Renewable Energy Projects or the Capital Improvement Projects on, in, affixed or adjacent to, or otherwise for the benefit of the Local Unit Facilities for such Applicable Series 2011 Local Unit, all in accordance with applicable law, which may include the Local Public Contracts Law or the Public Schools Contracts Law, including any rules and regulations relating thereto and to which such Applicable Series 2011 Local Unit, the Lessor, or the Lessee is subject, including without limitation any architect of record with respect to such Projects and/or Local Unit Facilities. The Architect may be a Contractor providing services pursuant to a Development Contract.

"Authorized Officer" or "Authorized Representative" shall mean, (i) with respect to the Authority: the Chairman, the Vice Chairman, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who

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investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(1)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(2)(r) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701 of the Company Lease Agreement with respect to prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Basic Lease Payment Date" shall mean any date set forth in Exhibit A-3 to the Company Lease Agreement and designated as a Basic Lease Payment Date, which for the Interest Portion (January 15 and July 15, commencing January 15, 2013) and Principal Portion (January 15, commencing January 15, 2013) of any Basic Lease Payment, shall be a day five (5) months prior to any (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) regularly scheduled Interest Payment Date and any regularly scheduled Principal Payment Date, respectively, or if either of such days is not a Business Day, the first Business Day prior to such date.

"Bond Counsel" shall mean Inglecino, Peadar, Wyciskala & Taylor, LLC, or any other attorney at law, or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exclusion of interest on bonds or other obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state.

"Bond Year" shall mean (i) with respect to any Series of Outstanding Bonds, including the Series 2011 Bonds, a period of twelve (12) consecutive months beginning on June 15 of any calendar year and ending on June 14 of the immediately succeeding calendar year except that (ii) the first Bond Year with respect to the Series 2011 Bonds shall be a period commencing on the date of issuance of the Series 2011 Bonds and ending on June 14, 2012 and (iii) the first Bond Year with respect to any other Series of Bonds shall be a period commencing on the date of issuance of such Series of Bonds and ending on the succeeding 14<sup>th</sup> day of June.

"Bondholder," "Bond Holder," "Holder" or "Holder of Bonds" shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds, which by its terms, upon original issuance of the Series 2011 Bonds, shall mean the respective registered owners of the Series 2011A Bonds and with respect to the Series 2011B Note, the County.

"Business Day" shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or the

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shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairman or by the Vice Chairman of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to any Series 2011 Local Unit: the person designated as an Authorized Officer in the Applicable Local Unit License Agreement of any such Series 2011 Local Unit or any other person or persons who shall be authorized to act on behalf of such Series 2011 Local Unit by virtue of a resolution of the governing body of such Series 2011 Local Unit, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (i) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

"Basic Rate" shall mean the rate of interest established by the Trustee from time to time as its reference rate in making loans but does not reflect the rate of interest charged to any particular class of borrowers, and is not tied to any external rate of interest or index. The applicable rate will change automatically and immediately as of the date the Trustee changes its Basic Rate, without notice to any party. If no other rate shall be established by the Trustee, the Basic Rate shall be the Trustee's prime rate as determined from time to time.

"Basic Lease Payment" shall mean, as of each Basic Lease Payment Date, the amount set forth in Exhibit A-3 to the Company Lease Agreement corresponding to such Basic Lease Payment Date and designated as a Basic Lease Payment. The Basic Lease Payment on any Basic Lease Payment Date is equal to the payment of the Principal Portion and Interest Portion due on such Basic Lease Payment Date, and shall be established as the amount set forth in Exhibit A-3 to the Company Lease Agreement for such date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments), and interest on the Outstanding Bonds on the next occurring (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) Principal Payment Date and Interest Payment Date respectively, of the Outstanding Bonds, including without limitation the credits available under (i) Section 302(a)(3) and (ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (iii) Section 310(b) of the Company Lease Agreement with respect to

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Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

"Certificate" shall mean a written certificate signed in the name of the Authority, any Series 2011 Local Unit, the County, the Company or the Trustee. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the instruments so combined shall be read and construed as a single instrument.

"CIP Acceptance Certificate" shall mean the certificate, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Capital Improvement Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-3 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Capital Improvement Projects for each such Series 2011 Local Unit has been completed in accordance with the Plans and Specifications therefor, and has been accepted by such Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution. The Authority and the Company acknowledge and agree that the Company shall not be responsible for the construction of any Capital Improvement Projects under the Program Documents and any references in such Program Documents to the Capital Improvement Projects shall be of no further force and effect.

"CIP Acceptance State" shall mean the good working order condition of the Capital Improvement Projects for the Series 2011 Local Units, at the time of the authorization, execution and delivery of, and as certified and acknowledged by such Applicable Series 2011 Local Units in the respective CIP Acceptance Certificates.

"Company Appendices" shall mean that portion of the Preliminary Official Statement and the Official Statement relating to the Company, including the appendices thereof, which may include financial, demographic or other information supplied by or on behalf of the Company, or a link or other reference to such information, all as shall be designated in the Company Continuing Disclosure Agreement, and as to which the Company shall make certain certifications under federal securities law.

"Construction Manager" shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either the Lessor or any Series 2011 Local Unit with the consent of the Lessor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Lessee for any Series 2011 Local Unit, or the oversight of the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement

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Projects, if any, by the Lessee for any Series 2011 Local Unit. The Consulting Energy Engineer may act as Construction Manager.

"Construction Performance Bond" shall have the meaning ascribed to such term in the Power Purchase Agreement.

"Contractor" shall mean the Company and the EPC Contractor, in any such case as the entity obligated to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Developer" shall mean an Affiliate of the Company to be designated at the time of execution of the Development Agreement.

"Development Agreement" means the Development Agreement to be entered into by and between the Company and the Developer for development services related to the Projects.

"Development Contract" shall mean (i) in the case of the Company, the Company Lease Agreement, (ii) as to the EPC Contractor, the EPC Contract, and (iii) in the case of any other Contractor, that certain contract obligating any such other subcontractor or other third-party, as Contractor and on behalf of the Company, to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units. Nothing in any Development Contract shall relieve the Company from its obligations under the Company Lease Agreement and the other Company Documents, which obligations shall include the Company's continual obligation to design, permit, acquire, construct, install, operate and/or maintain all of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, and to design, permit, acquire, construct, renovate and/or install all of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Development Fee" means the fee payable to the Developer for services provided under the Development Agreement.

"Draw Date" shall have the meaning ascribed to such term in Section 510(b) of this Company Lease Agreement, and shall not be a regularly scheduled set of dates, but shall occur no more frequently than twice a month.

"Draw Paper Ratio" shall have the meaning ascribed to such term in Section 510(c) of this Company Lease Agreement.

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"Draw Papers" shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

"Event of Default" shall have the meaning ascribed to such term in Section 1001 of this Company Lease Agreement.

"Excess Power Purchase Price Payments" shall have the meaning ascribed to such term in Section 311(a) of this Company Lease Agreement.

"Exhibit A-3" shall mean Exhibit A-3 to this Company Lease Agreement, which for all purposes of the Program Documents, shall mean Exhibit A-3- attached hereto and made a part of this Company Lease Agreement.

"Force Majeure" shall mean any event which is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party or its affiliates, including, but not limited to and without limitation, (a) strikes or other labor disputes (other than strikes or labor disputes solely by employees or contractors of the Parties to this Power Purchase Agreement as a result of such Party's failure to comply with a collective bargaining agreement), (b) adverse weather conditions, breakdown or failure of the utility transmission or distribution system not caused by the Service Provider, and (c) other acts of nature, riot or civil unrest. The term Force Majeure does not include (i) any acts or omissions of any third party, including, without limitation, any vendor, customer, or supplier of the Service Provider, unless such acts or omissions are themselves excused by reason of Force Majeure; (ii) any full or partial curtailment in the electric output of the Renewable Energy Projects that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear, unless such mishap is caused by Force Majeure; (iii) changes in market conditions that affect the cost of the Service Provider's supplies, or that affect demand or price for any of the Service Provider's products, including, but not limited to the price of electricity, SRECs or other environmental attributes; or (iv) any action that constitutes negligence or gross negligence by the Party claiming a Force Majeure event.

"Governmental Authority" means any federal, state or local legislative, executive, judicial, quasi-judicial or other public authority, agency, department, bureau, division, unit, court, tribunal, or other public body, person or entity having jurisdiction over a Party, the Renewable Energy Projects or this Company Lease Agreement.

"Independent Insurance Consultant" shall mean a nationally recognized, independent actuary, insurance company or broker acceptable to the Lessor that has actuarial personnel experienced in the area of insurance for which the Lessee is to be self-insured.

"Initial Basic Lease Payment Date" shall mean January 15, 2013, the first Basic Lease Payment Date.

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"Interconnection Agreement" shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Lessee, the Applicable Series 2011 Local Unit and/or the Lessor, with respect to the interconnection of the completed Renewable Energy Projects for such Series 2011 Local Unit to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

"Interest Payment Date" shall mean, the date on which interest on the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June and December until final maturity of the Bonds, including the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Interest Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Interest Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the interest due and owing on the Outstanding Bonds, including the Series 2011 Bonds, on the immediately succeeding Interest Payment Date, as set forth in Exhibit A-3 to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Interest Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the interest on the Bonds on the next occurring Interest Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(f) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(c)(1)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Lease Payments" shall mean all amounts due and payable by the Company pursuant to the terms of the Company Lease Agreement, and shall consist of Basic Lease Payments and the Additional Lease Payments.

"Lease Term" or "Term" shall mean the period during which this Company Lease Agreement is in effect, as specified in Section 402 hereof.

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"Leased Property" shall mean the Renewable Energy Projects, as set forth in Exhibit A-1 to the Company Lease Agreement and in Exhibit B to the respective Local Unit License Agreements for the Series 2011 Local Units, together with all properties, rights, duties and obligations related thereto, including without limitation the right to enter upon and locate the Renewable Energy Projects on the Local Unit Facilities, as all such property shall be leased by the Authority, as owner and lessor, to the Company, as lessee, pursuant to Section 401 of the Company Lease Agreement for the Lease Term, with the express intent that such lease shall convey ownership of such property for purposes of the Cods to the Company. The Leased Property shall not include the Capital Improvement Projects, if any, of the Series 2011 Local Units, all of which shall be owned by the respective Series 2011 Local Units.

"Mandatory Purchase Price" shall have the meaning ascribed to such term in Section 702 of the Company Lease Agreement relating to the acceleration of the Bonds of any Series, including the Series 2011 Bonds.

"Maximum Gross Bond Funded Project Cost Amount" shall mean the sum of (i) the Maximum Net Bond Funded Project Cost Amount funded with a portion of the proceeds of the Series 2011 Bonds and deposited with the Trustee in the Project Fund upon initial issuance thereof, together with (ii) any interest earned thereon prior to disbursement from the Project Fund in accordance with the Company Lease Agreement and the Bond Resolution, which amount has been estimated by the Lessee to be sufficient, together with the Equity Contribution, to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

"Maximum Net Bond Funded Project Cost Amount" shall mean \$24,700,000, the amount deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(e)(i), (ii) and (iii) of the Bond Resolution to fund a portion of the Project Costs, which amount was established by the Lessee pursuant to the Company Proposal.

"Net Proceeds" shall mean any insurance, condemnation, Construction Performance Bond or other performance bond, or any other financial guaranty proceeds paid with respect to any portion of the Projects, remaining after payment therefrom of all expenses incurred in the collection thereof; and, with respect to insurance, if and as such time as the Lessee elects to provide self-insurance under Section 614 of this Company Lease Agreement, any moneys payable from any self-insurance fund of the Lessee which may lawfully be expended for the purposes for which such self-insurance is provided.

"Overdue Rate" shall mean two percent (2%) per annum over the Base Rate, which rate shall change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any Renewable Energy Program Interested Parties; provided, however, that notwithstanding the foregoing, to the extent the County Security, if any, shall have

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been drawn upon to reimburse the County in full for any County payments under the County Guaranty, the Overdue Rate with respect to interest to be paid on past due Basic Lease Payments (such payment of interest constituting an Additional Lease Payment hereunder) shall have such different meaning, if any, as may be set forth in the County Security Agreement, if any.

"Permitted Encumbrances" shall mean as of any particular time: (i) liens for taxes and assessments not then delinquent with respect to the Leased Property, (ii) the Company Lease Agreement and the other Program Documents, (iii) the pledge and assignment by the Lessor of the Reimbursement Collateral to the County Security Provider, if any, under the County Security Agreement, if any, subject to the prior pledges thereof to the County under the County Guaranty Agreement, which prior pledges shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security, (iv) the pledge of the Trust Estate by the Lessor to the Trustee under the Bond Resolution, and (v) any mechanic's, laborer's, materialmen's, supplier's or vendor's lien or right arising during construction of any Renewable Energy Project prior to December 17, 2012 and not filed or perfected in the manner prescribed by law.

"Plans and Specifications" shall mean the architectural and engineering drawings and specifications prepared by the Architect or other Contractor (through a Development Contract or otherwise) describing the Renewable Energy Projects or the Capital Improvement Projects (if any), including any Completion Project, as the case may be, as agreed to among the Company and the Applicable Series 2011 Local Unit pursuant to Section 5.01 of the Company Lease Agreement.

"PPA Price" shall have the meaning set forth in Section 6.2 of the Power Purchase Agreement.

"Power Purchase Price Payments" shall mean the payments made by the respective Series 2011 Local Units for the purchase of electricity to the Trustee at the direction of and on behalf of the Lessee and Lessor, all in accordance with Section 5.1(e)(f) of the Local Unit License Agreements.

"Principal Payment Date" shall mean, the date on which principal (including Sinking Fund Installments, if any) of the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June until final maturity of the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Principal Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Principal Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the principal

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"REP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Renewable Energy Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Renewable Energy Projects for each such Series 2011 Local Unit have been completed in accordance with the Plans and Specifications therefor, and have been accepted by the Company and the Applicable Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution.

"Reserved Rights" shall mean the Authority's right to retain the following under the Company Lease Agreement, which shall not be part of the Trust Estate pledged to the Trustee under Section 1.04 of the Bond Resolution:

(i) Receive the Additional Lease Payments earmarked for purposes other than the Purchase Option Price or the Mandatory Purchase Price (which Purchase Option Price or the Mandatory Purchase Price Additional Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), including without limitation (a) the Administrative Fee, if any, and any other Administrative Expenses, which the Authority shall be obligated to pay or cause to be paid to the Renewable Energy Program Interrelated Parties due such Administrative Expenses, and (b) interest payable on past due Lease Payments at the Overdue Rate (but not the Basic Lease Payments that may be paid together with any payment at the Overdue Rate, which Basic Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), provided, further, that the portion of which interest that is attributable to past due Basic Lease Payments may be assigned by the Authority to the County and/or the County Security Provider, if any, as part of the Reimbursement Collateral;

(ii) The payments set forth in Section 5.2(a)(ii) and (iii) of the Local Unit License Agreements for the Series 2011 Local Units that reflect the difference between the Gross Substitute Power Purchase Price and the Net Substitute Power Purchase Price, which includes the Administrative Fee;

(iii) Receive notices provided for in the Company Lease Agreement or any other Program Document;

(iv) Appoint, replace or remove such parties as shall be appointed, replaced or removed under the Company Lease Agreement or any other Program Document at the direction of the Authority; and

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(including Sinking Fund Installments) of the Outstanding Bonds, including the Series 2011 Bonds, due and owing on the immediately succeeding Principal Payment Date, as set forth in Exhibit A-3 attached to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Principal Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments) the Bonds on the next occurring Principal Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(c) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(3)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 5.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Purchase Option Price" shall have the meaning ascribed to such term in Section 701 of the Company Lease Agreement relating to the optional redemption of the Bonds of any Series, including the Series 2011 Bonds.

"Reimbursement Collateral" shall mean, to the extent a County Security Agreement shall be delivered to the Lessor and the Trustee in accordance with the provisions of Section 5.07(6) of the Bond Resolution, (i) the SRECs, (ii) the Net Substitute Power Purchase Price, and (iii) any past due Basic Lease Payments, together with any Additional Lease Payments constituting interest payable on such past due Basic Lease Payments at the Overdue Rate, all of which shall have been pledged and assigned by the Lessor to the County Security Provider under the County Security Agreement, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security. If no County Security Agreement shall be so delivered, which shall be the case upon original issuance of the Series 2011A Bonds, this term shall mean the County Reserve and any other monies and securities on deposit in the County Security Fund at any time, if any, that shall be available to the Lessee, in such case as County Security Provider, after and to the extent the County has been fully paid under its County Guaranty; provided that no such monies shall be made available to the Lessee until the County has completed all of its payment obligations under the County Guaranty and been fully reimbursed therefor, from the County Security Fund or otherwise.

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(v) The right to give or withhold consents, including consents to amendments, permitted or required of the Authority under the Company Lease Agreement or any other Program Documents, to the extent that any such consent or amendment would diminish the rights or enlarge the responsibilities or adversely affect the ability of the Authority to realize or perform same, respectively, or which would increase the Authority's potential liability or exposure to any party to any Program Document or to any third party as a result thereof. All such notices, appointments or consents under any other Program Document (i.e., other than the Company Lease Agreement) shall be unaffected by these rights, as the Authority's rights under the other Program Documents are not subject to the pledge of the Trust Estate under Section 1.04 of the Bond Resolution, and are either retained by the Authority, or assigned pursuant to the terms of the Program Documents, but in any event, shall not constitute Revenues or other part of the Trust Estate for purposes of the Bond Resolution.

"Tax Benefit Recapture Event" has the meaning set forth in Section 609(g).

#### SECTION 102. Exhibits.

The following Exhibits are attached to, and by reference are made a part of, this Company Lease Agreement pursuant to which the Renewable Energy Projects are to be leased by the Authority to the Lessee:

(a) Exhibit A: Various details regarding a description of the Projects, the schedule of regularly scheduled Basic Lease Payments and maximum Project Costs funded from the Series 2011 Bonds.

(i) Exhibit A-1: Description of Renewable Energy Projects for Series 2011 Local Units;

(ii) Exhibit A-2: Description of Capital Improvement Projects (if any) for Series 2011 Local Units;

(iii) Exhibit A-3: Basic Lease Payment Schedule, consisting of Exhibit A-3-Regular and Exhibit A-3-Alternate; and

(iv) Exhibit A-4: Notice information for Series 2011 Local Units.

(b) Exhibit B: Form of Acceptance Certificates, consisting of

(i) Exhibit B-1: Form of REP Acceptance Certificates; and

(ii) Exhibit B-2: Form of CIP Acceptance Certificates.

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(c) Exhibit C: Form of Draw Papers.

(i) Exhibit C-1. Initial Project Workforce Form AA201.

(d) Exhibit D: Certificate of an Authorized Officer of the Lessee for Company Development Fees and Expenses Incurred on behalf of the Lessee.

(e) Exhibit E: Attach Form of Power Purchase Agreement and Company Continuing Disclosure Agreement.

#### SECTION 103. Inapplicable Terms.

Notwithstanding anything to the contrary contained in this Company Lease Agreement, the parties hereto acknowledge and agree that (a) the Lessee is not responsible for the construction of any Capital Improvement Projects under the Program Documents and any references herein to Capital Improvement Projects, CIP Acceptance Certificates or any other term defined by reference to Capital Improvement Projects (without limiting the application of any such term to the extent not related to Capital Improvement Projects) shall be of no further force and effect, and (b) there shall be no need for a County Security Agreement, a County Security Provider or County Security and any references thereto shall be of no further force and effect.

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(c) The execution and delivery by the Lessee of the Company Documents, the performance by the Lessee of all of its respective agreements and obligations under each of such documents and to be bound by the other Company Documents, and the incurring by the Lessee of all of the obligations contemplated by the Company Documents, have been duly authorized by all necessary requisite actions on the part of the Lessee, and the provisions of the Company Documents do not and shall not (i) contravene any provision of the Lessee's certificate of incorporation, by-laws and any other organizational documentation (each from time to time in effect), (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessee under any material agreement, mortgage or other instrument to which the Lessee is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessee's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation to which the Lessee is or may be bound, or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable to such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessee, or (v) to the best of Lessee's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of execution and delivery hereof and prior to the date of issuance of the Series 2011 Bonds, or are not required as a matter of law until a future date including the Interconnection Agreement for each Project, under any provision of applicable law.

(d) The officers or other authorized signatories of the Lessee executing and delivering its Company Documents have been duly authorized to execute and deliver the same under the laws of the State and the state of its organization and any other organizational documentation, and upon the Lessee's execution and delivery of the Company Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Company Documents shall constitute valid and binding obligations of the Lessee, enforceable against the Lessee in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessee or, to the best of the Lessee's knowledge, threatened against the Lessee (or, to the best of the Lessee's knowledge, is there any basis therefore) (i) that contests or would contest the Lessee's authority for, its authorization or performance of, or its expenditures of funds pursuant to any Company Document or that would preclude the Lessee from performing in accordance with the terms of any Company Document or (ii) wherein an unfavorable decision, ruling or finding would adversely affect (A) the transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessee is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

(f) The Lessee has obtained all authorizations, consents and approvals that are

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## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES, DISCLAIMERS

#### SECTION 201. Representations, Covenants and Warranties of Lessee.

The Lessee represents, covenants and warrants as follows:

(a) The Lessee (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and (ii) has or will have all requisite power and authority, and as applicable, all requisite governmental licenses, authorizations, consents and approvals, to (A) own or lease its assets and carry on and transact its business, including without limitation the conduct of business within the State in accordance with the terms of the Company Documents, (B) authorize, execute, deliver and perform its obligations under the Company Documents, and (C) accept and be bound by the terms of the other Program Documents, and (iii) is duly qualified and is licensed and, as applicable, is in good standing under the laws of each jurisdiction, including the State, where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license. The Lessee has all of the requisite power and authority and has full legal right to (x) enter into each of the Company Documents, (y) perform, observe and comply with all of its respective agreements and obligations under the Company Documents, and (z) otherwise be bound by the terms of all of the other Company Documents.

(b) The constitution and the laws of the State and the jurisdiction of the Lessee's organization authorize the Lessee to, and the Lessee has the right, power, authority and expertise to, and shall (i) design, permit, acquire, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of the Local Unit Facilities for all of the Series 2011 Local Units in accordance with the technical specifications set forth in Appendix C of the Company RFP attached hereto as part of Exhibit A-1, and otherwise in accordance with the terms of the Company Documents, (ii) design, permit, acquire, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities in accordance with the plans and specifications and construction documents included or referred to herein and otherwise in accordance with the terms of the Program Documents, (iii) enter into the Company Documents, to acknowledge and consent and otherwise be bound by the terms of the other Program Documents, and to consummate the transactions and perform the obligations contemplated thereby. Notwithstanding the foregoing, the Lessee shall in all circumstances commence construction of the first Renewable Energy Project on or before May 15, 2012 and all Renewable Energy Projects on or before September 15, 2012, and complete construction and file all Acceptance Certificates for all Projects in accordance with the provisions of Section 510(c) hereof no later than December 14, 2012, unless extended, per Project, by Force Majeure, or Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement or cure period which absent a cure would lead to a Series 2011 Local Unit Event of Default. Any such extension shall have no effect on the obligation to make Basic Lease Payments on time and in full.

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required in order for Lessee to execute and deliver this Company Lease Agreement and to perform its financial and other obligations hereunder, except for permits and approvals to be obtained after the date hereof pursuant to Section 510(c).

(g) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessee shall not transfer, lease, assign, mortgage or encumber the Projects or any property of the Lessee constituting the Trust Estate.

(h) The Lessee currently intends to continue this Company Lease Agreement for its entire Term and to pay all Basic Lease Payments required hereunder, unless the Lessee shall pay and otherwise comply with the terms related to the Purchase Option Price or Mandatory Purchase Price in accordance with Article VII hereof, or any other termination provisions contained in this Company Lease Agreement.

(i) Information supplied and statements made by the Lessee in any financial statement or current budget delivered prior to or contemporaneously with this Company Lease Agreement, including the Company Appendices, present such information fairly, accurately and completely, in all material respects and in accordance with generally accepted accounting principles. The Lessee agrees to take all reasonable actions in connection with the Authority's marketing and sale of the Bonds, including without limitation executing Certificates of an Authorized Officer of the Lessee (i) regarding the deemed final nature of the Company Appendices for purposes of Rule 15c2-12, and (ii) to the effect that the Company Appendices, and any other information concerning the Company or its rights, duties and obligations under the Company Documents set forth in the Preliminary Official Statement and the Official Statement (A) contain no material misstatement of fact and (B) do not omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, materially misleading.

(j) Information provided by Lessee, in writing or at the interview date with the Authority pursuant to the Company RFP process on October 19, 2011, upon which Lessee relied in selecting Lessee under the Company RFP process, remains materially accurate.

#### SECTION 202. Representations, Covenants and Warranties of Lessor.

The Lessor represents, covenants and warrants as follows:

(a) The Lessor (i) is a public body corporate and politic duly organized, validly existing and in good standing under the Act and other applicable laws of the State, (ii) has full and complete power to enter into or adopt, as the case may be, the Program Documents and to carry out the transactions contemplated thereby, (iii) is possessed with full power to own and hold real and personal property, including the Renewable Energy Projects, and to lease the Leased Property subject to the terms of the Act and any other applicable law, and (iv) has duly authorized the execution and delivery of or has duly adopted, as the case may be, the Program Documents.

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(b) Neither the execution and delivery or adoption, as the case may be, of the Program Documents, the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby conflicts with or results in a breach of the terms, conditions or provisions of any restriction, any agreement or any instrument to which the Lessor is now a party or by which the Lessor or its property are bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Lessor or upon the Projects, except Permitted Encumbrances.

(c) The execution and delivery by the Lessor of the Program Documents, the performance by the Lessor of all of its respective agreements and obligations under each of the Program Documents, and the incurring by the Lessor of all of the obligations contemplated by the Program Documents, have been duly authorized by all necessary requisite actions on the part of the Lessor, and the Lessor's authorization, execution, delivery and performance pursuant to the terms of the Program Documents do not and shall not (i) contravene any provision of the Act, (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessor under any material agreement, mortgage or other instrument to which the Lessor is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessor's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation thereunder or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable in such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessor, or (v) to the best of Lessor's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of issuance of the Series 2011 Bonds, under any provision of any applicable law.

(d) The officers of the Lessor executing and delivering its Program Documents have been duly authorized to execute and deliver the same under the Act, and upon the Lessor's execution and delivery of the Program Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Program Documents shall constitute valid and binding obligations of the Lessor, enforceable against the Lessor in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessor or, to the best of the Lessor's knowledge, threatened against the Lessor (or, to the best of the Lessor's knowledge, is there any basis therefore) (i) that contests or would contest the Lessor's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Program Document or that would preclude the Lessor from performing in accordance with the terms of any Program Document or (ii) wherein an unfavorable decision, ruling or finding would adversely affect (A) the

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### ARTICLE III

#### LEASE PAYMENTS

##### SECTION 301. Lease Payments.

(a) The Lessee agrees to pay to the Trustee the following Lease Payments, as rent for the Leased Property for the Term hereof, in immediately available funds, no later than when due, delivered to the principal corporate trust office of, or some other location designated by, the Trustee:

(i) For deposit in the Revenue Account of the Revenue Fund, Basic Lease Payments, as set forth in Sections 305 and 306 hereof and Exhibit A-3 hereof, on each Basic Lease Payment Date; and

(ii) For deposit in the Administrative Expense Account of the Administrative Fund, from time to time as provided herein, as Additional Lease Payments, all as set forth in Section 308 hereof:

(A) Administrative Expenses (including the Authority's annual Administrative Fee, but excluding those properly payable by the Applicable Series 2011 Local Unit(s)) at the times set forth in invoices to be received by the Lessee from the Trustee in accordance with the Bond Resolution, provided that no further invoice shall be required for payment of the annual Administrative Fee and the Trustee's annual fee in an annual amount not to exceed \$5,000, which shall be due and payable in advance on the first day of any Bond Year (except that the initial Administrative Fee shall be funded from a portion of the proceeds of the Series 2011 Bonds);

(B) Interest on any overdue Lease Payments at the Overdue Rate, which amounts shall be immediately due and payable to the extent any Lease Payments are overdue;

(C) The Purchase Option Price in accordance with Section 701 of the Company Lease Agreement;

(D) The Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement; and

(E) All other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder or under the terms of any other Company Document, which shall be deposited in the Administrative Fund if no other direction is set

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transactions contemplated by the Program Documents or the validity of said documents or (3) any agreement or instrument to which the Lessor is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

(f) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessor shall not transfer, lease, assign, mortgage or encumber the Projects or the Trust Estate.

(g) Upon the exercise by the Lessee of its option to purchase the entire Renewable Energy Projects pursuant to Article VII hereof, the Lessor (i) shall deliver to the Lessee all of the documents that are or may be necessary to vest all of the Lessor's right, title and interest in and to the Renewable Energy Projects in the Lessee, and (ii) shall release all liens and encumbrances created under this Company Lease Agreement, or the other Program Documents with respect to the Renewable Energy Projects, all as provided in Article VII hereof.

(h) Simultaneously with the execution and delivery hereof, Lessor shall issue the Series 2011A Bonds and the Series 2011B Note to provide capitalized interest payments on the Series 2011A Bonds due June 15, 2012 and December 15, 2012. To the extent the Company proposes a Completion Project on one (1) or more existing Local Unit Facility or Facilities whereby additional electricity can be generated at such Local Unit Facility or Facilities beyond that contemplated in the Company Proposal, Lessee may consider issuing Additional Bonds in no amount, together with all Outstanding Series 2011 Bonds, shall not exceed \$50,000,000. To the extent Lessor, in its sole discretion, determines the issuance of any such Additional Bonds is in the best interests of the Authority, the County and the Applicable Local Unit, the Authority shall issue such Additional Bonds in an amount sufficient to pay for any such Completion Project, any reserves or capitalized interest, as required, and the costs of issuance thereof, but only to the extent the Company Lease Agreement is amended and supplemented to increase the Basic Lease Payment schedule to reflect the issuance of such Series of Additional Bonds.

##### SECTION 303. Disclaimer of Lessor and Trustee.

THE TRUSTEE, BY ACCEPTANCE OF THE TRUSTS SET FORTH IN THE BOND RESOLUTION, AND THE LESSOR, BY ADOPTION OF THE BOND RESOLUTION, BY ISSUANCE OF THE BONDS AND BY EXECUTION AND DELIVERY OF ALL OTHER PROGRAM DOCUMENTS, MAKE NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF ANY PROJECT.

##### SECTION 304. Tax Covenants of Lessee.

There shall be no covenants herein arising from or otherwise relating to the issuance of the Series 2011 Bonds, as such Bonds shall not be issued as a Series of Tax-Exempt Bonds.

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forth in the Company Documents or to the particular Fund or Account set forth in any such Company Document.

(iii) For deposit in the Restoration Security Fund, the amounts necessary to fund the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution as Additional Lease Payments, all as set forth in Section 308 hereof.

(iv) For deposit in the County Security Fund, \$1,500,000, the initial amount of the County Security Fund Requirement for the County Reserve, to be funded by the Lessee no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and thereafter, any deficiency in the County Security Fund Requirement shall be funded by the Company to the extent of any available funds after payment of all reasonable Company expenses and prior to any member distributions; and

(v) The Lessee shall be entitled to a credit against Basic Lease Payments for unused moneys held in the Project Fund in accordance with Section 310(e)(1)(B) hereof, and for earnings on other funds held by the Trustee and certain other Revenue Fund transfers in accordance with Section 310(f) hereof, all at the times and in the amounts and determined in accordance with the provisions of the Bond Resolution and this Company Lease Agreement; provided, however, that such credit, if applicable, shall be applied first to the Interest Portion and then the Principal Portion of Basic Lease Payments and second to Additional Lease Payments due, if any.

(c) Notwithstanding anything to the contrary herein, the Lessee may make any and all Lease Payments in immediately available funds through wire transfer or otherwise, to the extent the Trustee or other payee consents in writing to such method of delivery.

##### SECTION 302. Lease Payments to be Unconditional, Except for Power Purchase Price Payments; No Abatement or Set-Off.

(a) Except as set forth in clauses (i) and (ii) below, the obligation of the Lessee to make Lease Payments in full and when due shall be absolute and unconditional in all events, including without limitation any circumstance regarding the Projects, regardless of whether any such event shall be foreseen or otherwise, and regardless of whether any such event shall occur by accident or otherwise. The Lessee hereby acknowledges and irrevocably covenants that the terms of this Company Lease Agreement create a valid and binding obligation of the Lessee to make Lease Payments from any available source under all circumstances.

(i) Lessee shall receive a credit against the Interest Portion of any Basic Lease Payments due and owing on any Basic Lease Payment Date to the extent of all Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment

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Date.

(ii) Lessee shall receive a credit against the Principal Portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of any remaining Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment Date, after accounting for the application of the credit set forth in clause (i) above.

(iii) For purposes of applying this credit, Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee within ten (10) Business Days of any Basic Lease Payment Date shall be deemed to have been received by the Trustee the Business Day after such Basic Lease Payment Date (and therefore the Lessee shall not be entitled to a credit for such amounts paid by the Series 2011 Local Units until the following Basic Lease Payment Date). The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the aggregate amount of all Power Purchase Price Payments made by the Series 2011 Local Units since the prior Basic Lease Payment Date that are available for such credit, (A) as of the date that is thirty (30) days prior to each Basic Lease Payment Date, and (B) on the Business Day immediately following the ten (10) Business Day credit cutoff date noted above.

(b) Notwithstanding any dispute between the Lessor and the Lessee, or between or among any party hereto and any one or more of any Renewable Energy Program Interested Party or any other person, in any case concerning any provision of any Program Document, the Lessee shall make all Lease Payments in full and when due, and the Lessee shall not withhold any Lease Payment pending final resolution of such dispute, nor shall the Lessee assert against the Lessor, the Trustee, any Renewable Energy Program Interested Party or any other person any right of set-off, recoupment or counterclaim against its obligation to make such Lease Payments, regardless of whether or not the Projects are completed, available for use, or used by the Lessee or any other Renewable Energy Program Interested Party, as applicable.

(c) However, nothing herein shall be construed to release the Lessor from the performance of its obligations hereunder, and if the Lessor should fail to perform any such obligation, the Lessee may institute such legal action against the Lessor as the Lessee may deem necessary to compel the performance of such obligation, but if and only if the Lessee is not in default under the terms of this Company Lease Agreement and if the Lessee shall have paid all amounts that are required to be paid pursuant to the terms of this Company Lease Agreement; and if the Lessee shall have performed all of its obligations under the terms of this Company Lease Agreement and continues to pay and perform as provided herein, the Lessee shall not be precluded from bringing any action it may otherwise have against the Lessor.

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#### SECTION 303. Termination of Lease Term; Lease Payment Obligation.

The Lessee shall not terminate this Company Lease Agreement (other than such termination as is provided for under the terms of this Company Lease Agreement) or be excused from its obligations hereunder, including without limitation Lessee's obligations to make Lease Payments, for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute an eviction or constructive eviction, failure of consideration, failure of title or frustration of purpose, any damage to or destruction of any Project, the taking by eminent domain of title or the right of temporary use of all or any part of any Project, or the failure of the Lessor or any other Renewable Energy Program Interested Party to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation that arises out of or that is related to this Company Lease Agreement or any other Program Document.

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#### SECTION 304. Return of Renewable Energy Projects upon Termination of Company Lease Agreement; CIP Acceptance State.

(a) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value (as defined in the Power Purchase Agreement) in accordance with Section 609(d) hereof, Lessee shall (i) take no action regarding the removal of any such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, or if none, the Local Unit Facilities to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or therefrom that would ordinarily degrade the state of any such Capital Improvement Projects, if any, or Capital Improvement Project from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from the Lessee's operation and maintenance of such Renewable Energy Projects.

(b) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are eligible for sale by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value in accordance with Section 609(d) hereof, but no accommodation on sale price or other terms shall be reached in accordance with Section 3.7(b) of the Power Purchase Agreement, and the Lessee shall accordingly be prospectively entitled to the full use and enjoyment of any such Renewable Energy Projects, the Lessee shall (i) promptly remove such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, for any such Applicable Series 2011 Local Units to the CIP Acceptance State, or if no Capital Improvement Projects, to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or therefrom that would ordinarily degrade the state of any such Capital Improvement Projects or Local Unit Facility from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from either (A) the Lessee's operation and maintenance of such Renewable Energy Projects or (B) the Lessee's removal of such Renewable Energy Projects.

(c) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessor to the Applicable Series 2011 Local Unit for nominal consideration in accordance with Section 609(f) hereof (after a Lessee Event of Default), Lessee shall (i) take no action regarding the removal of any such Renewable Energy Projects

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from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, for any such Applicable Series 2011 Local Units to the CIP Acceptance State, after giving effect to the normal wear and tear thereon or therefrom that would ordinarily degrade the state of any such Capital Improvement Projects from the date of any such CIP Acceptance Certificate to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, from the Lessee's operation and maintenance of such Renewable Energy Projects.

#### SECTION 305. Basic Lease Payments; Principal Portion.

(a) The Principal Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of principal due and payable on the Bonds, including the Series 2011 Bonds, on the immediately succeeding Principal Payment Date, with respect to regularly scheduled Principal Payment Dates, all as set forth on Exhibit A-3 hereto; provided, however, that no Principal Portion of Basic Lease Payments shall be payable by the Lessee, or the Principal Portion of Basic Lease Payments shall be reduced, as applicable, (a) to the extent of a balance available for payment of principal on the Bonds on deposit in the Principal Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Principal Portion of Basic Lease Payments in accordance with (A) Section 302(e)(i) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(c)(1)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(a)(v)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award or (ii) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(ii)(B) hereof.

#### SECTION 306. Basic Lease Payments; Interest Portion.

(a) The Interest Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of interest due and payable on the Bonds, including the Series

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2011 Bonds, on the immediately succeeding Interest Payment Date, with respect to regularly scheduled Interest Payment Dates, all as set forth on Exhibit A-3 hereto; provided, however, that no Interest Portion of Basic Lease Payments shall be payable by the Lessee, or the Interest Portion of Basic Lease Payments shall be reduced, as applicable, (a) for any period to the extent interest payable on the Bonds for such period shall have been previously provided to the Trustee as capitalized interest for deposit in the Capitalized Interest Account of the Debt Service Fund from proceeds derived from the sale of the Bonds and (b) to the extent of a balance available for payment of interest on the Bonds on deposit in the Interest Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Interest Portion of Basic Lease Payments in accordance with (A) Section 302(a)(f) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(e)(7)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(A) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(e) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award, or (ii) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(ii)(B) hereof.

**SECTION 307. Interest Calculation.**

The Interest Portion of Basic Lease Payments is equal to the interest accrued on the Bonds, including the Series 2011 Bonds. Interest on the Bonds is computed upon the basis of a 360-day year, consisting of twelve 30-day months.

**SECTION 308. Additional Lease Payments.**

(a) At the times required in the definition of "Administrative Fee", when not otherwise provided for from a portion of the proceeds of a Series of Bonds, including the Series 2011 Bonds, the Lessee shall pay the Administrative Fee to the Trustee as an Additional Lease Payment for deposit in the Administrative Expense Account of the Administrative Fund.

(b) The Lessee shall pay to the Trustee, for deposit in the Administrative Expense Account of the Administrative Fund as an Additional Lease Payment, from time to time

upon the Lessee's receipt from the Trustee of an invoice therefore in accordance with the terms of the Bond Resolution, reasonable compensation for all services rendered by the Trustee pursuant to the Bond Resolution; all reasonable expenses, charges, counsel fees and other disbursements (including those of the Trustee's attorneys, agents and employees) incurred in the performance of its powers and duties under the Bond Resolution, and any other Administrative Expenses.

(c) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, interest on any past due Lease Payment at the Overdue Rate in accordance with Section 1007 hereof.

(d) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Purchase Option Price in accordance with Section 701 hereof, reflecting the optional redemption of a Series of Bonds, including the Series 2011 Bonds.

(e) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Mandatory Purchase Price in accordance with Section 702 hereof, reflecting the acceleration or any other mandatory payment of a Series of Bonds, including the Series 2011 Bonds.

(f) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the amounts required to fund the Restoration Security Fund at the Restoration Security Fund Requirement, in the amounts and at the times as set forth in Section 5.07(9) and Exhibit C to the Bond Resolution. Notwithstanding the foregoing, however, the Lessee shall be required to pay to the Restoration Security Fund as amount to bring the balance therein to the Restoration Security Fund Requirement from time to time if the Lessee has sufficient available cash flow to fund the same after making all other payments payable by the Company during such year; provided, however, in no event shall cash flow distributions be made to the members of the Company in any year in which the Restoration Security Fund is required to be funded to the extent the Restoration Security Fund is not funded in such year to the level required by the Restoration Security Fund Requirement.

(g) The Lessee shall make a one-time payment of \$1,500,000 payable no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, for deposit by the Trustee in the County Security Fund to satisfy the County Security Fund Requirement.

(h) The Lessee shall pay to the Trustee as an Additional Lease Payment all other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder, under the Bond Resolution, under the Tax Certificate for any Series of Tax-exempt Bonds or under any other Program Document, including without limitation deficiencies in the payment of principal (including mandatory sinking fund installments) of and interest on Bonds when due as may be contemplated by Article V of the Bond Resolution, which Article shall not be amended by Lessor to add any such payment obligation without Lessee's

consent, and any amounts that may be required to be paid into a rebate fund at the times required hereunder and under any such Tax Certificate.

**SECTION 309. General Obligation of Company to Make Lease Payments; Pledge of Reimbursement Collateral; Company Pledge Agreement.**

(a) The Lessee hereby covenants to make all Lease Payments due under this Company Lease Agreement, during the entire Lease Term, from any and all funds or other assets available to the Lessee, including without limitation, but not limited to, such economic benefits as may be conferred upon the Company pursuant to the Program Documents.

(b) **Pledge of Section 1603 Grant to Trustee.** Subject to American Recovery and Reinvestment Act of 2009, as security and further assurance for the Lessee's obligations to make certain initial Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Trustee a collateral security interest in the Section 1603 Grant, such grant of a collateral security interest to remain in effect only so long as set forth in the Company Pledge Agreement, including specifically Sections 2.01 and 7.11 thereof. At the Lessee's discretion for so long as the EPC Contractor is continuing to provide the In-Kind Equity Contribution and no Event of Default has occurred hereunder, the aforementioned security interest granted in favor of the Trustee may be subordinate to that of the EPC Contractor under the EPC Contract.

(c) **Pledge of Certain Revenues to Authority.** As security and further assurance for the Lessee's obligations to perform its obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Authority a collateral security interest in any funds it may receive with respect to the following:

- (i) the sale of renewable energy produced by the Renewable Energy Projects under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements;
- (ii) the sale of SRECs from the Renewable Energy Projects;
- (iii) the Construction Performance Bond.

At the Lessee's discretion for so long as the EPC Contractor is continuing to provide the In-Kind Equity Contribution and no Event of Default has occurred hereunder, the aforementioned security interest granted in favor of the Authority may be subordinate to that of the EPC Contractor under the EPC Contract.

The Lessor hereby covenants that the security interest granted pursuant to this

Section 309(c) shall not, provided no Event of Default has occurred and is continuing, adversely affect any of the Lessee's:

- (A) use and enjoyment of the Renewable Energy Projects,
- (B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements, or
- (C) SRECs.

(d) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee shall and hereby does acknowledge

(i) that the Lessor has the right to deliver the County Security Agreement, if any, in accordance with the provisions of Section 5.07 of the Bond Resolution, whereupon the Reimbursement Collateral shall be assigned and pledged by the Lessor to the County and the County Security Provider, if any, in accordance with the terms of the County Guaranty Agreement and such County Security Agreement, respectively, as to which terms the Lessor hereby covenants that the rights of the County and the County Security Provider to the Reimbursement Collateral shall not adversely affect any of the Lessee's:

- (A) use and enjoyment of the Renewable Energy Projects,
- (B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements, or
- (C) SRECs,

in all cases prior to the date of an Event of Default caused by the Lessee, it being the express intent of the parties that any such assignment and pledge of the Reimbursement Collateral is only to protect the County and/or the County Security Provider to the extent any such Renewable Energy Program Interested Party shall not have been reimbursed for funds expended under the Program Documents due to the Lessee's actions or inactions under the Program Documents, and it being the further express intent of the parties that any and all such remedies flowing from any such Event of Default caused by the Lessee are within the Lessee's control to prevent by complying with the terms of this and all

other Program Documents, including without limitation the making of Lease Payments in full and on time,

(f) upon an Event of Default, including an occurrence as a result of the Lessee's failure to make its Lease Payments on time and in full, the Lessee's rights to the Leased Property may be terminated in accordance with the terms hereof, and the County and the County Security Provider, if any, may realize all or a portion of the Reimbursement Collateral in accordance with the terms of their respective County Guaranty Agreement and County Security Agreement, if any and as applicable, which economic benefits comprising the Reimbursement Collateral had been previously available to the Lessee, and would continue to be so available, should any such Event of Default never occur or be timely cured.

(g) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby covenants to deliver the Company Pledge Agreement from the Pledgor defined in the Company Pledge Agreement contemporaneously herewith, and in any event, no later than the issuance of the Series 2011 Bonds, the terms of which Company Pledge Agreement are hereby acknowledged and accepted by the Lessee.

(h) The Lessee, as debtor, authorizes the Trustee, on behalf of itself as creditor, and the Lessor, as creditor, to file UCC1 financing statements with respect to the foregoing pledge of collateral contemplated by this Section 309.

**SECTION 310. Investment of Bond Resolution Funds; Credit for Certain Investment Earnings.**

(a) The Lessor shall cause the monies in the Funds and Accounts established under the Bond Resolution to be invested in accordance with the provisions of Section 5.11 of the Bond Resolution; provided, however, that the Lessee may direct the Lessor in writing to cause the Trustee to invest the Project Fund, the County Security Fund and the Restoration Security Fund in any investment Securities available under the Bond Resolution; absent any such direction from the Lessee, the Lessor may cause the investment of the Project Fund, the County Security Fund and the Restoration Security Fund in such Investment Securities as the Lessor shall determine.

(b) (i) To the extent interest earnings on any such Funds or Accounts are transferred to the Aged Account of the Revenue Fund in accordance with the provisions of Section 5.13(3) and (4) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such earnings, plus interest earned thereon as of any such Basic Lease Payment Date, against the next due Interest Portion of Basic Lease

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Payments due and owing from the Lessee, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied or if additional interest earnings are on deposit in the Aged Account, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), within ten (10) Business Days after each Basic Lease Payment Date, of the amount of such interest earnings credit available to the Company as of the next Basic Lease Payment Date.

(ii) To the extent the amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Interest Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(3) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Interest Portion of Basic Lease Payments due and owing from the Lessor, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

(iii) To the extent amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Principal Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(i) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

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**ARTICLE IV**

**LEASE OF LEASED PROPERTY; TERM OF COMPANY LEASE AGREEMENT**

**SECTION 401. Lease of Leased Property.**

(a) The Lessor hereby agrees to (i) finance its share of the Renewable Energy Projects and the Capital Improvement Projects, if any, for the Series 2011 Local Units, through the issuance of the Series 2011 Bonds, the balance of which shall be financed by or on behalf of the Lessee through the Equity Contribution, and (ii) enter into the Local Unit License Agreements with the Series 2011 Local Units, thereby giving the Lessor nominal ownership of the Renewable Energy Projects, and providing the Company with a license and access to the Local Unit Facilities for the Series 2011 Local Units.

(b) The Lessee hereby agrees to (i) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects as described on Exhibit A-1 hereof and (ii) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, as described on Exhibit A-2 hereof, all for the Series 2011 Local Units.

(c) Upon the acquisition of title to the Leased Property from the Contractor (the timing of which does not adversely affect the Lessee's obligations hereunder, including the obligations to make Lease Payments), the Lessor hereby agrees to lease to the Lessee, except for the Reserved Rights, all of its right, title and interest in and to the Leased Property for the duration of the Lease Term hereof, and to grant to the Lessee an option to purchase the Leased Property as set forth in Article VII hereof. The Lessee hereby agrees to take and lease from the Lessor, other than the Reserved Rights, all of the Lessor's right, title and interest in and to the Leased Property on the terms and conditions set forth in this Company Lease Agreement, including, without limitation, all of the Lessee's duties and obligations under the Program Documents. The lease of the Leased Property from the Lessor to the Lessee is also intended to convey to the Lessee any product of the Leased Property, including any right, title and interest of the Lessor in and to the SRECs and the right to electricity generated from the Renewable Energy Projects for the Series 2011 Local Units at their respective Local Unit Facilities, subject to the terms and conditions of the Program Documents. The Lessor hereby acknowledges the Lessee's intent to exercise such option to purchase the Leased Property during or upon the termination of the Lease Term.

(d) It is an express purpose of this Company Lease Agreement that the benefits and burdens of owning the Leased Property being conveyed by the Lessor to the Lessee pursuant to this Company Lease Agreement be such that the Lessee shall be deemed to be the owner of the Leased Property for purposes of the Code. Accordingly, Lessor and Lessee agree and acknowledge that, for federal income tax purposes: (i) Lessee will treat the use of Series 2011 Bond proceeds to purchase, construct and install the Renewable Energy Projects as construction loan advances of Series 2011 Bond proceeds to Lessee by Authority; (ii) Lessee will treat all payments (or credits against such payments) made under this Company Lease Agreement

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as payments of interest and principal to the Authority with respect to such construction loan, with an allocation of principal and interest based upon the Authority's related principal and interest payments on the Series 2011 Bonds; and (iii) Lessee will report all payments made by the Series 2011 Local Units under the Power Purchase Agreements as revenues earned by Lessee. Notwithstanding the foregoing, for State law purposes, Lessor and Lessee agree that under the Program Document structure, any benefit to the Company shall be deemed incidental, the primary purpose of the Renewable Energy Program being to provide the Series 2011 Local Units with electricity at multi-year locked in rates to the greatest extent practicable below tariff, which goal has been effectively realized through the financing structure contemplated by the Program Documents.

**SECTION 402. Lease Term.**

(a) This Company Lease Agreement shall be and remain in effect with respect to the Leased Property (the "Lease Term") commencing on the date of authorization, execution, authentication and delivery of the Series 2011 Bonds that shall finance, among other things, the Renewable Energy Project component of the Leased Property, and continuing until terminated as provided for in this Section 402. The Term of this Company Lease Agreement shall terminate upon the occurrence of the first of the following of events:

(i) The exercise by the Lessee of its option or its requirement to purchase the Lessor's entire interest in the Leased Property pursuant to Article VII hereof;

(ii) The occurrence and continuation of an Event of Default hereunder by the Lessee and the Lessor's election to exercise remedies under this Company Lease Agreement pursuant to Section 1002 hereof;

(iii) Subject to an extension of this Company Lease Agreement in accordance with clause (iv) below, which provisions shall control even if the other requirements of this clause (iii) have been satisfied, the occurrence of all of the following: (A) the payment by the Lessee of all Lease Payments, which requirement as to Basic Lease Payments (unless sooner terminated or extended in accordance with the provisions hereof) shall be fully satisfied on December 15, 2027 (unless extended by an amendment hereto resulting from the issuance of Additional Bonds), (B) the Bonds, including the Series 2011 Bonds, shall no longer be Outstanding under the Bond Resolution, and if the provisions of Section 703(b) are applicable, and (C) on the date specified in the Certificate of Authorized Officer of the Lessee required by Section 703(b)(iii), or

(iv) The expiration date of any extension to the initial term of this Company Lease Agreement, which initial term would be determined by clause (i), (ii), and (iii) above, as such extension date shall be set forth in any amendment of this Company Lease Agreement (in accordance with the

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amendment provisions of Section 103 hereof), to the extent permitted under then applicable law.

(b) Notwithstanding the foregoing, this Company Lease Agreement shall be in effect until all the obligations created hereunder have been fulfilled.

(c) Notwithstanding the foregoing, any termination by reason of clause (a)(ii) above shall not alter or terminate the Lessee's unconditional payment obligations hereunder, including Sections 302 and 309 hereof.

#### SECTION 403. Net Lease.

(a) The Lessee intends for the Lease Payments to be net to the Lessor. The obligation of the Lessee to pay Lease Payments shall be absolute and unconditional and shall in no way be released, discharged or otherwise affected for any reason, including, without limitation, (i) any defect in the condition, quality or fitness for use of, or title to, any Project or (ii) any damage to or abandonment, destruction, requisition or taking of any portion of any Project.

(b) The Lessee shall comply with and pay all (i) local, state and federal taxes incurred with respect to the design, permitting, acquisition, construction, renovation, installation, operation, maintenance, ownership, possession or use of any Renewable Energy Project or the design, permitting, acquisition, construction, renovation or installation of any Capital Improvement Project, including, without limitation, income, franchise, gross receipts, sales, use, documentary stamp, excise and real and personal property taxes, (ii) payments in lieu of taxes, assessments, licenses, registration fees, freight and transportation charges and any other charges imposed or liabilities incurred with respect to the design, permitting, acquisition, construction, renovation, installation, operation, maintenance, ownership, possession or use of any Renewable Energy Project or the design, permitting, acquisition, construction, renovation or installation of any Capital Improvement Project, (iii) Lease Payments, and (iv) penalties, fines or interest imposed on any of the foregoing during the Lease Term.

(c) The Lessee shall pay, from a portion of the proceeds of the Bonds or otherwise, all reasonable expenses incurred by the Lessor in connection with all filings or recordings of any documents relating to this Company Lease Agreement, the other Company Documents, or the Lessor's rights hereunder and thereunder. The Lessor shall have the right to make any of the payments required of the Lessee, but shall not be obligated to pay the same, and to charge such payment with interest at the Overdue Rate from the due date thereof through the date of payment as an Additional Lease Payment to be paid by the Lessee with the next Basic Lease Payment due under this Company Lease Agreement.

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#### SECTION 502. Construction of Project.

(a) The Lessee shall be responsible for entering into the Development Agreement with the Developer and for the filing of Development Contracts with Contractors for (i) the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for all of the Series 2011 Local Units, (ii) the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for all of the Series 2011 Local Units, (iii) the completion and acceptance of the Renewable Energy Projects in accordance with the Plans and Specifications therefor and the other terms hereof, including the filing of the REP Acceptance Certificates in accordance with Section 510(d)(i) hereof, (iv) the completion of the Capital Improvement Projects in accordance with the Plans and Specifications therefor and the other terms hereof, including the filing of the CIP Acceptance Certificates in accordance with Section 510(d)(ii) hereof, and (e) all other matters that are incidental to the performance of the duties and powers that are expressly granted to the Lessee herein in connection with any of the foregoing. The Lessee may carry out its functions hereunder without obtaining any further approval of the Lessor; provided, however, that the Lessee shall issue monthly reports to the Lessor and the Applicable Series 2011 Local Unit detailing the progress of the foregoing and the anticipated completion dates thereof.

(b) After complying with the notification provisions of this subsection (b), the Lessee shall enter into one or more Development Contracts with the Contractor(s) providing for (i) the design, permitting, acquisition, construction, installation, operation and/or maintenance of the Renewable Energy Projects in accordance with the Plans and Specifications and/or (ii) the design, permitting, acquisition, construction, renovation, and/or installation of the Capital Improvement Projects in accordance with the Plans and Specifications. At least five (5) Business Days prior to the Lessee's entering into of each such Development Contract, the Lessee shall notify and provide each of the Lessor, the Applicable Series 2011 Local Unit and the Construction Manager with substantially final drafts thereof. Within a reasonable period of time thereafter, the Lessor, the Applicable Series 2011 Local Units and/or the Construction Manager shall notify the Lessee of any deviation therein from the Plans and Specifications for the Projects or from applicable law, if any. The Lessee shall, in its discretion, determine to incorporate or disregard any such advice into the final form of such Development Contracts provided, however, that any such action or inaction shall not relieve the Lessee from completing the Projects in accordance with the agreed upon Plans and Specifications and in accordance with all applicable law. After such five (5) Business Day notice period, the Lessee may enter into such Development Contracts, providing only that final executed copies thereof be delivered to each of the Lessor, the Applicable Series 2011 Local Unit and the Construction Manager. After such execution, the Lessee shall cause each Contractor to perform its obligations under the Development Contracts, and shall deliver the completed Project available for occupancy and use by the Company with respect to the Renewable Energy Projects and the Applicable Series 2011 Local Unit with respect to the Capital Improvement Projects, on or before December 14, 2012, as such date may be extended in accordance with the Program Documents.

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### ARTICLE V

#### CONSTRUCTION OF PROJECT; CARE AND USE; DRAW PROCEDURES

##### SECTION 501. Design of Project.

(a) Within ninety (90) days of the execution and delivery of this Company Lease Agreement, the Lessee shall cause preliminary Plans and Specifications to be prepared by one or more Architects or other Contractors with respect to all of the Projects for all of the Series 2011 Local Units and within the parameters set forth in the Company RFP. In preparing or causing the preparation of such preliminary Plans and Specifications, the Lessee expressly acknowledges that the Lessor shall only be providing financing, through the issuance of the Series 2011 Bonds, for the Maximum Net Bond Funded Project Cost Amount, and that any costs and expenses beyond such amount, except for any Completion Projects agreed in writing to be financed by the Lessor, are to be borne solely and wholly by the Lessee from any available funds.

(b) Copies of the Plans and Specifications, when in form satisfactory to the Lessee, shall be promptly delivered to the Lessor and the Applicable Series 2011 Local Units for the review, comment and approval of the Applicable Series 2011 Local Units. Within five (5) Business Days of receipt, each Applicable Series 2011 Local Unit shall have reviewed, and either commented on or approved the Plans and Specifications prepared by the Lessee for each respective Renewable Energy Project and each Capital Improvement Project, if any, for the respective Series 2011 Local Units. To the extent approval from any Series 2011 Local Unit shall not be received, the Lessee shall promptly modify the Plans and Specifications to address the Series 2011 Local Unit's reasonable concerns, whereupon the Lessee shall resubmit the Plans and Specifications to the Lessor and the Applicable Series 2011 Local Unit for further review, comment and approval. Such process shall continue until the Lessor and Lessee have received the approval of all of the Series 2011 Local Units; provided however, that both parties and the Applicable Series 2011 Local Units shall endeavor to complete the review, comment and approval process within one (1) month of the original submission to the Lessor and the Series 2011 Local Units. Notwithstanding any other provision of this Agreement or any other Company Document, to the extent an Applicable Series 2011 Local Unit does not adhere to the timetable set forth in this Section 501(b), then the required completion date for the respective Renewable Energy Project shall be extended by a time period equal to the delay by the Applicable Series 2011 Local Unit.

(c) Promptly after having received the respective Series 2011 Local Unit approvals of the Plans and Specifications related to their respective Projects, the Lessee shall submit or cause the submission of such Plans and Specifications to all other federal, state or local governmental or quasi-governmental agencies having jurisdiction over the Projects or any part thereof, and shall receive any required Project permits or approvals.

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(c) None of the Lessor, the Series 2011 Local Unit or the Trustee makes any warranties or representations or accepts any liabilities or responsibilities with respect to or for the adequacy, sufficiency or suitability of, or defects in or with respect to, the design, permitting, acquisition, construction, renovation or installation of the Project.

##### SECTION 503. Construction Performance Bond and Other Guaranty.

Any Development Contracts authorized to be entered into by the Lessor under the terms of this Company Lease Agreement in connection with the design, permitting, acquisition, construction, and installation of the Renewable Energy Projects and the design, permitting, acquisition, construction, renovation and installation of the Capital Improvement Projects shall be let in accordance with the requirements set forth in Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP attached as part of Exhibit A-1 hereto. The Lessor shall cause each Contractor to provide a Construction Performance Bond covering, with respect to the portion of the Projects to which the Development Contract applies, the (a) performance of the Development Contract, including coverage for correction of defects developing within one year after completion of construction and commencement of commercial operation of each Project, and (b) payment for labor and materials, in each case issued by a responsible surety company qualified to do business in the State. Such bond or bonds shall name the Lessor, the Lessee as co-obligees, or shall otherwise entitle the Lessor to draw upon such Construction Performance Bond, and shall be in amounts equal to the fixed contract price plus the Equity Contribution, if not so included in the fixed contract price; provided, however, that the one-year post completion and commencement of commercial operation portion may be limited to ten percent of the Development Contract price allocated to such Project in the Development Contract.

##### SECTION 504. Default in Contractors' Performance.

(a) In the event of default of the Contractor, including any subcontractor, under any Development Contract made in connection with any Project, the Lessee shall promptly proceed, either separately or in conjunction with others, to exhaust the remedies of the Lessee against the Contractor or any subcontractor so in default and against each surety for the performance of such Contractor or subcontractor. All such actions shall be deemed to be Costs of the Project for purposes of this Company Lease Agreement, inasmuch as the same shall be necessary to enable any such Project to be designed, permitted, constructed, acquired, renovated or installed in accordance with the terms hereof and of the Development Contracts. The Lessee agrees to advise the Lessor, in writing, of the steps it intends to take in connection with any such default. If the Lessee shall so notify the Lessor, the Lessor may, in good faith, in its own name or in the name of the Lessee, with notice to the Lessee, prosecute or defend any action or proceeding or take such other action involving the Contractor, including any subcontractor, or surety that the Lessor deems reasonably necessary, and in such event the Lessor hereby agrees to cooperate fully with the Lessee, but at the sole cost and expense of the Lessor. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing shall be paid into the Project Fund or the Revenue Fund, as shall be determined by the Lessee.

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(b) In the event that the Lessee is unable to comply with its requirements under this Company Lease Agreement prior to the execution of any Acceptance Certificate or if for any reason the design, permitting, acquisition, construction, renovation and installation of any Project is delayed, there shall be no resulting liability on the part of the Lessor and there shall be no diminution in or postponement of the amounts that are due and payable by the Lessee to the Lessor under the terms of this Company Lease Agreement.

**SECTION 505. Additional Rights of Lessee.**

The Lessor agrees that the Lessee shall, at its own expense, have the right to make immaterial changes to any Project or to make such additions, modifications and improvements inure to as in the Lessee's judgment are necessary to enable it to perform its obligations under this Company Lease Agreement without materially impairing the Project or materially changing the design of the Project from the Plans and Specifications; provided, however, that none of the foregoing shall in any way damage the Project or cause the Project to be used for purposes other than those authorized under the provisions of all applicable law. With respect to any such additions (only) to the Project in accordance with the provisions of this Section 505, such additions shall for all purposes of this Company Lease Agreement be deemed to be and remain the property of the Lessor and shall not become part of the Project, and any such item may be removed, altered or changed by the Lessee upon or before the termination of this Company Lease Agreement; provided, however, that such removal, alteration or change shall not damage the Project or, if any such damage shall occur, the Lessee shall repair the same at its sole cost and expense.

**SECTION 506. Maintenance and Use of Project; Lessor Access; Repairs Not to Create Liens.**

(a) With respect to the Renewable Energy Projects or a portion thereof financed under this Company Lease Agreement, the Lessee shall, at its own and sole expense, maintain, preserve and keep such Projects or any portion thereof, as the case may be, in good repair, working order and condition, and shall from time to time make all repairs, replacements and improvements necessary to keep such Projects or any portion thereof in such condition. The requirements to repair and keep the Capital Improvement Projects in good working order shall remain with the owners thereof, the Applicable Series 2011 Local Units.

(b) The Lessee agrees that the Lessor and the Applicable Series 2011 Local Unit shall have the right (but not the obligation) to enter upon the premises at reasonable times and upon reasonable notice in a reasonable manner where the Renewable Energy Projects or a portion thereof, as the case may be, is located in order to inspect the same for the purpose of assuring that such Renewable Energy Projects are being properly maintained, preserved and kept in good repair and condition. The Lessee further agrees that the Lessor or the Applicable Series 2011 Local Unit shall have such rights of access to such Renewable Energy Projects as may be reasonably necessary to cause the proper maintenance, preservation and keeping in good repair of

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may be expressly set forth in the Program Documents.

**SECTION 508. Lessee's Negligence.**

Subject to Section 608 hereof, the Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Projects, or any portion thereof, and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of the Lessee or of Contractors or other third parties, and whether such property damage be to the Lessee's property or to the property of others, which injury, death or damage is proximately caused by the negligent conduct of the Lessee or its officers, employees and agents, including any Contractors. The Lessee hereby assumes responsibility for and agrees to reimburse the Lessor and the Applicable Series 2011 Local Unit for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorneys' fees), of whatsoever kind and nature, imposed on, incurred by or asserted against the Lessor or the Applicable Series 2011 Local Unit that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part upon the negligent conduct of the Lessee or its officers, employees and agents, to the maximum extent permitted by law.

**SECTION 509. Project Costs; Payment.**

(a) The Project Costs to be incurred by the Lessee, or on behalf of the Lessee by any Contractor, relating to the acquisition, construction, and installation of the Renewable Energy Projects and the acquisition, construction, renovation and installation of the Capital Improvement Projects for all Series 2011 Local Units have been estimated by the Lessee under the Company RFP to be an aggregate amount not to exceed the sum of the Maximum Gross Bond Funded Project Cost Amount plus the Equity Contribution. Accordingly, the Lessee shall cause the Series 2011 Bonds to be issued, and further, shall cause the Maximum Net Bond Funded Project Cost Amount to be deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 5.02(7)(e)(i) and (ii) of the Bond Resolution. The Lessee represents that such initial deposit of the Maximum Net Bond Funded Project Cost Amount, together with interest to be earned thereon prior to disbursement in accordance with the terms hereof and of the Bond Resolution giving rise to the Maximum Gross Bond Funded Project Cost Amount, together with the Equity Contribution, shall be sufficient to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

(b) It is expressly acknowledged by the Lessee and the Lessor that the Lessor shall be under no obligation to issue any Bonds in an amount in excess of the Maximum Net Bond Funded Project Cost Amount to fund any Project Cost, including the Costs of any Completion Project-related to either the Renewable Energy Projects or the Capital Improvement Projects of the Series 2011 Local Units on, in or about their Local Unit Facilities, unless the Authority agrees to issue a Series of Additional Bonds pursuant to the provisions of Section

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such Renewable Energy Projects in the event of a failure by the Lessee to perform its obligations hereunder, which rights of access shall in no way imply any obligation on the part of the Lessor or the Applicable Series 2011 Local Unit.

(c) The Lessee shall not permit any mechanic's or materialmen's or other lien to be established or remain against any portion of the Projects for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the Lessee pursuant to Section 503 hereof and this Section 506, other than Permitted Encumbrances; provided, however, that if any such lien is established and the Lessee notifies the Lessor of its intention so to do, the Lessee may, in good faith, contest any lien filed or established against the Projects and, in such event, permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such item, the interest of the Lessor or the Applicable Series 2011 Local Unit in such Project shall be materially endangered or such Project or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide the Lessor and the Applicable Series 2011 Local Unit with full security against any such loss or forfeiture. The Lessor shall cooperate, and shall cause the Applicable Series 2011 Local Unit to cooperate fully with the Lessee in any such contest upon such request at the sole cost and expense of the Lessee.

**SECTION 507. Possession and Enjoyment of Projects during Lease Term.**

(a) From and after the execution and delivery of the REP Acceptance Certificate with respect to the applicable Renewable Energy Projects, the Lessor hereby agrees that during the Lease Term the Lessee, so long as the Lessee is not in default hereunder, shall have the quiet use and enjoyment of such Renewable Energy Projects, and the Lessee shall during such Lease Term peaceably and quietly have, hold and enjoy such Renewable Energy Projects, without suit, trouble or hindrance from the Lessor, any 2011 Local Unit, or any party claiming under or through the Lessor or such Local Unit, except as expressly set forth in the Program Documents. The Lessor and the Applicable Series 2011 Local Unit shall, at the request of the Lessee and at the Lessee's sole cost and expense, join in any legal action in which the Lessee asserts its right to such possession and enjoyment against any third-party to the extent the Lessor and the Applicable Series 2011 Local Unit lawfully may so do; in addition, the Lessee, while not in default hereunder, may in its discretion and at its sole cost and expense bring any such action in the name of the Lessor.

(b) From and after the execution and delivery of the CIP Acceptance Certificate with respect to the applicable Capital Improvement Projects, if any, the Lessor and the Lessee hereby agrees that during the Lease Term, the Applicable Series 2011 Local Unit, as fee owner thereof, shall have the quiet use and enjoyment of such Capital Improvement Projects, and the Applicable Series 2011 Local Unit shall during such Lease Term peaceably and quietly have, hold and enjoy such Capital Improvement Projects, without suit, trouble or hindrance from the Lessor or the Lessee, or any party claiming under or through the Lessor or the Lessee, except as

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202(h) hereof.

(c) Any Project Costs in excess of such estimated Project Cost amount as set forth in subsection (a) above shall be solely borne by and solely paid from any funds available to the Lessee (which shall not include monies under the Bond Resolution, absent the Lessor's written consent). The Lessee hereby covenants to complete all of the Projects in accordance with the Plans and Specifications regardless of the actual Costs of such Projects and regardless of the amounts remaining on deposit in the Project Fund to pay such Project Costs. To the extent the Lessee shall complete all of the Projects in accordance with the Plans and Specifications in an aggregate amount less than any such deposit, plus estimated investment earnings, in the amount of such estimated Project Costs, any excess amounts remaining on deposit in the Project Fund, after the final Acceptance Certificate shall have been filed by the Lessee in accordance with the terms hereof, shall be applied as a credit to the next due Basic Lease Payments (otherwise due and owing by the Lessee in accordance with Section 5.10(c)(1)(B) hereof and Section 5.02(3)(b) of the Bond Resolution.

(d) The Lessee shall cause moneys on hand from time to time in the Project Fund, held by the Trustee, to be made available for payment of all Project Costs, in the manner provided herein for submission of Draw Papers, including Sections 5.10 and 5.11 hereof, and in the Bond Resolution, including Sections 5.02(1) and 5.02(2)(a) thereof. The Lessee may cause moneys on hand from time to time in the Project Fund held by the Trustee to be made available for payment of all Company Development Fees and Expenses up to an aggregate amount of \$800,000 unless the Lessee receives the written acknowledgment of a higher ceiling from the Lessor, through the submission of a Certificate of an Authorized Officer of the Lessee substantially in the form of Exhibit D hereto, and otherwise following the terms set forth in Section 5.02(2)(b) of the Bond Resolution; provided, however, that notwithstanding the foregoing, the Lessee may not withdraw moneys from the Project Fund for payment of Company Development Fees and Expenses in excess of \$500,000, excluding those third-party and other Company Development Fees and Expenses approved by the Authority and paid upon issuance of the Series 2011A Bonds or thereafter, until the Company has satisfied, or caused the satisfaction of, all of the Completion Conditions. The Lessee, at its sole discretion, may apply less of the aggregate amount on deposit in the Project Fund and earmarked for payment of Company Development Fees and Expenses to such purpose, and instead apply all or a portion of such amount (including any interest earned thereon) toward Costs of the Renewable Energy Projects or Capital Improvement Projects in the manner contemplated by Sections 5.10 and 5.11 hereof, and Section 5.02(2)(a) of the Bond Resolution. Any moneys remaining on deposit in the Project Fund, including interest earnings, upon the payment of all Project Costs (for which the Company shall submit Draw Papers) and all Company Development Fees and Expenses (for which the Company shall submit such Exhibit D form Certificate), shall be applied in the manner set forth in Section 5.10(e) hereof.

**SECTION 510. Submission of Drawers; Procedures; Acceptance Certificates.**

(a) As payments are required for the Project under this Company Lease

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Agreement, the Lessee shall prepare and assemble the Draw Papers (as defined below) and submit them to the Trustee.

(b) On or before 10:00 a.m. EST on each date on which the Lessee intends to submit Draw Papers requisitioning funds held by the Trustee in the Project Fund for Costs of the Renewable Energy Projects or Capital Improvement Projects for an Applicable Series 2011 Local Unit (each a "Draw Date"), the Lessee shall advise the Trustee in writing of the aggregate amount of funds needed for disbursement to pay such Project Costs. An amount equal to the lesser of (i) such aggregate amount of funds needed and (ii) the amount of funds available in the Project Fund (and not otherwise earmarked to pay the Costs of the Projects for the other Series 2011 Local Units) shall be applied to the payment of such Project Costs upon submission of the Draw Papers in accordance with subsection (c) below.

(c) Except as otherwise provided in Section 511 hereof, the Lessee shall cause the Trustee to make payments from the Project Fund to the Contractors under the Development Contracts or other third-party vendors, in either case for Costs of the Projects, but only after the Lessee shall have supplied the Trustee with a duly authorized, completed and executed requisition from the Lessee substantially in the form of Exhibit C hereto (together with any attachments thereto, the "Draw Papers"), each executed by the Lessee, acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.1(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and acknowledged as to form only by the Lessor (in accordance with Section 4.1(e) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), stating with respect to each such payment to be made: (i) the requisition number, (ii) the name and address of the Contractor, other person, other corporation or other entity to which payment is due or, if for reimbursement to the Lessee, to which Contractor, other person, other corporation or other entity and when payment has previously been made by the Lessee, and as applicable in either case, the Development Contract under which such payment is or was due, (iii) the amount to be paid, (iv) the Renewable Energy Project or Capital Improvement Project to which such payment is to be applied, including the Applicable Series 2011 Local Unit and their Local Unit Facility, (v) that such payment obligation has been properly incurred in accordance with the Plans and Specifications, is an item of the Cost of such Project, is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal, (vi) that attached thereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Lessee. Lessee also agrees to file a monthly Initial Project Workforce Form AA201, and (vii) the amount being requisitioned shall not exceed seventy percent (70%) of any Renewable Energy Project Cost for which payment is being sought, it being expressly understood by the Lessee that for each requisition being submitted, the Lessee shall pay or cause to be paid at least thirty percent (30%) from the Equity Contribution (the ratio of not exceeding seventy percent (70%) payment from requisition and at least thirty percent (30%) payment from Equity Contribution for each Project Cost for which a requisition is submitted shall be defined herein as the "Draw Paper Ratio"), substantially in the form of, and consistent with the instructions included in, Exhibit C-1 attached hereto, with the Lessor and the Division of Public Contracts

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when the Lessee has submitted all Draw Papers respecting Costs of such Capital Improvement Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed, renovated and installed in accordance with the Plans and Specifications therefor, (z) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Capital Improvement Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only. Each such CIP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.3(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.3(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager); and

(e) If, upon the completion of the design, permitting, acquisition, construction, renovation and installation of all of the Projects for the Series 2011 Local Units on or prior to December 14, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), as evidenced by the filing of all Acceptance Certificates by the Company, as duly acknowledged by the Series 2011 Local Units and the Lessor, on or prior to December 14, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), all in accordance with the terms hereof, of the Bond Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, then upon the Trustee's receipt of the final Acceptance Certificates so designated, the Trustee shall, without any further authorization, (i) transfer any surplus funds remaining on deposit in the Project Fund to the Debt Service Fund for application as a credit to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and if still not fully applied, then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied, all unless the provisions of Section 5.02 of the Bond Resolutions require application otherwise, in which case the Trustee shall (ii) apply any such surplus funds remaining on deposit in the Project Fund in accordance with the terms of Section 5.02 of the Bond Resolution. To the extent the final Acceptance Certificate for all of the Series 2011 Local Units shall not have been filed by the

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Equal Opportunity Compliance, through and including the month after the final Acceptance Certificate has been filed.

(d) From time to time, in accordance with the terms of the Company Lease Agreement, the Local Unit License Agreements with respect to the Series 2011 Local Units, and this Bond Resolution, the Lessee shall file with the Trustee, duly authorized, completed, executed, acknowledged, and delivered Acceptance Certificates in the form of Exhibit B hereto at the following times and with respect to the following matters, and upon receipt thereof, the Trustee shall take the following actions:

(i) The Lessee shall file with the Trustee (A) the REP Acceptance Certificates in the form of Exhibit B-1 hereto, one for each Series 2011 Local Unit, signed by an Authorized Officer of the Lessee with respect to the Renewable Energy Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, (x) when the Lessee has submitted all Draw Papers respecting Costs of such Renewable Energy Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed and installed in accordance with the Plans and Specifications therefor, (z) when all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by the Lessee and such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Renewable Energy Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.2(a) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.2(b) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager) and until accompanied by one or more Interconnection Agreements with respect to all such Renewable Energy Projects or Completion Projects related thereto;

(ii) The Lessee shall file with the Trustee (A) the CIP Acceptance Certificates in the form of Exhibit B-2 hereto, one for each Series 2011 Local Unit that is financing Capital Improvement Projects with a portion of the proceeds of the Bonds, signed by an Authorized Officer of the Lessee with respect to such Capital Improvement Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, (x)

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Lessee, as duly acknowledged by the Series 2011 Local Units and the Lessor, all in accordance with the terms hereof, of the Bond Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, on or prior to December 14, 2012, as extended if applicable (hereby causing an Event of Default hereunder, but not under the Bond Resolution), the Trustee shall transfer any funds remaining on deposit in the Project Fund as set forth in a Certificate of an Authorized Officer of the Authority, as required pursuant to the provisions of Section 5.02(3)(b) of the Bond Resolution.

#### SECTION 511. Reimbursement to Lessee from Moneys in the Project Fund.

Notwithstanding the provisions of Section 510 hereof to the contrary, the Lessee shall be entitled to submit Draw Papers to the Trustee and receive reimbursement for the amounts set forth in such Draw Papers for advances made with respect to the Projects, prior to a given Draw Date, so long as the Lessee submits the requisite requisition and supporting copies of invoices prior to being reimbursed directly by the Trustee.

#### SECTION 512. Construction Period Insurance.

Each Contractor shall be required to provide and maintain in force during the entire acquisition, construction, renovation or installation period of all Projects, and prior to the Contractor's performance of work under any Development Contract, builder's risk or property damage insurance (in an amount not less than the full value of all work done and materials and equipment provided or delivered by the Contractor and, in any event, not less than the applicable Purchase Option Price at such time), comprehensive liability insurance, worker's compensation insurance and any other insurance required by law or customarily maintained with respect to like projects. All such policies of insurance shall show the Lessor, the Lessee and the Applicable Series 2011 Local Unit as named insureds, in such amounts as their interests may appear. Evidence of such insurance shall be filed with the Lessor. Notwithstanding the foregoing, the EPC Contractor and the Company will not be required to maintain property insurance concurrently. The EPC Contractor shall supply builder's risk insurance until completion and the Company shall supply property insurance thereafter.

#### SECTION 513. Taxes and Other Governmental Charges and Utility Charges.

The Lessee shall pay when due all gas, water, steam, electricity, heat, power, telephone and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Renewable Energy Projects. The Lessee shall also pay all property and excise taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Renewable Energy Projects or any part thereof or the Lease Payments, which become due during the Term of this Company Lease Agreement with respect thereto, and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Renewable Energy Projects; provided, however, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only

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such installments as are required to be paid during the Term of this Company Lease Agreement as and when the same become due. The Lessee shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate or other similar tax payable by the Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any real estate or other tax upon property and arises out of or is levied upon the Lessor's interest in the Renewable Energy Projects hereunder.

The Lessee may, at its own expense and in its or the Lessor's name, contest in good faith any such taxes, assessments or utility or other charges (and the Lessor shall cooperate fully in any such contest) and, in the event of any such contest, permit such taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items, the interest of the Lessor in the Renewable Energy Projects shall be materially endangered, or the Renewable Energy Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss or forfeiture that may result from nonpayment.

#### SECTION 514. Site Visits.

The Lessor shall visit the site of the Project at least quarterly to monitor the acquisition, construction, renovation and installation of the Projects by the Lessee and/or the Contractors, as the case may be.

#### SECTION 515. Construction Manager.

At its sole discretion, the Lessor may employ one or more Construction Manager, payable from a portion of the proceeds of the Series 2011 Bonds in excess of the Maximum Net Bond Funded Project Cost Amount, to act on behalf of the Lessor in exercising any of its rights, or in discharging any of its duties and obligations under this Company Lease Agreement or other Program Document with respect to the (a) design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units and/or the (b) design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units.

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insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

#### SECTION 603. Auto Liability Insurance.

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard comprehensive automobile liability insurance policy or policies in protection of the Lessee, the Lessor, and the Applicable Series 2011 Local Unit. Said policy or policies shall be written in a comprehensive form, shall comply with N.J.S.A. 39:6b-1 et. seq. and all local regulations and case law regarding the scope and effect of the New Jersey Compulsory Motor Vehicle Insurance Statute, and shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage arising from the maintenance, use or operation of any owned or non-owned vehicle used in or in connection with the Projects. Said policy or policies shall provide coverage in an amount not less than \$1,000,000.00, shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles, which may be used by Lessee in connection with the services required under the Power Purchase Agreement. Such auto liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

#### SECTION 604. [Reserved].

#### SECTION 605. Worker's Compensation Insurance.

If required by State law, the Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, worker's compensation insurance covering all of Lessee's and its Contractors' employees on, in, near or about the Projects, and, upon request, shall furnish to the Lessor certificates evidencing such coverage. To the extent the Lessee is procuring or maintaining such insurance, such coverage may, at the option of the Lessee, be provided through a self-insurance program that is established and operating in conformity with all applicable State law. To the extent that any other entity is procuring or maintaining such insurance, such insurance shall be provided under a policy written by an insurance company approved by the State in a minimum amount of \$1,000,000 for damage

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## ARTICLE VI

### INSURANCE; TITLE TO PROJECT AND OTHER MATTERS

#### SECTION 601. Insurance Coverage for the Projects.

The Lessee shall procure and maintain or cause to be procured and maintained, from and after the date it accesses a Local Unit Facility and through the balance of the Term of this Company Lease Agreement and in accordance with the further terms of this Article VI, (i) public liability insurance, including, without limitation, bodily injury and property damage coverage, (ii) auto liability insurance, including, without limitation, bodily injury and property damage coverage, (iii) worker's compensation insurance, and (iv) property insurance, including, without limitation, fire and comprehensive other risk coverage, all to be procured and maintained with an insurance company approved by the State and such insurance policy or policies naming the Lessee, the Lessor and the Applicable Series 2011 Local Units as insureds or, if the Lessee elects and receives the consent of the Lessor, the Lessee shall provide to the Lessor a Certificate of an Authorized Officer of the Authority to the effect that adequate reserves are deposited and maintained in trust with an independent trustee in the amounts sufficient to cover the loss or damage to any Project. Any insurance proceeds in excess of the Purchase Option Price for all of the Bonds Outstanding at such time with respect to the Projects under this Company Lease Agreement shall be remitted to the Lessee. Notwithstanding the foregoing, the timing of delivery of insurance required by this Company Lease Agreement can be changed with a Certificate of an Authorized Officer of the Authority.

#### SECTION 602. Public Liability Insurance.

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard commercial general liability insurance policy or policies in protection of the Lessee, the Lessor and the Applicable Series 2011 Local Units. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by the operation or ownership of the Projects. Said policy or policies shall provide coverage in the amount of \$1,000,000.00. This coverage must be in writing on an occurrence form, claims made policies will be unacceptable. This Comprehensive General Liability insurance shall cover the Lessee, the Authority, each of the Series 2011 Local Units and their employees, agents and officers from and against any claim arising out of personal injury of Lessee or the Lessee's failure to comply with the terms of this Company Lease Agreement. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by a Lessee or by any other persons. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in this Company Lease Agreement. The policy shall also be endorsed to include coverage for products, completed operations, and independent contractors. Such public liability

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resulting from a single accident or event.

#### SECTION 606. Excess Liability

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, an excess liability insurance policy or policies in protection of the Lessee, the Lessor, and the Applicable Local Unit Facility, each applicable Series 2011 Local Unit. Said policy or policies shall be in the amount of \$4,000,000.00 shall be in the form of an Umbrella policy rather than a following form excess policy. This policy or policies shall be specifically endorsed to be in excess of the required Comprehensive General Liability Coverage, the Employees' Liability Coverage on the Workers' Compensation policy, and the Comprehensive Automobile Liability policy.

#### SECTION 607. Other Insurance and Requirements for All Insurance.

All insurance required by Article V hereof or this Article VI (a) may be carried under a separate policy or a rider or endorsement, (b) shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State, or may be maintained as part of any insurance pool permitted under the laws of the State, (c) shall contain a provision that the insurer shall not cancel or revise coverage hereunder without giving written notice to the Lessor at least thirty (30) days before the cancellation or revision becomes effective, and (d) shall name the Lessee, the Lessor and the Applicable Series 2011 Local Units as insured parties as their respective interests may appear. The Lessee shall deposit with the Lessor original policies evidencing any such insurance procured by it or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy, the party obligated under the terms of this Company Lease Agreement to maintain such insurance shall furnish to the other party evidence that the policy has been renewed or replaced by another policy conforming to the provisions of Article V hereof and this Article VI, unless such insurance is no longer obtainable in which event such party shall notify the other party of this fact and the Lessee shall thereafter self-insure pursuant to the terms of this Article VI. Neither the Trustee nor any Applicable Series 2011 Local Unit shall have responsibility with respect to any determinations as to the sufficiency of any insurance required under this Company Lease Agreement nor as to the compliance by the Lessee with the provisions of the Bond Resolution regarding insurance.

#### SECTION 608. Indemnification.

The Lessee shall (a) indemnify and save harmless the Lessor and the Series 2011 Local Units and their agents, employees, officers and directors from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of any breach or non-performance by the Lessee of its obligations under this Company Lease Agreement, or negligence or misconduct by the Lessee in

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connection with such performance or non-performance, or the ownership, rental, possession, operation, condition, sale or return of the Projects, and (b) reimburse the Lessor or the Series 2011 Local Units for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Lessor or the Series 2011 Local Units, as applicable, has acted with gross negligence or willful misconduct in connection with the liabilities for which the Lessor or the Series 2011 Local Units, as applicable, is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 608 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefor by the Lessor or the Series 2011 Local Units, as applicable (which demand cannot be made prior to the Lessee's receipt thereof), and shall survive the termination or expiration of this Company Lease Agreement.

**SECTION 609. Title to Projects Upon Termination of Company Lease Agreement.**

(a) Upon the financing of the Renewable Energy Projects with a portion of the proceeds of the Bonds and the filing of the REB Acceptance Certificates, the Lessor shall be the holder of title to such Renewable Energy Projects for all State law purposes, subject to the lease of the Leased Property contemplated hereby. Upon the filing of the CIP Acceptance Certificates, if any, the parties hereto acknowledge that the respective Series 2011 Local Units shall be the fee owners of the respective Capital Improvement Projects described in any such Certificates. The parties further acknowledge that the Lessor may assign the Reimbursement Collateral pursuant to the terms of the County Security Agreement, if any, and/or the County Guaranty Agreement. So long as no Event of Default shall have occurred and be continuing hereunder, the Lessor shall not sell, assign or alienate all or any part of the Renewable Energy Projects (but such provision shall not apply to the Capital Improvement Projects, the Lessor having no interest therein) or any interest therein to any other Renewable Energy Program Interested Party or other third-party (other than to the Lessee pursuant to Article VII hereof), it being the purpose and intent hereof that the Lessee shall have the option to purchase all of the Lessor's right, title and interest in and to the Renewable Energy Projects during or upon the termination of this Company Lease Agreement, with credit toward the Basic Lease Payments for any such purchase price paid, all in accordance with Article VII hereof.

(b) Upon the termination of this Company Lease Agreement in accordance with Section 402(a)(iii) or (iv) hereof, (i) all of the Lessor's right, title and interest in and to the Renewable Energy Projects (and not the Capital Improvement Projects, the Lessor having no interest therein) shall be deemed sold, for purposes of State law, by the Lessor to the Lessee for the consideration of all previous Basic Lease Payments, and to the extent the Lessor was deemed to have a fee interest therein or to have retained title thereto for purposes of State law, such interest shall be deemed extinguished under State Law and such title thereto shall be deemed

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conditions, all in accordance with the provisions of Section 5.2(a) of the Local Unit License Agreement for any such Applicable Series 2011 Local Unit.

(c) Upon the termination of this Company Lease Agreement due to a Lessee Event of Default in accordance with Section 402(a)(v) hereof, (i) Lessor shall possess full right, title and interest in and to the Renewable Energy Projects for all of the Series 2011 Local Units (but not the Capital Improvement Projects, if any, which title shall remain with the respective Series 2011 Local Units), (ii) Lessee shall have no further leasehold or other right, title and interest in and to such Renewable Energy Projects (nor any such Capital Improvement Projects), (iii) except for the rights of the Series 2011 Local Units to effect a nominal value purchase of their respective Renewable Energy Projects in accordance with subsection (f) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessee and its officers shall take all actions necessary to authorize, execute and deliver to the Lessor any and all documents necessary to vest in the Lessor all of the Lessee's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessee or the Lessor to be prepared and filed with the Lessee and the Lessor, and, upon the request of the Lessee or the Lessor, shall execute and deliver to the Lessee and the Lessor all such instruments as may be desirable to evidence such discharge and satisfaction.

(f) Upon the termination of this Company Lease Agreement as contemplated in Section 609(e) above, the parties acknowledge that the right, title and interest in and to the Renewable Energy Project developed for any one or more Series 2011 Local Units may be sold by the Lessor to any such Applicable Series 2011 Local Unit for nominal consideration in accordance with the provisions of Section 5.2(a)(iv) of the Local Unit License Agreement for such Applicable Series 2011 Local Unit.

(g) Notwithstanding any other provision of this Section 609, in no event shall there be any transfer of any Renewable Energy Project or any interest therein to any person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event. The expression "Tax Benefit Recapture Event" means an event which would entitle the United States Department of the Treasury or the Internal Revenue Service to require that the Lessee return all or part of the Section 1603 Grant in lieu of tax credit received in connection with the Renewable Energy Projects, or to disallow the Lessee's tax deductions or recapture all or a portion of the investment tax credits previously claimed with respect to investments in energy property for depreciation.

**SECTION 610. No Further Encumbrances; Exceptions.**

(a) The Lessee shall not, directly or indirectly, create, incur, assume or suffer

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automatically and without further action conveyed by Lessor to Lessee, (ii) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(c) Upon the termination of this Company Lease Agreement due to an optional or mandatory pre-purchase of the Renewable Energy Projects in accordance with Section 402(a)(i) and Sections 701 or 702, as applicable, hereof, (i) the rights of the Lessor and the Lessee in the title to the Renewable Energy Projects (but not the Capital Improvement Projects, which title shall remain with the respective Series 2011 Local Units) shall be as set forth in Section 703 hereof, (ii) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(d) Upon the termination of the Power Purchase Agreement, the parties acknowledge that (i) the Company and each Series 2011 Local Unit shall have thirty (30) days from any such termination to negotiate a fair market value purchase price for the Renewable Energy Project developed for any such Applicable Series 2011 Local Unit and (ii) to the extent the Company and any such Applicable Series 2011 Local Unit can agree to any such fair market value purchase price for such Renewable Energy Project, the parties acknowledge that the right, title and interest in and to such Renewable Energy Project may be sold by the Lessee to any such Applicable Series 2011 Local Unit for such fair market value price, and any other terms and

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to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Projects, other than the respective rights of the Lessor and the Lessee as herein provided and the Permitted Encumbrances or in any other Program Document. Except as expressly provided in this Article VI, the Lessee shall promptly, at its own expense, take such action as may be necessary to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Lessee shall reimburse the Lessor and/or the Applicable Series 2011 Local Units, as applicable, for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

(b) The Lessee may, at its own expense and in its name, contest in good faith any taxes, assessments or utility and other charges and, in the event of any such contest, permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items the interest of the Lessor in the Projects shall be materially affected or the Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss that may result from nonpayment, in form satisfactory to the Lessor.

**SECTION 611. Trustee Indemnification.**

The Lessee shall (a) indemnify and save harmless the Trustee and its agents, employees, officers and directors from and against any and all liabilities, including, without limitation, all claims, demands, damages, losses, costs, penalties, charges and expenses (including, but not limited to, reasonable attorneys' fees) in any way relating to or arising from (i) the development, ownership, possession, operation, condition, sale, rental, sub-rental or return of the Projects, (ii) the Program Documents, and (iii) any resignation by the Trustee in accordance with Section 10.07(2) of the Bond Resolution; and (b) reimburse the Trustee for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Trustee may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Trustee has acted with negligence or willful misconduct in connection with the liabilities for which the Trustee is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 611 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefor by the Trustee, and shall survive the termination or expiration of this Company Lease Agreement.

**SECTION 612. Advances.**

If the Lessee shall fail to perform any of its obligations under this Company Lease Agreement, the Lessor or the Applicable Series 2011 Local Units may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and the Lessee shall be obligated to repay all such advances on demand to the Lessor or

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the Applicable Series 2011 Local Units, as the case may be, as Additional Lease Payments with interest at the Oversee Rate from the date of the advance to the date of repayment.

**SECTION 613. Net Proceeds of Insurance; Form of Policies.**

(a) Each policy of insurance obtained pursuant to or required by this Article VI shall provide that all Net Proceeds thereunder shall be payable (i) with respect to the Renewable Energy Projects, to the Lessor for deposit with the Trustee in the Project Fund, the Revenue Fund or such other Fund or Account under the Bond Resolution, in any event as directed by the Lessee, but only so long as the Lessee has not caused an Event of Default hereunder, in which latter case such Net Proceeds shall be payable to the Lessor, (ii) with respect to the Capital Improvement Projects, to the Applicable Series 2011 Local Unit, or at their direction, to the Trustee for deposit in the Project Fund, or other Fund or Account under the Bond Resolution, or (iii) if not discernable as to Project or otherwise, payable to the Lessor or at the Lessor's direction, to the Trustee for deposit in the Project Fund, the Revenue Fund, or other Fund or Account under the Bond Resolution.

(b) The Lessee shall pay or cause to be paid when due the premiums for all insurance policies required by this Company Lease Agreement, and shall promptly furnish or cause to be furnished to the Lessor and the Series 2011 Local Units evidence of such payments. All such policies shall provide that the Applicable Series 2011 Local Units and the Lessor shall be given not less than thirty (30) days' notice of each expiration, any intended cancellation and any intended reduction of the coverage provided thereby.

(c) Neither the Applicable Series 2011 Local Units nor the Authority shall be responsible for the sufficiency of any insurance herein required, and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Applicable Series 2011 Local Units or the Authority, as the case may be.

(d) The Lessee shall cause to be delivered to the Applicable Series 2011 Local Units and the Lessor on each anniversary of the date of issuance of the Series 2011 Bonds a Certificate of an Authorized Officer of the Lessee, satisfactory to the Applicable Series 2011 Local Units and the Lessor, that the insurance policies required by this Company Lease Agreement are in full force and effect.

**SECTION 614. Self-Insurance.**

Self-insurance, in lieu of policy coverage, maintained by the Lessee pursuant to this Article VI shall only be deemed to comply with this Article VI to the extent all of the following are satisfied:

(a) The self-insurance program shall be acceptable to the Lessor, the Applicable Series 2011 Local Units and the Lessee, as evidenced by Certificates of Authorized

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Officers to such effect;

(b) The self-insurance program shall be approved by an Independent Insurance Consultant;

(c) The self-insurance program shall include an actuarially sound claims reserve fund out of which each self-insured claim shall be paid; the adequacy of each such fund shall be evaluated on an annual basis by an Independent Insurance Consultant; and any deficiencies in any self-insurance claims reserve fund shall be remedied in accordance with the recommendation of an Independent Insurance Consultant;

(d) The self-insurance claims fund shall be held in a separate trust fund by an independent trustee, which independent trustee may also be the Trustee serving as such under the Bond Resolution;

(e) The self-insurance program shall comply in every particular with all applicable law; and

(f) In the event the self-insurance program shall be discontinued, the actuarial soundness of its claims reserve fund, as determined by an Independent Insurance Consultant, shall be maintained.

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**ARTICLE VII**

**OPTION TO PURCHASE; PREPAYMENT OF LEASE PAYMENTS**

**SECTION 701. Lessee's Prepayment and Purchase Option; Purchase Option Price.**

(a) The Lessee is hereby granted the option to prepay its Basic Lease Payments in part, in accordance with Section 5.07 of the Bond Resolution. Any partial prepayment shall not affect the Lessor's right, title and interest in and to the Renewable Energy Projects, nor the Series 2011 Local Unit's right, title and interest in and to the Capital Improvement Projects. At the Lessee's option, as directed in a Certificate of an Authorized Officer of the Company delivered by the Company to the Trustee, the Lessor, and the County accompanying any such partial prepayment, any such partial prepayment shall be either (i) credited to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied or (ii) applied to defease Outstanding Bonds in the manner contemplated by Article XII of the Bond Resolution, and in the amounts and on the dates as set forth in any such partial prepayment Certificate of the Company, which in the case of such defeasance option selected by the Company, such Certificate of the Company shall be acknowledged by an Authorized Officer of the Authority to the effect that such dates and amounts conform to the requirements of the Bond Resolution. Upon any such partial prepayment, new schedules reflecting the revised Basic Lease Payments due from the Lessee, taking into account any such partial prepayment, shall be attached by the Lessor hereto.

The Lessee may not utilize funds in the County Security Fund or Restoration Security Fund, if any, toward any such partial prepayment; provided, however, that such limitation does not extend to monies previously released from the County Security Fund and transferred to the Aged Account in the Revenue Fund in accordance with Section 5.07(3)(a) of the Bond Resolution at the time of any such partial prepayment; provided, further however, that such limitation does not extend to such amounts that would be eligible for release pursuant to the calculations referred to in Section 5.07(3)(a) of the Bond Resolution immediately after any such partial prepayment (to the extent the Series 2011 Bonds will not be defeased simultaneously with the prepayment, the Series 2011 Bonds that will be defeased upon the prepayment shall not be considered Outstanding for purposes of such calculations, and therefore can be released and applied to any such prepayment if the calculations so warrant release), to the extent the Lessor has verified such calculations in writing to the Lessee and the Trustee. In any such instance where this limitation does not extend, the Lessee may direct the Trustee in writing, with a copy to the Lessor, to apply any such amounts in the County Security Fund, if any, to any such partial prepayment, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(b) The Lessee is further hereby granted the option to prepay and purchase all

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of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, if any) in whole, at the times set forth in Section 701(c) hereof, by paying to the Trustee the "Purchase Option Price", which for any date of calculation shall be the sum of (i) the aggregate amount of unpaid principal of the Bonds to their maturity date under the terms of the Bond Resolution and as set forth in the Lessee's notice to the Trustee of such prepayment, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the final maturity date set forth in clause (i) above, (iii) the redemption premium, if any, applicable to the payment of the Bonds on the maturity date set forth in clause (i) above, and (iv) any costs of redemption or defeasance or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

The Lessee may direct the Trustee in writing, with a copy to the Lessor, that all or a portion of the Purchase Option Price (where all of the Outstanding Bonds shall be paid) shall be funded from the County Security Fund, if any, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(c) The prepayment options set forth in subsections (a) and (b) above may be exercised by the Lessee at any time by (i) giving written notice to the Trustee and the Lessor of the exercise of such option at least fifty-two (52) days prior to the final maturity date set forth in such notice, and (ii) if the prepayment shall occur before January 15, 2021, complying with any other requirements of Article XII of the Bond Resolution that may be required by the Trustee or the Lessor to defease the Bonds in accordance with the terms of the Bond Resolution, including, without limitation, a verification report from a nationally recognized accounting firm approved by the Trustee and the Lessor to the effect that the amount so prepaid shall equal the Purchase Option Price (for a full prepayment) and shall therefore be sufficient to defease the Bonds (in whole or in part, as the case may be) by paying all of the principal thereof and redemption premium, if any, thereon through and including the final maturity thereof, plus all interest accruing thereon to such final maturity date. Such option shall be exercised by depositing with said notice cash and/or Investment Securities in such amount as shall be sufficient, together with interest to accrue thereon, to pay the Bonds to be defeased on said redemption date.

(d) Notwithstanding any provision herein or in any Program Document to the contrary, the Lessee may not advance refund, currently refund or otherwise refund any Series of Bonds with bonds, notes or other obligations of the Lessee, or such other moneys available to the Lessee, and use such moneys to make any prepayments hereunder unless (i) provision has been made by the Lessee for the payment of all (A) principal of, redemption premium if any, and interest on the Series of Bonds being refunded to any redemption date and (B) Administrative Expenses of the Lessor relating thereto, and (ii) if applicable, prior written notification of any such refunding has been given to the Lessor. Notwithstanding the foregoing, the Lessor may, in its sole discretion at the times and under the circumstances and for the purposes set forth in the Bond Resolution, advance refund, currently refund, or otherwise refund any Series of Bonds, the allocation of the benefit from which shall be determined between the Lessor and the Lessee at the time of any such defeasance and/or refunding.

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**SECTION 702. Mandatory Prepayment and Purchase of Project; Mandatory Purchase Price.**

(a) Upon the acceleration of the Bonds, the Lessee shall forthwith prepay and purchase all of the Renewable Energy Projects (but not the Capital Improvement Projects, if any) by paying to the Trustee, immediately upon receipt of notice of such acceleration, the "Mandatory Purchase Price", which for any date of calculation shall be the sum of (i) the aggregate amount of the unpaid principal of the Bonds, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the date that the amount in clause (i) above has been paid in full, and (iii) any costs of acceleration or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

(b) In the event the Mandatory Purchase Price remains unpaid when due, the Lessee shall make an Additional Lease Payment immediately due and payable equal to, for any date of such deficiency, the amount of such deficiency times the per diem Overdue Rate.

**SECTION 703. Effect of Prepayment.**

(a) In the event of a deposit sufficient to purchase the Renewable Energy Projects (but not the Capital Improvement Projects, if any) pursuant to Section 701 or 702 hereof and to pay any and all amounts due hereunder, (i) all of the Lessor's right, title and interest in and to such Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest) shall be deemed sold to the Lessee for the consideration set forth in such Sections, (ii) except for the rights of the Series 2011 Local Units to effect a Fair Market Value purchase of their respective Renewable Energy Projects in accordance with Section 609(d) hereof, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest), free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debts and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(b) Notwithstanding anything to the contrary herein or in any Program Document, including without limitation subsection (a) above, to the extent the Lessee has satisfied all of the conditions of subsection (a) above in order to terminate this Company Lease Agreement, including the payment of all amounts due and owing hereunder and under the other Company

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**ARTICLE VIII**

**DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS**

**SECTION 801. Damage, Destruction and Condemnation.**

(a) If either (i) the Projects or any portion thereof are destroyed or damaged by fire or other casualty or (ii) title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by any governmental body, other than Sussex County, a division of Sussex County Government, any Series 2011 Local Unit, or by any person, firm or corporation acting under governmental authority, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by an Event of Default hereunder, in which event the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to purchase the Project in whole by paying the then applicable Purchase Option Price in accordance with Section 701 hereof and causing the Lessor to deposit, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so deposit, such Net Proceeds with the Trustee in the Revenue Fund, the Debt Service Fund, or such other Fund or Account that would allow the application of the Net Proceeds toward the Purchase Option Price. Subsections (y) and (z) above are mutually exclusive.

(b) If title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by Sussex County, a division of Sussex County Government, or any Series 2011 Local Unit, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project

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Documents, and at the date all of such conditions are satisfied, (i) the Lessee is not in any continuing default or Event of Default hereunder or under any Company Document, (ii) the term of cure (j) or more Local Unit License Agreements with one (1) or more Series 2011 Local Units has not expired, (iii) the Lessee delivers to the Lessor and such Series 2011 Local Unit a Certificate of an Authorized Officer of the Lessee expressing the Lessee's interest in continuing the term of this Company Lease Agreement to a specified date which date shall be no later than the termination date of any such Local Unit License Agreements, then without any further action (e) the Company Lease Agreement shall not terminate, but rather shall continue for a term no longer than the termination date of the Applicable Local Unit License Agreement, all as set forth in any such Certificate, (b) the Lessee's only remaining payment obligations under the Company Lease Agreement are to pay rent for the Leased Property in an amount that shall be the sum of (i) the Authority's annual Administrative Fee, (ii) any Administrative Expense that Lessee incurs the Authority, the County or any such Series 2011 Local Unit to incur, both as Additional Lease Payments hereunder, there being no continuing obligation to make Basic Lease Payments as the Series 2011 Bonds and any Additional Bonds that are Outstanding are either defeased or redeemed under the Bond Resolution, and (iii) ten (10) dollars per annum, payable annually in advance, (c) the Lessee can only cause an Event of Default hereunder should the Lessee fail to pay such amounts, fail to operate and maintain the Applicable Renewable Energy Project, or fail to allow the Applicable Series 2011 Local Unit to discharge its obligations under its Local Unit License Agreement, such as to take and pay for the Electricity generated under the Renewable Energy Program by the Lessee for the benefit of any such Series 2011 Local Unit, and (d) the Company retains all other rights, duties and obligations under the Program Documents, until the termination of the Applicable Local Unit License Agreement with respect to the particular Project, including without limitation the right to receive the PPA Price, as escalated, for the duration of any such term. The Lessee may continue this arrangement with the Authority and more than one (1) Series 2011 Local Unit, to the extent all such conditions are satisfied with respect to any other Series 2011 Local Unit and their respective Renewable Energy Projects, until the termination of this Company Lease Agreement, without interruption, in accordance with the terms of Section 402(a)(ii) hereof, in which case title to the Applicable Renewable Energy Project(s) shall transfer in accordance with the provisions of Section 609(b) hereof.

**SECTION 704. Substitution of Project.**

The Lessee is hereby granted the full power of substitution with respect to any Project so long as the Lessor and the Trustee receive the prior written consent of the Applicable Series 2011 Local Unit and the Authority, along with revised Exhibits to the Applicable Program Documents.

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Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to have no further obligation with respect to the affected Project(s). Subsections (y) and (z) above are mutually exclusive.

(c) In the event of any damage, destruction, condemnation, taking or other event that constitutes a revocation or deemed revocation under Section 3.7 of any Local Unit License Agreement with respect to a Project requiring payment of the amounts set forth in Section 3.7(a)(iv) of such Local Unit License Agreement, upon receipt of such amount, this Company Lease Agreement and the obligations of Lessee thereunder with respect of and solely with respect to such Project, shall terminate and title thereto shall vest in Lessee. Such event shall have no effect on the Lessee's obligations to continue to make all Lease Payments on time and in full.

**SECTION 802. Insufficiency of Net Proceeds.**

If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement relating to the Projects as so damaged or taken, the Lessee shall either:

(a) direct the application of the Net Proceeds in the manner as set forth in Sections 801(a)(y) or 801(b)(y) above, thereby requiring the Lessee to complete the work relating to the Projects as so set forth, except that the Lessee shall itself pay any Project Costs in excess of the amount of the Net Proceeds, and, if by reason of any such insufficiency of the Net Proceeds the Lessee shall make any payments pursuant to the provisions of this Section 802(a), the Lessee shall not be entitled to any reimbursement therefrom from the Lessor, nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Projects;

(b) direct the application of the Net Proceeds in the manner as set forth in Section 801(a)(z) above, thereby requiring the Lessee to make an equity contribution to the extent the Net Proceeds are insufficient to cover the Purchase Option Price and thereupon exercise Lessee's option to purchase the Project in whole, in accordance with Article VII hereof, in which event the Net Proceeds shall be used toward this purpose; or

(c) direct the application of the Net Proceeds consistent with the determination contemplated in Section 801(b)(y) above, thereby causing the Net Proceeds to be applied to the payment of the Interest Portion and, to the extent available, the Principal Portion of the Basic Lease Payments due on the immediately succeeding Basic Lease Payment Date until all of the Net Proceeds have been so applied, in which event the Lessee shall not be entitled to any reimbursement therefrom from the Lessor nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Project. Subsections (a), (b) and (c) above are mutually exclusive.

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**SECTION 803. Cooperation of Lessor.**

The Lessor and the Applicable Series 2011 Local Unit shall cooperate fully with the Lessee, at the sole cost and expense of the Lessee, in filing any proof of loss with respect to any insurance policy covering the casualties described in Section 801 hereof and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Projects or any part thereof. In no event shall the Lessor or the Applicable Series 2011 Local Unit voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim or any prospective or pending condemnation proceeding with respect to the Projects or any part thereof, without the prior written consent of the Lessee.

**SECTION 804. Condemnation of Other Property Owned by Lessee.**

The Lessee shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for the destruction of, damage to or taking of its property not included in the Project.

**ARTICLE IX**

**ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING**

**SECTION 901. Assignment by Lessor.**

Except for this Company Lease Agreement and as otherwise provided below and in any other Program Document, including without limitation with respect to its payment obligations under the Power Purchase Agreement to the Series 2011 Local Units under the Local Unit License Agreements, or with respect to the assignment of the Reimbursement Collateral to the County and the County Security Provider, if any, under this County Guaranty Agreement and the County Security Agreement, if any and as applicable, the Lessor shall not assign its obligations under this Company Lease Agreement and no such purported assignment thereof shall be effective. All of the Lessor's right, title and interest in and in this Company Lease Agreement, the Lease Payments and the other amounts due to it hereunder and under the Project shall be assigned by the Lessor to the Trustee pursuant to the pledge of the Trust Estate under the Bond Resolution no later than the execution and delivery hereof.

**SECTION 902. Lease Payments to Trustee.**

The Lessor and the Lessee hereby agree that from and after the adoption of the Bond Resolution and the execution of this Company Lease Agreement, so long as the same shall remain in effect, payment by the Lessee to the Trustee or, if applicable, to the successor thereof of any moneys or sums due hereunder from the Lessee to the Lessor shall satisfy the obligation of the Lessee to pay such money or sums.

**SECTION 903. Assignment and Subleasing by Lessee.**

This Company Lease Agreement may not be assigned or subleased by the Lessee without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Lessee entered into this Company Lease Agreement as the successful respondent pursuant to the Company RFP and all applicable law, and the Lessor and the Series 2011 Local Units have selected the Lessee, and not any assignee, to receive the rights, and perform the duties and obligations hereunder. Any such purported assignment or sublease shall be deemed null and void without such prior written consent.

**SECTION 904. Restriction on Mortgage or Sale of Project by Lessee.**

The Lessee shall not mortgage, sell, assign, transfer or convey the Projects or any portion thereof during the Term of this Company Lease Agreement without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Program Documents contemplate such Projects being available, directly in the case of the Capital Improvement Projects, or indirectly in the case of the Renewable Energy Projects as a source of power, for the benefit of the Series 2011 Local Units.

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**SECTION 905. Reorganization.**

It is understood and agreed by the parties hereto that reorganization of the Lessee with the consent of the Lessor shall not constitute an assignment under this Article IX.

**ARTICLE X**

**EVENTS OF DEFAULT; REMEDIES**

**SECTION 1001. Events of Default.**

(a) An Event of Default hereunder means the occurrence of any one or more of the following events:

(i) The Lessee fails to (A) make any Basic Lease Payment as it becomes due or (B) make any Additional Lease Payment as it becomes due or maintain any insurance requirement set forth hereunder, and in the case of (B) only, such failure is not cured within thirty (30) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, if the Basic Lease Payment is paid with funds from the County Reserve, such payment will not constitute an Event of Default.

(ii) The Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder or under any Company Document, and such failure is not cured within ninety (90) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, that if such failure cannot be cured within said ninety (90) day period, the Lessee shall not be in default if it has commenced to cure within such ninety (90) day period, it continuously proceeds with the cure, and if such action to cure the default is acceptable to the Lessor and the Lessor indicates the same in writing.

(iii) The discovery by the Lessor or the Trustee that any material statement, representation or warranty made by the Lessee in this Company Lease Agreement, or in any writing delivered by the Lessee pursuant hereto or in connection herewith, is false, misleading or erroneous in any material respect.

(iv) The Lessee becomes insolvent or admits in writing its inability to pay its debts as they mature or applies for, consents to or acquiesces in the appointment of a trustee, receiver or custodian for the Lessee or a substantial part of its property; or in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed for the Lessee or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, moratorium or other proceeding under bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or, if permitted by law, against the Lessee and, if instituted against the Lessee, is consented to or acquiesced in by the Lessee or is not dismissed within sixty (60) days.

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(v) The entering of an order or decree appointing a receiver for the Leased Property or for any part thereof or for the revenues thereof with or without the consent or acquiescence of the Lessee, and such order or decree shall not be vacated, discharged or stayed within ninety (90) days after the date of such entry.

(b) Upon the occurrence of an Event of Default under this Section 1001, the Trustee shall transmit a written notice, including electronic mail, of such Event of Default to the Lessor, the Lessee and the Series 2011 Local Units within thirty (30) days of the Trustee's knowledge thereof.

(c) Upon the occurrence of an Event of Default under this Section 1001, all obligations of the Lessee under this Company Lease Agreement shall remain in full force and effect.

#### SECTION 1002. Remedies.

(a) Upon the occurrence and continuation of any Event of Default as described in Section 1001 hereof, at the option of the Lessor, the Mandatory Purchase Price with respect to the Project shall become immediately due and payable by the Lessee upon the Lessor's declaration. So long as the Lessor is not in default hereunder, the Lessor shall have the right to direct all remedial proceedings under this Company Lease Agreement, including the consent to remedies taken upon an Event of Default. Subject to the preceding sentence, the Lessor shall have the right, without any further demand or notice, to take one or any combination of the remedial steps below:

(i) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and exclude the Lessee from using it; provided, however, that if this Company Lease Agreement has not been terminated, the Lessor shall return possession of same to the Lessee when the Event of Default has been cured; and provided, further, that the Lessee shall continue to be responsible for the Lease Payments due hereunder during the remainder of the Lease Term.

(ii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and sell, lease or sublease its interest therein or any part thereof.

(iii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and apply any portion of same, or of the proceeds of same (in accordance with clause (ii) above) in accordance with the

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#### SECTION 1004. Election of Remedies; No Waiver of Elected Remedies.

No failure on the part of either party to exercise, and no delay in exercising any right or remedy so provided for herein, shall operate as a waiver thereof, nor shall any single or partial exercise by either party of any right or remedy so provided hereunder preclude any other or further exercise of any other right or remedy provided hereunder.

#### SECTION 1005. No Additional Waiver Implied by One Waiver.

In the event any agreement contained in this Company Lease Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder, and shall not be construed to be an implied term hereof or a course of dealing between the parties hereto.

#### SECTION 1006. Agreement to Pay Attorneys' Fees and Expenses.

In the event either party to this Company Lease Agreement should default under any of the provisions hereof and the non-defaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement, performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall, on demand therefor, pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

#### SECTION 1007. Late Charges.

Whenever any payment of Lease Payments is not made when due, the Lessee promises to pay to the Lessor, in addition to the amount due, interest thereon at the Overdue Rate; provided, however, that this Section 1007 shall not be applicable if or to the extent the application thereof would affect the validity of this Company Lease Agreement.

#### SECTION 1008. Delay; Notice.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof. Any such right or power may be exercised from time to time and as often as may be deemed expedient, and any one exercise thereof shall not be deemed an exclusive exercise. To entitle any party to exercise any remedy reserved to it in this Company Lease Agreement, it shall not be necessary to give any notice other than as may be specifically required in this Company Lease Agreement.

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provisions of Section 5.07(1)(b) of the Bond Resolution

(iv) With or without terminating this Company Lease Agreement, declare all Lease Payments due or to become due hereunder to be immediately due and payable by the Lessee, whereupon such Lease Payments shall be immediately due and payable.

(v) Take whatever action at law or in equity may appear necessary or desirable to collect the Lease Payments then due and thereafter to become due hereunder with respect to the Project or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Company Lease Agreement.

(b) Notwithstanding any other provisions of this Section 1002, in no event shall there be any transfer of any Renewable Energy Project or any interest therein to any person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event as described in Section 609.

#### SECTION 1003. Reinstatement.

Notwithstanding any termination of this Company Lease Agreement that shall be made in accordance with the provisions of Section 1002 hereof, unless the Lessor shall have entered into a firm bilateral agreement providing for the letting of the Project for a period of at least one year, if, after the maturity of the Outstanding Bonds shall have been accelerated by the Trustee (upon the occurrence of an Event of Default) under the terms of the Bond Resolution, (a) all arrearages of interest on such Outstanding Bonds and interest on overdue installments of principal, redemption premium, if any, and (to the extent permitted by law) interest on such Bonds at a rate per annum equal to the highest rate per annum borne by any of the Bonds shall have been paid, (b) the principal and redemption premium, if any, on all Outstanding Bonds that have become due and payable (other than by an acceleration) shall have been paid, (c) all other sums payable under the terms of the Bond Resolution, except the principal of and the interest on such Bonds that by such acceleration shall have become due and payable, and under the terms of the other Program Documents shall have been paid, (d) all other things shall have been performed in respect of which there was an Event of Default; (e) the reasonable fees and expenses of the Lessor, the Trustee, the Series 2011 Local Units, the County, the County Security Provider, and the Bondholders, including Administrative Expenses thereof (including reasonable attorneys' fees paid or incurred) shall have been paid, and (f) such acceleration under the terms of the Bond Resolution is rescinded, then the Lessee's Event of Default hereunder shall be waived without further action by the Trustee or the Lessor or any other Renewable Energy Program Interested Party. Upon such payment and waiver, this Company Lease Agreement shall be fully reinstated as if it had never been terminated, and the Lessee shall be restored to the use, occupancy and possession of the Renewable Energy Projects and the other Leased Property.

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## ARTICLE XI

### ADMINISTRATIVE PROVISIONS

#### SECTION 1101. Notices.

Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Company Lease Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) If to Lessor:

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
Email: jbonanni@co.morris.nj.us

With a copy to:

Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
606 Parsippany Road, Suite 204  
Parsippany, New Jersey 07854  
Email: spearlman@iandp.com

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- (b) If to the Lessee: Stacey L. Hughes  
Sunlight General Sussex Solar, L.L.C.  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email: principals@sunlightgeneral.com
- With a copy to: James F. Duffy, Esq.  
Nixon Peabody, LLP  
106 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com
- (c) If to the Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960
- With a copy to: Nicholas A. Conclito, Esq.  
McEroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: nconclito@mdmco-law.com
- (d) If to the Series 2011 Local Units: See Exhibit A-4 attached hereto.
- (e) If to the Construction Manager: Jessica Vogel, CBSSB  
Birdsall Services Group, Inc.  
1161 Laurel Oak Road, Suite 160  
Voorhees, NJ 08043  
Email: jvogel@birdsall.com
- With a copy to: Joseph Santali  
Gabel Associates  
417 Denison Street  
Highland Park, NJ 08904  
Email: Joseph.santali@gabelassociates.com

**SECTION 1102. Severability.**

In the event any provision of this Company Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

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**SECTION 1106. Lessor and Lessee Officers.**

Whenever under the provisions of this Company Lease Agreement the approval of the Lessor or the Lessee is required or the Lessor or the Lessee is required to take some action at the request of the other, such approval of such request shall be given for each party by its respective Authorized Officer, and any party hereto shall be authorized to rely upon any such approval or request.

**SECTION 1107. Captions.**

The captions or headings in this Company Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Company Lease Agreement.

**SECTION 1108. Company Lease Agreement is Original.**

For all purposes of filing, perfection or any other matter requiring identification or possession of the "original" copy of a lease, the executed original hereof identified as the "original" shall be the "original" to evidence this Company Lease Agreement.

**SECTION 1109. Binding Counterparts.**

This Company Lease Agreement shall be binding upon the parties hereto only when duly executed on behalf of both the Lessor and the Lessee together; provided, however, that each set of counterparts taken together shall constitute an original.

**SECTION 1110. Inspections Permitted.**

The Lessee shall, whenever requested, advise the Lessor and the Applicable Series 2011 Local Units of the exact location and condition of the Projects. The Lessor and the Applicable Series 2011 Local Units may enter upon the premises of the Projects for the purpose of inspection at all reasonable times, and, upon reasonable notice, may enter upon the job, building or place where the Projects and the books and records of the Lessor with respect thereto are located.

**SECTION 1111. Time is of the Essence.**

Time is of the essence with respect to this Company Lease Agreement, and no covenant or obligation hereunder to be performed by the Lessee may be waived except by the written consent of the Lessor and the Lessee. Waiver of any such covenant or obligation or a forbearance to invoke any remedy on any occasion shall not constitute or be treated as a waiver of such covenant or obligation or any other covenant or obligation as to any other occasion and shall not preclude the Lessor from invoking such remedy at any later time prior to the Lessee's cure of the condition giving rise to such remedy. Each of the Lessor's rights hereunder is

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**SECTION 1103. Amendments, Changes and Modifications.**

(a) This Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to the recomputation of Basic Lease Payments or Additional Lease Payments related to the Purchase Option Price or Mandatory Purchase Price, or with respect to any other term of this Company Lease Agreement affecting the security of the Bond Resolution, by (i) written amendment authorized executed and delivered by each of the Lessor and the Lessee and (ii) by compliance with Article XI of the Bond Resolution regarding conditions required for amendment of the Bond Resolution, which may include the consent of the Trustee.

(b) Other than as provided in subsection (a) above, this Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to its Term or any of its other provisions by written amendment authorized and executed by the Lessor, the Lessee, and to the extent any of the rights, duties or obligations of any Series 2011 Local Units or other Renewable Energy Program Interested Parties under a Program Document are affected, with the written acknowledgment and consent of any one or more such Series 2011 Local Units and/or Renewable Energy Program Interested Parties, as applicable.

(c) To the extent Bonds are Outstanding at the time of any amendment, supplement or modification of this Company Lease Agreement, any such proposed amendment, supplement or modification, in substantially final form, shall be delivered by the Lessor at least fifteen (15) days in advance of its execution to the Trustee and each Rating Agency that at such time is rating any such Bonds, unless this provision is waived by any such Rating Agency and the Trustee; moreover, no such amendment, supplement or modification shall be entered into by the parties unless there shall be no adverse effect on the rating of such Bonds. Where there shall be no such adverse effect on the rating of such Bonds, a final copy of any such authorized, executed and delivered amendment, supplement or modification of this Company Lease Agreement shall be promptly delivered to each such Rating Agency and the Trustee.

**SECTION 1104. Further Assurances and Corrective Instruments.**

The Lessor and the Lessee agree that they shall, if necessary, execute, acknowledge and deliver such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Projects or the Leased Property, or any inadequate or incorrect description intended so to be, or for carrying out the expressed intention of this Company Lease Agreement.

**SECTION 1105. Applicable Law.**

This Company Lease Agreement shall be governed by and construed in accordance with the laws of the State.

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cumulative to its other rights hereunder and not alternative thereto.

**SECTION 1112. No Personal Liability or Accountability.**

No covenant or agreement contained in this Company Lease Agreement shall be deemed to be the covenant or agreement of any present, past or future officer, agent or employee of the Lessor or the Lessee, in his or her individual capacity, and neither the officers, agents or employees of the Lessor or the Lessee nor any official executing this Company Lease Agreement shall be liable personally on this Company Lease Agreement or be subject to any personal liability or accountability by reason of any transaction or activity relating to this Company Lease Agreement.

**SECTION 1113. Gender.**

Use of the masculine, feminine or neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the other genders whenever and wherever appropriate.

**SECTION 1114. Receipt of Company Lease Agreement.**

The parties hereto each acknowledge receipt of a signed, true and exact copy of this Company Lease Agreement.

**SECTION 1115. Waiver of Sovereign Immunity.**

For the purposes of this Company Lease Agreement, the Lessor acknowledges and agrees that (a) its execution and delivery of this Company Lease Agreement and (b) its performance of the actions contemplated by this Company Lease Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Lessor in respect of itself or its assets, properties or revenues, shall be entitled to any tort immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this Company Lease Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Lessor and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

**SECTION 1116. Approvals.**

In order to ensure that construction of the Renewable Energy Projects is not unduly delayed, in the event that any party to this Company Lease Agreement seeks the approval or consent of another party to this Company Lease Agreement, the party considering such request

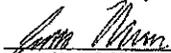
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STATE OF NEW YORK )  
 ) ss.  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 0214623284P  
Qualified in New York County  
My Commission Expires January 23, 2015

EXHIBIT A

1. DESCRIPTION OF PROJECTS

EXHIBIT A-1: See attached Description of Renewable Energy Project for each Series 2011 Local Unit, to be constructed in accordance with Exhibit C to the Company RFP, also attached. See also attachment of Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP

EXHIBIT A-2: See attached Description of Capital Improvement Project for each Series 2011 Local Unit

2. BASIC LEASE PAYMENT SCHEDULE

EXHIBIT A-3: See attached Basic Lease Payment Schedule

Exhibit A-3-Regular  
Exhibit A-3-Alternate

3. NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS

EXHIBIT A-4: Notice Information for Series 2011 Local Units

4. MAXIMUM PROJECT COSTS FINANCED BY THE SERIES 2011 BONDS

The maximum Project Costs financed by the Series 2011 Bonds is the Maximum Net Bond Funded Project Cost Amount of \$24,700,000.

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EXHIBIT A-1

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unflange construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP.

EXHIBIT A-1 (cont.)

[Attach Appendix C to the Company RFP]

Morris County Improvement Authority  
\$27,700,000 aggregate principal amount of  
County of Sussex: Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

Series 2011 Local Unit List of Local Unit Facilities

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[00016345-4]

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EXHIBIT A-1 (cont.)

[Attach Article VII to the Company RFP]

EXHIBIT A-2

Please see the Local Unit Facility Roof Warranty Chart at the end of this Exhibit A-2 for information concerning roof warranties and duration of existing roof warranties for each Local Unit Facility. The Capital Improvement Projects set forth below related to maintaining and extending existing roof warranties must be compatible with the information contained in the Chart.

Local Unit Facility Roof Warranty Chart

See Attached

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EXHIBIT A-3-Regular  
BASIC LEASE PAYMENT SCHEDULE  
(paying 5 months prior to Series 2011 Bonds)

Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011A & B (Federally Taxable)  
\*Preliminary, subject to change\*

Basic Lease Payment Date**	Principal	Semi-Annual Interest	Semi-Annual Lease Payment	Annual Lease Payment
1/15/2012				
7/15/2012				
1/15/2013	1,850,000	506,394.59	2,356,394.59	
7/15/2013	-	485,425.45	485,425.45	2,841,820.04
1/15/2014	1,850,000	485,425.45	2,335,425.45	
7/15/2014	-	470,976.95	470,976.95	2,805,402.40
1/15/2015	1,850,000	470,976.95	2,320,976.95	
7/15/2015	-	451,218.95	451,218.95	2,772,595.90
1/15/2016	1,850,000	451,218.95	2,301,218.95	
7/15/2016	-	428,223.45	428,223.45	2,729,442.40
1/15/2017	1,850,000	428,223.45	2,276,223.45	
7/15/2017	-	401,905.95	401,905.95	2,579,529.40
1/15/2018	1,845,000	401,905.95	2,246,905.95	
7/15/2018	-	371,693.70	371,693.70	2,617,899.65
1/15/2019	1,845,000	371,693.70	2,216,693.70	
7/15/2019	-	340,439.40	340,439.40	2,557,133.10
1/15/2020	1,845,000	340,439.40	2,185,439.40	

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7/15/2020	-	307,340.10	307,340.10	2,492,779.50
1/15/2021	1,845,000	307,340.10	2,152,340.10	
7/15/2021	-	273,318.30	273,318.30	2,425,658.40
1/15/2022	1,845,000	273,318.30	2,118,318.30	
7/15/2022	-	227,765.25	227,765.25	2,346,083.55
1/15/2023	1,845,000	227,765.25	2,072,765.25	
7/15/2023	-	182,212.20	182,212.20	2,254,977.45
1/15/2024	1,845,000	182,212.20	2,027,212.20	
7/15/2024	-	136,659.15	136,659.15	2,169,871.35
1/15/2025	1,845,000	136,659.15	1,981,659.15	
7/15/2025	-	91,106.10	91,106.10	2,072,765.25
1/15/2026	1,845,000	91,106.10	1,936,206.10	
7/15/2026	-	45,553.05	45,553.05	1,981,659.15
1/15/2027	1,845,000	45,553.05	1,890,553.05	
7/15/2027	-	-	-	1,890,553.05
		27,769,000	8,932,870.59	36,692,870.59
			36,692,870.59	36,632,870.59

\* Basic Lease Payment Schedule derived from and will be equal to the debt service payments and amortization schedule for the Series 2011 A and B Bonds, once determined. The Series 2011 A Bonds are assumed to include annual principal payments on June 15, 2012 through and including June 15, 2027 and semiannual interest payments on June 15th and December 15th of each year, commencing on June 15, 2012 (the June 15, 2012 and December 15, 2012 interest payments will be paid by capitalized interest being funded through the Series 2011B Bonds). The Series 2011B Bonds are assumed to be issued on December 14, 2011 simultaneously with the bond financing and will include a single payment of principal and interest on January 15, 2013. The interest rates included in this schedule correspond to the principal payment dates of the Series 2011 Bonds which are 5-months after such Basic Lease Payment dates.

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Note: There are no Basic Lease Payment Dates on January 15, 2012 and July 15, 2012, each five (5) months prior to the corresponding interest payment dates for the Series 2011A Bonds of June 15, 2012 and December 15, 2012, because the Series 2011A Bond interest due on such Series 2011A Bond interest payment dates has been provided for through the deposit of the Series 2011B Note proceeds in the Capitalized Interest Account of the Debt Service Fund. There is no Series 2011B Note interest due on such dates.

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(00016345-5)

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**EXHIBIT A-4  
NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS**

**Morris County Improvement Authority**  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011 B Note

**Series 2011 Local Unit Distribution List**

**EXHIBIT B  
FORMS OF ACCEPTANCE CERTIFICATES**

See Attached:

Form B-1, Form of REP Acceptance Certificate  
Form B-2, Form of CIP Acceptance Certificate

(00016345-5)

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(00016345-5)

B-1

EXHIBIT B-1

FORM OF REP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the [A] Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof, or if such funds were insufficient, the Company has provided available funding as the Equity Contribution, to complete the design, permitting, acquisition, construction and installation thereof.

3. The [A] Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom; to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the [A] Renewable Energy Projects for all purposes of Section 510(d)(7)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the [A] Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the [A] Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(d)(7)(C) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution.]

B-1-1

510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the [A] Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, release any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

(06/13/15-5)

B-1-2

6. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_ Name: Stacey L. Hughes Title: Authorized Signatory

The form (only) of this REP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_, 20\_\_.

By: BIRDSALL SERVICES GROUP, INC., AS CONSTRUCTION MANAGER

By: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_

The terms of this REP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_

EXHIBIT B-2

FORM OF CIP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the [A] Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof, or if such funds were insufficient, the Company has provided available funding as the Equity Contribution, to complete the design, permitting, acquisition, construction, renovation, and installation thereof.

3. By obtaining the Licensor's execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor's acceptance of (a) the [A] Capital Improvement Projects for all purposes of Section 510(3)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which [A] Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor's acceptance of the [A] Capital Improvement Projects for all purposes of Section 510(3)(i)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. [Choose one, as applicable]

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(c) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for (00010345-1) B-2-1

The terms of this CIP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this CIP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

the [A] Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(c) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, release any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Base Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(c) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT C

FORM OF DRAW PAPERS

Requisition No. \_\_\_\_\_  
\_\_\_\_\_, 20\_\_\_\_

U.S. Bank National Association, as Trustee

Re: The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted September 28, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects")] being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, DOES HEREBY CERTIFY and REQUISITION moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "Trustee") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(\*) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for  
with the following Development Contract: \_\_\_\_\_;

[the Company for reimbursement of Costs of the Project previously paid by the Company to services] [incurred in connection with the following Development Contract: \_\_\_\_\_] and \_\_\_\_\_

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for \_\_\_\_\_ services] [incurred in connection with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to for \_\_\_\_\_ services] [incurred in connection with the following Development Contract: \_\_\_\_\_]

[Please Note, Include Name and Address of any Contractor and the specific Development Contract pursuant to which this Requisition is submitted]

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the [A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the [A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

3. Such payment obligation, for which funds have been requested in accordance with Section 1(a) [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company, and (vi) the amount being requisitioned shall not exceed the Draw Paper Ratio. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of [00016345-3] C-2

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacy L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The terms of this Requisition are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The terms (only) of this Requisition is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: BIRDSALL SERVICES GROUP, INC., AS CONSTRUCTION MANAGER  
[00016345-3] C-3

EXHIBIT C-1

[Attach Initial Project Workforce Form AA201]

[Insert Form found at [http://www.state.nj.us/treasury/contract\\_compliance/pdf/ac201.pdf](http://www.state.nj.us/treasury/contract_compliance/pdf/ac201.pdf)]

EXHIBIT D

CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LESSEE FOR COMPANY DEVELOPMENT FEES AND EXPENSES INCURRED ON BEHALF OF THE LESSEE

The Morris County Improvement Authority
P.O. Box 900
Morristown, NJ 07963-0900
Attention: John Honan, Chairman
jbonanai@co.morris.nj.us

U.S. Bank National Association, as Trustee
Corporate Trust Services
21 South Street, 3rd Floor
Morristown, NJ 07960
Attention: Paul O'Brien
paul.obrien@usbank.com

Re: The Morris County Improvement Authority
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 5.02(4) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2)(b) of the Authority's bond resolution duly adopted September 28, 2011 and entitled "Resolution Authorizing the Issuance of County Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented (specialized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, HEREBY REQUESTS that the Authority direct the Trustee (which direction has occurred through Section 5.02(2)(c) of the Bond Resolution) to pay the following Company Development Fees and Expenses incurred by or on behalf of the Company from moneys on deposit in the Project Fund in the aggregate amount of \$800,000, which amount shall be payable to

[for \_\_\_\_\_ services]

(00016345-3)

D-1

The form (only) of this Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_ day of \_\_\_, 20\_\_

By: \_\_\_\_\_
Name:
Title:

100016345-3

D-3

[the Company for reimbursement of Company Development Fees and Expenses previously paid by the Company to \_\_\_\_\_ services]

Such payment obligation has been properly incurred in accordance with all applicable law, is a Company Development Fees and Expense as such term is defined in the Bond Resolution, including without limitation within the aggregate ceiling of \$\_\_\_\_\_ for such defined term (unless the Authority agrees, below or otherwise in writing, to an increase above such ceiling), is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Company Development Fees and Expenses is due or has been paid by or on behalf of the Company.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_
Name: Stacey L. Hughes
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_
Name:
Title:

(00016345-3)

D-2

EXHIBIT E

[Attach form of Power Purchase Agreement and Company Continuing Disclosure Agreement]

100016345-3

E-1

**CORPORATION SERVICE COMPANY**

www.cscglobal.com

CSC- West Trenton  
P.O.Box 77132  
830 Bear Tavern Road, Suite  
305  
West Trenton, NJ 08628-1020  
800-631-2155  
609-530-0877 (Fax)

**Matter#** 72-008

**Order#** 099942-1

**Project Id :**

**Order Date** 02/17/2012

**Additional Reference :** NOT PROVIDED

**Entity Name:** SUNLIGHT GENERAL SUSSEX SOLAR, LLC (Debtor)/ MORRIS COUNTY IMPROVEMENT AUTHORITY (Secured Party)

**Jurisdiction:** NJ - SUSSEX COUNTY CLERK

**Request for:** UCC Filing

**File Type:** ORIGINAL

**Result:** Filed

**File Number:** 20120210050002520

**Filing Date:** 02/10/2012

**Book Number:** 73

**Page Number:** 801

Ordered by DAVID WAINGER at INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

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Michael Melocchi  
[mmelocch@cscinfo.com](mailto:mmelocch@cscinfo.com)

The responsibility for verification of the files and determination of the information therein lies with the filing officer; we accept no liability for errors or omissions.



20120210050002520 1/32  
 02/10/2012 10:06:15 AM UCC  
 Bk: 73 Pg: 801  
 Jeffrey M. Parrott, County Clerk  
 Sussex County, NJ

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Inglesino, Pearlman, Wyciskala & Taylor, LLC  
 600 Parsippany Road  
 Suite 204  
 Parsippany, New Jersey 07054

Attn: Stephen B. Pearlman, Esq.

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

**1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names**

1a. ORGANIZATION'S NAME			
SunLight General Sussex Solar, LLC			
OR	1b. INDIVIDUAL'S LAST NAME		
	FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS		CITY	STATE   POSTAL CODE   COUNTRY
15 Engle Street, Suite 104		Englewood	NJ   07631   USA
1d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION	1f. JURISDICTION OF ORGANIZATION
		LLC	New Jersey
			1g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE

**2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names**

2a. ORGANIZATION'S NAME			
OR	2b. INDIVIDUAL'S LAST NAME		
	FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS		CITY	STATE   POSTAL CODE   COUNTRY
2d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION
			2g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE

**3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)**

3a. ORGANIZATION'S NAME			
Morris County Improvement Authority			
OR	3b. INDIVIDUAL'S LAST NAME		
	FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS		CITY	STATE   POSTAL CODE   COUNTRY
10 Court Street, PO Box 900		Morristown	NJ   07963-0900   USA

**4. This FINANCING STATEMENT covers the following collateral:**

The Debtor has executed, in favor of the Secured Party, that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011, as more particularly set forth as "Exhibit A" attached hereto and made a part hereof, and notice is hereby given by the Debtor that the Debtor, pursuant to Section 309 of said Lease Purchase Agreement, has pledged all of its rights, title and interest in the Construction Performance Bond (defined thereunder), the sale of renewable energy produced by the Renewable Energy Projects under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements and in the sale of SRECs from the Renewable Energy Project (as such capitalized terms are defined in said Lease Purchase Agreement) and all proceeds and products of any and all of the foregoing.

5. ALTERNATIVE DESIGNATION [if applicable]:	LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILOR	SELLER/BUYER	AG. LIEN	NON-UCC FILING
6. This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable]	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [optional]		All Debtors <input type="checkbox"/> Debtor 1 <input type="checkbox"/> Debtor 2 <input type="checkbox"/>			
8. OPTIONAL FILER REFERENCE DATA						

To be filed in the Office of the Clerk of the County of Sussex, New Jersey.

# Exhibit A

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**LEASE PURCHASE AGREEMENT**  
(Sussex County Renewab Fe Energy Program, Series 2011)

By and Between

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Lessor**

and

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC, as Lessee**

Dated as of December 1, 2011

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
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[00016345-5]

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LEASE PURCHASE AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

THIS "LEASE PURCHASE AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "Company Lease Agreement"), dated as of December 1, 2011, is made by and among the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority" or "Lessor"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of the County of Morris (the "County of Morris"), State of New Jersey ("State") as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act") and other applicable law, and SUNLIGHT GENERAL SUSSEX SOLAR, L.L.C., a limited liability company organized and existing under the laws of the State of Delaware, duly authorized to conduct business in the State (including any successors and assigns, the "Company" or "Lessee").

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and biomass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

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Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units;

- (i) Fredon Township, and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyson Board of Education, High Point Regional School District, Kittatinny Regional School District, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,

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WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants", if any, and together with the Authority Consultants, the "Consultants"); to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy

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Series 2011A (Federally Taxable)" dated their date of delivery (the "Series 2011A Bonds") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note", and together with the Series 2011A Bonds, "Series 2011 Bonds"), by the same sale method as the Series 2011A Bonds;

WHEREAS, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement", and collectively, the "Local Unit License Agreements") with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced

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from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(c) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (j) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(g) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "Company RFP") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "Company Proposal") submitted with respect to Sunlight General Sussex Solar, LLC (the "Company"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (i) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (ii) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (iii) obligating the Company to operate and maintain, or cause the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

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purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and

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- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(q) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to

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executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution, which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

WHEREAS, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

WHEREAS, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "EPC Contractor"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "EPC Contract") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,860 (the "In-Kind Equity Contribution") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease

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Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "Equity Contribution"), (ii) a cash reserve in the amount of \$1,500,000 (the "County Reserve") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty;

WHEREAS, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, reduces the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

WHEREAS, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

WHEREAS, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge

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Official Statement"); and (ii) the execution and delivery of a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

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Agreement"); and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c-12") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement" and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i) the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary

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## ARTICLE I

### DEFINITIONS AND EXHIBITS

#### SECTION 101. Definitions.

(a) The terms set forth in this Section shall have the meanings ascribed to them for all purposes of this Company Lease Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires. Terms used in this Company Lease Agreement and not otherwise defined shall have the meaning assigned to them in the Bond Resolution.

(b) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

Act  
 Authority  
 Board of Education Series 2011 Local Units  
 Board of Freeholders  
 Bond Purchase Agreement  
 Bond Resolution  
 Bonds  
 BPU  
 Capital Improvement Projects\*  
 Cash Equity Contribution  
 Company  
 Company Continuing Disclosure Agreement  
 Company Documents  
 Company Lease Agreement  
 Company Pledge Agreement  
 Company Proposal  
 Company RFP  
 County  
 County Continuing Disclosure Agreement  
 County Guaranty  
 County Guaranty Agreement  
 County Reserve  
 County Security  
 County Security Agreement  
 County Security Provider  
 County Service Agreement  
 County Series 2011 Local Units

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Dissemination Agent  
 Equity Contribution  
 EPC Contract  
 EPC Contractor  
 Initial Tranche  
 In-Kind Equity Contribution  
 Local Units  
 Local Unit Facilities\*  
 Local Unit License  
 Local Unit License Agreement  
 Local Unit License Agreements  
 Municipal Series 2011 Local Units  
 Official Statement  
 Power Purchase Agreement  
 Preliminary Official Statement  
 Preliminary Program Costs  
 Program Documents  
 Projects\*  
 Renewable Energy Program  
 Renewable Energy Projects\*  
 Rule 15c2-12  
 Sale Documents  
 Second Tranche  
 Section 1603 Grant  
 Series 2011 Bonds  
 Series 2011A Bonds  
 Series 2011B Note  
 Series 2011 Local Unit\*  
 Series 2011 Local Units  
 Shared Services Act  
 SRECs  
 State  
 Underwriter

Aged Account  
 Bond  
 Capitalized Interest Account  
 Code  
 Company Development Fees and Expenses  
 Completion Conditions  
 Completion Project  
 Consulting Energy Engineer  
 Consulting Energy Engineering Services  
 Cost  
 Costs of Issuance Account  
 County Security Fund  
 County Security Fund Requirement  
 Debt Service Fund  
 Funds  
 General Fund  
 Gross Substitute Power Purchase Price  
 Interest Account  
 Investment Securities  
 Net Substitute Power Purchase Price  
 Outstanding  
 Paying Agent  
 Principal Account  
 Principal Office  
 Project Fund  
 Rating Agency  
 Renewable Energy Program Interested Party  
 Restoration Security Fund  
 Restoration Security Fund Requirement  
 Revenue Account  
 Revenue Fund  
 Revenues  
 Series  
 Series 2011B Bonds  
 Sinking Fund Installments  
 Supplemental Resolution  
 Tax Certificate  
 Tax-exempt Bonds  
 Trustee  
 Trust Estate

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(c) The following defined terms shall, for all purposes of this Company Lease Agreement, have the meanings ascribed to such terms in the Bond Resolution

Account  
 Additional Bonds  
 Administrative Expense Account  
 Administrative Fund

(d) The following defined terms shall, for all purposes of this Company Lease Agreement, have the following meanings:

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"Acceptance Certificates" shall mean, individually or collectively, as the case may be, the CIP Acceptance Certificates and the RBP Acceptance Certificates.

"Additional Lease Payment" shall mean any amount payable by the Company at the times and under the other terms of the Company Lease Agreement, other than Basic Lease Payments, including without limitation, (i) Administrative Expenses not otherwise provided from a portion of the proceeds of the Bonds, including the second and succeeding Bond Year Administrative Fee, (ii) interest on any past due Lease Payments payable at the Overdue Rate (but not any such past due Basic Lease Payment), (iii) to the extent Company funds are available, after payment of all reasonable Company expenses and prior to any member distributions, replenishment of any deficiency in the County Security Fund Requirement, (iv) the Purchase Option Price in accordance with Section 701 of the Company Lease Agreement, (v) the Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement, (vi) the Restoration Security Fund deposits up to the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution, and (vii) a one-time payment of \$1,500,000 payable no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 for deposit in the County Security Fund to satisfy the County Security Fund Requirement.

"Administrative Expenses" shall mean the fees and expenses which are incurred from time to time by or on behalf of the Authority, the County, the County Security Provider, or the Series 2011 Local Units, including the Administrative Fee, if any, in carrying out their respective rights and duties under the terms of the Program Documents, including, without limitation the Preliminary Program Costs, accounting, administrative, financial advisory, and legal expenses, the Consulting Energy Engineering Services, the fees and expenses of the Trustee, the Paying Agent, or any other fiduciaries or agents acting on behalf of the Authority, the County, or the Series 2011 Local Units, under or pursuant to the terms of the Program Documents, which amounts shall be due and payable by the Company as an Additional Lease Payment at the times set forth in the Program Documents, or, as applicable, upon presentation of an invoice for payment; provided, however, that to the extent an Administrative Expense is incurred solely due to the action or inaction of a Series 2011 Local Unit not caused by or otherwise resulting from any action, inaction or request of the Company, such Administrative Expense shall be paid by such Series 2011 Local Unit upon presentation of an invoice for payment. Other than the Series 2011 Bond proceeds deposited in the Administrative Fund in accordance with Section 2.03(7)(a) of the Bond Resolution and earmarked for certain costs and expenses, including certain Administrative Expenses, and other than the Authority's annual Administrative Fee and the Trustee's annual fee to be paid as an Additional Lease Payment by the Company, the Company and the Series 2011 Local Units shall only be responsible for the reasonable amount of Administrative Expenses caused by the action or inaction of the Company or the Series 2011 Local Unit, as applicable, to the extent any such Administrative Expenses arise in the course of the implementation of the Renewable Energy Projects and/or the performance by the Authority, County, and/or Series 2011 Local Unit of their rights, duties and obligations under the Program Documents.

"Administrative Fee" shall mean the sum of the following, payable by the Company to the Authority at the times and the amounts as set forth below:

(i) With respect to the Series 2011 Bonds for the first Bond Year upon initial issuance thereof, the Authority's fee for the Renewable Energy Program in the amount of \$120,000, consisting of the sum of (a) \$100,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Costs of Issuance Account of the Administrative Fund pursuant to Section 2.03(7)(a)(f) of the Bond Resolution and (b) \$20,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Administrative Expense Account of the Administrative Fund pursuant to Section 2.03(7)(a)(g)(A) of the Bond Resolution; plus

(ii) For all Bond Years with respect to the Series 2011 Bonds thereafter (commencing June 15, 2013), a sum of money payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund payable on the Basic Lease Payment Date immediately preceding the first day of any such Bond Year, equal to \$20,000, which amount may be referred to as the Authority's annual Administrative Fee; plus

(iii) For all Bond Years with respect to the Series 2011 Bonds commencing December 15, 2017 and thereafter, a sum or sums of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(e) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(iv) For all Bond Years with respect to the Series 2011 Bonds, a sum of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(b) and/or Section 6.3(d) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(v) With respect to any Series of Bonds, interest on any past due Basic Lease Payments payable at the Overdue Rate in accordance with the Company Lease Agreement (but not any such past due Basic Lease Payment); plus

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(vi) For all Bond Years with respect to any Series of Additional Bonds, such amounts as may be set forth in a Supplemental Resolution, including without limitation, for any Series of Additional Bonds that refund the Series 2011 Bonds or any other Series of Outstanding Bonds, (a) a financing fee payable upon the issuance of any such Series of Additional Bonds (from the proceeds thereof, from the Company, or otherwise) in the amount of two percent (2%) of the aggregate principal amount of any such Series of Additional Bonds, or such different amount as shall be agreed to by the Company and the Authority, plus (b) all reasonable Administrative Expenses of the Authority and any other Renewable Energy Program Interested Party involved in any such refunding payable upon the issuance of any such Series of Additional Bonds, plus (c) an annual financing fee of one percent (1%) of the aggregate principal amount of any such Series of Additional Bonds Outstanding and payable by the Company as of the first day of each Bond Year until final maturity (stated or otherwise) thereof, plus (d) the amounts, if any, payable to the Authority pursuant to Section 6.3(d) of the Power Purchase Agreement, except as any such amounts may be modified in any such Supplemental Resolution authorizing the issuance of any such Series of Additional Bonds.

"Applicable" shall mean (i) with reference to any Series 2011 Local Unit, the Series 2011 Local Unit intended to be benefited or obligated thereby, (ii) with reference to any Renewable Energy Project, the Renewable Energy Project for the intended Series 2011 Local Unit, (iii) with reference to any Local Unit Facilities, the Local Unit Facilities for the intended Series 2011 Local Unit, and (iv) with reference to any Local Unit License Agreement, the Local Unit License Agreement executed for the benefit of the intended Series 2011 Local Unit.

"Applicable Law" means all applicable provisions of any constitution, statute, law ordinance, code, rule, regulation, decision, order, decree, judgment, release, license, permit, stipulation or other official pronouncement enacted, promulgated or issued by any Governmental Authority.

"Architect" shall mean individually or collectively, as the case may be, the individual or entity appointed or caused to be appointed or employed by the Applicable Series 2011 Local Unit, the Lessor, or the Lessee, as applicable, with respect to the provision of architectural services relating to the Renewable Energy Projects or the Capital Improvement Projects on, in, affixed or adjacent to, or otherwise for the benefit of the Local Unit Facilities for such Applicable Series 2011 Local Unit, all in accordance with applicable law, which may include the Local Public Contracts Law or the Public Schools Contracts Law, including any rules and regulations relating thereto and to which such Applicable Series 2011 Local Unit, the Lessor, or the Lessee is subject, including without limitation any architect of record with respect to such Projects and/or Local Unit Facilities. The Architect may be a Contractor providing services pursuant to a Development Contract.

"Authorized Officer" or "Authorized Representative" shall mean, (i) with respect to the Authority: the Chairman, the Vice Chairman, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who

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investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(1)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701 of the Company Lease Agreement with respect to prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Basic Lease Payment Date" shall mean any date set forth in Exhibit A-3 to the Company Lease Agreement and designated as a Basic Lease Payment Date, which for the Interest Portion (January 15 and July 15, commencing January 15, 2013) and Principal Portion (January 15, commencing January 15, 2013) of any Basic Lease Payment, shall be a day five (5) months prior to any (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) regularly scheduled Interest Payment Date and any regularly scheduled Principal Payment Date, respectively, or if either of such days is not a Business Day, the first Business Day prior to such date.

"Bond Counsel" shall mean Inglesino, Pearlman, Wyciskala & Taylor, LLC, or any other attorney at law, or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exclusion of interest on bonds or other obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state.

"Bond Year" shall mean (i) with respect to any Series of Outstanding Bonds, including the Series 2011 Bonds, a period of twelve (12) consecutive months beginning on June 15 of any calendar year and ending on June 14 of the immediately succeeding calendar year except that (ii) the first Bond Year with respect to the Series 2011 Bonds shall be a period commencing on the date of issuance of the Series 2011 Bonds and ending on June 14, 2012 and (iii) the first Bond Year with respect to any other Series of Bonds shall be a period commencing on the date of issuance of such Series of Bonds and ending on the succeeding 14<sup>th</sup> day of June.

"Bondholder", "Bond Holder", "Holder" or "Holder of Bonds" shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds, which by its terms, upon original issuance of the Series 2011 Bonds, shall mean the respective registered owners of the Series 2011A Bonds and with respect to the Series 2011B Note, the County.

"Business Day" shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or the

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shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairman or by the Vice Chairman of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to any Series 2011 Local Unit: the person designated as an Authorized Officer in the Applicable Local Unit License Agreement of any such Series 2011 Local Unit or any other person or persons who shall be authorized to act on behalf of such Series 2011 Local Unit by virtue of a resolution of the governing body of such Series 2011 Local Unit, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (i) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Freeholders to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

"Base Rate" shall mean the rate of interest established by the Trustee from time to time as its reference rate in making loans but does not reflect the rate of interest charged to any particular class of borrowers, and is not tied to any external rate of interest or index. The applicable rate will change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any party. If no other rate shall be so established by the Trustee, the Base Rate shall be the Trustee's prime rate as determined from time to time.

"Basic Lease Payment" shall mean, as of each Basic Lease Payment Date, the amount set forth in Exhibit A-3 to the Company Lease Agreement corresponding to such Basic Lease Payment Date and designated as a Basic Lease Payment. The Basic Lease Payment as of any Basic Lease Payment Date is equal to the payment of the Principal Portion and Interest Portion due on such Basic Lease Payment Date, and shall be established as the amount set forth in Exhibit A-3 to the Company Lease Agreement for such date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments), and interest on the Outstanding Bonds on the next occurring (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) Principal Payment Date and Interest Payment Date respectively, of the Outstanding Bonds, including without limitation the credits available under (i) Section 302(a)(i) and (ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to

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Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

"Certificate" shall mean a written certificate signed in the name of the Authority, any Series 2011 Local Unit, the County, the Company or the Trustee. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the instruments so combined shall be read and construed as a single instrument.

"CIP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Capital Improvement Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Capital Improvement Projects for each such Series 2011 Local Unit has been completed in accordance with the Plans and Specifications therefore, and has been accepted by such Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution. The Authority and the Company acknowledge and agree that the Company shall not be responsible for the construction of any Capital Improvement Projects under the Program Documents and any references in such Program Documents to the Capital Improvement Projects shall be of no further force and effect.

"CIP Acceptance State" shall mean the good working order condition of the Capital Improvement Projects for the Series 2011 Local Units, at the time of the authorization, execution and delivery of, and as certified and acknowledged by such Applicable Series 2011 Local Units in, the respective CIP Acceptance Certificates.

"Company Appendices" shall mean that portion of the Preliminary Official Statement and the Official Statement relating to the Company, including the appendices thereof, which may include financial, demographic or other information supplied by or on behalf of the Company, or a link or other reference to such information, all as shall be designated in the Company Continuing Disclosure Agreement, and as to which the Company shall make certain certifications under federal securities laws.

"Construction Manager" shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Lessor or any Series 2011 Local Unit with the consent of the Lessor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Lessee for any Series 2011 Local Unit, or the oversight of the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement

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Projects, if any, by the Lessee for any Series 2011 Local Unit. The Consulting Energy Engineer may act as Construction Manager.

"Construction Performance Bond" shall have the meaning ascribed to such term in the Power Purchase Agreement.

"Contractor" shall mean the Company and the EPC Contractor, in any such case as the entity obligated to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Developer" shall mean an Affiliate of the Company to be designated at the time of execution of the Development Agreement.

"Development Agreement" means the Development Agreement to be entered into by and between the Company and the Developer for development services related to the Projects.

"Development Contract" shall mean (i) in the case of the Company, the Company Lease Agreement, (ii) as to the EPC Contractor, the EPC Contract, and (iii) in the case of any other Contractor, that certain contract obligating any such other subcontractor or other third-party, as Contractor and on behalf of the Company, to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units. Nothing in any Development Contract shall relieve the Company from its obligations under the Company Lease Agreement and the other Company Documents, which obligations shall include the Company's continual obligation to design, permit, acquire, construct, install, operate and/or maintain all of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, and to design, permit, acquire, construct, renovate and/or install all of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Development Fee" means the fee payable to the Developer for services provided under the Development Agreement.

"Draw Date" shall have the meaning ascribed to such term in Section 510(b) of this Company Lease Agreement, and shall not be a regularly scheduled set of dates, but shall occur no more frequently than twice a month.

"Draw Paper Ratio" shall have the meaning ascribed to such term in Section 510(c) of this Company Lease Agreement.

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"Draw Papers" shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

"Event of Default" shall have the meaning ascribed to such term in Section 1001 of this Company Lease Agreement.

"Excess Power Purchase Price Payments" shall have the meaning ascribed to such term in Section 311(a) of this Company Lease Agreement.

"Exhibit A-3" shall mean Exhibit A-3 to this Company Lease Agreement, which for all purposes of the Program Documents, shall mean Exhibit A-3- attached hereto and made a part of this Company Lease Agreement.

"Force Majeure" shall mean any event which is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party or its affiliates, including, but not limited to and without limitation, (a) strikes or other labor disputes (other than strikes or labor disputes solely by employees or contractors of the Parties to this Power Purchase Agreement as a result of such Party's failure to comply with a collective bargaining agreement), (b) adverse weather conditions, breakdown or failure of the utility transmission or distribution system not caused by the Service Provider, and (c) other acts of nature, riot or civil unrest. The term Force Majeure does not include (i) any acts or omissions of any third party, including, without limitation, any vendor, customer, or supplier of the Service Provider, unless such acts or omissions are themselves excused by reason of Force Majeure; (ii) any full or partial curtailment in the electric output of the Renewable Energy Projects that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear, unless such mishap is caused by Force Majeure; (iii) changes in market conditions that affect the cost of the Service Provider's supplies, or that affect demand or price for any of the Service Provider's products, including, but not limited to the price of electricity, SRECs or other environmental attributes; or (iv) any action that constitutes negligence or gross negligence by the Party claiming a Force Majeure event.

"Governmental Authority" means any federal, state or local legislative, executive, judicial, quasi-judicial or other public authority, agency, department, bureau, division, unit, court, tribunal, or other public body, person or entity having jurisdiction over a Party, the Renewable Energy Projects or this Company Lease Agreement.

"Independent Insurance Consultant" shall mean a nationally recognized, independent actuary, insurance company or broker acceptable to the Lessor that has actuarial personnel experienced in the area of insurance for which the Lessee is to be self-insured.

"Initial Basic Lease Payment Date" shall mean January 15, 2013, the first Basic Lease Payment Date.

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"Interconnection Agreement" shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Lessee, the Applicable Series 2011 Local Unit and/or the Lessor, with respect to the interconnection of the completed Renewable Energy Projects for such Series 2011 Local Unit to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

"Interest Payment Date" shall mean, the date on which interest on the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June and December until final maturity of the Bonds, including the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Interest Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Interest Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the interest due and owing on the Outstanding Bonds, including the Series 2011 Bonds, on the immediately succeeding Interest Payment Date, as set forth in Exhibit A-3 to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Interest Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the interest on the Bonds on the next occurring Interest Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(1) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(1)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Lease Payments" shall mean all amounts due and payable by the Company pursuant to the terms of the Company Lease Agreement, and shall consist of Basic Lease Payments and the Additional Lease Payments.

"Lease Term" or "Term" shall mean the period during which this Company Lease Agreement is in effect, as specified in Section 402 hereof.

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"Leased Property" shall mean the Renewable Energy Projects, as set forth in Exhibit A-1 to the Company Lease Agreement and in Exhibit B to the respective Local Unit License Agreements for the Series 2011 Local Units, together with all properties, rights, duties and obligations related thereto, including without limitation the right to enter upon and locate the Renewable Energy Projects on the Local Unit Facilities, as all such property shall be leased by the Authority, as owner and lessor, to the Company, as lessee, pursuant to Section 401 of the Company Lease Agreement for the Lease Term, with the express intent that such lease shall convey ownership of such property for purposes of the Code to the Company. The Leased Property shall not include the Capital Improvement Projects, if any, of the Series 2011 Local Units, all of which shall be owned by the respective Series 2011 Local Units.

"Mandatory Purchase Price" shall have the meaning ascribed to such term in Section 702 of the Company Lease Agreement relating to the acceleration of the Bonds of any Series, including the Series 2011 Bonds.

"Maximum Gross Bond Funded Project Cost Amount" shall mean the sum of (i) the Maximum Net Bond Funded Project Cost Amount funded with a portion of the proceeds of the Series 2011 Bonds and deposited with the Trustee in the Project Fund upon initial issuance thereof, together with (ii) any interest earned thereon prior to disbursement from the Project Fund in accordance with the Company Lease Agreement and the Bond Resolution, which amount has been estimated by the Lessee to be sufficient, together with the Equity Contribution, to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

"Maximum Net Bond Funded Project Cost Amount" shall mean \$24,700,000, (the amount deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(e)(i), (ii) and (iii) of the Bond Resolution to fund a portion of the Project Costs, which amount was established by the Lessee pursuant to the Company Proposal.

"Net Proceeds" shall mean any insurance, condemnation, Construction Performance Bond or other performance bond, or any other financial guaranty proceeds paid with respect to any portion of the Projects, remaining after payment therefrom of all expenses incurred in the collection thereof; and, with respect to insurance, if and at such times as the Lessee elects to provide self-insurance under Section 614 of this Company Lease Agreement, any moneys payable from any self-insurance fund of the Lessee which may lawfully be expended for the purposes for which such self-insurance is provided.

"Overdue Rate" shall mean two percent (2%) per annum over the Base Rate, which rate shall change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any Renewable Energy Program Interested Parties; provided, however, that notwithstanding the foregoing, to the extent the County Security, if any, shall have

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been drawn upon to reimburse the County in full for any County payments under the County Guaranty, the Overdue Rate with respect to interest to be paid on past due Basic Lease Payments (such payment of interest constituting an Additional Lease Payment hereunder) shall have such different meaning, if any, as may be set forth in the County Security Agreement, if any.

"Permitted Encumbrances" shall mean as of any particular time: (i) liens for taxes and assessments not then delinquent with respect to the Leased Property, (ii) the Company Lease Agreement and the other Program Documents, (iii) the pledge and assignment by the Lessor of the Reimbursement Collateral to the County Security Provider, if any, under the County Security Agreement, if any, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security, (iv) the pledge of the Trust Estate by the Lessor to the Trustee under the Bond Resolution, and (v) any mechanic's, laborer's, materialman's, supplier's or vendor's lien or right arising during construction of any Renewable Energy Project prior to December 17, 2012 and not filed or perfected in the manner prescribed by law.

"Plans and Specifications" shall mean the architectural and engineering drawings and specifications prepared by the Architect or other Contractor (through a Development Contract or otherwise) describing the Renewable Energy Projects or the Capital Improvement Projects (if any), including any Completion Project, as the case may be, as agreed to among the Company and the Applicable Series 2011 Local Unit pursuant to Section 5.01 of the Company Lease Agreement.

"PPA Price" shall have the meaning set forth in Section 6.2 of the Power Purchase Agreement.

"Power Purchase Price Payments" shall mean the payments made by the respective Series 2011 Local Units for the purchase of electricity to the Trustee at the direction of and on behalf of the Lessee and Lessor, all in accordance with Section 5.1(c)(i) of the Local Unit License Agreements.

"Principal Payment Date" shall mean, the date on which principal (including Sinking Fund Installments, if any) of the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June until final maturity of the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Principal Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Principal Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the principal

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"REP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Renewable Energy Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Renewable Energy Projects for each such Series 2011 Local Unit have been completed in accordance with the Plans and Specifications therefor, and have been accepted by the Company and the Applicable Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution.

"Reserved Rights" shall mean the Authority's right to retain the following under the Company Lease Agreement, which shall not be part of the Trust Estate pledged to the Trustee under Section 1.04 of the Bond Resolution:

(i) Receive the Additional Lease Payments earmarked for purposes other than the Purchase Option Price or the Mandatory Purchase Price (which Purchase Option Price or the Mandatory Purchase Price Additional Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), including without limitation (a) the Administrative Fee, if any, and any other Administrative Expenses, which the Authority shall be obligated to pay or cause to be paid to the Renewable Energy Program Interested Parties due such Administrative Expenses, and (b) interest payable on past due Lease Payments at the Overdue Rate (but not the Basic Lease Payments that may be paid together with any payment at the Overdue Rate, which Basic Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), provided, further, that the portion of which interest that is attributable to past due Basic Lease Payments may be assigned by the Authority to the County and/or the County Security Provider, if any, as part of the Reimbursement Collateral;

(ii) The payments set forth in Section 5.2(a)(ii) and (iii) of the Local Unit License Agreements for the Series 2011 Local Units that reflect the difference between the Gross Substitute Power Purchase Price and the Net Substitute Power Purchase Price, which includes the Administrative Fee;

(iii) Receive notices provided for in the Company Lease Agreement or any other Program Document;

(iv) Appoint, replace or remove such parties as shall be appointed, replaced or removed under the Company Lease Agreement or any other Program Document at the direction of the Authority; and

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(including Sinking Fund Installments) of the Outstanding Bonds, including the Series 2011 Bonds, due and owing on the immediately succeeding Principal Payment Date, as set forth in Exhibit A-3 attached to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Principal Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments) the Bonds on the next occurring Principal Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(3)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Purchase Option Price" shall have the meaning ascribed to such term in Section 701 of the Company Lease Agreement relating to the optional redemption of the Bonds of any Series, including the Series 2011 Bonds.

"Reimbursement Collateral" shall mean, to the extent a County Security Agreement shall be delivered to the Lessor and the Trustee in accordance with the provisions of Section 5.07(b) of the Bond Resolution, (i) the SRECs, (ii) the Net Substitute Power Purchase Price, and (iii) any past due Basic Lease Payments, together with any Additional Lease Payments constituting interest payable on such past due Basic Lease Payments at the Overdue Rate, all of which shall have been pledged and assigned by the Lessor to the County Security Provider under the County Security Agreement, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security. If no County Security Agreement shall be so delivered, which shall be the case upon original issuance of the Series 2011A Bonds, this term shall mean the County Reserve and any other monies and securities on deposit in the County Security Fund at any time, if any, that shall be available to the Lessee, in such case as County Security Provider, after and to the extent the County has been fully paid under its County Guaranty provided that no such monies shall be made available to the Lessee until the County has completed all of its payment obligations under the County Guaranty and been fully reimbursed therefor, from the County Security Fund or otherwise.

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(v) The right to give or withhold consents, including consents to amendments, permitted or required of the Authority under the Company Lease Agreement or any other Program Documents, to the extent that any such consent or amendment would diminish the rights or enlarge the responsibilities or adversely affect the ability of the Authority to realize or perform same, respectively, or which would increase the Authority's potential liability or exposure to any party to any Program Document or to any third party as a result thereof. All such notices, appointments or consents under any other Program Document (i.e., other than the Company Lease Agreement) shall be unaffected by these rights, as the Authority's rights under the other Program Documents are not subject to the pledge of the Trust Estate under Section 1.04 of the Bond Resolution, and are either retained by the Authority, or assigned pursuant to the terms of the Program Documents, but in any event, shall not constitute Revenues or other part of the Trust Estate for purposes of the Bond Resolution.

"Tax Benefit Recapture Event" has the meaning set forth in Section 609(g).

## SECTION 102. Exhibits.

The following Exhibits are attached to, and by reference are made a part of, this Company Lease Agreement pursuant to which the Renewable Energy Projects are to be leased by the Authority to the Lessee:

(a) Exhibit A: Various details regarding a description of the Projects, the schedule of regularly scheduled Basic Lease Payments and maximum Project Costs funded from the Series 2011 Bonds.

(i) Exhibit A-1: Description of Renewable Energy Projects for Series 2011 Local Units;

(ii) Exhibit A-2: Description of Capital Improvement Projects (if any) for Series 2011 Local Units;

(iii) Exhibit A-3: Basic Lease Payment Schedule, consisting of Exhibit A-3-Regular and Exhibit A-3-Alternate; and

(iv) Exhibit A-4: Notice Information for Series 2011 Local Units.

(b) Exhibit B: Form of Acceptance Certificates, consisting of:

(i) Exhibit B-1: Form of REP Acceptance Certificates; and

(ii) Exhibit B-2: Form of CIP Acceptance Certificates.

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(c) Exhibit C: Form of Draw Papers.

(i) Exhibit C-1. Initial Project Workforce Form AA201.

(d) Exhibit D: Certificate of an Authorized Officer of the Lessee for Company Development Fees and Expenses Incurred on behalf of the Lessee.

(e) Exhibit E: Attach Form of Power Purchase Agreement and Company Continuing Disclosure Agreement.

#### SECTION 103. Inapplicable Terms.

Notwithstanding anything to the contrary contained in this Company Lease Agreement, the parties hereto acknowledge and agree that (a) the Lessee is not responsible for the construction of any Capital Improvements Projects under the Program Documents and any references herein to Capital Improvement Projects, CIP Acceptance Certificates or any other term defined by reference to Capital Improvement Projects (without limiting the application of any such term to the extent not related to Capital Improvement Projects) shall be of no further force and effect, and (b) there shall be no need for a County Security Agreement, a County Security Provider or County Security and any references thereto shall be of no further force and effect.

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(c) The execution and delivery by the Lessee of the Company Documents, the performance by the Lessee of all of its respective agreements and obligations under each of such documents and to be bound by the other Company Documents, and the incurring by the Lessee of all of the obligations contemplated by the Company Documents, have been duly authorized by all necessary requisite actions on the part of the Lessee, and the provisions of the Company Documents do not and shall not (i) contravene any provision of the Lessee's certificate of incorporation, by-laws and any other organizational documentation (each from time to time in effect), (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessee under any material agreement, mortgage or other instrument to which the Lessee is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessee's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation to which the Lessee is or may be bound, or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable to such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessee, or (v) to the best of Lessee's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of execution and delivery hereof and prior to the date of issuance of the Series 2011 Bonds, or are not required as a matter of law until a future date including the Interconnection Agreement for each Project, under any provision of applicable law.

(d) The officers or other authorized signatories of the Lessee executing and delivering its Company Documents have been duly authorized to execute and deliver the same under the laws of the State and the state of its organization and any other organizational documentation, and upon the Lessee's execution and delivery of the Company Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Company Documents shall constitute valid and binding obligations of the Lessee, enforceable against the Lessee in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessee or, to the best of the Lessee's knowledge, threatened against the Lessee (or, to the best of the Lessee's knowledge, is there any basis therefore) (i) that contests or would contest the Lessee's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Company Document or that would preclude the Lessee from performing in accordance with the terms of any Company Document or (ii) wherein an unfavorable decision, ruling or finding would adversely affect (A) the transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessee is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

(f) The Lessee has obtained all authorizations, consents and approvals that are

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## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES; DISCLAIMERS

#### SECTION 201. Representations, Covenants and Warranties of Lessee.

The Lessee represents, covenants and warrants as follows:

(a) The Lessee (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and (ii) has or will have all requisite power and authority, and as applicable, all requisite governmental licenses, authorizations, consents and approvals, to (A) own or lease its assets and carry on and transact its business, including without limitation the conduct of business within the State in accordance with the terms of the Company Documents, (B) authorize, execute, deliver and perform its obligations under the Company Documents, and (C) accept and be bound by the terms of the other Program Documents, and (iii) is duly qualified and is licensed and, as applicable, is in good standing under the laws of each jurisdiction, including the State, where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license. The Lessee has all of the requisite power and authority and has full legal right to (x) enter into each of the Company Documents, (y) perform, observe and comply with all of its respective agreements and obligations under the Company Documents, and (z) otherwise be bound by the terms of all of the other Company Documents.

(b) The constitution and the laws of the State and the jurisdiction of the Lessee's organization authorize the Lessee to, and the Lessee has the right, power, authority and expertise to, and shall (i) design, permit, acquire, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of the Local Unit Facilities for all of the Series 2011 Local Units in accordance with the technical specifications set forth in Appendix C of the Company RFP attached hereto as part of Exhibit A-1, and otherwise in accordance with the terms of the Company Documents, (ii) design, permit, acquire, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities in accordance with the plans and specifications and construction documents included or referred to herein and otherwise in accordance with the terms of the Program Documents, (iii) enter into the Company Documents, to acknowledge and consent and otherwise be bound by the terms of the other Program Documents, and to consummate the transactions and perform the obligations contemplated thereby. Notwithstanding the foregoing, the Lessee shall in all circumstances commence construction of the first Renewable Energy Project on or before May 15, 2012 and all Renewable Energy Projects on or before September 15, 2012, and complete construction and file all Acceptance Certificates for all Projects in accordance with the provisions of Section 510(e) hereof no later than December 14, 2012, unless extended, per Project, by Force Majeure, or Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement or cure period which absent a cure would lead to a Series 2011 Local Unit Event of Default. Any such extension shall have no effect on the obligation to make Basic Lease Payments on time and in full.

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required in order for Lessee to execute and deliver this Company Lease Agreement and to perform its financial and other obligations hereunder, except for permits and approvals to be obtained after the date hereof pursuant to Section 510(c).

(g) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessee shall not transfer, lease, assign, mortgage or encumber the Projects or any property of the Lessee constituting the Trust Estate.

(h) The Lessee currently intends to continue this Company Lease Agreement for its entire Term and to pay all Basic Lease Payments required hereunder, unless the Lessee shall pay and otherwise comply with the terms related to the Purchase Option Price or Mandatory Purchase Price in accordance with Article VII hereof, or any other termination provisions contained in this Company Lease Agreement.

(i) Information supplied and statements made by the Lessee in any financial statement or current budget delivered prior to or contemporaneously with this Company Lease Agreement, including the Company Appendices, present such information fairly, accurately and completely, in all material respects and in accordance with generally accepted accounting principles. The Lessee agrees to take all reasonable actions in connection with the Authority's marketing and sale of the Bonds, including without limitation executing Certificates of an Authorized Officer of the Lessee (i) regarding the deemed final nature of the Company Appendices for purposes of Rule 15c2-12, and (ii) to the effect that the Company Appendices, and any other information concerning the Company or its rights, duties and obligations under the Company Documents set forth in the Preliminary Official Statement and the Official Statement (A) contain no material misstatement of fact and (B) do not omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, materially misleading.

(j) Information provided by Lessee, in writing or at the interview date with the Authority pursuant to the Company RFP process on October 19, 2011, upon which Lessor relied in selecting Lessee under the Company RFP process, remains materially accurate.

#### SECTION 202. Representations, Covenants and Warranties of Lessor.

The Lessor represents, covenants and warrants as follows:

(a) The Lessor (i) is a public body corporate and politic duly organized, validly existing and in good standing under the Act and other applicable laws of the State, (ii) has full and complete power to enter into or adopt, as the case may be, the Program Documents and to carry out the transactions contemplated thereby, (iii) is possessed with full power to own and hold real and personal property, including the Renewable Energy Projects, and to lease the Leased Property subject to the terms of the Act and any other applicable law, and (iv) has duly authorized the execution and delivery of or has duly adopted, as the case may be, the Program Documents.

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(b) Neither the execution and delivery or adoption, as the case may be, of the Program Documents, the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby conflicts with or results in a breach of the terms, conditions or provisions of any restriction, any agreement or any instrument to which the Lessor is now a party or by which the Lessor or its property are bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Lessor or upon the Projects, except Permitted Encumbrances.

(c) The execution and delivery by the Lessor of the Program Documents, the performance by the Lessor of all of its respective agreements and obligations under each of the Program Documents, and the incurring by the Lessor of all of the obligations contemplated by the Program Documents, have been duly authorized by all necessary requisite actions on the part of the Lessor, and the Lessor's authorization, execution, delivery and performance pursuant to the terms of the Program Documents do not and shall not (i) contravene any provision of the Act, (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessor under any material agreement, mortgage or other instrument to which the Lessor is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessor's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation thereunder or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable to such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessor, or (v) to the best of Lessor's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of issuance of the Series 2011 Bonds, under any provision of any applicable law.

(d) The officers of the Lessor executing and delivering its Program Documents have been duly authorized to execute and deliver the same under the Act, and upon the Lessor's execution and delivery of the Program Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Program Documents shall constitute valid and binding obligations of the Lessor, enforceable against the Lessor in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessor or, to the best of the Lessor's knowledge, threatened against the Lessor (or, to the best of the Lessor's knowledge, is there any basis therefore) (i) that contests or would contest the Lessor's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Program Document or that would preclude the Lessor from performing in accordance with the terms of any Program Document or (ii) wherein an unfavorable decision, ruling or finding would adversely affect (A) the

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### ARTICLE III

#### LEASE PAYMENTS

##### SECTION 301. Lease Payments.

(a) The Lessee agrees to pay to the Trustee the following Lease Payments, as rent for the Leased Property for the Term hereof, in immediately available funds, no later than when due, delivered to the principal corporate trust office of, or some other location designated by, the Trustee:

(i) For deposit in the Revenue Account of the Revenue Fund, Basic Lease Payments, as set forth in Sections 305 and 306 hereof and Exhibit A-3 hereof, on each Basic Lease Payment Date; and

(ii) For deposit in the Administrative Expense Account of the Administrative Fund, from time to time as provided herein, as Additional Lease Payments, all as set forth in Section 308 hereof:

(A) Administrative Expenses (including the Authority's annual Administrative Fee, but excluding those properly payable by the Applicable Series 2011 Local Unit(s)) at the times set forth in invoices to be received by the Lessee from the Trustee in accordance with the Bond Resolution, provided that no further invoice shall be required for payment of the annual Administrative Fee and the Trustee's annual fee in an annual amount not to exceed \$5,000, which shall be due and payable in advance on the first day of any Bond Year (except that the initial Administrative Fee shall be funded from a portion of the proceeds of the Series 2011 Bonds);

(B) Interest on any overdue Lease Payments at the Overdue Rate, which amounts shall be immediately due and payable to the extent any Lease Payments are overdue;

(C) The Purchase Option Price in accordance with Section 701 of the Company Lease Agreement;

(D) The Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement; and

(E) All other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder or under the terms of any other Company Document, which shall be deposited in the Administrative Fund if no other direction is set

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transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessor is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

(f) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessor shall not transfer, lease, assign, mortgage or encumber the Projects or the Trust Estate.

(g) Upon the exercise by the Lessee of its option to purchase the entire Renewable Energy Projects pursuant to Article VII hereof, the Lessor (i) shall deliver to the Lessee all of the documents that are or may be necessary to vest all of the Lessor's right, title and interest in and to the Renewable Energy Projects in the Lessee, and (ii) shall release all liens and encumbrances created under this Company Lease Agreement, or the other Program Documents with respect to the Renewable Energy Projects, all as provided in Article VII hereof.

(h) Simultaneously with the execution and delivery hereof, Lessor shall issue the Series 2011A Bonds and the Series 2011B Note to provide capitalized interest payments on the Series 2011A Bonds due June 15, 2012 and December 15, 2012. To the extent the Company proposes a Completion Project on one (1) or more existing Local Unit Facility or Facilities whereby additional electricity can be generated at such Local Unit Facility or Facilities beyond that contemplated in the Company Proposal, Lessor may consider issuing Additional Bonds in an amount, together with all Outstanding Series 2011 Bonds, shall not exceed \$50,000,000. To the extent Lessor, in its sole discretion, determines the issuance of any such Additional Bonds is in the best interests of the Authority, the County and the Applicable Local Unit, the Authority shall issue such Additional Bonds in an amount sufficient to pay for any such Completion Project, any reserves or capitalized interest, as required, and the costs of issuance thereof, but only to the extent the Company Lease Agreement is amended and supplemented to increase the Basic Lease Payment schedule to reflect the issuance of such Series of Additional Bonds.

##### SECTION 203. Disclaimer of Lessor and Trustee.

THE TRUSTEE, BY ACCEPTANCE OF THE TRUSTS SET FORTH IN THE BOND RESOLUTION, AND THE LESSOR, BY ADOPTION OF THE BOND RESOLUTION, BY ISSUANCE OF THE BONDS AND BY EXECUTION AND DELIVERY OF ALL OTHER PROGRAM DOCUMENTS, MAKE NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF ANY PROJECT.

##### SECTION 204. Tax Covenants of Lessee.

There shall be no covenants herein arising from or otherwise relating to the issuance of the Series 2011 Bonds, as such Bonds shall not be issued as a Series of Tax-exempt Bonds.

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forth in the Company Documents or to the particular Fund or Account set forth in any such Company Document.

(iii) For deposit in the Restoration Security Fund, the amounts necessary to fund the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution as Additional Lease Payments, all as set forth in Section 308 hereof;

(iv) For deposit in the County Security Fund, \$1,500,000, the initial amount of the County Security Fund Requirement for the County Reserve, to be funded by the Lessee no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and thereafter, any deficiency in the County Security Fund Requirement shall be funded by the Company to the extent of any available funds after payment of all reasonable Company expenses and prior to any member distributions; and

(b) The Lessee shall be entitled to a credit against Basic Lease Payments for unused moneys held in the Project Fund in accordance with Section 510(c)(i)(B) hereof, and for earnings on other funds held by the Trustee and certain other Revenue Fund transfers in accordance with Section 510(b) hereof, all at the times and in the amounts and determined in accordance with the provisions of the Bond Resolution and this Company Lease Agreement; provided, however, that such credits, if applicable, shall be applied first to the Interest Portion and then the Principal Portion of Basic Lease Payments and second to Additional Lease Payments due, if any.

(c) Notwithstanding anything to the contrary herein, the Lessee may make any and all Lease Payments in immediately available funds through wire transfer or otherwise, to the extent the Trustee or other payee consents in writing to such method of delivery.

##### SECTION 302. Lease Payments to be Unconditional, Except for Power Purchase Price Payments; No Abatement or Set-Off.

(a) Except as set forth in clauses (i) and (ii) below, the obligation of the Lessee to make Lease Payments in full and when due shall be absolute and unconditional in all events, including without limitation any circumstance regarding the Projects, regardless of whether any such event shall be foreseen or otherwise, and regardless of whether any such event shall occur by accident or otherwise. The Lessee hereby acknowledges and irrevocably covenants that the terms of this Company Lease Agreement create a valid and binding obligation of the Lessee to make Lease Payments from any available source under all circumstances.

(i) Lessee shall receive a credit against the Interest Portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of all Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment

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Date.

(ii) Lessee shall receive a credit against the Principal Portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of any remaining Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment Date, after accounting for the application of the credit set forth in clause (i) above.

(iii) For purposes of applying this credit, Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee within ten (10) Business Days of any Basic Lease Payment Date shall be deemed to have been received by the Trustee the Business Day after such Basic Lease Payment Date (and therefore the Lessee shall not be entitled to a credit for such amounts paid by the Series 2011 Local Units until the following Basic Lease Payment Date). The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the aggregate amount of all Power Purchase Price Payments made by the Series 2011 Local Units since the prior Basic Lease Payment Date that are available for such credit, (A) as of the date that is thirty (30) days' prior to each Basic Lease Payment Date, and (B) on the Business Day immediately following the ten (10) Business Day credit cutoff date noted above.

(b) Notwithstanding any dispute between the Lessor and the Lessee, or between or among any party hereto and any one or more of any Renewable Energy Program Interested Party or any other person, in any case concerning any provision of any Program Document, the Lessee shall make all Lease Payments in full and when due, and the Lessee shall not withhold any Lease Payment pending final resolution of such dispute, nor shall the Lessee assert against the Lessor, the Trustee, any Renewable Energy Program Interested Party or any other person any right of set-off, recoupment or counterclaim against its obligation to make such Lease Payments, regardless of whether or not the Projects are completed, available for use, or used by the Lessee or any other Renewable Energy Program Interested Party, as applicable.

(c) However, nothing herein shall be construed to release the Lessor from the performance of its obligations hereunder; and if the Lessor should fail to perform any such obligation, the Lessee may institute such legal action against the Lessor as the Lessee may deem necessary to compel the performance of such obligation, but if and only if the Lessee is not in default under the terms of this Company Lease Agreement and if the Lessee shall have paid all amounts that are required to be paid pursuant to the terms of this Company Lease Agreement; and if the Lessee shall have performed all of its obligations under the terms of this Company Lease Agreement and continues to pay and perform as provided herein, the Lessee shall not be precluded from bringing any action it may otherwise have against the Lessor.

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#### SECTION 303. Termination of Lease Term; Lease Payment Obligation.

The Lessee shall not terminate this Company Lease Agreement (other than such termination as is provided for under the terms of this Company Lease Agreement) or be excused from its obligations hereunder, including without limitation Lessee's obligations to make Lease Payments, for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute an eviction or constructive eviction, failure of consideration, failure of title or frustration of purpose, any damage to or destruction of any Project, the taking by eminent domain of title or the right of temporary use of all or any part of any Project, or the failure of the Lessor or any other Renewable Energy Program Interested Party to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation that arises out of or that is related to this Company Lease Agreement or any other Program Document.

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#### SECTION 304. Return of Renewable Energy Projects upon Termination of Company Lease Agreement; CIP Acceptance State.

(a) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value (as defined in the Power Purchase Agreement) in accordance with Section 609(d) hereof, Lessee shall (i) take no action regarding the removal of any such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, or if none, the Local Unit Facilities to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or thereto from that would ordinarily degrade the state of any such Capital Improvement Projects, if any, or Capital Improvement Project from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from the Lessee's operation and maintenance of such Renewable Energy Projects.

(b) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are eligible for sale by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value in accordance with Section 609(d) hereof, but no accommodation on sale price or other terms shall be reached in accordance with Section 3.7(b) of the Power Purchase Agreement, and the Lessee shall accordingly be prospectively entitled to the full use and enjoyment of any such Renewable Energy Projects, the Lessee shall (i) promptly remove such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, for any such Applicable Series 2011 Local Units to the CIP Acceptance State, or if no Capital Improvement Projects, to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or thereto from that would ordinarily degrade the state of any such Capital Improvement Projects or Local Unit Facility from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from either (A) the Lessee's operation and maintenance of such Renewable Energy Projects or (B) the Lessee's removal of such Renewable Energy Projects.

(c) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessor to the Applicable Series 2011 Local Units for nominal consideration in accordance with Section 609(f) hereof (after a Lessee Event of Default), Lessee shall (i) take no action regarding the removal of any such Renewable Energy Projects

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#### SECTION 305. Basic Lease Payments; Principal Portion.

(a) The Principal Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of principal due and payable on the Bonds, including the Series 2011 Bonds, on the immediately succeeding Principal Payment Date, with respect to regularly scheduled Principal Payment Dates, all as set forth on Exhibit A-3 hereto; provided, however, that no Principal Portion of Basic Lease Payments shall be payable by the Lessee, or the Principal Portion of Basic Lease Payments shall be reduced, as applicable, (a) to the extent of a balance available for payment of principal on the Bonds on deposit in the Principal Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Principal Portion of Basic Lease Payments in accordance with (A) Section 302(a)(ii) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(e)(3)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 507(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(g) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award or (ii) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(ii)(B) hereof.

#### SECTION 306. Basic Lease Payments; Interest Portion.

(a) The Interest Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of interest due and payable on the Bonds, including the Series

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2011 Bonds, on the immediately succeeding Interest Payment Date, with respect to regularly scheduled Interest Payment Dates, all as set forth on Exhibit A-3 hereto; *provided, however*, that no Interest Portion of Basic Lease Payments shall be payable by the Lessee, or the Interest Portion of Basic Lease Payments shall be reduced, as applicable, (a) for any period to the extent interest payable on the Bonds for such period shall have been previously provided to the Trustee as capitalized interest for deposit in the Capitalized Interest Account of the Debt Service Fund from proceeds derived from the sale of the Bonds and (b) to the extent of a balance available for payment of interest on the Bonds on deposit in the Interest Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Interest Portion of Basic Lease Payments in accordance with (A) Section 302(a)(f) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(c)(1)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(b)(1v)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award, or (i) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(11)(B) hereof.

**SECTION 307. Interest Calculation.**

The Interest Portion of Basic Lease Payments is equal to the interest accrued on the Bonds, including the Series 2011 Bonds. Interest on the Bonds is computed upon the basis of a 360-day year, consisting of twelve 30-day months.

**SECTION 308. Additional Lease Payments.**

(a) At the times required in the definition of "Administrative Fee", when not otherwise provided for from a portion of the proceeds of a Series of Bonds, including the Series 2011 Bonds, the Lessee shall pay the Administrative Fee to the Trustee as an Additional Lease Payment for deposit in the Administrative Expense Account of the Administrative Fund.

(b) The Lessee shall pay to the Trustee, for deposit in the Administrative Expense Account of the Administrative Fund as an Additional Lease Payment, from time to time

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consent, and any amounts that may be required to be paid into a rebate fund at the times required hereunder and under any such Tax Certificate.

**SECTION 309. General Obligation of Company to Make Lease Payments; Pledge of Reimbursement Collateral; Company Pledge Agreement.**

(a) The Lessee hereby covenants to make all Lease Payments due under this Company Lease Agreement, during the entire Lease Term, from any and all funds or other assets available to the Lessee, including without limitation, but not limited to, such economic benefits as may be conferred upon the Company pursuant to the Program Documents.

(b) Pledge of Section 1603 Grant to Trustee. Subject to American Recovery and Reinvestment Act of 2009, as security and further assurance for the Lessee's obligations to make certain initial Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Trustee a collateral security interest in the Section 1603 Grant, such grant of a collateral security interest to remain in effect only so long as set forth in the Company Pledge Agreement, including specifically Sections 2.01 and 7.11 thereof. At the Lessee's discretion for so long as the EPC Contractor is continuing to provide the In-Kind Equity Contribution and no Event of Default has occurred hereunder, the aforementioned security interest granted in favor of the Trustee may be subordinate to that of the EPC Contractor under the EPC Contract.

(c) Pledge of Certain Revenues to Authority. As security and further assurance for the Lessee's obligations to perform its obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Authority a collateral security interest in any funds it may receive with respect to the following:

- (i) the sale of renewable energy produced by the Renewable Energy Projects under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements;
- and
- (ii) the sale of SRECs from the Renewable Energy Projects;
- and
- (iii) the Construction Performance Bond.

At the Lessee's discretion for so long as the EPC Contractor is continuing to provide the In-Kind Equity Contribution and no Event of Default has occurred hereunder, the aforementioned security interest granted in favor of the Authority may be subordinate to that of the EPC Contractor under the EPC Contract.

The Lessor hereby covenants that the security interest granted pursuant to this

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upon the Lessee's receipt from the Trustee of an invoice therefore in accordance with the terms of the Bond Resolution, reasonable compensation for all services rendered by the Trustee pursuant to the Bond Resolution, all reasonable expenses, charges, counsel fees and other disbursements (including those of the Trustee's attorneys, agents and employees) incurred in the performance of its powers and duties under the Bond Resolution, and any other Administrative Expenses.

(c) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, interest on any past due Lease Payment at the Overdue Rate in accordance with Section 1007 hereof.

(d) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Purchase Option Price in accordance with Section 701 hereof, reflecting the optional redemption of a Series of Bonds, including the Series 2011 Bonds.

(e) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Mandatory Purchase Price in accordance with Section 702 hereof, reflecting the acceleration or any other mandatory payment of a Series of Bonds, including the Series 2011 Bonds.

(f) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the amounts required to fund the Restoration Security Fund at the Restoration Security Fund Requirement, in the amounts and at the times as set forth in Section 5.07(9) and Exhibit C to the Bond Resolution. *Notwithstanding the foregoing*, however, the Lessee shall be required to pay to the Restoration Security Fund an amount to bring the balance therein to the Restoration Security Fund Requirement from time to time if the Lessee has sufficient available cash flow to fund the same after making all other payments payable by the Company during such year; provided, however, in no event shall cash flow distributions be made to the members of the Company in any year in which the Restoration Security Fund is required to be funded to the extent the Restoration Security Fund is not funded in such year to the level required by the Restoration Security Fund Requirement.

(g) The Lessee shall make a one-time payment of \$1,500,000 payable no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, for deposit by the Trustee in the County Security Fund to satisfy the County Security Fund Requirement.

(h) The Lessee shall pay to the Trustee as an Additional Lease Payment all other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder, under the Bond Resolution, under the Tax Certificate for any Series of Tax-exempt Bonds or under any other Program Document, including without limitation deficiencies in the payment of principal (including mandatory sinking fund installments) of and interest on Bonds when due as may be contemplated by Article V of the Bond Resolution, which Article shall not be amended by Lessor to add any such payment obligation without Lessee's

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Section 309(c) shall not, provided no Event of Default has occurred and is continuing, adversely affect any of the Lessee's:

- Projects, (A) use and enjoyment of the Renewable Energy
- (B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements, or
- (C) SRECs.

(d) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee shall and hereby does acknowledge

(f) that the Lessor has the right to deliver the County Security Agreement, if any, in accordance with the provisions of Section 5.07 of the Bond Resolution, whereupon the Reimbursement Collateral shall be assigned and pledged by the Lessor to the County and the County Security Provider, if any, in accordance with the terms of the County Guaranty Agreement and such County Security Agreement, respectively, as to which terms the Lessor hereby covenants that the rights of the County and the County Security Provider to the Reimbursement Collateral shall not adversely affect any of the Lessee's:

- Projects, (A) use and enjoyment of the Renewable Energy
- (B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements, or
- (C) SRECs.

in all cases prior to the date of an Event of Default caused by the Lessor, it being the express intent of the parties that any such assignment and pledge of the Reimbursement Collateral is only to protect the County and/or the County Security Provider to the extent any such Renewable Energy Program Interested Party shall not have been reimbursed for funds expended under the Program Documents due to the Lessee's actions or inactions under the Program Documents, and it being the further express intent of the parties that any and all such remedies flowing from any such Event of Default caused by the Lessee are within the Lessee's control to prevent by complying with the terms of this and all

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other Program Documents, including without limitation the making of Lease Payments in full and on time,

(ii) upon an Event of Default, including an occurrence as a result of the Lessee's failure to make its Lease Payments on time and in full, the Lessee's rights to the Leased Property may be terminated in accordance with the terms hereof, and the County and the County Security Provider, if any, may realize all or a portion of the Reimbursement Collateral in accordance with the terms of their respective County Guaranty Agreement and County Security Agreement, if any and as applicable, which economic benefits comprising the Reimbursement Collateral had been previously available to the Lessee, and would continue to be so available, should any such Event of Default never occur or be timely cured.

(c) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby covenants to deliver the Company Pledge Agreement from the Pledgor defined in the Company Pledge Agreement contemporaneously herewith, and in any event, no later than the issuance of the Series 2011 Bonds, the terms of which Company Pledge Agreement are hereby acknowledged and accepted by the Lessee.

(f) The Lessee, as debtor, authorizes the Trustee, on behalf of itself as creditor, and the Lessor, as creditor, to file UCC1 financing statements with respect to the foregoing pledge of collateral contemplated by this Section 309.

#### SECTION 310. Investment of Bond Resolution Funds; Credit for Certain Investment Earnings.

(a) The Lessor shall cause the monies in the Funds and Accounts established under the Bond Resolution to be invested in accordance with the provisions of Section 5.11 of the Bond Resolution; provided, however, that the Lessee may direct the Lessor in writing to cause the Trustee to invest the Project Fund, the County Security Fund and the Restoration Security Fund in any Investment Securities available under the Bond Resolution; absent any such direction from the Lessee, the Lessor may cause the investment of the Project Fund, the County Security Fund and the Restoration Security Fund in such Investment Securities as the Lessor shall determine.

(b) (i) To the extent interest earnings on any such Funds or Accounts are transferred to the Aged Account of the Revenue Fund in accordance with the provisions of Section 5.11(3) and (4) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such earnings, plus interest earned thereon as of any such Basic Lease Payment Date, against the next due Interest Portion of Basic Lease

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Payments due and owing from the Lessee, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied or if additional interest earnings are on deposit in the Aged Account, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), within ten (10) Business Days after each Basic Lease Payment Date, of the amount of such interest earnings credit available to the Company as of the next Basic Lease Payment Date.

(ii) To the extent the amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Interest Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(i) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Interest Portion of Basic Lease Payments due and owing from the Lessee, and if not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

(iii) To the extent amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Principal Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(ii) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

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## ARTICLE IV

### LEASE OF LEASED PROPERTY; TERM OF COMPANY LEASE AGREEMENT

#### SECTION 401. Lease of Leased Property.

(a) The Lessor hereby agrees to (i) finance its share of the Renewable Energy Projects and the Capital Improvement Projects, if any, for the Series 2011 Local Units, through the issuance of the Series 2011 Bonds, the balance of which shall be financed by or on behalf of the Lessee through the Equity Contribution, and (ii) enter into the Local Unit License Agreements with the Series 2011 Local Units, thereby giving the Lessor nominal ownership of the Renewable Energy Projects, and providing the Company with a license and access to the Local Unit Facilities for the Series 2011 Local Units.

(b) The Lessee hereby agrees to (i) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects as described on Exhibit A-1 hereof and (ii) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, as described on Exhibit A-2 hereof, all for the Series 2011 Local Units.

(c) Upon the acquisition of title to the Leased Property from the Contractor (the timing of which does not adversely affect the Lessee's obligations hereunder, including the obligations to make Lease Payments), the Lessor hereby agrees to lease to the Lessee, except for the Reserved Rights, all of its right, title and interest in and to the Leased Property for the duration of the Lease Term hereof, and to grant to the Lessee an option to purchase the Leased Property as set forth in Article VII hereof. The Lessee hereby agrees to take and lease from the Lessor, other than the Reserved Rights, all of the Lessor's right, title and interest in and to the Leased Property on the terms and conditions set forth in this Company Lease Agreement, including, without limitation, all of the Lessee's duties and obligations under the Program Documents. The lease of the Leased Property from the Lessor to the Lessee is also intended to convey to the Lessee any product of the Leased Property, including any right, title and interest of the Lessor in and to the SRBECs and the right to electricity generated from the Renewable Energy Projects for the Series 2011 Local Units at their respective Local Unit Facilities, subject to the terms and conditions of the Program Documents. The Lessor hereby acknowledges the Lessee's intent to exercise such option to purchase the Leased Property during or upon the termination of the Lease Term.

(d) It is an express purpose of this Company Lease Agreement that the benefits and burdens of owning the Leased Property being conveyed by the Lessor to the Lessee pursuant to this Company Lease Agreement be such that the Lessee shall be deemed to be the owner of the Leased Property for purposes of the Code. Accordingly, Lessor and Lessee agree and acknowledge that, for federal income tax purposes: (i) Lessee will treat the use of Series 2011 Bond proceeds to purchase, construct and install the Renewable Energy Projects as construction loan advances of Series 2011 Bond proceeds to Lessee by Authority; (ii) Lessee will treat all payments (or credits against such payments) made under this Company Lease Agreement

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as payments of interest and principal to the Authority with respect to such construction loan, with an allocation of principal and interest based upon the Authority's related principal and interest payments on the Series 2011 Bonds; and (iii) Lessee will report all payments made by the Series 2011 Local Units under the Power Purchase Agreements as revenues earned by Lessee. Notwithstanding the foregoing, for State law purposes, Lessor and Lessee agree that under the Program Document structure, any benefit to the Company shall be deemed incidental, the primary purpose of the Renewable Energy Program being to provide the Series 2011 Local Units with electricity at multi-year locked in rates to the greatest extent practicable below tariff, which goal has been effectively realized through the financing structure contemplated by the Program Documents.

#### SECTION 402. Lease Term.

(a) This Company Lease Agreement shall be and remain in effect with respect to the Leased Property (the "Lease Term") commencing on the date of authorization, execution, authentication and delivery of the Series 2011 Bonds that shall finance, among other things, the Renewable Energy Project component of the Leased Property, and continuing until terminated as provided for in this Section 402. The Term of this Company Lease Agreement shall terminate upon the occurrence of the first of the following of events:

(i) The exercise by the Lessee of its option or its requirement to purchase the Lessor's entire interest in the Leased Property pursuant to Article VII hereof;

(ii) The occurrence and continuation of an Event of Default hereunder by the Lessee and the Lessor's election to exercise remedies under this Company Lease Agreement pursuant to Section 1002 hereof;

(iii) Subject to an extension of this Company Lease Agreement in accordance with clause (iv) below, which provisions shall control even if the other requirements of this clause (iii) have been satisfied, the occurrence of all of the following: (A) the payment by the Lessee of all Lease Payments, which requirement as to Basic Lease Payments (unless sooner terminated or extended in accordance with the provisions hereof) shall be fully satisfied on December 15, 2027 (unless extended by an amendment hereto resulting from the issuance of Additional Bonds), (B) the Bonds, including the Series 2011 Bonds, shall no longer be Outstanding under the Bond Resolution, and if the provisions of Section 703(b) are applicable, and (C) on the date specified in the Certificate of Authorized Officer of the Lessee required by Section 703(b)(iii); or

(iv) The expiration date of any extension to the initial term of this Company Lease Agreement, which initial term would be determined by clauses (i), (ii), and (iii) above, as such extension date shall be set forth in any amendment of this Company Lease Agreement (in accordance with the

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(b) In the event that the Lessee is unable to comply with its requirements under this Company Lease Agreement prior to the execution of any Acceptance Certificate or if for any reason the design, permitting, acquisition, construction, renovation and installation of any Project is delayed, there shall be no resulting liability on the part of the Lessor and there shall be no diminution in or postponement of the amounts that are due and payable by the Lessee to the Lessor under the terms of this Company Lease Agreement.

**SECTION 505. Additional Rights of Lessee.**

The Lessor agrees that the Lessee shall, at its own expense, have the right to make immaterial changes to any Project or to make such additions, modifications and improvements thereto as in the Lessee's judgment are necessary to enable it to perform its obligations under this Company Lease Agreement without materially impairing the Project or materially changing the design of the Project from the Plans and Specifications; provided, however, that none of the foregoing shall in any way damage the Project or cause the Project to be used for purposes other than those authorized under the provisions of all applicable law. With respect to any such additions (only) to the Project in accordance with the provisions of this Section 505, such additions shall for all purposes of this Company Lease Agreement be deemed to be and remain the property of the Lessee and shall not become part of the Project, and any such item may be removed, altered or changed by the Lessee upon or before the termination of this Company Lease Agreement; provided, however, that such removal, alteration or change shall not damage the Project or, if any such damage shall occur, the Lessee shall repair the same at its sole cost and expense.

**SECTION 506. Maintenance and Use of Project; Lessor Access; Repairs Not to Create Liens.**

(a) With respect to the Renewable Energy Projects or a portion thereof financed under this Company Lease Agreement, the Lessee shall, at its own and sole expense, maintain, preserve and keep such Projects or any portion thereof, as the case may be, in good repair, working order and condition, and shall from time to time make all repairs, replacements and improvements necessary to keep such Projects or any portion thereof in such condition. The requirements to repair and keep the Capital Improvement Projects in good working order shall remain with the owners thereof, the Applicable Series 2011 Local Units.

(b) The Lessee agrees that the Lessor and the Applicable Series 2011 Local Unit shall have the right (but not the obligation) to enter upon the premises at reasonable times and upon reasonable notice in a reasonable manner where the Renewable Energy Projects or a portion thereof, as the case may be, is located in order to inspect the same for the purpose of assuring that such Renewable Energy Projects are being properly maintained, preserved and kept in good repair and condition. The Lessee further agrees that the Lessor or the Applicable Series 2011 Local Unit shall have such rights of access to such Renewable Energy Projects as may be reasonably necessary to cause the proper maintenance, preservation and keeping in good repair of

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such Renewable Energy Projects in the event of a failure by the Lessee to perform its obligations hereunder, which rights of access shall in no way imply any obligation on the part of the Lessor or the Applicable Series 2011 Local Unit.

(c) The Lessee shall not permit any mechanic's or materialmen's or other lien to be established or remain against any portion of the Projects for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the Lessee pursuant to Section 505 hereof and this Section 506, other than Permitted Encumbrances; provided, however, that if any such lien is established and the Lessee notifies the Lessor of its intention so to do, the Lessee may, in good faith, contest any lien filed or established against the Projects and, in such event, permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such item, the interest of the Lessor or the Applicable Series 2011 Local Unit in such Project shall be materially endangered or such Project or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide the Lessor and the Applicable Series 2011 Local Unit with full security against any such loss or forfeiture. The Lessor shall cooperate, and shall cause the Applicable Series 2011 Local Unit to cooperate fully with the Lessee in any such contest upon such request at the sole cost and expense of the Lessee.

**SECTION 507. Possession and Enjoyment of Projects during Lease Term.**

(a) From and after the execution and delivery of the REP Acceptance Certificate with respect to the applicable Renewable Energy Projects, the Lessor hereby agrees that during the Lease Term the Lessee, so long as the Lessee is not in default hereunder, shall have the quiet use and enjoyment of such Renewable Energy Projects, and the Lessee shall during such Lease Term peaceably and quietly have, hold and enjoy such Renewable Energy Projects, without suit, trouble or hindrance from the Lessor, any 2011 Local Unit, or any party claiming under or through the Lessor or such Local Unit, except as expressly set forth in the Program Documents. The Lessor and the Applicable Series 2011 Local Unit shall, at the request of the Lessee and at the Lessee's sole cost and expense, join in any legal action in which the Lessee asserts its right to such possession and enjoyment against any third-party to the extent the Lessor and the Applicable Series 2011 Local Unit lawfully may so do; in addition, the Lessee, while not in default hereunder, may in its discretion and at its sole cost and expense bring any such action in the name of the Lessor.

(b) From and after the execution and delivery of the CIP Acceptance Certificate with respect to the applicable Capital Improvement Projects, if any, the Lessor and the Lessee hereby agree that during the Lease Term, the Applicable Series 2011 Local Unit, as fee owner thereof, shall have the quiet use and enjoyment of such Capital Improvement Projects, and the Applicable Series 2011 Local Unit shall during such Lease Term peaceably and quietly have, hold and enjoy such Capital Improvement Projects, without suit, trouble or hindrance from the Lessor or the Lessee, or any party claiming under or through the Lessor or the Lessee, except as

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may be expressly set forth in the Program Documents.

**SECTION 508. Lessee's Negligence.**

Subject to Section 608 hereof, the Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Projects, or any portion thereof, and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of the Lessee or of Contractors or other third parties, and whether such property damage be to the Lessee's property or to the property of others, which injury, death or damage is proximately caused by the negligent conduct of the Lessee or its officers, employees and agents, including any Contractors. The Lessee hereby assumes responsibility for and agrees to reimburse the Lessor and the Applicable Series 2011 Local Unit for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorneys' fees), of whatsoever kind and nature, imposed on, incurred by or asserted against the Lessor or the Applicable Series 2011 Local Unit that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part upon the negligent conduct of the Lessee or its officers, employees and agents, and to the maximum extent permitted by law.

**SECTION 509. Project Costs; Payment.**

(a) The Project Costs to be incurred by the Lessee, or on behalf of the Lessee by any Contractor, relating to the acquisition, construction, and installation of the Renewable Energy Projects and the acquisition, construction, renovation and installation of the Capital Improvement Projects for all Series 2011 Local Units have been estimated by the Lessee under the Company RFP to be an aggregate amount not to exceed the sum of the Maximum Gross Bond Funded Project Cost Amount plus the Equity Contribution. Accordingly, the Lessor shall cause the Series 2011 Bonds to be issued, and further, shall cause the Maximum Net Bond Funded Project Cost Amount to be deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(c)(i) and (ii) of the Bond Resolution. The Lessee represents that such initial deposit of the Maximum Net Bond Funded Project Cost Amount, together with interest to be earned thereon prior to disbursement in accordance with the terms hereof and of the Bond Resolution giving rise to the Maximum Gross Bond Funded Project Cost Amount, together with the Equity Contribution, shall be sufficient to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

(b) It is expressly acknowledged by the Lessee and the Lessor that the Lessor shall be under no obligation to issue any Bonds in an amount in excess of the Maximum Net Bond Funded Project Cost Amount to fund any Project Cost, including the Costs of any Completion Project related to either the Renewable Energy Projects or the Capital Improvement Projects of the Series 2011 Local Units on, in or about their Local Unit Facilities, unless the Authority agrees to issue a Series of Additional Bonds pursuant to the provisions of Section

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202(h) hereof.

(c) Any Project Costs in excess of such estimated Project Cost amount as set forth in subsection (a) above shall be solely borne by and solely paid from any funds available to the Lessee (which shall not include monies under the Bond Resolution, absent the Lessor's written consent). The Lessee hereby covenants to complete all of the Projects in accordance with the Plans and Specifications regardless of the actual Costs of such Projects and regardless of the amounts remaining on deposit in the Project Fund to pay such Project Costs. To the extent the Lessee shall complete all of the Projects in accordance with the Plans and Specifications in an aggregate amount less than any such deposit, plus estimated investment earnings, in the amount of such estimated Project Costs, any excess amounts remaining on deposit in the Project Fund, after the final Acceptance Certificate shall have been filed by the Lessee in accordance with the terms hereof, shall be applied as a credit to the next due Basic Lease Payments otherwise due and owing by the Lessee in accordance with Section 510(e)(i)(B) hereof and Section 5.02(3)(b) of the Bond Resolution.

(d) The Lessee shall cause moneys on hand from time to time in the Project Fund, held by the Trustee, to be made available for payment of all Project Costs, in the manner provided herein for submission of Draw Papers, including Sections 510 and 511 hereof, and in the Bond Resolution, including Sections 5.02(1) and 5.02(2)(a) thereof. The Lessee may cause moneys on hand from time to time in the Project Fund held by the Trustee to be made available for payment of all Company Development Fees and Expenses up to an aggregate amount of \$300,000 unless the Lessee receives the written acknowledgment of a higher ceiling from the Lessor, through the submission of a Certificate of an Authorized Officer of the Lessee substantially in the form of Exhibit D hereto, and otherwise following the terms set forth in Section 5.02(2)(b) of the Bond Resolution; provided, however, that notwithstanding the foregoing, the Lessee may not withdraw moneys from the Project Fund for payment of Company Development Fees and Expenses in excess of \$500,000, excluding those third-party and other Company Development Fees and Expenses approved by the Authority and paid upon issuance of the Series 2011A Bonds or thereafter, until the Company has satisfied, or caused the satisfaction of, all of the Completion Conditions. The Lessee, at its sole discretion, may apply less of the aggregate amount on deposit in the Project Fund and earmarked for payment of Company Development Fees and Expenses to such purpose, and instead apply all or a portion of such amount (including any interest earned thereon) toward Costs of the Renewable Energy Projects or Capital Improvement Projects in the manner contemplated by Sections 510 and 511 hereof, and Section 5.02(2)(a) of the Bond Resolution. Any moneys remaining on deposit in the Project Fund, including interest earnings, upon the payment of all Project Costs (for which the Company shall submit Draw Papers) and all Company Development Fees and Expenses (for which the Company shall submit such Exhibit D form Certificate), shall be applied in the manner set forth in Section 510(e) hereof.

**SECTION 510. Submission of Draws; Procedures; Acceptance Certificates.**

(a) As payments are required for the Project under this Company Lease

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Agreement, the Lessee shall prepare and assemble the Draw Papers (as defined below) and submit them to the Trustee.

(b) On or before 10:00 a.m. EST on each date on which the Lessee intends to submit Draw Papers requisitioning funds held by the Trustee in the Project Fund for Costs of the Renewable Energy Projects or Capital Improvement Projects for an Applicable Series 2011 Local Unit (each a "Draw Date"), the Lessee shall advise the Trustee in writing of the aggregate amount of funds needed for disbursement to pay such Project Costs. An amount equal to the lesser of (i) such aggregate amount of funds needed and (ii) the amount of funds available in the Project Fund (and not otherwise earmarked to pay the Costs of the Projects for the other Series 2011 Local Units) shall be applied to the payment of such Project Costs upon submission of the Draw Papers in accordance with subsection (c) below.

(c) Except as otherwise provided in Section 5.11 hereof, the Lessee shall cause the Trustee to make payments from the Project Fund to the Contractors under the Development Contracts or other third-party vendors, in either case for Costs of the Projects, but only after the Lessee shall have supplied the Trustee with a duly authorized, completed and executed requisition from the Lessee substantially in the form of Exhibit C hereto (together with any attachments thereto, the "Draw Papers"), each executed by the Lessee, acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.1(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and acknowledged as to form only by the Lessor (in accordance with Section 4.1(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), stating with respect to each such payment to be made: (i) the requisition number, (ii) the name and address of the Contractor, other person, other corporation or other entity to which payment is due or, if for reimbursement to the Lessee, to which Contractor, other person, other corporation or other entity and when payment has previously been made by the Lessee, and as applicable in either case, the Development Contract under which such payment is or was due, (iii) the amount to be paid, (iv) the Renewable Energy Project or Capital Improvement Project to which such payment is to be applied, including the Applicable Series 2011 Local Unit and their Local Unit Facility, (v) that such payment obligation has been properly incurred in accordance with the Plans and Specifications, is an item of the Cost of such Project, is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal, (vi) that attached thereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Lessee, Lessee also agrees to file a monthly Initial Project Workforce Form AA201, and (vii) the amount being requisitioned shall not exceed seventy percent (70%) of any Renewable Energy Project Cost for which payment is being sought, it being expressly understood by the Lessee that for each requisition being submitted, the Lessee shall pay or cause to be paid at least thirty percent (30%) from the Equity Contribution (the ratio of not exceeding seventy percent (70%) payment from requisition and at least thirty percent (30%) payment from Equity Contribution for each Project Cost for which a requisition is submitted shall be defined herein as the "Draw Paper Ratio"), substantially in the form of, and consistent with the instructions included in, Exhibit C-1 attached hereto, with the Lessor and the Division of Public Contracts

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when the Lessee has submitted all Draw Papers respecting Costs of such Capital Improvement Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed, renovated and installed in accordance with the Plans and Specifications therefor, (z) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Capital Improvement Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only. Each such CIP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.3(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.3(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager); and

(c) If, upon the completion of the design, permitting, acquisition, construction, renovation and installation of all of the Projects for the Series 2011 Local Units on or prior to December 14, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), as evidenced by the filing of all Acceptance Certificates by the Company, as duly acknowledged by the Series 2011 Local Units and the Lessor, on or prior to December 14, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), all in accordance with the terms hereof, of the Bond Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, then upon the Trustee's receipt of the final Acceptance Certificate so designated, the Trustee shall, without any further authorization, (i) transfer any surplus funds remaining on deposit in the Project Fund to the Debt Service Fund for application as a credit to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and if still not fully applied, then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied, all unless the provisions of Section 5.02 of the Bond Resolution require application otherwise, in which case the Trustee shall (ii) apply any such surplus funds remaining on deposit in the Project Fund in accordance with the terms of Section 5.02 of the Bond Resolution. To the extent the final Acceptance Certificate for all of the Series 2011 Local Units shall not have been filed by the

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Equal Opportunity Compliance, through and including the month after the final Acceptance Certificate has been filed.

(d) From time to time, in accordance with the terms of the Company Lease Agreement, the Local Unit License Agreements with respect to the Series 2011 Local Units, and this Bond Resolution, the Lessee shall file with the Trustee, duly authorized, completed, executed, acknowledged, and delivered Acceptance Certificates in the form of Exhibit B hereto at the following times and with respect to the following matters, and upon receipt thereof, the Trustee shall take the following actions:

(i) The Lessee shall file with the Trustee (A) the REP Acceptance Certificates in the form of Exhibit B-1 hereto, one for each Series 2011 Local Unit, signed by an Authorized Officer of the Lessee with respect to the Renewable Energy Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, (x) when the Lessee has submitted all Draw Papers respecting Costs of such Renewable Energy Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed and installed in accordance with the Plans and Specifications therefor, (z) when all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by the Lessee and such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Renewable Energy Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.2(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.2(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager) and until accompanied by one or more Interconnection Agreements with respect to all such Renewable Energy Projects or Completion Projects related thereto;

(ii) The Lessee shall file with the Trustee (A) the CIP Acceptance Certificates in the form of Exhibit B-2 hereto, one for each Series 2011 Local Unit that is financing Capital Improvement Projects with a portion of the proceeds of the Bonds, signed by an Authorized Officer of the Lessee with respect to such Capital Improvement Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, (x)

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Lessee, as duly acknowledged by the Series 2011 Local Units and the Lessor, all in accordance with the terms hereof, of the Bond Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, on or prior to December 14, 2012, as extended if applicable (thereby causing an Event of Default hereunder, but not under the Bond Resolution), the Trustee shall transfer any funds remaining on deposit in the Project Fund as set forth in a Certificate of an Authorized Officer of the Authority, as required pursuant to the provisions of Section 5.02(3)(b) of the Bond Resolution.

#### SECTION 511. Reimbursement to Lessee from Moneys in the Project Fund.

Notwithstanding the provisions of Section 510 hereof to the contrary, the Lessee shall be entitled to submit Draw Papers to the Trustee and receive reimbursement for the amounts set forth in such Draw Papers for advances made with respect to the Projects, prior to a given Draw Date, so long as the Lessee submits the requisite requisition and supporting copies of invoices prior to being reimbursed directly by the Trustee.

#### SECTION 512. Construction Period Insurance.

Each Contractor shall be required to provide and maintain in force during the entire acquisition, construction, renovation or installation period of all Projects, and prior to the Contractor's performance of work under any Development Contract, builder's risk or property damage insurance (in an amount not less than the full value of all work done and materials and equipment provided or delivered by the Contractor and, in any event, not less than the applicable Purchase Option Price at such time), comprehensive liability insurance, worker's compensation insurance and any other insurance required by law or customarily maintained with respect to like projects. All such policies of insurance shall show the Lessor, the Lessee and the Applicable Series 2011 Local Unit as named insureds, in such amounts as their interests may appear. Evidence of such insurance shall be filed with the Lessor. Notwithstanding the foregoing, the EPC Contractor and the Company will not be required to maintain property insurance concurrently. The EPC Contractor shall supply builder's risk insurance until completion and the Company shall supply property insurance thereafter.

#### SECTION 513. Taxes and Other Governmental Charges and Utility Charges.

The Lessee shall pay when due all gas, water, steam, electricity, heat, power, telephone and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Renewable Energy Projects. The Lessee shall also pay all property and excise taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Renewable Energy Projects or any part thereof or the Lease Payments, which become due during the Term of this Company Lease Agreement with respect thereto, and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Renewable Energy Projects; provided, however, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only

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such installments as are required to be paid during the Term of this Company Lease Agreement as and when the same become due. The Lessee shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate or other similar tax payable by the Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any real estate or other tax upon property and arises out of or is levied upon the Lessor's interest in the Renewable Energy Projects hereunder.

The Lessee may, at its own expense and in its or the Lessor's name, contest in good faith any such taxes, assessments or utility or other charges (and the Lessor shall cooperate fully in any such contest) and, in the event of any such contest, permit such taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items, the interest of the Lessor in the Renewable Energy Projects shall be materially endangered, or the Renewable Energy Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss or forfeiture that may result from nonpayment.

**SECTION 514. Site Visits.**

The Lessor shall visit the site of the Project at least quarterly to monitor the acquisition, construction, renovation and installation of the Projects by the Lessee and/or the Contractors, as the case may be.

**SECTION 515. Construction Manager.**

At its sole discretion, the Lessor may employ one or more Construction Manager, payable from a portion of the proceeds of the Series 2011 Bonds in excess of the Maximum Net Bond Funded Project Cost Amount, to act on behalf of the Lessor in exercising any of its rights, or in discharging any of its duties and obligations under this Company Lease Agreement or other Program Document with respect to the (a) design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units and/or the (b) design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units.

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**ARTICLE VI**

**INSURANCE; TITLE TO PROJECT AND OTHER MATTERS**

**SECTION 601. Insurance Coverage for the Projects.**

The Lessee shall procure and maintain or cause to be procured and maintained, from and after the date it accesses a Local Unit Facility and through the balance of the Term of this Company Lease Agreement and in accordance with the further terms of this Article VI, (i) public liability insurance, including, without limitation, bodily injury and property damage coverage, (ii) auto liability insurance, including, without limitation, bodily injury and property damage coverage, (iii) worker's compensation insurance, and (iv) property insurance, including, without limitation, fire and comprehensive other risk coverage, all to be procured and maintained with an insurance company approved by the State and such insurance policy or policies naming the Lessee, the Lessor and the Applicable Series 2011 Local Units as insureds or, if the Lessee elects and receives the consent of the Lessor, the Lessee shall provide to the Lessor a Certificate of an Authorized Officer of the Lessee to the effect that adequate reserves are deposited and maintained in trust with an independent trustee in the amounts sufficient to cover the loss or damage to any Project. Any insurance proceeds in excess of the Purchase Option Price for all of the Bonds Outstanding at such time with respect to the Projects under this Company Lease Agreement shall be remitted to the Lessee. Notwithstanding the foregoing, the timing of delivery of insurance required by this Company Lease Agreement can be changed with a Certificate of an Authorized Officer of the Authority.

**SECTION 602. Public Liability Insurance.**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard commercial general liability insurance policy or policies in protection of the Lessee, the Lessor and the Applicable Series 2011 Local Units. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by the operation or ownership of the Projects. Said policy or policies shall provide coverage in the amount of \$1,000,000.00. This coverage must be in writing on an occurrence form, claims made policies will be unacceptable. This Comprehensive General Liability insurance shall cover the Lessee, the Authority, each of the Series 2011 Local Units and their employees, agents and officers from and against any claim arising out of personal injury of Lessee or the Lessee's failure to comply with the terms of this Company Lease Agreement. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by a Lessee or by any other persons. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in this Company Lease Agreement. The policy shall also be endorsed to include coverage for products, completed operations, and independent contractors. Such public liability

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insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

**SECTION 603. Auto Liability Insurance.**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard comprehensive automobile liability insurance policy or policies in protection of the Lessee, the Lessor, and the Applicable Series 2011 Local Unit. Said policy or policies shall be written in a comprehensive form, shall comply with N.J.S.A. 39:6b-1 et seq. and all local regulations and case law regarding the scope and effect of the New Jersey Compulsory Motor Vehicle Insurance Statute, and shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage arising from the maintenance, use or operation of any owned or non-owned vehicle used in or in connection with the Projects. Said policy or policies shall provide coverage in an amount not less than \$1,000,000.00, shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles, which may be used by Lessee in connection with the services, required under the Power Purchase Agreement, such auto liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

**SECTION 604. [Reserved].**

**SECTION 605. Worker's Compensation Insurance.**

If required by State law, the Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, worker's compensation insurance covering all of Lessee's and its Contractors' employees on, in, near or about the Projects, and, upon request, shall furnish to the Lessor certificates evidencing such coverage. To the extent the Lessee is procuring or maintaining such insurance, such coverage may, at the option of the Lessee, be provided through a self-insurance program that is established and operating in conformity with all applicable State law. To the extent that any other entity is procuring or maintaining such insurance, such insurance shall be provided under a policy written by an insurance company approved by the State in a minimum amount of \$1,000,000 for damage

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resulting from a single accident or event.

**SECTION 606. Excess Liability**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, an excess liability insurance policy or policies in protection of the Lessee, the Lessor, and the Applicable Local Unit Facility, each applicable Series 2011 Local Unit. Said policy or policies shall be in the amount of \$4,000,000.00 shall be in the form of an Umbrella policy rather than a following form excess policy. This policy or policies shall be specifically endorsed to be excess of the required Comprehensive General Liability Coverage, the Employers' Liability Coverage on the Workers' Compensation policy, and the Comprehensive Automobile Liability policy.

**SECTION 607. Other Insurance and Requirements for All Insurance.**

All insurance required by Article V hereof or this Article VI (a) may be carried under a separate policy or a rider or endorsement, (b) shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State, or may be maintained as part of any insurance pool permitted under the laws of the State, (c) shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the Lessor at least thirty (30) days before the cancellation or revision becomes effective, and (d) shall name the Lessee, the Lessor and the Applicable Series 2011 Local Units as insured parties as their respective interests may appear. The Lessee shall deposit with the Lessor original policies evidencing any such insurance procured by it or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy, the party obligated under the terms of this Company Lease Agreement to maintain such insurance shall furnish to the other party evidence that the policy has been renewed or replaced by another policy conforming to the provisions of Article V hereof and this Article VI, unless such insurance is no longer obtainable in which event such party shall notify the other party of this fact and the Lessee shall thereafter self-insure pursuant to the terms of this Article VI. Neither the Trustee nor any Applicable Series 2011 Local Unit shall have responsibility with respect to any determinations as to the sufficiency of any insurance required under this Company Lease Agreement nor as to the compliance by the Lessee with the provisions of the Bond Resolution regarding insurance.

**SECTION 608. Indemnification.**

The Lessee shall (a) indemnify and save harmless the Lessor and the Series 2011 Local Units and their agents, employees, officers and directors from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of any breach or non-performance by the Lessee of its obligations under this Company Lease Agreement, or negligence or misconduct by the Lessee in

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connection with such performance or non-performance, or the ownership, rental, possession, operation, condition, sale or return of the Projects, and (b) reimburse the Lessor or the Series 2011 Local Units for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Lessor or the Series 2011 Local Units, as applicable, has acted with gross negligence or willful misconduct in connection with the liabilities for which the Lessor or the Series 2011 Local Units, as applicable, is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 603 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefor by the Lessor or the Series 2011 Local Units, as applicable (which demand cannot be made prior to the Lessee's receipt thereof), and shall survive the termination or expiration of this Company Lease Agreement.

**SECTION 609. Title to Projects Upon Termination of Company Lease Agreement.**

(a) Upon the financing of the Renewable Energy Projects with a portion of the proceeds of the Bonds and the filing of the REP Acceptance Certificates, the Lessor shall be the holder of title to such Renewable Energy Projects for all State law purposes, subject to the lease of the Leased Property contemplated hereby. Upon the filing of the CIP Acceptance Certificates, if any, the parties hereto acknowledge that the respective Series 2011 Local Units shall be the fee owners of the respective Capital Improvement Projects described in any such Certificates. The parties further acknowledge that the Lessor may assign the Reimbursement Collateral pursuant to the terms of the County Security Agreement, if any, and/or the County Guaranty Agreement. So long as no Event of Default shall have occurred and be continuing hereunder, the Lessor shall not sell, assign or alienate all or any part of the Renewable Energy Projects (but such provision shall not apply to the Capital Improvement Projects, the Lessor having no interest therein) or any interest therein to any other Renewable Energy Program Interested Party or other third-party (other than to the Lessee pursuant to Article VII hereof), it being the purpose and intent hereof that the Lessee shall have the option to purchase all of the Lessor's right, title and interest in and to the Renewable Energy Projects during or upon the termination of this Company Lease Agreement, with credit toward the Basic Lease Payments for any such purchase price paid, all in accordance with Article VII hereof.

(b) Upon the termination of this Company Lease Agreement in accordance with Section 402(a)(iii) or (iv) hereof, (i) all of the Lessor's right, title and interest in and to the Renewable Energy Projects (and not the Capital Improvement Projects, the Lessor having no interest therein) shall be deemed sold, for purposes of State law, by the Lessor to the Lessee for the consideration of all previous Basic Lease Payments, and to the extent the Lessor was deemed to have a fee interest therein or to have retained title thereto for purposes of State law, such interest shall be deemed extinguished under State Law and such title thereto shall be deemed

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conditions, all in accordance with the provisions of Section 5.2(d) of the Local Unit License Agreement for any such Applicable Series 2011 Local Unit.

(c) Upon the termination of this Company Lease Agreement due to a Lessee Event of Default in accordance with Section 402(a)(ii) hereof, (i) Lessor shall possess full right, title and interest in and to the Renewable Energy Projects for all of the Series 2011 Local Units (but not the Capital Improvement Projects, if any, which title shall remain with the respective Series 2011 Local Units), (ii) Lessee shall have no further leasehold or other right, title and interest in and to such Renewable Energy Projects (nor any such Capital Improvement Projects), (iii) except for the rights of the Series 2011 Local Units to effect a nominal value purchase of their respective Renewable Energy Projects in accordance with subsection (f) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessee and its officers shall take all actions necessary to authorize, execute and deliver to the Lessor any and all documents necessary to vest in the Lessor all of the Lessee's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessee or the Lessor to be prepared and filed with the Lessee and the Lessor, and, upon the request of the Lessee or the Lessor, shall execute and deliver to the Lessee and the Lessor all such instruments as may be desirable to evidence such discharge and satisfaction.

(f) Upon the termination of this Company Lease Agreement as contemplated in Section 609(e) above, the parties acknowledge that the right, title and interest in and to the Renewable Energy Project developed for any one or more Series 2011 Local Units may be sold by the Lessor to any such Applicable Series 2011 Local Unit for nominal consideration in accordance with the provisions of Section 5.2(a)(iv) of the Local Unit License Agreement for such Applicable Series 2011 Local Unit.

(g) Notwithstanding any other provision of this Section 609, in no event shall there be any transfer of any Renewable Energy Project or any interest therein to any person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event. The expression "Tax Benefit Recapture Event" means an event which would entitle the United States Department of the Treasury or the Internal Revenue Service to require that the Lessee return all or part of the Section 1603 Grant in lieu of tax credit received in connection with the Renewable Energy Projects, or to disallow the Lessee's tax deductions or recapture all or a portion of the investment tax credits previously claimed with respect to investments in energy property for depreciation.

**SECTION 610. No Further Encumbrances; Exceptions.**

(a) The Lessee shall not, directly or indirectly, create, incur, assume or suffer

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automatically and without further action conveyed by Lessor to Lessee, (ii) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(c) Upon the termination of this Company Lease Agreement due to an optional or mandatory pre-purchase of the Renewable Energy Projects in accordance with Section 402(a)(i) and Sections 701 or 702, as applicable, hereof, (i) the rights of the Lessor and the Lessee in the title to the Renewable Energy Projects (but not the Capital Improvement Projects, which title shall remain with the respective Series 2011 Local Units) shall be as set forth in Section 703 hereof, (ii) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(d) Upon the termination of the Power Purchase Agreement, the parties acknowledge that (i) the Company and each Series 2011 Local Unit shall have thirty (30) days from any such termination to negotiate a fair market value purchase price for the Renewable Energy Project developed for any such Applicable Series 2011 Local Unit and (ii) to the extent the Company and any such Applicable Series 2011 Local Unit can agree to any such fair market value purchase price for such Renewable Energy Project, the parties acknowledge that the right, title and interest in and to such Renewable Energy Project may be sold by the Lessor to any such Applicable Series 2011 Local Unit for such fair market value price, and any other terms and

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to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Projects, other than the respective rights of the Lessor and the Lessee as herein provided and the Permitted Encumbrances or in any other Program Document. Except as expressly provided in this Article VI, the Lessee shall promptly, at its own expense, take such action as may be necessary to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Lessee shall reimburse the Lessor and/or the Applicable Series 2011 Local Units, as applicable, for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

(b) The Lessee may, at its own expense and in its name, contest in good faith any taxes, assessments or utility and other charges and, in the event of any such contest, permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items the interest of the Lessor in the Projects shall be materially affected or the Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss that may result from nonpayment, in form satisfactory to the Lessor.

**SECTION 611. Trustee Indemnification.**

The Lessee shall (a) indemnify and save harmless the Trustee and its agents, employees, officers and directors from and against any and all liabilities, including, without limitation, all claims, demands, damages, losses, costs, penalties, charges and expenses (including, but not limited to, reasonable attorneys' fees) in any way relating to or arising from (i) the development, ownership, possession, operation, condition, sale, rental, sub-rental or return of the Projects, (ii) the Program Documents, and (iii) any resignation by the Trustee in accordance with Section 10.07(2) of the Bond Resolution; and (b) reimburse the Trustee for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Trustee may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Trustee has acted with negligence or willful misconduct in connection with the liabilities for which the Trustee is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 611 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefor by the Trustee, and shall survive the termination or expiration of this Company Lease Agreement.

**SECTION 612. Advances.**

If the Lessee shall fail to perform any of its obligations under this Company Lease Agreement, the Lessor or the Applicable Series 2011 Local Units may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and the Lessee shall be obligated to repay all such advances on demand to the Lessor or

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the Applicable Series 2011 Local Units, as the case may be, as Additional Lease Payments with interest at the Overdue Rate from the date of the advance to the date of repayment.

**SECTION 613. Net Proceeds of Insurance; Form of Policies.**

(a) Each policy of insurance obtained pursuant to or required by this Article VI shall provide that all Net Proceeds thereunder shall be payable (i) with respect to the Renewable Energy Projects, to the Lessor for deposit with the Trustee in the Project Fund, the Revenue Fund or such other Fund or Account under the Bond Resolution, in any event as directed by the Lessee, but only so long as the Lessee has not caused an Event of Default hereunder, in which latter case such Net Proceeds shall be payable to the Lessor, (ii) with respect to the Capital Improvement Projects, to the Applicable Series 2011 Local Unit, or at their direction, to the Trustee for deposit in the Project Fund, or other Fund or Account under the Bond Resolution, or (iii) if not discernable as to Project or otherwise, payable to the Lessor or at the Lessor's direction, to the Trustee for deposit in the Project Fund, the Revenue Fund, or other Fund or Account under the Bond Resolution.

(b) The Lessee shall pay or cause to be paid when due the premiums for all insurance policies required by this Company Lease Agreement, and shall promptly furnish or cause to be furnished to the Lessor and the Series 2011 Local Units evidence of such payments. All such policies shall provide that the Applicable Series 2011 Local Units and the Lessor shall be given not less than thirty (30) days' notice of each expiration, any intended cancellation and any intended reduction of the coverage provided thereby.

(c) Neither the Applicable Series 2011 Local Units nor the Authority shall be responsible for the sufficiency of any insurance herein required, and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Applicable Series 2011 Local Units or the Authority, as the case may be.

(d) The Lessee shall cause to be delivered to the Applicable Series 2011 Local Units and the Lessor on each anniversary of the date of issuance of the Series 2011 Bonds a Certificate of an Authorized Officer of the Lessee, satisfactory to the Applicable Series 2011 Local Units and the Lessor, that the insurance policies required by this Company Lease Agreement are in full force and effect.

**SECTION 614. Self-Insurance.**

Self-insurance, in lieu of policy coverage, maintained by the Lessee pursuant to this Article VI shall only be deemed to comply with this Article VI to the extent all of the following are satisfied:

(a) The self-insurance program shall be acceptable to the Lessor, the Applicable Series 2011 Local Units and the Lessee, as evidenced by Certificates of Authorized

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Officers to such effect;

(b) The self-insurance program shall be approved by an Independent Insurance Consultant;

(c) The self-insurance program shall include an actuarially sound claims reserve fund out of which each self-insured claim shall be paid; the adequacy of each such fund shall be evaluated on an annual basis by an Independent Insurance Consultant; and any deficiencies in any self-insurance claims reserve fund shall be remedied in accordance with the recommendation of an Independent Insurance Consultant;

(d) The self-insurance claims fund shall be held in a separate trust fund by an independent trustee, which independent trustee may also be the Trustee serving as such under the Bond Resolution;

(e) The self-insurance program shall comply in every particular with all applicable laws; and

(f) In the event the self-insurance program shall be discontinued, the actuarial soundness of its claims reserve fund, as determined by an Independent Insurance Consultant, shall be maintained.

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**ARTICLE VII**

**OPTION TO PURCHASE; PREPAYMENT OF LEASE PAYMENTS**

**SECTION 701. Lessee's Prepayment and Purchase Option; Purchase Option Price.**

(a) The Lessee is hereby granted the option to prepay its Basic Lease Payments in part, in accordance with Section 8.07 of the Bond Resolution. Any partial prepayment shall not affect the Lessor's right, title and interest in and to the Renewable Energy Projects, nor the Series 2011 Local Units' right, title and interest in and to the Capital Improvement Projects. At the Lessee's option, as directed in a Certificate of an Authorized Officer of the Company delivered by the Company to the Trustee, the Lessor, and the County accompanying any such partial prepayment, any such partial prepayment shall be either (i) credited to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied or (ii) applied to defease Outstanding Bonds in the manner contemplated by Article XII of the Bond Resolution, and in the amounts and on the dates as set forth in any such partial prepayment Certificate of the Company, which in the case of such defeasance option selected by the Company, such Certificate of the Company shall be acknowledged by an Authorized Officer of the Authority to the effect that such dates and amounts conform to the requirements of the Bond Resolution. Upon any such partial prepayment, new schedules reflecting the revised Basic Lease Payments due from the Lessee, taking into account any such partial prepayment, shall be attached by the Lessor hereto.

The Lessee may not utilize funds in the County Security Fund or Restoration Security Fund, if any, toward any such partial prepayment; provided, however, that such limitation does not extend to monies previously released from the County Security Fund and transferred to the Aged Account in the Revenue Fund in accordance with Section 5.07(3)(a) of the Bond Resolution at the time of any such partial prepayment; provided, further however, that such limitation does not extend to such amounts that would be eligible for release pursuant to the calculations referred to in Section 5.07(3)(a) of the Bond Resolution immediately after any such partial prepayment (to the extent the Series 2011 Bonds will not be redeemed simultaneously with the prepayment, the Series 2011 Bonds that will be defeased upon the prepayment shall not be considered Outstanding for purposes of such calculations, and therefore can be released and applied to any such prepayment if the calculations so warrant release), to the extent the Lessor has verified such calculations in writing to the Lessee and the Trustee. In any such instance where this limitation does not so extend, the Lessee may direct the Trustee in writing, with a copy to the Lessor, to apply any such amounts in the County Security Fund, if any, to any such partial prepayment, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(b) The Lessee is further hereby granted the option to prepay and purchase all

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of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, if any) in whole, at the times set forth in Section 701(c) hereof, by paying to the Trustee the "Purchase Option Price", which for any date of calculation shall be the sum of (i) the aggregate amount of unpaid principal of the Bonds to their maturity date under the terms of the Bond Resolution and as set forth in the Lessee's notice to the Trustee of such prepayment, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the final maturity date set forth in clause (i) above, (iii) the redemption premium, if any, applicable to the payment of the Bonds on the maturity date set forth in clause (i) above, and (iv) any costs of redemption or defeasance or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

The Lessee may direct the Trustee in writing, with a copy to the Lessor, that all or a portion of the Purchase Option Price (where all of the Outstanding Bonds shall be paid) shall be funded from the County Security Fund, if any, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(c) The prepayment options set forth in subsections (a) and (b) above may be exercised by the Lessee at any time by (i) giving written notice to the Trustee and the Lessor of the exercise of such option at least fifty-two (52) days prior to the final maturity date set forth in such notice, and (ii) if the prepayment shall occur before January 15, 2021, complying with any other requirements of Article XII of the Bond Resolution that may be required by the Trustee or the Lessor to defease the Bonds in accordance with the terms of the Bond Resolution, including, without limitation, a verification report from a nationally recognized accounting firm approved by the Trustee and the Lessor to the effect that the amount so prepaid shall equal the Purchase Option Price (for a full prepayment) and shall therefore be sufficient to defease the Bonds (in whole or in part, as the case may be) by paying all of the principal thereof and redemption premium, if any, thereon through and including the final maturity thereof, plus all interest accruing thereon to such final maturity date. Such option shall be exercised by depositing with said notice cash and/or investment Securities in such amount as shall be sufficient, together with interest to accrue thereon, to pay the Bonds to be defeased on said redemption date.

(d) Notwithstanding any provision herein or in any Program Document to the contrary, the Lessee may not advance refund, currently refund or otherwise refund any Series of Bonds with bonds, notes or other obligations of the Lessee, or such other moneys available to the Lessee, and use such moneys to make any prepayments hereunder unless (i) provision has been made by the Lessee for the payment of all (A) principal of, redemption premium if any, and interest on the Series of Bonds being refunded to any redemption date and (B) Administrative Expenses of the Lessor relating thereto, and (ii) if applicable, prior written notification of any such refunding has been given to the Lessor. Notwithstanding the foregoing, the Lessor may, in its sole discretion at the times and under the circumstances and for the purposes set forth in the Bond Resolution, advance refund, currently refund, or otherwise refund any Series of Bonds, the allocation of the benefit from which shall be determined between the Lessor and the Lessee at the time of any such defeasance and/or refunding.

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**SECTION 702. Mandatory Prepayment and Purchase of Project; Mandatory Purchase Price.**

(a) Upon the acceleration of the Bonds, the Lessee shall forthwith prepay and purchase all of the Renewable Energy Projects (but not the Capital Improvement Projects, if any) by paying to the Trustee, immediately upon receipt of notice of such acceleration, the "Mandatory Purchase Price", which for any date of calculation shall be the sum of (i) the aggregate amount of the unpaid principal of the Bonds, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the date that the amount in clause (i) above has been paid in full, and (iii) any costs of acceleration or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

(b) In the event the Mandatory Purchase Price remains unpaid when due, the Lessee shall make an Additional Lease Payment immediately due and payable equal to, for any date of such deficiency, the amount of such deficiency times the per diem Overdue Rate.

**SECTION 703. Effect of Prepayment.**

(a) In the event of a deposit sufficient to purchase the Renewable Energy Projects (but not the Capital Improvement Projects, if any) pursuant to Section 701 or 702 hereof and to pay any and all amounts due hereunder, (i) all of the Lessor's right, title and interest in and to such Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest) shall be deemed sold to the Lessee for the consideration set forth in such Sections, (ii) except for the rights of the Series 2011 Local Units to effect a Fair Market Value purchase of their respective Renewable Energy Projects in accordance with Section 609(d) hereof, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its Officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest), free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable in evidence of such discharge and satisfaction.

(b) Notwithstanding anything to the contrary herein or in any Program Document, including without limitation subsection (a) above, to the extent the Lessee has satisfied all of the conditions of subsection (a) above in order to terminate this Company Lease Agreement, including the payment of all amounts due and owing hereunder and under the other Company

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**ARTICLE VIII**

**DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS**

**SECTION 801. Damage, Destruction and Condemnation.**

(a) If either (i) the Projects or any portion thereof are destroyed or damaged by fire or other casualty or (ii) title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by any governmental body, other than Sussex County, a division of Sussex County Government, any Series 2011 Local Unit, or by any person, firm or corporation acting under governmental authority, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment or (z) the Lessee shall exercise its option to purchase the Project in whole by paying the then applicable Purchase Option Price in accordance with Section 701 hereof and causing the Lessor to deposit, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so deposit, such Net Proceeds with the Trustee in the Revenue Fund, the Debt Service Fund, or such other Fund or Account that would allow the application of the Net Proceeds toward the Purchase Option Price. Subsections (y) and (z) above are mutually exclusive.

(b) If title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by Sussex County, a division of Sussex County Government, or any Series 2011 Local Unit, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project

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Documents, and at the date all of such conditions are satisfied, (f) the Lessee is not in any continuing default or Event of Default hereunder or under any Company Document, (g) the term of one (1) or more Local Unit License Agreements with one (1) or more Series 2011 Local Units has not expired, (iii) the Lessee delivers to the Lessor and such Series 2011 Local Unit a Certificate of an Authorized Officer of the Lessee expressing the Lessee's interest in continuing the term of this Company Lease Agreement to a specified date which date shall be no later than the termination date of any such Local Unit License Agreements, then without any further action (a) the Company Lease Agreement shall not terminate, but rather shall continue for a term no longer than the termination date of the Applicable Local Unit License Agreement, all as set forth in any such Certificate, (b) the Lessee's only remaining payment obligations under the Company Lease Agreement are to pay rent for the Leased Property in an amount that shall be the sum of (i) the Authority's annual Administrative Fee, (ii) any Administrative Expense that Lessee causes the Authority, the County or any such Series 2011 Local Unit to incur, both as Additional Lease Payments hereunder, there being no continuing obligation to make Basic Lease Payments as the Series 2011 Bonds and any Additional Bonds that are Outstanding are either defeased or redeemed under the Bond Resolution, and (iii) ten (10) dollars per annum, payable annually in advance, (c) the Lessee can only cause an Event of Default hereunder should the Lessee fail to pay such amounts, fail to operate and maintain the Applicable Renewable Energy Project, or fail to allow the Applicable Series 2011 Local Unit to discharge its obligations under its Local Unit License Agreement, such as to take and pay for the Electricity generated under the Renewable Energy Program by the Lessee for the benefit of any such Series 2011 Local Unit, and (d) the Company retains all other rights, duties and obligations under the Program Documents, until the termination of the Applicable Local Unit License Agreement with respect to the particular Project, including without limitation the right to receive the PPA Price, as escalated, for the duration of any such term. The Lessee may continue this arrangement with the Authority and more than one (1) Series 2011 Local Unit, to the extent all such conditions are satisfied with respect to any other Series 2011 Local Unit and their respective Renewable Energy Projects, until the termination of this Company Lease Agreement, without interruption, in accordance with the terms of Section 462(a)(iii) hereof, in which case title to the Applicable Renewable Energy Project(s) shall transfer in accordance with the provisions of Section 609(b) hereof.

**SECTION 704. Substitution of Project.**

The Lessee is hereby granted the full power of substitution with respect to any Project so long as the Lessor and the Trustee receive the prior written consent of the Applicable Series 2011 Local Unit and the Authority, along with revised Exhibits to the Applicable Program Documents.

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Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to have no further obligation with respect to the affected Project(s). Subsections (y) and (z) above are mutually exclusive.

(c) In the event of any damage, destruction, condemnation, taking or other event that constitutes a revocation or deemed revocation under Section 3.7 of any Local Unit License Agreement with respect to a Project requiring payment of the amounts set forth in Section 3.7(a)(iv) of such Local Unit License Agreement, upon receipt of such amount, this Company Lease Agreement and the obligations of Lessee thereunder with respect of and solely with respect to such Project, shall terminate and title thereto shall vest in Lessee. Such event shall have no effect on the Lessee's obligations to continue to make all Lease Payments on time and in full.

**SECTION 802. Insufficiency of Net Proceeds.**

If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement relating to the Projects as so damaged or taken, the Lessee shall either:

(a) direct the application of the Net Proceeds in the manner as set forth in Sections 801(a)(y) or 801(b)(y) above, thereby requiring the Lessee to complete the work relating to the Projects as so set forth, except that the Lessee shall itself pay any Project Costs in excess of the amount of the Net Proceeds, and, if by reason of any such insufficiency of the Net Proceeds the Lessee shall make any payments pursuant to the provisions of this Section 802(a), the Lessee shall not be entitled to any reimbursement therefrom from the Lessor, nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Projects;

(b) direct the application of the Net Proceeds in the manner as set forth in Section 801(a)(z) above, thereby requiring the Lessee to make an equity contribution to the extent the Net Proceeds are insufficient to cover the Purchase Option Price and thereupon exercise Lessee's option to purchase the Project in whole, in accordance with Article VII hereof, in which event the Net Proceeds shall be used toward this purpose; or

(c) direct the application of the Net Proceeds consistent with the determination contemplated in Section 801(b)(y) above, thereby causing the Net Proceeds to be applied to the payment of the Interest Portion and, to the extent available, the Principal Portion of the Basic Lease Payments due on the immediately succeeding Basic Lease Payment Dates until all of the Net Proceeds have been so applied, in which event the Lessee shall not be entitled to any reimbursement therefrom from the Lessor nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Project. Subsections (a), (b) and (c) above are mutually exclusive.

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**SECTION 803. Cooperation of Lessor.**

The Lessor and the Applicable Series 2011 Local Unit shall cooperate fully with the Lessee, at the sole cost and expense of the Lessee, in filing any proof of loss with respect to any insurance policy covering the casualties described in Section 801 hereof and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Projects or any part thereof. In no event shall the Lessor or the Applicable Series 2011 Local Unit voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim or any prospective or pending condemnation proceeding with respect to the Projects or any part thereof, without the prior written consent of the Lessee.

**SECTION 804. Condemnation of Other Property Owned by Lessee.**

The Lessee shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for the destruction of, damage to or taking of its property not included in the Project.

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**SECTION 905. Reorganization.**

It is understood and agreed by the parties hereto that reorganization of the Lessee with the consent of the Lessor shall not constitute an assignment under this Article IX.

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**ARTICLE IX**

**ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING**

**SECTION 901. Assignment by Lessor.**

Except for this Company Lease Agreement and as otherwise provided below and in any other Program Document, including without limitation with respect to its payment obligations under the Power Purchase Agreement to the Series 2011 Local Units under the Local Unit License Agreements, or with respect to the assignment of the Reimbursement Collateral to the County and the County Security Provider, if any, under the County Guaranty Agreement and the County Security Agreement, if any and as applicable, the Lessor shall not assign its obligations under this Company Lease Agreement and no such purported assignment thereof shall be effective. All of the Lessor's right, title and interest in and to this Company Lease Agreement, the Lease Payments and the other amounts due to it hereunder and under the Project shall be assigned by the Lessor to the Trustee pursuant to the pledge of the Trust Estate under the Bond Resolution no later than the execution and delivery hereof.

**SECTION 902. Lease Payments to Trustee.**

The Lessor and the Lessee hereby agree that from and after the adoption of the Bond Resolution and the execution of this Company Lease Agreement, so long as the same shall remain in effect, payment by the Lessee to the Trustee or, if applicable, to the successor thereof of any moneys or sums due hereunder from the Lessee to the Lessor shall satisfy the obligation of the Lessee to pay such money or sums.

**SECTION 903. Assignment and Subleasing by Lessee.**

This Company Lease Agreement may not be assigned or subleased by the Lessee without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Lessee entered into this Company Lease Agreement as the successful respondent pursuant to the Company RFP and all applicable law, and the Lessor and the Series 2011 Local Units have selected the Lessee, and not any assignee, to receive the rights, and perform the duties and obligations hereunder. Any such purported assignment or sublease shall be deemed null and void without such prior written consent.

**SECTION 904. Restriction on Mortgage or Sale of Project by Lessee.**

The Lessee shall not mortgage, sell, assign, transfer or convey the Projects or any portion thereof during the Term of this Company Lease Agreement without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Program Documents contemplate such Projects being available, directly in the case of the Capital Improvement Projects, or indirectly in the case of the Renewable Energy Projects as a source of power, for the benefit of the Series 2011 Local Units.

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**ARTICLE X**

**EVENTS OF DEFAULT; REMEDIES**

**SECTION 1001. Events of Default.**

(a) An Event of Default hereunder means the occurrence of any one or more of the following events:

(i) The Lessee fails to (A) make any Basic Lease Payment as it becomes due or (B) make any Additional Lease Payment as it becomes due or maintain any insurance requirement set forth hereunder, and in the case of (B) only, such failure is not cured within thirty (30) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, if the Basic Lease Payment is paid with funds from the County Reserve, such payment will not constitute an Event of Default.

(ii) The Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder or under any Company Document, and such failure is not cured within ninety (90) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, that if such failure cannot be cured within said ninety (90) day period, the Lessee shall not be in default if it has commenced to cure within such ninety (90) day period, it continuously proceeds with the cure, and if such action to cure the default is acceptable to the Lessor and the Lessor indicates the same in writing.

(iii) The discovery by the Lessor or the Trustee that any material statement, representation or warranty made by the Lessee in this Company Lease Agreement, or in any writing delivered by the Lessee pursuant hereto or in connection herewith, is false, misleading or erroneous in any material respect.

(iv) The Lessee becomes insolvent or admits in writing its inability to pay its debts as they mature or applies for, consents to or acquiesces in the appointment of a trustee, receiver or custodian for the Lessee or a substantial part of its property; or in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed for the Lessee or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, moratorium or other proceeding under bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or, if permitted by law, against the Lessee and, if instituted against the Lessee, is consented to or acquiesced in by the Lessee or is not dismissed within sixty (60) days.

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(v) The entering of an order or decree appointing a receiver for the Leased Property or for any part thereof or for the revenues thereof with or without the consent or acquiescence of the Lessee, and such order or decree shall not be vacated, discharged or stayed within ninety (90) days after the date of such entry.

(b) Upon the occurrence of an Event of Default under this Section 1001, the Trustee shall transmit a written notice, including electronic mail, of such Event of Default to the Lessor, the Lessee and the Series 2011 Local Units within thirty (30) days of the Trustee's knowledge thereof.

(c) Upon the occurrence of an Event of Default under this Section 1001, all obligations of the Lessee under this Company Lease Agreement shall remain in full force and effect.

#### SECTION 1002. Remedies.

(a) Upon the occurrence and continuation of any Event of Default as described in Section 1001 hereof, at the option of the Lessor, the Mandatory Purchase Price with respect to the Project shall become immediately due and payable by the Lessee upon the Lessor's declaration. So long as the Lessor is not in default hereunder, the Lessor shall have the right to direct all remedial proceedings under this Company Lease Agreement, including the consent to remedies taken upon an Event of Default. Subject to the preceding sentence, the Lessor shall have the right, without any further demand or notice, to take one or any combination of the remedial steps below:

(i) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRRCs, and any other portion of the Leased Property, and exclude the Lessee from using it; provided, however, that if this Company Lease Agreement has not been terminated, the Lessor shall return possession of same to the Lessee when the Event of Default has been cured; and provided, further, that the Lessee shall continue to be responsible for the Lease Payments due hereunder during the remainder of the Lease Term.

(ii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRRCs, and any other portion of the Leased Property, and sell, lease or sublease its interest therein or any part thereof.

(iii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRRCs, and any other portion of the Leased Property, and apply any portion of same, or of the proceeds of same (in accordance with clause (ii) above) in accordance with the

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provisions of Section 5.07(1)(b) of the Bond Resolution

(iv) With or without terminating this Company Lease Agreement, declare all Lease Payments due or to become due hereunder to be immediately due and payable by the Lessee, whereupon such Lease Payments shall be immediately due and payable.

(v) Take whatever action at law or in equity may appear necessary or desirable to collect the Lease Payments then due and thereafter to become due hereunder with respect to the Project or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Company Lease Agreement.

(b) Notwithstanding any other provisions of this Section 1002, in no event shall there be any transfer of any Renewable Energy Project or any interest therein to any person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event as described in Section 609.

#### SECTION 1003. Reinstatement.

Notwithstanding any termination of this Company Lease Agreement that shall be made in accordance with the provisions of Section 1002 hereof, unless the Lessor shall have entered into a firm bilateral agreement providing for the reletting of the Project for a period of at least one year, if, after the maturity of the Outstanding Bonds shall have been accelerated by the Trustee (upon the occurrence of an Event of Default) under the terms of the Bond Resolution, (a) all arrears of interest on such Outstanding Bonds and interest on overdue installments of principal, redemption premium, if any, and (to the extent permitted by law) interest on such Bonds at a rate per annum equal to the highest rate per annum borne by any of the Bonds shall have been paid, (b) the principal and redemption premium, if any, on all Outstanding Bonds that have become due and payable (other than by an acceleration) shall have been paid, (c) all other sums payable under the terms of the Bond Resolution, except the principal of and the interest on such Bonds that by such acceleration shall have become due and payable, and under the terms of the other Program Documents shall have been paid, (d) all other things shall have been performed in respect of which there was an Event of Default, (e) the reasonable fees and expenses of the Lessor, the Trustee, the Series 2011 Local Units, the County, the County Security Provider, and the Bondholders, including Administrative Expenses thereof (including reasonable attorneys' fees paid or incurred) shall have been paid, and (f) such acceleration under the terms of the Bond Resolution is rescinded, then the Lessee's Event of Default hereunder shall be waived without further action by the Trustee or the Lessor or any other Renewable Energy Program Interested Party. Upon such payment and waiver, this Company Lease Agreement shall be fully reinstated as if it had never been terminated, and the Lessee shall be restored to the use, occupancy and possession of the Renewable Energy Projects and the other Leased Property.

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#### SECTION 1004. Election of Remedies; No Waiver of Elected Remedies.

No failure on the part of either party to exercise, and no delay in exercising any right or remedy so provided for herein, shall operate as a waiver thereof, nor shall any single or partial exercise by either party of any right or remedy so provided hereunder preclude any other or further exercise of any other right or remedy provided hereunder.

#### SECTION 1005. No Additional Waiver Implied by One Waiver.

In the event any agreement contained in this Company Lease Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder, and shall not be construed to be an implied term hereof or a course of dealing between the parties hereto.

#### SECTION 1006. Agreement to Pay Attorneys' Fees and Expenses.

In the event either party to this Company Lease Agreement should default under any of the provisions hereof and the non-defaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement, performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall, on demand therefor, pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

#### SECTION 1007. Late Charges.

Whenever any payment of Lease Payments is not made when due, the Lessee promises to pay to the Lessor, in addition to the amount due, interest thereon at the Overdue Rate provided, however, that this Section 1007 shall not be applicable if or to the extent the application thereof would affect the validity of this Company Lease Agreement.

#### SECTION 1008. Delay; Notice.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof. Any such right or power may be exercised from time to time and as often as may be deemed expedient, and any one exercise thereof shall not be deemed an exclusive exercise. To entitle any party to exercise any remedy reserved to it in this Company Lease Agreement, it shall not be necessary to give any notice other than as may be specifically required in this Company Lease Agreement.

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## ARTICLE XI

### ADMINISTRATIVE PROVISIONS

#### SECTION 1101. Notices.

Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Company Lease Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) If to Lessor: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
Email: jbonanni@co.morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@landplaw.com

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(b) If to the Lessee: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email: principals@sunlightgeneral.com

With a copy to: James F. Duffy, Esq.  
Nixon Peabody, LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com

(c) If to the Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: nconcilio@mdmc-law.com

(d) If to the Series 2011 Local Units: See Exhibit A-4 attached hereto.

(e) If to the Construction Manager: Jessica Vogel, CBSB  
Birdsall Services Group, Inc.  
1101 Laurel Oak Road, Suite 160  
Voorhees, NJ 08043  
Email: jvogel@birdsall.com

With a copy to: Joseph Santaili  
Gabel Associates  
417 Denison Street  
Highland Park, NJ 08904  
Email: Joseph.santaili@gabelassociates.com

#### SECTION 1102. Severability.

In the event any provision of this Company Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

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#### SECTION 1106. Lessor and Lessee Officers.

Whenever under the provisions of this Company Lease Agreement the approval of the Lessor or the Lessee is required or the Lessor or the Lessee is required to take some action at the request of the other, such approval of such request shall be given for each party by its respective Authorized Officer, and any party hereto shall be authorized to rely upon any such approval or request.

#### SECTION 1107. Captions.

The captions or headings in this Company Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Company Lease Agreement.

#### SECTION 1108. Company Lease Agreement is Original.

For all purposes of filing, perfection or any other matter requiring identification or possession of the "original" copy of a lease, the executed original hereof identified as the "original" shall be the "original" to evidence this Company Lease Agreement.

#### SECTION 1109. Binding; Counterparts.

This Company Lease Agreement shall be binding upon the parties hereto only when duly executed on behalf of both the Lessor and the Lessee together; provided, however, that each set of counterparts taken together shall constitute an original.

#### SECTION 1110. Inspections Permitted.

The Lessee shall, whenever requested, advise the Lessor and the Applicable Series 2011 Local Units of the exact location and condition of the Projects. The Lessor and the Applicable Series 2011 Local Units may enter upon the premises of the Projects for the purpose of inspection at all reasonable times, and, upon reasonable notice, may enter upon the job, building or place where the Projects and the books and records of the Lessee with respect thereto are located.

#### SECTION 1111. Time is of the Essence.

Time is of the essence with respect to this Company Lease Agreement, and no covenant or obligation hereunder to be performed by the Lessee may be waived except by the written consent of the Lessor and the Lessee. Waiver of any such covenant or obligation or a forbearance to invoke any remedy on any occasion shall not constitute or be treated as a waiver of such covenant or obligation or any other covenant or obligation as to any other occasion and shall not preclude the Lessor from invoking such remedy at any later time prior to the Lessee's cure of the condition giving rise to such remedy. Each of the Lessor's rights hereunder is

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#### SECTION 1103. Amendments, Changes and Modifications.

(a) This Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to the recomputation of Basic Lease Payments or Additional Lease Payments related to the Purchase Option Price or Mandatory Purchase Price, or with respect to any other term of this Company Lease Agreement affecting the security of the Bond Resolution, by (i) written amendment authorized executed and delivered by each of the Lessor and the Lessee and (ii) by compliance with Article XI of the Bond Resolution regarding conditions required for amendment of the Bond Resolution, which may include the consent of the Trustee.

(b) Other than as provided in subsection (a) above, this Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to its Term or any of its other provisions by written amendment authorized and executed by the Lessor, the Lessee, and to the extent any of the rights, duties or obligations of any Series 2011 Local Units or other Renewable Energy Program Interested Parties under a Program Document are affected, with the written acknowledgment and consent of any one or more such Series 2011 Local Units and/or Renewable Energy Program Interested Parties, as applicable.

(c) To the extent Bonds are Outstanding at the time of any amendment, supplement or modification of this Company Lease Agreement, any such proposed amendment, supplement or modification, in substantially final form, shall be delivered by the Lessor at least fifteen (15) days in advance of its execution to the Trustee and each Rating Agency that at such time is rating any such Bonds, unless this provision is waived by any such Rating Agency and the Trustee; moreover, no such amendment, supplement or modification shall be entered into by the parties unless there shall be no adverse affect on the rating of such Bonds. Where there shall be no such adverse affect on the rating of such Bonds, a final copy of any such authorized, executed and delivered amendment, supplement or modification of this Company Lease Agreement shall be promptly delivered to each such Rating Agency and the Trustee.

#### SECTION 1104. Further Assurances and Corrective Instruments.

The Lessor and the Lessee agree that they shall, if necessary, execute, acknowledge and deliver such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Projects or the Leased Property, or any inadequate or incorrect description intended so to be, or for carrying out the expressed intention of this Company Lease Agreement.

#### SECTION 1105. Applicable Law.

This Company Lease Agreement shall be governed by and construed in accordance with the laws of the State.

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cumulative to its other rights hereunder and not alternative thereto.

#### SECTION 1112. No Personal Liability or Accountability.

No covenant or agreement contained in this Company Lease Agreement shall be deemed to be the covenant or agreement of any present, past or future officer, agent or employee of the Lessor or the Lessee, in his or her individual capacity, and neither the officers, agents or employees of the Lessor or the Lessee nor any official executing this Company Lease Agreement shall be liable personally on this Company Lease Agreement or be subject to any personal liability or accountability by reason of any transaction or activity relating to this Company Lease Agreement.

#### SECTION 1113. Gender.

Use of the masculine, feminine or neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the other genders whenever and wherever appropriate.

#### SECTION 1114. Receipt of Company Lease Agreement.

The parties hereto each acknowledge receipt of a signed, true and exact copy of this Company Lease Agreement.

#### SECTION 1115. Waiver of Sovereign Immunity.

For the purposes of this Company Lease Agreement, the Lessor acknowledges and agrees that (a) its execution and delivery of this Company Lease Agreement and (b) its performance of the actions contemplated by this Company Lease Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Lessor in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this Company Lease Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Lessor and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

#### SECTION 1116. Approvals.

In order to ensure that construction of the Renewable Energy Projects is not unduly delayed, in the event that any party to this Company Lease Agreement seeks the approval or consent of another party to this Company Lease Agreement, the party considering such request

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shall not unreasonably condition, withhold or delay such consent or approval.

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IN WITNESS WHEREOF, the Lessor and the Lessee have each caused this Company Lease Agreement to be executed in its name by its respective duly authorized officers, all as of the date first above written.

THE MORRIS COUNTY IMPROVEMENT AUTHORITY, as Lessor

[SEAL]

By: [Signature]  
John Bonanni, Chairman

ATTEST:

By: [Signature]  
Ellen M. Sandman, Secretary

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: [Signature]  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

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IN WITNESS WHEREOF, the Lessor and the Lessee have each caused this Company Lease Agreement to be executed in its name by its respective duly authorized officers, all as of the date first above written.

THE MORRIS COUNTY IMPROVEMENT AUTHORITY, as Lessor

[SEAL]

By: \_\_\_\_\_  
John Bonanni, Chairman

ATTEST:

By: \_\_\_\_\_  
Ellen M. Sandman, Secretary

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: [Signature]  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

By: [Signature]  
Name: N.C. ZACHARY  
Title:

STATE OF NEW JERSEY )  
                                  ) ss.:  
COUNTY OF MORRIS)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared John Bonanni, known to me (or proved to me on the basis of satisfactory evidence) to be the Chairman of the Authority, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Authority.

[Signature]  
Notary Public  
Attorney at Law, State of New Jersey

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STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
\_\_\_\_\_  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6238849  
Qualified in New York County  
My Commission Expires January 03, 2015

EXHIBIT A

I. DESCRIPTION OF PROJECTS

EXHIBIT A-1: See attached Description of Renewable Energy Project for each Series 2011 Local Unit, to be constructed in accordance with Exhibit C to the Company RFP, also attached. See also attachment of Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP

EXHIBIT A-2: See attached Description of Capital Improvement Project for each Series 2011 Local Unit

2. BASIC LEASE PAYMENT SCHEDULE

EXHIBIT A-3: See attached Basic Lease Payment Schedule

Exhibit A-3-Regular  
Exhibit A-3-Alternate

3. NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS

EXHIBIT A-4: Notice Information for Series 2011 Local Units

4. MAXIMUM PROJECT COSTS FINANCED BY THE SERIES 2011 BONDS

The maximum Project Costs financed by the Series 2011 Bonds is the Maximum Net Bond Funded Project Cost Amount of \$24,700,000.

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EXHIBIT A-1

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP.

EXHIBIT A-1 (cont.)

[Attach Appendix C to the Company RFP]

Morris County Improvement Authority  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

Series 2011 Local Unit List of Local Unit Facilities

[00016345-3]

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EXHIBIT A-1 (cont.)

[Attach Article VII to the Company RFP]

EXHIBIT A-2

Please see the Local Unit Facility Roof Warranty Chart at the end of this Exhibit A-2 for information concerning roof warranties and duration of existing roof warranties for each Local Unit Facility. The Capital Improvement Projects set forth below related to maintaining and extending existing roof warranties must be compatible with the information contained in the Chart.

Local Unit Facility Roof Warranty Chart

See Attached

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EXHIBIT A-3-Regular  
BASIC LEASE PAYMENT SCHEDULE  
(paying 5 months prior to Series 2011 Bonds)

Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011A & B (Federally Taxable)  
\*Preliminary, subject to change\*

Basic Lease Payment Date**	Principal	Semi-Annual Interest	Semi-Annual Lease Payment	Annual Lease Payment
1/15/2012				
7/15/2012				
1/15/2013	1,850,000	506,394.59	2,356,394.59	
7/15/2013	-	485,425.45	485,425.45	2,841,820.04
1/15/2014	1,850,000	485,425.45	2,335,425.45	
7/15/2014	-	470,976.95	470,976.95	2,805,402.40
1/15/2015	1,850,000	470,976.95	2,320,976.95	
7/15/2015	-	451,218.95	451,218.95	2,772,195.90
1/15/2016	1,850,000	451,218.95	2,301,218.95	
7/15/2016	-	428,223.45	428,223.45	2,729,442.40
1/15/2017	1,850,000	428,223.45	2,278,223.45	
7/15/2017	-	401,305.95	401,305.95	2,679,529.40
1/15/2018	1,845,000	401,305.95	2,246,305.95	
7/15/2018	-	371,693.70	371,693.70	2,617,999.65
1/15/2019	1,845,000	371,693.70	2,215,693.70	
7/15/2019	-	340,439.40	340,439.40	2,557,133.10
1/15/2020	1,845,000	340,439.40	2,185,439.40	

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7/15/2020	-	307,340.10	307,340.10	2,492,779.50
1/15/2021	1,845,000	307,340.10	2,152,340.10	
7/15/2021	-	273,318.30	273,318.30	2,425,658.40
1/15/2022	1,845,000	273,318.30	2,118,318.30	
7/15/2022	-	227,765.25	227,765.25	2,346,083.55
1/15/2023	1,845,000	227,765.25	2,071,765.25	
7/15/2023	-	182,212.20	182,212.20	2,254,977.45
1/15/2024	1,845,000	182,212.20	2,027,212.20	
7/15/2024	-	136,659.15	136,659.15	2,163,871.35
1/15/2025	1,845,000	136,659.15	1,981,659.15	
7/15/2025	-	91,106.10	91,106.10	2,072,765.25
1/15/2026	1,845,000	91,106.10	1,936,106.10	
7/15/2026	-	45,553.05	45,553.05	1,981,659.15
1/15/2027	1,845,000	45,553.05	1,880,553.05	
7/15/2027	-	-	-	1,890,553.05
		<b>27,700,000</b>	<b>8,932,870.59</b>	<b>36,632,870.59</b>
				<b>35,632,870.59</b>

\* Basic Lease Payment Schedule derived from and will be equal to the debt service payments and amortization schedule for the Series 2011 A and B Bonds, once determined. The Series 2011 A Bonds are assumed to include annual principal payments on June 15, 2013 through and including June 15, 2027 and semi-annual interest payments on June 15th and December 15th of each year, commencing on June 15, 2012 (the June 15, 2012 and December 15, 2012 interest payments will be paid by capitalized interest being funded through the Series 2011B Bonds). The Series 2011B Bonds are assumed to be issued on December 14, 2011 simultaneously with the bond financing and will include a single payment of principal and interest on January 15, 2012. The interest rates included in this schedule correspond to the principal payment dates of the Series 2011 Bonds which are 5-months after such Basic Lease Payment dates.

(00016345-5)

A-3-2

Note: There are no Basic Lease Payment Dates on January 15, 2012 and July 15, 2012, each five (5) months prior to the corresponding interest payment dates for the Series 2011A Bonds of June 15, 2012 and December 15, 2012, because the Series 2011A Bond interest due on such Series 2011A Bond interest payment dates has been provided for through the deposit of the Series 2011B Note proceeds in the Capitalized Interest Account of the Debt Service Fund. There is no Series 2011B Note interest due on such dates.

[00016345-1]

A-3-3

[00016345-1]

A-3-4

**EXHIBIT A-4  
NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS**

**Morris County Improvement Authority**  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011 B Note

**Series 2011 Local Unit Distribution List**

**EXHIBIT B  
FORMS OF ACCEPTANCE CERTIFICATES**

See Attached:

Form B-1, Form of REP Acceptance Certificate  
Form B-2, Form of CIP Acceptance Certificate

[00016345-1]

A-4-1

[00016345-1]

B-1

EXHIBIT B-1

FORM OF REP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the [A] Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof, or if such funds were insufficient, the Company has provided available funding as the Equity Contribution, to complete the design, permitting, acquisition, construction and installation thereof.

3. The [A] Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 5.02(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the [A] Renewable Energy Projects for all purposes of Section 5.02(d)(3)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the [A] Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the [A] Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 5.02(3)(a)(i)(C)]

6. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_ Name: Stacey L. Hughes Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_ Name: Title:

The terms of this REP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_ Name: Title:

510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the [A] Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, release any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

The form (only) of this REP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_, 20\_\_.

By: BIRDSALL SERVICES GROUP, INC., AS CONSTRUCTION MANAGER

By: \_\_\_\_\_ Name: Title:

EXHIBIT B-2

FORM OF CIP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the [A] Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof, or if such funds were insufficient, the Company has provided available funding as the Equity Contribution, to complete the design, permitting, acquisition, construction, renovation, and installation thereof.

3. By obtaining the Licensor's execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor's acceptance of (a) the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which [A] Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor's acceptance of the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. [Choose one, as applicable]

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for 100016345-5] B-2-1

the [A] Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, release any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_ Name: Stacey L. Hughes Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_

100016345-5]

B-2-2

EXHIBIT C

FORM OF DRAW PAPERS

Requisition No. \_\_\_\_\_, 20\_\_\_\_

U.S. Bank National Association, as Trustee

Re: The Morris County Improvement Authority County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(e) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted September 28, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects")], [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects")] being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, DOES HEREBY CERTIFY and REQUISITION moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "Trustee") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$ \_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for \_\_\_\_\_ services] (incurred in connection with the following Development Contract: \_\_\_\_\_);

The terms of this CIP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_

The form (only) of this CIP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
services] [incurred in connection with the following Development Contract:  
]; and

(b) \$ \_\_\_\_\_ of which aggregate amount shall be payable to:

[ \_\_\_\_\_ for  
services] [incurred in connection  
with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to  
services] [incurred in connection with the following Development Contract:  
]

{Please Note, Include Name and Address of any Contractor and the specific Development  
Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this  
Requisition were incurred in connection with the [acquisition, construction, or installation of the  
[A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or  
installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company  
Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all  
with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

(b) Such funds requested in accordance with Section 1(b) of this  
Requisition were incurred in connection with the [acquisition, construction, or installation of the  
[A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or  
installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company  
Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all  
with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

3. Such payment obligation, for which funds have been requested in accordance with  
Section 1(a) [1(b)] of this Requisition, (i) has been properly incurred in accordance with the  
Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against  
the Project Fund, (iv) has not been the basis of any previous withdrawal, (v) attached hereto is a  
bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has  
been paid by or on behalf of the Company, and (vi) the amount being requisitioned shall not  
exceed the Draw Paper Ratio. This Requisition, together with any such attachments  
contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw Date for all  
purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License  
Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of  
[00016345-5] C-2

By: \_\_\_\_\_  
Name:  
Title:

counterparts, each of which may be executed by one or more of the respective parties, and all of  
which shall be regarded for all purposes as one original and shall constitute and be but one and  
the same.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC

By: Sunlight General Capital  
Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

The terms of this Requisition are hereby  
ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this \_\_\_\_ day of \_\_\_\_,  
20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby  
ACKNOWLEDGED by THE MORRIS  
COUNTY IMPROVEMENT AUTHORITY this  
\_\_\_\_ day of \_\_\_\_, 20\_\_.

By: BIRDSALL SERVICES GROUP, INC., AS  
CONSTRUCTION MANAGER  
[00016345-5] C-3

EXHIBIT C-1

[Attach Initial Project Workforce Form AA201]

[Insert Form found at [http://www.state.nj.us/treasury/contract\\_compliance/pdf/aa201.pdf](http://www.state.nj.us/treasury/contract_compliance/pdf/aa201.pdf)]

EXHIBIT D

CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LESSEE FOR COMPANY DEVELOPMENT FEES AND EXPENSES INCURRED ON BEHALF OF THE LESSEE

The Morris County Improvement Authority
P.O. Box 900
Morristown, NJ 07963-0900
Attention: John Bonanni, Chairman
jbonanni@co.morris.nj.us

U.S. Bank National Association, as Trustee
Corporate Trust Services
21 South Street, 3rd Floor
Morristown, NJ 07960
Attention: Paul O'Brien
paul.obrien@usbank.com

Re: The Morris County Improvement Authority
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 509(d) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2)(b) of the Authority's bond resolution duly adopted September 28, 2011 and entitled "Resolution Authorizing the Issuance of County Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, HEREBY REQUESTS that the Authority direct the Trustee (which direction has occurred through Section 5.02(2)(b) of the Bond Resolution) to pay the following Company Development Fees and Expenses incurred by or on behalf of the Company from moneys on deposit in the Project Fund in the aggregate amount of \$800,000, which amount shall be payable to

\_\_\_\_\_
for \_\_\_\_\_ services]

[00016345-5]

D-1

The form (only) of this Certificate is hereby
ACKNOWLEDGED by THE MORRIS
COUNTY IMPROVEMENT AUTHORITY this
\_\_\_\_ day of \_\_\_\_, 20\_\_.

By: \_\_\_\_\_
Name:
Title:

[00016345-5]

D-3

[the Company for reimbursement of Company Development Fees and Expenses previously paid
by the Company
to
\_\_\_\_\_
services].

Such payment obligation has been properly incurred in accordance with all applicable
law, is a Company Development Fee and Expense as such term is defined in the Bond
Resolution, including without limitation within the aggregate ceiling of \$\_\_\_\_\_ for such
defined term (unless the Authority agrees, below or otherwise in writing, to an increase above
such ceiling), is a proper charge against the Project Fund, and has not been the basis of any
previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of
said Company Development Fees and Expenses is due or has been paid by or on behalf of the
Company.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR,
LLC

By: Sunlight General Capital
Management, LLC, its Manager

By: \_\_\_\_\_
Name: Stacey L. Hughes
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_
Name:
Title:

[00016345-5]

D-2

EXHIBIT E

[Attach form of Power Purchase Agreement and
Company Continuing Disclosure Agreement]

20120210050002520
02/10/2012 10:06:15 AM
UCC
NUMBER OF PAGES : 32
SGEIMER
Recording Fee : \$25.00

[00016345-5]

E-1

**CORPORATION SERVICE COMPANY**

www.cscglobal.com

CSC- West Trenton  
P.O.Box 77132  
830 Bear Tavern Road, Suite  
305  
West Trenton, NJ 08628-1020  
800-631-2155  
609-530-0877 (Fax)

**Matter#** 72-008

**Order#** 090986-4

**Project Id :**

**Order Date** 02/09/2012

**Additional Reference :** NOT PROVIDED

**Entity Name:** SUNLIGHT GENERAL SUSSEX SOLAR, LLC (Debtor)/ U.S. BANK  
NATIONAL ASSOCIATION (Secured Party)

**Jurisdiction:** NJ - SUSSEX COUNTY CLERK

**Request for:** UCC Filing

**File Type:** ORIGINAL

**Result:** Filed

**File Number:** 20120210050002550

**Filing Date:** 02/10/2012

**Book Number:** 73

**Page Number:** 843

Ordered by DAVID WAINGER at INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

Thank you for using CSC. For real-time 24 hour access to the status of any order placed with CSC, access our website at [www.cscglobal.com](http://www.cscglobal.com).

If you have any questions concerning this order or CSCGlobal, please feel free to contact us.

Michael Melocchi  
[mmelocch@cscinfo.com](mailto:mmelocch@cscinfo.com)

The responsibility for verification of the files and determination of the information therein lies with the filing officer; we accept no liability for errors or omissions.



20120210050002550 1/32  
 02/10/2012 01:38:11 PM UCC  
 Bk: 73 Pg: 843  
 Jeffrey M. Parrott, County Clerk  
 Sussex County, NJ

### UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)

---

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Inglesino, Pearlman, Wyciskala & Taylor, LLC  
 600 Parsippany Road  
 Suite 204  
 Parsippany, New Jersey 07054

Attn: Stephen B. Pearlman, Esq.

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME  
**SunLight General Sussex Solar, LLC**

OR  
 1b. INDIVIDUAL'S LAST NAME

FIRST NAME	MIDDLE NAME	SUFFIX

1c. MAILING ADDRESS  
**15 Engle Street, Suite 104**

CITY <b>Englewood</b>	STATE <b>NJ</b>	POSTAL CODE <b>07631</b>	COUNTRY <b>USA</b>
--------------------------	--------------------	-----------------------------	-----------------------

1d. SEE INSTRUCTIONS

ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION <b>LLC</b>	1f. JURISDICTION OF ORGANIZATION <b>New Jersey</b>	1g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE
-----------------------------------	----------------------------------------	-------------------------------------------------------	------------------------------------------------------------------

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR  
 2b. INDIVIDUAL'S LAST NAME

FIRST NAME	MIDDLE NAME	SUFFIX

2c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY

2d. SEE INSTRUCTIONS

ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE
-----------------------------------	--------------------------	----------------------------------	------------------------------------------------------------------

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME  
**U.S. Bank National Association**

OR  
 3b. INDIVIDUAL'S LAST NAME

FIRST NAME	MIDDLE NAME	SUFFIX

3c. MAILING ADDRESS

CITY <b>Morristown</b>	STATE <b>NJ</b>	POSTAL CODE <b>07960</b>	COUNTRY <b>USA</b>
---------------------------	--------------------	-----------------------------	-----------------------

4. This FINANCING STATEMENT covers the following collateral:

The Debtor has executed, in favor of the Secured Party, that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011, as more particularly set forth as "Exhibit A" attached hereto and made a part hereof, and notice is hereby given by the Debtor that the Debtor, pursuant to Section 309 of said Lease Purchase Agreement, has pledged all of its rights, title and interest in the "Section 1603 Grant" (as such term is defined in said Lease Purchase Agreement) and all proceeds and products of any and all of the foregoing.

5. ALTERNATIVE DESIGNATION (if applicable):	LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILOR	SELLER/BUYER	AG. LIEN	NON-UCC FILING
6. This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable)	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (OPTIONAL FEE)		All Debtors	Debtor 1	Debtor 2	
8. OPTIONAL FILER REFERENCE DATA						

To be filed in the Office of the Clerk of the County of Sussex, New Jersey.

# Exhibit A

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**LEASE PURCHASE AGREEMENT**  
(Sussex County Renewable Energy Program, Series 2011)

By and Between

**MORRIS COUNTY IMPROVEMENT AUTHORITY, as Lessor**

and

**SUNLIGHT GENERAL SUSSEX SOLAR, LLC, as Lessee**

Dated as of December 1, 2011

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

[00016345-5]

295.12

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LEASE PURCHASE AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

THIS "LEASE PURCHASE AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "Company Lease Agreement"), dated as of December 1, 2011, is made by and among the MORRIS COUNTY IMPROVEMENT AUTHORITY (including any successors and assigns, the "Authority" or "Lessor"), duly created by resolution of the Board of Chosen Freeholders ("Board of Freeholders") of the County of Morris (the "County of Morris"), State of New Jersey ("State") as a public body corporate and politic of the State pursuant to and in accordance with the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act") and other applicable law, and SUNLIGHT GENERAL SUSSEX SOLAR, LLC, a limited liability company organized and existing under the laws of the State of Delaware, duly authorized to conduct business in the State (including any successors and assigns, the "Company" or "Lessee").

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "County") desires to undertake the development and implementation of a renewable energy program (the "Renewable Energy Program") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "Renewable Energy Projects") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "Local Units");

WHEREAS, the Morris County Improvement Authority (the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Morris County Board of Freeholders") of the County of Morris (the "Morris County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "Act"), and other applicable law;

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Program, limited initially to Renewable Energy Projects involving solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "Local Unit Facilities");

WHEREAS, it may be necessary, desirable or convenient in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "Capital Improvement Projects") and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "Projects"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning;

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, and Town of Newton (collectively, the "Municipal Series 2011 Local Units"); and
- (ii) Byram Township School District, Frankford Township's Consolidated Schools, Franklin Borough Board of Education, Green Township Board of Education, Hardyston Board of Education, High Point Regional School District, Kitatimny Regional School District, Newton Board of Education (collectively, the "Board of Education Series 2011 Local Units"); and
- (iii) County, Sussex County Community College and Sussex County Technical School (the "County Series 2011 Local Units");

(each a "Series 2011 Local Unit", and, collectively, the "Series 2011 Local Units"), through the issuance by the Authority of the hereinafter defined Series 2011 Bonds;

WHEREAS, in order to finance the Renewable Energy Projects for the Series 2011 Local Units on, in or about their Local Unit Facilities, the Authority shall sell the following series of Series 2011 Bonds, (i) one series of bonds in the aggregate principal amount of \$26,715,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,

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WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "Section 11"), which purposes include the development and implementation of the Renewable Energy Program;

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "Shared Services Act"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "Service Agreement") between the County and the Authority, and consented to by Morris County;

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Peariman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "Authority Consultants") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program;

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "Sussex County Consultants"), if any, and together with the Authority Consultants, the "Consultants"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program;

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy

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Series 2011A (Federally Taxable) dated their date of delivery (the "Series 2011A Bonds") the terms of which sale shall be as set forth in that certain Bond Purchase Agreement between the Underwriter and the Authority (the "Series 2011A Bonds"), and (ii) one series of notes in the aggregate principal amount of \$985,000 and entitled, "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable)" (the "Series 2011B Note, and together with the Series 2011A Bonds, "Series 2011 Bonds"), by the same sale method as the Series 2011A Bonds;

WHEREAS, after taking into account the hereinafter defined Equity Contribution, the Series 2011 Bonds shall also finance all other costs associated with the Renewable Energy Program that the Authority determines to be necessary, convenient or desirable for the successful implementation of the Renewable Energy Program, including without limitation (i) all or a portion of the Preliminary Program Costs, Administrative Expenses and Company Development Fees and Expenses (as such terms are defined in the hereinafter defined Bond Resolution), (ii) costs incurred in connection with the issuance of the Series 2011 Bonds, (iii) costs incurred or to be incurred in connection with the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units, (iv) one year's worth of Series 2011A Bonds capitalized interest and (v) such other amounts as shall be set forth in the Bond Resolution (collectively, the "Series 2011 Project");

WHEREAS, the Series 2011 Bonds, and any Additional Bonds defined under the Bond Resolution (collectively, the "Bonds") shall be issued pursuant to the terms of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Authority on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds (the "Bond Resolution"), all in accordance with Sections 17-19 of the Act (N.J.S.A. 40:37A-60, 61 and 62) and all other applicable law;

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, each agreement shall constitute a "Local Unit License Agreement"), and collectively, the "Local Unit License Agreements" with each Series 2011 Local Unit that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs, parking area and/or grounds and electrical systems (the "Local Unit License"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced

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from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the Municipal and County Series 2011 Local Units), under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the Board of Education Series 2011 Local Units) and under N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law for the College Series 2011 Local Unit;

WHEREAS, upon or prior to the issuance of the Series 2011 Bonds, and in accordance with (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law and N.J.S.A. 18A:18A-4.1(k) of the Public Schools Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the State Board of Public Utilities ("BPU") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, and (v) all other applicable law, and pursuant to a competitive contracting process governed thereby, which included a request for solar developer proposals issued by the Authority dated September 8, 2011, as amended (the "Company RFP") and the receipt of proposals from prospective solar developers, including that proposal dated October 13, 2011 (the "Company Proposal") submitted with respect to Sunlight General Sussex Solar, LLC (the "Company"), the Authority selected the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the designated Local Unit Facilities of such Series 2011 Local Units, with such Program terms as are set forth in the following Company Documents to be entered into between the Company and, at a minimum, the Authority, or acknowledged by the Company, as applicable:

- (a) Pursuant to N.J.S.A. 40:37A-78 of the Act, a "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Lease Agreement") between the Authority, as owner and lessor, and the Company, as lessee, (I) conveying to the Company a leasehold interest in and to the Renewable Energy Projects, (II) assigning to the Company a license of the necessary portion of each Series 2011 Local Units' Local Unit Facilities (obtained by the Authority through the Local Unit License Agreements) in order for the Company to design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects, for such Series 2011 Local Units, and (III) obligating the Company to operate and maintain, or cease the operation and maintenance of, the Renewable Energy Projects for the Series 2011 Local Units;

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purchase shall be assigned to the Series 2011 Local Units as part of the Local Unit License Agreements; and

- (c) The Company Lease Agreement, the Power Purchase Agreement and the hereinafter defined Company Disclosure Agreement, Company Pledge Agreement, EPC Contract, and County Security Agreement, if any, may be collectively defined as the "Company Documents";

WHEREAS, payment of the principal (including mandatory sinking fund installments, if any) and interest on the Series 2011 Bonds, shall be secured by the Trust Estate as defined under and in accordance with the terms of the Bond Resolution, which shall include, among other things, (i) Basic Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, (ii) certain Additional Lease Payments to be made by the Company under, and as defined in, the Company Lease Agreement, which Additional Lease Payments shall be attributable to (a) the Purchase Option Price payable in accordance with Section 701 of the Company Lease Agreement upon any optional redemption of the Series 2011 Bonds or (b) the Mandatory Purchase Price payable in accordance with Section 702 of the Company Lease Agreement upon any acceleration of the Series 2011 Bonds, and (iii) payments by the County under the hereinafter defined County Guaranty to the extent other funds (including the Basic Lease Payments) are not available to make the Series 2011 Bond debt service payments on time and in full, all in accordance with the terms of the Bond Resolution;

WHEREAS, the payment of the principal (including mandatory sinking fund installments, if any) of, and interest (at interest rates not to exceed the maximum rates set forth in the Local Finance Board Application) on the Series 2011 Bonds, but not any redemption premium, shall be fully, unconditionally and irrevocably guaranteed in accordance with (i) the terms of a guaranty ordinance of the County finally adopted by the Board of Freeholders on August 17, 2011, (ii) by a guaranty certificate to be executed by an authorized officer of the County within each Series 2011 Bond and (iii) that certain "County Guaranty Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Guaranty Agreement") by and between the County and the Authority, as acknowledged by the Company setting forth, among other things, the County's obligation to make any such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance and the Bond Resolution (collectively, the "County Guaranty"), all pursuant to Section 37 ("Section 37") of the Act (N.J.S.A. 40:37A-80);

WHEREAS, the holders of any Additional Bonds issued under the terms of the Bond Resolution, the Act and all other applicable law shall also be entitled to the pledge of the Trust Estate under the Bond Resolution on a pro-rata basis with the holders of any Outstanding Bonds as defined therein, including the Series 2011 Bonds, although the guaranty of the County shall only extend to any such Series of Additional Bonds to the extent (i) the aggregate principal amount of all such Series of Additional Bonds, when taken together with the aggregate principal amount of the Series 2011 Bonds, shall not exceed \$50,000,000, or (ii) the County adopts and

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- (b) That certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Power Purchase Agreement") authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (regarding that portion to be assigned to the Municipal Series 2011 Local Units and the County Series 2011 Local Unit under the applicable Local Unit License Agreement), N.J.S.A. 18A:18A-42(a) of the Public Schools Contracts Law (regarding that portion to be assigned to the Board of Education Series 2011 Local Units under the applicable Local Unit License Agreements) and N.J.S.A. 18A:64A-25.1 et seq. of the County College Contracts Law (regarding that portion to be assigned to the College Series 2011 Local Unit under the applicable License Agreement) and the guidelines applicable to such contracts promulgated by the BPU whereby, among other things,

(I) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement to issue the Series 2011 Bonds to finance the Renewable Energy Projects, and if applicable, the Capital Improvement Projects, for the Series 2011 Local Units, and the Company shall be entitled to draw a dedicated portion of the net proceeds of the Series 2011 Bonds for the design, permitting, acquisition construction, renovation, and installation of such Projects on a requisition basis,

(II) The Company established a power purchase price based, in part, on the Authority's covenant in the Company Lease Agreement, as nominal owner of the Renewable Energy Projects for State law purposes, to assign to the Company all or a portion of the Authority's rights to the Solar Renewable Energy Certificates ("SRECs") generated by the Renewable Energy Projects for the Series 2011 Local Units, and

(III) The Company shall sell to the Authority for the benefit of the Series 2011 Local Units, for a term of fifteen (15) years, plus extensions if applicable, for a fixed power purchase price per kilowatt hour, as escalated under the terms thereof (such terms to be established pursuant to the Company Proposal), the renewable energy generated by the Renewable Energy Projects, which Authority obligation to

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executes similar official action and documents constituting the County Guaranty;

WHEREAS, under the Company RFP, the Authority shall be obligated to obtain an equity contribution, a letter of credit, cash, a covenant to provide same, a reserve or other form of security acceptable to and, if necessary, issued for the benefit of the County (the "County Security") to be issued by a sufficiently rated banking or other financial institution, or if the County Security is provided by or on behalf of the Company, then the Company (in any such case, the "County Security Provider"), all to secure, in part, the County's payment obligations under the County Guaranty (but not to secure the payment of debt service on the Series 2011 Bonds, as any such County Security shall be deposited in the County Security Fund created and defined under the Bond Resolution; which Fund shall not be a part of the Trust Estate pledged for the payment of the Series 2011 Bonds), the terms of which County Security may be set forth in a letter of credit and reimbursement or other agreement to be dated the first day of the month of issuance of the applicable series of Bonds (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Security Agreement") among, at a minimum, the Company, the County Security Provider, and the Authority, and acknowledged by the County;

WHEREAS, to the extent the need for a County Security Agreement has been eliminated due to the type of County Security found acceptable to the County and the Authority, then the provisions regarding the County Security shall not be set forth in any County Security Agreement, but rather shall be set forth in the Bond Resolution, the County Guaranty Agreement, the Company Lease Agreement, and as required, the other Program Documents (as hereinafter defined);

WHEREAS, under the Company Proposal, the Company is providing County Security acceptable to the County and the Authority in the form of the sum of (i) an equity contribution to be made by or on behalf of the Company, in the form of a combination of (a) the in kind acceptance by Power Partners MasTec LLC, of Charlotte, North Carolina and authorized to transact business in the State (including affiliates, the "EPC Contractor"), to delay receipt of payment for services performed by the EPC Contractor in connection with the construction of the Renewable Energy Projects for the Series 2011 Local Units, under that certain Turnkey Design, Engineering, Procurement and Construction Contract dated December 12, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "EPC Contract") between the Company and the EPC Contractor with respect to such Renewable Energy Projects) by and between the Company and the EPC Contractor, in the estimated amount of \$7,818,369 (the "In-Kind Equity Contribution") until the earlier of (x) receipt of the Company of Section 1603 Grant proceeds for all the Renewable Energy Projects or (y) the Initial Basic Lease Payment Date and (b) a cash contribution in the amount currently anticipated to be \$1,500,000 but subject to increase or decrease, as applicable, so as to be equal to the excess of (x) the actual costs for which the Company is responsible in connection with the Renewable Energy Projects (including the initial funding of the County Reserve described below) over (y) the amount of the Series 2011 Bond proceeds, the Section 1603 Grant (as defined in the Company Lease Agreement) proceeds available to fund such costs through the Initial Basic Lease

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Payment Date (the "Cash Equity Contribution") which will be funded by or on behalf of the Company no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 (the In-Kind Equity Contribution, together with the Cash Equity Contribution shall be known as the "Equity Contribution"), (ii) a cash reserve in the amount of \$1,500,000 (the "County Reserve") to be deposited in the County Security Fund for the benefit of the County, then as Reimbursement Collateral (as defined in the Bond Resolution), which amount shall be funded no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and (iii) in the event of a Company default under the Company Documents, the SRECs and payments made by the Series 2011 Local Units under the Local Unit License Agreements, all of which would be available to repay the County once the County has made payment under the County Guaranty;

WHEREAS, the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above, has been deemed acceptable by the County and the Authority, in lieu of the amount of funds contemplated by the Company RFP to be deposited in the County Security Fund because the Company Proposal, including the Equity Contribution and the funding of the County Reserve described above(i) reduce the amount of the Series 2011 Bonds required to be issued by the County and (ii), shall eliminate the need to fund any County Deficiency Amount (as defined in the Company RFP);

WHEREAS, should the County otherwise have insufficient sources of funds to make its Basic Lease Payments on time and in full, the Company shall have the ability to draw funds from the County Reserve in order to enable the Company to make its Basic Lease Payments;

WHEREAS, should the Company fail to make its Basic Lease Payments on time and in full, thereby causing the County to make payments to the Series 2011 Bondholders under the County Guaranty, which in turn causes the County Security to be drawn upon to reimburse the County for all or a portion of any such County Guaranty repayments, (i) the County Security Agreement, if any, may provide that the Authority assign and pledge the Reimbursement Collateral to the County Security Provider, as reimbursement security for any such draw on the County Security, or (ii) to the extent no County Security Agreement shall exist, then the Company, as County Security Provider in such instance, shall only be entitled to such excess County Security, as Reimbursement Collateral, if any shall remain available, after and to the extent the County has been fully paid under its County Guaranty but only to the extent of any County Security provided by or on behalf of the Company;

WHEREAS, in the event the Company provides the County Security Fund requirement, in part, through such a covenant to provide immediately available funds, if applicable, but in any event to secure other Company obligations under the Company Documents, the Authority shall require the Company to further secure such obligations by pledging certain property interests of the Company and its member's interest in and to the Company to the Trustee, all as shall be set forth in the Company Lease Agreement and that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended or supplemented from time to time in accordance with its terms, the "Company Pledge

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Official Statement"); and (ii) the execution and delivery of a bond purchase agreement (the "Bond Purchase Agreement") with an underwriter to be selected by the Authority through a fair and open process (alternatively, the "Underwriter") to purchase all of the Series 2011 Bonds, and (iii) delivery of a final Official Statement incorporating the terms of the sale of the Series 2011 Bonds and certain other information into the Preliminary Official Statement (the "Official Statement, and together with the Preliminary Official Statement, and the Bond Purchase Agreement, and any of the same or other offering or sale documents that may be required by the County "Sale Documents");

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with Section 13 ("Section 13") of the Act (N.J.S.A. 40:37A-56), the Authority shall have made a detailed report regarding the Renewable Energy Program to Board of Chosen Freeholders of the County of Sussex (the "Sussex County Board of Freeholders") and the Morris County Board of Freeholders, which report shall include, without limitation, descriptions of the Series 2011 Bonds, the Bond Resolution, the Company Documents, the County Documents, the Local Unit License Agreements, and if and as applicable, the Sale Documents (collectively, the "Program Documents"), and which report and amended report shall be accepted by both the County and Morris County by resolution adopted by the Sussex County Board of Freeholders and the Morris County Board of Freeholders pursuant to Section 13.

NOW, THEREFORE, in consideration of the premises and certain other consideration, the sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

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Agreement"); and issued by the sole member of the Company, in favor of the Trustee, and acknowledged and accepted by the Company;

WHEREAS, the Company as a potential "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12 ("Rule 15c-12") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, shall be required to enter into that certain "Company Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "Company Continuing Disclosure Agreement") with the Authority and the Trustee, as dissemination agent (the "Dissemination Agent") in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution, as a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, the County will be required to enter into that certain "County Continuing Disclosure Agreement (Sussex County Renewable Energy Program, Series 2011)" dated December 1, 2011 (as the same may be amended and supplemented from time to time in accordance with its terms, the "County Continuing Disclosure Agreement" and together with the Company Continuing Disclosure Agreement, the "Continuing Disclosure Agreements"; the County Continuing Disclosure Agreement, along with the County Guaranty and the County Security Agreement, if any, shall be collectively known as the "County Documents") with the Dissemination Agent in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, pursuant to the terms of the Bond Resolution and/or the Continuing Disclosure Agreements, the Authority shall (i) not be considered a "materially obligated person" within the meaning and for the purposes set forth in Rule 15c2-12, and (ii) be required to provide certain material events notices in accordance with Rule 15c2-12, and accordingly, the Authority shall be required to provide such material events notices under the terms of the Company Continuing Disclosure Agreement and the County Continuing Disclosure Agreement, all in order to satisfy the secondary market disclosure requirements of Rule 15c2-12;

WHEREAS, prior to the issuance of the Series 2011 Bonds and in accordance with N.J.S.A. 40A:5A-6, 7 and 8 of the Local Authorities Fiscal Control Law, the Authority shall have made an application dated July 19, 2011 (the "Local Finance Board Application") to, and seek, obtain, and officially recognize the findings from, the Local Finance Board (the "Local Finance Board") in the Department of Local Government Services of the State Department of Community Affairs;

WHEREAS, in order to market and sell the Series 2011 Bonds, the Authority shall by negotiated sale publicly offer the Series 2011 Bonds, in which public offering case the Authority shall have authorized (i); the distribution of a preliminary official statement "deemed final" within the meaning and for the purposes of Rule 15c2-12 describing the terms of the Series 2011 Bonds, the Series 2011 Project and the other transactions contemplated hereby (the "Preliminary

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## ARTICLE I

### DEFINITIONS AND EXHIBITS

#### SECTION 10.1. Definitions.

(a) The terms set forth in this Section shall have the meanings ascribed to them for all purposes of this Company Lease Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires. Terms used in this Company Lease Agreement and not otherwise defined shall have the meaning assigned to them in the Bond Resolution.

(b) The following defined terms shall have the respective meanings ascribed to such terms in the preambles hereof:

Act  
Authority  
Board of Education Series 2011 Local Units  
Board of Freeholders  
Bond Purchase Agreement  
Bond Resolution  
Bonds  
BPU  
Capital Improvement Projects\*  
Cash Equity Contribution  
Company  
Company Continuing Disclosure Agreement  
Company Documents  
Company Lease Agreement  
Company Pledge Agreement  
Company Proposal  
Company RFP  
County  
County Continuing Disclosure Agreement  
County Guaranty  
County Guaranty Agreement  
County Reserve  
County Security  
County Security Agreement  
County Security Provider  
County Service Agreement  
County Series 2011 Local Units

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Dissemination Agent  
 Equity Contribution  
 EPC Contract  
 EPC Contractor  
 Initial Tranche  
 In-Kind Equity Contribution  
 Local Units  
 Local Unit Facilities\*  
 Local Unit License  
 Local Unit License Agreement  
 Local Unit License Agreements  
 Municipal Series 2011 Local Units  
 Official Statement  
 Power Purchase Agreement  
 Preliminary Official Statement  
 Preliminary Program Costs  
 Program Documents  
 Projects\*  
 Renewable Energy Program  
 Renewable Energy Projects\*  
 Rule 15c2-12  
 Sale Documents  
 Second Tranche  
 Section 1603 Grant  
 Series 2011 Bonds  
 Series 2011A Bonds  
 Series 2011B Note  
 Series 2011 Local Unit\*  
 Series 2011 Local Units  
 Shared Services Act  
 SRECs  
 State  
 Underwriter

\*as such defined terms may be amended or supplemented pursuant to Section 4.6 of the Power Purchase Agreement.

(c) The following defined terms shall, for all purposes of this Company Lease Agreement, have the meanings ascribed to such terms in the Bond Resolution

Account  
 Additional Bonds  
 Administrative Expense Account  
 Administrative Fund

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Aged Account  
 Bond  
 Capitalized Interest Account  
 Code  
 Company Development Fees and Expenses  
 Completion Conditions  
 Completion Project  
 Consulting Energy Engineer  
 Consulting Energy Engineering Services  
 Cost  
 Costs of Issuance Account  
 County Security Fund  
 County Security Fund Requirement  
 Debt Service Fund  
 Funds  
 General Fund  
 Gross Substitute Power Purchase Price  
 Interest Account  
 Investment Securities  
 Net Substitute Power Purchase Price  
 Outstanding  
 Paying Agent  
 Principal Account  
 Principal Office  
 Project Fund  
 Rating Agency  
 Renewable Energy Program Interested Party  
 Restoration Security Fund  
 Restoration Security Fund Requirement  
 Revenue Account  
 Revenue Fund  
 Revenues  
 Series  
 Series 2011B Bonds  
 Sinking Fund Installments  
 Supplemental Resolution  
 Tax Certificate  
 Tax-exempt Bonds  
 Trustee  
 Trust Estate

(d) The following defined terms shall, for all purposes of this Company Lease Agreement, have the following meanings:

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"Acceptance Certificates" shall mean, individually or collectively, as the case may be, the CIP Acceptance Certificates and the REP Acceptance Certificates.

"Additional Lease Payment" shall mean any amount payable by the Company at the times and under the other terms of the Company Lease Agreement, other than Basic Lease Payments, including without limitation, (i) Administrative Expenses not otherwise provided from a portion of the proceeds of the Bonds, including the second and succeeding Bond Year Administrative Fee, (ii) interest on any past due Lease Payments payable at the Overdue Rate (but not any such past due Basic Lease Payment), (iii) to the extent Company funds are available, after payment of all reasonable Company expenses and prior to any member distributions, replenishment of any deficiency in the County Security Fund Requirement, (iv) the Purchase Option Price in accordance with Section 701 of the Company Lease Agreement, (v) the Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement, (vi) the Restoration Security Fund deposits up to the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution, and (vii) a one-time payment of \$1,500,000 payable no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013 for deposit in the County Security Fund to satisfy the County Security Fund Requirement.

"Administrative Expenses" shall mean the fees and expenses which are incurred from time to time by or on behalf of the Authority, the County, the County Security Provider, or the Series 2011 Local Units, including the Administrative Fee, if any, in carrying out their respective rights and duties under the terms of the Program Documents, including, without limitation the Preliminary Program Costs, accounting, administrative, financial advisory, and legal expenses, the Consulting Energy Engineering Services, the fees and expenses of the Trustee, the Paying Agent, or any other fiduciaries or agents acting on behalf of the Authority, the County, or the Series 2011 Local Units, under or pursuant to the terms of the Program Documents, which amounts shall be due and payable by the Company as an Additional Lease Payment at the times set forth in the Program Documents, or, as applicable, upon presentation of an invoice for payment; provided, however, that to the extent an Administrative Expense is incurred solely due to the action or inaction of a Series 2011 Local Unit not caused by or otherwise resulting from any action, inaction or request of the Company, such Administrative Expense shall be paid by such Series 2011 Local Unit upon presentation of an invoice for payment. Other than the Series 2011 Bond proceeds deposited in the Administrative Fund in accordance with Section 2.03(7)(a) of the Bond Resolution and earmarked for certain costs and expenses, including certain Administrative Expenses, and other than the Authority's annual Administrative Fee and the Trustee's annual fee to be paid as an Additional Lease Payment by the Company, the Company and the Series 2011 Local Units shall only be responsible for the reasonable amount of Administrative Expenses caused by the action or inaction of the Company or the Series 2011 Local Unit, as applicable, to the extent any such Administrative Expenses arise in the course of the implementation of the Renewable Energy Projects and/or the performance by the Authority, County, and/or Series 2011 Local Unit of their rights, duties and obligations under the Program Documents.

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"Administrative Fee" shall mean the sum of the following, payable by the Company to the Authority at the times and the amounts as set forth below:

(i) With respect to the Series 2011 Bonds for the first Bond Year upon initial issuance thereof, the Authority's fee for the Renewable Energy Program in the amount of \$120,000, consisting of the sum of (a) \$100,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Costs of Issuance Account of the Administrative Fund pursuant to Section 2.03(7)(a)(i) of the Bond Resolution and (b) \$20,000 payable from a portion of the proceeds of the Series 2011 Bonds that have been deposited in the Administrative Expense Account of the Administrative Fund pursuant to Section 2.03(7)(a)(ii)(A) of the Bond Resolution; plus

(ii) For all Bond Years with respect to the Series 2011 Bonds thereafter (commencing June 15, 2013), a sum of money payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund payable on the Basic Lease Payment Date immediately preceding the first day of any such Bond Year, equal to \$20,000, which amount may be referred to as the Authority's annual Administrative Fee; plus

(iii) For all Bond Years with respect to the Series 2011 Bonds commencing December 15, 2017 and thereafter, a sum or sums of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(e) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(iv) For all Bond Years with respect to the Series 2011 Bonds, a sum of money, if any, payable by the Company as an Additional Lease Payment for deposit by the Trustee in the Administrative Expense Account of the Administrative Fund as required pursuant to Section 6.3(b) and/or Section 6.3(d) of the Power Purchase Agreement, whereupon the Authority may direct the Trustee to transfer all or a portion of such funds to (A) the County Security Fund, (B) the Debt Service Fund or (C) such other Fund or account under the Bond Resolution, all as set forth in a Certificate of an Authorized Officer of the Authority, which transfer to the Debt Service Fund, if so determined in any such Certificate, may result in a credit to all or a portion of the Power Purchase Price Payments of the Series 2011 Local Units at the times and in the amounts as may be set forth in any such Certificate; plus

(v) With respect to any Series of Bonds, interest on any past due Basic Lease Payments payable at the Overdue Rate in accordance with the Company Lease Agreement (but not any such past due Basic Lease Payment); plus

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(vi) For all Bond Years with respect to any Series of Additional Bonds, such amounts as may be set forth in a Supplemental Resolution, including without limitation, for any Series of Additional Bonds that refund the Series 2011 Bonds or any other Series of Outstanding Bonds, (a) a financing fee payable upon the issuance of any such Series of Additional Bonds (from the proceeds thereof, from the Company, or otherwise) in the amount of two percent (2%) of the aggregate principal amount of any such Series of Additional Bonds, or such different amount as shall be agreed to by the Company and the Authority, plus (b) all reasonable Administrative Expenses of the Authority and any other Renewable Energy Program Interested Party involved in any such refunding payable upon the issuance of any such Series of Additional Bonds, plus (c) an annual financing fee of one percent (1%) of the aggregate principal amount of any such Series of Additional Bonds Outstanding and payable by the Company as of the first day of each Bond Year until final maturity (stated or otherwise) thereof, plus (d) the amounts, if any, payable to the Authority pursuant to Section 6.3(d) of the Power Purchase Agreement, except as any such amounts may be modified in any such Supplemental Resolution authorizing the issuance of any such Series of Additional Bonds.

"Applicable" shall mean (i) with reference to any Series 2011 Local Unit, the Series 2011 Local Unit intended to be benefited or obligated thereby, (ii) with reference to any Renewable Energy Project, the Renewable Energy Project for the intended Series 2011 Local Unit, (iii) with reference to any Local Unit Facilities, the Local Unit Facilities for the intended Series 2011 Local Unit, and (iv) with reference to any Local Unit License Agreement, the Local Unit License Agreement executed for the benefit of the intended Series 2011 Local Unit.

"Applicable Law" means all applicable provisions of any constitution, statute, law ordinance, code, rule, regulation, decision, order, decree, judgment, release, license, permit, stipulation or other official pronouncement enacted, promulgated or issued by any Governmental Authority.

"Architect" shall mean individually or collectively, as the case may be, the individual or entity appointed or caused to be appointed or employed by the Applicable Series 2011 Local Unit, the Lessor, or the Lessee, as applicable, with respect to the provision of architectural services relating to the Renewable Energy Projects or the Capital Improvement Projects on, in, affixed or adjacent to, or otherwise for the benefit of the Local Unit Facilities for such Applicable Series 2011 Local Unit, all in accordance with applicable law, which may include the Local Public Contracts Law or the Public Schools Contracts Law, including any rules and regulations relating thereto and to which such Applicable Series 2011 Local Unit, the Lessor, or the Lessee is subject, including without limitation any architect of record with respect to such Projects and/or Local Unit Facilities. The Architect may be a Contractor providing services pursuant to a Development Contract.

"Authorized Officer" or "Authorized Representative" shall mean, (i) with respect to the Authority, the Chairman, the Vice Chairman, the Treasurer, or the Secretary of the Authority and, when used with reference to an act or document, also means any other person who

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investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(1)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701 of the Company Lease Agreement with respect to prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Basic Lease Payment Date" shall mean any date set forth in Exhibit A-3 to the Company Lease Agreement and designated as a Basic Lease Payment Date, which for the Interest Portion (January 15 and July 15, commencing January 15, 2013) and Principal Portion (January 15, commencing January 15, 2013) of any Basic Lease Payment, shall be a day five (5) months prior to any (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) regularly scheduled Interest Payment Date and any regularly scheduled Principal Payment Date, respectively, or if either of such days is not a Business Day, the first Business Day prior to such date.

"Bond Counsel" shall mean Inglesino, Pearلمان, Wyciskala & Taylor, LLC, or any other attorney at law, or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exclusion of interest on bonds or other obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state.

"Bond Year" shall mean (i) with respect to any Series of Outstanding Bonds, including the Series 2011 Bonds, a period of twelve (12) consecutive months beginning on June 15 of any calendar year and ending on June 14 of the immediately succeeding calendar year except that (ii) the first Bond Year with respect to the Series 2011 Bonds shall be a period commencing on the date of issuance of the Series 2011 Bonds and ending on June 14, 2012 and (iii) the first Bond Year with respect to any other Series of Bonds shall be a period commencing on the date of issuance of such Series of Bonds and ending on the succeeding 14<sup>th</sup> day of June.

"Bondholder", "Bond Holder", "Holder" or "Holder of Bonds" shall mean the registered owner of any Series of Bonds of the Authority, including the Authority's Series 2011 Bonds, which by its terms, upon original issuance of the Series 2011 Bonds, shall mean the respective registered owners of the Series 2011A Bonds and with respect to the Series 2011B Note, the County.

"Business Day" shall mean, with respect to the Bonds of any Series, any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the Principal Office of the Authority, any Series 2011 Local Unit, the Trustee or the

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shall be authorized by resolution or the by-laws of the Authority to perform such act or to execute such document or any other person or persons who shall be authorized by resolution of the Authority to act on behalf of the Authority or by a written certificate duly executed on behalf of the Authority by the Chairman or by the Vice Chairman of the Authority, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person; (ii) with respect to any Series 2011 Local Unit: the person designated as an Authorized Officer in the Applicable Local Unit License Agreement of any such Series 2011 Local Unit or any other person or persons who shall be authorized to act on behalf of such Series 2011 Local Unit by virtue of a resolution of the governing body of such Series 2011 Local Unit, which resolution shall set forth such authorization; (iii) with respect to the Trustee: any officer of the Trustee authorized by the Trustee to act or execute documents on behalf of the Trustee; (iv) with respect to Company: any officer or authorized signatory of the Company authorized by the Company to act or execute documents on behalf of the Company; (v) with respect to the County Security Provider: any officer of the County Security Provider authorized by the County Security Provider to act or execute documents on behalf of the County Security Provider; (vi) with respect to the County in any capacity other than clause (i) above, the County Administrator of the County and, when used with reference to an act or document, also means any other person who shall be authorized by State statute, ordinance, resolution, by-laws or Administrative Code of the County to perform such act or to execute such document or any other person or persons who shall be authorized by resolution or ordinance of the Board of Pardoners to act on behalf of the County or by a written certificate duly executed on behalf of the County by the County Administrator of the County, which certificate shall set forth such authorization and shall contain the specimen signatures of each such person.

"Base Rate" shall mean the rate of interest established by the Trustee from time to time as its reference rate in making loans but does not reflect the rate of interest charged to any particular class of borrowers, and is not tied to any external rate of interest or index. The applicable rate will change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any party. If no other rate shall be so established by the Trustee, the Base Rate shall be the Trustee's prime rate as determined from time to time.

"Basic Lease Payment" shall mean, as of each Basic Lease Payment Date, the amount set forth in Exhibit A-3 to the Company Lease Agreement corresponding to such Basic Lease Payment Date and designated as a Basic Lease Payment. The Basic Lease Payment as of any Basic Lease Payment Date is equal to the payment of the Principal Portion and Interest Portion due on such Basic Lease Payment Date, and shall be established as the amount set forth in Exhibit A-3 to the Company Lease Agreement for such date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments), and interest on the Outstanding Bonds on the next occurring (or in the case of January 15, 2013 with respect to the Series 2011B Note, the same) Principal Payment Date and Interest Payment Date respectively, of the Outstanding Bonds, including without limitation the credits available under (i) Section 302(a)(1) and (ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to

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Paying Agent is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

"Certificate" shall mean a written certificate signed in the name of the Authority, any Series 2011 Local Unit, the County, the Company or the Trustee. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the instruments so combined shall be read and construed as a single instrument.

"CIP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Capital Improvement Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-2 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Capital Improvement Projects for each such Series 2011 Local Unit has been completed in accordance with the Plans and Specifications therefore, and has been accepted by such Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution. The Authority and the Company acknowledge and agree that the Company shall not be responsible for the construction of any Capital Improvement Projects under the Program Documents and any references in such Program Documents to the Capital Improvement Projects shall be of no further force and effect.

"CIP Acceptance State" shall mean the good working order condition of the Capital Improvement Projects for the Series 2011 Local Units, at the time of the authorization, execution and delivery of, and as certified and acknowledged by such Applicable Series 2011 Local Units in, the respective CIP Acceptance Certificates.

"Company Appendices" shall mean that portion of the Preliminary Official Statement and the Official Statement relating to the Company, including the appendices thereof, which may include financial, demographic or other information supplied by or on behalf of the Company, or a link or other reference to such information, all as shall be designated in the Company Continuing Disclosure Agreement, and as to which the Company shall make certain certifications under federal securities law.

"Construction Manager" shall mean, individually or collectively, as the case may be, the person or firm hired, employed or otherwise engaged by either of the Lessor or any Series 2011 Local Unit with the consent of the Lessor, that shall be responsible for the oversight of the implementation of one or more segments of the design, permitting, acquisition, construction, and installation, and as applicable, the operation and maintenance of the Renewable Energy Projects by the Lessee for any Series 2011 Local Unit, or the oversight of the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement

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Projects, if any, by the Lessee for any Series 2011 Local Unit. The Consulting Energy Engineer may act as Construction Manager.

"Construction Performance Bond" shall have the meaning ascribed to such term in the Power Purchase Agreement.

"Contractor" shall mean the Company and the EPC Contractor, in any such case as the entity obligated to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Developer" shall mean an Affiliate of the Company to be designated at the time of execution of the Development Agreement.

"Development Agreement" means the Development Agreement to be entered into by and between the Company and the Developer for development services related to the Projects.

"Development Contract" shall mean (i) in the case of the Company, the Company Lease Agreement, (ii) as to the EPC Contractor, the EPC Contract, and (iii) in the case of any other Contractor, that certain contract obligating any such other subcontractor or other third-party, as Contractor and on behalf of the Company, to design, permit, acquire, construct, install, operate and/or maintain all or a portion of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, or to design, permit, acquire, construct, renovate and/or install all or a portion of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units. Nothing in any Development Contract shall relieve the Company from its obligations under the Company Lease Agreement and the other Company Documents, which obligations shall include the Company's continual obligation to design, permit, acquire, construct, install, operate and/or maintain all of the Renewable Energy Projects on the Local Unit Facilities for the Series 2011 Local Units, and to design, permit, acquire, construct, renovate and/or install all of the Capital Improvement Projects on the Local Unit Facilities for the Series 2011 Local Units.

"Development Fee" means the fee payable to the Developer for services provided under the Development Agreement.

"Draw Date" shall have the meaning ascribed to such term in Section 510(b) of this Company Lease Agreement, and shall not be a regularly scheduled set of dates, but shall occur no more frequently than twice a month.

"Draw Paper Ratio" shall have the meaning ascribed to such term in Section 510(c) of this Company Lease Agreement.

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"Draw Papers" shall have the meaning ascribed to such term in Section 510(c) of the Company Lease Agreement.

"Event of Default" shall have the meaning ascribed to such term in Section 1001 of this Company Lease Agreement.

"Excess Power Purchase Price Payments" shall have the meaning ascribed to such term in Section 311(a) of this Company Lease Agreement.

"Exhibit A-3" shall mean Exhibit A-3 to this Company Lease Agreement, which for all purposes of the Program Documents, shall mean Exhibit A-3 attached hereto and made a part of this Company Lease Agreement.

"Force Majeure" shall mean any event which is beyond the reasonable control of, and not the result of the fault or negligence of, the affected Party or its affiliates, including, but not limited to and without limitation, (a) strikes or other labor disputes (other than strikes or labor disputes solely by employees or contractors of the Parties to this Power Purchase Agreement as a result of such Party's failure to comply with a collective bargaining agreement), (b) adverse weather conditions, breakdown or failure of the utility transmission or distribution system not caused by the Service Provider, and (c) other acts of nature, riot or civil unrest. The term Force Majeure does not include (i) any acts or omissions of any third party, including, without limitation, any vendor, customer, or supplier of the Service Provider, unless such acts or omissions are themselves excused by reason of Force Majeure; (ii) any full or partial curtailment in the electric output of the Renewable Energy Projects that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear, unless such mishap is caused by Force Majeure; (iii) changes in market conditions that affect the cost of the Service Provider's supplies, or that affect demand or price for any of the Service Provider's products, including, but not limited to the price of electricity, SRECs or other environmental attributes; or (iv) any action that constitutes negligence or gross negligence by the Party claiming a Force Majeure event.

"Governmental Authority" means any federal, state or local legislative, executive, judicial, quasi-judicial or other public authority, agency, department, bureau, division, unit, court, tribunal, or other public body, person or entity having jurisdiction over a Party, the Renewable Energy Projects or this Company Lease Agreement.

"Independent Insurance Consultant" shall mean a nationally recognized, independent actuary, insurance company or broker acceptable to the Lessor that has actuarial personnel experienced in the area of insurance for which the Lessee is to be self-insured.

"Initial Basic Lease Payment Date" shall mean January 15, 2013, the first Basic Lease Payment Date.

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"Interconnection Agreement" shall mean, individually or collectively, as the case may be, one or more agreements between or among, the existing local electric utility distribution provider and one or more of the Lessee, the Applicable Series 2011 Local Unit and/or the Lessor, with respect to the interconnection of the completed Renewable Energy Projects for such Series 2011 Local Unit to the electric utility distribution system of such provider, which may take the form of an application and acceptance by at least two of such parties.

"Interest Payment Date" shall mean, the date on which interest on the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June and December until final maturity of the Bonds, including the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Interest Payment Date, or the date of (i) redemption or (ii) acceleration of the Bonds, including the Series 2011 Bonds.

"Interest Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the interest due and owing on the Outstanding Bonds, including the Series 2011 Bonds, on the immediately succeeding Interest Payment Date, as set forth in Exhibit A-3 to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Interest Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the interest on the Bonds on the next occurring Interest Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(1) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(7)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Lease Payments" shall mean all amounts due and payable by the Company pursuant to the terms of the Company Lease Agreement, and shall consist of Basic Lease Payments and the Additional Lease Payments.

"Lease Term" or "Term" shall mean the period during which this Company Lease Agreement is in effect, as specified in Section 402 hereof.

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"Leased Property" shall mean the Renewable Energy Projects, as set forth in Exhibit A-1 to the Company Lease Agreement and in Exhibit B to the respective Local Unit License Agreements for the Series 2011 Local Units, together with all properties, interests, duties and obligations related thereto, including without limitation the right to enter upon and locate the Renewable Energy Projects on the Local Unit Facilities, as all such property shall be leased by the Authority, as owner and lessor, to the Company, as lessee, pursuant to Section 401 of the Company Lease Agreement for the Lease Term, with the express intent that such lease shall convey ownership of such property for purposes of the Code to the Company. The Leased Property shall not include the Capital Improvement Projects, if any, of the Series 2011 Local Units, all of which shall be owned by the respective Series 2011 Local Units.

"Mandatory Purchase Price" shall have the meaning ascribed to such term in Section 702 of the Company Lease Agreement relating to the acceleration of the Bonds of any Series, including the Series 2011 Bonds.

"Maximum Gross Bond Funded Project Cost Amount" shall mean the sum of (i) the Maximum Net Bond Funded Project Cost Amount funded with a portion of the proceeds of the Series 2011 Bonds and deposited with the Trustee in the Project Fund upon initial issuance thereof, together with (ii) any interest earned thereon prior to disbursement from the Project Fund in accordance with the Company Lease Agreement and the Bond Resolution, which amount has been estimated by the Lessee to be sufficient, together with the Equity Contribution, to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

"Maximum Net Bond Funded Project Cost Amount" shall mean \$24,700,000, the amount deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(e)(i), (ii) and (iii) of the Bond Resolution to fund a portion of the Project Costs, which amount was established by the Lessee pursuant to the Company Proposal.

"Net Proceeds" shall mean any insurance, condemnation, Construction Performance Bond or other performance bond, or any other financial guaranty proceeds paid with respect to any portion of the Projects, remaining after payment therefrom of all expenses incurred in the collection thereof; and, with respect to insurance, if and at such time as the Lessee elects to provide self-insurance under Section 614 of this Company Lease Agreement, any moneys payable from any self-insurance fund of the Lessee which may lawfully be expended for the purposes for which such self-insurance is provided.

"Overdue Rate" shall mean two percent (2%) per annum over the Base Rate, which rate shall change automatically and immediately as of the date the Trustee changes its Base Rate, without notice to any Renewable Energy Program Interested Parties; provided, however, that notwithstanding the foregoing, to the extent the County Security, if any, shall have

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been drawn upon to reimburse the County in full for any County payments under the County Guaranty, the Overdue Rate with respect to interest to be paid on past due Basic Lease Payments (such payment of interest constituting an Additional Lease Payment hereunder) shall have such different meaning, if any, as may be set forth in the County Security Agreement, if any.

"Permitted Encumbrances" shall mean as of any particular time: (i) liens for taxes and assessments not then delinquent with respect to the Leased Property, (ii) the Company Lease Agreement and the other Program Documents, (iii) the pledge and assignment by the Lessor of the Reimbursement Collateral to the County Security Provider, if any, under the County Security Agreement, if any, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security, (iv) the pledge of the Trust Estate by the Lessor to the Trustee under the Bond Resolution, and (v) any mechanic's, laborer's, materialmen's, supplier's or vendor's lien or right arising during construction of any Renewable Energy Project prior to December 17, 2012 and not filed or perfected in the manner prescribed by law.

"Plans and Specifications" shall mean the architectural and engineering drawings and specifications prepared by the Architect or other Contractor (through a Development Contract or otherwise) describing the Renewable Energy Projects or the Capital Improvement Projects (if any), including any Completion Project, as the case may be, as agreed to among the Company and the Applicable Series 2011 Local Unit pursuant to Section 5.01 of the Company Lease Agreement.

"PPA Price" shall have the meaning set forth in Section 6.2 of the Power Purchase Agreement.

"Power Purchase Price Payments" shall mean the payments made by the respective Series 2011 Local Units for the purchase of electricity to the Trustee at the direction of and on behalf of the Lessee and Lessor, all in accordance with Section 5.1(e)(f) of the Local Unit License Agreements.

"Principal Payment Date" shall mean, the date on which principal (including Sinking Fund Installments, if any) of the Bonds, including the Series 2011 Bonds, is required to be paid to the Holders thereof, (i) (a) except as set forth in clause (b) below, being the fifteenth (15<sup>th</sup>) day of each June until final maturity of the Series 2011 Bonds, commencing June 15, 2013 with respect to the Series 2011A Bonds, and (b) which shall be January 15, 2013 with respect to the Series 2011B Note, each of which shall constitute a regularly scheduled Principal Payment Date, or the date of (ii) redemption or (iii) acceleration of the Bonds, including the Series 2011 Bonds.

"Principal Portion" shall mean, with respect to Basic Lease Payments due on any Basic Lease Payment Date, the portion of such Basic Lease Payment equal to the principal

(including Sinking Fund Installments) of the Outstanding Bonds, including the Series 2011 Bonds, due and owing on the immediately succeeding Principal Payment Date, as set forth in Exhibit A-3 attached to the Company Lease Agreement, except for January 15, 2013, where the Basic Lease Payment Date and the Principal Payment Date for the Series 2011B Note shall be the same date, less other amounts available under the Bond Resolution, if any, to make the payment on time and in full of the principal of (including Sinking Fund Installments) the Bonds on the next occurring Principal Payment Date of the Bonds, including without limitation the credits available under (i) Section 302(a)(ii) of the Company Lease Agreement with respect to Power Purchase Price Payments made by the Series 2011 Local Units, (ii) Section 310(b) of the Company Lease Agreement with respect to investment earnings and certain other Revenue Fund transfers, (iii) Section 510(e)(i)(B) of the Company Lease Agreement with respect to excess amounts in the Project Fund, (iv) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (v) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (iv) above in order to avoid the same funds being double counted), (vi) Section 3.7(a)(v)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (vii) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award.

"Purchase Option Price" shall have the meaning ascribed to such term in Section 701 of the Company Lease Agreement relating to the optional redemption of the Bonds of any Series, including the Series 2011 Bonds.

"Reimbursement Collateral" shall mean, to the extent a County Security Agreement shall be delivered to the Lessor and the Trustee in accordance with the provisions of Section 5.07(6) of the Bond Resolution, (i) the SRECs, (ii) the Net Substitute Power Purchase Price, and (iii) any past due Basic Lease Payments, together with any Additional Lease Payments constituting interest payable on such past due Basic Lease Payments at the Overdue Rate, all of which shall have been pledged and assigned by the Lessor to the County Security Provider under the County Security Agreement, subject to the prior pledge thereof to the County under the County Guaranty Agreement, which prior pledge shall supersede the pledge to the County Security Provider only to the extent the County shall fail to have been reimbursed in full for all payments made by the County under the County Guaranty from the County Security Provider through a draw under the County Security. If no County Security Agreement shall be so delivered, which shall be the case upon original issuance of the Series 2011A Bonds, this term shall mean the County Reserve and any other monies and securities on deposit in the County Security Fund at any time, if any, that shall be available to the Lessee, in such case as County Security Provider, after and to the extent this County has been fully paid under its County Guaranty; provided that no such monies shall be made available to the Lessee until the County has completed all of its payment obligations under the County Guaranty and been fully reimbursed therefor, from the County Security Fund or otherwise.

"REP Acceptance Certificates" shall mean the certificates, one for each Series 2011 Local Unit with respect to the acceptance and completion of the Renewable Energy Projects on, in or about the Local Unit Facilities for each such Series 2011 Local Unit, in the form attached as Exhibit B-1 to the Company Lease Agreement, executed by an Authorized Officer of the Company, acknowledged by an Authorized Officer of the Applicable Series 2011 Local Unit, and acknowledged as to form only by an Authorized Officer of the Authority, evidencing, among other things, that all of the Renewable Energy Projects for each such Series 2011 Local Unit have been completed in accordance with the Plans and Specifications therefor, and have been accepted by the Company and the Applicable Series 2011 Local Unit, and determining any matters regarding the application of excess funds in accordance with Section 5.02 of the Bond Resolution.

"Reserved Rights" shall mean the Authority's right to retain the following under the Company Lease Agreement, which shall not be part of the Trust Estate pledged to the Trustee under Section 1.04 of the Bond Resolution:

- (i) Receive the Additional Lease Payments earmarked for purposes other than the Purchase Option Price or the Mandatory Purchase Price (which Purchase Option Price or the Mandatory Purchase Price Additional Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), including without limitation (a) the Administrative Fee, if any, and any other Administrative Expenses, which the Authority shall be obligated to pay or cause to be paid to the Renewable Energy Program Interested Parties due such Administrative Expenses, and (b) interest payable on past due Lease Payments at the Overdue Rate (but not the Basic Lease Payments that may be paid together with any payment at the Overdue Rate, which Basic Lease Payments constitute part of the Trust Estate, and are therefore not reserved to the Authority), provided, further, that the portion of which interest that is attributable to past due Basic Lease Payments may be assigned by the Authority to the County and/or the County Security Provider, if any, as part of the Reimbursement Collateral;
- (ii) The payments set forth in Section 5.2(a)(ii) and (iii) of the Local Unit License Agreements for the Series 2011 Local Units that reflect the difference between the Gross Substitute Power Purchase Price and the Net Substitute Power Purchase Price, which includes the Administrative Fee;
- (iii) Receive notices provided for in the Company Lease Agreement or any other Program Document;
- (iv) Appoint, replace or remove such parties as shall be appointed, replaced or removed under the Company Lease Agreement or any other Program Document at the direction of the Authority; and

- (v) The right to give or withhold consents, including consents to amendments, permitted or required of the Authority under the Company Lease Agreement or any other Program Documents, to the extent that any such consent or amendment would diminish the rights or enlarge the responsibilities or adversely affect the ability of the Authority to realize or perform same, respectively, or which would increase the Authority's potential liability or exposure to any party to any Program Document or to any third party as a result thereof. All such notices, appointments or consents under any other Program Document (i.e., other than the Company Lease Agreement) shall be unaffected by these rights, as the Authority's rights under the other Program Documents are not subject to the pledge of the Trust Estate under Section 1.04 of the Bond Resolution, and are either retained by the Authority, or assigned pursuant to the terms of the Program Documents, but in any event, shall not constitute Revenues or other part of the Trust Estate for purposes of the Bond Resolution.

"Tax Benefit Recapture Event" has the meaning set forth in Section 609(g).

SECTION 102. Exhibits.

The following Exhibits are attached to, and by reference are made a part of, this Company Lease Agreement pursuant to which the Renewable Energy Projects are to be leased by the Authority to the Lessee:

- (a) Exhibit A: Various details regarding a description of the Projects, the schedule of regularly scheduled Basic Lease Payments and maximum Project Costs funded from the Series 2011 Bonds.
  - (i) Exhibit A-1: Description of Renewable Energy Projects for Series 2011 Local Units;
  - (ii) Exhibit A-2: Description of Capital Improvement Projects (if any) for Series 2011 Local Units;
  - (iii) Exhibit A-3: Basic Lease Payment Schedule, consisting of Exhibit A-3-Regular and Exhibit A-3-Alternate; and
  - (iv) Exhibit A-4: Notice Information for Series 2011 Local Units.
- (b) Exhibit B: Form of Acceptance Certificates, consisting of:
  - (i) Exhibit B-1: Form of REP Acceptance Certificates; and
  - (ii) Exhibit B-2: Form of CIP Acceptance Certificates.

(c) Exhibit C: Form of Draw Papers.

(i) Exhibit C-1. Initial Project Workforce Form AA201.

(d) Exhibit D: Certificate of an Authorized Officer of the Lessee for Company Development Fees and Expenses Incurred on behalf of the Lessee.

(e) Exhibit E: Attach Form of Power Purchase Agreement and Company Continuing Disclosure Agreement.

#### SECTION 103. Inapplicable Terms.

Notwithstanding anything to the contrary contained in this Company Lease Agreement, the parties hereto acknowledge and agree that (a) the Lessee is not responsible for the construction of any Capital Improvements Projects under the Program Documents and any references herein to Capital Improvement Projects, CIP Acceptance Certificates or any other term defined by reference to Capital Improvement Projects (without limiting the application of any such term to the extent not related to Capital Improvement Projects) shall be of no further force and effect, and (b) there shall be no need for a County Security Agreement, a County Security Provider or County Security and any references thereto shall be of no further force and effect.

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## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES; DISCLAIMERS

#### SECTION 201. Representations, Covenants and Warranties of Lessee.

The Lessee represents, covenants and warrants as follows:

(a) The Lessee (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and (ii) has or will have all requisite power and authority, and as applicable, all requisite governmental licenses, authorizations, consents and approvals, to (A) own or lease its assets and carry on and transact its business, including without limitation the conduct of business within the State in accordance with the terms of the Company Documents, (B) authorize, execute, deliver and perform its obligations under the Company Documents, and (C) accept and be bound by the terms of the other Program Documents, and (ii) is duly qualified and is licensed and, as applicable, is in good standing under the laws of each jurisdiction, including the State, where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license. The Lessee has all of the requisite power and authority and has full legal right to (x) enter into each of the Company Documents, (y) perform, observe and comply with all of its respective agreements and obligations under the Company Documents, and (z) otherwise be bound by the terms of all of the other Company Documents.

(b) The constitution and the laws of the State and the jurisdiction of the Lessee's organization authorize the Lessee to, and the Lessee has the right, power, authority and expertise to, and shall (i) design, permit, acquire, install, operate and maintain the Renewable Energy Projects on, in, affixed or adjacent to, or for the benefit of the Local Unit Facilities for all of the Series 2011 Local Units in accordance with the technical specifications set forth in Appendix C of the Company RFP attached hereto as part of Exhibit A-1, and otherwise in accordance with the terms of the Company Documents, (ii) design, permit, acquire, renovate, and install, the Capital Improvement Projects, if any, on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities in accordance with the plans and specifications and construction documents included or referred to herein and otherwise in accordance with the terms of the Program Documents, (iii) enter into the Company Documents, to acknowledge and consent and otherwise be bound by the terms of the other Program Documents, and to consummate the transactions and perform the obligations contemplated thereby. Notwithstanding the foregoing, the Lessee shall in all circumstances commence construction of the first Renewable Energy Project on or before May 15, 2012 and all Renewable Energy Projects on or before September 15, 2012, and complete construction and file all Acceptance Certificates for all Projects in accordance with the provisions of Section 510(c) hereof no later than December 14, 2012, unless extended, per Project, by Force Majeurs, or Series 2011 Local Unit Event of Default as defined in and contemplated by the applicable Local Unit License Agreement or cure period which absent a cure would lead to a Series 2011 Local Unit Event of Default. Any such extension shall have no effect on the obligation to make Basic Lease Payments on time and in full.

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(c) The execution and delivery by the Lessee of the Company Documents, the performance by the Lessee of all of its respective agreements and obligations under each of such documents and to be bound by the other Company Documents, and the incurring by the Lessee of all of the obligations contemplated by the Company Documents, have been duly authorized by all necessary requisite actions on the part of the Lessee, and the provisions of the Company Documents do not and shall not (i) contravene any provision of the Lessee's certificate of incorporation, by-laws and any other organizational documentation (each from time to time in effect), (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessee under any material agreement, mortgage or other instrument to which the Lessee is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessee's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation to which the Lessee is or may be bound, or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable in such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessee, or (v) to the best of Lessee's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of execution and delivery hereof and prior to the date of issuance of the Series 2011 Bonds, or are not required as a matter of law until a future date including the Interconnection Agreement for each Project, under any provision of applicable law.

(d) The officers or other authorized signatories of the Lessee executing and delivering its Company Documents have been duly authorized to execute and deliver the same under the laws of the State and the state of its organization and any other organizational documentation, and upon the Lessee's execution and delivery of the Company Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Company Documents shall constitute valid and binding obligations of the Lessee, enforceable against the Lessee in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessee or, to the best of the Lessee's knowledge, threatened against the Lessee (or, to the best of the Lessee's knowledge, is there any basis therefore) (i) that contests or would contest the Lessee's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Company Document or that would preclude the Lessee from performing in accordance with the terms of any Company Document or (ii) wherein an unfavorable decision, ruling or finding would adversely affect (A) the transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessee is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

(f) The Lessee has obtained all authorizations, consents and approvals that are

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required in order for Lessee to execute and deliver this Company Lease Agreement and to perform its financial and other obligations hereunder, except for permits and approvals to be obtained after the date hereof pursuant to Section 510(c).

(g) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessee shall not transfer, lease, assign, mortgage or encumber the Projects or any property of the Lessee constituting the Trust Estate.

(h) The Lessee currently intends to continue this Company Lease Agreement for its entire Term and to pay all Basic Lease Payments required hereunder, unless the Lessee shall pay and otherwise comply with the terms related to the Purchase Option Price or Mandatory Purchase Price in accordance with Article VII hereof, or any other termination provisions contained in this Company Lease Agreement.

(i) Information supplied and statements made by the Lessee in any financial statement or current budget delivered prior to or contemporaneously with this Company Lease Agreement, including the Company Appendices, present such information fairly, accurately and completely, in all material respects and in accordance with generally accepted accounting principles. The Lessee agrees to take all reasonable actions in connection with the Authority's marketing and sale of the Bonds, including without limitation executing Certificates of an Authorized Officer of the Lessee (i) regarding the deemed final nature of the Company Appendices for purposes of Rule 15c2-12, and (ii) to the effect that the Company Appendices, and any other information concerning the Company or its rights, duties and obligations under the Company Documents set forth in the Preliminary Official Statement and the Official Statement (A) contain no material misstatement of fact and (B) do not omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, materially misleading.

(j) Information provided by Lessee, in writing or at the interview date with the Authority pursuant to the Company RFP process on October 19, 2011, upon which Lessor relied in selecting Lessee under the Company RFP process, remains materially accurate.

#### SECTION 202. Representations, Covenants and Warranties of Lessor.

The Lessor represents, covenants and warrants as follows:

(a) The Lessor (i) is a public body corporate and politic duly organized, validly existing and in good standing under the Act and other applicable laws of the State, (ii) has full and complete power to enter into or adopt, as the case may be, the Program Documents and to carry out the transactions contemplated thereby, (iii) is possessed with full power to own and hold real and personal property, including the Renewable Energy Projects, and to lease the Leased Property subject to the terms of the Act and any other applicable law, and (iv) has duly authorized the execution and delivery of or has duly adopted, as the case may be, the Program Documents.

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(b) Neither the execution and delivery or adoption, as the case may be, of the Program Documents, the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby conflicts with or results in a breach of the terms, conditions or provisions of any restriction, any agreement or any instrument to which the Lessor is now a party or by which the Lessor or its property are bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Lessor or upon the Projects, except Permitted Encumbrances.

(c) The execution and delivery by the Lessor of the Program Documents, the performance by the Lessor of all of its respective agreements and obligations under each of the Program Documents, and the incurring by the Lessor of all of the obligations contemplated by the Program Documents, have been duly authorized by all necessary requisite actions on the part of the Lessor, and the Lessor's authorization, execution, delivery and performance pursuant to the terms of the Program Documents do not and shall not (i) contravene any provision of the Act, (ii) conflict with, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of the property of the Lessor under any material agreement, mortgage or other instrument to which the Lessor is or may become a party, other than Permitted Encumbrances, (iii) to the best of the Lessor's knowledge, violate or contravene any provision of any law, regulation, order, ruling or interpretation thereunder or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official (all as from time to time in effect and applicable to such entity), (iv) require any waivers, consents or approvals by any of the creditors or trustees for creditors of the Lessor, or (v) to the best of Lessor's knowledge, require any approval, consent, order, authorization, or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency except those actions that have been taken or shall be taken prior to the date of issuance of the Series 2011 Bonds, under any provision of any applicable law.

(d) The officers of the Lessor executing and delivering its Program Documents have been duly authorized to execute and deliver the same under the Act, and upon the Lessor's execution and delivery of the Program Documents, assuming the valid execution and delivery thereof by the other parties thereto, the Program Documents shall constitute valid and binding obligations of the Lessor, enforceable against the Lessor in accordance with their respective terms.

(e) There is no action, suit, proceeding or investigation at law or in equity by or before any court or public agency against the Lessor or, to the best of the Lessor's knowledge, (threatened against the Lessor (or, to the best of the Lessor's knowledge, is there any basis therefore) (i) that contests or would contest the Lessor's authority for, its authorization or performance of, or its expenditure of funds pursuant to any Program Document or that would preclude the Lessor from performing in accordance with the terms of any Program Document or (ii) wherein an unfavorable decision, ruling or finding would adversely affect (A) the

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### ARTICLE III

#### LEASE PAYMENTS

##### SECTION 301. Lease Payments.

(a) The Lessee agrees to pay to the Trustee the following Lease Payments, as rent for the Leased Property for the Term hereof, in immediately available funds, no later than when due, delivered to the principal corporate trust office of, or some other location designated by, the Trustee:

(i) For deposit in the Revenue Account of the Revenue Fund, Basic Lease Payments, as set forth in Sections 305 and 306 hereof and Exhibit A-3 hereof, on each Basic Lease Payment Date; and

(ii) For deposit in the Administrative Expense Account of the Administrative Fund, from time to time as provided herein, as Additional Lease Payments, all as set forth in Section 308 hereof;

(A) Administrative Expenses (including the Authority's annual Administrative Fee, but excluding those properly payable by the Applicable Series 2011 Local Unit(s)) at the times set forth in invoices to be received by the Lessee from the Trustee in accordance with the Bond Resolution, provided that no further invoice shall be required for payment of the annual Administrative Fee and the Trustee's annual fee in an annual amount not to exceed \$5,000, which shall be due and payable in advance on the first day of any Bond Year (except that the initial Administrative Fee shall be funded from a portion of the proceeds of the Series 2011 Bonds);

(B) Interest on any overdue Lease Payments at the Overdue Rate, which amounts shall be immediately due and payable to the extent any Lease Payments are overdue;

(C) The Purchase Option Price in accordance with Section 701 of the Company Lease Agreement;

(D) The Mandatory Purchase Price in accordance with Section 702 of the Company Lease Agreement; and

(E) All other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder or under the terms of any other Company Document, which shall be deposited in the Administrative Fund if no other direction is set

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transactions contemplated by the Program Documents or the validity of said documents or (B) any agreement or instrument to which the Lessor is a party and that is used or contemplated for use in consummation of the transactions contemplated by the Program Documents.

(f) Except for Permitted Encumbrances or as otherwise provided under the terms of the Program Documents, the Lessor shall not transfer, lease, assign, mortgage or encumber the Projects or the Trust Estate.

(g) Upon the exercise by the Lessee of its option to purchase the entire Renewable Energy Projects pursuant to Article VII hereof, the Lessor (i) shall deliver to the Lessee all of the documents that are or may be necessary to vest all of the Lessor's right, title and interest in and to the Renewable Energy Projects in the Lessee, and (ii) shall release all liens and encumbrances created under this Company Lease Agreement, or the other Program Documents with respect to the Renewable Energy Projects, all as provided in Article VII hereof.

(h) Simultaneously with the execution and delivery hereof, Lessor shall issue the Series 2011A Bonds and the Series 2011B Note to provide capitalized interest payments on the Series 2011A Bonds due June 15, 2012 and December 15, 2012. To the extent the Company proposes a Completion Project on one (1) or more existing Local Unit Facility or Facilities, whereby additional electricity can be generated at such Local Unit Facility or Facilities beyond that contemplated in the Company Proposal, Lessor may consider issuing Additional Bonds in an amount, together with all Outstanding Series 2011 Bonds, shall not exceed \$50,000,000. To the extent Lessor, in its sole discretion, determines the issuance of any such Additional Bonds is in the best interests of the Authority, the County and the Applicable Local Unit, the Authority shall issue such Additional Bonds in an amount sufficient to pay for any such Completion Project, any reserves or capitalized interest, as required, and the costs of issuance thereof, but only to the extent the Company Lease Agreement is amended and supplemented to increase the Basic Lease Payment schedule to reflect the issuance of such Series of Additional Bonds.

##### SECTION 203. Disclaimer of Lessor and Trustee.

THE TRUSTEE, BY ACCEPTANCE OF THE TRUSTS SET FORTH IN THE BOND RESOLUTION, AND THE LESSOR, BY ADOPTION OF THE BOND RESOLUTION, BY ISSUANCE OF THE BONDS AND BY EXECUTION AND DELIVERY OF ALL OTHER PROGRAM DOCUMENTS, MAKE NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF ANY PROJECT.

##### SECTION 204. Tax Covenants of Lessee.

There shall be no covenants herein arising from or otherwise relating to the issuance of the Series 2011 Bonds, as such Bonds shall not be issued as a Series of Tax-exempt Bonds.

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forth in the Company Documents or to the particular Fund or Account set forth in any such Company Document.

(iii) For deposit in the Restoration Security Fund, the amounts necessary to fund the Restoration Security Fund Requirement at the times and in the amounts as set forth in the definition thereof and Exhibit C to the Bond Resolution as Additional Lease Payments, all as set forth in Section 308 hereof;

(iv) For deposit in the County Security Fund, \$1,500,000, the initial amount of the County Security Fund Requirement for the County Reserve, to be funded by the Lessee no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, and thereafter, any deficiency in the County Security Fund Requirement shall be funded by the Company to the extent of any available funds after payment of all reasonable Company expenses and prior to any member distributions; and

(b) The Lessee shall be entitled to a credit against Basic Lease Payments for unused moneys held in the Project Fund in accordance with Section 510(c)(1)(B) hereof, and for earnings on other funds held by the Trustee and certain other Revenue Fund transfers in accordance with Section 310(h) hereof, all at the times and in the amounts and determined in accordance with the provisions of the Bond Resolution and this Company Lease Agreement; provided, however, that such credits, if applicable, shall be applied first to the Interest Portion and then the Principal Portion of Basic Lease Payments and second to Additional Lease Payments due, if any.

(c) Notwithstanding anything to the contrary herein, the Lessee may make any and all Lease Payments in immediately available funds through wire transfer or otherwise, to the extent the Trustee or other payee consents in writing to such method of delivery.

##### SECTION 302. Lease Payments to be Unconditional, Except for Power Purchase Price Payments; No Abatement or Set-Off.

(a) Except as set forth in clauses (i) and (ii) below, the obligation of the Lessee to make Lease Payments in full and when due shall be absolute and unconditional in all events, including without limitation any circumstance regarding the Projects, regardless of whether any such event shall be foreseen or otherwise, and regardless of whether any such event shall occur by accident or otherwise. The Lessee hereby acknowledges and irrevocably covenants that the terms of this Company Lease Agreement create a valid and binding obligation of the Lessee to make Lease Payments from any available source under all circumstances.

(i) Lessee shall receive a credit against the Interest Portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of all Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment

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Date.

(ii) Lessee shall receive a credit against the Principal Portion of any Basic Lease Payment due and owing on any Basic Lease Payment Date to the extent of any remaining Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee since the immediately prior Basic Lease Payment Date, after accounting for the application of the credit set forth in clause (i) above.

(iii) For purposes of applying this credit, Power Purchase Price Payments made by the Series 2011 Local Units and received by the Trustee within ten (10) Business Days of any Basic Lease Payment Date shall be deemed to have been received by the Trustee the Business Day after such Basic Lease Payment Date (and therefore the Lessee shall not be entitled to a credit for such amounts paid by the Series 2011 Local Units until the following Basic Lease Payment Date). The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the aggregate amount of all Power Purchase Price Payments made by the Series 2011 Local Units since the prior Basic Lease Payment Date that are available for such credit, (A) as of the date that is thirty (30) days prior to each Basic Lease Payment Date, and (B) on the Business Day immediately following the ten (10) Business Day credit cutoff date noted above.

(b) Notwithstanding any dispute between the Lessor and the Lessee, or between or among any party hereto and any one or more of any Renewable Energy Program Interested Party or any other person, in any case concerning any provision of any Program Document, the Lessee shall make all Lease Payments in full and when due, and the Lessee shall not withhold any Lease Payment pending final resolution of such dispute, nor shall the Lessee assert against the Lessor, the Trustee, any Renewable Energy Program Interested Party or any other person any right of set-off, recoupment or counterclaim against its obligation to make such Lease Payments, regardless of whether or not the Projects are completed, available for use, or used by the Lessee or any other Renewable Energy Program Interested Party, as applicable.

(c) However, nothing herein shall be construed to release the Lessor from the performance of its obligations hereunder; and if the Lessor should fail to perform any such obligation, the Lessee may institute such legal action against the Lessor as the Lessee may deem necessary to compel the performance of such obligation, but if and only if the Lessee is not in default under the terms of this Company Lease Agreement and if the Lessee shall have paid all amounts that are required to be paid pursuant to the terms of this Company Lease Agreement; and if the Lessee shall have performed all of its obligations under the terms of this Company Lease Agreement and continues to pay and perform as provided herein, the Lessee shall not be precluded from bringing any action it may otherwise have against the Lessor.

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### SECTION 303. Termination of Lease Term; Lease Payment Obligation.

The Lessee shall not terminate this Company Lease Agreement (other than such termination as is provided for under the terms of this Company Lease Agreement) or be excused from its obligations hereunder, including without limitation Lessee's obligations to make Lease Payments, for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute an eviction or constructive eviction, failure of consideration, failure of title or frustration of purpose, any damage to or destruction of any Project, the taking by eminent domain of title or the right of temporary use of all or any part of any Project, or the failure of the Lessor or any other Renewable Energy Program Interested Party to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation that arises out of or that is related to this Company Lease Agreement or any other Program Document.

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### SECTION 304. Return of Renewable Energy Projects upon Termination of Company Lease Agreement; CIP Acceptance State.

(a) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value (as defined in the Power Purchase Agreement) in accordance with Section 609(d) hereof, Lessee shall (i) take no action regarding the removal of any such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, or if none, the Local Unit Facilities to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or therefrom that would ordinarily degrade the state of any such Capital Improvement Projects, if any, or Capital Improvement Project from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from the Lessee's operation and maintenance of such Renewable Energy Projects.

(b) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are eligible for sale by the Lessee to the Applicable Series 2011 Local Units for Fair Market Value in accordance with Section 609(d) hereof, but no accommodation on sale price or other terms shall be reached in accordance with Section 3.7(b) of the Power Purchase Agreement, and the Lessee shall accordingly be prospectively entitled to the full use and enjoyment of any such Renewable Energy Projects, the Lessee shall (i) promptly remove such Renewable Energy Projects from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, for any such Applicable Series 2011 Local Units to the CIP Acceptance State, or if no Capital Improvement Projects, to the state of the Local Unit Facility prior to the commencement of the Local Unit License Agreement for each respective Series 2011 Local Unit, after giving effect to the normal wear and tear thereon or therefrom that would ordinarily degrade the state of any such Capital Improvement Projects or Local Unit Facility from the date of any such CIP Acceptance Certificate, or if none, from the date of the Applicable Local Unit License Agreement, to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, or Local Unit Facility, as applicable, from either (A) the Lessee's operation and maintenance of such Renewable Energy Projects or (B) the Lessee's removal of such Renewable Energy Projects.

(c) To the extent this Company Lease Agreement is terminated and the Renewable Energy Projects are sold by the Lessor to the Applicable Series 2011 Local Units for nominal consideration in accordance with Section 609(f) hereof (after a Lessee Event of Default), Lessee shall (i) take no action regarding the removal of any such Renewable Energy Projects

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from the Local Unit Facilities for such Applicable Series 2011 Local Units and (ii) expend such sums, and take all such other actions necessary to return the Capital Improvement Projects, if any, for any such Applicable Series 2011 Local Units to the CIP Acceptance State, after giving effect to the normal wear and tear thereon or therefrom that would ordinarily degrade the state of any such Capital Improvement Projects from the date of any such CIP Acceptance Certificate to the date of any such termination, the intent of this clause being for the Lessee to repair only such damage caused by or on behalf of the Lessee, including by any Contractor, to any such Capital Improvement Projects, if any, from the Lessee's operation and maintenance of such Renewable Energy Projects.

### SECTION 305. Basic Lease Payments; Principal Portion.

(a) The Principal Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of principal due and payable on the Bonds, including the Series 2011 Bonds, on the immediately succeeding Principal Payment Date, with respect to regularly scheduled Principal Payment Dates, all as set forth on Exhibit A-3 hereto, provided, however, that no Principal Portion of Basic Lease Payments shall be payable by the Lessee, or the Principal Portion of Basic Lease Payments shall be reduced, as applicable, (a) to the extent of a balance available for payment of principal on the Bonds on deposit in the Principal Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (i) a credit to the Principal Portion of Basic Lease Payments in accordance with (A) Section 302(n)(ii) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(e)(i)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 5.07(s)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(a)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award or (ii) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(iii)(B) hereof.

### SECTION 306. Basic Lease Payments; Interest Portion.

(a) The Interest Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of interest due and payable on the Bonds, including the Series

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2011 Bonds, on the immediately succeeding Interest Payment Date, with respect to regularly scheduled Interest Payment Dates, all as set forth on Exhibit A-3 hereto; provided, however, that no Interest Portion of Basic Lease Payments shall be payable by the Lessee, or the Interest Portion of Basic Lease Payments shall be reduced, as applicable, (a) for any period to the extent interest payable on the Bonds for such period shall have been previously provided to the Trustee as capitalized interest for deposit in the Capitalized Interest Account of the Debt Service Fund from proceeds derived from the sale of the Bonds and (b) to the extent of a balance available for payment of interest on the Bonds on deposit in the Interest Account of the Debt Service Fund as of any applicable Basic Lease Payment Date, as a result of (j) a credit to the Interest Portion of Basic Lease Payments in accordance with (A) Section 302(a)(i) hereof with respect to certain Power Purchase Price Payments made by the Series 2011 Local Units, (B) Section 310(b) hereof with respect to investment earnings and certain other Revenue Fund transfers, (C) Section 510(e)(7)(B) hereof with respect to excess amounts in the Project Fund, (D) Section 5.07(3)(a) of the Bond Resolution regarding the transfer of funds from the County Security Fund, if any, to the Aged Account of the Revenue Fund, (E) Section 701(a) of the Company Lease Agreement with respect to partial prepayments (provided that there is no additional credit to the extent of that portion of the partial prepayment, if any, funded from the County Security Fund (if any) transfer contemplated in clause (D) above in order to avoid the same funds being double counted), (F) Section 3.7(e)(iv)(A) of the Local Unit License Agreements for each Series 2011 Local Unit upon the revocation of their Local Unit License, or (G) Section 802(c) of the Company Lease Agreement with respect to certain application of the Net Proceeds of any insurance or condemnation award, or (H) otherwise.

(b) The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor) of the availability of any such additional credit, where notice has not otherwise been provided for herein, in the notice that the Trustee is obligated to send to the Company (with a copy to the Lessor) regarding the investment earnings credit in accordance with Section 302(a)(iii)(B) hereof.

**SECTION 307. Interest Calculation.**

The Interest Portion of Basic Lease Payments is equal to the interest accrued on the Bonds, including the Series 2011 Bonds. Interest on the Bonds is computed upon the basis of a 360-day year, consisting of twelve 30-day months.

**SECTION 308. Additional Lease Payments.**

(a) At the times required in the definition of "Administrative Fee", when not otherwise provided for from a portion of the proceeds of a Series of Bonds, including the Series 2011 Bonds, the Lessee shall pay the Administrative Fee to the Trustee as an Additional Lease Payment for deposit in the Administrative Expense Account of the Administrative Fund.

(b) The Lessee shall pay to the Trustee, for deposit in the Administrative Expense Account of the Administrative Fund as an Additional Lease Payment, from time to time

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consent, and any amounts that may be required to be paid into a rebate fund at the times required hereunder and under any such Tax Certificate.

**SECTION 309. General Obligation of Company to Make Lease Payments; Pledge of Reimbursement Collateral; Company Pledge Agreement.**

(a) The Lessee hereby covenants to make all Lease Payments due under this Company Lease Agreement, during the entire Lease Term, from any and all funds or other assets available to the Lessee, including without limitation, but not limited to, such economic benefits as may be conferred upon the Company pursuant to the Program Documents.

(b) **Pledge of Section 1603 Grant to Trustee.** Subject to American Recovery and Reinvestment Act of 2009, as security and further assurance for the Lessee's obligations to make certain initial Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Trustee a collateral security interest in the Section 1603 Grant, such grant of a collateral security interest to remain in effect only so long as set forth in the Company Pledge Agreement, including specifically Sections 2.01 and 7.11 thereof. At the Lessee's discretion for so long as the EPC Contractor is continuing to provide the In-Kind Equity Contribution and no Event of Default has occurred hereunder, the aforementioned security interest granted in favor of the Trustee may be subordinate to that of the EPC Contractor under the EPC Contract.

(c) **Pledge of Certain Revenues to Authority.** As security and further assurance for the Lessee's obligations to perform its obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby grants to the Authority a collateral security interest in any funds it may receive with respect to the following:

- (i) the sale of renewable energy produced by the Renewable Energy Projects under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements;
- and
- (ii) the sale of SRECs from the Renewable Energy Projects;
- and
- (iii) the Construction Performance Bond.

At the Lessee's discretion for so long as the EPC Contractor is continuing to provide the In-Kind Equity Contribution and no Event of Default has occurred hereunder, the aforementioned security interest granted in favor of the Authority may be subordinate to that of the EPC Contractor under the EPC Contract.

The Lessor hereby covenants that the security interest granted pursuant to this

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upon the Lessee's receipt from the Trustee of an invoice therefore in accordance with the terms of the Bond Resolution, reasonable compensation for all services rendered by the Trustee pursuant to the Bond Resolution, all reasonable expenses, charges, counsel fees and other disbursements (including those of the Trustee's attorneys, agents and employees) incurred in the performance of its powers and duties under the Bond Resolution, and any other Administrative Expenses.

(c) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, interest on any past due Lease Payment at the Overdue Rate in accordance with Section 1007 hereof.

(d) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Purchase Option Price in accordance with Section 701 hereof, reflecting the optional redemption of a Series of Bonds, including the Series 2011 Bonds.

(e) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the Mandatory Purchase Price in accordance with Section 702 hereof, reflecting the acceleration or any other mandatory payment of a Series of Bonds, including the Series 2011 Bonds.

(f) The Lessee shall immediately pay to the Trustee, as an Additional Lease Payment, the amounts required to fund the Restoration Security Fund at the Restoration Security Fund Requirement, in the amounts and at the times as set forth in Section 5.07(9) and Exhibit C to the Bond Resolution. Notwithstanding the foregoing, however, the Lessee shall be required to pay to the Restoration Security Fund an amount to bring the balance therein to the Restoration Security Fund Requirement from time to time if the Lessee has sufficient available cash flow to fund the same after making all other payments payable by the Company during such year; provided, however, in no event shall cash flow distributions be made to the members of the Company in any year in which the Restoration Security Fund is required to be funded to the extent the Restoration Security Fund is not funded in such year to the level required by the Restoration Security Fund Requirement.

(g) The Lessee shall make a one-time payment of \$1,500,000 payable no later than the earlier of (i) ninety (90) days after completion of the Renewable Energy Projects or (ii) March 15, 2013, for deposit by the Trustee in the County Security Fund to satisfy the County Security Fund Requirement.

(h) The Lessee shall pay to the Trustee as an Additional Lease Payment all other amounts, costs, liabilities and obligations that the Lessee assumes or agrees to pay to the Lessor or to others hereunder, under the Bond Resolution, under the Tax Certificate for any Series of Tax-exempt Bonds or under any other Program Document, including without limitation deficiencies in the payment of principal (including mandatory sinking fund installments) of and interest on Bonds when due as may be contemplated by Article V of the Bond Resolution, which Article shall not be amended by Lessor to add any such payment obligation without Lessee's

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Section 309(c) shall not, provided no Event of Default has occurred and is continuing, adversely affect any of the Lessee's:

- (A) use and enjoyment of the Renewable Energy Projects,
- (B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements, or
- (C) SRECs.

(d) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee shall and hereby does acknowledge

(i) that the Lessor has the right to deliver the County Security Agreement, if any, in accordance with the provisions of Section 5.07 of the Bond Resolution, whereupon the Reimbursement Collateral shall be assigned and pledged by the Lessor to the County and the County Security Provider, if any, in accordance with the terms of the County Guaranty Agreement and such County Security Agreement, respectively, as to which terms the Lessor hereby covenants that the rights of the County and the County Security Provider to the Reimbursement Collateral shall not adversely affect any of the Lessee's:

- (A) use and enjoyment of the Renewable Energy Projects,
- (B) sale of the renewable energy produced therefrom under the Power Purchase Agreement to the respective Series 2011 Local Units under the respective Local Unit License Agreements, or
- (C) SRECs,

in all cases prior to the date of an Event of Default caused by the Lessee, it being the express intent of the parties that any such assignment and pledge of the Reimbursement Collateral is only to protect the County and/or the County Security Provider to the extent any such Renewable Energy Program Interested Party shall not have been reimbursed for funds expended under the Program Documents due to the Lessee's actions or inactions under the Program Documents, and it being the further express intent of the parties that any and all such remedies flowing from any such Event of Default caused by the Lessee are within the Lessee's control to prevent by complying with the terms of this and all

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other Program Documents, including without limitation the making of Lease Payments in full and on time,

(ii) upon an Event of Default, including an occurrence as a result of the Lessee's failure to make its Lease Payments on time and in full, the Lessee's rights to the Leased Property may be terminated in accordance with the terms hereof, and the County and the County Security Provider, if any, may realize all or a portion of the Reimbursement Collateral in accordance with the terms of their respective County Guaranty Agreement and County Security Agreement, if any and as applicable, which economic benefits comprising the Reimbursement Collateral had been previously available to the Lessee, and would continue to be so available, should any such Event of Default never occur or be timely cured.

(e) As security and further assurance for the Lessee's obligations under the Company Documents, including the making of Lease Payments at the times, in the amounts, and otherwise in accordance with the terms and provisions of this Company Lease Agreement, the Lessee hereby covenants to deliver the Company Pledge Agreement from the Pledgor defined in the Company Pledge Agreement contemporaneously herewith, and in any event, no later than the issuance of the Series 2011 Bonds, the terms of which Company Pledge Agreement are hereby acknowledged and accepted by the Lessee.

(f) The Lessee, as debtor, authorizes the Trustee, on behalf of itself as creditor, and the Lessor, as creditor, to file UCC1 financing statements with respect to the foregoing pledge of collateral contemplated by this Section 309.

#### SECTION 310. Investment of Bond Resolution Funds; Credit for Certain Investment Earnings.

(a) The Lessor shall cause the monies in the Funds and Accounts established under the Bond Resolution to be invested in accordance with the provisions of Section 5.11 of the Bond Resolution; provided, however, that the Lessee may direct the Lessor in writing to cause the Trustee to invest the Project Fund, the County Security Fund and the Restoration Security Fund in any investment Securities available under the Bond Resolution; absent any such direction from the Lessee, the Lessor may cause the investment of the Project Fund, the County Security Fund and the Restoration Security Fund in such Investment Securities as the Lessor shall determine.

(b) (i) To the extent interest earnings on any such Funds or Accounts are transferred to the Aged Account of the Revenue Fund in accordance with the provisions of Section 5.11(3) and (4) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such earnings, plus interest earned thereon as of any such Basic Lease Payment Date, against the next due Interest Portion of Basic Lease

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Payments due and owing from the Lessee, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied or if additional interest earnings are on deposit in the Aged Account, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), within ten (10) Business Days after each Basic Lease Payment Date, of the amount of such interest earnings credit available to the Company as of the next Basic Lease Payment Date.

(ii) To the extent the amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Interest Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(i) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Interest Portion of Basic Lease Payments due and owing from the Lessee, and if not fully applied, against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

(iii) To the extent amount on deposit in the Aged Account of the Revenue Fund, including interest earnings thereon, are transferred to the Principal Account of the Debt Service Fund in accordance with the provisions of Section 5.05(4)(b)(ii) of the Bond Resolution prior to any Basic Lease Payment Date, the Lessee shall be entitled to a credit in the amount of such transfer against the next due Principal Portion of Basic Lease Payments due and owing from the Lessee, and if still not fully applied, against the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied. The Lessor shall cause the Trustee, pursuant to the terms of the Bond Resolution, to notify the Company in writing (with a copy to the Lessor), promptly after any such transfer, of the amount of such transfer credit available to the Company as of the next Basic Lease Payment Date.

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### ARTICLE IV

#### LEASE OF LEASED PROPERTY; TERM OF COMPANY LEASE AGREEMENT

##### SECTION 401. Lease of Leased Property.

(a) The Lessor hereby agrees to (i) finance its share of the Renewable Energy Projects and the Capital Improvement Projects, if any, for the Series 2011 Local Units, through the issuance of the Series 2011 Bonds, the balance of which shall be financed by or on behalf of the Lessee through the Equity Contribution, and (ii) enter into the Local Unit License Agreements with the Series 2011 Local Units, thereby giving the Lessor nominal ownership of the Renewable Energy Projects, and providing the Company with a license and access to the Local Unit Facilities for the Series 2011 Local Units.

(b) The Lessee hereby agrees to (i) design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects as described on Exhibit A-1 hereof and (ii) design, permit, acquire, construct, renovate, and install the Capital Improvement Projects, if any, as described on Exhibit A-2 hereof, all for the Series 2011 Local Units.

(c) Upon the acquisition of title to the Leased Property from the Contractor (the timing of which does not adversely affect the Lessee's obligations hereunder, including the obligations to make Lease Payments), the Lessor hereby agrees to lease to the Lessee, except for the Reserved Rights, all of its right, title and interest in and to the Leased Property for the duration of the Lease Term hereof, and to grant to the Lessee an option to purchase the Leased Property as set forth in Article VII hereof. The Lessee hereby agrees to take and lease from the Lessor, other than the Reserved Rights, all of the Lessor's right, title and interest in and to the Leased Property on the terms and conditions set forth in this Company Lease Agreement, including, without limitation, all of the Lessee's duties and obligations under the Program Documents. The lease of the Leased Property from the Lessor to the Lessee is also intended to convey to the Lessee any product of the Leased Property, including any right, title and interest of the Lessor in and to the SRECs and the right to electricity generated from the Renewable Energy Projects for the Series 2011 Local Units at their respective Local Unit Facilities, subject to the terms and conditions of the Program Documents. The Lessor hereby acknowledges the Lessee's intent to exercise such option to purchase the Leased Property during or upon the termination of the Lease Term.

(d) It is an express purpose of this Company Lease Agreement that the benefits and burdens of owning the Leased Property being conveyed by the Lessor to the Lessee pursuant to this Company Lease Agreement be such that the Lessee shall be deemed to be the owner of the Leased Property for purposes of the Code. Accordingly, Lessor and Lessee agree and acknowledge that, for federal income tax purposes: (i) Lessee will treat the use of Series 2011 Bond proceeds to purchase, construct and install the Renewable Energy Projects as construction loan advances of Series 2011 Bond proceeds to Lessee by Authority; (ii) Lessee will treat all payments (or credits against such payments) made under this Company Lease Agreement

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as payments of interest and principal to the Authority with respect to such construction loan, with an allocation of principal and interest based upon the Authority's related principal and interest payments on the Series 2011 Bonds; and (iii) Lessee will report all payments made by the Series 2011 Local Units under the Power Purchase Agreements as revenues earned by Lessee. Notwithstanding the foregoing, for State law purposes, Lessor and Lessee agree that under the Program Document structure, any benefit to the Company shall be deemed incidental, the primary purpose of the Renewable Energy Program being to provide the Series 2011 Local Units with electricity at multi-year locked in rates to the greatest extent practicable below tariff, which goal has been effectively realized through the financing structure contemplated by the Program Documents.

##### SECTION 402. Lease Term.

(a) This Company Lease Agreement shall be and remain in effect with respect to the Leased Property (the "Lease Term") commencing on the date of authorization, execution, authentication and delivery of the Series 2011 Bonds that shall finance, among other things, the Renewable Energy Project component of the Leased Property, and continuing until terminated as provided for in this Section 402. The Term of this Company Lease Agreement shall terminate upon the occurrence of the first of the following of events:

(i) The exercise by the Lessee of its option or its requirement to purchase the Lessor's entire interest in the Leased Property pursuant to Article VII hereof;

(ii) The occurrence and continuation of an Event of Default hereunder by the Lessee and the Lessor's election to exercise remedies under this Company Lease Agreement pursuant to Section 1002 hereof;

(iii) Subject to an extension of this Company Lease Agreement in accordance with clause (iv) below, which provisions shall control even if the other requirements of this clause (iii) have been satisfied, the occurrence of all of the following: (A) the payment by the Lessee of all Lease Payments, which requirement as to Basic Lease Payments (unless sooner terminated or extended in accordance with the provisions hereof) shall be fully satisfied on December 15, 2027 (unless extended by an amendment hereto resulting from the issuance of Additional Bonds), (B) the Bonds, including the Series 2011 Bonds, shall no longer be Outstanding under the Bond Resolution, and if the provisions of Section 703(b) are applicable, and (C) on the date specified in the Certificate of Authorized Officer of the Lessee required by Section 703(b)(iii); or

(iv) The expiration date of any extension to the initial term of this Company Lease Agreement, which initial term would be determined by clauses (i), (ii), and (iii) above, as such extension date shall be set forth in any amendment of this Company Lease Agreement (in accordance with the

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amendment provisions of Section 1103 hereof), to the extent permitted under then applicable law.

(b) Notwithstanding the foregoing, this Company Lease Agreement shall be in effect until all the obligations created hereunder have been fulfilled.

(c) Notwithstanding the foregoing, any termination by reason of clause (a)(ii) above shall not alter or terminate the Lessee's unconditional payment obligations hereunder, including Sections 302 and 309 hereof.

#### SECTION 403. Net Lease.

(a) The Lessee intends for the Lease Payments to be net to the Lessor. The obligation of the Lessee to pay Lease Payments shall be absolute and unconditional and shall in no way be released, discharged or otherwise affected for any reason, including, without limitation, (i) any defect in the condition, quality or fitness for use of, or title to, any Project or (ii) any damage to or abandonment, destruction, requisition or taking of any portion of any Project.

(b) The Lessee shall comply with and pay all (i) local, state and federal taxes incurred with respect to the design, permitting, acquisition, construction, renovation, installation, operation, maintenance, ownership, possession or use of any Renewable Energy Project or the design, permitting, acquisition, construction, renovation or installation of any Capital Improvement Projects, including, without limitation, income, franchise, gross receipts, sales, use, documentary stamp, excise and real and personal property taxes, (ii) payments in lieu of taxes, assessments, licenses, registration fees, freight and transportation charges and any other charges imposed or liabilities incurred with respect to the design, permitting, acquisition, construction, renovation, installation, operation, maintenance, ownership, possession or use of any Renewable Energy Project or the design, permitting, acquisition, construction, renovation or installation of any Capital Improvement Projects, (iii) Lease Payments, and (iv) penalties, fines or interest imposed on any of the foregoing during the Lease Term.

(c) The Lessee shall pay, from a portion of the proceeds of the Bonds or otherwise, all reasonable expenses incurred by the Lessor in connection with all filings and recordings of any documents relating to this Company Lease Agreement, the other Company Documents, or the Lessor's rights hereunder and thereunder. The Lessor shall have the right to make any of the payments required of the Lessee, but shall not be obligated to pay the same, and to charge such payment with interest at the Overdue Rate from the due date thereof through the date of payment as an Additional Lease Payment to be paid by the Lessee with the next Basic Lease Payment due under this Company Lease Agreement.

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#### SECTION 502. Construction of Project.

(a) The Lessee shall be responsible for entering into the Development Agreement with the Developer and for the letting of Development Contracts with Contractors for (a) the design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for all of the Series 2011 Local Units, (b) the design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for all of the Series 2011 Local Units, (c) the completion and acceptance of the Renewable Energy Projects in accordance with the Plans and Specifications therefor and the other terms hereof, including the filing of the REP Acceptance Certificates in accordance with Section 510(d)(i) hereof, (d) the completion of the Capital Improvement Projects in accordance with the Plans and Specifications therefor and the other terms hereof, including the filing of the CIP Acceptance Certificates in accordance with Section 510(d)(ii) hereof, and (e) all other matters that are incidental to the performance of the duties and powers that are expressly granted to the Lessee herein in connection with any of the foregoing. The Lessee may carry out its functions hereunder without obtaining any further approval of the Lessor; provided, however, that the Lessee shall issue monthly reports to the Lessor and the Applicable Series 2011 Local Unit detailing the progress of the foregoing and the anticipated completion dates thereof.

(b) After complying with the notification provisions of this subsection (b), the Lessee shall enter into one or more Development Contracts with the Contractor(s) providing for (i) the design, permitting, acquisition, construction, installation, operation and/or maintenance of the Renewable Energy Projects in accordance with the Plans and Specifications and/or (ii) the design, permitting, acquisition, construction, renovation, and/or installation of the Capital Improvement Projects in accordance with the Plans and Specifications. At least five (5) Business Days prior to the Lessee's entering into of each such Development Contract, the Lessee shall notify and provide each of the Lessor, the Applicable Series 2011 Local Unit and the Construction Manager with substantially final drafts thereof. Within a reasonable period of time thereafter, the Lessor, the Applicable Series 2011 Local Units and/or the Construction Manager shall notify the Lessee of any deviation therein from the Plans and Specifications for the Projects or from applicable law, if any. The Lessee shall, in its discretion, determine to incorporate or disregard any such advice into the final form of such Development Contracts; provided, however, that any such action or inaction shall not relieve the Lessee from completing the Projects in accordance with the agreed upon Plans and Specifications and in accordance with all applicable law. After such five (5) Business Day notice period, the Lessee may enter into such Development Contracts, providing only that final executed copies thereof be delivered to each of the Lessor, the Applicable Series 2011 Local Unit and the Construction Manager. After such execution, the Lessee shall cause each Contractor to perform its obligations under the Development Contracts, and shall deliver the completed Project available for occupancy and use by the Company with respect to the Renewable Energy Projects and the Applicable Series 2011 Local Unit with respect to the Capital Improvement Projects, on or before December 14, 2012, as such date may be extended in accordance with the Program Documents.

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## ARTICLE V

### CONSTRUCTION OF PROJECT; CARE AND USE; DRAW PROCEDURES

#### SECTION 501. Design of Project.

(a) Within ninety (90) days of the execution and delivery of this Company Lease Agreement, the Lessee shall cause preliminary Plans and Specifications to be prepared by one or more Architects or other Contractors with respect to all of the Projects for all of the Series 2011 Local Units and within the parameters set forth in the Company RFP. In preparing or causing the preparation of such preliminary Plans and Specifications, the Lessee expressly acknowledges that the Lessor shall only be providing financing, through the issuance of the Series 2011 Bonds, for the Maximum Net Bond Funded Project Cost Amount, and that any costs and expenses beyond such amount, except for any Completion Projects agreed in writing to be financed by the Lessor, are to be borne solely and wholly by the Lessee from any available funds.

(b) Copies of the Plans and Specifications, when in form satisfactory to the Lessee, shall be promptly delivered to the Lessor and the Applicable Series 2011 Local Units for the review, comment and approval of the Applicable Series 2011 Local Units. Within five (5) Business Days of receipt, each Applicable Series 2011 Local Unit shall have reviewed, and either commented on or approved the Plans and Specifications prepared by the Lessee for each respective Series 2011 Local Unit. To the extent approval from any Series 2011 Local Unit shall not be received, the Lessee shall promptly modify the Plans and Specifications to address the Series 2011 Local Unit's reasonable concerns, whereupon the Lessee shall resubmit the Plans and Specifications to the Lessor and the Applicable Series 2011 Local Unit for further review, comment and approval. Such process shall continue until the Lessor and Lessee have received the approval of all of the Series 2011 Local Units; provided however, that both parties and the Applicable Series 2011 Local Units shall endeavor to complete the review, comment and approval process within one (1) month of the original submission to the Lessor and the Series 2011 Local Units. Notwithstanding any other provision of this Agreement or any other Company Document, to the extent an Applicable Series 2011 Local Unit does not adhere to the timetable set forth in this Section 501(b), then the required completion date for the respective Renewable Energy Project shall be extended by a time period equal to the delay by the Applicable Series 2011 Local Unit.

(c) Promptly after having received the respective Series 2011 Local Unit approvals of the Plans and Specifications related to their respective Projects, the Lessee shall submit or cause the submission of such Plans and Specifications to all other federal, state or local governmental or quasi-governmental agencies having jurisdiction over the Projects or any part thereof, and shall receive any required Project permits or approvals.

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(c) None of the Lessor, the Series 2011 Local Unit or the Trustee makes any warranties or representations or accepts any liabilities or responsibilities with respect to or for the adequacy, sufficiency or suitability of, or defects in or with respect to, the design, permitting, acquisition, construction, renovation or installation of the Project.

#### SECTION 503. Construction Performance Bond and Other Guaranty.

Any Development Contracts authorized to be entered into by the Lessor under the terms of this Company Lease Agreement in connection with the design, permitting, acquisition, construction, and installation of the Renewable Energy Projects and the design, permitting, acquisition, construction, renovation and installation of the Capital Improvement Projects shall be let in accordance with the requirements set forth in Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP attached as part of Exhibit A-1 hereto. The Lessor shall cause each Contractor to provide a Construction Performance Bond covering, with respect to the portion of the Projects to which the Development Contract applies, the (a) performance of the Development Contract, including coverage for correction of defects developing within one year after completion of construction and commencement of commercial operation of each Project, and (b) payment for labor and materials, in each case issued by a responsible surety company qualified to do business in the State. Such bond or bonds shall name the Lessor, the Lessee as co-obligees, or shall otherwise entitle the Lessor to draw upon such Construction Performance Bond, and shall be in amounts equal to the fixed contract price plus the Equity Contribution, if not so included in the fixed contract price; provided, however, that the one-year post completion and commencement of commercial operation portion may be limited to ten percent of the Development Contract price allocated to such Project in the Development Contract.

#### SECTION 504. Default in Contractors' Performance.

(a) In the event of default of the Contractor, including any subcontractor, under any Development Contract made in connection with any Project, the Lessee shall promptly proceed, either separately or in conjunction with others, to exhaust the remedies of the Lessee against the Contractor or any subcontractor so in default and against each surety for the performance of such Contractor or subcontractor. All such actions shall be construed to be Costs of the Project for purposes of this Company Lease Agreement, inasmuch as the same shall be necessary to enable any such Project to be designed, permitted, constructed, acquired, renovated or installed in accordance with the terms hereof and of the Development Contracts. The Lessee agrees to advise the Lessor, in writing, of the steps it intends to take in connection with any such default. If the Lessee shall so notify the Lessor, the Lessor may, in good faith, in its own name or in the name of the Lessee, with notice to the Lessee, prosecute or defend any action or proceeding or take such other action involving the Contractor, including any subcontractor, or surety that the Lessor deems reasonably necessary, and in such event the Lessor hereby agrees to cooperate fully with the Lessee, but at the sole cost and expense of the Lessor. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing shall be paid into the Project Fund or the Revenue Fund, as shall be determined by the Lessee.

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(b) In the event that the Lessee is unable to comply with its requirements under this Company Lease Agreement prior to the execution of any Acceptance Certificate or if for any reason the design, permitting, acquisition, construction, renovation and installation of any Project is delayed, there shall be no resulting liability on the part of the Lessor and there shall be no diminution in or postponement of the amounts that are due and payable by the Lessee to the Lessor under the terms of this Company Lease Agreement.

**SECTION 505. Additional Rights of Lessee.**

The Lessor agrees that the Lessee shall, at its own expense, have the right to make immaterial changes to any Project or to make such additions, modifications and improvements thereto as in the Lessee's judgment are necessary to enable it to perform its obligations under this Company Lease Agreement without materially impairing the Project or materially changing the design of the Project from the Plans and Specifications; provided, however, that none of the foregoing shall in any way damage the Project or cause the Project to be used for purposes other than those authorized under the provisions of all applicable law. With respect to any such additions (only) to the Project in accordance with the provisions of this Section 505, such additions shall for all purposes of this Company Lease Agreement be deemed to be and remain the property of the Lessee and shall not become part of the Project, and any such item may be removed, altered or changed by the Lessee upon or before the termination of this Company Lease Agreement; provided, however, that such removal, alteration or change shall not damage the Project or, if any such damage shall occur, the Lessee shall repair the same at its sole cost and expense.

**SECTION 506. Maintenance and Use of Project; Lessor Access; Repairs Not to Create Liens.**

(a) With respect to the Renewable Energy Projects or a portion thereof financed under this Company Lease Agreement, the Lessee shall, at its own and sole expense, maintain, preserve and keep such Projects or any portion thereof, as the case may be, in good repair, working order and condition, and shall from time to time make all repairs, replacements and improvements necessary to keep such Projects or any portion thereof in such condition. The requirements to repair and keep the Capital Improvement Projects in good working order shall remain with the owners thereof, the Applicable Series 2011 Local Units.

(b) The Lessee agrees that the Lessor and the Applicable Series 2011 Local Unit shall have the right (but not the obligation) to enter upon the premises at reasonable times and upon reasonable notice in a reasonable manner where the Renewable Energy Projects or a portion thereof, as the case may be, is located in order to inspect the same for the purpose of assuring that such Renewable Energy Projects are being properly maintained, preserved and kept in good repair and condition. The Lessee further agrees that the Lessor or the Applicable Series 2011 Local Unit shall have such rights of access to such Renewable Energy Projects as may be reasonably necessary to cause the proper maintenance, preservation and keeping in good repair of

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may be expressly set forth in the Program Documents.

**SECTION 508. Lessee's Negligence.**

Subject to Section 608 hereof, the Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Projects, or any portion thereof, and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of the Lessee or of Contractors or other third parties, and whether such property damage be to the Lessee's property or to the property of others, which injury, death or damage is proximately caused by the negligent conduct of the Lessee or its officers, employees and agents, including any Contractors. The Lessee hereby assumes responsibility for and agrees to reimburse the Lessor and the Applicable Series 2011 Local Unit for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorneys' fees), of whatsoever kind and nature, imposed on, incurred by or asserted against the Lessor or the Applicable Series 2011 Local Unit that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part upon the negligent conduct of the Lessee or its officers, employees and agents, to the maximum extent permitted by law.

**SECTION 509. Project Costs; Payment.**

(a) The Project Costs to be incurred by the Lessee, or on behalf of the Lessee by any Contractor, relating to the acquisition, construction, and installation of the Renewable Energy Projects and the acquisition, construction, renovation and installation of the Capital Improvement Projects for all Series 2011 Local Units have been estimated by the Lessee under the Company RFP to be an aggregate amount not to exceed the sum of the Maximum Gross Bond Funded Project Cost Amount plus the Equity Contribution. Accordingly, the Lessor shall cause the Series 2011 Bonds to be issued, and further, shall cause the Maximum Net Bond Funded Project Cost Amount to be deposited in the Project Fund upon issuance of the Series 2011 Bonds pursuant to Section 2.03(7)(e)(i) and (ii) of the Bond Resolution. The Lessee represents that such initial deposit of the Maximum Net Bond Funded Project Cost Amount, together with interest to be earned thereon prior to disbursement in accordance with the terms hereof and of the Bond Resolution giving rise to the Maximum Gross Bond Funded Project Cost Amount, together with the Equity Contribution, shall be sufficient to pay all of the Costs to design, permit, acquire, construct, and install all of the Renewable Energy Projects and to design, permit, acquire, construct, renovate, and install all of the Capital Improvement Project Costs, in either case for all of the Series 2011 Local Units on, in or about their Local Unit Facilities and in accordance with the Plans and Specifications.

(b) It is expressly acknowledged by the Lessee and the Lessor that the Lessor shall be under no obligation to issue any Bonds in an amount in excess of the Maximum Net Bond Funded Project Cost Amount to fund any Project Cost, including the Costs of any Completion Project related to either the Renewable Energy Projects or the Capital Improvement Projects of the Series 2011 Local Units on, in or about their Local Unit Facilities, unless the Authority agrees to issue a Series of Additional Bonds pursuant to the provisions of Section

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such Renewable Energy Projects in the event of a failure by the Lessee to perform its obligations hereunder, which rights of access shall in no way imply any obligation on the part of the Lessor or the Applicable Series 2011 Local Unit.

(c) The Lessee shall not permit any mechanic's or materialmen's or other lien to be established or remain against any portion of the Projects for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the Lessee pursuant to Section 505 hereof and this Section 506, other than Permitted Encumbrances; provided, however, that if any such lien is established and the Lessee notifies the Lessor of its intention so to do, the Lessee may, in good faith, contest any lien filed or established against the Projects and, in such event, permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such item, the interest of the Lessor or the Applicable Series 2011 Local Unit in such Project shall be materially endangered or such Project or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide the Lessor and the Applicable Series 2011 Local Unit with full security against any such loss or forfeiture. The Lessor shall cooperate, and shall cause the Applicable Series 2011 Local Unit to cooperate fully with the Lessee in any such contest upon such request at the sole cost and expense of the Lessee.

**SECTION 507. Possession and Enjoyment of Projects during Lease Term.**

(a) From and after the execution and delivery of the REP Acceptance Certificate with respect to the applicable Renewable Energy Projects, the Lessor hereby agrees that during the Lease Term the Lessee, so long as the Lessee is not in default hereunder, shall have the quiet use and enjoyment of such Renewable Energy Projects, and the Lessee shall during such Lease Term peaceably and quietly have, hold and enjoy such Renewable Energy Projects, without suit, trouble or hindrance from the Lessor, any 2011 Local Unit, or any party claiming under or through the Lessor or such Local Unit, except as expressly set forth in the Program Documents. The Lessor and the Applicable Series 2011 Local Unit shall, at the request of the Lessee and at the Lessee's sole cost and expense, join in any legal action in which the Lessee asserts its right to such possession and enjoyment against any third-party to the extent the Lessor and the Applicable Series 2011 Local Unit lawfully may so do; in addition, the Lessee, while not in default hereunder, may in its discretion and at its sole cost and expense bring any such action in the name of the Lessor.

(b) From and after the execution and delivery of the CIP Acceptance Certificate with respect to the applicable Capital Improvement Projects, if any, the Lessor and the Lessee hereby agrees that during the Lease Term, the Applicable Series 2011 Local Unit, as fee owner thereof, shall have the quiet use and enjoyment of such Capital Improvement Projects, and the Applicable Series 2011 Local Unit shall during such Lease Term peaceably and quietly have, hold and enjoy such Capital Improvement Projects, without suit, trouble or hindrance from the Lessor or the Lessee, or any party claiming under or through the Lessor or the Lessee, except as

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202(h) hereof.

(c) Any Project Costs in excess of such estimated Project Cost amount as set forth in subsection (a) above shall be solely borne by and solely paid from any funds available to the Lessee (which shall not include monies under the Bond Resolution, absent the Lessor's written consent). The Lessee hereby covenants to complete all of the Projects in accordance with the Plans and Specifications regardless of the actual Costs of such Projects and regardless of the amounts remaining on deposit in the Project Fund to pay such Project Costs. To the extent the Lessee shall complete all of the Projects in accordance with the Plans and Specifications in an aggregate amount less than any such deposit, plus estimated investment earnings, in the amount of such estimated Project Costs, any excess amounts remaining on deposit in the Project Fund, after the final Acceptance Certificate shall have been filed by the Lessee in accordance with the terms hereof, shall be applied as a credit to the next due Basic Lease Payments otherwise due and owing by the Lessee in accordance with Section 510(e)(1)(B) hereof and Section 5.02(3)(b) of the Bond Resolution.

(d) The Lessee shall cause moneys on hand from time to time in the Project Fund, held by the Trustee, to be made available for payment of all Project Costs, in the manner provided herein for submission of Draw Papers, including Sections 510 and 511 hereof, and in the Bond Resolution, including Sections 5.02(1) and 5.02(2)(a) thereof. The Lessee may cause moneys on hand from time to time in the Project Fund held by the Trustee to be made available for payment of all Company Development Fees and Expenses up to an aggregate amount of \$800,000 unless the Lessee receives the written acknowledgment of a higher ceiling from the Lessor, through the submission of a Certificate of an Authorized Officer of the Lessee substantially in the form of Exhibit D hereto, and otherwise following the terms set forth in Section 5.02(2)(b) of the Bond Resolution; provided, however, that notwithstanding the foregoing, the Lessee may not withdraw moneys from the Project Fund for payment of Company Development Fees and Expenses in excess of \$500,000, excluding those third-party and other Company Development Fees and Expenses approved by the Authority and paid upon issuance of the Series 2011A Bonds or thereafter, until the Company has satisfied, or caused the satisfaction of, all of the Completion Conditions. The Lessee, at its sole discretion, may apply less of the aggregate amount on deposit in the Project Fund and earmarked for payment of Company Development Fees and Expenses to such purpose, and instead apply all or a portion of such earmark (including any interest earned thereon) toward Costs of the Renewable Energy Projects or Capital Improvement Projects in the manner contemplated by Sections 510 and 511 hereof, and Section 5.02(2)(a) of the Bond Resolution. Any moneys remaining on deposit in the Project Fund, including interest earnings, upon the payment of all Project Costs (for which the Company shall submit Draw Papers) and all Company Development Fees and Expenses (for which the Company shall submit such Exhibit D form Certificate), shall be applied in the manner set forth in Section 510(e) hereof.

**SECTION 510. Submission of Draws; Procedures; Acceptance Certificates.**

(a) As payments are required for the Project under this Company Lease

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Agreement, the Lessee shall prepare and assemble the Draw Papers (as defined below) and submit them to the Trustee.

(b) On or before 10:00 a.m. EST on each date on which the Lessee intends to submit Draw Papers requisitioning funds held by the Trustee in the Project Fund for Costs of the Renewable Energy Projects or Capital Improvement Projects for an Applicable Series 2011 Local Unit (each a "Draw Date"), the Lessee shall advise the Trustee in writing of the aggregate amount of funds needed for disbursement to pay such Project Costs. An amount equal to the lesser of (i) such aggregate amount of funds needed and (ii) the amount of funds available in the Project Fund (and not otherwise earmarked to pay the Costs of the Projects for the other Series 2011 Local Units) shall be applied to the payment of such Project Costs upon submission of the Draw Papers in accordance with subsection (c) below.

(c) Except as otherwise provided in Section 5.11 hereof, the Lessee shall cause the Trustee to make payments from the Project Fund to the Contractors under the Development Contracts or other third-party vendors, in either case for Costs of the Projects, but only after the Lessee shall have supplied the Trustee with a duly authorized, completed and executed requisition from the Lessee substantially in the form of Exhibit C hereto (together with any attachments thereto, the "Draw Papers"), each executed by the Lessee, acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.1(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and acknowledged as to form only by the Lessor (in accordance with Section 4.1(e) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), stating with respect to each such payment to be made: (i) the requisition number, (ii) the name and address of the Contractor, other person, other corporation or other entity to which payment is due or, if for reimbursement to the Lessee, to which Contractor, other person, other corporation or other entity and when payment has previously been made by the Lessee, and as applicable in either case, the Development Contract under which such payment is or was due, (iii) the amount to be paid, (iv) the Renewable Energy Project or Capital Improvement Project to which such payment is to be applied, including the Applicable Series 2011 Local Unit and their Local Unit Facility, (v) that such payment obligation has been properly incurred in accordance with the Plans and Specifications, is an item of the Cost of such Project, is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal, (vi) that attached thereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Lessee. Lessee also agrees to file a monthly Initial Project Workforce Form AA201, and (vii) the amount being requisitioned shall not exceed seventy percent (70%) of any Renewable Energy Project Cost for which payment is being sought, it being expressly understood by the Lessee that for each requisition being submitted, the Lessee shall pay or cause to be paid at least thirty percent (30%) from the Equity Contribution (the ratio of not exceeding seventy percent (70%) payment from requisition and at least thirty percent (30%) payment from Equity Contribution for each Project Cost for which a requisition is submitted shall be defined herein as the "Draw Paper Ratio"), substantially in the form of, and consistent with the instructions included in, Exhibit C-1 attached hereto, with the Lessor and the Division of Public Contracts

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when the Lessee has submitted all Draw Papers respecting Costs of such Capital Improvement Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed, renovated and installed in accordance with the Plans and Specifications therefor, (z) when all such Capital Improvement Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Capital Improvement Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit, and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only. Each such CIP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.3(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), and until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.3(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager); and

(e) If, upon the completion of the design, permitting, acquisition, construction, renovation and installation of all of the Projects for the Series 2011 Local Units on or prior to December 14, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), as evidenced by the filing of all Acceptance Certificates by the Company, as duly acknowledged by the Series 2011 Local Units and the Lessor, on or prior to December 14, 2012 (as such date may be extended due to a Force Majeure event or events or a Local Unit Event of Default under the Applicable Local Unit License Agreement), all in accordance with the terms hereof, of the Bond Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, then upon the Trustee's receipt of the final Acceptance Certificate so designated, the Trustee shall, without any further authorization, (i) transfer any surplus funds remaining on deposit in the Project Fund to the Debt Service Fund for application as a credit to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and if still not fully applied, then to the next due future interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied, all unless the provisions of Section 5.02 of the Bond Resolution require application otherwise, in which case the Trustee shall (ii) apply any such surplus funds remaining on deposit in the Project Fund in accordance with the terms of Section 5.02 of the Bond Resolution. To the extent the final Acceptance Certificate for all of the Series 2011 Local Units shall not have been filed by the

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Equal Opportunity Compliance, through and including the month after the final Acceptance Certificate has been filed.

(d) From time to time, in accordance with the terms of the Company Lease Agreement, the Local Unit License Agreements with respect to the Series 2011 Local Units, and this Bond Resolution, the Lessee shall file with the Trustee, duly authorized, completed, executed, acknowledged, and delivered Acceptance Certificates in the form of Exhibit B hereto at the following times and with respect to the following matters, and upon receipt thereof, the Trustee shall take the following actions:

(i) The Lessee shall file with the Trustee (A) the REP Acceptance Certificates in the form of Exhibit B-1 hereto, one for each Series 2011 Local Unit, signed by an Authorized Officer of the Lessee with respect to the Renewable Energy Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, (x) when the Lessee has submitted all Draw Papers respecting Costs of such Renewable Energy Projects or the Completion Project related thereto, if any, to be paid from the Project Fund that are eligible to be approved with respect thereto for each such Series 2011 Local Unit, (y) when all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been designed, acquired, constructed and installed in accordance with the Plans and Specifications therefor, (z) when all such Renewable Energy Projects or Completion Project related thereto, as the case may be, for each such Series 2011 Local Unit have been accepted by the Lessee and such Series 2011 Local Unit, and (B) a statement regarding the funds remaining on deposit in the Project Fund earmarked for any such Renewable Energy Projects, if any, all in accordance with Section 5.02 of the Bond Resolution. Each such REP Acceptance Certificate shall not be filed by the Lessee with the Trustee until so acknowledged by the Applicable Series 2011 Local Unit (in accordance with Section 4.2(c) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager), until each such Certificate shall be further acknowledged by an Authorized Officer of the Lessor as to form only (in accordance with Section 4.2(d) of the Local Unit License Agreements, including the authority therein to delegate such right and obligation to the Construction Manager) and until accompanied by one or more Interconnection Agreements with respect to all such Renewable Energy Projects or Completion Projects related thereto;

(ii) The Lessee shall file with the Trustee (A) the CIP Acceptance Certificates in the form of Exhibit B-2 hereto, one for each Series 2011 Local Unit that is financing Capital Improvement Projects with a portion of the proceeds of the Bonds, signed by an Authorized Officer of the Lessee with respect to such Capital Improvement Projects or, where applicable, any Completion Project related thereto, for each such Series 2011 Local Unit, (x)

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Lessee, as duly acknowledged by the Series 2011 Local Units and the Lessor, all in accordance with the terms hereof, of the Bond Resolution, and of the Local Unit License Agreements for the Series 2011 Local Units, on or prior to December 14, 2012, as extended if applicable (thereby causing an Event of Default hereunder, but not under the Bond Resolution), the Trustee shall transfer any funds remaining on deposit in the Project Fund as set forth in a Certificate of an Authorized Officer of the Authority, as required pursuant to the provisions of Section 5.02(3)(b) of the Bond Resolution.

#### SECTION 511. Reimbursement to Lessee from Monies in the Project Fund.

Notwithstanding the provisions of Section 510 hereof to the contrary, the Lessee shall be entitled to submit Draw Papers to the Trustee and receive reimbursement for the amounts set forth in such Draw Papers for advances made with respect to the Projects, prior to a given Draw Date, so long as the Lessee submits the requisite requisition and supporting copies of invoices prior to being reimbursed directly by the Trustee.

#### SECTION 512. Construction Period Insurance.

Each Contractor shall be required to provide and maintain in force during the entire acquisition, construction, renovation or installation period of all Projects, and prior to the Contractor's performance of work under any Development Contract, builder's risk or property damage insurance (in an amount not less than the full value of all work done and materials and equipment provided or delivered by the Contractor and, in any event, not less than the applicable Purchase Option Price at such time), comprehensive liability insurance, worker's compensation insurance and any other insurance required by law or customarily maintained with respect to like projects. All such policies of insurance shall show the Lessor, the Lessee and the Applicable Series 2011 Local Unit as named insureds, in such amounts as their interests may appear. Evidence of such insurance shall be filed with the Lessor. Notwithstanding the foregoing, the EPC Contractor and the Company will not be required to maintain property insurance concurrently. The EPC Contractor shall supply builder's risk insurance until completion and the Company shall supply property insurance thereafter.

#### SECTION 513. Taxes and Other Governmental Charges and Utility Charges.

The Lessee shall pay when due all gas, water, steam, electricity, heat, power, telephone and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Renewable Energy Projects. The Lessee shall also pay all property and excise taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Renewable Energy Projects or any part thereof or the Lease Payments, which become due during the Term of this Company Lease Agreement with respect thereto, and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Renewable Energy Projects; provided, however, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only

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such installments as are required to be paid during the Term of this Company Lease Agreement and when the same become due. The Lessee shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate or other similar tax payable by the Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any real estate or other tax upon property and arises out of or is levied upon the Lessor's interest in the Renewable Energy Projects hereunder.

The Lessee may, at its own expense and in its or the Lessor's name, contest in good faith any such taxes, assessments or utility or other charges (and the Lessor shall cooperate fully in any such contest) and, in the event of any such contest, permit such taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items, the interest of the Lessor in the Renewable Energy Projects shall be materially endangered, or the Renewable Energy Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss or forfeiture that may result from nonpayment.

**SECTION 514. Site Visits.**

The Lessor shall visit the site of the Project at least quarterly to monitor the acquisition, construction, renovation and installation of the Projects by the Lessee and/or the Contractors, as the case may be.

**SECTION 515. Construction Manager.**

At its sole discretion, the Lessor may employ one or more Construction Manager, payable from a portion of the proceeds of the Series 2011 Bonds in excess of the Maximum Net Bond Funded Project Cost Amount, to act on behalf of the Lessor in exercising any of its rights, or in discharging any of its duties and obligations under this Company Lease Agreement or other Program Document with respect to the (a) design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects for the Series 2011 Local Units and/or the (b) design, permitting, acquisition, construction, renovation, and installation of the Capital Improvement Projects for the Series 2011 Local Units.

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insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee, provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

**SECTION 603. Auto Liability Insurance.**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard comprehensive automobile liability insurance policy or policies in protection of the Lessee, the Lessor, and the Applicable Series 2011 Local Unit. Said policy or policies shall be written in a comprehensive form, shall comply with N.J.S.A. 39:6b-1 et seq. and all local regulations and case law regarding the scope and effect of the New Jersey Compulsory Motor Vehicle Insurance Statute, and shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage arising from the maintenance, use or operation of any owned or non-owned vehicle used in or in connection with the Projects. Said policy or policies shall provide coverage in an amount not less than \$1,000,000.00, shall be maintained. Such coverage will include all owned, non-owned, leased and/or hired motor vehicles, which may be used by Lessee in connection with the services, required under the Power Purchase Agreement. Such auto liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried or required to be carried by the Lessee, and may be maintained in whole or in part in the form of self-insurance by the Lessee; provided, however, that such self-insurance complies with the provisions of Section 614 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

**SECTION 604. [Reserved].**

**SECTION 605. Worker's Compensation Insurance.**

If required by State law, the Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, worker's compensation insurance covering all of Lessee's and its Contractors' employees on, in, near or about the Projects, and, upon request, shall furnish to the Lessor certificates evidencing such coverage. To the extent the Lessee is procuring or maintaining such insurance, such coverage may, at the option of the Lessee, be provided through a self-insurance program that is established and operating in conformity with all applicable State law. To the extent that any other entity is procuring or maintaining such insurance, such insurance shall be provided under a policy written by an insurance company approved by the State in a minimum amount of \$1,000,000 for damage

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**ARTICLE VI**

**INSURANCE; TITLE TO PROJECT AND OTHER MATTERS**

**SECTION 601. Insurance Coverage for the Projects.**

The Lessee shall procure and maintain or cause to be procured and maintained, from and after the date it accesses a Local Unit Facility and through the balance of the Term of this Company Lease Agreement and in accordance with the further terms of this Article VI, (i) public liability insurance, including, without limitation, bodily injury and property damage coverage, (ii) auto liability insurance, including, without limitation, bodily injury and property damage coverage, (iii) worker's compensation insurance, and (iv) property insurance, including, without limitation, fire and comprehensive other risk coverage, all to be procured and maintained with an insurance company approved by the State and such insurance policy or policies naming the Lessee, the Lessor and the Applicable Series 2011 Local Units as insureds or, if the Lessee elects and receives the consent of the Lessor, the Lessee shall provide to the Lessor a Certificate of an Authorized Officer of the Lessee to the effect that adequate reserves are deposited and maintained in trust with an independent trustee in the amounts sufficient to cover the loss or damage to any Project. Any insurance proceeds in excess of the Purchase Option Price for all of the Bonds Outstanding at such time with respect to the Projects under this Company Lease Agreement shall be remitted to the Lessee. Notwithstanding the foregoing, the timing of delivery of insurance required by this Company Lease Agreement can be changed with a Certificate of an Authorized Officer of the Authority.

**SECTION 602. Public Liability Insurance.**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, a standard commercial general liability insurance policy or policies in protection of the Lessee, the Lessor and the Applicable Series 2011 Local Units. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by the operation or ownership of the Projects. Said policy or policies shall provide coverage in the amount of \$1,000,000.00. This coverage must be in writing on an occurrence form, claims made policies will be unacceptable. This Comprehensive General Liability insurance shall cover the Lessee, the Authority, each of the Series 2011 Local Units and their employees, agents and officers from and against any claim arising out of personal injury of Lessee or the Lessee's failure to comply with the terms of this Company Lease Agreement. Such policy or policies of insurance shall include coverage for claims of any persons as a result of an incident directly or indirectly related to the employment of such persons by a Lessee or by any other persons. This coverage shall include blanket contractual insurance and such coverage shall make express reference to the indemnification provisions set forth in this Company Lease Agreement. The policy shall also be endorsed to include coverage for products, completed operations, and independent contractors. Such public liability

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resulting from a single accident or event.

**SECTION 606. Excess Liability**

The Lessee shall procure and maintain or cause to be procured and maintained, throughout the Term of this Company Lease Agreement, an excess liability insurance policy or policies in protection of the Lessee, the Lessor, and the Applicable Local Unit Facility, each applicable Series 2011 Local Unit. Said policy or policies shall be in the amount of \$4,000,000.00 shall be in the form of an Umbrella policy rather than a following form excess policy. This policy or policies shall be specifically endorsed to be excess of the required Comprehensive General Liability Coverage, the Employers' Liability Coverage on the Workers' Compensation policy, and the Comprehensive Automobile Liability policy.

**SECTION 607. Other Insurance and Requirements for All Insurance.**

All insurance required by Article V hereof or this Article VI (a) may be carried under a separate policy or a rider or endorsement, (b) shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State, or may be maintained as part of any insurance pool permitted under the laws of the State, (c) shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the Lessor at least thirty (30) days before the cancellation or revision becomes effective, and (d) shall name the Lessee, the Lessor and the Applicable Series 2011 Local Units as insured parties as their respective interests may appear. The Lessee shall deposit with the Lessor original policies evidencing any such insurance procured by it or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy, the party obligated under the terms of this Company Lease Agreement to maintain such insurance shall furnish to the other party evidence that the policy has been renewed or replaced by another policy conforming to the provisions of Article V hereof and this Article VI, unless such insurance is no longer obtainable in which event such party shall notify the other party of this fact and the Lessee shall thereafter self-insure pursuant to the terms of this Article VI. Neither the Trustee nor any Applicable Series 2011 Local Unit shall have responsibility with respect to any determinations as to the sufficiency of any insurance required under this Company Lease Agreement nor as to the compliance by the Lessee with the provisions of the Bond Resolution regarding insurance.

**SECTION 608. Indemnification.**

The Lessee shall (a) indemnify and save harmless the Lessor and the Series 2011 Local Units and their agents, employees, officers and directors from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of any breach or non-performance by the Lessee of its obligations under this Company Lease Agreement, or negligence or misconduct by the Lessee in

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connection with such performance or non-performance, or the ownership, rental, possession, operation, condition, sale or return of the Projects, and (b) reimburse the Lessor or the Series 2011 Local Units for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Lessor or the Series 2011 Local Units may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Lessor or the Series 2011 Local Units, as applicable, has acted with gross negligence or willful misconduct in connection with the liabilities for which the Lessor or the Series 2011 Local Units, as applicable, is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 608 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefore by the Lessor or the Series 2011 Local Units, as applicable (which demand cannot be made prior to the Lessee's receipt thereof), and shall survive the termination or expiration of this Company Lease Agreement.

**SECTION 609. Title to Projects Upon Termination of Company Lease Agreement.**

(a) Upon the financing of the Renewable Energy Projects with a portion of the proceeds of the Bonds and the filing of the RFP Acceptance Certificates, the Lessor shall be the holder of title to such Renewable Energy Projects for all State law purposes, subject to the lease of the Leased Property contemplated hereby. Upon the filing of the CIP Acceptance Certificates, if any, the parties hereto acknowledge that the respective Series 2011 Local Units shall be the fee owners of the respective Capital Improvement Projects described in any such Certificates. The parties further acknowledge that the Lessor may assign the Reimbursement Collateral pursuant to the terms of the County Security Agreement, if any, and/or the County Guaranty Agreement. So long as no Event of Default shall have occurred and be continuing hereunder, the Lessor shall not sell, assign or alienate all or any part of the Renewable Energy Projects (but such provision shall not apply to the Capital Improvement Projects, the Lessor having no interest therein) or any interest therein to any other Renewable Energy Program Interested Party or other third-party (other than to the Lessee pursuant to Article VII hereof), it being the purpose and intent hereof that the Lessee shall have the option to purchase all of the Lessor's right, title and interest in and to the Renewable Energy Projects during or upon the termination of this Company Lease Agreement, with credit toward the Basic Lease Payments for any such purchase price paid, all in accordance with Article VII hereof.

(b) Upon the termination of this Company Lease Agreement in accordance with Section 402(a)(iii) or (iv) hereof, (i) all of the Lessor's right, title and interest in and to the Renewable Energy Projects (and not the Capital Improvement Projects, the Lessor having no interest therein) shall be deemed sold, for purposes of State law, by the Lessor to the Lessee for the consideration of all previous Basic Lease Payments, and to the extent the Lessor was deemed to have a fee interest therein or to have retained title thereto for purposes of State law, such interest shall be deemed extinguished under State Law and such title thereto shall be deemed

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conditions, all in accordance with the provisions of Section 5.2(d) of the Local Unit License Agreement for any such Applicable Series 2011 Local Unit.

(c) Upon the termination of this Company Lease Agreement due to a Lessee Event of Default in accordance with Section 402(a)(ii) hereof, (i) Lessor shall possess full right, title and interest in and to the Renewable Energy Projects for all of the Series 2011 Local Units (but not the Capital Improvement Projects, if any, which title shall remain with the respective Series 2011 Local Units), (ii) Lessee shall have no further leasehold or other right, title and interest in and to such Renewable Energy Projects (nor any such Capital Improvement Projects), (iii) except for the rights of the Series 2011 Local Units to effect a nominal value purchase of their respective Renewable Energy Projects in accordance with subsection (f) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessee and its officers shall take all actions necessary to authorize, execute and deliver to the Lessor any and all documents necessary to vest in the Lessor all of the Lessee's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessee or the Lessor to be prepared and filed with the Lessee and the Lessor, and, upon the request of the Lessee or the Lessor, shall execute and deliver to the Lessee and the Lessor all such instruments as may be desirable to evidence such discharge and satisfaction.

(f) Upon the termination of this Company Lease Agreement as contemplated in Section 609(c) above, the parties acknowledge that the right, title and interest in and to the Renewable Energy Project developed for any one or more Series 2011 Local Units may be sold by the Lessor to any such Applicable Series 2011 Local Unit for nominal consideration in accordance with the provisions of Section 5.2(a)(iv) of the Local Unit License Agreement for such Applicable Series 2011 Local Unit.

(g) Notwithstanding any other provision of this Section 609, in no event shall there be any transfer of any Renewable Energy Project or any interest therein to any person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event. The expression "Tax Benefit Recapture Event" means an event which would entitle the United States Department of the Treasury or the Internal Revenue Service to require that the Lessee return all or part of the Section 1603 Grant in lieu of tax credit received in connection with the Renewable Energy Projects, or to disallow the Lessee's tax deductions or recapture all or a portion of the investment tax credits previously claimed with respect to investments in energy property for depreciation.

**SECTION 610. No Further Encumbrances; Exceptions.**

(a) The Lessee shall not, directly or indirectly, create, incur, assume or suffer

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automatically and without further action conveyed by Lessor to Lessee, (ii) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(c) Upon the termination of this Company Lease Agreement due to an optional or mandatory pre-purchase of the Renewable Energy Projects in accordance with Section 402(a)(i) and Sections 701 or 702, as applicable, hereof, (i) the rights of the Lessor and the Lessee in the title to the Renewable Energy Projects (but not the Capital Improvement Projects, which title shall remain with the respective Series 2011 Local Units) shall be as set forth in Section 703 hereof, (ii) except for the rights of the Series 2011 Local Units to effect a fair market value purchase of their respective Renewable Energy Projects in accordance with subsection (d) below, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects, free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(d) Upon the termination of the Power Purchase Agreement, the parties acknowledge that (i) the Company and each Series 2011 Local Unit shall have thirty (30) days from any such termination to negotiate a fair market value purchase price for the Renewable Energy Project developed for any such Applicable Series 2011 Local Unit and (ii) to the extent the Company and any such Applicable Series 2011 Local Unit can agree to any such fair market value purchase price for such Renewable Energy Project, the parties acknowledge that the right, title and interest in and to such Renewable Energy Project may be sold by the Lessee to any such Applicable Series 2011 Local Unit for such fair market value price, and any other terms and

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to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Projects, other than the respective rights of the Lessor and the Lessee as herein provided and the Permitted Encumbrances or in any other Program Document. Except as expressly provided in this Article VI, the Lessee shall promptly, at its own expense, take such action as may be necessary to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Lessee shall reimburse the Lessor and/or the Applicable Series 2011 Local Units, as applicable, for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

(b) The Lessee may, at its own expense and in its name, contest in good faith any taxes, assessments or utility and other charges and, in the event of any such contest, permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any such items the interest of the Lessor in the Projects shall be materially affected or the Projects or any part thereof shall be subject to loss or forfeiture, in which event the Lessee shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss that may result from nonpayment, in form satisfactory to the Lessor.

**SECTION 611. Trustee Indemnification.**

The Lessee shall (a) indemnify and save harmless the Trustee and its agents, employees, officers and directors from and against any and all liabilities, including, without limitation, all claims, demands, damages, losses, costs, penalties, charges and expenses (including, but not limited to, reasonable attorneys' fees) in any way relating to or arising from (i) the development, ownership, possession, operation, condition, sale, rental, sub-rental or return of the Projects, (ii) the Program Documents, and (iii) any resignation by the Trustee in accordance with Section 10.07(2) of the Bond Resolution; and (b) reimburse the Trustee for all losses, costs, charges and expenses (including, but not limited to, reasonable attorneys' fees) that the Trustee may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing; provided, however, that no indemnification or reimbursement shall be due to the extent that the Trustee has acted with negligence or willful misconduct in connection with the liabilities for which the Trustee is seeking indemnification or reimbursement. All amounts that become due from the Lessee under this Section 611 shall be credited with any amounts received by the Trustee from insurance provided by the Lessee, shall be payable by the Lessee within thirty (30) days following demand therefore by the Trustee, and shall survive the termination or expiration of this Company Lease Agreement.

**SECTION 612. Advances.**

If the Lessee shall fail to perform any of its obligations under this Company Lease Agreement, the Lessor or the Applicable Series 2011 Local Units may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and the Lessee shall be obligated to repay all such advances on demand to the Lessor or

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the Applicable Series 2011 Local Units, as the case may be, as Additional Lease Payments with interest at the Overdue Rate from the date of the advance to the date of repayment.

**SECTION 613. Net Proceeds of Insurance; Form of Policies.**

(a) Each policy of insurance obtained pursuant to or required by this Article VI shall provide that all Net Proceeds thereunder shall be payable (i) with respect to the Renewable Energy Projects, to the Lessor for deposit with the Trustee in the Project Fund, the Revenue Fund or such other Fund or Account under the Bond Resolution, in any event as directed by the Lessee, but only so long as the Lessee has not caused an Event of Default hereunder, in which latter case such Net Proceeds shall be payable to the Lessor, (ii) with respect to the Capital Improvement Projects, to the Applicable Series 2011 Local Unit, or at their direction, to the Trustee for deposit in the Project Fund, or other Fund or Account under the Bond Resolution, or (iii) if not discernible as to Project or otherwise, payable to the Lessor or at the Lessor's direction, to the Trustee for deposit in the Project Fund, the Revenue Fund, or other Fund or Account under the Bond Resolution.

(b) The Lessee shall pay or cause to be paid when due the premiums for all insurance policies required by this Company Lease Agreement, and shall promptly furnish or cause to be furnished to the Lessor and the Series 2011 Local Units evidence of such payments. All such policies shall provide that the Applicable Series 2011 Local Units and the Lessor shall be given not less than thirty (30) days' notice of each expiration, any intended cancellation and any intended reduction of the coverage provided thereby.

(c) Neither the Applicable Series 2011 Local Units nor the Authority shall be responsible for the sufficiency of any insurance herein required, and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Applicable Series 2011 Local Units or the Authority, as the case may be.

(d) The Lessee shall cause to be delivered to the Applicable Series 2011 Local Units and the Lessor on each anniversary of the date of issuance of the Series 2011 Bonds a Certificate of an Authorized Officer of the Lessee, satisfactory to the Applicable Series 2011 Local Units and the Lessor, that the insurance policies required by this Company Lease Agreement are in full force and effect.

**SECTION 614. Self-Insurance.**

Self-insurance, in lieu of policy coverage, maintained by the Lessee pursuant to this Article VI shall only be deemed to comply with this Article VI to the extent all of the following are satisfied:

(a) The self-insurance program shall be acceptable to the Lessor, the Applicable Series 2011 Local Units and the Lessee, as evidenced by Certificates of Authorized

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Officers to such effect;

(b) The self-insurance program shall be approved by an Independent Insurance Consultant;

(c) The self-insurance program shall include an actuarially sound claims reserve fund out of which each self-insured claim shall be paid; the adequacy of each such fund shall be evaluated on an annual basis by an Independent Insurance Consultant; and any deficiencies in any self-insurance claims reserve fund shall be remedied in accordance with the recommendation of an Independent Insurance Consultant;

(d) The self-insurance claims fund shall be held in a separate trust fund by an independent trustee, which independent trustee may also be the Trustee serving as such under the Bond Resolution;

(e) The self-insurance program shall comply in every particular with all applicable law; and

(f) In the event the self-insurance program shall be discontinued, the actuarial soundness of its claims reserve fund, as determined by an Independent Insurance Consultant, shall be maintained.

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**ARTICLE VII**

**OPTION TO PURCHASE; PREPAYMENT OF LEASE PAYMENTS**

**SECTION 701. Lessee's Prepayment and Purchase Option; Purchase Option Price.**

(a) The Lessee is hereby granted the option to prepay its Basic Lease Payments in part, in accordance with Section 8.07 of the Bond Resolution. Any partial prepayment shall not affect the Lessor's right, title and interest in and to the Renewable Energy Projects, nor the Series 2011 Local Units' right, title and interest in and to the Capital Improvement Projects. At the Lessee's option, as directed in a Certificate of an Authorized Officer of the Company delivered by the Company to the Trustee, the Lessor, and the County accompanying any such partial prepayment, any such partial prepayment shall be either (i) credited to the next due Interest Portion of Basic Lease Payments due from the Lessee, and if not fully applied, to the next due Principal Portion of Basic Lease Payments due from the Lessee, and then to the next due future Interest Portion, and then Principal Portion, of Basic Lease Payments until fully applied or (ii) applied to defease Outstanding Bonds in the manner contemplated by Article XII of the Bond Resolution, and in the amounts and on the dates as set forth in any such partial prepayment Certificate of the Company, which in the case of such defeasance option selected by the Company, such Certificate of the Company shall be acknowledged by an Authorized Officer of the Authority to the effect that such dates and amounts conform to the requirements of the Bond Resolution. Upon any such partial prepayment, new schedules reflecting the revised Basic Lease Payments due from the Lessee, taking into account any such partial prepayment, shall be attached by the Lessor hereto.

The Lessee may not utilize funds in the County Security Fund or Restoration Security Fund, if any, toward any such partial prepayment; provided, however, that such limitation does not extend to monies previously released from the County Security Fund and transferred to the Aged Account in the Revenue Fund in accordance with Section 5.07(3)(a) of the Bond Resolution at the time of any such partial prepayment; provided, further however, that such limitation does not extend to such amounts that would be eligible for release pursuant to the calculations referred to in Section 5.07(3)(a) of the Bond Resolution immediately after any such partial prepayment (to the extent the Series 2011 Bonds will not be redeemed simultaneously with the prepayment, the Series 2011 Bonds that will be defeased upon the prepayment shall not be considered Outstanding for purposes of such calculations, and therefore can be released and applied to any such prepayment if the calculations so warrant release), to the extent the Lessor has verified such calculations in writing to the Lessee and the Trustee. In any such instance where this limitation does not so extend, the Lessee may direct the Trustee in writing, with a copy to the Lessor, to apply any such amounts in the County Security Fund, if any, to any such partial prepayment, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(b) The Lessee is further hereby granted the option to prepay and purchase all

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of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, if any) in whole, at the times set forth in Section 701(c) hereof, by paying to the Trustee the "Purchase Option Price", which for any date of calculation shall be the sum of (i) the aggregate amount of unpaid principal of the Bonds to their maturity date under the terms of the Bond Resolution and as set forth in the Lessee's notice to the Trustee of such prepayment, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the final maturity date set forth in clause (i) above, (iii) the redemption premium, if any, applicable to the payment of the Bonds on the maturity date set forth in clause (i) above, and (iv) any costs of redemption or defeasance or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

The Lessee may direct the Trustee in writing, with a copy to the Lessor, that all or a portion of the Purchase Option Price (where all of the Outstanding Bonds shall be paid) shall be funded from the County Security Fund, if any, and the Lessor shall cause the Trustee, pursuant to the terms set forth in the Bond Resolution, to promptly comply with any such direction.

(c) The prepayment options set forth in subsections (a) and (b) above may be exercised by the Lessee at any time by (i) giving written notice to the Trustee and the Lessor of the exercise of such option at least fifty-two (52) days prior to the final maturity date set forth in such notice, and (ii) if the prepayment shall occur before January 15, 2021, complying with any other requirements of Article XII of the Bond Resolution that may be required by the Trustee or the Lessor to defease the Bonds in accordance with the terms of the Bond Resolution, including, without limitation, a verification report from a nationally recognized accounting firm approved by the Trustee and the Lessor to the effect that the amount so prepaid shall equal the Purchase Option Price (for a full prepayment) and shall therefore be sufficient to defease the Bonds (in whole or in part, as the case may be) by paying all of the principal thereof and redemption premium, if any, thereon through and including the final maturity thereof, plus all interest accruing thereon to such final maturity date. Such option shall be exercised by depositing with said notice cash and/or Investment Securities in such amount as shall be sufficient, together with interest to accrue thereon, to pay the Bonds to be defeased on said redemption date.

(d) Notwithstanding any provision herein or in any Program Document to the contrary, the Lessee may not advance refund, currently refund or otherwise refund any Series of Bonds with bonds, notes or other obligations of the Lessee, or such other moneys available to the Lessee, and use such moneys to make any prepayments hereunder unless (i) provision has been made by the Lessee for the payment of all (A) principal of, redemption premium if any, and interest on the Series of Bonds being refunded to any redemption date and (B) Administrative Expenses of the Lessor relating thereto, and (ii) if applicable, prior written notification of any such refunding has been given to the Lessor. Notwithstanding the foregoing, the Lessor may, in its sole discretion at the times and under the circumstances and for the purposes set forth in the Bond Resolution, advance refund, currently refund, or otherwise refund any Series of Bonds, the allocation of the benefit from which shall be determined between the Lessor and the Lessee at the time of any such defeasance and/or refunding.

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**SECTION 702. Mandatory Prepayment and Purchase of Project; Mandatory Purchase Price.**

(a) Upon the acceleration of the Bonds, the Lessee shall forthwith prepay and purchase all of the Renewable Energy Projects (but not the Capital Improvement Projects, if any) by paying to the Trustee, immediately upon receipt of notice of such acceleration, the "Mandatory Purchase Price", which for any date of calculation shall be the sum of (i) the aggregate amount of the unpaid principal of the Bonds, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the date that the amount in clause (i) above has been paid in full, and (iii) any costs of acceleration or other Administrative Expenses incurred by any party to a Program Document in implementing such prepayment.

(b) In the event the Mandatory Purchase Price remains unpaid when due, the Lessee shall make an Additional Lease Payment immediately due and payable equal to, for any date of such deficiency, the amount of such deficiency times the per diem Overdue Rate.

**SECTION 703. Effect of Prepayment.**

(a) In the event of a deposit sufficient to purchase the Renewable Energy Projects (but not the Capital Improvement Projects, if any) pursuant to Section 701 or 702 hereof and to pay any and all amounts due hereunder, (i) all of the Lessor's right, title and interest in and to such Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest) shall be deemed sold to the Lessee for the consideration set forth in such Sections, (ii) except for the rights of the Series 2011 Local Units to effect a Fair Market Value purchase of their respective Renewable Energy Projects in accordance with Section 609(d) hereof, to the extent all Lease Payments have been made by the Lessee in full, all other covenants, agreements and obligations of the parties hereto under this Company Lease Agreement shall cease, terminate, and be deemed discharged and satisfied, and (iii) the Lessor and its officers shall take all actions necessary to authorize, execute and deliver to the Lessee any and all documents necessary to vest in the Lessee all of the Lessor's right, title and interest in and to the Renewable Energy Projects (but not the Capital Improvement Projects, as to which the Lessor has no right, title or interest), free and clear of all liens, leasehold interests and encumbrances, including, if necessary, a release of any and all liens or interests created under the provisions of this Company Lease Agreement. In such event, the Trustee shall cause a statement of debits and credits for such period or periods as shall be requested by the Lessor or the Lessee to be prepared and filed with the Lessor and the Lessee, and, upon the request of the Lessor or the Lessee, shall execute and deliver to the Lessor and the Lessee all such instruments as may be desirable to evidence such discharge and satisfaction.

(b) Notwithstanding anything to the contrary herein or in any Program Document, including without limitation subsection (a) above, to the extent the Lessee has satisfied all of the conditions of subsection (a) above in order to terminate this Company Lease Agreement, including the payment of all amounts due and owing hereunder and under the other Company

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**ARTICLE VIII**

**DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS**

**SECTION 801. Damage, Destruction and Condemnation.**

(a) If either (i) the Projects or any portion thereof are destroyed or damaged by fire or other casualty or (ii) title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by any governmental body, other than Sussex County, a division of Sussex County Government, any Series 2011 Local Unit, or by any person, firm or corporation acting under governmental authority, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to purchase the Project in whole by paying the then applicable Purchase Option Price in accordance with Section 701 hereof and causing the Lessor to deposit, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so deposit, such Net Proceeds with the Trustee in the Revenue Fund, the Debt Service Fund, or such other Fund or Account that would allow the application of the Net Proceeds toward the Purchase Option Price. Subsections (y) and (z) above are mutually exclusive.

(b) If title to or the temporary use of the Projects or any part thereof, or the interest of the Lessor, the Applicable Series 2011 Local Unit or the Lessee in the Projects or any part thereof, shall be taken under a valid exercise of the power of eminent domain by Sussex County, a division of Sussex County Government, or any Series 2011 Local Unit, and provided the Lessee shall not have caused an Event of Default hereunder, in which event the Net Proceeds shall be applied as directed by the Lessor, the Lessee shall have the following mutually exclusive rights to cause the application of Net Proceeds sufficient to perform either of the following, which the Lessee may exercise in its sole discretion: (y) the Lessee shall cause the application of any Net Proceeds to the prompt repair, restoration, modification, improvement, construction or installation of the Project by causing the Lessor to transfer, and upon the Lessor's receipt of a Certificate of an Authorized Officer of the Lessee to such effect the Lessor shall so transfer, such Net Proceeds to the Trustee for deposit in the Project Fund, thereby allowing the Lessee to file with the Trustee the appropriate Draw Papers to requisition such Net Proceeds from the Project

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Documents, and at the date all of such conditions are satisfied, (i) the Lessee is not in any continuing default or Event of Default hereunder or under any Company Document, (ii) the term of one (1) or more Local Unit License Agreements with one (1) or more Series 2011 Local Units has not expired, (iii) the Lessee delivers to the Lessor and such Series 2011 Local Unit a Certificate of an Authorized Officer of the Lessee expressing the Lessee's interest in continuing the term of this Company Lease Agreement to a specified date which date shall be no later than the termination date of any such Local Unit License Agreements, then without any further action (a) the Company Lease Agreement shall not terminate, but rather shall continue for a term no longer than the termination date of the Applicable Local Unit License Agreement, all as set forth in any such Certificate, (b) the Lessee's only remaining payment obligations under the Company Lease Agreement are to pay rent for the Leased Property in an amount that shall be the sum of (I) the Authority's annual Administrative Fee, (II) any Administrative Expense that Lessee causes the Authority, the County or any such Series 2011 Local Unit to incur, both as Additional Lease Payments hereunder, there being no continuing obligation to make Basic Lease Payments as the Series 2011 Bonds and any Additional Bonds that are Outstanding are either defeased or redeemed under the Bond Resolution, and (III) ten (10) dollars per annum, payable annually in advance, (c) the Lessee can only cause an Event of Default hereunder should the Lessee fail to pay such amounts, fail to operate and maintain the Applicable Renewable Energy Project, or fail to allow the Applicable Series 2011 Local Unit to discharge its obligations under its Local Unit License Agreement, such as to take and pay for the Electricity generated under the Renewable Energy Program by the Lessee for the benefit of any such Series 2011 Local Unit, and (d) the Company retains all other rights, duties and obligations under the Program Documents, until the termination of the Applicable Local Unit License Agreement with respect to the particular Project, including without limitation the right to receive the PPA Price, as escalated, for the duration of any such term. The Lessee may continue this arrangement with the Authority and more than one (1) Series 2011 Local Unit, to the extent all such conditions are satisfied with respect to any other Series 2011 Local Unit and their respective Renewable Energy Projects, until the termination of this Company Lease Agreement, without interruption, in accordance with the terms of Section 402(a)(iii) hereof, in which case title to the Applicable Renewable Energy Project(s) shall transfer in accordance with the provisions of Section 609(b) hereof.

**SECTION 704. Substitution of Project.**

The Lessee is hereby granted the full power of substitution with respect to any Project so long as the Lessor and the Trustee receive the prior written consent of the Applicable Series 2011 Local Unit and the Authority, along with revised Exhibits to the Applicable Program Documents.

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Fund in accordance with the terms hereof, in which event the Lessee shall continue to be obligated to pay the Lease Payments due hereunder, without adjustment; or (z) the Lessee shall exercise its option to have no further obligation with respect to the affected Project(s). Subsections (y) and (z) above are mutually exclusive.

(c) In the event of any damage, destruction, condemnation, taking or other event that constitutes a revocation or deemed revocation under Section 3.7 of any Local Unit License Agreement with respect to a Project requiring payment of the amounts set forth in Section 3.7(a)(v) of such Local Unit License Agreement, upon receipt of such amount, this Company Lease Agreement and the obligations of Lessee thereunder with respect of and solely with respect to such Project, shall terminate and title thereto shall vest in Lessee. Such event shall have no effect on the Lessee's obligations to continue to make all Lease Payments on time and in full.

**SECTION 802. Insufficiency of Net Proceeds.**

If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement relating to the Projects as so damaged or taken, the Lessee shall either:

(a) direct the application of the Net Proceeds in the manner as set forth in Sections 801(a)(y) or 801(b)(y) above, thereby requiring the Lessee to complete the work relating to the Projects as so set forth, except that the Lessee shall itself pay any Project Costs in excess of the amount of the Net Proceeds, and, if by reason of any such insufficiency of the Net Proceeds the Lessee shall make any payments pursuant to the provisions of this Section 802(a), the Lessee shall not be entitled to any reimbursement therefor from the Lessor, nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Projects;

(b) direct the application of the Net Proceeds in the manner as set forth in Section 801(a)(z) above, thereby requiring the Lessee to make an equity contribution to the extent the Net Proceeds are insufficient to cover the Purchase Option Price and thereupon exercise Lessee's option to purchase the Project in whole, in accordance with Article VII hereof, in which event the Net Proceeds shall be used toward this purpose; or

(c) direct the application of the Net Proceeds consistent with the determination contemplated in Section 801(b)(y) above, thereby causing the Net Proceeds to be applied to the payment of the Interest Portion and, to the extent available, the Principal Portion of the Basic Lease Payments due on the immediately succeeding Basic Lease Payment Dates until all of the Net Proceeds have been so applied, in which event the Lessee shall not be entitled to any reimbursement therefor from the Lessor nor shall the Lessee be entitled to any diminution of the Lease Payments due hereunder with respect to the Project. Subsections (a), (b) and (c) above are mutually exclusive.

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SECTION 803. Cooperation of Lessor.

The Lessor and the Applicable Series 2011 Local Unit shall cooperate fully with the Lessee, at the sole cost and expense of the Lessee, in filing any proof of loss with respect to any insurance policy covering the casualties described in Section 801 hereof and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Projects or any part thereof. In no event shall the Lessor or the Applicable Series 2011 Local Unit voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim or any prospective or pending condemnation proceeding with respect to the Projects or any part thereof, without the prior written consent of the Lessee.

SECTION 804. Condemnation of Other Property Owned by Lessee.

The Lessee shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for the destruction of, damage to or taking of its property not included in the Project.

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SECTION 905. Reorganization.

It is understood and agreed by the parties hereto that reorganization of the Lessee with the consent of the Lessor shall not constitute an assignment under this Article IX.

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ARTICLE IX

ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING

SECTION 901. Assignment by Lessor.

Except for this Company Lease Agreement and as otherwise provided below and in any other Program Document, including without limitation with respect to its payment obligations under the Power Purchase Agreement to the Series 2011 Local Units under the Local Unit License Agreements, or with respect to the assignment of the Reimbursement Collateral to the County and the County Security Provider, if any, under the County Guaranty Agreement and the County Security Agreement, if any and as applicable, the Lessor shall not assign its obligations under this Company Lease Agreement and no such purported assignment thereof shall be effective. All of the Lessor's right, title and interest in and to this Company Lease Agreement, the Lease Payments and the other amounts due to it hereunder and under the Project shall be assigned by the Lessor to the Trustee pursuant to the pledge of the Trust Estate under the Bond Resolution no later than the execution and delivery hereof.

SECTION 902. Lease Payments to Trustee.

The Lessor and the Lessee hereby agree that from and after the adoption of the Bond Resolution and the execution of this Company Lease Agreement, so long as the same shall remain in effect, payment by the Lessee to the Trustee or, if applicable, to the successor thereto of any moneys or sums due hereunder from the Lessee to the Lessor shall satisfy the obligation of the Lessee to pay such money or sums.

SECTION 903. Assignment and Subleasing by Lessee.

This Company Lease Agreement may not be assigned or subleased by the Lessee without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Lessee entered into this Company Lease Agreement as the successful respondent pursuant to the Company RFP and all applicable law, and the Lessor and the Series 2011 Local Units have selected the Lessee, and not any assignee, to receive the rights, and perform the duties and obligations hereunder. Any such purported assignment or sublease shall be deemed null and void without such prior written consent.

SECTION 904. Restriction on Mortgage or Sale of Project by Lessee.

The Lessee shall not mortgage, sell, assign, transfer or convey the Projects or any portion thereof during the Term of this Company Lease Agreement without the prior written consent of the Lessor and the Applicable Series 2011 Local Units, in their sole discretion, as the Program Documents contemplate such Projects being available, directly in the case of the Capital Improvement Projects, or indirectly in the case of the Renewable Energy Projects as a source of power, for the benefit of the Series 2011 Local Units.

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ARTICLE X

EVENTS OF DEFAULT; REMEDIES

SECTION 1001. Events of Default.

(a) An Event of Default hereunder means the occurrence of any one or more of the following events:

(i) The Lessee fails to (A) make any Basic Lease Payment as it becomes due or (B) make any Additional Lease Payment as it becomes due or maintain any insurance requirement set forth hereunder, and in the case of (B) only, such failure is not cured within thirty (30) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, if the Basic Lease Payment is paid with funds from the County Reserve, such payment will not constitute an Event of Default.

(ii) The Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder or under any Company Document, and such failure is not cured within ninety (90) days after written notice thereof has been given to the Lessee by the Lessor or the Trustee; provided, however, that if such failure cannot be cured within said ninety (90) day period, the Lessee shall not be in default if it has commenced to cure within such ninety (90) day period, it continuously proceeds with the cure, and if such action to cure the default is acceptable to the Lessor and the Lessor indicates the same in writing.

(iii) The discovery by the Lessor or the Trustee that any material statement, representation or warranty made by the Lessee in this Company Lease Agreement, or in any writing delivered by the Lessee pursuant hereto or in connection herewith, is false, misleading or erroneous in any material respect.

(iv) The Lessee becomes insolvent or admits in writing its inability to pay its debts as they mature or applies for, consents to or acquiesces in the appointment of a trustee, receiver or custodian for the Lessee or a substantial part of its property; or in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed for the Lessee or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, moratorium or other proceeding under bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or, if permitted by law, against the Lessee and, if instituted against the Lessee, is consented to or acquiesced in by the Lessee or is not dismissed within sixty (60) days.

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(v) The entering of an order or decree appointing a receiver for the Leased Property or for any part thereof or for the revenues thereof with or without the consent or acquiescence of the Lessee, and such order or decree shall not be vacated, discharged or stayed within ninety (90) days after the date of such entry.

(b) Upon the occurrence of an Event of Default under this Section 1001, the Trustee shall transmit a written notice, including electronic mail, of such Event of Default to the Lessor, the Lessee and the Series 2011 Local Units within thirty (30) days of the Trustee's knowledge thereof.

(c) Upon the occurrence of an Event of Default under this Section 1001, all obligations of the Lessee under this Company Lease Agreement shall remain in full force and effect.

#### SECTION 1002. Remedies.

(a) Upon the occurrence and continuation of any Event of Default as described in Section 1001 hereof, at the option of the Lessor, the Mandatory Purchase Price with respect to the Project shall become immediately due and payable by the Lessee upon the Lessor's declaration. So long as the Lessor is not in default hereunder, the Lessor shall have the right to direct all remedial proceedings under this Company Lease Agreement, including the consent to remedies taken upon an Event of Default. Subject to the preceding sentence, the Lessor shall have the right, without any further demand or notice, to take one or any combination of the remedial steps below:

(i) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and exclude the Lessee from using it; provided, however, that if this Company Lease Agreement has not been terminated, the Lessor shall return possession of same to the Lessee when the Event of Default has been cured; and provided, further, that the Lessee shall continue to be responsible for the Lease Payments due hereunder during the remainder of the Lease Term.

(ii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and sell, lease or sublease its interest therein or any part thereof.

(iii) With or without terminating this Company Lease Agreement, take possession of the Renewable Energy Projects, the SRECs, and any other portion of the Leased Property, and apply any portion of same, or of the proceeds of same (in accordance with clause (ii) above) in accordance with the

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provisions of Section 5.07(1)(b) of the Bond Resolution

(iv) With or without terminating this Company Lease Agreement, declare all Lease Payments due or to become due hereunder to be immediately due and payable by the Lessee, whereupon such Lease Payments shall be immediately due and payable.

(v) Take whatever action at law or in equity may appear necessary or desirable to collect the Lease Payments then due and thereafter to become due hereunder with respect to the Project or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Company Lease Agreement.

(b) Notwithstanding any other provisions of this Section 1002, in no event shall there be any transfer of any Renewable Energy Project or any interest therein to any person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event as described in Section 609.

#### SECTION 1003. Reinstatement.

Notwithstanding any termination of this Company Lease Agreement that shall be made in accordance with the provisions of Section 1002 hereof, unless the Lessor shall have entered into a firm bilateral agreement providing for the reletting of the Project for a period of at least one year, if, after the maturity of the Outstanding Bonds shall have been accelerated by the Trustee (upon the occurrence of an Event of Default) under the terms of the Bond Resolution, (a) all arrears of interest on such Outstanding Bonds and interest on overdue installments of principal, redemption premium, if any, and (to the extent permitted by law) interest on such Bonds at a rate per annum equal to the highest rate per annum borne by any of the Bonds shall have been paid, (b) the principal and redemption premium, if any, on all Outstanding Bonds that have become due and payable (other than by an acceleration) shall have been paid, (c) all other sums payable under the terms of the Bond Resolution, except the principal of and the interest on such Bonds that by such acceleration shall have become due and payable, and under the terms of the other Program Documents shall have been paid, (d) all other things shall have been performed in respect of which there was an Event of Default, (e) the reasonable fees and expenses of the Lessor, the Trustee, the Series 2011 Local Units, the County, the County Security Provider, and the Bondholders, including Administrative Expenses thereof (including reasonable attorneys' fees paid or incurred) shall have been paid, and (f) such acceleration under the terms of the Bond Resolution is rescinded, then the Lessee's Event of Default hereunder shall be waived without further action by the Trustee or the Lessor or any other Renewable Energy Program Interested Party. Upon such payment and waiver, this Company Lease Agreement shall be fully reinstated as if it had never been terminated, and the Lessee shall be restored to the use, occupancy and possession of the Renewable Energy Projects and the other Leased Property.

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#### SECTION 1004. Election of Remedies; No Waiver of Elected Remedies.

No failure on the part of either party to exercise, and no delay in exercising any right or remedy so provided for herein, shall operate as a waiver thereof, nor shall any single or partial exercise by either party of any right or remedy so provided hereunder preclude any other or further exercise of any other right or remedy provided hereunder.

#### SECTION 1005. No Additional Waiver Implied by One Waiver.

In the event any agreement contained in this Company Lease Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder, and shall not be construed to be an implied term hereof or a course of dealing between the parties hereto.

#### SECTION 1006. Agreement to Pay Attorneys' Fees and Expenses.

In the event either party to this Company Lease Agreement should default under any of the provisions hereof and the non-defaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement, performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall, on demand therefor, pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

#### SECTION 1007. Late Charges.

Whenever any payment of Lease Payments is not made when due, the Lessee promises to pay to the Lessor, in addition to the amount due, interest thereon at the Overdue Rate; provided, however, that this Section 1007 shall not be applicable if or to the extent the application thereof would affect the validity of this Company Lease Agreement.

#### SECTION 1008. Delay; Notice.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof. Any such right or power may be exercised from time to time and as often as may be deemed expedient, and any one exercise thereof shall not be deemed an exclusive exercise. To entitle any party to exercise any remedy reserved to it in this Company Lease Agreement, it shall not be necessary to give any notice other than as may be specifically required in this Company Lease Agreement.

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## ARTICLE XI

### ADMINISTRATIVE PROVISIONS

#### SECTION 1101. Notices.

Unless otherwise provided in writing, any notices to be given or to be served upon any party hereto, or any other documents to be delivered to any Renewable Energy Program Interested Party, all in connection with this Company Lease Agreement, must be in writing and may be delivered personally, by telecopy, by e-mail, or by overnight, certified or registered mail. If such notice or document is delivered by certified or registered mail, it shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail. If such notice or document is delivered by telecopy or e-mail, a hard copy of such notice or document shall be sent by certified or registered mail, although such notice or document shall be deemed to have been delivered upon receipt of the telecopy or e-mail by such party or other Renewable Energy Program Interested Party. If such notice is given or document is delivered otherwise, it shall be deemed to have been given or delivered, as applicable, when delivered to and received by the party or other Renewable Energy Program Interested Party to whom it is addressed. Such notice or document shall be given to the parties or other Renewable Energy Program Interested Party at their following respective addresses or at such other address as any party or other Renewable Energy Program Interested Party may hereafter designate to the other parties hereto in writing:

(a) If to Lessor: The Morris County Improvement Authority  
P.O. Box 500  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman  
Email: jbonanni@co.morris.nj.us

With a copy to: Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com

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(b) If to the Lessee: Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email: principals@sunlightgeneral.com

With a copy to: James F. Duffy, Esq.  
Nixon Peabody, LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com

(c) If to the Trustee: U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to: Nicholas A. Concilio, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1309 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: nconcilio@mdmc-law.com

(d) If to the Series 2011 Local Units: See Exhibit A-4 attached hereto.

(e) If to the Construction Managers: Jessica Vogel, CBSB  
Birdsall Services Group, Inc.  
1101 Laurel Oak Road, Suite 160  
Voorhees, NJ 08043  
Email: jvogel@birdsall.com

With a copy to: Joseph Santaiti  
Gabel Associates  
417 Denison Street  
Highland Park, NJ 08904  
Email: Joseph.santaiti@gabelassociates.com

#### SECTION 1102. Severability.

In the event any provision of this Company Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

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#### SECTION 1103. Amendments, Changes and Modifications.

(a) This Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to the recomputation of Basic Lease Payments or Additional Lease Payments related to the Purchase Option Price or Mandatory Purchase Price, or with respect to any other term of this Company Lease Agreement affecting the security of the Bond Resolution, by (i) written amendment authorized, executed and delivered by each of the Lessor and the Lessee and (ii) by compliance with Article XI of the Bond Resolution regarding conditions required for amendment of the Bond Resolution, which may include the consent of the Trustee.

(b) Other than as provided in subsection (a) above, this Company Lease Agreement may be amended, supplemented, or otherwise modified with respect to its Term or any of its other provisions by written amendment authorized and executed by the Lessor, the Lessee, and to the extent any of the rights, duties or obligations of any Series 2011 Local Units or other Renewable Energy Program Interested Parties under a Program Document are affected, with the written acknowledgment and consent of any one or more such Series 2011 Local Units and/or Renewable Energy Program Interested Parties, as applicable.

(c) To the extent Bonds are Outstanding at the time of any amendment, supplement or modification of this Company Lease Agreement, any such proposed amendment, supplement or modification, in substantially final form, shall be delivered by the Lessor at least fifteen (15) days in advance of its execution to the Trustee and each Rating Agency that at such time is rating any such Bonds, unless this provision is waived by any such Rating Agency and the Trustee; moreover, no such amendment, supplement or modification shall be entered into by the parties unless there shall be no adverse affect on the rating of such Bonds. Where there shall be no such adverse affect on the rating of such Bonds, a final copy of any such authorized, executed and delivered amendment, supplement or modification of this Company Lease Agreement shall be promptly delivered to each such Rating Agency and the Trustee.

#### SECTION 1104. Further Assurances and Corrective Instruments.

The Lessor and the Lessee agree that they shall, if necessary, execute, acknowledge and deliver such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Projects or the Leased Property, or any inadequate or incorrect description intended so to be, or for carrying out the expressed intention of this Company Lease Agreement.

#### SECTION 1105. Applicable Law.

This Company Lease Agreement shall be governed by and construed in accordance with the laws of the State.

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#### SECTION 1106. Lessor and Lessee Officers.

Whenever under the provisions of this Company Lease Agreement the approval of the Lessor or the Lessee is required or the Lessor or the Lessee is required to take some action at the request of the other, such approval of such request shall be given for each party by its respective Authorized Officer, and any party hereto shall be authorized to rely upon any such approval or request.

#### SECTION 1107. Captions.

The captions or headings in this Company Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Company Lease Agreement.

#### SECTION 1108. Company Lease Agreement is Original.

For all purposes of filing, perfection or any other matter requiring identification or possession of the "original" copy of a lease, the executed original hereof identified as the "original" shall be the "original" to evidence this Company Lease Agreement.

#### SECTION 1109. Binding; Counterparts.

This Company Lease Agreement shall be binding upon the parties hereto only when duly executed on behalf of both the Lessor and the Lessee together; provided, however, that each set of counterparts taken together shall constitute an original.

#### SECTION 1110. Inspections Permitted.

The Lessee shall, whenever requested, advise the Lessor and the Applicable Series 2011 Local Units of the exact location and condition of the Projects. The Lessor and the Applicable Series 2011 Local Units may enter upon the premises of the Projects for the purpose of inspection at all reasonable times, and, upon reasonable notice, may enter upon the job, building or place where the Projects and the books and records of the Lessee with respect thereto are located.

#### SECTION 1111. Time is of the Essence.

Time is of the essence with respect to this Company Lease Agreement, and no covenant or obligation hereunder to be performed by the Lessee may be waived except by the written consent of the Lessor and the Lessee. Waiver of any such covenant or obligation or a forbearance to invoke any remedy on any occasion shall not constitute or be treated as a waiver of such covenant or obligation or any other covenant or obligation as to any other occasion and shall not preclude the Lessor from invoking such remedy at any later time prior to the Lessee's cure of the condition giving rise to such remedy. Each of the Lessor's rights hereunder is

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cumulative to its other rights hereunder and not alternative thereto.

#### SECTION 1112. No Personal Liability or Accountability.

No covenant or agreement contained in this Company Lease Agreement shall be deemed to be the covenant or agreement of any present, past or future officer, agent or employee of the Lessor or the Lessee, in his or her individual capacity, and neither the officers, agents or employees of the Lessor or the Lessee nor any official executing this Company Lease Agreement shall be liable personally on this Company Lease Agreement or be subject to any personal liability or accountability by reason of any transaction or activity relating to this Company Lease Agreement.

#### SECTION 1113. Gender.

Use of the masculine, feminine or neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the other genders whenever and wherever appropriate.

#### SECTION 1114. Receipt of Company Lease Agreement.

The parties hereto each acknowledge receipt of a signed, true and exact copy of this Company Lease Agreement.

#### SECTION 1115. Waiver of Sovereign Immunity.

For the purposes of this Company Lease Agreement, the Lessor acknowledges and agrees that (a) its execution and delivery of this Company Lease Agreement and (b) its performance of the actions contemplated by this Company Lease Agreement, constitute private and commercial acts rather than public or governmental acts. To the extent that, in any jurisdiction, the Lessor in respect of itself or its assets, properties or revenues, shall be entitled to any contract immunity from suit, from the jurisdiction of any court, from attachment prior to judgment, from attachment in aid of execution of judgment, from execution, or enforcement of a judgment, or from any other legal or judicial process or remedy, such party hereby, except with respect to tort claims related to this Company Lease Agreement, (i) expressly and irrevocably agrees not to claim or assert, and expressly and irrevocably waives, any such immunity to the fullest extent permitted by the laws of such jurisdiction solely as to the Lessor and (ii) consents generally to the giving of any relief or the issue of any process in connection with any proceeding. This waiver does not apply to any Series 2011 Local Units tort immunity as established by law.

#### SECTION 1116. Approvals.

In order to ensure that construction of the Renewable Energy Projects is not unduly delayed, in the event that any party to this Company Lease Agreement seeks the approval or consent of another party to this Company Lease Agreement, the party considering such request

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STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

On this 14<sup>th</sup> day of December, 2011, before me, a Notary Public in and for said County and State, personally appeared Stacey L. Hughes known to me (or proved to me on the basis of satisfactory evidence) to be the Authorized Signatory, The Manager of the Company of the within Series 2011 Local Unit, that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said Company.

  
Notary Public

JAMES BROOKS MANN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA233849  
Qualified in New York County  
My Commission Expires January 03, 2015

EXHIBIT A

1. DESCRIPTION OF PROJECTS

EXHIBIT A-1: See attached Description of Renewable Energy Project for each Series 2011 Local Unit, to be constructed in accordance with Exhibit C to the Company RFP, also attached. See also attachment of Article VII, Sections 7.3, 7.5 and 7.6 of the Company RFP

EXHIBIT A-2: See attached Description of Capital Improvement Project for each Series 2011 Local Unit

2. BASIC LEASE PAYMENT SCHEDULE

EXHIBIT A-3: See attached Basic Lease Payment Schedule

Exhibit A-3-Regular  
Exhibit A-3-Alternate

3. NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS

EXHIBIT A-4: Notice Information for Series 2011 Local Units

4. MAXIMUM PROJECT COSTS FINANCED BY THE SERIES 2011 BONDS

The maximum Project Costs financed by the Series 2011 Bonds is the Maximum Net Bond Funded Project Cost Amount of \$24,700,000.

[00016345-5]

A-1

[00024189-2]

EXHIBIT A-1

All Renewable Energy Projects will utilize high efficiency, polycrystalline, glass Solar Panels. All roof mounted Renewable Energy Projects shall utilize racking systems specifically selected for each application and in accordance with the Company RFP. All Renewable Energy Projects will be constructed with a tilt angle varying from 0- 10 degrees from horizontal, facing south, to maximize overall installed capacity, ensuring the highest level of system output. All roof and walkway canopy Module Mounting Systems shall be laid out in a manner that will provide for appropriate walkways for ease of access to the Renewable Energy Projects and other rooftop equipment such as HVAC units, vents and fans. All parking canopy systems shall utilize a T-Bar, single, unilever construction. All Renewable Energy Projects shall be comprised of materials and equipment that meets the requirements of Appendix C of the Company RFP.

EXHIBIT A-1 (cont.)

[Attach Appendix C to the Company RFP]

Morris County Improvement Authority  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

Series 2011 Local Unit List of Local Unit Facilities

[00016345-5]

A-1-1

[00016345-5]

A-1-2

EXHIBIT A-1 (cont.)

[Attach Article VII to the Company RFP]

EXHIBIT A-2

Please see the Local Unit Facility Roof Warranty Chart at the end of this Exhibit A-2 for information concerning roof warranties and duration of existing roof warranties for each Local Unit Facility. The Capital Improvement Projects set forth below related to maintaining and extending existing roof warranties must be compatible with the information contained in the Chart.

Local Unit Facility Roof Warranty Chart

See Attached

(00016345-5)

A-1-3

(00016345-5)

A-2-1

EXHIBIT A-3-Regular  
BASIC LEASE PAYMENT SCHEDULE  
(paying 5 months prior to Series 2011 Bonds)

Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease  
Revenue Bonds, Series 2011A & B (Federally Taxable)  
\*Preliminary, subject to change\*

Basic Lease Payment Date**	Principal	Semi-Annual Interest	Semi-Annual Lease Payment	Annual Lease Payment
1/15/2012				
7/15/2012				
1/15/2013	1,850,000	506,394.59	2,356,394.59	
7/15/2013	-	485,425.45	485,425.45	2,841,820.04
1/15/2014	1,850,000	485,425.45	2,335,425.45	
7/15/2014	-	470,976.95	470,976.95	2,806,402.40
1/15/2015	1,850,000	470,976.95	2,320,976.95	
7/15/2015	-	451,218.95	451,218.95	2,772,195.90
1/15/2016	1,850,000	451,218.95	2,301,218.95	
7/15/2016	-	428,223.45	428,223.45	2,729,442.40
1/15/2017	1,850,000	428,223.45	2,278,223.45	
7/15/2017	-	401,305.95	401,305.95	2,679,529.40
1/15/2018	1,845,000	401,305.95	2,246,305.95	
7/15/2018	-	371,693.70	371,693.70	2,617,999.65
1/15/2019	1,845,000	371,693.70	2,216,693.70	
7/15/2019	-	340,439.40	340,439.40	2,557,133.10
1/15/2020	1,845,000	340,439.40	2,185,439.40	

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7/15/2020	-	307,340.10	307,340.10	2,492,779.50
1/15/2021	1,845,000	307,340.10	2,152,340.10	
7/15/2021	-	273,318.30	273,318.30	2,425,658.40
1/15/2022	1,845,000	273,318.30	2,118,318.30	
7/15/2022	-	227,765.25	227,765.25	2,346,083.55
1/15/2023	1,845,000	227,765.25	2,072,765.25	
7/15/2023	-	182,212.20	182,212.20	2,254,977.45
1/15/2024	1,845,000	182,212.20	2,027,212.20	
7/15/2024	-	136,659.15	136,659.15	2,163,871.35
1/15/2025	1,845,000	136,659.15	1,981,659.15	
7/15/2025	-	91,106.10	91,106.10	2,072,765.25
1/15/2026	1,845,000	91,106.10	1,936,106.10	
7/15/2026	-	45,553.05	45,553.05	1,981,659.15
1/15/2027	1,845,000	45,553.05	1,890,553.05	
7/15/2027	-	-	-	1,890,553.05
		<b>27,700,000</b>	<b>8,932,870.59</b>	<b>36,632,870.59</b>

\* Basic Lease Payment Schedule derived from and will be equal to the debt service payments and amortization schedule for the Series 2011 A and B Bonds, once determined. The Series 2011 A Bonds are assumed to include annual principal payments on June 15, 2013 through and including June 15, 2027 and semiannual interest payments on June 15 and December 15th of each year, commencing on June 15, 2012 (the June 15, 2012 and December 15, 2012 interest payments will be paid by capitalized interest being funded through the Series 2011B Bonds). The Series 2011B Bonds are assumed to be issued on December 14, 2011 simultaneously with the bond financing and will include a single payment of principal and interest on January 15, 2013. The interest rates included in this schedule correspond to the principal payment dates of the Series 2011 Bonds which are 5-months after such Basic Lease Payment dates.

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Note: There are no Basic Lease Payment Dates on January 15, 2012 and July 15, 2012, each five (5) months prior to the corresponding interest payment dates for the Series 2011A Bonds of June 15, 2012 and December 15, 2012, because the Series 2011A Bond interest due on such Series 2011A Bond interest payment dates has been provided for through the deposit of the Series 2011B Note proceeds in the Capitalized Interest Account of the Debt Service Fund. There is no Series 2011B Note interest due on such dates.

[00016345-5]

A-3-3

[00016345-5]

A-3-4

**EXHIBIT A-4  
NOTICE INFORMATION FOR SERIES 2011 LOCAL UNITS**

**Morris County Improvement Authority**  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011  
(Federally Taxable), consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011 B Note

**Series 2011 Local Unit Distribution List**

**EXHIBIT B**

**FORMS OF ACCEPTANCE CERTIFICATES**

See Attached:

Form B-1, Form of REP Acceptance Certificate  
Form B-2, Form of CIP Acceptance Certificate

[00016345-5]

A-4-1

[00016345-5]

B-1

EXHIBIT B-1

FORM OF REP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the [A] Renewable Energy Projects have been designed, acquired, constructed, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use. Attached hereto are the required engineering certifications and / or reports evidencing same.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Renewable Energy Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Renewable Energy Projects, including the design, permitting, acquisition, construction and installation thereof, or if such funds were insufficient, the Company has provided available funding as the Equity Contribution, to complete the design, permitting, acquisition, construction and installation thereof.

3. The [A] Renewable Energy Projects, having been designed, acquired, constructed and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, are hereby accepted for use by the Company, with title thereto as set forth in Section 609(a) of the Company Lease Agreement, to generate renewable energy therefrom to be sold through the Authority to the Licensor, all as set forth in the Program Documents. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Company's and the Licensor's acceptance of the [A] Renewable Energy Projects for all purposes of Section 510(d)(1)(C) of the Company Lease Agreement and Section 5.02(3)(a)(i)(C) of the Bond Resolution.

4. Attached hereto is one or more duly authorized, fully executed and delivered copy or copies of the [A] Interconnection Agreement(s) with the applicable local electric utility distribution provider with respect to all of the [A] Renewable Energy Projects.

5. [Choose one, as applicable]

[This REP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 100016345-5] B-1-1

6. This REP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_ Name: Stacy L. Hughes Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_ Name: Title:

The terms of this REP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_ Name: Title:

510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for the [A] Renewable Energy Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, release any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This REP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this REP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered REP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

100016345-5

B-1-2

The form (only) of this REP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_, 20\_\_.

By: BIRDSALL SERVICES GROUP, INC., AS CONSTRUCTION MANAGER

By: \_\_\_\_\_ Name: Title:

EXHIBIT B-2

FORM OF CIP ACCEPTANCE CERTIFICATE

I, the undersigned \_\_\_\_\_, a duly authorized officer of Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), pursuant to the terms of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") between The Morris County Improvement Authority, as lessor (the "Authority"), and the Company, as lessee, and with reference to the Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects") being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), DO HEREBY CERTIFY as follows:

1. As of \_\_\_\_\_, 20\_\_\_\_, the [A] Capital Improvement Projects have been designed, acquired, constructed, renovated, and installed, and therefore have been completed and delivered in good order and in conformance with the Plans and Specifications, and are ready for use.

2. The Company has previously submitted all eligible Draw Papers to the Trustee with respect to the [A] Capital Improvement Projects, against which the Company has received (or has directed receipt to a third party vendor) from the Trustee sufficient funds from the Project Fund to pay all Costs of the [A] Capital Improvement Projects, including the design, permitting, acquisition, construction, renovation, and installation thereof, or if such funds were insufficient, the Company has provided available funding as the Equity Contribution, to complete the design, permitting, acquisition, construction, renovation, and installation thereof.

3. By obtaining the Licensor's execution of the acknowledgment below, the Company is satisfying the requirement regarding the Licensor's acceptance of (a) the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution, which [A] Capital Improvement Projects, were designed, acquired, constructed, renovated, and installed by or on behalf of the Company on the Local Unit Facilities for the Licensor with a portion of the proceeds of the Bonds, with title thereto as set forth in Section 609 of the Company Lease Agreement and (b) the CIP Acceptance State. This Section 3, together with the Licensor's acknowledgment below by an Authorized Officer thereof, shall constitute the Licensor's acceptance of the [A] Capital Improvement Projects for all purposes of Section 510(d)(ii)(C) of the Company Lease Agreement and Section 5.02(3)(a)(ii)(C) of the Bond Resolution.

4. [Choose one, as applicable]

[This CIP Acceptance Certificate is not the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and accordingly, any moneys on deposit in the Project Fund, if any, including interest, earmarked for 100016345-5] B-2-1

The terms of this CIP Acceptance Certificate are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_

The form (only) of this CIP Acceptance Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_

the [A] Capital Improvement Projects shall remain on deposit in the Project Fund for Costs of other Projects.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall not have caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, nor has the Company acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, release any additional moneys on deposit in the Project Fund, without further authorization, shall be transferred by the Trustee to the Debt Service Fund and applied as a credit to the next due Basic Lease Payments owed by the Company, in accordance with the terms of the Bond Resolution and the Company Lease Agreement.]

[This CIP Acceptance Certificate is the final Acceptance Certificate for purposes of Section 510(e) of the Company Lease Agreement and Section 5.02(3)(b) of the Bond Resolution, and the Company shall have either caused an Event of Default under the Company Lease Agreement as of the date of this CIP Acceptance Certificate, or the Company has acted, or failed to act, in such a manner as would, with the passage of time, cause an Event of Default under the Company Lease Agreement. Accordingly, upon the Trustee's receipt of this duly authorized, executed and delivered CIP Acceptance Certificate, any moneys on deposit in the Project Fund, shall be applied as set forth in a Certificate of an Authorized Officer of the Authority.]

5. This CIP Acceptance Certificate may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_ Name: Stacy L. Hughes Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_

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EXHIBIT C

FORM OF DRAW PAPERS

Requisition No. \_\_\_\_\_, 20\_\_\_\_

U.S. Bank National Association, as Trustee

Re: The Morris County Improvement Authority County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(e) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted September 28, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented, and (iii) with respect to the [Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] Renewable Energy Projects") [Capital Improvement Projects, or as applicable, any Completion Project related thereto (the "[A] Capital Improvement Projects")] being developed for \_\_\_\_\_, as the applicable Series 2011 Local Unit (the "Licensor") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, DOES HEREBY CERTIFY and REQUISITION moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "Trustee") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$\_\_\_\_\_ from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

\_\_\_\_\_ for \_\_\_\_\_ services] [incurred in connection with the following Development Contract: \_\_\_\_\_];

[the Company for reimbursement of Costs of the Project previously paid by the Company to \_\_\_\_\_ for \_\_\_\_\_ services] [incurred in connection with the following Development Contract: \_\_\_\_\_]; and

(b) \$\_\_\_\_\_ of which aggregate amount shall be payable to:

[\_\_\_\_\_ for \_\_\_\_\_ services] [incurred in connection with the following Development Contract: \_\_\_\_\_]

[the Company for reimbursement of Costs of the Project previously paid by the Company to \_\_\_\_\_ for \_\_\_\_\_ services] [incurred in connection with the following Development Contract: \_\_\_\_\_]

{Please Note, Include Name and Address of any Contractor and the specific Development Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the [A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

(b) Such funds requested in accordance with Section 1(b) of this Requisition were incurred in connection with the [acquisition, construction, or installation of the [A] Renewable Energy Projects listed on Exhibit A-1] [acquisition, construction, renovation or installation of the [A] Capital Improvement Projects listed on Exhibit A-2] to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: \_\_\_\_\_

3. Such payment obligation, for which funds have been requested in accordance with Section 1(a) [1(b)] of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company, and (vi) the amount being requisitioned shall not exceed the Draw Paper Ratio. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of \_\_\_\_\_ C-2

By: \_\_\_\_\_  
Name:  
Title:

counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacey L. Hughes  
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_  
Name:  
Title:

The terms of this Requisition are hereby ACKNOWLEDGED and ACCEPTED by the Licensor set forth below, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

[LICENSOR]

[By: CONSTRUCTION MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

The form (only) of this Requisition is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_\_ day of \_\_\_\_, 20\_\_.

By: BIRDSALL SERVICES GROUP, INC., AS CONSTRUCTION MANAGER

(00016345-5) C-3

EXHIBIT C-1

[Attach Initial Project Workforce Form AA201]

[Insert Form found at [http://www.state.nj.us/treasury/contract\\_compliance/bdf/aa201.pdf](http://www.state.nj.us/treasury/contract_compliance/bdf/aa201.pdf)]

EXHIBIT D

CERTIFICATE OF AN AUTHORIZED OFFICER OF THE LESSEE FOR COMPANY DEVELOPMENT FEES AND EXPENSES INCURRED ON BEHALF OF THE LESSEE

The Morris County Improvement Authority
P.O. Box 900
Morristown, NJ 07963-0900
Attention: John Bonanni, Chairman
jbonanni@co.morris.nj.us

U.S. Bank National Association, as Trustee
Corporate Trust Services
21 South Street, 3rd Floor
Morristown, NJ 07960
Attention: Paul O'Brien
paul.obrien@usbank.com

Re: The Morris County Improvement Authority
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 509(d) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "Company Lease Agreement") by and between The Morris County Improvement Authority (the "Authority"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "Company"), as lessee, and (ii) Section 5.02(2)(b) of the Authority's bond resolution duly adopted September 28, 2011 and entitled "Resolution Authorizing the Issuance of County Guaranteed Renewable Energy Program Lease Revenue Notes and Bonds, Series 2011 and Additional Bonds of The Morris County Improvement Authority", as amended and supplemented (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, HEREBY REQUESTS that the Authority direct the Trustee (which direction has occurred through Section 5.02(2)(b) of the Bond Resolution) to pay the following Company Development Fees and Expenses incurred by or on behalf of the Company from moneys on deposit in the Project Fund in the aggregate amount of \$800,000, which amount shall be payable to

[
for \_\_\_\_\_ services]

[00016345-5] D-1

The form (only) of this Certificate is hereby ACKNOWLEDGED by THE MORRIS COUNTY IMPROVEMENT AUTHORITY this \_\_\_ day of \_\_\_, 20\_\_.

By: \_\_\_\_\_
Name:
Title:

[00016345-5] D-3

[the Company for reimbursement of Company Development Fees and Expenses previously paid by the Company to \_\_\_\_\_ services].

Such payment obligation has been properly incurred in accordance with all applicable law, is a Company Development Fees and Expense as such term is defined in the Bond Resolution, including without limitation within the aggregate ceiling of \$\_\_\_\_\_ for such defined term (unless the Authority agrees, below or otherwise in writing, to an increase above such ceiling), is a proper charge against the Project Fund, and has not been the basis of any previous withdrawal. Attached hereto is a bill, invoice, receipt or other evidence that payment of said Company Development Fees and Expenses is due or has been paid by or on behalf of the Company.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR, LLC

By: Sunlight General Capital Management, LLC, its Manager

By: \_\_\_\_\_
Name: Stacey L. Hughes
Title: Authorized Signatory

ATTEST:

By: \_\_\_\_\_
Name:
Title:

[00016345-5] D-2

EXHIBIT E

[Attach form of Power Purchase Agreement and Company Continuing Disclosure Agreement]

20120210050002550
02/10/2012 01:38:11 PM
UCC
NUMBER OF PAGES : 32
SGEIMER
Recording Fee : \$25.00

[00016345-5]

**CORPORATION SERVICE COMPANY**

www.cscglobal.com

CSC- West Trenton  
P.O.Box 77132  
830 Bear Tavern Road, Suite 305  
West Trenton, NJ 08628-1020  
800-631-2155  
609-530-0877 (Fax)

**Matter#** 72-008

**Order#** 090986-1

**Project Id :**

**Order Date** 02/09/2012

**Additional Reference :** NOT PROVIDED

**Entity Name :** SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC (Debtor)/ U.S. BANK (Secured Party)

**Jurisdiction :** NJ-DEPARTMENT OF TREASURY COMMERCIAL RECORDING

**Request for :** UCC Filing  
**File Type :** ORIGINAL

**Result :** Filed

**File Number :** 26141787  
**Filing Date :** 02/09/2012

Ordered by DAVID WAINGER at INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

Thank you for using CSC. For real-time 24 hour access to the status of any order placed with CSC, access our website at [www.cscglobal.com](http://www.cscglobal.com).

If you have any questions concerning this order or CSCGlobal, please feel free to contact us.

Michael Melocchi  
[mmelocch@cscinfo.com](mailto:mmelocch@cscinfo.com)

The responsibility for verification of the files and determination of the information therein lies with the filing officer; we accept no liability for errors or omissions.

DEPARTMENT OF TREASURY  
 2012 FEB -9 4 00

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

**Inglesino, Pearlman, Wyciskala & Taylor, LLC**  
 600 Parsippany Road  
 Suite 204  
 Parsippany, New Jersey 07054

Attn: Stephen B. Pearlman, Esq.

26141787

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

**1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names**

1a. ORGANIZATION'S NAME  
**SunLight General Sussex Holdings, LLC**

OR  
 1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY  
**15 Engle Street, Suite 104 Englewood NJ 07631 USA**

1d. SEE INSTRUCTIONS ADDL INFO RE ORGANIZATION DEBTOR 1e. TYPE OF ORGANIZATION 1f. JURISDICTION OF ORGANIZATION 1g. ORGANIZATIONAL ID #, if any  
**LLC New Jersey**  NONE

**2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names**

2a. ORGANIZATION'S NAME

OR  
 2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

2d. SEE INSTRUCTIONS ADDL INFO RE ORGANIZATION DEBTOR 2e. TYPE OF ORGANIZATION 2f. JURISDICTION OF ORGANIZATION 2g. ORGANIZATIONAL ID #, if any  
 NONE

**3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR(S/P)) - insert only one secured party name (3a or 3b)**

3a. ORGANIZATION'S NAME  
**U.S. Bank**

OR  
 3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY  
**21 South Street, 3rd Floor Morristown NJ 07960 USA**

**4. This FINANCING STATEMENT covers the following collateral:**

The Debtor has executed, in favor of the Secured Party, that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011, as more particularly set forth as "Exhibit A" attached hereto and made a part hereof, and notice is hereby given by the Debtor that the Debtor, pursuant to said Pledge and Security Agreement, has pledged all of its rights, title and interest in the "Pledged Collateral" (as such term is defined in said Pledge and Security Agreement), and all proceeds and products of any and all of the foregoing.

5. ALTERNATIVE DESIGNATION (if applicable): LESSEE/LESSOR CONSIGNEE/CONSIGNOR BAILEE/BAILOR SELLER/BUYER TAG LIEN NON-UCC FILING

6. This FINANCING STATEMENT is to be filed (or recorded) in the REAL ESTATE RECORDS Attach Addendum (if applicable) 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (optional) All Debtors Debtor 1 Debtor 2

8. OPTIONAL FILER REFERENCE DATA

To be filed in the Office of the Secretary of the State of New Jersey.

Exhibit A

PLEDGE AND SECURITY AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

PLEDGE AND SECURITY AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

By  
SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC, as Pledgor

In favor of

U.S. BANK NATIONAL ASSOCIATION, as Trustee

Dated as of December 1, 2011

THIS "PLEDGE AND SECURITY AGREEMENT" (Sussex County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "Agreement" or this "Security Agreement") dated as of December 1, 2011, is executed by SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC, a limited liability company organized and existing under the laws of the State of New Jersey (the "State") and the signatory party hereto (including successors and assigns, the "Person", or the "Pledgor"), the member of SUNLIGHT GENERAL SUSSEX SOLAR, LLC (including successors and assigns, the "Company"), a limited liability company organized and existing under the laws of the State and an acknowledgment party hereto, in favor of U.S. BANK NATIONAL ASSOCIATION (including successors and assigns, the "Bank"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State, where the Bank acts as trustee (the "Trustee") under and pursuant to that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011A AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Morris County Improvement Authority (including successors and assigns, the "Authority") as resolution no. 11- on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by a Certificate of an Authorized Officer of the Authority to be dated the date of issuance of each of the Series 2011A Bonds and the Series 2011B Bonds authorized, and defined therein (the "Bond Resolution"), to be held by the Trustee pursuant to the provisions of Section 5.07(c) of the Bond Resolution.

WITNESSETH:

WHEREAS, the Authority has been duly created by resolution duly adopted by the Board of Chosen Freeholders (the "Board of Freeholders") of the County of Morris ("Morris County") in the State as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the "Act"), and other applicable law;

WHEREAS, simultaneously herewith and in order to implement the Authority's Renewable Energy Program for the Series 2011 Local Units on their respective Local Unit Facilities (as all such terms are defined in the hereinafter defined Company Lease Agreement), the Company has entered into that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (as amended, modified and supplemented and in effect from time to time, the "Company Lease Agreement") with the Authority;

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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WHEREAS, simultaneously herewith and in furtherance of the Authority's Renewable Energy Program, the Company has also entered into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (as amended, modified and supplemented and in effect from time to time, the "Power Purchase Agreement") with the Authority;

WHEREAS, the Company has certain obligations set forth under the Company Lease Agreement and the Power Purchase Agreement (collectively, and together with this Agreement and certain other agreements defined in the Company Lease Agreement as Company Agreements, the "Company Agreements"), including without limitation the obligation to make Lease Payments and finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the Series 2011 Local Units as defined in and contemplated under the Company Agreements (collectively, the "Obligations"), which if not performed by or on behalf of the Company, give rise to an Event of Default as defined in and in accordance with the terms of such Company Agreements (each an "Event of Default");

WHEREAS, as of the date hereof, the Pledgor owns one hundred percent (100%) of the legal and beneficial ownership interests (the "Equity Interests") in and to the Company; and

WHEREAS, in order to secure the payment and performance of all Obligations of the Company, the Pledgor has granted the security interests contemplated by this Agreement.

NOW, THEREFORE, for and in consideration of the foregoing and of any financial accommodations or extensions of credit (including, without limitation, any loan or advance by renewal, refinancing or extension of the agreements described hereinabove) heretofore, now or hereafter made to or for the benefit of the Company and/or the Pledgor by the Trustee in connection with the transactions contemplated by the Acknowledgment (as defined in Section 1.03 below), the Company Agreements, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

GRANT OF SECURITY INTEREST; PLEDGED COLLATERAL

Section 1.01 Pledged Collateral. As security for the full and punctual payment and performance of the Obligations (whether at stated maturity, by required repayment, declaration, acceleration, demand or otherwise, including without limitation the payment of amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. §362(a), whether allowed or allowable as claims), the Pledgor, hereby grants, pledges, hypothecates, transfers and assigns to the Trustee a first priority and continuing lien on, and first priority security interest in, and, in furtherance of such grant, pledge, hypothecation, transfer and assignment, hereby transfers and assigns to the Trustee as collateral security, all of the Pledgor's right, title, ownership, equity or other interests in and to the following, whether now owned or hereafter acquired, now existing or hereafter arising and wherever located (collectively, the "Pledged Collateral"):

- (a) the Equity Interests of the Parsons described in Schedule 1 attached hereto, in and to the Company (the "Pledged Entity"), as and to the extent of their Equity Interests in and to the Company described on said Schedule 1 (collectively, the "Pledged Equity");
- (b) all rights, privileges, general intangibles, payments intangibles, voting rights, authority and power arising from its interest in the Pledged Equity;
- (c) the capital of the Pledgor in the Company and any and all profits, losses, Distributions (as defined below), and allocations attributable to the Pledged Equity as well as the proceeds of any Distribution thereof, whether arising under the terms of any Organizational Agreement (as defined below) or otherwise;
- (d) all other payments, if any, due or to become due, to the Pledgor from the Pledged Entity and all other present or future claims by the Pledgor against any Pledged Entity, or in respect of the Pledged Equity, under or arising out of (i) any Organizational Agreement, (ii) monies loaned or advanced, for services rendered or otherwise, (iii) any other contractual obligations, commercial tort claims, supporting obligations, damages, insurance proceeds, condemnation awards or other amounts due to the Pledgor from any Pledged Entity or with respect to the Pledged Equity;
- (e) the Pledgor's claims, rights, powers, privileges, authority, options, security interests, liens and remedies, if any, under or arising out of the ownership of the Pledged Equity;
- (f) to the extent permitted by applicable law, the Pledgor's rights, if any, in any Pledged Entity pursuant to any Organizational Agreement, or at law, to exercise and enforce every right, power, remedy, authority, option and privilege of the Pledgor relating to the Pledged Equity, including without limitation, the right to (i) execute any

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instruments and to take any and all other action on behalf of and in the name of the Pledgor in respect of the Pledged Equity, (ii) exercise any and all voting, consent and management rights of the Pledgor in or with respect to any Pledged Entity, (iii) exercise any election (including, but not limited to, election of remedies) or option or to give or receive any notice, consent, amendment, waiver or approval with respect to any Pledged Entity, (iv) enforce or execute any checks, or other instruments or orders of any Pledged Entity, and (v) file any claims and to take any action in connection with any of the foregoing, together with full power and authority to demand, receive, enforce or collect any of the foregoing or any property of any Pledged Entity;

(g) all Investment Property (as such term is defined in Section 8-102 of the UCC (as defined below)) issued by or relating to any Pledged Entity;

(h) all additional Equity interests or other property, securities, or assets now existing or hereafter acquired by the Pledgor relating to the Pledged Equity, including, without limitation, as a result of any consolidation, combinations, mergers, reorganizations, acquisitions, exchange offers, recapitalizations of any type, contributions to capital, splits, spin-offs, or similar actions or the exercise of options or other rights relating to the Pledged Equity;

(i) all partnership certificates, member certificates, stock certificate, or any other instrument, note, chattel paper or certificate (including, without limitation, "certificated securities" within the meaning of 8-102 of the UCC) (whether or not qualifying as Investment Property) representing interests in the Pledged Equity and any interest of the Pledgor in the entries on the books of any financial intermediary pertaining to such certificates or writings, and all options and warrants for the purchase of such Equity interests now or hereafter held in the name of the Pledgor (collectively, "Certificated Securities"), and all Certificated Securities in the Pledged Entity from time to time acquired by the Pledgor in any manner, and any interest of the Pledgor in the entries on the books of any financial intermediary pertaining to such Certificated Securities, and all securities convertible into and options, warrants, dividends, cash, instruments and other rights and options from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Certificated Securities (including all rights to request or cause the issuer thereof to register any or all of the Pledged Collateral under federal and state securities laws to the maximum extent possible under any agreement for such registration rights), and all put rights, tag-along rights or other rights pertaining to the sale or other transfer of such Pledged Collateral, together in each case with all right under any Organizational Agreements pertaining to such rights;

(j) (i) all "proceeds" (as such term is defined in 8-102 of the UCC) of any or all of the foregoing (whether cash or non-cash proceeds, including insurance proceeds), (ii) whatever is receivable or received when any of the Pledged Collateral is sold, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, and includes, without limitation, all rights to payment, including return premiums, with respect to any insurance relating thereto and also includes all interest,

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dividends and other property receivable or received on account of any of the Pledged Collateral or proceeds thereof, and in any event, shall include all Distributions or other income from any of the Pledged Collateral, all collections thereon or all Distributions with respect thereto, and (iii) all proceeds, products, accessions, rents, profits, income, benefits, substitutions and replacements of and to any of the Pledged Collateral. The inclusion of proceeds in the Pledged Collateral does not authorize the Pledgor to sell, dispose of or otherwise use the Pledged Collateral in any manner not specifically authorized hereby.

(k) To the extent any of the Pledged Collateral constitutes an "uncertificated security" (as defined in Section 8-102(a)(18) of the UCC), the Pledgor shall cause the issuer thereof to acknowledge to the Trustee the registration on the books of such issuer of the pledge and security interest hereby created in the manner required by Section 8-311(b) of the UCC.

(l) The Pledgor, as debtor, authorizes the Trustee, on behalf of itself as creditor, to file UCC financing statements with respect to the foregoing pledge of collateral contemplated by this Section 1.01.

Section 1.02 Definitions. Unless otherwise defined herein, all words and terms set forth and defined in the Company Agreements shall have the same meaning as set forth in the Company Agreements, as if fully set forth in this Security Agreement, and the following terms have the following meanings (such meanings being equally applicable to both the singular and plural forms of the terms defined):

(a) "Distributions" means all dividends, distributions, liquidation proceeds, cash, profits, instruments and other property and payments or economic benefits or interests to which the Pledgor is entitled with respect to the Pledged Equity whether or not received by or otherwise distributed to the Pledgor, whether such dividends, distributions, liquidation proceeds, cash, profits, instruments and other property and economic benefits are paid or distributed by the Pledgor or otherwise in respect of operating profits, sales, exchanges, refinancing, condemnations or insured losses of the company's assets, the liquidation of the company's assets and affairs, management fees, guaranteed payments, repayment of loans, reimbursement of expenses or otherwise in respect of or in exchange for any or all of the Pledged Equity but shall not include the payment of the Development Fee or any of the proceeds thereof.

(b) "Organizational Agreement" means the limited liability company agreement and other organizational or governing documents, as applicable, of any Pledged Entity.

(c) "Section 1603 Grant" means any payment by the United States Department of Treasury under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009.

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- 6 -

(d) "UCC" means the Uniform Commercial Code, as in effect from time to time in the State where the property subject to this Security Agreement is located.

Section 1.03 Perfection of Security Interest; Further Acts. On or before the issuance of the Series 2011A Bonds, the Pledgor shall (a) enter into such arrangements as may be necessary to give control of any pledged Investment Property to the Trustee within the meaning of 8-106 of the UCC, (b) cause each Pledged Entity to execute and deliver the Agreement and Acknowledgement attached hereto as Exhibit A (the "Acknowledgement"), and (c) promptly take all other actions required to perfect the security interest of the Trustee in the Pledged Collateral under applicable law. If the intention of the Pledgor and the Trustee that at all times while the Agreement remains in effect, the Pledged Equity shall constitute Investment Property, and, to that end, the Pledgor shall take, and shall cause each Pledged Entity to take, all necessary action to obtain such classification pursuant to the UCC.

Section 1.04 Acts of the Trustee. All of the Pledged Collateral at any time delivered to the Trustee pursuant to this Agreement shall be held by the Trustee subject to the terms, covenants and conditions set forth in the Company Agreements. Neither the Trustee nor any of the Trustee's directors, officers, agents, employees or counsel shall be liable for any action taken or omitted to be taken by such party or parties relative to any of the Pledged Collateral, except to the extent of such party's or parties' own negligence or willful misconduct. The Trustee shall be entitled to rely in good faith upon any writing or other document (including, without limitation, any telegram or e-mail) or any telephone conversation reasonably believed by it to be genuine and correct and to have been signed, sent or made by the proper Person (but the Trustee shall be entitled to such additional evidence of authority or validity as it may, in its sole and absolute discretion request, but it shall have no obligation to make any such request), and with respect to any legal matter, the Trustee may rely in acting or in refraining from acting upon the advice of counsel selected by it concerning all matters hereunder.

Section 1.05 Custody of Pledged Collateral. The Trustee shall not have any duty concerning the collection or protection of the Pledged Collateral or any income thereon or payments with respect thereto, or concerning the preservation of any rights pertaining thereto beyond exercising reasonable care with respect to the custody of any tangible evidence of the Pledged Collateral actually in its possession.

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## ARTICLE II

### POWERS OF THE PLEDGOR PRIOR TO AN EVENT OF DEFAULT

Section 2.01 Distributions; Exercise of Rights. Unless an Event of Default has occurred and is continuing, and subject to the terms of the Company Agreements, the Pledgor shall be entitled to (a) receive cash Distributions (including in respect of the Section 1603 Grant or the proceeds from the sale of any SRECs) allocable to the Pledged Collateral, and (b) exercise (but only in a manner that will not (i) violate or be inconsistent with the terms hereof or of any other Company Agreement or (ii) have the effect of impairing the position or interests of the Trustee) the voting, consent, administration, management and all other powers, rights and remedies of the Pledgor with respect to the Pledged Collateral under the Organizational Agreements of any Pledged Entity (including all other rights and powers thereunder which are pledged hereunder or otherwise). If the Pledgor shall become entitled to receive or shall receive from any Pledged Entity (A) any non-cash Distribution in addition to, on account of, in substitution of, or in exchange for the Pledged Collateral or any part thereof, or (B) upon the occurrence of any Event of Default that is continuing, any cash Distributions, in either case the same shall immediately be remitted to the Trustee (in the exact form received, with the Pledgor's endorsement or assignment or other instrument as the Trustee may deem appropriate) to be held as additional Pledged Collateral for the Obligations or for application thereon, as applicable, and until so remitted, shall be received and held by the Pledgor in trust and as agent for the Trustee. For the avoidance of doubt, any Distribution by the Company (including in respect of the Section 1603 Grant or any proceeds from the sale of SRECs) occurring prior to an Event of Default shall be irrevocable and shall not be subject to refund or recovery by the Trustee, incurring without limitation, upon the occurrence of an Event of Default.

Section 2.02 Termination of Powers. Upon the occurrence of an Event of Default that is continuing, all such powers, rights and remedies of the Pledgor, which are conditionally permitted pursuant to Section 2.01 of this Agreement, shall cease and the provisions of Article IV of this Agreement shall apply.

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ARTICLE III  
REPRESENTATIONS, WARRANTIES  
AND COVENANTS OF PLEDGOR

The Pledgor hereby represents, warrants and covenants with and to the Trustee as follows:

**Section 3.01 Percentage Ownership.** As of the date hereof, the Pledgor owns one hundred (100%) percent of the legal and beneficial ownership interests in and to all Pledged Equity. The Pledgor does not have any outstanding options or rights or other agreements to acquire or sell or otherwise transfer all or any portion of any Pledged Equity.

**Section 3.02 Title to Pledged Collateral.** The Pledgor validly acquired and is the legal and beneficial owner of the Pledged Collateral in which it has granted a security interest, and transferred a collateral interest, herein, free and clear of all Liens except such as are created pursuant to this Agreement. The Pledgor has the legal right to pledge and grant a security interest in the Pledged Collateral as herein provided without the consent of any other person or entity, other than any such consent that has been obtained. The Pledgor will have like title in, and the right to pledge, any other property at any time hereafter acquired by the Pledgor and pledged to the Trustee as Pledged Collateral hereunder.

**Section 3.03 Defense of Title.** The Pledgor will defend the Trustee's right, title and interest in and to the Pledged Collateral against the claims and demands of all other persons and entities.

**Section 3.04 No Transfer.** Except for the transfer effected by this Agreement, the Pledgor will not transfer the Pledged Collateral, or any portion thereof, or suffer or permit any transfer thereof to occur. Any transfer made in violation of the foregoing provisions shall be an immediate Event of Default hereunder without notice or opportunity to cure and shall be void and of no force and effect, and upon demand of the Trustee, shall forthwith be cancelled or satisfied by an appropriate instrument in writing. Notwithstanding any other provisions herein, nothing in this Agreement shall limit the transferability of ownership interests in Pledgor or the admission or withdrawal of members of the Pledgor.

**Section 3.05 Perfected Security Interest.** Giving effect to this Agreement, the Trustee has, with respect to all Pledged Collateral owned by the Pledgor as of the Closing Date, and will have with respect to any other property at any time hereafter acquired by the Pledgor and pledged to the Trustee as Pledged Collateral hereunder, a valid, perfected and continuing first lien upon and security interest in the Pledged Collateral. For purposes hereof, "Closing Date" shall mean the date of issuance of the Series 2011 Bonds.

**Section 3.06 No Financing Statements.** Except for financing statements filed or to be filed in favor of the Trustee as secured party, or such other financing statements expressly permitted with the Trustee's prior written consent, which may be withheld in the Trustee's sole

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or consolidate with any other entity or (c) transfer any of its respective assets and properties to any Person except as permitted by the Company Agreements.

**Section 3.11 Authority, Enforceability, Etc.** The execution, delivery and performance of this Agreement by the Pledgor will not cause a violation of or a default under the Organizational Agreements of the Pledgor or any Pledged Entity. The execution and delivery of this Agreement and the performance of the Pledgor's obligations hereunder will not conflict with or result in a breach of the terms or provisions of any (a) applicable law, (b) agreement to which the Pledgor or any Pledged Entity is a party or by which any of its assets are bound, or (c) judgment, decree, arbitration award, or pending litigation to which the Pledgor or any Pledged Entity is subject. No approval by, authorization or consent of, or filing with any governmental authority or any other Person is necessary in connection with the execution, delivery and performance by the Pledgor of this Agreement, or if such approval, authorization, or consent is necessary, it has been obtained. This Agreement constitutes the valid and legally binding obligations of the Pledgor and is fully enforceable against the Pledgor in accordance with its terms, subject to the effects of bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and limitations imposed by general principles of equity. The jurisdiction of organization (as such term is defined in the UCC) and place of business of the Pledgor is set forth in the signature block of the Pledgor. No change has been or will be made in the jurisdiction of organization or place of business of the Pledgor, except upon at least thirty (30) days' prior notice to the Trustee.

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and absolute discretion, there are not now any financing statements under the UCC covering any or all of the Pledged Collateral filed in any public office, and the Pledgor will not authorize the filing of any such financing statements.

**Section 3.07 Certificated Securities.** The Pledgor represents and warrants that if all of the Pledged Equity is not evidenced by a certificated security, it shall promptly take all actions required to perfect the security interest of the Trustee in such Pledged Equity under applicable law as required under Section 1.03 of this Agreement. The Pledgor further agrees to take such additional actions as the Trustee deems necessary or desirable to effect the foregoing and to permit the Trustee to exercise any of its rights and remedies hereunder and agrees to provide an opinion of counsel satisfactory to the Trustee with respect to any such pledge of Equity Interests which are not Certificated Securities promptly upon request of the Trustee. Without limiting the effect of the immediately preceding clause, the Pledgor, upon the occurrence of an Event of Default, hereby grants to the Trustee an irrevocable proxy to veto the Pledged Equity and to exercise all other rights, powers, privileges and remedies to which a holder of the pledged equity would be entitled (including without limitation (a) giving or withholding written consents, (b) calling special meetings, (c) voting at such meetings, and (d) voting at any time or place) with respect to any action, decision, determination or election by the pledged entities or the holders of the respective equity interests (herein that the Pledged Equity (or any new or additional equity interest in such Pledged Entity) be, or cease to be, a certificated security, and all other matters related to any such action, decision, determination or election, which proxy shall be effective automatically and without the necessity of any action (including any transfer of any pledged equity on the record books of the issuer thereof) by any other person (including the issuer of the Pledged Equity or any officer or agent thereof) as of the date hereof, and which proxy shall only terminate upon the termination of this Agreement.

**Section 3.08 Fully Paid and Non-Assessable.** All of the Pledged Equity has been duly authorized and validly created and is subject to no options to purchase or similar rights of any Person. The Pledgor is not, and will not become, a party to or otherwise be or become bound by any agreement, other than this Agreement and the other Company Agreements, which restricts in any manner the rights of any present or future holder of any of the Pledged Equity with respect thereto. There are no set-offs, counterclaims or defenses with respect to the Pledged Collateral owned by the Pledgor and no agreement, oral or written, has been made with any other person or party under which any deduction or discount may be claimed with respect to such Pledged Collateral and the Pledgor knows of no fact which would prohibit or prevent the Pledgor assigning or granting a security interest in the Pledged Collateral.

**Section 3.09 Organizational Agreements.** Attached hereto as Exhibit B are true, correct, and complete copies of the Organizational Agreements of each Pledged Entity. The Organizational Agreements are in full force and effect and have not been modified or amended except as attached hereto. The Pledgor is not in default of any of its obligations under the Organizational Agreements nor is the Pledgor aware of a default by any other member in their respective obligations under the Organizational Agreements.

**Section 3.10 Amendments.** The Pledgor shall not allow any Pledged Entity to (a) amend any provision of its Organizational Agreements, (b) dissolve, liquidate, wind-up, merge

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ARTICLE IV

EVENTS OF DEFAULT AND REMEDIES

If an Event of Default shall occur during the term of this Agreement and during its continuance:

**Section 4.01 Transfer Rights.** Subject to the limitation of Section 4.10 hereof, the Trustee shall have the right, at any time and from time to time, to effect the transfer of any or all of the Pledged Collateral, subject only to the provisions of the UCC and any other applicable statute which, in accordance with such statute, cannot be waived, in any one or more of the following ways:

(a) Register in the name of, or transfer to, the Trustee, a nominee or nominee, or designee or designees, of the Trustee; provided that the provisions of Section 5.06 of this Agreement are complied with;

(b) Sell, resell, assign and deliver, in the Trustee's sole and absolute discretion, any or all of the Pledged Collateral (whether in whole or in part and at the same or different times) and all right, title and interest, claim and demand therein and right of redemption thereof, at public or private sale, for cash or upon credit (by the Trustee only), in accordance with the applicable procedures specified in Article V of this Agreement; and

(c) Proceed by a suit or suits at law or in equity to foreclose all or any part of the security interests in the Pledged Collateral and sell the Pledged Collateral or any portion thereof, under a judgment or decree of a court of competent jurisdiction, retaining during the duration of such judicial enforcement all other rights with respect to the Pledged Collateral, including specifically the rights specified hereafter in Article V of this Agreement with respect to such Pledged Entity.

**Section 4.02 Voting Rights.** Upon the occurrence of an Event of Default and during its continuance, the Trustee may exercise, either by itself or by its nominee or designee, in the name of the Pledgor, the rights, powers and remedies granted to the Trustee hereunder and under the other Company Agreements in respect of the Pledged Collateral at any time prior to effecting the transfer of such Pledged Collateral to the Trustee or its nominee or designee, or any third party purchaser, as contemplated in Sections 4.01(a) and (b) above, and whether or not any judicial action as contemplated in Section 4.01(c) above has been commenced or is continuing prior to a final unappealable judgment. Such rights and remedies shall include, without limitation, and the Pledgor hereby grants to the Trustee the right to exercise by delivering notice to the Pledgor and the applicable Pledged Entity, (a) all voting, consent, managerial and other rights relating to the Pledged Equity, whether in the Pledgor's name or otherwise, including without limitation the right to appoint officers, directors, managers and other similar positions and (b) the right to exercise the Pledgor's rights, if any, of conversion, exchange, or subscription, or any other rights, privileges or options pertaining to any of the Pledged Equity, including, without limitation, the

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right to exchange, at the Trustee's sole and absolute discretion, any and all of the Pledged Equity upon the merger, consolidation, reorganization, recapitalization or other readjustment of such Pledged Entity, all without liability, except to account for property actually received by the Trustee. The Pledgor hereby irrevocably authorizes and directs each Pledged Entity, on receipt of any such notice (i) to deem and treat the Trustee or its nominee in all respects as a member, partner or shareholder, as applicable (and not merely an assignee of a member, partner or shareholder) of such Pledged Entity, entitled to exercise all the rights, powers and privileges (including, without limitation, the right to vote on or take any action with respect to such Pledged Entity matters pursuant to the Organizational Agreement) thereof, to receive all distributions, to be credited with the capital account and to have all other rights, powers and privileges pertaining to such member, partner or shareholder interest, as applicable, to which the Pledgor would have been entitled had the Pledgor not executed this Agreement and (ii) to file an amendment to the Organizational Agreement of such Pledged Entity admitting the Trustee or such nominee(s) as a member, partner or shareholder in place of the Pledgor.

#### Section 4.03 Power of Attorney.

(a) The Pledgor hereby irrevocably authorizes and empowers the Trustee, and assigns and transfers of the Trustee, and constitutes and appoints the Trustee and any of its assigns, its true and lawful attorney-in-fact (coupled with an interest) and as its agent with full power of substitution for the Pledgor to proceed from time to time in the Pledgor's name, in order to more fully vest in the Trustee the rights and remedies provided for herein, in any statutory or non-statutory legal or other proceeding, including without limitation, any Bankruptcy proceeding affecting any Pledged Entity or the Pledged Collateral and Pledgor's interest in any Pledged Entity or the Pledged Collateral.

(b) The Trustee and any of its assigns, or their respective nominees, may, to the extent permitted by applicable law, either pursuant to such power-of-attorney or otherwise, take any action and exercise and execute any instrument that it determines necessary or advisable to accomplish the purposes of this Agreement, including without limitation: (i) execute and file proof of claim with respect to any or all of the Pledged Collateral against any Pledged Entity and vote such claims with respect to all or any portion of such Pledged Collateral (A) for or against any proposal or resolution, (B) for a trustee or trustees or for a receiver or receivers or for a committee of creditors, and/or (C) for the acceptance or rejection of any proposed arrangement, plan of reorganization, composition or extension; (ii) receive, endorse and collect all drafts, checks and other instruments for the payment of money made payable to the Pledgor representing any interest, payment of principal or other distribution payable in respect of the Pledged Collateral; (iii) execute endorsements, assignments or other instruments of conveyance or transfer in respect of any other property which is or may become a part of the Pledged Collateral hereunder; and (iv) execute releases and negotiate settlements, as appropriate, including on account of, or in exchange for, any or all of the Pledged Collateral, or any payment or distribution received by the Pledgor, or the Trustee on the Pledgor's behalf.

(c) The foregoing power-of-attorney is irrevocable and coupled with an interest, and any similar or dissimilar powers previously given by the Pledgor in respect

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appear in or defend any action or proceeding relating to the Pledged Collateral to which it is not a party, or (ii) take any action hereunder or thereunder, or expend any money or incur any expenses or perform or discharge any obligation, duty or liability under the Pledged Collateral.

**Section 4.08 Remedies Cumulative.** The obligations of the Pledgor under this Agreement shall be absolute and unconditional and shall remain in full force and effect without regard to, and shall not be released, suspended, discharged, terminated or otherwise affected by, any circumstances or occurrences except as specifically provided in this Agreement. The rights, powers and remedies of the Trustee under this Agreement shall be cumulative and not exclusive of any other right, power or remedy which the Trustee may have against the Pledgor or any Person pledging collateral pursuant to the other Company Agreements or existing at law or in equity or otherwise. The Trustee's rights, powers and remedies may be pursued singly, concurrently or otherwise, at such time and in such order as the Trustee may determine in its sole and absolute discretion. **THE TRUSTEE SHALL HAVE NO DUTY TO EXERCISE ANY OF THE AFORESAID RIGHTS, POWERS AND REMEDIES AND SHALL NOT BE RESPONSIBLE FOR ANY FAILURE TO DO SO OR DELAY IN SO DOING.**

**Section 4.09 Notice of Exercise of Remedies.** The Pledgor hereby waives notice of acceptance hereof, and except as otherwise specifically provided herein or required by provision of law which may not be waived, hereby waives any and all notices or demands with respect to any exercise by the Trustee of any rights or powers which it may have or to which it may be entitled with respect to the Pledged Collateral, except that notwithstanding the foregoing or anything herein to the contrary, the Trustee shall provide thirty (30) days advance notice prior to the Trustee's exercising any such rights or powers with respect to the Pledged Collateral, stating which time the Pledgor shall have the opportunity to cure the circumstance giving rise to such notice.

**Section 4.10 Limitation.** The Trustee may not sell or otherwise transfer any interest in the Pledged Collateral to a person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event. The expression, "Tax Benefit Recapture Event", means an event which would entitle the United States Department of the Treasury or Internal Revenue Service to require that the Company return all or part of the Section 1603 Grant in lieu of tax credit received in connection with the Renewable Energy Projects, or to disallow the Company's tax deductions or recapture all or a portion of investment tax credits previously claimed with respect to investments in energy property or for depreciation.

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of the Pledged Collateral or any Pledged Entity to any Person or any other person or entity (other than the Trustee) are hereby revoked. The power-of-attorney granted herein shall terminate automatically upon the termination of this Agreement in accordance with the terms hereof.

**Section 4.04 Management Rights.** The Trustee may at such time and from time to time thereafter, without notice to, or consent of, the Pledgor or any Person (to the extent permitted by law), but without affecting any of the Obligations, in the name of the Pledgor or in the name of the Trustee: (a) notify any other party to make payment and performance directly to the Trustee, (b) extend the time of payment and performance of, compromise or settle for cash, credit or otherwise, and upon any terms and conditions, any obligations owing to the Pledgor, or claims of the Pledgor under any Organizational Agreement of any Pledged Entity, as applicable, (c) file any claims, commence, maintain or discontinue any actions, suits or other proceedings deemed by the Trustee reasonably necessary or advisable for the purpose of collecting upon or enforcing any Organizational Agreement of any Pledged Entity and (d) execute any instrument and do all other things deemed reasonably necessary and proper by the Trustee to protect and preserve and realize upon the Pledged Collateral or any portion thereof and the other rights contemplated hereby.

**Section 4.05 Right of Substitution.** The Trustee shall have the right, without notice to or consent of the Pledgor, to become, or to designate its nominee, designee, agent or assignee to become, a partner, member, officer or director, as applicable, of any Pledged Entity, in substitution of any existing Person serving in such capacity, subject to the terms of the Organizational Agreement.

**Section 4.06 UCC Rights.** The Trustee may exercise all of the rights and remedies of a secured party under the UCC.

#### Section 4.07 The Trustee Self-Help Rights.

(a) Subject to all applicable laws, the Trustee shall have the right, but not the obligation, to take any appropriate action as it, in its reasonable judgment, may deem necessary to (i) cure any Event of Default, (ii) cause any term, covenant, condition or obligation required under this Agreement or other Company Agreement to be promptly performed or observed on behalf of the Pledgor or (iii) protect the Pledged Collateral and any other security obtained pursuant to the other Company Agreements. All amounts advanced by, or on behalf of, the Trustee in exercising its rights under this Article IV (including, without limitation, reasonable legal expenses and disbursements incurred in connection therewith), together with interest thereon at the Overdue Rate (as defined in the Company Lease Agreement) from the date of any such advance, shall be payable by the Pledgor to the Trustee upon demand therefor and shall be secured by the Pledged Collateral.

(b) The Trustee shall not be obligated to perform or discharge any obligation of the Pledgor or any Pledged Entity as a result of this Agreement. The acceptance by the Trustee of this Agreement shall not at any time or in any event obligate the Trustee to (i)

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## ARTICLE V

### SALES OF THE PLEDGED COLLATERAL

**Section 5.01 Right to Conduct Partial Sale of Pledged Collateral.** In connection with any sale of the Pledged Collateral, the Trustee may grant options and may impose reasonable conditions such as requiring any purchaser to represent that any "securities" constituting any part of the Pledged Collateral are being purchased for investment only. If all or any of the Pledged Collateral is sold at any such sale by the Trustee to a third party upon credit, the Trustee shall not be liable for the failure of the purchaser to purchase or pay for the same and, in the event of any such failure, the Trustee may resell such Pledged Collateral. It is expressly agreed that the Trustee may exercise its rights with respect to less than all of the Pledged Collateral, leaving unexercised its rights with respect to the remainder of the Pledged Collateral; provided, however, that such partial exercise shall in no way restrict or jeopardize the Trustee's right to exercise its rights with respect to the remaining Pledged Collateral at a later time or times. The Pledgor hereby waives and releases any and all rights of redemption with respect to the sale of any Pledged Collateral.

**Section 5.02 Sale Procedures.** Except as may be required by any applicable laws, no demand, advertisement or notice, all of which are hereby expressly waived by the Pledgor, shall be required in connection with any sale or other disposition of all or any part of the Pledged Collateral, except that the Trustee shall give the Pledgor at least ten (10) days' prior notice of the time and place of any public sale or of the time and the place at which any private sale or other disposition is to be made, which notice the Pledgor hereby agrees is reasonable. All other demands, advertisements and notices are hereby irrevocably waived by the Pledgor. The notice of such sale shall (a) in case of a public sale, state the time and place fixed for such sale, (b) in case of a sale at a broker's board or on a securities exchange, state the board or exchange at which such sale is to be made and the day on which the Pledged Collateral, or the portion thereof so being sold, first will be offered for sale at such board or exchange, and (c) in the case of a private sale, state the date after which such sale may be consummated. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as the Trustee may fix in the notice of such sale.

**Section 5.03 Adjournment Credit Sale.** The Trustee shall not be obligated to make any sale of the Pledged Collateral if it shall determine, in its sole and absolute discretion, not to do so, regardless of the fact that notice of sale may have been given, and the Trustee may without notice or publication adjourn any public or private sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. Upon each public or private sale of all or any portion of the Pledged Collateral, unless prohibited by any applicable statute which cannot be waived, the Trustee (or its nominee or designee) may purchase all or any portion of the Pledged Collateral being sold, free and clear of, and discharged from, any trusts, claims, equity or right of redemption of the Pledgor, all of which are hereby waived and released to the extent permitted by law, and may make payment therefor by credit against any of the Obligations in lieu of cash or any other obligations.

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Section 5.04 Expenses of Sale. In the case of any sale, public or private, of any portion of or all of the Pledged Collateral, the Pledgor shall be responsible for the payment of all reasonable costs and expenses of every kind for the sale and delivery, including, without limitation, brokers' and reasonable attorneys' fees and disbursements and any tax imposed thereon. The proceeds of the sale of the Pledged Collateral shall be available to cover such costs and expenses, and, after deducting such costs and expenses from the proceeds of the sale, the Trustee shall apply any remaining amounts to the payment of the Obligations in the order of priority as set forth in the Company Agreements.

Section 5.05 No Public Registration of Sale. The Pledgor is aware that §9-610(c) of the UCC may restrict the Trustee's ability to purchase the Pledged Collateral at a private sale. The Pledgor is also aware that Securities and Exchange Commission (the "SEC") staff personnel have, over a period of years, issued various No-Action Letters that describe procedures which, in the view of the SEC staff, permit a foreclosure sale of securities to occur in a manner that is public for purposes of Part 6 of Article 9 of the UCC, yet not public for purposes of Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act"). The Pledgor is also aware that the Trustee may wish to purchase certain interests that are sold at a foreclosure sale, and the Pledgor believes that such purchases would be appropriate in circumstances in which such interests are sold in conformity with the principles set forth in such No-Action Letters. §9-603 of the UCC permits the Pledgor to agree on the standards for determining whether the Trustee has complied with its obligations under §9-610. Pursuant to §9-603 of the UCC, the Pledgor specifically agrees that a foreclosure sale conducted in conformity with the principles set forth in such No-Action Letters (a) shall be considered to be a "public disposition" for purposes of §9-610(c) of the UCC; (b) will be considered commercially reasonable notwithstanding that the Trustee has not registered or sought to register the interests under the Securities Act, even if the Pledgor or any Pledged Entity agree to pay all costs of the registration process; and (c) shall be considered to be commercially reasonable, notwithstanding that the Trustee purchases such interests at such a sale.

Section 5.06 Strict Foreclosure. Upon the occurrence of an Event of Default:

(a) The Trustee may, but shall have no obligation to, in its sole and absolute discretion, either negotiate an agreement ("Strict Foreclosure Agreement") with the Pledgor, or make a written proposal ("Strict Foreclosure Proposal") to the Pledgor, to retain the Pledged Collateral in full or partial satisfaction of the financial Obligations in accordance with the procedures specified in §§-620 of the UCC.

(b) In the case of a Strict Foreclosure Proposal, the Pledgor shall, within ten (10) Business Days of the Pledgor's receipt of the Strict Foreclosure Proposal, indicate the Pledgor's (i) acceptance or rejection of such Strict Foreclosure Proposal and (ii) waiver of any right to redeem the Pledged Collateral pursuant to §9-624(c) of the UCC ("UCC Waiver"). The Pledgor's indication of acceptance of a Strict Foreclosure Proposal shall be made by delivering a notice in a form substantially identical to the form attached hereto as Exhibit C.

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Section 5.08 Application of Pledged Collateral. All proceeds from the sale of all or any portion of the Pledged Collateral, and all Distributions now or at any time hereafter received or retained by the Trustee pursuant to the provisions of this Agreement shall be applied by the Trustee to the satisfaction of the Obligations in such order and priority as determined by the Trustee in its sole and absolute discretion and in accordance with applicable law.

Section 5.09 Preferences. The Trustee shall have no obligation to marshal any assets in favor of the Pledgor or any other party or against, or in payment of, any or all of the Obligations. To the extent the Pledgor makes a payment or payments to the Trustee, which payment or payments or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any Bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Obligations intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by the Trustee.

Section 5.10 Limitation. The rights and powers of the Trustee set out in this Article V are subject to the limitation of Section 4.10 hereof.

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(c) The Trustee shall notify any guarantor, any other creditor with perfected lien rights in the Pledged Collateral, and any Person, or any other person or entity entitled to notice under §9-621 of the UCC ("Interested Parties") of any Strict Foreclosure Agreement or Strict Foreclosure Proposal. Such Interested Party shall, within ten (10) Business Days of receipt of notice thereof, indicate its (i) acceptance or rejection of the Strict Foreclosure Agreement or the Strict Foreclosure Proposal, and (ii) UCC Waiver.

(d) If the Trustee fails to receive (i) the Pledgor's acceptance of a Strict Foreclosure Proposal and UCC Waiver or (ii) acknowledgements from all Interested Parties of acceptance of the Strict Foreclosure Agreement or the Strict Foreclosure Proposal, as applicable) and their respective UCC Waivers, within ten (10) Business Days of receipt of the notice periods specified in subsections (b) and (c) above (collectively the "Notice Period"), then the Pledgor, or such other Interested Party, as applicable, shall be deemed to have objected to the Strict Foreclosure Agreement or the Strict Foreclosure Proposal, as applicable.

(e) Notwithstanding the acceptance of either a Strict Foreclosure Agreement or a Strict Foreclosure Proposal by the Pledgor and each Interested Party within the applicable Notice Period, the Pledgor and the Trustee shall not be required to consummate such transfer of the Pledged Collateral unless and until (i) twenty (20) days have elapsed after the delivery of such acceptance and, (ii) any Interested Party shall have not paid and satisfied the financial Obligations in full within such twenty (20) day period as contemplated under §9-623 of the UCC (a "Redemption"). If a Redemption is consummated, the Pledgor's acceptance shall be deemed to have been revoked with the consent of the Trustee.

(f) If all the conditions specified in subsections (a) through (e) of this Section 5.06 have been satisfied, the Pledgor and each Pledged Entity shall fully cooperate, at their sole expense, in all matters deemed reasonably necessary by the Trustee to effect such transfer of ownership on the records of such Pledged Entity in accordance with any applicable requirements of the Organizational Agreement of such Pledged Entity and/or the Company Agreements. Such cooperation shall include using the Pledgor's best efforts to assist the Trustee in obtaining any necessary review, approvals and other administrative action from such Pledged Entity and the Trustee. Such assistance shall include, at the Trustee's request (i) attending all meetings with, and providing all related financial and operational documents and materials to, such third parties, and (ii) providing such assurances and executing such documentation as is required by such third parties or the Trustee to effect such transfer.

Section 5.07 Receipt of Sales Proceeds. Upon any sale of the Pledged Collateral, or any portion thereof, by the Trustee hereunder (whether by virtue of the power of sale herein granted, pursuant to judicial process or otherwise), the receipt of the proceeds by the Trustee or the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Pledged Collateral so sold, and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Trustee or such officer or be answerable in any way for the misapplication or non-application thereof.

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## ARTICLE VI

### SECURITIES ACT

Section 6.01 Private Securities Sale. If at any time when the Trustee shall determine to exercise its right to sell all or any part of the Pledged Collateral pursuant to Article V of this Agreement, and such Pledged Collateral or the part thereof to be sold shall not, for any reason whatsoever, be effectively registered under the Securities Act, as then in effect, the Trustee may, in its sole and absolute discretion, sell such Pledged Collateral or part thereof by private sale (for securities law purposes) in such manner and under such circumstances as the Trustee may deem necessary or advisable in order that such sale may legally be effected without such registration, provided that at least ten (10) days' notice is given to the Pledgor in accordance with the private sale notice provisions of Article V of this Agreement. Without limiting the generality of the foregoing, in any such event the Trustee, in its sole and absolute discretion (a) may proceed to make such private sale notwithstanding that a registration statement for the purpose of registering such Pledged Collateral or part thereof shall have been filed under such Securities Act, (b) may approach and negotiate with a single potential purchaser to effect such sale, and (c) may restrict such sale to a purchaser who will represent and agree that such purchaser is purchasing for its own account, for investment, and not with a view to the distribution or sale of such Pledged Collateral or part thereof. In the event of any such sale, the Trustee shall incur no responsibility or liability for selling all or any part of the Pledged Collateral at a price which the Trustee may in good faith deem reasonable under the circumstances, notwithstanding the possibility that a substantially higher price might be realized if the sale was made pursuant to a filed registration statement under the Securities Act.

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ARTICLE VII

MISCELLANEOUS

Section 7.01 Further Assurances. The Pledgor hereby agrees to sign and deliver to the Trustee financing statements, continuation statements and other documents, agreements, and instruments, in form acceptable to the Trustee, and do such further acts, as the Trustee may from time to time reasonably request or which are reasonably necessary to establish and maintain a valid and perfected security interest in the Pledged Collateral (and to pay any filing fees relative thereto) or to further assure or confirm the Trustee's rights hereunder. Without limiting the foregoing, the Pledgor authorizes the Trustee, to the extent permitted by law, to file such financing statements and amendments thereto and continuations thereof relating to all or any part of the Pledged Collateral without the signature of the Pledgor (including, to the extent permitted by law, to file a photographic or other reproduction of this Agreement).

Section 7.02 No Release Etc. No delay or omission to exercise any remedy, right or power accruing upon a default or an Event of Default shall impair any such remedy, right or power or shall be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of any default or Event of Default shall not be construed to be a waiver of any subsequent default or Event of Default or to impair any remedy, right or power of the Trustee. Any and all of the Trustee's rights with respect to any Pledged Collateral shall continue unimpaired, and the Pledgor shall be and remain obligated in accordance with the terms hereof, notwithstanding, among other things: (a) any renewal, extension, amendment or modification of, or addition to or supplement to, or deletion from, this Agreement or any other Company Agreement or any other instrument or agreement referred to therein, or any assignment or transfer of any thereof; (b) any waiver, consent, delay, extension of time, indulgence or other action or inaction under or in respect of this Agreement or any other Company Agreement; (c) any exercise or non-exercise of any right, remedy, power or privilege under or in respect of this Agreement or any other Company Agreement; (d) any sale, exchange, release, surrender, or substitution of, or realization upon, any Pledged Collateral (except to the extent otherwise specifically agreed to by the Trustee) or any other security held by the Trustee to cure the financial obligations; (e) the furnishing to or acceptance by the Trustee of any additional security to secure the financial obligations; or (f) any invalidity, irregularity or unenforceability of all or any part of the obligations or of any security therefor.

Section 7.03 Notices. All notices, consents, approvals, demands and requests required or permitted hereunder shall be given in the manner set forth in the Acknowledgment.

Section 7.04 Modification Waiver in Writing. No modification, amendment, extension, discharge, termination or waiver of any provision of this Agreement, nor consent to any departure by the Pledgor therefrom, shall in any event be effective unless the same shall be in a writing signed by the party against whose enforcement is sought, and then such waiver or consent shall be effective only in the specific instance, and for the purpose, for which given. Except as otherwise expressly provided herein, no notice to, or demand on the Pledgor, shall

[0001012-0]

- 21 -

NOT BEEN WAIVED. EXCEPT AS PROHIBITED BY LAW, THE PLEDGOR HEREBY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION ANY EXEMPLARY, OR PUNITIVE DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. THE PLEDGOR CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE TRUSTEE HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT TRUSTEE WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR TRUSTEE TO ACCEPT THIS AGREEMENT.

Section 7.10 Successors and Assigns. This Agreement and all obligations of the Pledgor hereunder shall be binding upon the successors and assigns of the Pledgor, except that the Pledgor shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Trustee. The Trustee shall have the right to assign its interest in this Agreement and all rights and remedies of the Trustee hereunder shall leave to the benefit of the Trustee and its participants, successors and assigns. Neither this Agreement nor anything set forth herein is intended to, nor shall it, confer any rights on any person or entity other than the parties hereto and all third party rights are expressly negated.

Section 7.11 Term Termination of Pledge. This Agreement shall terminate at the end of the recapture period relating to the investment tax credit (or the Section 1603 Grant in lieu of such credit) available to the Company under Sections 38, 46 and 48 of the Code in connection with the Renewable Energy Project, as certified to the Trustee by an Authorized Officer of the Company in a certificate to such effect delivered by or on behalf of the Company to the Trustee and the Authority.

SIGNATURE PAGE TO FOLLOW

[0001012-0]

- 22 -

entitle the Pledgor to any other or future notice or demand in the same, similar or other circumstances.

Section 7.05 Number and Gender. All references to sections and exhibits are to sections and exhibits in or to this Agreement unless otherwise specified. Unless otherwise specified, the words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision, article, section or other subdivision of this Agreement. Unless otherwise specified, all meanings attributed to defined terms herein shall be equally applicable to both the singular and plural forms of the terms so defined. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 7.06 Headings Etc. The headings and captions of various paragraphs of this Agreement are for the convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 7.07 Counterparts. This Agreement may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Agreement. The failure of any party hereto to execute this Agreement, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

Section 7.08 GOVERNING LAW; SEVERABILITY. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW JERSEY, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICT OF LAWS THEREUNDER. WHEREVER POSSIBLE, EACH PROVISION OF THIS AGREEMENT SHALL BE INTERPRETED IN SUCH MANNER AS TO BE EFFECTIVE AND VALID UNDER APPLICABLE LAW, BUT IF ANY PROVISION OF THIS AGREEMENT SHALL BE PROHIBITED BY OR INVALID UNDER APPLICABLE LAW, SUCH PROVISION SHALL BE INEFFECTIVE TO THE EXTENT OF SUCH PROHIBITION OR INVALIDITY, WITHOUT INVALIDATING THE REMAINDER OF SUCH PROVISION OR THE REMAINING PROVISIONS OF THIS AGREEMENT.

Section 7.09 JURY TRIAL. THE PLEDGOR AND THE TRUSTEE (BY ACCEPTANCE OF THIS AGREEMENT) MUTUALLY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THE COMPANY AGREEMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY, INCLUDING, WITHOUT LIMITATION, ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS OR ACTIONS OF THE TRUSTEE RELATING TO THE ADMINISTRATION OR ENFORCEMENT OF THE COMPANY AGREEMENTS, AND AGREE THAT NEITHER PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS

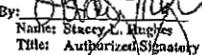
[0001012-0]

- 22 -

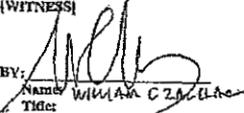
IN WITNESS WHEREOF, the Pledgor has caused this Pledge and Security Agreement to be duly executed and delivered, all as of the day and year first above written.

SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC

By: Sunlight General Capital Management, LLC, its Manager

By:   
Name: Nadia Stacey L. Hughes  
Title: Authorized Signatory

(WITNESS)

BY:   
Name: William C. Zaccaro  
Title:

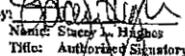
Jurisdiction of Organization: New Jersey  
Place of Business:  
501 North Avenue, Suite 602  
New York, New York 10017

ACKNOWLEDGMENT

The terms of this Pledge and Security Agreement are hereby acknowledged, and accepted, by the Company, as of the 1<sup>st</sup> day of December, 2011.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC,

By: Sunlight General Capital Management, LLC, its Manager

By:   
Name: Nadia Stacey L. Hughes  
Title: Authorized Signatory

[0001012-0]

## Schedule 1

Pledgor, consisting of the following Persons	Pledged Entity	Pledged Equity Interest
Sunlight General Sussex Holdings, LLC	Company	All Pledgor's Membership Interest in the Company

## Exhibit A

## AGREEMENT AND ACKNOWLEDGMENT

THE UNDERSIGNED hereby agrees, acknowledges and consents to the execution and delivery to U.S. BANK NATIONAL ASSOCIATION (the "Bank"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State of New Jersey (the "State"), where the Bank acts as trustee (together with its successors, assigns, and designees for the purposes hereof) the "Trustee") under and pursuant to that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Morris County Improvement Authority (the "Authority") as resolution number [11- on September 28, 2011], as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds authorized and defined therein (the "Bond Resolution"), of the Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of December 1, 2011 to which this Agreement and Acknowledgment is attached (as amended and supplemented, the "Pledge Agreement") made by all of the Persons (collectively, the "Pledgor"), as collateral security for the payment and performance of the Obligations, and the assignment and pledge thereby to the Trustee by the Pledgor of all of the Pledgor's right, title and interest in the Pledged Collateral described therein. All capitalized terms used herein not otherwise defined herein shall have the meanings ascribed to such terms in the Pledge Agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned, hereby represents, warrants, covenants and agrees for the benefit of the Trustee as follows:

1. **Representations and Warranties.** The undersigned represents and warrants that (a) the execution and delivery of the Pledge Agreement does not violate any of such undersigned's Organizational Agreements or any other agreement to which such undersigned is a party or by which any of the property of such undersigned is bound, (b) the undersigned has not entered into a control agreement perfecting a security interest in any of the Equity Interests favor of any other party (other than pursuant to the Permitted Encumbrances), (c) the Pledged Collateral is not subject to any security interest or lien in favor of any Person, or other person or entity (other than the Trustee) and has not been pledged, transferred or assigned to, and is not otherwise in the control of, any Person, or other person or entity (other than the Trustee), (d) the undersigned does not have any present claim, right of offset, or counterclaim against the Pledgor under or with respect to the Pledged Collateral or otherwise under any of the undersigned's Organizational Agreements, (e) the Pledgor is not in default to the undersigned or otherwise under or in respect of any of his obligations under any of such undersigned's Organizational Agreements, and (f) all of the representations and warranties of the Pledgor made in the Pledge Agreement are true, accurate and complete in all material respects.

10/01/13-2-5

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10/01/13-2-5

2. **Covenants and Agreements.**

(a) **Books and Records.** The undersigned (i) shall cause all of its respective books and records to reflect the pledge of the Pledged Collateral to the Trustee and agrees not to consent to or to permit any transfer thereof or any other action that may be taken by the Pledgor that might constitute an Event of Default so long as the Pledge Agreement remains in effect, (ii) agrees that the Trustee and/or its representatives may, upon reasonable advance notice and at any reasonable time during normal business hours, inspect the books, records and properties of such undersigned.

(b) **UCC Matters.** The undersigned confirms, agrees and acknowledges that (i) notwithstanding any provisions in the Organizational Agreements, the Pledgor is hereby authorized and permitted to pledge, assign and grant a security interest in the Pledged Collateral in favor of the Trustee pursuant to the Pledge Agreement, (ii) this Agreement and Acknowledgment is intended to, and shall, provide the Trustee with "control" over the Pledged Collateral within the meaning of Articles 8 and 9 of the UCC, (iii) it shall comply with all instructions relating to the Pledged Collateral originated by the Trustee without further authorization or consent, so long as such instructions are within the powers of the Trustee set forth in the Pledge Agreement, the intention of such covenant being to comply with §8-106(c)(2) of the UCC, and (iv) no Equity Interest other than the Pledged Equity of the undersigned is valid or will be recognized by the undersigned.

(c) **Organizational Agreements.** The undersigned shall not suffer or permit its Organizational Agreements to be amended or modified without the prior written consent of the Trustee.

(d) **Notices; Defaults.** The undersigned shall give the Trustee and the Authority a copy of all notices, reports or communications received or given pursuant to its Organizational Agreements promptly after the same shall have been received or contemporaneously with the giving thereof, as the case may be. The undersigned shall permit the Trustee the right to cure any default by the Pledgor under the Organizational Agreements, and no notice of any default by the Pledgor with respect to the Organizational Agreements shall be effective unless and until such notice has been received by the Trustee and the Authority; provided, however, in no event shall the Trustee or the Authority be obligated to cure such default. The Trustee shall have fifteen (15) days in excess of the amount of time to exercise its right (but not obligation) to cure any such default as given to the Pledgor under the Organizational Agreements, as measured from the date notice of such default has been received by the Trustee. Notices to the Authority and the Trustee, along with the undersigned, shall be to the following persons, unless updated by such entities in a writing delivered to each of the other notice entities:

- (i) **If to Authority:** The Morris County Improvement Authority  
P.O. Box 906  
Morristown, NJ 07963-0906  
Attention: John Bonanni, Chairman

Email: jbonanni@co.morris.nj.us

With a copy to:

Stephan B. Pezrman, Esq.  
Inglesino, Pearmann, Wyciskata & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07654  
Email: spezrman@inglesinotaylor.com(ii) **If to Trustee**U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to:

Nicholas A. Conello, Esq.  
McElroy, Deusech, Mulvaney & Carpenter, LLP  
1300 Mt. Kenble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: nconello@mdmc-law.com(iii) **If to undersigned**Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email: principals@sunlightgeneral.com

With a copy to:

James Duffy Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com

3. **Events of Default; Sales of Pledged Collateral.** The undersigned hereby agrees that upon the occurrence of an Event of Default, (a) all Distributions will be made directly to the Trustee, (b) the Trustee shall have the sole and exclusive right to exercise all voting, consensual and other powers of ownership pertaining to the Pledged Collateral, (c) the Trustee may take any reasonable action which the Trustee may deem necessary for the maintenance, preservation and protection of any of the Pledged Collateral or the Trustee's security interests therein, including, without limitation, the right to declare any or all Obligations to be immediately due and payable without demand or notice and the right to transfer any of the Pledged Equity or other Pledged Collateral into the Trustee's name or the name of any designee or nominee of the Trustee, (d) the Trustee may dispose of the Pledged Collateral in accordance with Articles 8 and 9 of the UCC and the provisions of the Pledge Agreement, in which case, notwithstanding anything to the contrary in the Organizational Agreements, (i) the Trustee, or its designee or assign, shall automatically be admitted as a member of the undersigned and shall be entitled to receive all

10/01/13-2-5

10/01/13-2-5

benefits and exercise all rights in connection therewith pursuant to the Organizational Agreements of the undersigned, (ii) the undersigned shall recognize the Trustee (or its designee or assign) as the successor in interest to the Pledgor, and (iii) notwithstanding any provisions to the contrary in the Organizational Agreements, the Trustee shall not be required to pay any fees or other consideration of any type, or execute any documents, or be limited by any requirements or conditions whatsoever (regarding Distributions receivable by the Trustee from the undersigned, the Trustee's financial condition or otherwise), other than any such requirements, if any, that are expressly set forth in the Company Agreements.

4. **No Liability.** Notwithstanding the security interests of the Trustee in the Pledged Collateral or any of its rights hereunder, (a) the Trustee shall have no obligation or liability whatsoever for matters in connection with the Pledged Equity arising or occurring, directly or indirectly, prior to the Trustee's (or its designee's, successor's or assign's) becoming a shareholder, member or partner, as the case may be, of the undersigned, and except to the extent set forth in the Company Agreements, the Pledgor shall have no liability for matters in connection with the Pledged Equity first occurring or arising after the Trustee's (or its designee's, successor's or assign's) acquisition through foreclosure of the Pledged Equity, and (b) the Trustee shall not be obligated to perform any of the obligations or duties of the Pledgor under any of the undersigned's Organizational Agreements, or to take any action to collect or enforce any claim for payment due the Pledgor arising thereunder.

5. **Transfers.** The undersigned acknowledges that the security interest of the Trustee in the Pledged Collateral and all of the Trustee's rights and remedies under the Pledge Agreement may be freely transferred or assigned by the Trustee. In the event of any such transfer or assignment, all of the provisions of this Agreement and Acknowledgment shall inure to the benefit of the transferee, successors, and/or assigns of the Trustee. The provisions of this Agreement and Acknowledgment shall likewise be binding upon any and all permitted transferees, successors and assigns of the undersigned.

6. **Further Assurance.** The undersigned shall, from time to time, promptly execute and deliver such further instruments, documents and agreements, and perform such further acts as may be reasonably necessary or proper to carry out and effect the terms of the Pledge Agreement and this Agreement and Acknowledgment.

7. **Reliance.** This Agreement and Acknowledgment is being given to induce the Trustee to accept the Pledge Agreement and with the understanding that the Trustee will rely hereon.

8. **Counterparts.** This Agreement and Acknowledgment may be executed in counterparts.

9. **Miscellaneous.** The provisions of Article 7 of the Pledge Agreement are hereby incorporated herein by this reference (with all references to the Pledgor therein deemed to mean and refer to the undersigned).

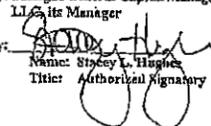
(9091032-3)

Exhibit B  
Organizational Agreements

(9091032-2)

SUNLIGHT GENERAL SUSSEX SOLAR, LLC,  
as Pledged Entity (the Company)

By: Sunlight General Capital Management,  
LLC, its Manager

By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

(0024091-3)

Exhibit C

Acceptance of the Trustee's Proposal under Section 5.06

\_\_\_\_\_, 20\_\_

U.S. Bank National Association, as Trustee  
Morristown, NJ

Ladies and Gentlemen:

This letter agreement and waiver is being delivered by the undersigned (the "Pledgor") to [\_\_\_\_\_] (the "Trustee") in connection with that certain Pledge and Security Agreement dated as of December 1, 2011 by the Pledgor in favor of the Trustee (as amended and supplemented, the "Pledge Agreement"). All capitalized terms used herein, unless otherwise defined herein, shall have the meanings specified in the Pledge Agreement.

1. As contemplated by Section 5.06 of the Pledge Agreement, the Pledgor hereby accepts the Trustee's Strict Foreclosure Proposal to retain all right, title and interest in and to the Pledged Collateral, and agrees to ratify such retention at the direction of the Trustee in accordance with such Section 5.06 and the other applicable provisions of the Company Agreements.

2. This acceptance is irrevocable and unconditional, subject, however, to the terms of Paragraph 5 below.

3. All of the Interested Parties acknowledge and consent to the acceptance and agreements set forth in Paragraph 1 and Paragraph 2 hereof.

4. In accordance with Section 9-624(e) of the UCC, each Pledged Entity and each Interested Party, hereby waives, effective as of the date hereof, all of its rights under the UCC with respect to the Facility, the Pledge Agreement and the Pledged Collateral, if any, including any rights described in Section 9-623 of the UCC, in each case to the fullest extent such rights may be waived in accordance with the UCC ("UCC Waiver").

5. Notwithstanding the acceptance and UCC Waiver, the Pledgor and the Trustee shall not be required to consummate such retention by the Trustee unless and until (a) twenty (20) days have elapsed after the delivery of such acceptance, and (b) none of the Interested Parties have caused the entire financial Obligations to be paid and satisfied in full within such twenty day period (a "Redemption"), and, if a Redemption is consummated pursuant to the terms of the Company Agreements and in accordance with applicable law, the Pledgor's acceptance shall be deemed to have been revoked with the consent of the Trustee.

(0001032-2)

Very truly yours,

SUNLIGHT GENERAL SUSSEX  
HOLDINGS, LLC

By: Sunlight General Capital  
Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacy L. Hughes  
Title: Authorized Signatory

ACKNOWLEDGED AND AGREED:

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**CORPORATION SERVICE COMPANY**

www.cscglobal.com

CSC- West Trenton  
P.O.Box 77132  
830 Bear Tavern Road, Suite  
305  
West Trenton, NJ 08628-1020  
800-631-2155  
609-530-0877 (Fax)

**Matter#** 72-008

**Order#** 090986-2

**Project Id :**

**Order Date** 02/09/2012

**Additional Reference :** NOT PROVIDED

<b>Entity Name:</b>	<b>SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC (Debtor)/ U.S. BANK (Secured Party)</b>
<b>Jurisdiction:</b>	<b>NJ - SUSSEX COUNTY CLERK</b>
<b>Request for:</b>	<b>UCC Filing</b>
<b>File Type:</b>	<b>ORIGINAL</b>
<b>Result:</b>	<b>Filed</b>
<b>File Number:</b>	<b>20120210050002530</b>
<b>Filing Date:</b>	<b>02/10/2012</b>
<b>Book Number:</b>	<b>73</b>
<b>Page Number:</b>	<b>833</b>

Ordered by DAVID WAINGER at INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

Thank you for using CSC. For real-time 24 hour access to the status of any order placed with CSC, access our website at [www.cscglobal.com](http://www.cscglobal.com).

If you have any questions concerning this order or CSCGlobal, please feel free to contact us.

Michael Melocchi  
[mmelocch@cscinfo.com](mailto:mmelocch@cscinfo.com)

The responsibility for verification of the files and determination of the information therein lies with the filing officer; we accept no liability for errors or omissions.



20120210050002530 1/10  
 02/10/2012 10:29:27 AM UCC  
 Bk: 73 Pg: 833  
 Jeffrey M. Parrott, County Clerk  
 Sussex County, NJ

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

**Inglesino, Pearlman, Wyciskala & Taylor, LLC**  
**600 Parsippany Road**  
**Suite 204**  
**Parsippany, New Jersey 07054**

**Attn: Stephen B. Pearlman, Esq.**

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

**1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names**

1a. ORGANIZATION'S NAME						
<b>SunLight General Sussex Holdings, LLC</b>						
OR	1b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
1c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY
<b>15 Engle Street, Suite 104</b>			<b>Englewood</b>	<b>NJ</b>	<b>07631</b>	<b>USA</b>
1d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION	1f. JURISDICTION OF ORGANIZATION	1g. ORGANIZATIONAL ID #, if any		
		<b>LLC</b>	<b>New Jersey</b>	<input type="checkbox"/> NONE		

**2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names**

2a. ORGANIZATION'S NAME						
OR						
2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX		
2c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY
2d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any		
				<input type="checkbox"/> NONE		

**3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)**

3a. ORGANIZATION'S NAME						
<b>U.S. Bank</b>						
OR	3b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
3c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY
<b>21 South Street, 3rd Floor</b>			<b>Morristown</b>	<b>NJ</b>	<b>07960</b>	<b>USA</b>

**4. This FINANCING STATEMENT covers the following collateral:**

The Debtor has executed, in favor of the Secured Party, that certain "Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011, as more particularly set forth as "Exhibit A" attached hereto and made a part hereof, and notice is hereby given by the Debtor that the Debtor, pursuant to said Pledge and Security Agreement, has pledged all of its rights, title and interest in the "Pledged Collateral" (as such term is defined in said Pledge and Security Agreement), and all proceeds and products of any and all of the foregoing.

5. ALTERNATIVE DESIGNATION (if applicable):	LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILOR	SELLER/BUYER	AG. LIEN	NON-UCC FILING
6. This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable)	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (optional)	All Debtors		Debtor 1	Debtor 2	

**To be filed in the Office of the Clerk of the County of Sussex, New Jersey.**

Exhibit A

PLEDGE AND SECURITY AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

PLEDGE AND SECURITY AGREEMENT  
(Sussex County Renewable Energy Program, Series 2011)

By  
SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC, as Pledgor  
in favor of  
U.S. BANK NATIONAL ASSOCIATION, as Trustee

Dated as of December 1, 2011

THIS "PLEDGE AND SECURITY AGREEMENT (Sussex County Renewable Energy Program, Series 2011)" (including any amendments or supplements hereto from time to time in accordance with the terms hereof, this "Agreement" or this "Security Agreement") dated as of December 1, 2011, is executed by SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC, a limited liability company organized and existing under the laws of the State of New Jersey (the "State") and the signatory party hereto (including successors and assigns, the "Person", or the "Pledgor"), the member of SUNLIGHT GENERAL SUSSEX SOLAR, LLC (including successors and assigns, the "Company"), a limited liability company organized and existing under the laws of the State and an acknowledgment party hereto, in favor of U.S. BANK NATIONAL ASSOCIATION (including successors and assigns, the "Bank"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State, where the Bank acts as trustee (the "Trustee") under and pursuant to that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011A AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Morris County Improvement Authority (including successors and assigns, the "Authority") as resolution no. 11- on September 28, 2011, as amended and supplemented from time to time in accordance with its terms, including by a Certificate of an Authorized Officer of the Authority to be dated the date of issuance of each of the Series 2011A Bonds and the Series 2011B Bonds authorized and defined therein (the "Bond Resolution"), to be held by the Trustee pursuant to the provisions of Section 5.07(5) of the Bond Resolution.

WITNESSETH:

WHEREAS, the Authority has been duly created by resolution duly adopted by the Board of Chosen Freeholders (the "Board of Freeholders") of the County of Morris ("Morris County") in the State as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the "Act"), and other applicable law;

WHEREAS, simultaneously herewith and in order to implement the Authority's Renewable Energy Program for the Series 2011 Local Units on their respective Local Unit Facilities (as all such terms are defined in the hereinafter defined Company Lease Agreement), the Company has entered into that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (as amended, modified and supplemented and in effect from time to time, the "Company Lease Agreement") with the Authority;

with respect to Morris County Improvement Authority's  
\$27,700,000 aggregate principal amount of  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 (Federally Taxable),  
consisting of:  
\$26,715,000 Series 2011A Bonds, and  
\$985,000 Series 2011B Note

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WHEREAS, simultaneously herewith and in furtherance of the Authority's Renewable Energy Program, the Company has also entered into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (as amended, modified and supplemented and in effect from time to time, the "Power Purchase Agreement") with the Authority;

WHEREAS, the Company has certain obligations set forth under the Company Lease Agreement and the Power Purchase Agreement (collectively, and together with this Agreement and certain other agreements defined in the Company Lease Agreement as Company Agreements, the "Company Agreements"), including without limitation the obligation to make Lease Payments and finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for the Series 2011 Local Units as defined in and contemplated under the Company Agreements (collectively, the "Obligations"), which if not performed by or on behalf of the Company, give rise to an Event of Default as defined in and in accordance with the terms of such Company Agreements (each an "Event of Default");

WHEREAS, as of the date hereof, the Pledgor owns one hundred percent (100%) of the legal and beneficial ownership interests (the "Equity Interests") in and to the Company; and

WHEREAS, in order to secure the payment and performance of all Obligations of the Company, the Pledgor has granted the security interests contemplated by this Agreement.

NOW, THEREFORE, for and in consideration of the foregoing and of any financial accommodations or extensions of credit (including, without limitation, any loan or advance by renewal, refinancing or extension of the agreements described hereinabove) heretofore, now or hereafter made to or for the benefit of the Company and/or the Pledgor by the Trustee in connection with the transactions contemplated by the Acknowledgment (as defined in Section 1.03 below), the Company Agreements, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

GRANT OF SECURITY INTEREST: PLEDGED COLLATERAL

Section 1.01 Pledged Collateral. As security for the full and punctual payment and performance of the Obligations (whether at stated maturity, by required repayment, declaration, acceleration, demand or otherwise, including without limitation the payment of amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. §362(a), whether allowed or allowable as claims), the Pledgor, hereby grants, pledges, hypothecates, transfers and assigns to the Trustee a first priority and continuing lien on, and first priority security interest, in, and, in furtherance of such grant, pledge, hypothecation, transfer and assignment, hereby transfers and assigns to the Trustee as collateral security, all of the Pledgor's right, title, ownership, equity or other interests in and to the following, whether now owned or hereafter acquired, now existing or hereafter arising and wherever located (collectively, the "Pledged Collateral"):

- (a) the Equity Interests of the Persons described in Schedule 1 attached hereto, in and to the Company (the "Pledged Entity"), as and to the extent of their Equity Interests in and to the Company described on said Schedule 1 (collectively, the "Pledged Equity");
- (b) all rights, privileges, general intangibles, payments intangibles, voting rights, authority and power arising from its interest in the Pledged Equity;
- (c) the capital of the Pledgor in the Company and any and all profits, losses, Distributions (as defined below), and allocations attributable to the Pledged Equity as well as the proceeds of any Distribution thereof, whether arising under the terms of any Organizational Agreement (as defined below) or otherwise;
- (d) all other payments, if any, due or to become due, to the Pledgor from the Pledged Entity and all other present or future claims by the Pledgor against any Pledged Entity, or in respect of the Pledged Equity, under or arising out of (i) any Organizational Agreement, (ii) monies loaned or advanced, for services rendered or otherwise, (iii) any other contractual obligations, commercial tort claims, supporting obligations, damages, insurance proceeds, condemnation awards or other amounts due to the Pledgor from any Pledged Entity or with respect to the Pledged Equity;
- (e) the Pledgor's claims, rights, powers, privileges, authority, options, security interests, liens and remedies, if any, under or arising out of the ownership of the Pledged Equity;
- (f) to the extent permitted by applicable law, the Pledgor's rights, if any, in any Pledged Entity pursuant to any Organizational Agreement, or at law, to exercise and enforce every right, power, remedy, authority, option and privilege of the Pledgor relating to the Pledged Equity, including without limitation, the right to (i) execute any

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instruments and to take any and all other action on behalf of and in the name of the Pledgor in respect of the Pledged Equity, (ii) exercise any and all voting, consent and management rights of the Pledgor in or with respect to any Pledged Entity, (iii) exercise any election (including, but not limited to, election of remedies) or option or to give or receive any notice, consent, amendment, waiver or approval with respect to any Pledged Entity, (iv) enforce or execute any checks, or other instruments or orders of any Pledged Entity, and (v) file any claims and to take any action in connection with any of the foregoing, together with full power and authority to demand, receive, enforce or collect any of the foregoing or any property of any Pledged Entity;

(g) all Investment Property (as such term is defined in Section §9-102 of the UCC (as defined below)) issued by or relating to any Pledged Entity;

(h) all additional Equity Interests or other property, securities, or assets now existing or hereafter acquired by the Pledgor relating to the Pledged Equity, including, without limitation, as a result of any consolidation, combinations, mergers, reorganizations, acquisitions, exchange offers, recapitalizations of any type, contributions to capital, splits, spin-offs, or similar actions or the exercise of options or other rights relating to the Pledged Equity;

(i) all partnership certificates, member certificates, stock certificate, or any other instrument, note, chattel paper or certificate (including, without limitation, "certificated securities" within the meaning of §8-102 of the UCC) (whether or not qualifying as Investment Property) representing interests in the Pledged Equity and any interest of the Pledgor in the entries on the books of any financial intermediary pertaining to such certificates or writings, and all options and warrants for the purchase of such Equity Interests now or hereafter held in the name of the Pledgor (collectively, "Certificated Securities"), and all Certificated Securities in the Pledged Entity from time to time acquired by the Pledgor in any manner, and any interest of the Pledgor in the entries on the books of any financial intermediary pertaining to such Certificated Securities, and all securities convertible into and options, warrants, dividends, cash, instruments and other rights and options from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Certificated Securities (including all rights to request or cause the issuer thereof to register any or all of the Pledged Collateral under federal and state securities laws to the maximum extent possible under any agreement for such registration rights), and all put rights, tag-along rights or other rights pertaining to the sale or other transfer of such Pledged Collateral, together in each case with all right under any Organizational Agreements pertaining to such rights;

(j) (i) all "proceeds" (as such term is defined in §9-102 of the UCC) of any or all of the foregoing (whether cash or non-cash proceeds, including insurance proceeds), (ii) whatever is receivable or received when any of the Pledged Collateral is sold, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, and includes, without limitation, all rights to payment, including return premiums, with respect to any insurance relating thereto and also includes all interest,

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dividends and other property receivable or received on account of any of the Pledged Collateral or proceeds thereof, and in any event, shall include all Distributions or other income from any of the Pledged Collateral, all collections thereon or all Distributions with respect thereto, and (iii) all proceeds, products, accessions, rents, profits, income, benefits, substitutions and replacements of and to any of the Pledged Collateral. The inclusion of proceeds in the Pledged Collateral does not authorize the Pledgor to sell, dispose of or otherwise use the Pledged Collateral in any manner not specifically authorized hereby.

(k) To the extent any of the Pledged Collateral constitutes an "uncertificated security" (as defined in Section 8-102(a)(18) of the UCC), the Pledgor shall cause the issuer thereof to acknowledge to the Trustee the registration on the books of such issuer of the pledge and security interest hereby created in the manner required by Section 8-301(b) of the UCC.

(l) The Pledgor, as debtor, authorizes the Trustee, on behalf of itself as creditor, to file UCC financing statements with respect to the foregoing pledge of collateral contemplated by this Section 1.01.

Section 1.02 Definitions. Unless otherwise defined herein, all words and terms set forth and defined in the Company Agreements shall have the same meaning as set forth in the Company Agreements, as if fully set forth in this Security Agreement, and the following terms have the following meanings (such meanings being equally applicable to both the singular and plural forms of the terms defined):

(a) "Distributions" means all dividends, distributions, liquidation proceeds, cash, profits, instruments and other property and payments or economic benefits or interests to which the Pledgor is entitled with respect to the Pledged Equity whether or not received by or otherwise distributed to the Pledgor, whether such dividends, distributions, liquidation proceeds, cash, profits, instruments and other property and economic benefits are paid or distributed by the Pledged Entities in respect of operating profits, sales, exchanges, refinancing, condemnations or insured losses of the company's assets, the liquidation of the company's assets and affairs, management fees, guaranteed payments, repayment of loans, reimbursement of expenses or otherwise in respect of or in exchange for any or all of the Pledged Equity but shall not include the payment of the Development Fee or any of the proceeds thereof.

(b) "Organizational Agreement" means the limited liability company agreement and other organizational or governing documents, as applicable, of any Pledged Entity.

(c) "Section 1603 Grant" means any payment by the United States Department of Treasury under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009.

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(d) "UCC" means the Uniform Commercial Code, as in effect from time to time in the State where the property subject to this Security Agreement is located.

Section 1.03 Perfection of Security Interest; Further Acts. On or before the issuance of the Series 2011A Bonds, the Pledgor shall (a) enter into such arrangements as may be necessary to give control of any pledged Investment Property to the Trustee within the meaning of §8-106 of the UCC, (b) cause each Pledged Entity to execute and deliver the Agreement and Acknowledgement attached hereto as Exhibit A (the "Acknowledgement"), and (c) promptly take all other actions required to perfect the security interest of the Trustee in the Pledged Collateral under applicable law. It is the intention of the Pledgor and the Trustee that at all times while the Agreement remains in effect, the Pledged Equity shall constitute Investment Property, and, to that end, the Pledgor shall take, and shall cause each Pledged Entity to take, all necessary action to obtain such classification pursuant to the UCC.

Section 1.04 Acts of the Trustee. All of the Pledged Collateral at any time delivered to the Trustee pursuant to this Agreement shall be held by the Trustee subject to the terms, covenants and conditions set forth in the Company Agreements. Neither the Trustee nor any of the Trustee's directors, officers, agents, employees or counsel shall be liable for any action taken or omitted to be taken by such party or parties relative to any of the Pledged Collateral, except to the extent of such party's or parties' own negligence or willful misconduct. The Trustee shall be entitled to rely in good faith upon any writing or other document (including, without limitation, any telegram or e-mail) or any telephone conversation reasonably believed by it to be genuine and correct and to have been signed, sent or made by the proper Person (but the Trustee shall be entitled to such additional evidence of authority or validity as it may, in its sole and absolute discretion request, but it shall have no obligation to make any such request), and with respect to any legal matter, the Trustee may rely in acting or in refraining from acting upon the advice of counsel selected by it concerning all matters hereunder.

Section 1.05 Custody of Pledged Collateral. The Trustee shall not have any duty concerning the collection or protection of the Pledged Collateral or any income thereon or payments with respect thereto, or concerning the preservation of any rights pertaining thereto beyond exercising reasonable care with respect to the custody of any tangible evidence of the Pledged Collateral actually in its possession.

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## ARTICLE II

### POWERS OF THE PLEDGOR PRIOR TO AN EVENT OF DEFAULT

Section 2.01 Distributions; Exercise of Rights. Unless an Event of Default has occurred and is continuing, and subject to the terms of the Company Agreements, the Pledgor shall be entitled to (a) receive cash Distributions (including in respect of the Section 1603 Grant or the proceeds from the sale of any SRECs) allocable to the Pledged Collateral, and (b) exercise (but only in a manner that will not (i) violate or be inconsistent with the terms hereof or of any other Company Agreement or (ii) have the effect of impairing the position or interests of the Trustee) the voting, consent, administration, management and all other powers, rights and remedies of the Pledgor with respect to the Pledged Collateral under the Organizational Agreements of any Pledged Entity (including all other rights and powers thereunder which are pledged hereunder or otherwise). If the Pledgor shall become entitled to receive or shall receive from any Pledged Entity (A) any non-cash Distribution as an addition to, on account of, in substitution of, or in exchange for the Pledged Collateral or any part thereof, or (B) upon the occurrence of any Event of Default that is continuing, any cash Distributions, in either case the same shall immediately be remitted to the Trustee (in the exact form received, with the Pledgor's endorsement or assignment or other instrument as the Trustee may deem appropriate) to be held as additional Pledged Collateral for the Obligations or for application thereto, as applicable, and until so remitted, shall be received and held by the Pledgor in trust and as agent for the Trustee. For the avoidance of doubt, any Distribution by the Company (including in respect of the Section 1603 Grant or any proceeds from the sale of SRECs) occurring prior to an Event of Default shall be irrevocable and shall not be subject to refund or recovery by the Trustee, including without limitation, upon the occurrence of an Event of Default.

Section 2.02 Termination of Powers. Upon the occurrence of an Event of Default that is continuing, all such powers, rights and remedies of the Pledgor, which are conditionally permitted pursuant to Section 2.01 of this Agreement, shall cease and the provisions of Article IV of this Agreement shall apply.

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ARTICLE III  
REPRESENTATIONS, WARRANTIES  
AND COVENANTS OF PLEDGOR

The Pledgor hereby represents, warrants and covenants with and to the Trustee as follows:

**Section 3.01 Percentage Ownership.** As of the date hereof, the Pledgor owns one hundred (100%) percent of the legal and beneficial ownership interests in and to all Pledged Equity. The Pledgor does not have any outstanding options or rights or other agreements to acquire or sell or otherwise transfer all or any portion of any Pledged Equity.

**Section 3.02 Title to Pledged Collateral.** The Pledgor validly acquired and is the legal and beneficial owner of the Pledged Collateral in which it has granted a security interest, and transferred a collateral interest, herein, free and clear of all Liens except such as are created pursuant to this Agreement. The Pledgor has the legal right to pledge and grant a security interest in the Pledged Collateral as herein provided without the consent of any other person or entity, other than any such consent that has been obtained. The Pledgor will have like title in, and the right to pledge, any other property at any time hereafter acquired by the Pledgor and pledged to the Trustee as Pledged Collateral hereunder.

**Section 3.03 Defense of Title.** The Pledgor will defend the Trustee's right, title and interest in and to the Pledged Collateral against the claims and demands of all other persons and entities.

**Section 3.04 No Transfer.** Except for the transfer effected by this Agreement, the Pledgor will not transfer the Pledged Collateral, or any portion thereof, or suffer or permit any transfer thereof to occur. Any transfer made in violation of the foregoing provisions shall be an immediate Event of Default hereunder without notice or opportunity to cure and shall be void and of no force and effect, and upon demand of the Trustee, shall forthwith be cancelled or satisfied by an appropriate instrument in writing. Notwithstanding any other provisions herein, nothing in this Agreement shall limit the transferability of ownership interests in Pledgor or the admission or withdrawal of members of the Pledgor.

**Section 3.05 Perfected Security Interest.** Giving effect to this Agreement, the Trustee has, with respect to all Pledged Collateral owned by the Pledgor as of the Closing Date, and will have with respect to any other property at any time hereafter acquired by the Pledgor and pledged to the Trustee as Pledged Collateral hereunder, a valid, perfected and continuing first lien upon and security interest in the Pledged Collateral. For purposes hereof, "Closing Date" shall mean the date of issuance of the Series 2011 Bonds.

**Section 3.06 No Financing Statements.** Except for financing statements filed or to be filed in favor of the Trustee as secured party, or such other financing statements expressly permitted with the Trustee's prior written consent, which may be withheld in the Trustee's sole

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and absolute discretion, there are not now any financing statements under the UCC covering any or all of the Pledged Collateral filed in any public office, and the Pledgor will not authorize the filing of any such financing statements.

**Section 3.07 Certificated Securities.** The Pledgor represents and warrants that if all of the Pledged Equity is not evidenced by a certificated security, it shall promptly take all actions required to perfect the security interest of the Trustee in such Pledged Equity under applicable law as required under Section 1.03 of this Agreement. The Pledgor further agrees to take such additional actions as the Trustee deems necessary or desirable to effect the foregoing and to permit the Trustee to exercise any of its rights and remedies hereunder and agrees to provide an opinion of counsel satisfactory to the Trustee with respect to any such pledge of Equity Interests which are not Certificated Securities promptly upon request of the Trustee. Without limiting the effect of the immediately preceding clause, the Pledgor, upon the occurrence of an Event of Default, hereby grants to the Trustee an irrevocable proxy to vote the Pledged Equity and to exercise all other rights, powers, privileges and remedies to which a holder of the pledged equity would be entitled (including without limitation (a) giving or withholding written consents, (b) calling special meetings, (c) voting at such meetings, and (d) voting at any time or place) with respect to any action, decision, determination or election by the pledged entities or the holders of the respective equity interests therein that the Pledged Equity (or any new or additional equity interest in such Pledged Entity) be, or cease to be, a certificated security, and all other matters related to any such action, decision, determination or election, which proxy shall be effective automatically and without the necessity of any action (including any transfer of any pledged equity on the record books of the issuer thereof) by any other person (including the issuer of the Pledged Equity or any officer or agent thereof) as of the date hereof, and which proxy shall only terminate upon the termination of this Agreement.

**Section 3.08 Fully Paid and Non-Assessable.** All of the Pledged Equity has been duly authorized and validly created and is subject to no options to purchase or similar rights of any Person. The Pledgor is not, and will not become, a party to or otherwise be or become bound by any agreement, other than this Agreement and the other Company Agreements, which restricts in any manner the rights of any present or future holder of any of the Pledged Equity with respect thereto. There are no set-offs, counterclaims or defenses with respect to the Pledged Collateral owned by the Pledgor and no agreement, oral or written, has been made with any other person or party under which any deduction or discount may be claimed with respect to such Pledged Collateral and the Pledgor knows of no fact which would prohibit or prevent the Pledgor assigning or granting a security interest in the Pledged Collateral.

**Section 3.09 Organizational Agreements.** Attached hereto as Exhibit B are true, correct, and complete copies of the Organizational Agreements of each Pledged Entity. The Organizational Agreements are in full force and effect and have not been modified or amended except as attached hereto. The Pledgor is not in default of any of its obligations under the Organizational Agreements nor is the Pledgor aware of a default by any other member in their respective obligations under the Organizational Agreements.

**Section 3.10 Amendments.** The Pledgor shall not allow any Pledged Entity to (a) amend any provision of its Organizational Agreements, (b) dissolve, liquidate, wind-up, merge

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or consolidate with any other entity or (c) transfer any of its respective assets and properties to any Person except as permitted by the Company Agreements.

**Section 3.11 Authority, Enforceability, Etc.** The execution, delivery and performance of this Agreement by the Pledgor will not cause a violation of or a default under the Organizational Agreements of the Pledgor or any Pledged Entity. The execution and delivery of this Agreement and the performance of the Pledgor's obligations hereunder will not conflict with or result in a breach of the terms or provisions of any (a) applicable law, (b) agreement to which the Pledgor or any Pledged Entity is a party or by which any of its assets are bound, or (c) judgment, decree, arbitration award, or pending litigation to which the Pledgor or any Pledged Entity is subject. No approval by, authorization or consent of, or filing with any governmental authority or any other Person is necessary in connection with the execution, delivery and performance by the Pledgor of this Agreement, or if such approval, authorization, or consent is necessary, it has been obtained. This Agreement constitutes the valid and legally binding obligations of the Pledgor and is fully enforceable against the Pledgor in accordance with its terms, subject to the effects of Bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and limitations imposed by general principles of equity. The jurisdiction of organization (as such term is defined in the UCC) and place of business of the Pledgor is set forth in the signature block of the Pledgor. No change has been or will be made in the jurisdiction of organization or place of business of the Pledgor, except upon at least thirty (30) days' prior notice to the Trustee.

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ARTICLE IV

EVENTS OF DEFAULT AND REMEDIES

If an Event of Default shall occur during the term of this Agreement and during its continuance:

**Section 4.01 Transfer Rights.** Subject to the limitation of Section 4.10 hereof, the Trustee shall have the right, at any time and from time to time, to affect the transfer of any or all of the Pledged Collateral, subject only to the provisions of the UCC and any other applicable statute which, in accordance with such statute, cannot be waived, in any one or more of the following ways:

(a) Register in the name of, or transfer to, the Trustee, a nominee or nominees, or designee or designees, of the Trustee; provided that the provisions of Section 5.06 of this Agreement are complied with;

(b) Sell, resell, assign and deliver, in the Trustee's sole and absolute discretion, any or all of the Pledged Collateral (whether in whole or in part and at the same or different times) and all right, title and interest, claim and demand therein and right of redemption thereof, at public or private sale, for cash or upon credit (by the Trustee only), in accordance with the applicable procedures specified in Article V of this Agreement; and

(c) Proceed by a suit or suits at law or in equity to foreclose all or any part of the security interests in the Pledged Collateral and sell the Pledged Collateral or any portion thereof, under a judgment or decree of a court of competent jurisdiction, retaining during the duration of such judicial enforcement all other rights with respect to the Pledged Collateral, including specifically the rights specified hereafter in Article V of this Agreement with respect to each Pledged Entity.

**Section 4.02 Voting Rights.** Upon the occurrence of an Event of Default and during its continuance, the Trustee may exercise, either by itself or by its nominee or designee, in the name of the Pledgor, the rights, powers and remedies granted to the Trustee hereunder and under the other Company Agreements in respect of the Pledged Collateral at any time prior to effecting the transfer of such Pledged Collateral to the Trustee or its nominee or designee, or any third party purchasers, as contemplated in Sections 4.01(a) and (b) above, and whether or not any judicial action as contemplated in Sections 4.01(c) above has been commenced or is continuing prior to a final unappealable judgment. Such rights and remedies shall include, without limitation, and the Pledgor hereby grants to the Trustee the right to exercise by delivering notice to the Pledgor and the applicable Pledged Entity, (a) all voting, consent, managerial and other rights relating to the Pledged Equity, whether in the Pledgor's name or otherwise, including without limitation the right to appoint officers, directors, managers and other similar positions and (b) the right to exercise the Pledgor's rights, if any, of conversion, exchange, or subscription, or any other rights, privileges or options pertaining to any of the Pledged Equity, including, without limitation, the

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right to exchange, at the Trustee's sole and absolute discretion, any and all of the Pledged Equity upon the merger, consolidation, reorganization, recapitalization or other readjustment of such Pledged Entity, all without liability, except to account for property actually received by the Trustee. The Pledgor hereby irrevocably authorizes and directs each Pledged Entity, on receipt of any such notice (i) to deem and treat the Trustee or its nominee in all respects as a member, partner or shareholder, as applicable (and not merely as an assignee of a member, partner or shareholder) of such Pledged Entity, entitled to exercise all the rights, powers and privileges (including, without limitation, the right to vote on or take any action with respect to such Pledged Entity matters pursuant to the Organizational Agreement) thereof, to receive all distributions, to be credited with the capital account and to have all other rights, powers and privileges pertaining to such member, partner or shareholder interest, as applicable, to which the Pledgor would have been entitled had the Pledgor not executed this Agreement and (ii) to file an amendment to the Organizational Agreement of such Pledged Entity admitting the Trustee or such nominee(s) as a member, partner or shareholder in place of the Pledgor.

#### Section 4.03 Power of Attorney.

(a) The Pledgor hereby irrevocably authorizes and empowers the Trustee, and assigns and transfers of the Trustee, and constitutes and appoints the Trustee and any of its assigns, its true and lawful attorney-in-fact (coupled with an interest) and as its agent with full power of substitution for the Pledgor to proceed from time to time in the Pledgor's name, in order to more fully vest in the Trustee the rights and remedies provided for herein, in any statutory or non-statutory legal or other proceeding, including without limitation, any Bankruptcy proceeding affecting any Pledged Entity or the Pledged Collateral and Pledgor's interest in any Pledged Entity or the Pledged Collateral.

(b) The Trustee and any of its assigns, or their respective nominees, may, to the extent permitted by applicable law, either pursuant to such power-of-attorney or otherwise, take any action and exercise and execute any instrument that it determines necessary or advisable to accomplish the purposes of this Agreement, including without limitation: (i) execute and file proof of claim with respect to any or all of the Pledged Collateral against any Pledged Entity and vote such claims with respect to all or any portion of such Pledged Collateral (A) for or against any proposal or resolution, (B) for a trustee or trustees or for a receiver or receivers or for a committee of creditors, and/or (C) for the acceptance or rejection of any proposed arrangement, plan of reorganization, composition or extension; (ii) receive, endorse and collect all drafts, checks and other instruments for the payment of money made payable to the Pledgor representing any interest, payment of principal or other distribution payable in respect of the Pledged Collateral; (iii) execute endorsements, assignments or other instruments of conveyance or transfer in respect of any other property which is or may become a part of the Pledged Collateral hereunder; and (iv) execute releases and negotiate settlements, as appropriate, including on account of, or in exchange for, any or all of the Pledged Collateral, or any payment or distribution received by the Pledgor, or the Trustee on the Pledgor's behalf.

(c) The foregoing power-of-attorney is irrevocable and coupled with an interest, and any similar or dissimilar powers previously given by the Pledgor in respect

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appear in or defend any action or proceeding relating to the Pledged Collateral to which it is not a party, or (ii) take any action hereunder or thereunder, or expend any money or incur any expenses or perform or discharge any obligation, duty or liability under the Pledged Collateral.

Section 4.08 Remedies Cumulative. The obligations of the Pledgor under this Agreement shall be absolute and unconditional and shall remain in full force and effect without regard to, and shall not be released, suspended, discharged, terminated or otherwise affected by, any circumstances or occurrence except as specifically provided in this Agreement. The rights, powers and remedies of the Trustee under this Agreement shall be cumulative and not exclusive of any other right, power or remedy which the Trustee may have against the Pledgor or any Person pledging collateral pursuant to the other Company Agreements or existing at law or in equity or otherwise. The Trustee's rights, powers and remedies may be pursued singly, concurrently or otherwise, at such time and in such order as the Trustee may determine in its sole and absolute discretion. **THE TRUSTEE SHALL HAVE NO DUTY TO EXERCISE ANY OF THE AFORESAID RIGHTS, POWERS AND REMEDIES AND SHALL NOT BE RESPONSIBLE FOR ANY FAILURE TO DO SO OR DELAY IN SO DOING.**

Section 4.09 Notice of Exercise of Remedies. The Pledgor hereby waives notice of acceptance hereof, and except as otherwise specifically provided herein or required by provision of law which may not be waived, hereby waives any and all notices or demands with respect to any exercise by the Trustee of any rights or powers which it may have or to which it may be entitled with respect to the Pledged Collateral, except that notwithstanding the foregoing or anything herein to the contrary, the Trustee shall provide thirty (30) days advance notice prior to the Trustee's exercising any such rights or powers with respect to the Pledged Collateral, during which time the Pledgor shall have the opportunity to cure the circumstance giving rise to such notice.

Section 4.10 Limitation. The Trustee may not sell or otherwise transfer any interest in the Pledged Collateral to a person (such as a governmental entity) if such transfer would result in a Tax Benefit Recapture Event. The expression, "Tax Benefit Recapture Event", means an event which would entitle the United States Department of the Treasury or Internal Revenue Service to require that the Company return all or part of the Section 1603 Grant in lieu of tax credit received in connection with the Renewable Energy Projects, or to disallow the Company's tax deductions or recapture all or a portion of investment tax credits previously claimed with respect to investments in energy property or for depreciation.

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of the Pledged Collateral or any Pledged Entity to any Person or any other person or entity (other than the Trustee) are hereby revoked. The power-of-attorney granted herein shall terminate automatically upon the termination of this Agreement in accordance with the terms hereof.

Section 4.04 Management Rights. The Trustee may at such time and from time to time thereafter, without notice to, or consent of, the Pledgor or any Person (to the extent permitted by law), but without affecting any of the Obligations, in the name of the Pledgor or in the name of the Trustee: (a) notify any other party to make payment and performance directly to the Trustee, (b) extend the time of payment and performance of, compromise or settle for cash, credit or otherwise, and upon any terms and conditions, any obligations owing to the Pledgor, or claims of the Pledgor under any Organizational Agreement of any Pledged Entity, as applicable, (c) file any claims, commence, maintain or discontinue any actions, suits or other proceedings deemed by the Trustee reasonably necessary or advisable for the purpose of collecting upon or enforcing any Organizational Agreement of any Pledged Entity and (d) execute any instrument and do all other things deemed reasonably necessary and proper by the Trustee to protect and preserve and realize upon the Pledged Collateral or any portion thereof and the other rights contemplated hereby.

Section 4.05 Right of Substitution. The Trustee shall have the right, without notice to or consent of the Pledgor, to become, or to designate its nominee, designee, agent or assignee to become, a partner, member, officer or director, as applicable, of any Pledged Entity, in substitution of any existing Person serving in such capacity, subject to the terms of the Organizational Agreement.

Section 4.06 UCC Rights. The Trustee may exercise all of the rights and remedies of a secured party under the UCC.

#### Section 4.07 The Trustee Self-Help Rights.

(a) Subject to all applicable laws, the Trustee shall have the right, but not the obligation, to take any appropriate action as it, in its reasonable judgment, may deem necessary to (i) cure any Event of Default, (ii) cause any term, covenant, condition or obligation required under this Agreement or other Company Agreement to be promptly performed or observed on behalf of the Pledgor or (iii) protect the Pledged Collateral and any other security obtained pursuant to the other Company Agreements. All amounts advanced by, or on behalf of, the Trustee in exercising its rights under this Article IV (including, without limitation, reasonable legal expenses and disbursements incurred in connection therewith), together with interest thereon at the Overdue Rate (as defined in the Company Lease Agreement) from the date of any such advance, shall be payable by the Pledgor to the Trustee upon demand therefor and shall be secured by the Pledged Collateral.

(b) The Trustee shall not be obligated to perform or discharge any obligation of the Pledgor or any Pledged Entity as a result of this Agreement. The acceptance by the Trustee of this Agreement shall not at any time or in any event obligate the Trustee to (i)

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## ARTICLE V

### SALES OF THE PLEDGED COLLATERAL

Section 5.01 Right to Conduct Partial Sale of Pledged Collateral. In connection with any sale of the Pledged Collateral, the Trustee may grant options and may impose reasonable conditions such as requiring any purchaser to represent that any "securities" constituting any part of the Pledged Collateral are being purchased for investment only. If all or any of the Pledged Collateral is sold at any such sale by the Trustee to a third party upon credit, the Trustee shall not be liable for the failure of the purchaser to purchase or pay for the same and, in the event of any such failure, the Trustee may resell such Pledged Collateral. It is expressly agreed that the Trustee may exercise its rights with respect to less than all of the Pledged Collateral, leaving unexercised its rights with respect to the remainder of the Pledged Collateral; provided, however, that such partial exercise shall in no way restrict or jeopardize the Trustee's right to exercise its rights with respect to the remaining Pledged Collateral at a later time or times. The Pledgor hereby waives and releases any and all rights of redemption with respect to the sale of any Pledged Collateral.

Section 5.02 Sale Procedures. Except as may be required by any applicable laws, no demand, advertisement or notice, all of which are hereby expressly waived by the Pledgor, shall be required in connection with any sale or other disposition of all or any part of the Pledged Collateral, except that the Trustee shall give the Pledgor at least ten (10) days' prior notice of the time and place of any public sale or of the time and the place at which any private sale or other disposition is to be made, which notice the Pledgor hereby agrees is reasonable. All other demands, advertisements and notices are hereby irrevocably waived by the Pledgor. The notice of such sale shall (a) in case of a public sale, state the time and place fixed for such sale, (b) in case of a sale at a broker's board or on a securities exchange, state the board or exchange at which such sale is to be made and the day on which the Pledged Collateral, or the portion thereof so being sold, first will be offered for sale at such board or exchange, and (c) in the case of a private sale, state the date after which such sale may be consummated. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as the Trustee may fix in the notice of such sale.

Section 5.03 Adjournment; Credit Sale. The Trustee shall not be obligated to make any sale of the Pledged Collateral if it shall determine, in its sole and absolute discretion, not to do so, regardless of the fact that notice of sale may have been given, and the Trustee may without notice or publication adjourn any public or private sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. Upon each public or private sale of all or any portion of the Pledged Collateral, unless prohibited by any applicable statute which cannot be waived, the Trustee (or its nominee or designee) may purchase all or any portion of the Pledged Collateral being sold, free and clear of, and discharged from, any trusts, claims, equity or right of redemption of the Pledgor, all of which are hereby waived and released to the extent permitted by law, and may make payment therefor by credit against any of the Obligations in lieu of cash or any other obligations.

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Section 5.04 Expenses of Sale. In the case of any sale, public or private, of any portion of or all of the Pledged Collateral, the Pledgor shall be responsible for the payment of all reasonable costs and expenses of every kind for the sale and delivery, including, without limitation, brokers' and reasonable attorneys' fees and disbursements and any tax imposed thereon. The proceeds of the sale of the Pledged Collateral shall be available to cover such costs and expenses, and, after deducting such costs and expenses from the proceeds of the sale, the Trustee shall apply any remaining amounts to the payment of the Obligations in the order of priority as set forth in the Company Agreements.

Section 5.05 No Public Registration of Sale. The Pledgor is aware that §9-610(e) of the UCC may restrict the Trustee's ability to purchase the Pledged Collateral at a private sale. The Pledgor is also aware that Securities and Exchange Commission (the "SEC") staff personnel have, over a period of years, issued various No-Action Letters that describe procedures which, in the view of the SEC staff, permit a foreclosure sale of securities to occur in a manner that is public for purposes of Part 6 of Article 9 of the UCC, yet not public for purposes of Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act"). The Pledgor is also aware that the Trustee may wish to purchase certain interests that are sold at a foreclosure sale, and the Pledgor believes that such purchases would be appropriate in circumstances in which such interests are sold in conformity with the principles set forth in such No-Action Letters. §9-603 of the UCC permits the Pledgor to agree on the standards for determining whether the Trustee has complied with its obligations under §9-610. Pursuant to §9-603 of the UCC, the Pledgor specifically agrees that a foreclosure sale conducted in conformity with the principles set forth in such No-Action Letters (a) shall be considered to be a "public disposition" for purposes of §9-610(c) of the UCC; (b) will be considered commercially reasonable notwithstanding that the Trustee has not registered or sought to register the interests under the Securities Act, even if the Pledgor or any Pledged Entity agree to pay all costs of the registration process; and (c) shall be considered to be commercially reasonable, notwithstanding that the Trustee purchases such interests at such a sale.

Section 5.06 Strict Foreclosure. Upon the occurrence of an Event of Default:

(a) The Trustee may, but shall have no obligation to, in its sole and absolute discretion, either negotiate an agreement ("Strict Foreclosure Agreement") with the Pledgor, or make a written proposal ("Strict Foreclosure Proposal") to the Pledgor, to retain the Pledged Collateral in full or partial satisfaction of the financial Obligations in accordance with the procedures specified in §9-620 of the UCC.

(b) In the case of a Strict Foreclosure Proposal, the Pledgor shall, within ten (10) Business Days of the Pledgor's receipt of the Strict Foreclosure Proposal, indicate the Pledgor's (i) acceptance or rejection of such Strict Foreclosure Proposal and (ii) waiver of any right to redeem the Pledged Collateral pursuant to §9-624(c) of the UCC ("UCC Waiver"). The Pledgor's indication of acceptance of a Strict Foreclosure Proposal shall be made by delivering a notice in a form substantially identical to the form attached hereto as Exhibit C.

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Section 5.08 Application of Pledged Collateral. All proceeds from the sale of all or any portion of the Pledged Collateral, and all Distributions now or at any time hereafter received or retained by the Trustee pursuant to the provisions of this Agreement shall be applied by the Trustee to the satisfaction of the Obligations in such order and priority as determined by the Trustee in its sole and absolute discretion and in accordance with applicable law.

Section 5.09 Preferences. The Trustee shall have no obligation to marshal any assets in favor of the Pledgor or any other party or against, or in payment of, any or all of the Obligations. To the extent the Pledgor makes a payment or payments to the Trustee, which payment or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any Bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Obligations intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by the Trustee.

Section 5.10 Limitation. The rights and powers of the Trustee set out in this Article V are subject to the limitation of Section 4.10 hereof.

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(c) The Trustee shall notify any guarantor, any other creditor with perfected lien rights in the Pledged Collateral, and any Person, or any other person or entity entitled to notice under §9-621 of the UCC ("Interested Parties") of any Strict Foreclosure Agreement or Strict Foreclosure Proposal. Such Interested Party shall, within ten (10) Business Days of receipt of notice thereof, indicate its (i) acceptance or rejection of the Strict Foreclosure Agreement or the Strict Foreclosure Proposal, and (ii) UCC Waiver.

(d) If The Trustee fails to receive (i) the Pledgor's acceptance of a Strict Foreclosure Proposal and UCC Waiver or (ii) acknowledgements from all Interested Parties of acceptance of the Strict Foreclosure Agreement or the Strict Foreclosure Proposal, as applicable) and their respective UCC Waivers, within ten (10) Business Days of receipt of the notice periods specified in subsections (b) and (c) above (collectively the "Notice Period"), then the Pledgor, or such other Interested Party, as applicable, shall be deemed to have objected to the Strict Foreclosure Agreement or the Strict Foreclosure Proposal, as applicable.

(e) Notwithstanding the acceptance of either a Strict Foreclosure Agreement or a Strict Foreclosure Proposal by the Pledgor and each Interested Party within the applicable Notice Period, the Pledgor and the Trustee shall not be required to consummate such transfer of the Pledged Collateral unless and until (i) twenty (20) days have elapsed after the delivery of such acceptance and, (ii) any Interested Party shall have not paid and satisfied the financial Obligations in full within such twenty (20) day period as contemplated under §9-623 of the UCC (a "Redemption"). If a Redemption is consummated, the Pledgor's acceptance shall be deemed to have been revoked with the consent of the Trustee.

(f) If all the conditions specified in subsections (a) through (e) of this Section 5.06 have been satisfied, the Pledgor and each Pledged Entity shall fully cooperate, at their sole expense, in all matters deemed reasonably necessary by the Trustee to effect such transfer of ownership on the records of such Pledged Entity in accordance with any applicable requirements of the Organizational Agreement of such Pledged Entity and/or the Company Agreements. Such cooperation shall include using the Pledgor's best efforts to assist the Trustee in obtaining any necessary review, approvals and other administrative action from such Pledged Entity and the Trustee. Such assistance shall include, at the Trustee's request (i) attending all meetings with, and providing all related financial and operational documents and materials to, such third parties, and (ii) providing such assurances and executing such documentation as is required by such third parties or The Trustee to effect such transfer.

Section 5.07 Receipt of Sales Proceeds. Upon any sale of the Pledged Collateral, or any portion thereof, by the Trustee hereunder (whether by virtue of the power of sale herein granted, pursuant to judicial process or otherwise), the receipt of the proceeds by the Trustee or the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Pledged Collateral so sold, and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Trustee or such officer or be answerable in any way for the misapplication or non-application thereof.

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## ARTICLE VI

### SECURITIES ACT

Section 6.01 Private Securities Sale. If at any time when the Trustee shall determine to exercise its right to sell all or any part of the Pledged Collateral pursuant to Article V of this Agreement, and such Pledged Collateral or the part thereof to be sold shall not, for any reason whatsoever, be effectively registered under the Securities Act, as then in effect, the Trustee may, in its sole and absolute discretion, sell such Pledged Collateral or part thereof by private sale (for securities law purposes) in such manner and under such circumstances as the Trustee may deem necessary or advisable in order that such sale may legally be effected without such registration, provided that at least ten (10) days' notice is given to the Pledgor in accordance with the private sale notice provisions of Article V of this Agreement. Without limiting the generality of the foregoing, in any such event the Trustee, in its sole and absolute discretion (a) may proceed to make such private sale notwithstanding that a registration statement for the purpose of registering such Pledged Collateral or part thereof shall have been filed under such Securities Act, (b) may approach and negotiate with a single potential purchaser to effect such sale, and (c) may restrict such sale to a purchaser who will represent and agree that such purchaser is purchasing for its own account, for investment, and not with a view to the distribution or sale of such Pledged Collateral or part thereof. In the event of any such sale, the Trustee shall incur no responsibility or liability for selling all or any part of the Pledged Collateral at a price which the Trustee may in good faith deem reasonable under the circumstances, notwithstanding the possibility that a substantially higher price might be realized if the sale was made pursuant to a filed registration statement under the Securities Act.

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ARTICLE VII

MISCELLANEOUS

Section 7.01 Further Assurances. The Pledgor hereby agrees to sign and deliver to the Trustee financing statements, continuation statements and other documents, agreements, and instruments, in form acceptable to the Trustee, and do such further acts, as the Trustee may from time to time reasonably request or which are reasonably necessary to establish and maintain a valid and perfected security interest in the Pledged Collateral (and to pay any filing fees relative thereto) or to further assure or confirm the Trustee's rights hereunder. Without limiting the foregoing, the Pledgor authorizes the Trustee, to the extent permitted by law, to file such financing statements and amendments thereto and continuations thereof relating to all or any part of the Pledged Collateral without the signature of the Pledgor (including, to the extent permitted by law, to file a photographic or other reproduction of this Agreement).

Section 7.02 No Release, Etc. No delay or omission to exercise any remedy, right or power accruing upon a default or an Event of Default shall impair any such remedy, right or power or shall be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of any default or Event of Default shall not be construed to be a waiver of any subsequent default or Event of Default or to impair any remedy, right or power of the Trustee. Any and all of the Trustee's rights with respect to any Pledged Collateral shall continue unimpaired, and the Pledgor shall be and remain obligated in accordance with the terms hereof, notwithstanding, among other things: (a) any renewal, extension, amendment or modification of, or addition or supplement to, or deletion from, this Agreement or any other Company Agreement or any other instrument or agreement referred to herein, or any assignment or transfer of any thereof; (b) any waiver, consent, delay, extension of time, indulgence or other action or inaction under or in respect of this Agreement or any other Company Agreement; (c) any exercise or non-exercise of any right, remedy, power or privilege under or in respect of this Agreement or any other Company Agreement; (d) any sale, exchange, release, surrender, or substitution of, or realization upon, any Pledged Collateral (except to the extent otherwise specifically agreed to by the Trustee) or any other security held by the Trustee to cure the financial obligations; (e) the furnishing to or acceptance by the Trustee of any additional security to secure the financial obligations; or (f) any invalidity, irregularity or unenforceability of all or any part of the obligations or of any security therefor.

Section 7.03 Notices. All notices, consents, approvals, demands and requests required or permitted hereunder shall be given in the manner set forth in the Acknowledgment.

Section 7.04 Modification: Waiver in Writing. No modification, amendment, extension, discharge, termination or waiver of any provision of this Agreement, nor consent to any departure by the Pledgor therefrom, shall in any event be effective unless the same shall be in a writing signed by the party against whom enforcement is sought, and then such waiver or consent shall be effective only in the specific instance, and for the purpose, for which given. Except as otherwise expressly provided herein, no notice to, or demand on the Pledgor, shall

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NOT BEEN WAIVED. EXCEPT AS PROHIBITED BY LAW, THE PLEDGOR HEREBY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION ANY EXEMPLARY, OR PUNITIVE DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. THE PLEDGOR CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE TRUSTEE HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT TRUSTEE WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR TRUSTEE TO ACCEPT THIS AGREEMENT.

Section 7.10 Successors and Assigns. This Agreement and all obligations of the Pledgor hereunder shall be binding upon the successors and assigns of the Pledgor, except that the Pledgor shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Trustee. The Trustee shall have the right to assign its interest in this Agreement and all rights and remedies of the Trustee hereunder shall inure to the benefit of the Trustee and its participants, successors and assigns. Neither this Agreement nor anything set forth herein is intended to, nor shall it, confer any rights on any person or entity other than the parties hereto and all third party rights are expressly negated.

Section 7.11 Term: Termination of Pledge. This Agreement shall terminate at the end of the recapture period relating to the investment tax credit (or the Section 1603 Grant in lieu of such credit) available to the Company under Sections 38, 46 and 48 of the Code in connection with the Renewable Energy Projects, as certified to the Trustee by an Authorized Officer of the Company in a certificate to such effect delivered by or on behalf of the Company to the Trustee and the Authority.

SIGNATURE PAGE TO FOLLOW

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entitle the Pledgor to any other or future notice or demand in the same, similar or other circumstances,

Section 7.05 Number and Gender. All references to sections and exhibits are to sections and exhibits in or to this Agreement unless otherwise specified. Unless otherwise specified, the words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision, article, section or other subdivision of this Agreement. Unless otherwise specified, all meanings attributed to defined terms herein shall be equally applicable to both the singular and plural forms of the terms so defined. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 7.06 Headings, Etc. The headings and captions of various paragraphs of this Agreement are for the convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 7.07 Counterparts. This Agreement may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Agreement. The failure of any party hereto to execute this Agreement, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

Section 7.08 GOVERNING LAW; SEVERABILITY. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW JERSEY, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICT OF LAWS THEREUNDER. WHEREVER POSSIBLE, EACH PROVISION OF THIS AGREEMENT SHALL BE INTERPRETED IN SUCH MANNER AS TO BE EFFECTIVE AND VALID UNDER APPLICABLE LAW, BUT IF ANY PROVISION OF THIS AGREEMENT SHALL BE PROHIBITED BY OR INVALID UNDER APPLICABLE LAW, SUCH PROVISION SHALL BE INEFFECTIVE TO THE EXTENT OF SUCH PROHIBITION OR INVALIDITY, WITHOUT INVALIDATING THE REMAINDER OF SUCH PROVISION OR THE REMAINING PROVISIONS OF THIS AGREEMENT.

Section 7.09 JURY TRIAL. THE PLEDGOR AND THE TRUSTEE (BY ACCEPTANCE OF THIS AGREEMENT) MUTUALLY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THE COMPANY AGREEMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HEREWITH OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY, INCLUDING, WITHOUT LIMITATION, ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS OR ACTIONS OF THE TRUSTEE RELATING TO THE ADMINISTRATION OR ENFORCEMENT OF THE COMPANY AGREEMENTS, AND AGREE THAT NEITHER PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS

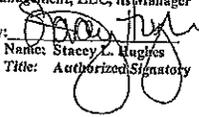
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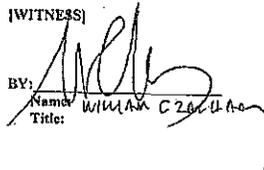
IN WITNESS WHEREOF, the Pledgor has caused this Pledge and Security Agreement to be duly executed and delivered, all as of the day and year first above written.

SUNLIGHT GENERAL SUSSEX HOLDINGS, LLC

By: Sunlight General Capital Management, LLC, its Manager

By:   
Name: Stacy L. Hughes  
Title: Authorized Signatory

[WITNESS]

BY:   
Name: WILLIAM C. ZACCARO  
Title:

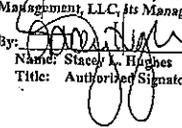
Jurisdiction of Organization: New Jersey  
Place of Business:  
501 Fifth Avenue, Suite 602  
New York, New York 10017

ACKNOWLEDGMENT

The terms of this Pledge and Security Agreement are hereby acknowledged, and accepted, by the Company, as of the 1<sup>st</sup> day of December, 2011.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC,

By: Sunlight General Capital Management, LLC, its Manager

By:   
Name: Stacy L. Hughes  
Title: Authorized Signatory

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## Schedule I

Pledgor, consisting of the following Persons	Pledged Entity	Pledged Equity Interest
Sunlight General Sussex Holdings, LLC	Company	All Pledgor's Membership Interest in the Company

## Exhibit A

## AGREEMENT AND ACKNOWLEDGMENT

THE UNDERSIGNED hereby agrees, acknowledges and consents to the execution and delivery to U.S. BANK NATIONAL ASSOCIATION (the "Bank"), a national banking association authorized and acting under the laws of the United States of America and further authorized to conduct business in the State of New Jersey (the "State"), where the Bank acts as trustee (together with its successors, assigns, and designees for the purposes hereof, the "Trustee") under and pursuant to that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY" adopted by the governing body of the Morris County Improvement Authority (the "Authority") as resolution number [11- on September 28, 2011], as amended and supplemented from time to time in accordance with its terms, including by one or more Certificates of an Authorized Officer of the Authority, each dated the date of issuance of the respective series of Series 2011 Bonds authorized and defined therein (the "Bond Resolution"), of the Pledge and Security Agreement (Sussex County Renewable Energy Program, Series 2011) dated as of December 1, 2011 to which this Agreement and Acknowledgement is attached (as amended and supplemented, the "Pledge Agreement") made by all of the Persons (collectively, the "Pledgor"), as collateral security for the payment and performance of the Obligations, and the assignment and pledge thereby to the Trustee by the Pledgor of all of the Pledgor's right, title and interest to the Pledged Collateral described therein. All capitalized terms used herein not otherwise defined herein shall have the meanings ascribed to such terms in the Pledge Agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned, hereby represents, warrants, covenants and agrees for the benefit of the Trustee as follows:

1. **Representations and Warranties.** The undersigned represents and warrants that (a) the execution and delivery of the Pledge Agreement does not violate any of such undersigned's Organizational Agreements or any other agreement to which such undersigned is a party or by which any of the property of such undersigned is bound, (b) the undersigned has not entered into a control agreement perfecting a security interest in any of the Equity Interests favor of any other party (other than pursuant to the Permitted Encumbrances), (c) the Pledged Collateral is not subject to any security interest or lien in favor of any Person, or other person or entity (other than the Trustee) and has not been pledged, transferred or assigned to, and is not otherwise in the control of, any Person, or other person or entity (other than the Trustee), (d) the undersigned does not have any present claim, right of offset, or counterclaim against the Pledgor under or with respect to the Pledged Collateral or otherwise under any of the undersigned's Organizational Agreements, (e) the Pledgor is not in default to the undersigned or otherwise under or in respect of any of his obligations under any of such undersigned's Organizational Agreements, and (f) all of the representations and warranties of the Pledgor made in the Pledge Agreement are true, accurate and complete in all material respects.

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2. **Covenants and Agreements.**

(a) **Books and Records.** The undersigned (i) shall cause all of its respective books and records to reflect the pledge of the Pledged Collateral to the Trustee and agrees not to consent to or to permit any transfer thereof or any other action that may be taken by the Pledgor that might constitute an Event of Default so long as the Pledge Agreement remains in effect, (ii) agrees that the Trustee and/or its representatives may, upon reasonable advance notice and at any reasonable time during normal business hours, inspect the books, records and properties of such undersigned.

(b) **UCC Matters.** The undersigned confirms, agrees and acknowledges that (i) notwithstanding any provisions in the Organizational Agreements, the Pledgor is hereby authorized and permitted to pledge, assign and grant a security interest in the Pledged Collateral in favor of the Trustee pursuant to the Pledge Agreement, (ii) this Agreement and Acknowledgement is intended to, and shall, provide the Trustee with "control" over the Pledged Collateral within the meaning of Articles 8 and 9 of the UCC, (iii) it shall comply with all instructions relating to the Pledged Collateral originated by the Trustee without further authorization or consent, so long as such instructions are within the powers of the Trustee set forth in the Pledge Agreement, the intention of such covenant being to comply with §8-106(c)(2) of the UCC, and (iv) no Equity Interest other than the Pledged Equity of the undersigned is valid or will be recognized by the undersigned.

(c) **Organizational Agreements.** The undersigned shall not suffer or permit its Organizational Agreements to be amended or modified without the prior written consent of the Trustee.

(d) **Notices; Defaults.** The undersigned shall give the Trustee and the Authority a copy of all notices, reports or communications received or given pursuant to its Organizational Agreements promptly after the same shall have been received or contemporaneously with the giving thereof, as the case may be. The undersigned shall permit the Trustee the right to cure any default by the Pledgor under the Organizational Agreements, and no notice of any default by the Pledgor with respect to the Organizational Agreements shall be effective unless and until such notice has been received by the Trustee and the Authority; provided, however, in no event shall the Trustee or the Authority be obligated to cure such default. The Trustee shall have fifteen (15) days in excess of the amount of time to exercise its right (but not obligation) to cure any such default as given to the Pledgor under the Organizational Agreements, as measured from the date notice of such default has been received by the Trustee. Notices to the Authority and the Trustee, along with the undersigned, shall be to the following persons, unless updated by such entities in a writing delivered to each of the other notice entities:

- (i) If to Authority: The Morris County Improvement Authority  
P.O. Box 900  
Morristown, NJ 07963-0900  
Attention: John Bonanni, Chairman

Email: jbonanni@co.morris.nj.us

With a copy to:

Stephen B. Pearlman, Esq.  
Inglesino, Pearlman, Wyciskala & Taylor, LLC  
600 Parsippany Road, Suite 204  
Parsippany, New Jersey 07054  
Email: spearlman@iandplaw.com

- (ii) If to Trustee

U.S. Bank National Association  
21 South Street, 3rd Floor  
Morristown, NJ 07960

With a copy to:

Nicholas A. Concilio, Esq.  
McElroy, Deutch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
Email: nconcilio@mdmc-law.com

- (iii) If to undersigned

Stacey L. Hughes  
Sunlight General Sussex Solar, LLC  
501 Fifth Avenue, Suite 602  
New York, NY 10017  
Email: principals@sunlightcceral.com

With a copy to:

James Duffy Esq.  
Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110-2131  
Email: jduffy@nixonpeabody.com

3. **Events of Default; Sales of Pledged Collateral.** The undersigned hereby agrees that upon the occurrence of an Event of Default, (a) all Distributions will be made directly to the Trustee, (b) the Trustee shall have the sole and exclusive right to exercise all voting, consensual and other powers of ownership pertaining to the Pledged Collateral, (c) the Trustee may take any reasonable action which the Trustee may deem necessary for the maintenance, preservation and protection of any of the Pledged Collateral or the Trustee's security interests therein, including, without limitation, the right to declare any or all Obligations to be immediately due and payable without demand or notice and the right to transfer any of the Pledged Equity or other Pledged Collateral into the Trustee's name or the name of any designee or nominee of the Trustee, (d) the Trustee may dispose of the Pledged Collateral in accordance with Articles 8 and 9 of the UCC and the provisions of the Pledge Agreement, in which case, notwithstanding anything to the contrary in the Organizational Agreements, (i) the Trustee, or its designee or assign, shall automatically be admitted as a member of the undersigned and shall be entitled to receive all

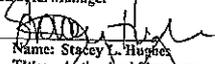
[00016332-5]

[00016332-5]

benefits and exercise all rights in connection therewith pursuant to the Organizational Agreements of the undersigned, (ii) the undersigned shall recognize the Trustee (or its designee or assign) as the successor in interest to the Pledgor, and (iii) notwithstanding any provisions to the contrary in the Organizational Agreements, the Trustee shall not be required to pay any fees or other consideration of any type, or execute any documents, or be limited by any requirements or conditions whatsoever (regarding Distributions receivable by the Trustee from the undersigned, the Trustee's financial condition or otherwise), other than any such requirements, if any, that are expressly set forth in the Company Agreements.

SUNLIGHT GENERAL SUSSEX SOLAR, LLC,  
as Pledged Entity (the Company)

By: Sunlight General Capital Management,  
LLC, its Manager

By:   
Name: Stacey L. Hughes  
Title: Authorized Signatory

4. **No Liability.** Notwithstanding the security interests of the Trustee in the Pledged Collateral or any of its rights hereunder, (a) the Trustee shall have no obligation or liability whatsoever for matters in connection with the Pledged Equity arising or occurring, directly or indirectly, prior to the Trustee's (or its designee's, successor's or assign's) becoming a shareholder, member or partner, as the case may be, of the undersigned, and except to the extent set forth in the Company Agreements, the Pledgor shall have no liability for matters in connection with the Pledged Equity first occurring or arising after the Trustee's (or its designee's, successor's or assign's) acquisition through foreclosure of the Pledged Equity, and (b) the Trustee shall not be obligated to perform any of the obligations or duties of the Pledgor under any of the undersigned's Organizational Agreements, or to take any action to collect or enforce any claim for payment due the Pledgor arising thereunder.

5. **Transfers.** The undersigned acknowledges that the security interest of the Trustee in the Pledged Collateral and all of the Trustee's rights and remedies under the Pledge Agreement may be freely transferred or assigned by the Trustee. In the event of any such transfer or assignment, all of the provisions of this Agreement and Acknowledgment shall inure to the benefit of the transferees, successors, and/or assigns of the Trustee. The provisions of this Agreement and Acknowledgment shall likewise be binding upon any and all permitted transferees, successors and assigns of the undersigned.

6. **Further Assurances.** The undersigned shall, from time to time, promptly execute and deliver such further instruments, documents and agreements, and perform such further acts as may be reasonably necessary or proper to carry out and effect the terms of the Pledge Agreement and this Agreement and Acknowledgment.

7. **Reliance.** This Agreement and Acknowledgment is being given to induce the Trustee to accept the Pledge Agreement and with the understanding that the Trustee will rely hereon.

8. **Counterparts.** This Agreement and Acknowledgment may be executed in counterparts.

9. **Miscellaneous.** The provisions of Article 7 of the Pledge Agreement are hereby incorporated herein by this reference (with all references to the Pledgor therein deemed to mean and refer to the undersigned).

[00016352-1]

[00024398-1]

Exhibit B  
Organizational Agreements

Exhibit C

Acceptance of the Trustee's Proposal under Section 5.06

\_\_\_\_\_, 20\_\_\_\_  
U.S. Bank National Association, as Trustee  
Morristown, NJ

Ladies and Gentlemen:

This letter agreement and waiver is being delivered by the undersigned (the "Pledgor") to \_\_\_\_\_ (the "Trustee") in connection with that certain Pledge and Security Agreement dated as of December 1, 2011 by the Pledgor in favor of the Trustee (as amended and supplemented, the "Pledge Agreement"). All capitalized terms used herein, unless otherwise defined herein, shall have the meanings specified in the Pledge Agreement.

1. As contemplated by Section 5.06 of the Pledge Agreement, the Pledgor hereby accepts the Trustee's Strict Foreclosure Proposal to retain all right, title and interest in and to the Pledged Collateral, and agrees to ratify such retention at the direction of the Trustee in accordance with such Section 5.06 and the other applicable provisions of the Company Agreements.

2. This acceptance is irrevocable and unconditional, subject, however, to the terms of Paragraph 2 below.

3. All of the Interested Parties acknowledge and consent to the acceptance and agreements set forth in Paragraph 1 and Paragraph 2 hereof.

4. In accordance with Section 9-624(c) of the UCC, each Pledged Entity and each Interested Party, hereby waives, effective as of the date hereof, all of its rights under the UCC with respect to the Facility, the Pledge Agreement and the Pledged Collateral, if any, including any rights described in Section 9-623 of the UCC, in each case to the fullest extent such rights may be waived in accordance with the UCC ("UCC Waiver").

5. Notwithstanding the acceptance and UCC Waiver, the Pledgor and the Trustee shall not be required to consummate such retention by the Trustee unless and until (a) twenty (20) days have elapsed after the delivery of such acceptance, and (b) none of the Interested Parties have caused the entire financial Obligations to be paid and satisfied in full within such twenty day period (a "Redemption"), and, if a Redemption is consummated pursuant to the terms of the Company Agreements and in accordance with applicable law, the Pledgor's acceptance shall be deemed to have been revoked with the consent of the Trustee.

[00016352-3]

[00016352-5]

Very truly yours,

SUNLIGHT GENERAL SUSSEX  
HOLDINGS, LLC

By: Sunlight General Capital  
Management, LLC, its Manager

By: \_\_\_\_\_  
Name: Stacy L. Hughes  
Title: Authorized Signatory

ACKNOWLEDGED AND AGREED:

\_\_\_\_\_

a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

[00016352-8]

20120210050002530  
02/10/2012 10:29:27 AM  
UCC  
NUMBER OF PAGES : 10  
SGEIMER  
Recording Fee : \$25.00

## COSTS OF ISSUANCE/ADMINISTRATIVE EXPENSE REQUISITION NO. 1

U.S Bank National Association  
21 South Street, 3rd Floor,  
Morristown, New Jersey 07960  
Attention: Paul O'Brien, Vice President

Re: The Morris County Improvement Authority (the "*Authority*")  
\$26,715,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable)" dated the date hereof (the "*Series 2011A Bonds*") and the \$985,000 aggregate principal amount of "County of Sussex Guaranteed Renewable Energy Program Lease Revenue Notes, Series 2011B (Federally Taxable)" dated the date hereof (the "*Series 2011B Note*" and together with the Series 2011A Bonds, the "Series 2011 Bonds")

Ladies and Gentlemen:

Pursuant to Section 5.03(3) of that certain "RESOLUTION AUTHORIZING THE ISSUANCE OF COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE NOTES AND BONDS, SERIES 2011 AND ADDITIONAL BONDS OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY", which was duly adopted by the Authority on September 28, 2011, as amended and supplemented in accordance with a Certificate of the Chairman of the Authority dated December 14, 2011 (collectively the "*Authority Bond Resolution*"; capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Authority Bond Resolution), you are hereby authorized, as Trustee for the Series 2011 Bonds, to pay the Costs of Issuance set forth in **Schedule A** attached hereto to the persons or entities set forth therein, including if applicable reimbursement to the Authority for Costs of Issuance previously paid by the Authority, from moneys on deposit in the Cost of Issuance Account of the Administrative Fund established pursuant to the Authority Bond Resolution.

Each of the Costs of Issuance set forth in **Schedule A** attached hereto has been properly incurred, is a Costs of Issuance as defined under the Authority Bond Resolution, is a proper charge against the Costs of Issuance Account of the Administrative Fund established pursuant to the Authority Bond Resolution, and has not been the basis of any previous withdrawal. Attached hereto as **Exhibit A** is a bill, invoice, receipt or other evidence that payment of each of the Costs of Issuance is due or has been paid by or on behalf of the Authority.

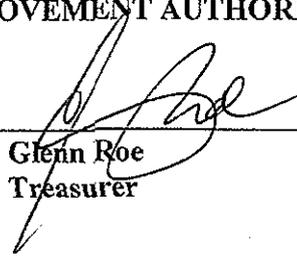
Pursuant to Section 5.03(4)(c) of the Authority Bond Resolution), you are hereby authorized, as Trustee for the Series 2011 Bonds, to pay the Administrative Expenses set forth in **Schedule B** attached hereto to the persons or entities set forth therein, including if applicable reimbursement to the Authority for Administrative Expenses previously paid by the Authority, from moneys on deposit in the Administrative Expense Account of the Administrative Fund established pursuant to the Authority Bond Resolution.

Each of the Administrative Expenses set forth in **Schedule B** attached hereto has been properly incurred, is an Administrative Expense as defined under the Authority Bond Resolution, is a proper charge against the Administrative Expenses Account of the Administrative Fund established pursuant to the Authority Bond Resolution, and has not been the basis of any previous withdrawal. Attached hereto as **Exhibit B** is a bill, invoice, receipt or other evidence that payment of each Administrative Expense is due or has been paid by or on behalf of the Authority.

Very truly yours,

**THE MORRIS COUNTY  
IMPROVEMENT AUTHORITY**

By: \_\_\_\_\_

  
**Glenn Roe  
Treasurer**

**SCHEDULE A**

**Costs of Issuance Bill List**

**Payee:**

1.	<b>NW Financial Group, LLC: Authority Financial Advisor</b>	<b>\$65,000</b>
2.	<b>Inglesino, Pearlman, Wyciskala &amp; Taylor, LLC Authority Bond Counsel Fee -</b>	<b>\$100,388.12</b>
3.	<b>McElroy, Deutsch, Mulvaney &amp; Carpenter, LLP: Trustee Counsel</b>	<b>\$5,000</b>
5.	<b>McElwee &amp; Quinn: Printer</b>	<b>\$2,500</b>
6.	<b>The Morris County Improvement Authority: Issuer Fee</b>	<b>\$100,000</b>
7.	<b>Nisivoccia: County Auditor</b>	<b>\$20,000</b>
8.	<b>U.S. Bank National Association: Trustee</b>	<b>\$ 700</b>
9.	<b>Wilentz Goldman &amp; Spitzer: County Bond Counsel</b>	<b>\$30,000</b>
10.	<b>McConnell, Lenard &amp; Campbell County Counsel \$11,232</b>	
	<b>To McConnell, Lenard &amp; Campbell</b>	<b>\$8,016</b>
	<b>To Sussex County as reimbursement for Fees previously paid</b>	<b>\$3,216</b>
	<b>Total Requisition:</b>	<b>\$334,820.12</b>

**SCHEDULE B**

**Administrative Expense Bill List**

**Payee:**

<b>1.</b>	<b>The Morris County Improvement Authority: First Annual Fee</b>	<b>\$20,000.00</b>
<b>2.</b>	<b>Inglesino, Pearlman, Wyciskala &amp; Taylor, LLC: Authority Bond Counsel: \$100,000</b>	
	<b>To Inglesino, Pearlman, Wyciskala &amp; Taylor</b>	<b>\$75,000</b>
	<b>To Sussex County for reimbursement for a portion of the IPWT Fee previously paid</b>	<b>\$25,000</b>
<b>3.</b>	<b>Gabel Associates</b>	<b>\$303,000</b>
	<b>Total Requisition:</b>	<b>\$423,000</b>

**EXHIBIT A**

**[Attach Invoices for Costs of Issuance Bill List]**



**NW FINANCIAL GROUP, LLC**  
*Exceeding Expectations*

10 Exchange Place  
 17th Floor  
 Jersey City, NJ 07310

Tel (201) 656-0115  
 Fax (201) 656-4905  
 www.nwfinancial.com

**Invoice**

Date
12/13/2011

<b>Billing Address:</b>
Mr. John H. Eskilson County Administrator County of Sussex Sussex County Administrative Center One Spring Street Newton, New Jersey

Description & Breakdown	Amount
Financial Advisory Services in connection with proposed financing:	
\$27,700,000	
<b>THE MORRIS COUNTY IMPROVEMENT AUTHORITY</b> (Morris County, New Jersey) County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A [Federally Taxable] & Series 2011B [Federally Taxable]	\$ 65,000.00
<b>Wiring Instructions</b> ABA #021407912 Capital One 35 Journal Square Jersey City, NJ 07306 For further credit: a/c #4014-00726 6	
<b>Total</b>	<b>\$ 65,000.00</b>

INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

ATTORNEYS AT LAW

600 PARSIPPANY ROAD  
PARSIPPANY, NEW JERSEY 07054  
(T) (973) 947-7111  
(FAX) (973) 887-2700  
www.iandplaw.com

INVOICE

December 14, 2011

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, New Jersey 07963-0900

FOR ALL PROFESSIONAL SERVICES RENDERED as bond counsel to the Morris County Improvement Authority in connection with the issuance by the Authority of its \$26,715,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) And \$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable).

FEES:	\$100,000.00
DISBURSEMENTS:	<u>388.12</u>
TOTAL:	<u>\$100,388.12</u>

**MC ELROY, DEUTSCH, MULVANEY & CARPENTER, LLP**  
ATTORNEYS AT LAW

1300 MOUNT KEMBLE AVENUE  
P.O. BOX 2075  
MORRISTOWN, NEW JERSEY 07962-2075  
(973) 993-8100  
FACSIMILE (973) 425-0161

December 14, 2011

Paul D. O'Brien, Vice President  
U.S. Bank National Association  
21 South Street  
Morristown, New Jersey 07960

Re: The Morris County Improvement Authority  
\$26,715,000 County of Sussex Guaranteed Renewable Energy Program  
Lease Revenue Bonds, Series 2011A [Federally Taxable]  
\$985,000 County of Sussex Guaranteed Renewable Energy Program  
Lease Revenue Note, Series 2011B [Federally Taxable]

Dear Mr. O'Brien:

In connection with the issuance of the above-captioned obligations, enclosed herewith are our invoice and wiring instructions for all legal services rendered as counsel to U.S. Bank National Association.

It has been a pleasure working with you, and I look forward to doing so again in the future.

Very truly yours,

Nicholas A. Concilio

**McELROY, DEUTSCH, MULVANEY & CARPENTER, LLP**  
ATTORNEYS AT LAW

1300 MOUNT KEMBLE AVENUE  
P.O. BOX 2075  
MORRISTOWN, NEW JERSEY 07962-2075  
(973) 993-8100  
FACSIMILE (973) 425-0161

**Federal Tax #22-2445165**

**INVOICE**

December 14, 2011

U.S. Bank National Association  
21 South Street  
Morristown, New Jersey 07960  
Attention: Paul D. O'Brien, Vice President

-to-

McElroy, Deutsch, Mulvaney & Carpenter, LLP

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**FOR ALL PROFESSIONAL SERVICES RENDERED** as counsel to U.S. Bank National Association in connection with the issuance by The Morris County Improvement Authority of its \$26,715,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A [Federally Taxable], and its \$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B [Federally Taxable], including review of bond documents and comments thereto, telephone conferences with working group, due diligence, draft and issuance of opinion letter as trustee's counsel and travel to/from pre-closing.

**FEES AND DISBURSEMENTS:**

**\$5,000.00**

**McELROY, DEUTSCH, MULVANEY & CARPENTER, LLP**  
ATTORNEYS AT LAW

1300 MOUNT KEMBLE AVENUE  
P.O. BOX 2075  
MORRISTOWN, NEW JERSEY 07962-2075  
(973) 993-8100  
FACSIMILE (973) 425-0161

**WIRING INSTRUCTIONS**  
**McELROY, DEUTSCH, MULVANEY & CARPENTER, LLP**  
**ATTORNEY BUSINESS ACCOUNT**

BANK NAME:	Somerset Hills Bank 155 Morristown Road Bernardsville, New Jersey 07924 (908) 221-0100 Attention: Denise Miele, Branch Manager
ABA ROUTING #:	021213232
ACCOUNT NAME:	McElroy, Deutsch, Mulvaney & Carpenter, LLP Attorney Business Account
ACCOUNT NUMBER:	980000053
REFERENCE:	U0099-1018

# INVOICE

Morris County Improvement Authority  
10 Court Street  
Morristown, NJ 07969

DATE : 12/13/11  
JOB NO.: 11-525  
TERMS : Payable Upon Receipt

Attention: John Bonanni

---

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
(Morris County, New Jersey)**

**\$26,715,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A  
(Federally Taxable)**

**and**

**\$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B  
(Federally Taxable)**

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- |          |                                                                                                                                                                                                                                                            |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12/2/11  | Format the front cover to the Preliminary Official Statement with two proofs for distribution. Post to our website and create a Link for electronic distribution.                                                                                          |
| 12/13/11 | Format the front cover to the Official Statement with two proofs for distribution.                                                                                                                                                                         |
| 12/13/11 | Reproduce 85 copies of the Official Statement. 328 pages, 8-1/2" x 11", text prints Black two sides on 50# opaque, cover prints Black plus color logo on 80# white cover, perfect bind. Post to our website and create a Link for electronic distribution. |

TOTAL AMOUNT DUE..... \$2,500.00

Please remit payment to: McElwee & Quinn, LLC  
612 Fox Fields Road  
Bryn Mawr, PA 19010



Mount Arlington Corporate Center  
200 Valley Road Suite 300  
Mt. Arlington, NJ 07856-1320  
973-328-1825 | www.nisivoccia.com

Bernie Re, County Treasurer  
County of Sussex  
One Spring Street  
Newton, NJ 07860

Invoice No. 47415  
Date 12/07/2011  
Client No. 00094R

---

Preparation of three years audited Financial Statements and certain related data for the County of Sussex Official Statement with respect to the \$27,700,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 dated December 14, 2011 and related services.

\$ 20,000.00

I, do solemnly declare and certify under the penalties of the law that the within bill is correct in all its particulars; that the articles have been furnished or services rendered as stated therein; that no bonus has been given or received by any person or persons within the knowledge of this claimant in connection with the above claim; that the amount therein stated is justly due and owing; and that the amount charged is a reasonable one.

x *Raymond Smith*  
Partner

12-14-11  
Date

Federal ID# 22-1914888

Please include client # and invoice # on remittance.

"Thank You"



**Corporate Trust Services**  
21 South Street, 3<sup>rd</sup> Floor  
Mail Station: EX-NJ-WSSM  
Morristown, NJ 07960

Morris County Improvement Authority  
Morristown, NJ

December 14, 2011

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**Re: Morris County Improvement Authority/Sussex County  
Guaranteed REP Lease Revenue Bonds, Series 2011**

Annual Fee:		
Series A		\$ 350.00
Series B		<u>\$ 350.00</u>
	<b>TOTAL</b>	<b>\$ 700.00</b>

Please remit payment to:

U. S. Bank National Association  
Corporate Trust Services  
21 South Street, 3<sup>rd</sup> Floor  
Morristown, NJ 07960  
Attn: Paul O'Brien

**WILENTZ**  
WILENTZ, GOLDMAN & SPITZER P.A.

90 Woodbridge Center Drive  
Suite 900 Box 10  
Woodbridge, NJ 07095-0958  
(732) 636-8000  
Fax (732) 855-8117

Meridian Center I  
Two Industrial Way W  
Eatontown, NJ 07724-2265  
(732) 493-1000  
Fax (732) 493-8387

110 William Street  
26th Floor  
New York, NY 10038-3901  
(212) 267-3091  
Fax (212) 267-3828

Two Penn Center Plaza  
Suite 910  
Philadelphia, PA 19102  
(215) 569-0000  
Fax (215) 636-3999

**INVOICE**

U.S. Bank, National Association  
Morristown, New Jersey  
Attn: Rick Barnes

December 14, 2011

Invoice No. 1

**FINAL INVOICE**

Page 1 of 1

Anthony J. Pannella, Jr.

Matter Number 155876.001

County of Sussex

Sussex County Solar Program Through Morris County Improvement Authority

**For Professional Services as Rendered** as local bond counsel to the County of Sussex, State of New Jersey in connection with the issuance by the Morris County Improvement Authority of \$26,715,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy program Lease Revenue Bonds, Series 2011A (Federally Taxable) and \$985,000 aggregate principal amount of County of Sussex Guaranteed Renewable Energy program Lease Revenue Note, Series 2011B (Federally Taxable).

**TOTAL FEES AND DISBURSEMENTS.....\$30,000.00**

**Below please find our firm's wire transfer information.  
Please forward the payment of our fee via wire transfer. Thank you.**

---

WIRE INSTRUCTIONS

Account Name: Wilentz, Goldman and Spitzer – Attorney Business Account  
Account #: 659901290  
Routing #: 221272031  
Bank Name/Address: Investors Saving Bank  
946 Amboy Avenue  
Edison, NJ 08837

**When a client wires funds from outside the U.S. to our account, they should use our SWIFT number instead of the ABA. The SWIFT number for Investors is IBNJUS33.**

---

**Dennis R. McConnell, Esq.**  
**County Counsel**  
**County of Sussex**

County Counsel Solar Time:

Month	Hours	
July	25.4	
August	1.4	
September	8.3	
October	8.3	
November	14.5	
<u>December</u>	<u>35.7</u>	
Total Hours	93.6	
Hourly Rate \$120.00		
Total Fee		\$11,232.00



INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC

ATTORNEYS AT LAW

600 PARSIPPANY ROAD  
PARSIPPANY, NEW JERSEY 07054  
(T) (973) 947-7111  
(FAX) (973) 887-2700  
www.ilandplaw.com

INVOICE

December 14, 2011

The Morris County Improvement Authority  
P.O. Box 900  
Morristown, New Jersey 07963-0900

FOR ALL PROFESSIONAL SERVICES RENDERED as procurement counsel to the Morris County Improvement Authority in connection with the issuance by the Authority of its \$26,715,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011A (Federally Taxable) and \$985,000 County of Sussex Guaranteed Renewable Energy Program Lease Revenue Note, Series 2011B (Federally Taxable).

FEES: \$100,000.00

TOTAL: \$100,000.00



# Invoice

## Sussex County *Solar Feasibility & RFP*

---

Covering Period	12/1/2011 - 12/31/2011
Invoice	3411211
Purchase Order	NONE
Other Notation	

**Gabel Associates**  
Incorporated  
417 Denison Street  
Highland Park, NJ 08904  
732.296.0770  
Fax 732.296.0788

**Time Accounting  
Statement**

**Federal Tax Id 22-3405408**

### Account Summary

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Fee	\$303,000.00
Total This Period	\$303,000.00

### Notes

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Feasibility Phase	\$133,000
RFP Phase	170,000
Paid To Date	-0-
<b>TOTAL DUE</b>	<b>\$303,000</b>

EXHIBIT C

FORM OF DRAW PAPERS

December 19, 2011

U.S. Bank National Association, as Trustee

Re: The Morris County Improvement Authority  
County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds,  
Series 2011 (the "Series 2011 Bonds")

Dear Sir or Madam:

Pursuant to (i) Section 510(c) of that certain "Lease Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" dated as of December 1, 2011 (the "**Company Lease Agreement**") by and between The Sussex County Improvement Authority (the "**Authority**"), as lessor, and Sunlight General Sussex Solar, LLC, a New Jersey limited liability company (the "**Company**"), as lessee, and (ii) Section 5.02(2) of the Authority's bond resolution duly adopted September 28, 2011 and entitled "Resolution Authorizing the Issuance of County of Sussex Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2011 and Additional Bonds of The Sussex County Improvement Authority", as amended and supplemented, and (iii) with respect to the Renewable Energy Projects, or as applicable, any Completion Project related thereto (the "[A] **Renewable Energy Projects** being developed for all local units, as the applicable Series 2011 Local Unit (the "**Licensor**") (capitalized terms not defined in this Certificate shall have the respective meanings ascribed to such terms in the Company Lease Agreement), the Company, by its Authorized Officer stated below, **DOES HEREBY CERTIFY** and **REQUISITION** moneys on deposit in the Project Fund and held by U.S. Bank National Association, as trustee (the "**Trustee**") for the holders of the Series 2011 Bonds, as follows:

1. The Trustee is hereby requested to pay \$2,659,184 from moneys on deposit in the Project Fund equal to the aggregate Project Costs for which payment or reimbursement is being sought by this requisition.

(a) \$2,659,184 of which aggregate amount shall be payable to:

Power Partners MasTec, P.O. Box 2019, Fargo, ND 58109, for Turnkey Design, Engineering, Procurement, and Construction services incurred in connection with the following Development Contract: County of Sussex Renewable Energy Program;

{Please Note, Include Name and Address of any Contractor and the specific Development Contract pursuant to which this Requisition is submitted}

2. (a) Such funds requested in accordance with Section 1(a) of this Requisition were incurred in connection with the acquisition, construction, or installation of the [A] Renewable Energy Projects listed on Exhibit A-1 to the Company Lease Agreement, to be financed by a portion of the proceeds of the Series 2011 Bonds, and all with respect to the following Local Unit Facilities of the Licensor: All Local Units.

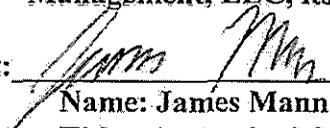
3. Such payment obligation, for which funds have been requested in accordance with Section 1(a) of this Requisition, (i) has been properly incurred in accordance with the Plans and Specifications, (ii) is an item of the Cost of such Project, (iii) is a proper charge against the Project Fund, (iv) has not been the basis of any previous withdrawal, (v) attached hereto is a bill, invoice, receipt or other evidence that payment on such Project Cost is due and owing or has been paid by or on behalf of the Company, and (vi) the amount being requisitioned shall not exceed the Draw Paper Ratio. This Requisition, together with any such attachments contemplated by clause (v) above, shall constitute Draw Papers submitted on a Draw Date for all purposes of the Company Lease Agreement, the Bond Resolution and the Local Unit License Agreement for the Licensor.

4. This requisition may be executed, acknowledged and accepted in any number of counterparts, each of which may be executed by one or more of the respective parties, and all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same.

Very truly yours,

SUNLIGHT GENERAL SUSSEX SOLAR,  
LLC

By: Sunlight General Capital  
Management, LLC, its Manager

By:   
Name: James Mann  
Title: Authorized Signatory

ATTEST:

By:   
Name: EDUARD KLEIS  
Title: AUTHORIZED SIGNATORY

The terms of this Requisition are hereby

ACKNOWLEDGED and ACCEPTED by the  
Licensor set forth below, this 20<sup>th</sup> day of Dec  
2011.

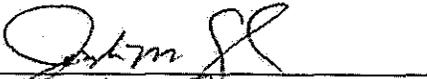
[LICENSOR]

[By: CONSTRUCTION MANAGER]

By:   
Name: Joseph M. Santoro  
Title: VP

The form (only) of this Requisition is hereby  
ACKNOWLEDGED by THE SUSSEX  
COUNTY IMPROVEMENT AUTHORITY this  
20<sup>th</sup> day of Dec, 2011.

By: GABEL ASSOCIATES, AS  
CONSTRUCTION MANAGER

By:   
Name: Joseph M. Santoro  
Title: VP

# APPLICATION AND CERTIFICATE FOR PAYMENT

Invoice #: I-821

To Owner: Sunlight General Sussex Solar LLC Project: 821. Sussex County Solar  
 501 Fifth Avenue, Suite 602  
 New York, NY 10017

Application No.: 1

Distribution to:  
 Owner  
 Contractor

Period To: 12/16/2011

From Contractor: Power Partners MasTec Via Architect:  
 PO Box 2019  
 Fargo, ND 58107

Project Nos:

Contract Date:

Contract For:

## CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract.  
 Continuation Sheet is attached.

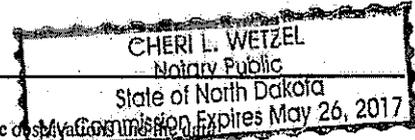
1. Original Contract Sum .....	\$26,403,700.00
2. Net Change By Change Order .....	\$0.00
3. Contract Sum To Date .....	\$26,403,700.00
4. Total Completed and Stored To Date .....	\$2,659,184.00
5. Retainage :	
a. 0.00% of Completed Work .....	\$0.00
b. 0.00% of Stored Material .....	\$0.00
Total Retainage .....	\$0.00
6. Total Earned Less Retainage .....	\$2,659,184.00
7. Less Previous Certificates For Payments .....	\$0.00
8. Current Payment Due .....	\$2,659,184.00
9. Balance To Finish, Plus Retainage .....	\$23,744,516.00

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information, and belief, the work covered by this Application for Payment has been completed in accordance with the Contract Documents. That all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: Power Partners MasTec

By: [Signature] Date: 12-16-11

State of: North Dakota County of: Cass  
 Subscribed and sworn to before me this 16 day of December 2011  
 Notary Public: Cheri L. Wetzel  
 My Commission expires: 5-26-17



### ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observation and information comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information, and belief, the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED:

AMOUNT CERTIFIED \$ 2,659,184.00

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT:

By: \_\_\_\_\_ Date: \_\_\_\_\_

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment, and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CHANGE ORDER SUMMARY	Additions	Deductions
Total changes approved in previous months by Owner	\$0.00	\$0.00
Total Approved this Month	\$0.00	\$0.00
TOTALS	\$0.00	\$0.00
Net Changes By Change Order	\$0.00	

Power Partners MasTec

Purchase Order

Purchase Order # 821.001  
 Project: 821. Sussex County Solar

**Vendor:** Canadian Solar USA, Inc.  
 3128 12657 Alcosta Blvd, Ste 130  
 San Ramon, CA 94583 US

Date Ordered: 12/16/11  
 Job: 821.  
 The Job # must appear on all documentation related to this project.  
 Expected Date : 03/01/12  
 Ordered By: J Donals

**Bill :** Power Partners MasTec  
 PO Box 2019  
 Fargo, ND 58107 US

**Ship To:** 13E Easy Street  
 Bound Brook NJ 08805

Via:

Item	Material	Description	UM	Units	Unit Cost	Total
1		CS6X-260-M 24400, S. 2.417 kW (8,336 Modules) modules in to arrive at port. ETA Bound Brook, NJ. Materials to arrive no later than March 1, 2012. Required Date: 03/01/2012	EA	8,336,000	319.00	2,659,184.00
					SubTotal	2,659,184.00
					Total:	2,659,184.00

Note: Agreement for the purchase and sale of equipment dated December 16, 2011 concerning the Sussex Project in Sussex County, NJ.

Please notify Power Partners MasTec immediately if the order will not meet the dates stated in this agreement. We are an Equal Opportunity Employer.

Vendor Canadian Solar Inc

Authorized Signature: 

Date: \_\_\_\_\_

Date: 12-19-11